

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 103-5 as follows:

6 (725 ILCS 5/103-5) (from Ch. 38, par. 103-5)

7 Sec. 103-5. Speedy trial.)

8 (a) Every person in custody in this State for an alleged
9 offense shall be tried by the court having jurisdiction
10 within 110 ~~120~~ days from the date he was taken into custody
11 unless delay is occasioned by the defendant, by an
12 examination for fitness ordered pursuant to Section 104-13 of
13 this Act, by a fitness hearing, by an adjudication of
14 unfitness to stand trial, by a continuance allowed pursuant
15 to Section 114-4 of this Act after a court's determination of
16 the defendant's physical incapacity for trial, or by an
17 interlocutory appeal. Delay shall be considered to be agreed
18 to by the defendant unless he or she objects to the delay by
19 making a written demand for trial or an oral demand for trial
20 on the record.

21 The 110-day ~~120-day~~ term must be one continuous period of
22 incarceration. In computing the 110-day ~~120-day~~ term,
23 separate periods of incarceration may not be combined. If a
24 defendant is taken into custody a second (or subsequent) time
25 for the same offense, the term will begin again at day zero.

26 (b) Every person on bail or recognizance shall be tried
27 by the court having jurisdiction within 150 ~~160~~ days from the
28 date defendant demands trial unless delay is occasioned by
29 the defendant, by an examination for fitness ordered pursuant
30 to Section 104-13 of this Act, by a fitness hearing, by an
31 adjudication of unfitness to stand trial, by a continuance

1 allowed pursuant to Section 114-4 of this Act after a court's
 2 determination of the defendant's physical incapacity for
 3 trial, or by an interlocutory appeal. The defendant's
 4 failure to appear for any court date set by the court
 5 operates to waive the defendant's demand for trial made under
 6 this subsection.

7 For purposes of computing the 150-day ~~160~~ day period
 8 under this subsection (b), every person who was in custody
 9 for an alleged offense and demanded trial and is subsequently
 10 released on bail or recognizance and demands trial, shall be
 11 given credit for time spent in custody following the making
 12 of the demand while in custody. Any demand for trial made
 13 under this subsection (b) shall be in writing; and in the
 14 case of a defendant not in custody, the demand for trial
 15 shall include the date of any prior demand made under this
 16 provision while the defendant was in custody. Any demand for
 17 trial not reduced to writing is insufficient to invoke the
 18 remedies provided by subsection (i) of this Section.

19 (c) If the court determines that the State has exercised
 20 without success due diligence to obtain evidence material to
 21 the case and that there are reasonable grounds to believe
 22 that such evidence may be obtained at a later day the court
 23 may continue the cause on application of the State for not
 24 more than an additional 60 days. If the court determines that
 25 the State has exercised without success due diligence to
 26 obtain results of DNA testing that is material to the case
 27 and that there are reasonable grounds to believe that such
 28 results may be obtained at a later day, the court may
 29 continue the cause on application of the State for not more
 30 than an additional 110 ~~120~~ days.

31 (d) (Blank). ~~Every person not tried in accordance with~~
 32 ~~subsections (a), (b) and (c) of this Section shall be~~
 33 ~~discharged from custody or released from the obligations of~~
 34 ~~his bail or recognizance.~~

1 (e) If a defendant person is simultaneously in custody
2 upon more than one charge pending against him or her in the
3 same county, or simultaneously demands trial upon more than
4 one charge pending against him or her in the same county, he
5 or she shall be tried, or adjudged guilty after waiver of
6 trial, upon at least one such charge before expiration
7 relative to any of such pending charges of the period
8 prescribed by subsections (a) and (b) of this Section. The
9 State has 110 days on each of the charges remaining against
10 the defendant to try the charges. The date for the
11 commencement of each 110-day period is Such person--shall--be
12 ~~tried--upon--all--of--the--remaining--charges--thus--pending--within~~
13 ~~160--days--from~~ the date on which judgment relative to the
14 previous first charge thus prosecuted is rendered pursuant to
15 the Unified Code of Corrections or, if such trial upon such
16 previous first charge is terminated without judgment and
17 there is no subsequent trial of, or adjudication of guilt
18 after waiver of trial of, such previous first charge within a
19 reasonable time, the date for the commencement of the 110-day
20 period is the date on which the previous trial is terminated.
21 ~~Delay person--shall--be--tried--upon--all--of--the--remaining--charges~~
22 ~~thus--pending--within--160--days--from--the--date--on--which--such~~
23 ~~trial--is--terminated;--if--either--such--period--of--160--days~~
24 ~~expires--without--the--commencement--of--trial--of,--or--adjudication~~
25 ~~of--guilt--after--waiver--of--trial--of,--any--of--such--remaining~~
26 ~~charges--thus--pending,--such--charge--or--charges--shall--be~~
27 ~~dismissed--and--barred--for--want--of--prosecution--unless--delay--is~~
28 occasioned by the defendant, by an examination for fitness
29 ordered pursuant to Section 104-13 of this Act, by a fitness
30 hearing, by an adjudication of unfitness for trial, by a
31 continuance allowed pursuant to Section 114-4 of this Act
32 after a court's determination of the defendant's physical
33 incapacity for trial, or by an interlocutory appeal is
34 excluded from computation of the 110-day periods. ;--provided,

1 ~~however,--that~~ If, however, the court determines that the
2 State has exercised without success due diligence to obtain
3 evidence material to the case and that there are reasonable
4 grounds to believe that such evidence may be obtained at a
5 later day the court may continue the cause on application of
6 the State for not more than an additional 60 days.

7 (f) Delay occasioned by the defendant shall temporarily
8 suspend for the time of the delay the period within which a
9 person shall be tried as prescribed by subsections (a), (b),
10 or (e) of this Section and on the day of expiration of the
11 delay the said period shall continue at the point at which it
12 was suspended. Where such delay occurs within 21 days of the
13 end of the period within which a person shall be tried as
14 prescribed by subsections (a), (b), or (e) of this Section,
15 the court may continue the cause on application of the State
16 for not more than an additional 21 days beyond the period
17 prescribed by subsections (a), (b), or (e). This subsection
18 (f) shall become effective on, and apply to persons charged
19 with alleged offenses committed on or after, March 1, 1977.

20 (f-5) When a case is continued or interrupted by an
21 interlocutory appeal, the period of time under which a
22 defendant must be tried under the provisions of this Section
23 is tolled until such time as the appellate court order
24 deciding the appeal is issued and the case is again placed on
25 the docket of the trial court. When a case on appeal has
26 been reversed and remanded for a new trial, the time for the
27 commencement of trial under the provisions of this Section
28 begins again, commencing with the date on which the case is
29 again placed on the docket of the trial court.

30 (g) Notwithstanding any other provisions of this
31 Section, except as otherwise limited in this subsection (g),
32 if, within 60 days of the end of the period within which a
33 defendant must be tried under the provisions of this Section,
34 the defendant violates any of the conditions of his or her

1 bond, engages in conduct in custody that violates the laws of
2 this State, or while on bond fails to appear in court on the
3 date and time appointed, any period of time within which the
4 defendant must be tried under the provisions of this Section
5 is extended 60 days. If, however, a defendant in custody
6 escapes from custody or a defendant admitted to bail fails to
7 appear in court on the date appointed and fails to surrender
8 himself or herself within 30 days following the date of the
9 issuing of a warrant for the defendant's arrest for such
10 failure to appear in court, the time period prescribed for
11 the start of trial under the provisions of this Section
12 begins again at day zero. The date on which either the
13 additional 60-day time period or the entirely new speedy
14 trial term limit begins is either: (i) the date that the
15 defendant is taken into custody for violation of the
16 conditions of his or her bond, escape from custody, or
17 failure to appear in court on the date and time appointed, or
18 (ii) the date that the defendant, after having provided due
19 notice to the State or after the State has waived the
20 providing of the notice in open court, appears in court on
21 the date provided in the motion accompanying the notice, and
22 demand trial in writing. Any further charges that are tried
23 separately must be tried within 110 days of the date that the
24 judgment was rendered on the charge.

25 The provisions of this subsection do not apply if the
26 defendant proves that his or her failure to appear in court,
27 alleged violation of the condition of his or her bond,
28 alleged misconduct while in custody, or failure to appear in
29 court within 30 days after the issuing of a warrant for his
30 or her arrest for failure to appear in court was due to
31 events beyond his or her control. An arrest for another
32 offense, regardless of the eventual outcome of the case, is
33 not an event beyond the defendant's control.

34 (h) Whenever the State reasonably relies on a ruling of

1 the court or the records of the clerk of the court that a
2 certain period of time is delay occasioned or agreed to by
3 the defendant, or a delay is experienced due to error by the
4 clerk of the court in properly recording a date or
5 transmitting an order of any court to the State, the period
6 of time encompassed by that delay is not used to calculate
7 any period of time within which a person must be tried or
8 retried as required by this Section.

9 (i) Relief.

10 (1) If a defendant in custody is not tried within
11 the applicable time period prescribed by the provisions
12 of this Section, that defendant must be released from
13 custody and placed on a recognizance bond, unless the
14 defendant is also in custody for the commission of
15 another unrelated offense for which the applicable time
16 period prescribed by the provisions of this Section has
17 not expired. If a defendant on bond is not tried within
18 the applicable time period prescribed by the provisions
19 of this Section, that defendant must be released from all
20 the conditions of his or her bond relating to the charge
21 for which he or she was not tried in the time prescribed
22 except for the requirement of appearing in court on the
23 date set by the court.

24 (2) In any case in which a defendant has not been
25 tried within the applicable time period prescribed by the
26 provisions of this Section, the judge before whom the
27 case is pending for trial, upon ruling that the defendant
28 has not been tried within the prescribed time period,
29 must set the cause for trial no more than 10 days from
30 the date of the court's ruling, unless the defendant
31 requests and is granted a continuance past that date of
32 the 10-day time limit. If the 10th day occurs on a court
33 holiday, the 10th day is considered to be the first day
34 following the court holiday or holidays that the court is

1 in session. If the defendant is granted a continuance
2 past the 10-day time limit, the court must, on the
3 subsequent court date, set the cause for trial no more
4 than 10 days from the date of that subsequent court date,
5 unless the defendant again requests and is granted a
6 continuance. If, in the absence of a granting of a
7 continuance to a defendant, and except as provided for in
8 subsection (g), the defendant has not been tried within
9 the prescribed 10-day time limit, the charges against the
10 defendant must be dismissed with prejudice. A continuance
11 past the 10-day limit may be granted only in
12 extraordinary circumstances.

13 (3) Except for a failure to try a person within the
14 10-day time limit prescribed in subsection (i)(2), the
15 court may not dismiss a charge against a person for a
16 violation of the provisions of this Section.

17 (j) The changes in the time periods in which a person
18 must be tried under this Section are applicable only to
19 persons taken into custody on or after the effective date of
20 this amendatory Act of the 92nd General Assembly.

21 (Source: P.A. 90-705, eff. 1-1-99; 91-123, eff. 1-1-00.)