COURT OF QUEEN'S BENCH OF ALBERTA

INFORMATION ON SECTION 525 DETENTION REVIEW

[NOTE: THIS DOCUMENT IS NOT A SUBSTITUTE FOR LEGAL ADVICE- CONSULT YOUR LAWYER, OR, IF YOU DON'T HAVE ONE, A LAWYER OF YOUR CHOICE]

You have been charged with an offence(s) and are currently in remand custody awaiting your trial or other disposition of your charge(s). The length of time you spend in remand custody waiting for the charges to be dealt with must be reviewed by the Court of Queen's Bench at certain times - that is what Section 525 is all about, and what this document tries to explain.

Section 525 of the Criminal Code (abridged copy contained within this document) states that after 30 days or 90 days of remand custody (depending on the nature of the charges you are facing- 30 days for Summary offences and 90 days for Indictable offences), the Court must schedule a hearing to check to see if your matter has been unreasonably delayed. If the delay is unreasonable in the Court's opinion, the Court must determine whether you should still be held in remand custody while waiting for your charges to be resolved. This process is called a Section 525 Detention Review.

A No-Contest and/or Waiver of Attendance Form is attached. Use it in the following way:

1. If you have a lawyer, you should discuss the Section 525 Detention Review with him/her- DO NOT COMPLETE THE FORM WITHOUT HIS/HER ADVICE. With his/her advice you will have to decide whether or not you want to argue that your trial has been unreasonably delayed. Once you decide that, either you or your lawyer should fill out the form and give it to Remand staff, so the Court will know your position.
2. If you do not have a lawyer, you may wish to get legal advice about any questions you have about the form.
3. The form basically asks you several things:

a. To date the document and put in the name of your lawyer (if you have one).

b. Do you want to argue that you should be released based on your further argument that there has been unreasonable delay in remand before trial? (If you want to argue that your trial has been unreasonably delayed, you circle "does"; but if you do not want to argue that your trial has been unreasonably delayed, you circle "does not".)

c. If you want a hearing .because you want to argue unreasonable delay, do you want to be present (in person or by video) at the hearing? (If you do want to be present, or have no lawyer, circle "wishes" and an Order will be prepared to bring you to the hearing by video or in person; but, if you do not want to be present, and want your lawyer to handle the matter, circle "does not wish".)

4. If you contest (want to argue against) your continued detention, the Court office will then give Notice to you and your lawyer as to the date and time of the Section 525 Detention Review hearing.

This is not an application for bail or to re-consider your bail. You may or may not already have had a bail hearing in Provincial Court or a further review of your bail in Queen's Bench. You may have had a lawyer represent you or may have conducted the hearing on your own. Either way, any further bail hearings for which you are eligible (if any) are to be set up by your lawyer or on your own application.

If you are unsure of any of these procedures or information, you should speak to your lawyer or a lawyer of your choice.

REVIEW OF DETENTION WHERE TRIAL DELAYED (ABRIDGED)

Time for application to judge

525. (1) Where an accused who has been charged with. an offence who Is not required to be detained in custody in respect of any other matter is being detained in custody pending his trial for that offence and the trial has not commenced

(a)

In the case of an Indictable offence, within ninety days from ... [effectively] ... the day on which the accused was taken into custody..., or

(b)

in the case of an offence for which the accused is being prosecuted in proceedings by way of summary conviction, within thirty days from ... [effectively] .... the day on which the accused was taken into custody ... ,

the person having the custody of the accused shall, forthwith on the expiration of those ninety or thirty days, as the case may be, apply to a judge having jurisdiction in the place in which the accused is in custody to fix a date for a hearing to determine whether or not the accused should be released from custody.

Notice of hearing

(2) On receiving an application under subsection (1), the judge shall

(*a*) fix a date for the hearing described In subsection (1) to be held In the jurisdiction

(I) where the accused Is in custody, or

(II) where the trial Is to take place; and

(*b*)

direct that notice of the hearing be given to such persons, including the prosecutor and the accused, and In such manner as the judge may specify.

Matters to be considered on hearing

(3) On the hearing described in subsection (1), the judge may, In deciding whether or not the accused should be released from custody, take Into consideration whether the prosecutor or the

accused has been responsible for **any unreasonable delay** in the trial of the charge [Emphasis added.]

Order

(4) If, following the hearing described in subsection (1.), the judge Is not satisfied that the continued detention of the accused in custody Is justified ..., the judge shall order that the accused be released from custody pending the trial of the charge on his giving an undertaking or entering into a recognizance ....

...

Directions for expediting trial

(9) Where an accused is before a judge under any of the provisions of this section, the judge may give directions for expediting the trial of the accused.