

HOUSE COMMITTEE OF REFERENCE REPORT

June 2, 2021

Chair of Committee

Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB21-1309 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 18-1-405, **amend**
4 (6) introductory portion and (6)(i); and **add** (6)(j) and (8) as follows:

5 **18-1-405. Speedy trial - definition - repeal.** (6) In computing
6 the time within which a defendant ~~shall be~~ IS brought to trial as provided
7 in subsection (1) of this section, the following periods of time ~~shall be~~
8 ARE excluded:

9 (i) The period of delay between the filing of a motion pursuant to
10 section 18-1-202 (11) and any decision by the court regarding such
11 motion, and if such decision by the court transfers the case to another
12 county, the period of delay until the first appearance of all the parties in
13 a court of appropriate jurisdiction in the county to which the case has
14 been transferred, and in such event ~~the provisions of subsection (7) of this~~
15 section ~~shall apply~~. APPLIES; AND

16 (j) (I) UPON A MOTION BY THE COURT SUA SPONTE, A PERIOD OF
17 DELAY FOR ANY CONTINUANCE DUE TO THE BACKLOG OF JURY TRIALS
18 DIRECTLY RESULTING FROM A RESTRICTION, PROCEDURE, OR PROTOCOL
19 IMPLEMENTED DURING THE 2020 AND 2021 HEALTH EMERGENCY RELATED
20 TO THE COVID-19 PANDEMIC, NOT TO EXCEED SIX MONTHS IF THE
21 DEFENDANT IS NOT IN CUSTODY FOR THE CASE PENDING A JURY TRIAL OR
22 NOT TO EXCEED THREE MONTHS IF THE DEFENDANT IS IN CUSTODY FOR THE
23 CASE PENDING A JURY TRIAL. THE BACKLOG OF JURY TRIALS RESULTING
24 FROM THE COVID-19 PANDEMIC DOES NOT INCLUDE ANY CONSISTENT

1 AND ONGOING JURY TRIAL BACKLOG THAT EXISTED PRIOR TO MARCH 1,
2 2020. THE COURT MAY GRANT ONLY ONE CONTINUANCE PURSUANT TO
3 THIS SUBSECTION (6)(j) IF IT MAKES THE FOLLOWING SPECIFIC FINDINGS ON
4 THE RECORD AFTER THE PROSECUTION AND DEFENDANT HAVE HAD THE
5 OPPORTUNITY TO BE HEARD:

6 (A) THE CASE IS A PART OF A COURT BACKLOG OF JURY TRIALS
7 DIRECTLY RESULTING FROM A RESTRICTION, PROCEDURE, OR PROTOCOL
8 IMPLEMENTED DURING THE 2020 AND 2021 HEALTH EMERGENCY RELATED
9 TO THE COVID-19 PANDEMIC, AND THE COURT HAS DETERMINED, BASED
10 ON AVAILABLE EVIDENCE, THAT A CONTINUANCE IS NOT ATTRIBUTABLE TO
11 ANY CONSISTENT AND ONGOING JURY TRIAL BACKLOG THAT EXISTED
12 PRIOR TO MARCH 1, 2020;

13 (B) NO COURT IN THE COUNTY WITH JURISDICTION TO TRY THE
14 CASE IS AVAILABLE, AND THE COURT HAS EXHAUSTED ALL REASONABLE
15 MEANS TO BRING THE CASE TO TRIAL;

16 (C) THE COURT HAS NOT PREVIOUSLY GRANTED A CONTINUANCE
17 PURSUANT TO THIS SUBSECTION (6)(j); AND

18 (D) GRANTING THE CONTINUANCE SERVES THE INTEREST OF
19 JUSTICE. WHEN DETERMINING WHETHER THE CONTINUANCE SERVES THE
20 INTEREST OF JUSTICE, THE COURT SHALL MAKE SPECIFIC FINDINGS
21 REGARDING THE IMPACT OF A CONTINUANCE ON THE PROSECUTION AND
22 THE DEFENDANT.

23 (II) IN CONSIDERING WHETHER TO GRANT A CONTINUANCE
24 PURSUANT TO THIS SUBSECTION (6)(j), THE COURT SHALL PRIORITIZE
25 CASES TO PROCEED TO TRIAL THAT:

26 (A) WERE DECLARED A MISTRIAL PURSUANT TO RULE 24 (c)(4) OF
27 THE COLORADO RULES OF CRIMINAL PROCEDURE;

28 (B) THE DEFENDANT IS IN CUSTODY IN THE CASE AND DOES NOT
29 WAIVE SPEEDY TRIAL; OR

30 (C) INCLUDE A CHARGE OF A CRIME LISTED IN SECTION 24-4.1-302
31 (1) TO ENSURE A VICTIM'S RIGHT TO A SWIFT AND FAIR RESOLUTION OF THE
32 CASE PURSUANT TO SECTION 24-4.1-302.5 (1)(o).

33 (III) PRIOR TO GRANTING A CONTINUANCE PURSUANT TO THIS
34 SUBSECTION (6)(j), THE COURT SHALL INFORM THE PROSECUTING
35 ATTORNEY, AND THE PROSECUTING ATTORNEY SHALL NOTIFY AND
36 RECEIVE INPUT FROM THE VICTIM, AS DEFINED IN SECTION 24-4.1-302 (5),
37 TO GIVE TO THE COURT BEFORE THE COURT MAKES A FINAL
38 DETERMINATION CONCERNING A CONTINUANCE. A VICTIM HAS THE RIGHT
39 TO BE HEARD AT A COURT PROCEEDING CONCERNING A CONTINUANCE
40 PURSUANT TO THIS SUBSECTION (6)(j).

41 (IV) IF A COURT GRANTS A CONTINUANCE PURSUANT TO THIS

1 SUBSECTION (6)(j) AND THE DEFENDANT IS IN CUSTODY FOR THE CASE
2 PENDING A JURY TRIAL BECAUSE THE DEFENDANT IS UNABLE TO SATISFY
3 THE MONETARY CONDITIONS OF BOND FOR RELEASE DESPITE BEING
4 ELIGIBLE FOR RELEASE, THE COURT SHALL RECONSIDER THE MONETARY
5 CONDITIONS OF BOND FOR RELEASE PURSUANT TO SECTION 16-4-107.5.

6 (V) A COURT SHALL NOT GRANT A CONTINUANCE PURSUANT TO
7 THIS SUBSECTION (6)(j) ON OR AFTER 5:01 P.M. ON APRIL 29, 2022.

8 (VI) THIS SUBSECTION (6)(j) IS REPEALED, EFFECTIVE JULY 1,
9 2023.

10 (8) (a) THE JUDICIAL DEPARTMENT SHALL COLLECT THE
11 FOLLOWING DATA FOR EACH CONTINUANCE GRANTED PURSUANT TO
12 SUBSECTION (6)(j) OF THIS SECTION:

13 (I) THE JUDICIAL DISTRICT WHERE THE CONTINUANCE WAS
14 GRANTED; AND

15 (II) THE HIGHEST CLASS OFFENSE CHARGED IN THE DEFENDANT'S
16 CASE THAT WAS CONTINUED.

17 (b) THE JUDICIAL DEPARTMENT SHALL REPORT ON THE DATA
18 COLLECTED PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION AT THE
19 JOINT HEARINGS CONDUCTED IN 2022 AND 2023 PURSUANT TO THE "STATE
20 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT
21 (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

22 (c) ON OR BEFORE JANUARY 31, 2022, THE JUDICIAL DEPARTMENT
23 SHALL PUBLISH THE DATA COLLECTED PURSUANT TO SUBSECTION (8)(a) OF
24 THIS SECTION FOR THE PERIOD ON AND BEFORE DECEMBER 31, 2021. ON
25 OR BEFORE MAY 31, 2022, THE JUDICIAL DEPARTMENT SHALL PUBLISH THE
26 DATA COLLECTED PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION FOR
27 THE PERIOD ON AND BEFORE APRIL 29, 2022.

28 (d) THIS SUBSECTION (8) IS REPEALED, EFFECTIVE JULY 1, 2023.

29 **SECTION 2.** In Colorado Revised Statutes, **add** 16-4-107.5 as
30 follows:

31 **16-4-107.5. Hearing after excluding time for speedy trial for**
32 **public health emergency - repeal.** (1) IF A COURT GRANTS A
33 CONTINUANCE PURSUANT TO SECTION 18-1-405 (6)(j) FOR A CASE THAT
34 DOES NOT INCLUDE A CHARGE OF A CLASS 1, 2, OR 3 FELONY, AND THE
35 DEFENDANT IS IN CUSTODY FOR THE CASE PENDING A JURY TRIAL BECAUSE
36 THE DEFENDANT IS UNABLE TO SATISFY THE MONETARY CONDITIONS OF
37 BOND FOR RELEASE DESPITE BEING ELIGIBLE FOR RELEASE, THE COURT
38 SHALL ORDER THE IMMEDIATE RELEASE OF THE DEFENDANT FROM
39 CUSTODY UPON A PERSONAL RECOGNIZANCE BOND WITHOUT MONETARY
40 CONDITIONS.

41 (2) IF A COURT GRANTS A CONTINUANCE PURSUANT TO SECTION



1 18-1-405 (6)(j) FOR A CASE THAT INCLUDES A CHARGE OF A CLASS 1, 2, OR
2 3 FELONY, AND THE DEFENDANT IS IN CUSTODY BECAUSE THE DEFENDANT
3 IS UNABLE TO SATISFY THE MONETARY CONDITIONS OF BOND FOR RELEASE
4 DESPITE BEING ELIGIBLE FOR RELEASE, THE COURT SHALL CONDUCT A
5 HEARING AS SOON AS PRACTICABLE, BUT NOT LONGER THAN SEVEN DAYS
6 AFTER THE COURT GRANTED THE CONTINUANCE PURSUANT TO SECTION
7 18-1-405 (6)(j), FOR RECONSIDERATION OF THE DEFENDANT'S MONETARY
8 CONDITIONS OF BOND FOR RELEASE. THE COURT SHALL REVOKE THE
9 MONETARY CONDITIONS OF BOND FOR RELEASE ALLOWING THE
10 DEFENDANT TO BE RELEASED, UNLESS THE COURT CONCLUDES THAT THE
11 DEFENDANT THREATENS THE SAFETY OF ANY OTHER PERSON OR PERSONS
12 IN THE COMMUNITY, WHETHER KNOWN OR UNKNOWN, AND THAT
13 MONETARY CONDITIONS OF BOND FOR RELEASE ARE NECESSARY TO
14 REASONABLY PROTECT AGAINST SUCH RISK. THE COURT MAY MODIFY THE
15 MONETARY CONDITIONS OF BOND TO ALLOW THE DEFENDANT TO BE
16 RELEASED IF THE COURT CONCLUDES THAT THE DEFENDANT THREATENS
17 THE SAFETY OF ANY OTHER PERSON OR PERSONS IN THE COMMUNITY,
18 WHETHER KNOWN OR UNKNOWN, AND THAT MONETARY CONDITIONS OF
19 BOND FOR RELEASE ARE NECESSARY TO REASONABLY PROTECT AGAINST
20 SUCH RISK. FAILURE TO COMPLY WITH THIS SUBSECTION (2) REQUIRES THE
21 COURT TO ORDER THE IMMEDIATE RELEASE OF THE DEFENDANT FROM
22 CUSTODY UPON A PERSONAL RECOGNIZANCE BOND WITH APPROPRIATE
23 CONDITIONS OF RELEASE.

24 (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2023.

25 **SECTION 3. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, or safety."

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