

Public Law 96-43
96th Congress

An Act

To amend the Speedy Trial Act of 1974.

Aug. 2, 1979

[S. 961]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Speedy Trial Act Amendments Act of 1979".

Speedy Trial Act
Amendments of
1979.
18 USC 3161
note.

SEC. 2. Section 3161(c) of title 18, United States Code, is amended to read as follows:

"(c)(1) In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs. If a defendant consents in writing to be tried before a magistrate on a complaint, the trial shall commence within seventy days from the date of such consent.

"(2) Unless the defendant consents in writing to the contrary, the trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se."

SEC. 3. (a) Section 3161(d) of that title is amended—

18 USC 3161.

(1) by inserting "(1)" immediately after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2) If the defendant is to be tried upon an indictment or information dismissed by a trial court and reinstated following an appeal, the trial shall commence within seventy days from the date the action occasioning the trial becomes final, except that the court retrying the case may extend the period for trial not to exceed one hundred and eighty days from the date the action occasioning the trial becomes final if the unavailability of witnesses or other factors resulting from the passage of time shall make trial within seventy days impractical. The periods of delay enumerated in section 3161(h) are excluded in computing the time limitations specified in this section. The sanctions of section 3162 apply to this subsection."

18 USC 3162.

(b) Section 3161(e) of that title is amended—

(1) by striking out "sixty" wherever it appears and inserting in lieu thereof "seventy"; and

(2) by adding at the end the following: "The periods of delay enumerated in section 3161(h) are excluded in computing the time limitations specified in this section. The sanctions of section 3162 apply to this subsection."

SEC. 4. Section 3161(h)(1) of that title is amended to read as follows:

18 USC 3161.

"(1) Any period of delay resulting from other proceedings concerning the defendant, including but not limited to—

"(A) delay resulting from any proceeding, including any examinations, to determine the mental competency or physical capacity of the defendant;

“(B) delay resulting from any proceeding, including any examination of the defendant, pursuant to section 2902 of title 28, United States Code;

“(C) delay resulting from deferral of prosecution pursuant to section 2902 of title 28, United States Code;

“(D) delay resulting from trial with respect to other charges against the defendant;

“(E) delay resulting from any interlocutory appeal;

“(F) delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion;

“(G) delay resulting from any proceeding relating to the transfer of a case or the removal of any defendant from another district under the Federal Rules of Criminal Procedure;

“(H) delay resulting from transportation of any defendant from another district, or to and from places of examination or hospitalization, except that any time consumed in excess of ten days from the date an order of removal or an order directing such transportation, and the defendant's arrival at the destination shall be presumed to be unreasonable;

“(I) delay resulting from consideration by the court of a proposed plea agreement to be entered into by the defendant and the attorney for the Government; and

“(J) delay reasonably attributable to any period, not to exceed thirty days, during which any proceeding concerning the defendant is actually under advisement by the court.”.

18 USC app.

18 USC 3161.

SEC. 5. (a) Section 3161(h)(8)(B)(ii) of that title is amended to read as follows:

“(ii) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section.”.

(b) Section 3161(h)(8)(B)(iii) of that title is amended to read as follows:

“(iii) Whether, in a case in which arrest precedes indictment, delay in the filing of the indictment is caused because the arrest occurs at a time such that it is unreasonable to expect return and filing of the indictment within the period specified in section 3161(b), or because the facts upon which the grand jury must base its determination are unusual or complex.”.

(c) Section 3161(h)(8)(B) of that title is further amended by adding at the end the following new clause:

“(iv) Whether the failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), would deny the defendant reasonable time to obtain counsel, would unreasonably deny the defendant or the Government continuity of counsel, or would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.”.

18 USC 3163.

Post, p. 331;

18 USC 3162.

SEC. 6. Section 3163(c) of that title is amended to read as follows:

“(c) Subject to the provisions of section 3174(c), section 3162 of this chapter shall become effective and apply to all cases commenced by

arrest or summons, and all informations or indictments filed, on or after July 1, 1980.”

SEC. 7. Section 3164 of that title is amended—

18 USC 3164.

(1) by amending the section heading to read as follows:

“§ 3164. Persons detained or designated as being of high risk”;

(2) by amending subsection (a) to read as follows:

“(a) The trial or other disposition of cases involving—

“(1) a detained person who is being held in detention solely because he is awaiting trial, and

“(2) a released person who is awaiting trial and has been designated by the attorney for the Government as being of high risk,

shall be accorded priority.”; and

(3) by amending subsection (b) to read as follows:

“(b) The trial of any person described in subsection (a)(1) or (a)(2) of this section shall commence not later than ninety days following the beginning of such continuous detention or designation of high risk by the attorney for the Government. The periods of delay enumerated in section 3161(h) are excluded in computing the time limitation specified in this section.”

Trial, effective date.

Ante, p. 327.

SEC. 8. Section 3165(e) of that title is amended—

18 USC 3165.

(1) in paragraph (2), by striking out “subsequent” and inserting in lieu thereof “fifth”, and

(2) by adding at the end the following:

“(3) Not later than June 30, 1980, each United States district court with respect to which implementation has not been ordered under section 3174(c) shall prepare and submit a plan in accordance with subsections (a) through (d) to govern the trial or other disposition of offenses within the jurisdiction of such court during the sixth and subsequent twelve-calendar-month periods following the effective date of subsection 3161(b) and subsection 3161(c) in effect prior to the date of enactment of this paragraph.”

U.S. district court, submittal of plans.

18 USC 3161.

SEC. 9. (a) Section 3166(b) of that title is amended—

Time limits.
18 USC 3166.

(1) in paragraph (7), by striking out “and” immediately after the semicolon;

(2) in paragraph (8), by striking out the period and inserting in lieu thereof “; and”; and

(3) by adding at the end the following new paragraph:

“(9) the impact of compliance with the time limits of subsections (b) and (c) of section 3161 upon the civil case calendar in the district.”

(b) Section 3166(c) of that title is amended—

(1) in paragraph (5), by striking out “and” immediately after the semicolon;

(2) in paragraph (6), by striking out the period and inserting in lieu thereof “; and”; and

(3) by adding at the end the following new paragraph:

“(7)(A) the number of new civil cases filed in the twelve-calendar-month period preceding the submission of the plan;

“(B) the number of civil cases pending at the close of such period; and

“(C) the increase or decrease in the number of civil cases pending at the close of such period, compared to the number pending at the close of the previous twelve-calendar-month period, and the length of time each such case has been pending.”

(c) Section 3166 of that title is further amended by adding at the end the following new subsection:

- Guidelines. “(f) Each plan may be accompanied by guidelines promulgated by the judicial council of the circuit for use by all district courts within that circuit to implement and secure compliance with this chapter.”
- 18 USC 3168. (d) Section 3168(a) of that title is amended by striking out “a private attorney experienced in the defense of criminal cases in the district” and inserting in lieu thereof “two private attorneys, one with substantial experience in the defense of criminal cases in the district and one with substantial experience in civil litigation in the district”.
- Reports to Congress. (e) Section 3167 of that title is amended—
- 18 USC 3167. (1) in subsection (b), by adding at the end the following: “Such reports shall also include the following:
- 18 USC 3161; ante, p. 327. “(1) The reasons why, in those cases not in compliance with the time limits of subsections (b) and (c) of section 3161, the provisions of section 3161(h) have not been adequate to accommodate reasonable periods of delay.
- “(2) The category of offenses, the number of defendants, and the number of counts involved in those cases which are not meeting the time limits specified in subsections (b) and (c) of section 3161.
- “(3) The additional judicial resources which would be necessary in order to achieve compliance with the time limits specified in subsections (b) and (c) of section 3161.
- “(4) The nature of the remedial measures which have been employed to improve conditions and practices in those districts with low compliance experience under this chapter or to promote the adoption of practices and procedures which have been successful in those districts with high compliance experience under this chapter.
- “(5) If a district has experienced difficulty in complying with this chapter, but an application for relief under section 3174 has not been made, the reason why such application has not been made.
- “(6) The impact of compliance with the time limits of subsections (b) and (c) of section 3161 upon the civil case calendar in each district as demonstrated by the information assembled and statistics compiled and submitted under sections 3166 and 3170.”;
- Post, p. 331; 18 USC 3174. (2) by adding at the end the following new subsection:
- Report to Congress. “(c) Not later than December 31, 1979, the Department of Justice shall prepare and submit to the Congress a report which sets forth the impact of the implementation of this chapter upon the office of the United States Attorney in each district and which shall also include—
- “(1) the reasons why, in those cases not in compliance, the provisions of section 3161(h) have not been adequate to accommodate reasonable periods of delay;
- “(2) the nature of the remedial measures which have been employed to improve conditions and practices in the offices of the United States Attorneys in those districts with low compliance experience under this chapter or to promote the adoption of practices and procedures which have been successful in those districts with high compliance experience under this chapter;
- “(3) the additional resources for the offices of the United States Attorneys which would be necessary to achieve compliance with the time limits of subsections (b) and (c) of section 3161;
- “(4) suggested changes in the guidelines or other rules implementing this chapter or statutory amendments which the Department of Justice deems necessary to further improve the

administration of justice and meet the objectives of this chapter; and

“(5) the impact of compliance with the time limits of subsections (b) and (c) of section 3161 upon the litigation of civil cases by the offices of the United States Attorneys and the rule changes, statutory amendments, and resources necessary to assure that such litigation is not prejudiced by full compliance with this chapter.”

Civil cases,
compliance with
time limits.
18 USC 3161;
ante, p. 327.

(f) Section 3170(a) of that title is amended in the first sentence—

18 USC 3170.

(1) by striking out “and” after “process” and inserting in lieu thereof a comma;

(2) by inserting a comma after “limits”;

(3) by inserting “continuous and permanent compliance with the” immediately before “objectives”; and

(4) by striking out “required by” and inserting in lieu thereof “described in”.

SEC. 10. Section 3174 of that title is amended—

18 USC 3174.

(1) by striking out the period after the first sentence in subsection (a) and inserting in lieu thereof the following: “as provided in subsection (b).”;

(2) by striking the first two sentences of subsection (b) and inserting the following in lieu thereof: “If the judicial council of the circuit finds that no remedy for such congestion is reasonably available, such council may, upon application by the chief judge of a district, grant a suspension of the time limits in section 3161(c) in such district for a period of time not to exceed one year for the trial of cases for which indictments or informations are filed during such one-year period.”;

Time limits,
suspension.

(3) by striking out “arrangement” in the third sentence of subsection (b) and inserting in lieu thereof “indictment”;

(4) by amending subsection (c) to read as follows:

“(c)(1) If, prior to July 1, 1980, the chief judge of any district concludes, with the concurrence of the planning group convened in the district, that the district is prepared to implement the provisions of section 3162 in their entirety, he may apply to the judicial council of the circuit in which the district is located to implement such provisions. Such application shall show the degree of compliance in the district with the time limits set forth in subsections (b) and (c) of section 3161 during the twelve-calendar-month period preceding the date of such application and shall contain a proposed order and schedule for such implementation, which includes the date on which the provisions of section 3162 are to become effective in the district, the effect such implementation will have upon such district’s practices and procedures, and provision for adequate notice to all interested parties.

Judicial council,
implementation
of provisions.

“(2) After review of any such application, the judicial council of the circuit shall enter an order implementing the provisions of section 3162 in their entirety in the district making application, or shall return such application to the chief judge of such district, together with an explanation setting forth such council’s reasons for refusing to enter such order.”;

(5) by adding at the end the following:

“(d)(1) The approval of any application made pursuant to subsection (a) or (c) by a judicial council of a circuit shall be reported within ten days to the Director of the Administrative Office of the United States Courts, together with a copy of the application, a written report setting forth in sufficient detail the reasons for granting such

Application
approval.

Report to
Congress and to
Judicial
Conference of
United States.

application, and, in the case of an application made pursuant to subsection (a), a proposal for alleviating congestion in the district.

"(2) The Director of the Administrative Office of the United States Courts shall not later than ten days after receipt transmit such report to the Congress and to the Judicial Conference of the United States. The judicial council of the circuit shall not grant a suspension to any district within six months following the expiration of a prior suspension without the consent of the Congress by Act of Congress. The limitation on granting a suspension made by this paragraph shall not apply with respect to any judicial district in which the prior suspension is in effect on the date of the enactment of the Speedy Trial Act Amendments Act of 1979.

"(e) If the chief judge of the district court concludes that the need for suspension of time limits in such district under this section is of great urgency, he may order the limits suspended for a period not to exceed thirty days. Within ten days of entry of such order, the chief judge shall apply to the judicial council of the circuit for a suspension pursuant to subsection (a)."; and

(6) by amending the section heading to read as follows:

"§ 3174. Judicial emergency and implementation".

SEC. 11. (a) The item relating to section 3164 in the table of sections for chapter 208 of such title is amended to read as follows:

"3164. Persons detained or designated as being of high risk."

(b) The item relating to section 3174 in the table of sections for chapter 208 of such title is amended to read as follows:

"3174. Judicial emergency and implementation."

Approved August 2, 1979.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-390 (Comm. on the Judiciary).

SENATE REPORT No. 96-212 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 125 (1979):

June 19, considered and passed Senate.

July 31, considered and passed House, amended; Senate concurred in House amendments.