
By Mr. Buxbaum of Sharon, petition of John J. Buckley and Laurence R. Buxbaum that provision be made for the speedy trial of criminal defendants. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Four.

AN ACT PROVIDING FOR THE SPEEDY TRIAL OF CRIMINAL DEFENDANTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 A bill to repeal section 72 of chapter 277 of the General
2 Laws, as recently amended by section 61 of chapter 218 of the
3 Revised Laws, and inserting in place thereof:

4 1) The trial of criminal cases shall be given preference over
5 civil cases. The trial of defendants in custody and defendants
6 whose pre-trial liberty is reasonably believed to present unusual
7 risks should be given preference over other criminal cases.

8 a) In cases where a defendant is detained, the Commonwealth
9 must be ready for trial within 90 days from the date of
10 detention. If the Commonwealth is not ready for trial within
11 such time, the defendant shall be released upon bond or his own
12 recognizance or upon such other conditions as the court may
13 determine unless there is a showing of exceptional circumstances
14 by the Commonwealth justifying the continued detention of the
15 defendant, and then the detention shall continue only for as long
16 as necessary. This shall not apply to any defendant who is serving
17 a term of imprisonment for another offense, nor to any
18 defendant who, subsequent to release under this rule, has been
19 charged with another crime or has violated the conditions of his
20 release.

21 b) In all cases, the Commonwealth must be ready for trial
22 within six months from the date of arrest, service of summons,
23 detention, or the filing of a complaint or of a formal charge upon
24 which the defendant is to be tried (other than a sealed
25 indictment) whichever is the earliest. If the Commonwealth is
26 not ready for trial within such time, or within the period
27 extended by the court for good cause, then, upon application of
28 the defendant or upon motion of the court, after an opportunity
29 for argument, the charge shall be dismissed.

30 2) Specified periods of time excluded from the above compu-
31 tations are:

32 a) A reasonable period of delay resulting from other proceed-
33 ings concerning the defendant, including but not limited to
34 proceedings for the determination of competency and the period
35 during which he is incompetent to stand trial, pre-trial motions,
36 interlocutory appeals, trial of other charges, and the period
37 during which such matters are subjudice.

38 b) The period of delay resulting from a continuance granted
39 by the court at the request of, or with the consent of, the
40 defendant or his counsel. The court shall grant such a continu-
41 ance only if it is satisfied the postponement is in the interest of
42 justice, taking into account the public interest in the prompt
43 disposition of criminal charges. A defendant without counsel
44 should not be deemed to have consented to a continuance unless
45 he has been advised by the court of his rights under these rules
46 and the effect of his consent.

47 c) The period of delay resulting from a continuance granted at
48 the request of a prosecuting attorney if:

49 i. the continuance is granted because of the unavail-
50 ability of evidence material or witnesses to the government's
51 case, when the prosecuting attorney has exercised due diligence
52 to obtain such evidence and there are reasonable grounds to
53 believe that such evidence will become available within a
54 reasonable period; or

55 ii. the continuance is granted to allow the prosecuting
56 attorney additional time to prepare the government's case and
57 the Commonwealth shows this additional time is justified by the
58 exceptional circumstances of the case.