



Sen. Donne E. Trotter

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09400HB5342sam002

LRB094 17436 RLC 57693 a

1 AMENDMENT TO HOUSE BILL 5342

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5342 on page 1, by  
3 inserting immediately below line 3 the following:

4 "Section 2. The Code of Criminal Procedure of 1963 is  
5 amended by changing Section 103-5 as follows:

6 (725 ILCS 5/103-5) (from Ch. 38, par. 103-5)  
7 Sec. 103-5. Speedy trial.)

8 (a) Every person in custody in this State for an alleged  
9 offense shall be tried by the court having jurisdiction within  
10 120 days from the date he was taken into custody unless delay  
11 is occasioned by the defendant, by an examination for fitness  
12 ordered pursuant to Section 104-13 of this Act, by a fitness  
13 hearing, by an adjudication of unfitness to stand trial, by a  
14 continuance allowed pursuant to Section 114-4 of this Act after  
15 a court's determination of the defendant's physical incapacity  
16 for trial, or by an interlocutory appeal. Delay shall be  
17 considered to be agreed to by the defendant unless he or she  
18 objects to the delay by making a written demand for trial or an  
19 oral demand for trial on the record.

20 The 120-day term must be one continuous period of  
21 incarceration. In computing the 120-day term, separate periods  
22 of incarceration may not be combined. If a defendant is taken  
23 into custody a second (or subsequent) time for the same  
24 offense, the term will begin again at day zero.

1 (b) Every person on bail or recognizance shall be tried by  
2 the court having jurisdiction within 160 days from the date  
3 defendant demands trial unless delay is occasioned by the  
4 defendant, by an examination for fitness ordered pursuant to  
5 Section 104-13 of this Act, by a fitness hearing, by an  
6 adjudication of unfitness to stand trial, by a continuance  
7 allowed pursuant to Section 114-4 of this Act after a court's  
8 determination of the defendant's physical incapacity for  
9 trial, or by an interlocutory appeal. The defendant's failure  
10 to appear for any court date set by the court operates to waive  
11 the defendant's demand for trial made under this subsection.  
12 The provisions of this subsection (b) do not apply to a person  
13 on bail or recognizance for an offense but who is in custody  
14 for a violation of his or her parole or mandatory supervised  
15 release for another offense.

16 For purposes of computing the 160 day period under this  
17 subsection (b), every person who was in custody for an alleged  
18 offense and demanded trial and is subsequently released on bail  
19 or recognizance and demands trial, shall be given credit for  
20 time spent in custody following the making of the demand while  
21 in custody. Any demand for trial made under this subsection (b)  
22 shall be in writing; and in the case of a defendant not in  
23 custody, the demand for trial shall include the date of any  
24 prior demand made under this provision while the defendant was  
25 in custody.

26 (c) If the court determines that the State has exercised  
27 without success due diligence to obtain evidence material to  
28 the case and that there are reasonable grounds to believe that  
29 such evidence may be obtained at a later day the court may  
30 continue the cause on application of the State for not more  
31 than an additional 60 days. If the court determines that the  
32 State has exercised without success due diligence to obtain  
33 results of DNA testing that is material to the case and that  
34 there are reasonable grounds to believe that such results may

1 be obtained at a later day, the court may continue the cause on  
2 application of the State for not more than an additional 120  
3 days.

4 (d) Every person not tried in accordance with subsections  
5 (a), (b) and (c) of this Section shall be discharged from  
6 custody or released from the obligations of his bail or  
7 recognizance.

8 (e) If a person is simultaneously in custody upon more than  
9 one charge pending against him in the same county, or  
10 simultaneously demands trial upon more than one charge pending  
11 against him in the same county, he shall be tried, or adjudged  
12 guilty after waiver of trial, upon at least one such charge  
13 before expiration relative to any of such pending charges of  
14 the period prescribed by subsections (a) and (b) of this  
15 Section. Such person shall be tried upon all of the remaining  
16 charges thus pending within 160 days from the date on which  
17 judgment relative to the first charge thus prosecuted is  
18 rendered pursuant to the Unified Code of Corrections or, if  
19 such trial upon such first charge is terminated without  
20 judgment and there is no subsequent trial of, or adjudication  
21 of guilt after waiver of trial of, such first charge within a  
22 reasonable time, the person shall be tried upon all of the  
23 remaining charges thus pending within 160 days from the date on  
24 which such trial is terminated; if either such period of 160  
25 days expires without the commencement of trial of, or  
26 adjudication of guilt after waiver of trial of, any of such  
27 remaining charges thus pending, such charge or charges shall be  
28 dismissed and barred for want of prosecution unless delay is  
29 occasioned by the defendant, by an examination for fitness  
30 ordered pursuant to Section 104-13 of this Act, by a fitness  
31 hearing, by an adjudication of unfitness for trial, by a  
32 continuance allowed pursuant to Section 114-4 of this Act after  
33 a court's determination of the defendant's physical incapacity  
34 for trial, or by an interlocutory appeal; provided, however,

1 that if the court determines that the State has exercised  
2 without success due diligence to obtain evidence material to  
3 the case and that there are reasonable grounds to believe that  
4 such evidence may be obtained at a later day the court may  
5 continue the cause on application of the State for not more  
6 than an additional 60 days.

7 (f) Delay occasioned by the defendant shall temporarily  
8 suspend for the time of the delay the period within which a  
9 person shall be tried as prescribed by subsections (a), (b), or  
10 (e) of this Section and on the day of expiration of the delay  
11 the said period shall continue at the point at which it was  
12 suspended. Where such delay occurs within 21 days of the end of  
13 the period within which a person shall be tried as prescribed  
14 by subsections (a), (b), or (e) of this Section, the court may  
15 continue the cause on application of the State for not more  
16 than an additional 21 days beyond the period prescribed by  
17 subsections (a), (b), or (e). This subsection (f) shall become  
18 effective on, and apply to persons charged with alleged  
19 offenses committed on or after, March 1, 1977.

20 (Source: P.A. 90-705, eff. 1-1-99; 91-123, eff. 1-1-00.)".