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DISPOSITION OF PENDING CHARGES

THE OHIO "FAST AND SPEEDY TRIAL ACT" AND THE INTERSTATE AGREEMENT ON DETAINERS

Ohio law allows a person who is incarcerated in an Ohio correctional institution to request the speedy disposition of any untried indictment, complaint, or information that is pending against the prisoner. If the request for disposition is properly made and served on the required individuals, the charge can be dismissed if it is not disposed of within the required time period.

Which law can I use to request the State to dispose of my untried charge?

Two laws allow a person who is incarcerated in an Ohio correctional institution to request a speedy disposition of a pending, untried charge. If the charge is pending in an Ohio court, the Fast and Speedy Trial Act, R.C. 2941.401, controls the process for requesting disposition of the charge. If the charge is pending in another State or in a Federal court, the Interstate Agreement on Detainers, R.C. 2963.30, controls the process for requesting disposition of the charge. The Interstate Agreement on Detainers is often referred to as the "IAD."

The Fast & Speedy Trial Act does not apply to you if you are not in an Ohio correctional institution. So you cannot use that statute if you are incarcerated in a county jail or a similar lock-up. That restriction does not apply to the IAD; jail inmates **can** seek relief under the IAD.

Do these laws apply to the "charge" or detainer in my case?

These statutes apply only to **untried criminal charges** brought against you by an indictment, a bill of information, or a criminal complaint. So they **do not apply** to: community-control, probation, parole, or postrelease control revocation proceedings; to bench warrants (for example, for failure to appear or for contempt of court) (a bench warrant is often referred to as a "capias"); or to arrest warrants arising from an investigation that has not yet resulted in a criminal charge. Thus, many detainers cannot be removed through the Fast & Speedy Trial Act or the IAD.

[If the pending, untried charge relates to a misdemeanor complaint, and DRC tells you that R.C. 2941.401 does not apply to you, please write to this office at the address listed on page 3 of this packet.]

How do I request a speedy disposition?

First, you must provide information to the Central Record Office – Detainer Section about the pending case and ask for speedy disposition of that case. The Central Record Office will send the required paperwork to the Warden's office, because the Warden is the person who must send your request for disposition to the judge and prosecutor.

When a person is transferred to DRC custody, the Bureau of Records Management (BORM) completes a record check, and notifies any jurisdiction for which you have a warrant that you are incarcerated. When such a jurisdiction requests a detainer, BORM will contact the warden's administrative assistant, who is responsible for giving the inmate notice of the detainer and providing an opportunity to request a speedy trial.

To request a speedy disposition of a pending charge, you should complete the form included in this packet entitled "**Request for Disposition of Charges (R.C. 2941.401)**" if the charge is pending in an Ohio court, or the form entitled "**Request for Disposition of Charges Pending in Another State or in a Federal Court - Interstate Agreement on Detainers (IAD),"**if the charge is pending in another State or in a Federal court. You should kite the request form to the Central Record Office—Detainer Section. That office will prepare the speedy-trial request and send it to the warden's office to be signed. It will then be returned to BORM, which will send the request to the court and prosecutor by certified mail. *You should keep a copy of any receipt that you receive regarding the mailing of your speedy-trial request*.

Subject to the requirements of R.C. 2941.401 or the IAD, from the time the court and prosecutor receive your request, the State has 180 days in which to bring you back to court to dispose of that charge. If you have not been brought back to court within 180 days, the charge must be dismissed.

How do I request a speedy disposition if the prosecuting agency has not filed a detainer against me?

For cases that you believe are pending, but for which no detainer has been lodged, you must first obtain the case number for your pending case. If you do not know the case number for your case, you can complete the form included in this packet entitled "**Request for Case Information – Clerk of Court**" and send it to the Clerk of Court in the jurisdiction in which you believe your case is pending. The law library has a set of legal directories which contain the addresses for all of the clerks of court in Ohio. You should include a self-addressed, postage-paid envelope with each request you make to each Clerk of Court. If you do not give the clerk a return envelope, there is a good chance that the Clerk's office will **not** send you the information you requested.

Once the clerk of court has given you the case number, you should complete the form included in this packet entitled "**Request for Disposition of Charges (R.C. 2941.401)**" if the charge is pending in an Ohio court, or the form entitled "**Request for Disposition of Charges Pending in Another State or in a Federal Court - Interstate Agreement on Detainers (IAD),"** if the charge is pending in another State or in a Federal court. Then, kite the form to the Central Record Office—Detainer Section. That office will

prepare the speedy-trial request and send it to the warden's office to be signed. It will then be returned to BORM, which will send the request to the court and prosecutor by certified mail. *You should keep a copy of any receipt that you receive regarding the mailing of your speedy-trial request*.

Subject to the requirements of R.C. 2941.401 or the IAD, from the time the court and prosecutor receive your request, the State has 180 days in which to bring you back to court to dispose of that charge. If you have not been brought back to court within 180 days, the charge must be dismissed.

IF YOU HAVE FURTHER QUESTIONS, CONTACT THE PUBLIC DEFENDER AT YOUR RECEPTION CENTER. IF YOU ARE NO LONGER AT THE RECEPTION CENTER, CONTACT THE INTAKE SECTION AT THE OHIO PUBLIC DEFENDER'S OFFICE IN COLUMBUS, AT THE FOLLOWING ADDRESS:

OHIO PUBLIC DEFENDER
INTAKE SECTION
250 E. BROAD STREET
SUITE 1400
COLUMBUS, OHIO 43215

-End-
(Rev: 3/10/16)
#458499

Request for Case Information – Clerk of Court

Clerk of Court Date: _____

_____
NAME OF COURT

_____
STREET ADDRESS

_____
CITY, STATE, AND ZIP CODE

Dear Clerk:

I,_____, am currently incarcerated at
NAME AND INSTITUTIONAL NUMBER

_____. I believe that I have one or more
NAME OF INSTITUTION

pending criminal cases in your jurisdiction, in which I would like to request a final disposition in accordance with R.C. 2941.401. I am therefore requesting that you provide me with the case number for any pending case(s) that I may have in your county.

My date of birth is: _____.

My Social Security Number is: _____.

My approximate date of arrest in your jurisdiction was:_____

On the following page, please list the information requested above, as well as any other information or developments relative to my outstanding case(s). I have enclosed a self-addressed, postage-prepaid envelope for your convenience. Thank you for your cooperation in this matter.

Respectfully submitted,

_____
SIGNATURE

_____
NAME AND INSTITUTIONAL NUMBER

_____
INSTITUTION

_____
ADDRESS

_____
CITY, STATE & ZIP

PLEASE LIST CASE INFORMATION (AND OTHER RELEVANT MATTERS) HERE:

Request for Disposition of Charges (R.C. 2941.401)

If you have outstanding charges that you wish to dispose of while you are incarcerated, please complete this form and send it to the Central Record Office—Detainer Section, via kite.

County, City, and State of offense(s):

_____

_____

Case Numbers: *(If you know your case number, include it below. If you do not know your case number, but you can obtain it by talking to a friend or family member on the outside, it is a good idea to obtain the case number before sending this form to the Central Records.)*

_____

Felony_____ or **Misdemeanor**_____ *(check which apply)*

Offense(s)_____

Date warrant issued, or date of offense:

_____

Once this form is filled out, send it to the Central Record Office—Detainer Section, via kite. The Central Record Office will contact the appropriate authorities. You will be notified and offered a fast and speedy trial under R.C. 2941.401, **if it is an untried indictment or complaint**.

Your name:_____

Your inmate number:_____

Today's date:_____

Request for Disposition of Charges
Pending in Another State
or in a Federal Court
Interstate Agreement on Detainers (IAD)

If you have outstanding charges in another State or in a Federal court that you want to dispose of while you are incarcerated, complete this form and kite it to the **Central Records Office – Detainer Section**.

City, County, and State of offense(s):

_____

_____

Case Numbers: *(If you know your case number, include it below. If you do not know your case number, but can get it through a friend or family member, it is a good idea to get the case number and put it on this form, below.)*

_____

Felony_____ **or Misdemeanor**_____ *(check which apply)*

Offense(s)_____

Date warrant issued or date of offense:

_____

Name and Address of Prosecutor:

_____

After filling out this form, kite it to the Central Records Office – Detainer Section. (Keep a copy for yourself.) That office will contact the proper authorities. You should be notified and offered a trial under the Interstate Agreement on Detainers, **if it is an untried indictment or complaint**..

Your name:_____
Your inmate number:_____
Today's date:_____

R.C. 2941.401 - Fast & Speedy Trial

When a person has entered upon a term of imprisonment in a correctional institution of this state, and when during the continuance of the term of imprisonment there is pending in this state any untried indictment, information, or complaint against the prisoner, he shall be brought to trial within one hundred eighty days after he causes to be delivered to the prosecuting attorney and the appropriate court in which the matter is pending, written notice of the place of his imprisonment and a request for a final disposition to be made of the matter, except that for good cause shown in open court, with the prisoner or his counsel present, the court may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the warden or superintendent having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time served and remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the adult parole authority relating to the prisoner.

The written notice and request for final disposition shall be given or sent by the prisoner to the warden or superintendent having custody of him, who shall promptly forward it with the certificate to the appropriate prosecuting attorney and court by registered or certified mail, return receipt requested.

The warden or superintendent having custody of the prisoner shall promptly inform him in writing of the source and contents of any untried indictment, information, or complaint against him, concerning which the warden or superintendent has knowledge, and of his right to make a request for final disposition thereof.

Escape from custody by the prisoner, subsequent to his execution of the request for final disposition, voids the request.

If the action is not brought to trial within the time provided, subject to continuance allowed pursuant to this section, no court any longer has jurisdiction thereof, the indictment, information, or complaint is void, and the court shall enter an order dismissing the action with prejudice.

This section does not apply to any person adjudged to be mentally ill or who is under sentence of life imprisonment or death, or to any prisoner under sentence of death.