Chapter 134

1961 REPLACEMENT PART
(1963 reprint)

Compromising Certain Cases; Dismissal of Actions; Prosecution of Persons Already Imprisoned in Penitentiary or Correctional Institution for Other Crimes

COMPROMISE

134.010 Crimes subject to being compromised
134.020 Satisfaction of injured person; discharge of defendant
134.030 Discharge as bar to prosecution
134.040 Exclusiveness of procedure

DISMISSAL

134.110 Delay in finding indictment
134.120 Delay in bringing defendant to trial
134.130 Where there is reason for the delay
134.140 Effect of dismissal
134.150 Dismissal on motion of court or district attorney
134.160 Nolle prosequi; discontinuance by district attorney

PROSECUTION OF PERSONS ALREADY IMPRISONED IN PENITENTIARY OR CORRECTIONAL INSTITUTION FOR OTHER CRIMES

134.510 Notice requesting early trial on pending charge
134.520 Trial within 90 days of notice unless continuance granted
134.530 Dismissal of criminal proceeding not brought to trial within allowed time
134.540 Presence of prisoner at proceedings
134.550 Release of prisoner on bail prohibited
134.560 District attorney to furnish certain documents

CROSS REFERENCES

Discharge of indictment for want of prosecution, 136.120 to 136.140
Evidence obtained from defendant, inspection, 133.755

134.110

Postponement of trial, 136.070

134.120

Discharge of indictment, 136.120
Postponement of trial, 136.070

134.130

Discharge of indictment, 136.120
Postponement of trial, 136.070

134.150

Dismissal of election violation prosecution, 260.520

134.510

Hearing on allegation of former convictions, 168.065

COMPROMISE

134.010 Crimes subject to being compromised. When a defendant is held to answer on a charge of misdemeanor for which the person injured by the act constituting the crime has a remedy by a civil action, the crime may be compromised, as provided in ORS 134.020, except when it was committed:

(1) By or upon an officer of justice while in the execution of the duties of his office;

(2) Riotously; or

(3) With an intent to commit a felony.

134.020 Satisfaction of injured person; discharge of defendant. If the party injured appears before the court at which the defendant is bound to appear, at any time before trial on an indictment for the crime, and acknowledges in writing that he has received satisfaction for the injury, the court may, in its discretion, on payment of the costs and expenses incurred, order all further proceedings to be stayed upon the prosecution and the defendant to be discharged therefrom; but the order and the reasons therefor must be entered in the journal.

134.030 Discharge as bar to prosecution. The order authorized by ORS 134.020, when made and entered, is a bar to another prosecution for the same crime.

134.040 Exclusiveness of procedure. No crime can be compromised nor can any proceeding for the prosecution or punishment thereof be stayed upon a compromise, except as provided in ORS 134.010 to 134.160.

134.050 to 134.100 [Reserved for expansion]

DISMISSAL

134.110 Delay in finding indictment. When a person has been held to answer for a crime, if an indictment is not found against him within 60 days after the person is held to answer, the court shall order the prosecution to be dismissed, unless good cause to the contrary is shown.
[Amended by 1959 c.638 §15]

134.120 Delay in bringing defendant to trial. If a defendant indicted for a crime, whose trial has not been postponed upon his application or by his consent, is not brought to trial within a reasonable period of time, the court shall order the indictment to be dismissed.
[Amended by 1959 c.638 §16]

134.130 Where there is reason for the delay. If the defendant is not indicted or tried, as provided in ORS 134.110 and 134.120, and sufficient reason therefor is shown, the court may order the action to be continued and in the meantime may discharge the defendant from custody on his own undertaking of bail for his appearance to answer the charge or action at the time to which the same is continued.
[Amended by 1959 c.638 §17]

134.140 Effect of dismissal. (1) If the court directs the charge or action to be dismissed, the defendant, if in custody, shall be discharged. If he has been admitted to bail, his bail is exonerated and money deposited in lieu of bail shall be refunded to him.

(2) An order for the dismissal of a charge or action, as provided in ORS 134.010 to 134.160, is a bar to another prosecution for the same crime if the crime is a misdemeanor; but it is not a bar if the crime charged is a felony.

134.150 Dismissal on motion of court or district attorney. The court may, either of its own motion or upon the application of the district attorney, and in furtherance of justice, order an action, after indictment, to be dismissed; but in that case, the reasons of the dismissal shall be set forth in the order, which shall be entered in the journal.

134.160 Nolle prosequi; discontinuance by district attorney. The entry of a nolle prosequi is abolished, and the district attorney cannot discontinue or abandon a prosecution for a crime, except as provided in ORS 134.150.

134.170 to 134.500 [Reserved for expansion]

PROSECUTION OF PERSONS ALREADY IMPRISONED IN PENITENTIARY OR CORRECTIONAL INSTITUTION FOR OTHER CRIMES

134.510 Notice requesting early trial on pending charge. (1) Any inmate of the Oregon State Penitentiary or the Oregon State Correctional Institution against whom there is pending at the time of commitment or against whom there is filed at any time during imprisonment, in any court of this state, an indictment, information or criminal

complaint charging him with the commission of a crime, may give written notice to the district attorney of the county in which the inmate is so charged requesting the district attorney to prosecute and bring him to trial on the charge forthwith.

(2) The notice provided for in subsection (1) of this section shall be signed by the inmate and set forth the place and term of imprisonment. A copy of the notice shall be sent to the court in which the inmate has been charged by indictment, information or complaint.
[1955 c.387 §1]

134.520 Trial within 90 days of notice unless continuance granted. (1) The district attorney, after receiving a notice requesting trial under ORS 134.510, shall, within 90 days of receipt of the notice, bring the inmate to trial upon the pending charge.

(2) A continuance may be granted upon the request of the district attorney and with the consent of the inmate. The court shall grant any continuance with the consent of the defendant. The court may grant a continuance on motion of the district attorney for good cause shown. The fact of imprisonment is not good cause for the purposes of this subsection.
[1955 c.387 §2]

134.530 Dismissal of criminal proceeding not brought to trial within allowed time. On motion of the defendant or his counsel, or on his own motion, the court shall dismiss any criminal proceeding not brought to trial in accordance with ORS 134.520.
[1955 c.387 §3]

134.540 Presence of prisoner at proceedings. (1) Whenever the presence of an inmate of the Oregon State Penitentiary or the Oregon State Correctional Institution is necessary in any criminal proceeding under ORS 134.510 to 134.570, the court wherein the inmate is charged with the commission of a crime may issue an order directing the Warden of the Oregon State Penitentiary or the Superintendent of the Oregon State Correctional Institution to surrender the inmate to the sheriff of the county where the inmate is to be tried.

(2) The costs of transportation and maintenance of any inmate removed under this section from the penitentiary or correctional institution shall be paid by the county where the inmate is charged with commission of a crime.

(3) At the conclusion of any criminal proceeding under ORS 134.510 to 134.570, notwithstanding the provisions of ORS 137.140 or 137.150, the inmate shall be returned by the sheriff to the institution from which he was removed, there to serve the balance of the unexpired sentence and any other term imposed under any additional sentence.

(4) The time during which an inmate is in the custody of the sheriff under this section is part of and shall be counted as time served under the original sentence.
[1955 c.387 §4]

134.550 Release of prisoner on bail prohibited. No inmate in the custody of a sheriff under ORS 134.540 shall be released on bail pending a criminal proceeding under ORS 134.510 to 134.570 or any appeal therefrom.
[1955 c.387 §5]

134.560 District attorney to furnish certain documents. The district attorney shall, in all proceedings against inmates under ORS 134.510 to 134.570, obtain for and furnish to the court a certified copy of the judgment, sentence or commitment order pursuant to which the inmate is imprisoned in the penitentiary or correctional institution.
[1955 c.387 §6]

134.570 [1955 c.387 §6; repealed by 1961 c.520 §1]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on December 1, 1961.

Sam R. Haley
Legislative Counsel