



Office of the Ohio Public Defender

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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 them. A disposition is a final settlement or determination of your case. This could be a finding of guilty or not guilty, or it could be dismissing the charges. If the request for speedy disposition is properly made and served on the required individuals, there must be a disposition within 180 days or the charge will be dismissed.

I. What Is A Request for Speedy Disposition?

It is an official request to be brought back to court to dispose of pending charge(s).

Two laws allow someone in an Ohio correctional institution to request a speedy disposition of a pending, untried charge. If your case is pending in Ohio, the statute that will guide your request is Ohio Revised Code Section 2941.401 (see page 20). This is known as the “Fast and Speedy Trial Act”. If your case is pending in federal court, or any State other than Ohio, the statute that will guide your request is Ohio Revised Code Section 2963.30 (see page 22). This is known as the Interstate Agreement on Detainers, or the “IAD”. When you fill out the paperwork at the back of this packet, make sure that you are filling out the form related to the correct statute.

If a request for speedy disposition is made correctly, the prosecutor has 180 days from the time they and the court receive your request to bring you back to court and dispose of your charge(s). If you have not been brought to trial or otherwise disposed of your charge(s) within 180 days, the charge(s) must be dismissed. This is true for any pending, untried criminal charge – felony or misdemeanor.

A request for speedy disposition does not affect how you deal with the charges. You may accept a plea offer, demand a trial, or otherwise respond to the charges as you see fit. If you are eligible, you may have an appointed attorney represent you throughout your case(s).

II. Am I Able to Request a Speedy Disposition?

The rules on requesting speedy dispositions are specific, and you must fulfill certain requirements to be eligible.

Requirement #1 – Where You are Being Held

If your pending charges come from an Ohio court, you must be held in an ODRC facility to request a disposition of your charges. You must be in ODRC custody when you make your request and, to have charges dismissed, you must be in ODRC custody for the entire 180 day waiting period. You may not request a speedy disposition from a county jail or other lock-up if your pending charges come from an Ohio court.

If your pending charges come from a federal court or a state court outside Ohio, you may request a speedy disposition under the IAD from an Ohio prison or from a county jail or other lock-up. You must be incarcerated or in lock-up for the entire 180-day waiting period for your case(s) to be eligible for dismissal.

Requirement #2 – Charges Must be Untried

Because a speedy disposition only applies to pending cases, you must have *untried criminal charges* brought against you by a prosecutor. You may NOT request a speedy disposition in any of the following situations: community-control, probation, parole, or postrelease control revocation proceedings; warrants for failure to appear or for contempt of court; or arrest warrants based on an investigation that has not yet produced any criminal charges. If your case falls into one of the listed categories, it is not eligible for a speedy disposition.

Requirement #3 – What Are Your Charges?

If your pending, untried charge relates to a misdemeanor complaint, and ODRC tells you that the Fast & Speedy Trial Act (R.C. 2941.401) does not apply to you, please write to this office at the address listed on page 4 of this packet.

Requirement #4 – You Must Have an Active Case

If you believe that you have committed a crime, but have not yet been charged, you are not eligible to request a speedy disposition. Until you have an untried criminal charge, you will not be able to resolve the matter.

- Not having a charge is a good thing! You can't be found guilty if there are no charges.
- Prosecutors make the decision regarding whether to bring charges in any given case. If there are no charges, **DO NOT** contact the prosecutor and ask about potential charges! Your contact with the prosecutor's office could cause them to investigate or charge you, and anything you say will be used against you.
- Your prosecutor must bring charges within a period of time known as the "statute of limitations." Ohio Revised Code Section 2901.13 lists the time limits for various charges in Ohio. While there are some general time limits based on whether your alleged crime is a felony or a misdemeanor, there are a number of exceptions. If you would like to find the statute of limitations for a particular crime, please visit the law library and review this statute.

III. How Do I Request A Speedy Disposition?

Under both the Fast & Speedy Trial Act and the IAD, requests for speedy disposition are not filed by an inmate directly with the court. Instead, an inmate must kite their request to

the Central Record Office – Detainer Section. This request must contain specific information to allow the Detainer Section to prepare the materials that will be filed with the court and prosecutor. The Detainer Section then forwards your request to your Warden’s Office for the Warden’s signature. The completed speedy disposition request is then sent to the Bureau of Records Management, also known as “BORM.” Finally, BORM will send your completed speedy disposition request to the court and prosecutor by certified mail.

Requesting A Speedy Disposition After You Receive A Detainer

When a person is transferred to ODRC custody, BORM completes a record check and notifies any jurisdiction where you have a warrant that you are incarcerated. If 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.

If BORM finds that you have a detainer, you should receive in your institutional mail a kite from the Detainer Section. It will list out basic information regarding your case. Your detainer may come with some forms that you can use to request a speedy disposition. If you receive those forms, you may use them to start the speedy disposition process. If you do not receive those forms, you may use the forms included in this packet to make your request.

If your charge is pending in an Ohio court: To request a speedy disposition of your charge, complete the form included in this packet entitled “Request for Disposition of Charges (R.C. 2941.401).”

If your charge is pending in another State or in a Federal court: To request a speedy disposition of your charge, complete the form included in this packet entitled “Request for Disposition of Charges Pending in Another State or in a Federal Court - Interstate Agreement on Detainers (IAD).”

No matter which form you complete, you **must kite the request form to the Central Record Office—Detainer Section**. Do NOT kite this form to the Public Defender. 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.

Requesting A Speedy Disposition When You Have Not Received A Detainer

For cases that you believe are pending, but for which no detainer has been lodged, you must first obtain some necessary information about your pending case. If you are in touch with folks outside of ODRC, you may ask them to check on the Clerk of Court’s website for this

information. If you do not have any outside help, or if your outside help is unable to find the information, 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 where you believe your case is pending. The law library has a set of legal directories which contain the addresses for all clerks of court in Ohio.

When you write the Clerk, 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 any of the information you request. Once you get a response from the Clerk, you can complete the proper form to request a speedy disposition.

If your charge is pending in an Ohio court: To request a speedy disposition of your charge, complete the form included in this packet entitled “Request for Disposition of Charges (R.C. 2941.401).”

If your charge is pending in another State or in a Federal court: To request a speedy disposition of your charge, complete the form included in this packet entitled “Request for Disposition of Charges Pending in Another State or in a Federal Court - Interstate Agreement on Detainers (IAD).”

No matter which form you complete, you must 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.

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:

<p>OHIO PUBLIC DEFENDER INTAKE SECTION 250 E. BROAD STREET SUITE 1400 COLUMBUS, OHIO 43215</p>

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 following information for any pending case(s) that I may have in your county:

County, city, and State of offense(s); case number(s); Offense(s); Date warrant(s) issued, or date of offense(s); whether each offense is a felony or a misdemeanor.

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 related 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

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

If you have outstanding charges in the State of Ohio that you wish to dispose of while you are incarcerated, 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 _____ **Misdemeanor** _____ *(check which one applies)*

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 **send it to the Central Record Office — Detainer Section via kite.**

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.)*

Felony _____ **Misdemeanor** _____ *(check which one applies)*

Offense(s) _____

Date warrant issued or date of offense:

Name and Address of Prosecutor: *(You can find this in the Legal Directories located in the Law Library.)*

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.

R.C. 2963.30 – THE INTERSTATE AGREEMENT ON DETAINERS

The contracting states solemnly agree that:

Article I

The party states find that charges outstanding against a prisoner, detainees based on untried indictments, informations or complaints, and difficulties in securing speedy trials of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainees based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainees, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

Article II

As used in this agreement:

(a) "State" shall mean a state of the United States[:]; the United States of America[:]; a territory or possession of the United States[:]; the District of Columbia[:]; the Commonwealth of Puerto Rico.

(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof.

(c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV hereof.

Article III

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainee has been lodged against the prisoner, he shall be brought to trial within one hundred eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint: provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time 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 state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his rights to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

(d) Any request or [for] final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections or other officials having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request.

Article IV

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V (a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated:[,] provided that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request:[,] and provided further that there shall be a period of thirty days after receipt by the appropriate

authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(b) Upon receipt of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time 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 state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(c) In respect of any proceeding made possible by this Article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this Article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V (e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

Article V

(a) In response to a request made under Article III or Article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place of trial, whichever custodian arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(1) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given.

(2) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction,[,] except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner,[,] the provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

Article VI

(a) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled

whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill, or who is under sentence of death.

Article VII

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

Article VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

Article IX

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any agreement, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

End

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