

By Representative 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 1998"; amending s. 918.015, F.S.; allowing
5 for exercise by the Florida Supreme Court of
6 discretion in adopting rules that provide for
7 the right of a defendant to a speedy trial;
8 prohibiting discharge of a defendant from
9 prosecution because of denial of speedy trial
10 unless the court finds a substantive violation
11 of the defendant's right to a speedy trial;
12 amending s. 985.218, F.S.; deleting provisions
13 that provide for dismissal with prejudice if an
14 adjudicatory hearing for a juvenile offender is
15 not held within a specified time; providing for
16 the release of the juvenile until such
17 adjudicatory hearing is complete; repealing
18 Rule 3.191, Florida Rules of Criminal
19 Procedure, relating to a defendant's right to a
20 trial within a specified time; repealing Rule
21 8.090, Florida Rules of Juvenile Procedure,
22 relating to a juvenile's right to an
23 adjudicatory hearing within a specified time;
24 providing an effective date.

25
26 WHEREAS, Section 16, Article I of the State
27 Constitution and the Sixth Amendment to the United States
28 Constitution give criminal defendants the right to a speedy
29 and public trial, and

30 WHEREAS, in 1971, the Legislature enacted chapter
31 71-1(B), Laws of Florida, which authorized the Florida Supreme

1 Court to make rules of procedure that relate to criminal
2 defendants' right to a speedy trial, and

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

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

14 WHEREAS, the Legislature agrees with the dissent in
15 Reed v. State, 649 So.2d 227 (Fla. 1995), which states that
16 the current speedy trial rule has been construed as creating a
17 substantive right of accused criminals far beyond
18 constitutional requirements, resulting in an encroachment upon
19 the power of the Legislature and a substantial evisceration of
20 the statutes of limitation enacted by the Legislature, and

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

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27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Section 918.015, Florida Statutes, is
30 amended to read:

31 918.015 Right to speedy trial.--

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

3 (2) The Supreme Court may ~~shall~~, by rule ~~of said~~
4 ~~court~~, provide procedures through which the right of the state
5 and the defendant to a speedy trial as guaranteed by
6 subsection (1) and by s. 16, Art. I of the State Constitution,
7 shall be realized. However, a court may not discharge a
8 criminal defendant from prosecution because of denial of
9 speedy trial unless it finds a substantive violation of the
10 defendant's constitutional right to a speedy trial.

11 Section 2. Subsection (6) of section 985.218, Florida
12 Statutes, as transferred and renumbered from section 39.048,
13 Florida Statutes, by chapter 97-238, Laws of Florida, is
14 amended to read:

15 985.218 Petition.--

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

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

23 (b) A child shall be deemed to have been brought to
24 trial if the adjudicatory hearing begins before the judge
25 within the time provided. If the adjudicatory hearing is not
26 commenced within 90 days or an extension thereof as
27 hereinafter provided in paragraph (c), the child must be
28 released from all conditions of detention care until the
29 adjudicatory hearing is completed, the petition shall be
30 ~~dismissed with prejudice.~~

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

10 Section 3. Rule 3.191, Florida Rules of Criminal
11 Procedure, and Rule 8.090, Florida Rules of Juvenile
12 Procedure, are repealed.

13 Section 4. This act shall take effect October 1 of the
14 year in which enacted but section 3 of this act shall take
15 effect only if this act is enacted by a two-thirds vote of the
16 membership of each house of the Legislature.

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19 HOUSE SUMMARY

20 Creates the "Speedy Trial Reform Act of 1998." Repeals
21 Rule 3.191, Florida Rules of Criminal Procedure, and Rule
22 8.090, Florida Rules of Juvenile Procedure, which
23 implement the constitutional right of a defendant or
24 juvenile offender to a speedy trial or hearing. Prohibits
25 discharge of a defendant from prosecution unless the
26 court finds that the defendant's right to a speedy trial
27 has been substantively violated. With respect to a
28 juvenile offender for whom the adjudicatory hearing is
29 not held within the specified time, provides for the
30 juvenile to be released from custody until the hearing is
31 complete. Removes provision requiring dismissal of the
delinquency petition with prejudice, under such
circumstances.