

By Representatives Bullard and Spratt

1 A bill to be entitled
2 An act relating to the rights of accused
3 persons; creating the Speedy Trial Reform Act
4 of 1996; amending s. 918.015, F.S.; allowing
5 the Florida Supreme Court discretion in
6 adopting rules that provide for the right of a
7 defendant to a speedy trial; prohibiting a
8 court from discharging a defendant from
9 prosecution unless the court finds a
10 substantive violation of the defendant's right
11 to a speedy trial; providing for determining
12 the period that constitutes a speedy trial;
13 amending s. 39.048, F.S.; deleting provisions
14 that provide for dismissal with prejudice if an
15 adjudicatory hearing for a juvenile offender is
16 not held within a specified time; providing for
17 the release of the juvenile until such
18 adjudicatory hearing is complete; repealing
19 Rule 3.191, Florida Rules of Criminal
20 Procedure, relating to a defendant's right to a
21 trial within a specified time; repealing Rule
22 8.090, Florida Rules of Juvenile Procedure,
23 relating to a juvenile's right to an
24 adjudicatory hearing within a specified time;
25 providing a contingent effective date.

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27 WHEREAS, Section 16, Article I of the State
28 Constitution and the Sixth Amendment to the United States
29 Constitution give criminal defendants the right to a speedy
30 and public trial, and
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1 WHEREAS, in 1971, the Legislature enacted chapter
2 71-1(B), Laws of Florida, which authorized the Florida Supreme
3 Court to make rules of procedure that relate to criminal
4 defendants' right to a speedy trial, and

5 WHEREAS, Rule 3.191, Florida Rules of Criminal
6 Procedure, and Rule 8.090, Florida Rules of Juvenile
7 Procedure, create time periods for a speedy trial which are
8 much stricter than constitutionally necessary and that require
9 courts to dismiss prosecutions against accused criminals and
10 juveniles who have suffered neither a violation of a
11 constitutional right nor an unfair trial, and

12 WHEREAS, the Legislature recognizes that justice
13 delayed is truly justice denied and the courts of this state
14 need rules of practice and procedure to implement both the
15 accused's and the state's right to a speedy trial, and

16 WHEREAS, the Legislature agrees with the dissent in
17 Reed v. State, 649 So.2d 227 (Fla. 1995) which states that
18 current rules that guarantee a speedy trial have created a
19 substantive right of accused criminals and juvenile offenders
20 that encroach upon the power of the Legislature, go far beyond
21 constitutional requirements, and substantially eviscerate the
22 statutes of limitations enacted by the Legislature, and

23 WHEREAS, it is the intent of the Legislature that a
24 defendant or juvenile offender not be forever discharged from
25 prosecution as a consequence of a violation of a speedy-trial
26 rule when there is no concomitant violation of a
27 constitutional or statutory right, NOW, THEREFORE,

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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 918.015, Florida Statutes, is
2 amended to read:

3 918.015 Right to speedy trial.--

4 (1) In all criminal prosecutions the state and the
5 defendant shall each have the right to a speedy trial.

6 (2) The Supreme Court may ~~shall~~, by rule of ~~said~~
7 ~~court~~, provide procedures through which the right of the state
8 and the defendant to a speedy trial as guaranteed by
9 subsection (1) and by s. 16, Art. I of the State Constitution,
10 shall be realized. However, a court may not discharge a
11 criminal defendant from prosecution unless it finds a
12 substantive violation of the defendant's constitutional right
13 to a speedy trial. For purposes of determining whether a trial
14 is proceeding in a manner that constitutes a speedy trial, the
15 time period does not commence until an indictment or
16 information has been filed by the state attorney and the
17 defendant has been detained in a state, county, or municipal
18 detention facility.

19 Section 2. Subsection (6) of section 39.048, Florida
20 Statutes, is amended to read:

21 39.048 Petition.--

22 (6)(a) If a petition has been filed alleging that a
23 child has committed a delinquent act or violation of law, ~~and~~
24 ~~no demand for speedy trial has been made pursuant to paragraph~~
25 ~~(d)~~, the adjudicatory hearing on the petition must be
26 commenced within 90 days after the earlier of:

- 27 1. The date the child is taken into custody; or
- 28 2. The date the petition is filed.

29 (b) A child shall be deemed to have been brought to
30 trial if the adjudicatory hearing begins before the judge
31 within the time provided. If the adjudicatory hearing is not

1 commenced within 90 days or an extension thereof as
2 ~~hereinafter~~ provided in paragraph (c), the child must be
3 released from all conditions of detention care until the
4 adjudicatory hearing is completed ~~the petition shall be~~
5 ~~dismissed with prejudice.~~

6 (c) The court may extend the period of time prescribed
7 in paragraph (a) on motion of any party, after hearing, on a
8 finding of cause or that the interest of the child will be
9 served by such extension. The order extending such period
10 must ~~shall~~ state the reasons therefor. The general congestion
11 of the court's docket, lack of diligent preparation, failure
12 to obtain available witnesses, or other avoidable or
13 foreseeable delays are not sufficient cause for such
14 extension.

15 Section 3. Rule 3.191, Florida Rules of Criminal
16 Procedure and Rule 8.090, Florida Rules of Juvenile Procedure,
17 are repealed.

18 Section 4. This act shall take effect October 1, 1997,
19 but section 3 of this act shall take effect only if this act
20 is enacted by a two-thirds vote of the membership of each
21 house of the Legislature.

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24 SENATE SUMMARY

25 Repeals Rule 3.191, Florida Rules of Criminal Procedure,
26 and Rule 8.090, Florida Rules of Juvenile Procedure,
27 which implement the constitutional right of a defendant
28 or juvenile offender to a speedy trial or hearing.
29 Prohibits a court from discharging a defendant from
30 prosecution unless the court finds that the defendant's
31 right to a speedy trial has been substantively violated.
Provides procedures for determining whether a trial is
proceeding in a manner that constitutes a speedy trial.
Prohibits a court from dismissing a juvenile offender for
whom the adjudicatory hearing is not held within the
specified time. Provides for the juvenile to be released
from custody until the hearing is complete.