

MAINE STATE LEGISLATURE

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L.D. 1771

Date: 4/12/24 Majority

(Filing No. H-967)

JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1135, L.D. 1771, "An Act Regarding Speedy Trials"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 15 MRSA c. 207 is enacted to read:

CHAPTER 207

SPEEDY TRIALS

§1491. Short title

This chapter may be known and cited as "the Maine Speedy Trial Act."

§1492. Time for commencement of trial

1. Beginning January 1, 2026; maximum time period before trial. For any complaint, indictment or information filed on or after January 1, 2026 and before January 1, 2028, trial must commence within the following time limits:

A. For a defendant charged with murder or a Class A crime, trial must commence within 24 months from arraignment;

B. For a defendant charged with a Class B or Class C crime, trial must commence within 15 months from arraignment; and

C. For a defendant charged with a Class D or Class E crime, trial must commence within 12 months from arraignment.

If a defendant is charged with multiple counts in the same complaint, indictment or information, the applicable time limit is determined by the highest sentencing classification assigned to any count charged.

COMMITTEE AMENDMENT

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1 **2. Beginning January 1, 2028; maximum time period before trial.** For any
2 **complaint, indictment or information filed on or after January 1, 2028 and before January**
3 **1, 2030, trial must commence within the following time limits:**

4 **A. For a defendant charged with murder or a Class A crime, trial must commence**
5 **within 24 months from arraignment;**

6 **B. For a defendant charged with a Class B or Class C crime, trial must commence**
7 **within 12 months from arraignment; and**

8 **C. For a defendant charged with a Class D or Class E crime, trial must commence**
9 **within 9 months from arraignment.**

10 **If a defendant is charged with multiple counts in the same complaint, indictment or**
11 **information, the applicable time limit is determined by the highest sentencing classification**
12 **assigned to any count charged.**

13 **3. Beginning January 1, 2030; maximum time period before trial.** For any
14 **complaint, indictment or information filed on or after January 1, 2030, trial must commence**
15 **within the following time limits:**

16 **A. For a defendant charged with murder or a Class A crime, trial must commence**
17 **within 24 months from arraignment;**

18 **B. For a defendant charged with a Class B or Class C crime, trial must commence**
19 **within 9 months from arraignment; and**

20 **C. For a defendant charged with a Class D or Class E crime, trial must commence**
21 **within 6 months from arraignment.**

22 **If a defendant is charged with multiple counts in the same complaint, indictment or**
23 **information, the applicable time limit is determined by the highest sentencing classification**
24 **assigned to any count charged.**

25 **4. Time excluded.** Delays attributable to the following are excluded in computing the
26 **time limits in subsections 1, 2 and 3:**

27 **A. A continuance granted at the defendant's request. Before requesting a continuance,**
28 **the defense attorney for a defendant shall inform the court that the attorney has advised**
29 **the defendant of the right to a speedy trial and the effect of a continuance. If a defendant**
30 **is not represented by an attorney, the court shall inform the defendant of the right to a**
31 **speedy trial and the effect of a continuance and, before granting the request, allow a**
32 **reasonable time for the defendant to withdraw the request;**

33 **B. An enlargement of time granted at the defendant's request or with the defendant's**
34 **consent;**

35 **C. Any proceeding, including any examination, to evaluate the mental competency,**
36 **abnormal condition of the mind, criminal responsibility or physical capacity of the**
37 **defendant;**

38 **D. Any trial or other court proceedings related to other charges against the defendant;**

39 **E. The absence or unavailability of the defendant;**

40 **F. An interlocutory appeal;**

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G. Any proceedings relating to the extradition and transportation of the defendant from another jurisdiction under Title 15, chapter 9;

H. Any proceedings relating to a change of venue under the Maine Rules of Unified Criminal Procedure, Rule 21 or succeeding rule;

I. A reasonable time to transport the defendant from another county or to and from a place of examination or hospitalization, except that any time consumed in excess of 5 days from the date of an order of removal or an order directing transportation under this paragraph and the defendant's arrival at the destination is presumed to be unreasonable;

J. A period not to exceed 60 days during which any motion or request concerning the defendant is under advisement by the court after considering written or oral argument on the motion from the parties;

K. The time during which prosecution is deferred by the State pursuant to written agreement with the defendant pursuant to Title 17-A, chapter 67, subchapter 4 with the approval of the court or pursuant to the Maine Rules of Unified Criminal Procedure, Rule 11B or succeeding rule;

L. The time during which the defendant is mentally incompetent or physically unable to stand trial;

M. A reasonable time period during which the defendant is joined for trial with a codefendant as to whom the time for commencement of trial under subsection 1, 2 or 3 has not expired and no motion for severance has been granted. For the purposes of this paragraph, reasonableness is determined at the court's discretion; and

N. A reasonable period of time after each change in the defendant's counsel at the defendant's request. Any time in excess of 30 days from the defendant's request to obtain new counsel is presumed to be unreasonable.

5. Effect of mistrial or order of new trial. If the court orders a mistrial or grants a motion for a new trial, the new trial must commence for a defendant within 9 months from the date of the mistrial or date that the order granting a new trial is entered on the docket.

6. Rules. The Supreme Judicial Court may adopt rules necessary to implement this Act.
§1493. Waiver of speedy trial right

A defendant may waive the defendant's right to a speedy trial under this Act. The waiver is not effective unless the court has advised the defendant of the defendant's right to a speedy trial and the effect of the waiver.

§1494. Enlargement of time

1. Enlargement of time; factors. The court, for good cause, may grant a motion to enlarge the applicable maximum time period before trial under section 1492. A court may not grant a motion for enlargement of time under this section unless the court makes findings on the record that the interests of justice served by granting the enlargement outweigh the interests of the public and the interest of the defendant in a speedy trial. In making this determination, the court shall consider, at a minimum, the following factors:

A. Whether the failure to grant the motion for enlargement of time is likely to make continuation of the proceeding impossible or to result in a miscarriage of justice;

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1 B. Whether the case is so unusual or so complex, due to the number of defendants, the
2 number of counts, the nature of the prosecution or the existence of novel questions of
3 fact or law, that it is unreasonable to expect adequate preparation for pretrial
4 proceedings or for the trial within the applicable time limit established by section 1492;
5 and

6 C. Whether the failure to grant the motion for enlargement of time would unreasonably
7 deny the defendant or the State continuity of counsel, would limit the availability of
8 witnesses for the defendant or the State or would deny counsel for the defendant or the
9 attorney for the State the reasonable time necessary for effective preparation, taking
10 into account the exercise of due diligence.

11 A court may not consider either the general congestion of the court's calendar or lack of
12 diligent preparation on the part of the attorney for the State as factors weighing in favor of
13 granting an enlargement of time under this section.

14 **§1495. Remedy for noncompliance with time limit**

15 **1. Motion by defendant or court.** The defendant, by motion, or the court, acting sua
16 sponte, may raise the issue of noncompliance with the applicable time limit established in
17 section 1492.

18 **2. Procedure on motion.** Notice of the motion under subsection 1 and an opportunity
19 to be heard must be provided to the defendant and to the attorney for the State.

20 **3. Remedy; factors.** The court shall dismiss the case, with or without prejudice, if it
21 determines that the defendant's trial did not commence within the applicable time limit
22 established by section 1492 and any enlargement of that time limit ordered under section
23 1494. In making a determination whether to dismiss the case with or without prejudice,
24 the court shall consider, at a minimum, the following factors:

25 A. The seriousness of the offense;

26 B. The facts and circumstances of the case that prompted the filing of the motion to
27 dismiss;

28 C. Whether the State can initiate future criminal proceedings based on the conduct
29 underlying the dismissed case and the impact of such a prosecution on the
30 administration of justice;

31 D. An objection made by a victim pursuant to Title 17-A, section 2110; and

32 E. Any other factor the court considers relevant.

33 **Sec. 2.** 17-A MRS §2102, sub-§1, ¶F-2, as enacted by PL 2021, c. 330, §6 and
34 reallocated by RR 2021, c. 1, Pt. A, §14, is amended to read:

35 F-2. The final disposition of the charges against the defendant, including the amount
36 of deductions to time served that a defendant has accumulated as of the date of
37 sentencing. On or before the date of sentencing, the attorney for the State shall obtain
38 information about the deductions to time served from each correctional facility at
39 which a defendant was detained prior to sentencing on the relevant charges; ~~and~~

40 **Sec. 3.** 17-A MRS §2102, sub-§1, ¶F-3 is enacted to read:

1 F-3. The time and place of any hearing under Title 15, section 1495 to determine the
2 remedy for noncompliance with the Maine Speedy Trial Act and the right to be heard;
3 and

4 **Sec. 4. 17-A MRSA §2110** is enacted to read:

5 **§2110. Procedure on motion to dismiss for violation of Maine Speedy Trial Act**

6 When the attorney for the State receives notice of a motion under Title 15, section 1495
7 seeking dismissal of charges for noncompliance with the Maine Speedy Trial Act, the
8 attorney for the State shall disclose to the court any attempts made to notify each victim
9 and any objection by a victim. In a proceeding to determine the remedy for noncompliance
10 with the Maine Speedy Trial Act, if a victim is present in court, the victim may address the
11 court at that time.

12 **Sec. 5. Appropriations and allocations.** The following appropriations and
13 allocations are made.

14 **ATTORNEY GENERAL, DEPARTMENT OF THE**

15 **District Attorneys Salaries 0409**

16 Initiative: Establishes 12 Assistant District Attorney positions effective September 1, 2024,
17 including one position in each of the 8 Prosecutorial Districts and one additional position
18 in 4 of the Prosecutorial Districts.

19	GENERAL FUND	2023-24	2024-25
20	POSITIONS - LEGISLATIVE COUNT	0.000	12.000
21	Personal Services	\$0	\$777,956
22			
23	GENERAL FUND TOTAL	\$0	\$777,956

24

25 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
26 number to read consecutively.

27 **SUMMARY**

28 This amendment, which is the majority report of the committee, replaces the bill. The
29 amendment retains the subject matter of the bill but lengthens the maximum time period
30 before a criminal trial must commence, referred to in this summary as "the speedy trial
31 deadline," and eliminates the distinction between the speedy trial deadline for defendants
32 who are and defendants who are not in custody. Beginning with cases brought on or from
33 January 1, 2026, the trial for a defendant charged with murder or a Class A crime must
34 commence within 24 months from arraignment, the trial for a defendant charged with a
35 Class B or Class C crime must commence within 15 months from arraignment and the trial
36 for a defendant charged with a Class D or Class E crime must commence within 12 months
37 from arraignment. The amendment also phases in, on January 1, 2028 and again on January
38 1, 2030, reductions in the speedy trial deadlines for defendants charged with Class B, Class
39 C, Class D or Class E crimes.

40 The amendment adds to the list of activities leading to delays in the commencement of
41 a criminal trial that must be excluded in computing whether the trial has commenced within
42 the speedy trial deadline and authorizes the court to grant a motion to enlarge the speedy

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1 trial deadline when the interests of justice served by granting the enlargement of time
2 outweigh the interests of the public and of the defendant in a speedy trial. Unlike the bill,
3 the amendment provides that, if the speedy trial deadline is not met, the court has a choice
4 to dismiss the case with or without prejudice after providing the defendant and the attorney
5 for the State notice and an opportunity to be heard on the issue. In deciding whether the
6 dismissal should be with or without prejudice, the court must consider the seriousness of
7 the alleged offense, the facts and circumstances leading to the delay of the trial, the viability
8 of prosecuting the case again, any objection of a victim of the alleged offense and any other
9 relevant factor.

10 The amendment also incorporates a fiscal note and adds an appropriations and
11 allocations section. The fiscal note identifies the amendment as creating a potential state
12 mandate because counties may need to hire additional staff to meet the speedy trial
13 deadlines set forth in the amendment. To qualify as a state mandate pursuant to the
14 Constitution of Maine, legislation must require a local unit of government to expand or
15 modify its activities so as to necessitate additional expenditures from local revenue. After
16 consulting with the Attorney General, the members of the committee voting in favor of the
17 majority report have determined that this legislation is not a mandate. While it may be best
18 practice for a county, in its discretion, to expend additional local revenue to hire additional
19 staff to support the work of the state-funded Assistant District Attorney positions
20 established in the amendment, the amendment does not affirmatively require counties to
21 expend additional local revenues for this purpose. In addition, Article I, Section 6 of the
22 Constitution of Maine and the Sixth Amendment to the United States Constitution grant
23 criminal defendants the right to a speedy trial, a right state and local government are already
24 required to uphold.

25 **FISCAL NOTE REQUIRED**

26 (See attached)



131st MAINE LEGISLATURE

LD 1771

LR 2158(02)

An Act Regarding Speedy Trials

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-967)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Potential State Mandate - Unfunded

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Net Cost (Savings)				
General Fund	\$0	\$777,956	\$1,904,763	\$2,250,634
Highway Fund	\$0	\$0	\$157,682	\$312,674
Appropriations/Allocations				
General Fund	\$0	\$777,956	\$1,904,763	\$2,250,634
Highway Fund	\$0	\$0	\$157,682	\$312,674

State Mandates

Required Activity

To meet time limits for the commencement of criminal trials required in the bill counties will need to hire additional staff, including trial assistants and victim witness advocates, to support the expanded workload of district attorney offices statewide.

Unit Affected

County

Local Cost

Moderate statewide

The required local activities in this bill may represent a state mandate pursuant to the Constitution of Maine. If the bill does require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue, the state mandate provisions of the Constitution of Maine require either: (1) General Fund appropriations be provided to fund at least 90% of any additional necessitated local costs of the mandate; or (2) a Mandate Preamble be added to the bill and two-thirds of the members of each House vote to exempt the mandate from the funding requirement. If the bill does represent a state mandate and neither one of these actions occurs, the local units of government will not be required to implement the mandated activities.

Fiscal Detail and Notes

This bill establishes time limits for the commencement of criminal trials under the new Maine Speedy Trial Act. The bill includes ongoing General Fund appropriations to the District Attorneys Salary Program within the Office of the Attorney General of \$777,956 in fiscal year 2024-25 to establish 12 Assistant District Attorney positions effective January 1, 2025, to handle the increased workload across the State's 8 prosecutorial districts to meet the time limits in the bill.

C "A" (H-967)

The Department of Public Safety will require a General Fund appropriation of \$292,839 and a Highway Fund allocation of \$157,682 beginning in fiscal year 2025-26 for one Forensic Scientist position, 2 Forensic Chemist I positions, 4 DNA Forensic Analyst positions, one Forensic Scientist Firearms position and related All Other costs to process and examine evidence in time for trial dates.

Any additional costs to the Criminal Division within the Office of the Attorney General and to the Judicial Branch can be absorbed within existing budgeted resources.