

## **PROPOSED CHANGE TO 725 ILCS 5/109-3.1**

### **I. Proposed Change to Statute**

**(725 ILCS 5/109-3.1) (from Ch. 38, par. 109-3.1)**

**Sec. 109-3.1. Persons Charged with Felonies.** (a) In any case involving a person charged with a felony in this State, alleged to have been committed on or after January 1, 1984, the provisions of this Section shall apply.

(b) Every person in custody in this State for the alleged commission of a felony shall receive either a preliminary examination as provided in Section 109-3 or an indictment by Grand Jury as provided in Section 111-2, within ~~30~~ **10** days from the date he or she was taken into custody. Every person on bail or recognizance for the alleged commission of a felony shall receive either a preliminary examination as provided in Section 109-3 or an indictment by Grand Jury as provided in Section 111-2, within ~~60~~ **30** days from the date he or she was arrested.

The provisions of this paragraph shall not apply in the following situations:

- (1) when delay is occasioned by the defendant; or
- (2) when the defendant has been indicted by the Grand Jury on the felony offense for which he or she was initially taken into custody or on an offense arising from the same transaction or conduct of the defendant that was the basis for the felony offense or offenses initially charged; or
- (3) when a competency examination is ordered by the court; or
- (4) when a competency hearing is held; or
- (5) when an adjudication of incompetency for trial has been made; or
- (6) when the case has been continued by the court under Section 114-4 of this Code after a determination that the defendant is physically incompetent to stand trial.

(c) Delay occasioned by the defendant shall temporarily suspend, for the time of the delay, the period within which the preliminary examination must be held. On the day of expiration of the delay the period in question shall continue at the point at which it was suspended.

(Source: P.A. 83-644.)

### **II. Research Supporting Change**

#### **Felony Case Processing in Cook County**

In 2010, 12,446 defendants were released from jail after their cases were dismissed – on average, detainees had spent 25 days in jail before dismissal.<sup>1</sup> 45% (5,638) of those dismissals were drug charges--often-victimless cases that are relatively simple to assess. Not identifying these cases for dismissal early on not only runs afoul of basic notions of justice, but also represents a massive waste of resources.

#### **Average Time to Process**

The average non-murder felony case in Cook County takes from 160 to 290 days.<sup>2</sup> During that time, the average defendant charged with a non-murder felony spends between 70 and 150 days in Cook County Jail.<sup>3</sup>

**Figure 1: Cook County Felony Case Flow, with average number of days between events**

<b>Arrest</b> -----	<b>Bond Hrg</b> -----	<b>Grand Jury/ Prelim. Hrg.</b> -----	<b>Assignment</b> -----
	Day 2	21 days - narcotics 8 days – other cases, but up to 30 days	21 days
----- <b>Arraignment</b> -----	<b>First Call</b> -----	<b>Status Conferences</b> -----	<b>1st Trial Date</b> ----
same day as assignment (up to 7 days in suburbs)	varies, but typically 30 days	varies by judge	varies by judge
<b>Status Conferences</b> -----	<b>2<sup>nd</sup> Trial Setting, etc.</b> -----	<b>---/--</b> -----	<b>Trial/Plea</b> -----
varies by judge	varies by judge		From Arraign: all classes of: felonies except murder: 119 – 240 days, average]
			<b>Sentence</b> usually same day as conviction, if plea; PSI if requested.

Source: Trotter Report

**Figure 2: Time in Cook County Jail Custody for Inmates Charged with Felony Offenses Relating to Illegal Possession/Manufacture/Sale of Controlled Substances**

Charge	Number of Defendants	Average Time in Custody	Total Days In Custody
Illegal possession of a controlled substance	23,974	59	1,416,570
Manufacture or delivery	5,717	101	577,417
Illegal possession of cannabis	3,452	41	141,532
Possess amt. con sub except (A) (D)	2,842	71	201,782
Manufacture/delivery cannabis	1,043	53	55,279
Manufacture/deliver other amount	698	105	73,290
Manufacture/deliver/sell subst	423	110	46,530
other drug charges	1,578	87	137,554
<b>TOTAL</b>	<b>39,727</b>	<b>67</b>	<b>2,651,954 (51.2%)</b>

Source: Trotter Report

The following describes the outline of felony case processing in Cook County, including the interaction between the Cook County Circuit Court, the Office of the State’s Attorney and the

Public Defender's Office, from arrest to trial to probation.

### **Arrest – Non Drug Related Felonies**

After the Chicago Police Department (“CPD”) arrests a person that they believe should be charged with a felony, the arresting officer calls the Cook County State’s Attorney Felony Review Board to determine whether there is sufficient evidence for a felony charge to be brought against the person arrested. The Felony Review office is open 24 hours a day, 7 days a week. The State’s Attorney on duty at the Felony Review office reviews the defendant’s criminal history and the evidence in the case. Occasionally, the State’s Attorney will travel to the stationhouse to interview the defendant.

After conducting this review, the State’s Attorney will determine whether felony charges are merited. If the State’s Attorney determines that there is insufficient evidence for a felony charge, the felony charges are dropped. If the State’s Attorney drops the felony charge, the CPD can still charge a person with a misdemeanor. In some circumstances CPD might also be able to pursue a felony charge through a mechanism called a “first deputy’s override”. If the State’s Attorney believes that the evidence merits a felony charge, those charges are filed by the arresting officer. The charges are outlined in a complaint that is sent to the branch courts for a probable cause hearing. If probable cause for the charge is found at that hearing, the State’s Attorney files an information that further details the charges.

### **Arrest – Drug Related Felonies**

Despite the above, the State’s Attorney Felony Review Board does not review felony drug charges until the preliminary hearing stage (discussed below).<sup>4</sup> This means that felony drug cases enter into to the system without an initial review that could have otherwise resulted in a dismissal prior to the defendant being processed into Cook County Jail or appearing before a judge. CPD enters the felony drug charges on the complaint. Once the defendant’s fingerprints are processed and the bond hearing is scheduled, the CPD transports the defendant from the stationhouse to Cook County Jail bullpen under Room 101 for a pre-trial assessment and to await his or her bond hearing.

### **Pre-Trial Assessment**

After an arrest, and while the defendant is being held pending Bond Court, the Cook County Adult Probation-Pretrial Services Department collects information on the defendant so that the judge has adequate data regarding the defendant to make informed release decisions at the bond hearing. Information collected on the defendant includes residence, family and community ties, prior compliance with court appearances, and criminal history (rap sheet). Pretrial Services collects this information on a Pretrial Services Bond Assessment Form. However, it is not clear that this information is being collected and/or verified for every defendant due to the sheer number of felony cases being processed in Cook County and the quick turnaround time from arrest to bond hearing (2-3 days). At a minimum, the defendant’s criminal history is being presented at the bond hearing by the prosecutor or public defender.<sup>5</sup>

## **Bond Hearing**

Within 72 hours of a felony arrest, the defendant is taken in front of a judge for a bond hearing. Bond hearings are held 365 days a year at Central Bond Court in the Cook County Criminal Courts building at 2600 S. California Avenue. Judges from the First Municipal District Court conduct the bond hearings for all Criminal Division defendants. If the defendant does not have private defense counsel, the defendant is assigned a Public Defender for the bond hearing. There is a short conversation prior to the hearing regarding the defendant's personal information (age, education, family and community connections, work history and resources for posting bond). This information is presented both by the PD and the ASA, who gathered the information from the Pretrial Services assessment, at the bond hearing.

Next, the bond judge makes a determination on whether the defendant should be released and, if released, what type of bond or release conditions should be placed on the defendant. A judge can give a defendant either an I-bond (personal recognizance) or a D-bond (requires money to be posted with the court). Special non-monetary release restrictions can include electronic monitoring, not contacting an alleged victim, staying away from a specific location, not leaving the state of Illinois or day reporting to the Cook County Jail. Bond court hearings move very quickly, with the majority lasting between one and five minutes.<sup>6</sup>

## **Preliminary Hearing**

Within 30 days of a bond hearing (or 60 days if the defendant is out on bond), the First Municipal District Felony Preliminary Hearing Section judge will conduct a preliminary hearing on most drug related Criminal Division felony cases. At the preliminary hearing the judge hears evidence about whether a crime was committed and, if there was a crime, whether there is reason to believe that the defendant committed that crime. If the judge finds probable cause, the case is moved for assignment to Criminal Court. If the judge makes a finding of no probable cause, the case is dropped. There is little defense counsel activity on drug cases that occurs prior to the preliminary hearing, although private defense counsel and public defenders working on more serious cases (murder, etc) often perform preliminary work during this period.<sup>7</sup>

For drug cases, the preliminary hearing is also where the ASA conducts/reports on its prosecutorial screening (e.g. felony review) of felony drug cases. A 2005 report found that 37% of all cases are screened out by the State's Attorney Office by the completion of the preliminary hearing stage. However, a good number of felony drug cases are also dismissed following the probable cause hearing.

This means that a significant number of defendants must remain in jail while ultimately waiting for their charges to be dropped. Warehousing these defendants places a significant strain on the resources of the jail, the courts, and the taxpayers. Moreover, when the case is finally dismissed, the defendants who might benefit from the intervention of the court are released from custody with a high chance of reoffending.

## **Origin of Current Standard**

The original Illinois Code of Criminal Procedure of 1963 had no set time standard on when preliminary hearings were to take place. Instead, all the statute said was that the preliminary examination take place "without unnecessary delay." The clarifying subsection to 109-3, 109-3.1, was not added into the criminal code until the fall of 1983, Public Act 83-644. The bill was sponsored by Senator Sangmeister.

According to the transcript the time standard was based on discussions Senator Sangmeister had with practitioners and not on comparative research with other jurisdictions. This is the relevant portion of the transcript from May 11, 1983:

"This is the preliminary hearing bill and we finally decided, after discussing with both state's attorneys and appellate offenders [sic], that it is reasonable that the state's attorney hold the preliminary hearing within thirty days if incarcerated and sixty days if not."

The purpose of the amendment was not actually to create a reasoned out standard but rather to give defendants a statutory remedy for having their preliminary hearing denied.

1983 was only the dawn of the drug war and before the prison and jail population booms of the last three decades. Given these facts, the cursory discussions that were the basis of this law three decades ago do not sufficiently inform what our practices should be today—especially given how out of synch we are with other states throughout the country.

**Figure 3: Illinois Arrest to Preliminary Hearing Statutory Time Limit and Effect on the Jail Population Compared to Other States With Shorter Time Limits**

State	Arrest to Preliminary Hearing while in custody (in days)	Arrest to Preliminary Hearing while on bail/recognizance (in days)	Jail Population in 2010 <sup>8</sup>
Illinois <sup>9</sup>	30	60	20,066
Arizona <sup>10</sup>	10	20	15,479
West Virginia <sup>11</sup>	14	21	4,077
Wisconsin <sup>12</sup>	10	20	14,304
California <sup>13</sup>	10	10	82,138
Michigan <sup>14</sup>	14	14	14,617
Missouri	21 <sup>15</sup>	Reasonable time <sup>16</sup>	10,461

Ohio <sup>17</sup>	10	15	19,853
Kentucky <sup>18</sup>	10	20	16,761
New York <sup>19</sup>	120 hours	--	29,535
Iowa <sup>20</sup>	10	20	3,637
New Jersey <sup>21</sup>	14	14	17,621

### III. Adjustment Period

The best way to provide for an adjustment period which would allow the State's Attorney's Offices to comply with the shorter time requirement between arrest and preliminary hearing is to make the amendment effective 3 months after it is enacted by the General Assembly. Three months should be sufficient time for the State's Attorneys to accelerate the progression of cases in order to be in compliance with the shorter time limit.

#### Caseload Per Prosecutor In Cook County And Other Large Jurisdictions With Shorter Times To Preliminary Hearings

County	Prosecutors	Felonies	Felonies Per Prosecutor
Cook County	800	60,000	75
Los Angeles County, CA	1020	68,654	67
Wayne, MI (Detroit)	188	13,000	69
Maricopa, AZ	343	40,000	117
San Diego, CA	310	18,888	61
San Bernadino, CA	219	20,187	92
Philadelphia County, PA	283	15,515	55

\*Numbers as of 2006. Data from Gershowitz & Killinger, 'The State (Never) Rests', 105 Northwestern University Law Review 1 (2011).

### IV. Summary of Time Requirements in Other Jurisdictions

Jurisdiction	Time to PC (Custodial)	Time to PC (Noncustodial)	Governing Statute	URL	Notes
	Within:	)			

Federal	14 days after initial appearance	21 days after initial appearance	Federal Rule of Criminal Procedure 5.1	<a href="http://www.law.cornell.edu/rules/frcrmp">http://www.law.cornell.edu/rules/frcrmp</a>	
Alabama	21 days of demand; (demand must be made within 30 days of arrest)		Alabama RCrimP R.5.1	<a href="http://judicial.alabama.gov/library/rules_crim_procedure.cfm">http://judicial.alabama.gov/library/rules_crim_procedure.cfm</a>	
Alaska	10 days after initial appearance	20 days after initial appearance	Alaska RCrimP R. 5(e)(4)	<a href="http://courts.alaska.gov/crpro.htm#5">http://courts.alaska.gov/crpro.htm#5</a>	
Arizona	10 days after initial appearance	20 days after initial appearance	Arizona RCrimP R. 5.1(a)	<a href="http://weblinks.westlaw.com/toc/default.aspx?Abbr=az-rules-web&amp;Action=ExpandTree&amp;AP=NCB1EB43070CB11DAA16E8D4AC7636430&amp;ItemKey=NCB1EB43070CB11DAA16E8D4AC7636430&amp;RP=%2Ftoc%2Fdefault.wl&amp;Service=TOC&amp;RS=WEBL13.04&amp;VR=2.0&amp;SPa=AZR-1000&amp;fragment#NCB1EB43070CB11DAA16E8D4AC7636430">http://weblinks.westlaw.com/toc/default.aspx?Abbr=az-rules-web&amp;Action=ExpandTree&amp;AP=NCB1EB43070CB11DAA16E8D4AC7636430&amp;ItemKey=NCB1EB43070CB11DAA16E8D4AC7636430&amp;RP=%2Ftoc%2Fdefault.wl&amp;Service=TOC&amp;RS=WEBL13.04&amp;VR=2.0&amp;SPa=AZR-1000&amp;fragment#NCB1EB43070CB11DAA16E8D4AC7636430</a>	
Arkansas	N/A			<a href="http://www.lexisnexis.com/hotspots/arcodes/Default.asp">http://www.lexisnexis.com/hotspots/arcodes/Default.asp</a>	
California	10 days of arraignment or plea (arraignment must take place within 48 hours of arrest, so at most 12 days)		California Penal Code § 859b	<a href="http://codes.lp.findlaw.com/cacode/PEN/3/2/3/7/s859b">http://codes.lp.findlaw.com/cacode/PEN/3/2/3/7/s859b</a>	
Colorado	35 days of setting (must be requested within 7 days of initial		Colorado. RCrimP R. 5(a)(4)	<a href="http://www.lexisnexis.com/hotspots/colorado/">http://www.lexisnexis.com/hotspots/colorado/</a>	The formal definition of a preliminary hearing is found at C.R.S. § 16-5-104(14).

	appearance)				
Connecticut	60 days of filing of complaint or information *in capital cases		Connecticut Statute 54-46a	<a href="http://search.cga.state.ct.us/dtsearch_pub_statutes.html">http://search.cga.state.ct.us/dtsearch_pub_statutes.html</a>	(a) No person charged by the state, who has not been indicted by a grand jury prior to May 26, 1983, shall be put to plea or held to trial for any crime punishable by death or life imprisonment unless the court at a preliminary hearing determines there is probable cause to believe that the offense charged has been committed and that the accused person has committed it.
Delaware	10 days of initial appearance	20 days of initial appearance	Delaware RCrimP R. 5(d)	<a href="http://courts.delaware.gov/Superior/pdf/criminal_rules_2012.pdf">http://courts.delaware.gov/Superior/pdf/criminal_rules_2012.pdf</a>	
Florida	*right attaches 21 days after arrest (or service) if D in not charged by information or indictment		Florida RCrimP R. 3.133(b)(1)	<a href="http://www.floridabar.org/TFB/TFBResources.nsf/0/BDFE1551AD291A3F85256B29004BF892/\$FILE/Criminal.pdf?OpenElement">http://www.floridabar.org/TFB/TFBResources.nsf/0/BDFE1551AD291A3F85256B29004BF892/\$FILE/Criminal.pdf?OpenElement</a>	“A defendant who is not charged in an information or indictment within 21 days from the date of arrest or service of the capias on him or her shall have a right to an adversary preliminary hearing on any felony charge then pending against the defendant. The subsequent filing of an information or indictment shall not eliminate a defendant's entitlement to this proceeding.”
Georgia	*before indictment			<a href="http://www.georgiacourts.org/courts/superior/rules/rule_26.html">http://www.georgiacourts.org/courts/superior/rules/rule_26.html</a>	Rule 26.1. Bonds and first appearance. At the first



					<p>appearance, the judicial officer shall: ... (D) Inform the accused of his or her right to a later pre indictment <u>commitment hearing</u>, unless the first appearance covers the commitment hearing issues, and inform the accused that giving a bond shall be a waiver of the right to a commitment hearing;</p>
Hawaii	2 days of initial appearance *see note	30 days of initial appearance	Hawaii RCrimP R.5(c)(3)	<a href="http://www.courts.state.hi.us/docs/court_rules/rules/hrpp.htm#Rule_5">http://www.courts.state.hi.us/docs/court_rules/rules/hrpp.htm#Rule_5</a>	(3) Time for preliminary hearing; release upon failure of timely disposition. ..if the defendant is held in custody for a period of more than 2 days after initial appearance without commencement of a defendant's preliminary hearing, the court, on motion of the defendant, shall release the defendant to appear on the defendant's own recognizance, unless failure of such determination or commencement is caused by the request, action or condition of the defendant, or occurred with the defendant's consent, or is attributable to such compelling fact or circumstance which would preclude such determination or

					commencement within the prescribed period, or unless such compelling fact or circumstance would render such release to be against the interest of justice.
Idaho	14 days from initial appearance	21 days from initial appearance	Idaho Criminal Rules I C R 5.1	<a href="http://www.isc.idaho.gov/icr5-1">http://www.isc.idaho.gov/icr5-1</a>	
Illinois	30 days from date taken into custody	60 days from arrest	Illinois Compiled Statutes 725 ILCS 5/109-3.1	<a href="http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=072500050HTit.+III&amp;ActID=1966&amp;ChapterID=54&amp;SeqStart=14900000&amp;SeqEnd=19700000">http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=072500050HTit.+III&amp;ActID=1966&amp;ChapterID=54&amp;SeqStart=14900000&amp;SeqEnd=19700000</a>	
Indiana	N/A		Indiana Code IC 35-33-7	<a href="http://www.in.gov/legislative/ic/2010/title35/ar33/ch7.pdf">http://www.in.gov/legislative/ic/2010/title35/ar33/ch7.pdf</a>	
Iowa	10 days of initial appearance	20 days of initial appearance	Iowa RCrimP R. 2.2(4)(a)	<a href="https://www.legis.iowa.gov/DOCUMENTS/ACO/CR/LINC/06-27-2013.chapter.2.pdf">https://www.legis.iowa.gov/DOCUMENTS/ACO/CR/LINC/06-27-2013.chapter.2.pdf</a>	
Kansas	10 after arrest or personal appearance		Kansas Statutes Annotated K.S.A. § 22-2902	<a href="http://kansasstatutes.lesterama.org/Chapter_22/Article_29/22-2902.html">http://kansasstatutes.lesterama.org/Chapter_22/Article_29/22-2902.html</a>	gives every person charged with a felony the right to a preliminary hearing unless the charge is issued by a grand jury indictment.
Kentucky	10 days of initial appearance	20 days of initial appearance	Kentucky RCrimP R. 3.10(2)	<a href="http://www.kybar.org/documents/ky_criminal_rules/rcr3.10.pdf">http://www.kybar.org/documents/ky_criminal_rules/rcr3.10.pdf</a>	
Louisiana	*to be set "immediately" upon request		Louisiana Code of Criminal Procedure CCRP 292	<a href="http://www.legis.la.gov/Legis/Law.aspx?d=112419">http://www.legis.la.gov/Legis/Law.aspx?d=112419</a>	Pursuant to Louisiana Const. Art. I, § 14, every person charged with a felony who has not been indicted by a grand jury is entitled to a preliminary examination.
Maine	N/A		Maine Revised	<a href="http://www.mainelegislature.org/legis/statutes/15/title15ch105sec0">http://www.mainelegislature.org/legis/statutes/15/title15ch105sec0</a>	

			Statutes	.html	
Maryland	*D must request within 10 days after the initial appearance		Maryland Statutes Section 4-103	<a href="http://statutes.laws.com/maryland/criminal-procedure/title-4/subtitle-1/4-103">http://statutes.laws.com/maryland/criminal-procedure/title-4/subtitle-1/4-103</a>	
Massachusetts	“as may be” *see note 1 **see note 2		Mass. RCrimP. R. 3	<a href="http://www.lawlib.state.ma.us/source/mass/rules/criminal/crim3.html">http://www.lawlib.state.ma.us/source/mass/rules/criminal/crim3.html</a>	<ol style="list-style-type: none"> <li>1. The defendant makes an affirmative choice between being proceeded against by indictment or proceeding by a probable cause hearing upon the complaint. See <a href="https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleII/Chapter276/Section38">https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleII/Chapter276/Section38</a></li> <li>2. “For the reasons we shall discuss, we decline to adopt a bright-line rule that would require the Commonwealth to conduct the probable cause hearing within thirty days or another definite time frame, but we conclude that</li> </ol>

					because the probable cause hearing is an important stage in a criminal proceeding, the Commonwealth must demonstrate good cause to justify any request by the Commonwealth to continue it.” (2012 slip opinion SJC 10979 COMMONWEALTH vs. LAVONRENCE PERKINS.)
Michigan	14 days after arraignment		Michigan Compiled Laws MCL 766.4	<a href="http://www.legislature.mi.gov/%28S%28zv2qjgykppbuxjnocriz22yx%29%29/mileg.aspx?page=getObject&amp;objectName=mcl-766-4">http://www.legislature.mi.gov/%28S%28zv2qjgykppbuxjnocriz22yx%29%29/mileg.aspx?page=getObject&amp;objectName=mcl-766-4</a>	
Minnesota	*Omnibus hearing must be held within 28 days of initial appearance		Minnesota RCrimP R. 8 and R. 11	<a href="https://www.revisor.leg.state.mn.us/court_rules/rule.php?type=cr&amp;id=8#8.03">https://www.revisor.leg.state.mn.us/court_rules/rule.php?type=cr&amp;id=8#8.03</a>	Rule 11.01 Time and Place of Hearing In felony and gross misdemeanor cases, if the defendant has not pled guilty, an Omnibus Hearing must be held. (a) The Omnibus Hearing must start within 42 days of the Rule 5 appearance if it was not combined with the Rule 8 hearing, or within 28 days of the Rule 5

					appearance if it was combined with the Rule 8 hearing.... Rule 11.02 Scope of the Hearing If the prosecutor or defendant demands a hearing under Rule 8.03, the court must conduct an Omnibus Hearing and hear all motions relating to: (a) Probable cause....
Mississippi	*D may demand preliminary hearing while in custody		Mississippi RCrimP R. 6.03(5)	<a href="http://courts.ms.gov/rules/msrulesofcourt/urccc.pdf">http://courts.ms.gov/rules/msrulesofcourt/urccc.pdf</a>	
Missouri	“a reasonable time” after filing of felony complaint		Missouri RCrimP R. 22.09	<a href="http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/f96af8b0e2f67ca286256ca6005213cd?OpenDocument">http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/f96af8b0e2f67ca286256ca6005213cd?OpenDocument</a>	
Montana	“within a reasonable time”		Montana Code Annotated MCA 46-10-105	<a href="http://leg.mt.gov/bills/mca/46/10/46-10-105.htm">http://leg.mt.gov/bills/mca/46/10/46-10-105.htm</a>	After the initial appearance, in all cases in which the charge is triable in district court, the justice's court shall, within a reasonable time, hold a preliminary examination unless: (1) the defendant waives a preliminary examination; (2) the district court has granted leave to file an information; (3) an indictment has been returned; or (4) the case is

					triable in justice's court.
Nebraska					
Nevada	15 days of initial appearance		Nevada Rules of Criminal Procedure NRS 171.196(2)	<a href="http://www.leg.state.nv.us/NRS/NRS-171.html#NRS171Sec196">http://www.leg.state.nv.us/NRS/NRS-171.html#NRS171Sec196</a>	
New Hampshire	10 days of arraignment	20 days of arraignment	New Hampshire RCrimP R. 6(b)	<a href="http://www.courts.state.nh.us/rules/criminal-rules/crimpro-6.htm">http://www.courts.state.nh.us/rules/criminal-rules/crimpro-6.htm</a>	
New Jersey	“a reasonable time”		New Jersey RCrimP R.3:4-3	<a href="http://www.judiciary.state.nj.us/rules/r3-4.htm">http://www.judiciary.state.nj.us/rules/r3-4.htm</a>	
New Mexico					
New York	120 hours from arrest. Or 144 hours if custodial period includes a weekend.		New York Criminal Procedure Law CPL. LAW § 180.80	<a href="http://codes.lp.findlaw.com/nycode/CPL/TWO/H/180/180.80">http://codes.lp.findlaw.com/nycode/CPL/TWO/H/180/180.80</a>	If custodial period does not include a weekend, then 120 hours.
North Carolina	15 days of initial appearance		North Carolina Statute § 15A-606.	<a href="http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySession/Chapter_15A/GS_15A-606.pdf">http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySession/Chapter_15A/GS_15A-606.pdf</a>	The district court generally must schedule a probable cause hearing for between five and fifteen working days from the date of the defendant’s initial appearance in district court. See G.S 15A-606(d) (hearing may be sooner than five working days if parties consent and later than fifteen working days if no session of district court is scheduled)

					within that time).
North Dakota					
Ohio	10 consecutive days of arrest or service	15 consecutive days of arrest or service	Ohio RCrimP R. 5(B)	<a href="http://www.supremecourt.ohio.gov/LegalResources/Rules/criminal/CriminalProcedure.pdf">http://www.supremecourt.ohio.gov/LegalResources/Rules/criminal/CriminalProcedure.pdf</a>	
Oklahoma	“immediately after the appearance of counsel”		Oklahoma Statutes O.S. §22-253.	<a href="http://www.oklegislature.gov/oss/tatuestitle.html">http://www.oklegislature.gov/oss/tatuestitle.html</a>	<p>§22 253. Defendant to be examined. The magistrate must without a jury, immediately after the appearance of counsel, or if none appear and the defendant require the aid of counsel, after waiting a reasonable time therefor, proceed to examine the case. The defendant may be sworn and testify in his own behalf as in civil cases.</p> <p>(Section II-17 of the Oklahoma Constitution: No person shall be prosecuted criminally in courts of record for felony or misdemeanor otherwise than by presentment or indictment or by information. No person shall be prosecuted for a felony by information without having had a preliminary examination before an examining magistrate,</p>

					or having waived such preliminary examination. Prosecutions may be instituted in courts not of record upon a duly verified complaint.)
Oregon					
Pennsylvania	14 days after arraignment	21 days after arraignment	Pennsylvania RCrimP R. 540(G)(1)	<a href="http://www.pacode.com/secure/data/234/chapter5/s541.html">http://www.pacode.com/secure/data/234/chapter5/s541.html</a>	
Rhode Island					
South Carolina	10 days from D's demand. *See note.		South Carolina RCrimP R. 2	<a href="http://www.spartanburgmagistrates.com/rules/criminal.htm#Rule%202">http://www.spartanburgmagistrates.com/rules/criminal.htm#Rule %202</a>	Court must give D oral and written notice of right to preliminary hearing at Bond Hearing. Defendant's request for a preliminary hearing must be made in writing within ten (10) days after notice of his right to a preliminary hearing. Failure of the defendant to make a timely request will result in a waiver of his right to request such a hearing. The preliminary hearing must be held within ten (10) days following the request.
South Dakota	15 days of initial appearance	45 days of initial appearance	South Dakota Statute 23A-4-3	<a href="http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&amp;Statute=23A-4-3">http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute &amp;Statute=23A-4-3</a>	
Tennessee	10 days of initial appearance	30 days of initial appearance	Tennessee RCrimP Rule 5(d)(3)	<a href="http://www.tncourts.gov/rules/rules-criminal-procedure/5">http://www.tncourts.gov/rules/rules-criminal-procedure/5</a>	
Texas	*upon				TEX CR. CODE



	demand before indictment				ANN. § 16.01 “examining trial” held upon demand of arrestee, before indictment
Utah	10 days of initial appearance	30 days of initial appearance	Utah RCrimP R. 7(h)(1)–(2)	<a href="http://www.utcourts.gov/resources/rules/urcrp/URCRP07.html">http://www.utcourts.gov/resources/rules/urcrp/URCRP07.html</a>	article I, section 13 of Utah’s constitution provides for preliminary hearings
Vermont					
Virginia	“as soon as may be practical”		Virginia Code § 19.2-183	<a href="http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-183">http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-183</a>	VA § 19.2-218. Preliminary hearing required for person arrested on charge of felony; waiver. No person who is arrested on a charge of felony shall be denied a preliminary hearing upon the question of whether there is reasonable ground to believe that he committed the offense and no indictment shall be returned in a court of record against any such person prior to such hearing unless such hearing is waived in writing by the accused.
Washington	*no more than 30 days from complaint	**no more than thirty days from initial appearance	Washington RCrimP CrRLJ 3.2.1 (g)(2)	<a href="http://www.courts.wa.gov/court_rules/?fa=court_rules.display&amp;group=clj&amp;set=CrRLJ&amp;ruleid=cljcrrlj3.2.1">http://www.courts.wa.gov/court_rules/?fa=court_rules.display&amp;group=clj&amp;set=CrRLJ&amp;ruleid=cljcrrlj3.2.1</a>	
West Virginia	10 days of initial appearance	20 days of initial appearance	West Virginia RCrimP R. 5 (c)	<a href="http://www.courtsww.gov/legal-community/court-rules/criminal-procedure/section1.html">http://www.courtsww.gov/legal-community/court-rules/criminal-procedure/section1.html</a>	
Wisconsin	10 days of initial appearance	20 days of initial appearance	Wisconsin Statute § 970.03(2)	<a href="https://docs.legis.wisconsin.gov/statutes/statutes/970/03">https://docs.legis.wisconsin.gov/statutes/statutes/970/03</a>	

	(if in custody and bail has been fixed in excess of \$500)				
Wyoming	10 days of initial appearance	20 days of initial appearance	Wyoming RCrimP R. 5(c)	<a href="http://courts.state.wy.us/courtrules_entities.aspx?RulesPage=CriminalProcedure.xml">http://courts.state.wy.us/courtrules_entities.aspx?RulesPage=CriminalProcedure.xml</a>	

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<sup>1</sup> Olson, David, "Characteristics of Inmates in the Cook County Jail," Cook County Sheriff's Reentry Council Research Bulletin, March 2011, page 4.

<sup>2</sup> *Review of the Cook County Felony Case Process and Its Impact on Jail Population ("Trotter Report")*, American University, Sept. 26, 2005, pg 5, available at: <http://www1.spa.american.edu/justice/documents/1321.pdf>

<sup>3</sup> *Id.* at 33-34.

<sup>4</sup> *Id.* at 6.

<sup>5</sup> *Id.*

<sup>6</sup> *A Report on Chicago's Felony Courts*, Chicago Appleseed Fund for Justice Criminal Justice Project, Page 15

<sup>7</sup> *Review of the Cook County Felony Case Process and Its Impact on Jail Population*, American University at 8.

<sup>8</sup> <http://www.sentencingproject.org/map/map.cfm#map>

<sup>9</sup> Every person in custody in this State for the alleged commission of a felony shall receive either a preliminary examination as provided in Section 109-3 or an indictment by Grand Jury as provided in Section 111-2, within 30 days from the date he or she was taken into custody. Every person on bail or recognizance for the alleged commission of a felony shall receive either a preliminary examination as provided in Section 109-3 or an indictment by Grand Jury as provided in Section 111-2, within 60 days from the date he or she was arrested. 725 ILCS 5/109-3.1.

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<sup>10</sup> When a complaint is filed charging the defendant with the commission of a felony, a preliminary hearing shall commence before a magistrate not later than 10 days following defendant's initial appearance if the defendant is in custody and not later than 20 days following defendant's initial appearance if the defendant is not in custody. Ariz. R. Crim. P. 5.1

<sup>11</sup> The magistrate judge must hold the preliminary hearing within a reasonable time, but no later than 14 days after the initial appearance if the defendant is in custody and no later than 21 days if not in custody. Fed. R. Crim. P. 5.1

<sup>12</sup> The preliminary examination shall be commenced within 20 days after the initial appearance of the defendant if the defendant has been released from custody or within 10 days if the defendant is in custody and bail has been fixed in excess of \$500. On stipulation of the parties or on motion and for cause, the court may extend such time. Wis. Stat. Ann. § 970.03 (West)

<sup>13</sup> Both the defendant and the people have the right to a preliminary examination at the earliest possible time, and unless both waive that right or good cause for a continuance is found as provided for in Section 1050, the preliminary examination shall be held within 10 court days of the date the defendant is arraigned or pleads, whichever occurs later, or within 10 court days of the date criminal proceedings are reinstated pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2. Cal. Penal Code § 859b (West)

<sup>14</sup> The magistrate before whom any person is arraigned on a charge of having committed a felony shall set a day for a preliminary examination not exceeding 14 days after the arraignment. Mich. Comp. Laws Ann. § 766.4 (West)

<sup>15</sup> If the party is charged with an offense not bailable he shall be committed; otherwise he may be released as provided in section 544.455 for his appearance, before such associate circuit judge or before any associate circuit judge who may be authorized to hear the matter, for such further examination, and not to depart without leave of the court, and for want of such recognizance he shall be committed; provided that the associate circuit judge shall continue the cause in excess of twenty-one days in order to comply with section 510.120. Mo. Ann. Stat. § 544.320 (West).

<sup>16</sup> After the filing of a felony complaint, a preliminary hearing shall be held within a reasonable time. At the preliminary hearing the defendant shall not be called upon to plead. Mo. Sup. Ct. R. 22.09.

<sup>17</sup> If the defendant does not waive the preliminary hearing, the judge or magistrate shall schedule a preliminary hearing within a reasonable time, but in any event no later than ten consecutive days following arrest or service of summons if the defendant is in custody and not later than fifteen consecutive days following arrest or service of summons if the defendant is not in custody. Ohio Crim. R. Rule 5.

<sup>18</sup> If the defendant does not waive the preliminary hearing, such hearing shall be held within a reasonable time but no later than 10 days following the initial appearance if the defendant is in custody and no later than 20 days if the defendant is not in custody. Ky. R. Crim. P. 3.10.

<sup>19</sup> Upon application of a defendant against whom a felony complaint has been filed with a local criminal court, and who, since the time of his arrest or subsequent thereto, has been held in custody pending disposition of such felony complaint, and who has been confined in such custody for a period of more than one hundred twenty hours or, in the event that a Saturday, Sunday or legal holiday occurs during such custody, one hundred forty-four hours, without either a disposition of the felony complaint or commencement of a hearing thereon. N.Y. Crim. Proc. Law § 180.80 (McKinney).

<sup>20</sup> Such hearing shall be held within a reasonable time but in any event not later than 10 days following the initial appearance if the defendant is in custody and no later than 20 days if the defendant is not in custody. IA R 2.2.

<sup>21</sup> A parolee retaken under this section shall within 14 days be granted a preliminary hearing to be conducted by a hearing officer not previously involved in the case. N.J. Stat. Ann. § 30:4-123.62 (West)