

BILL ANALYSIS

H.B. 969
By: Keel
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, Article 39.14(a), Code of Criminal Procedure, provides for discovery by the defendant in a criminal case of the evidence maintained by the prosecution. However, the discretionary language in the current statute could potentially be interpreted to disallow any discovery at all. HB 969 mandates discovery in a criminal prosecution by the defendant of the prosecution's evidence, except that which is work product or privileged. The amendment changes the current language of the court *may* order "the production of such evidence" to the court *shall* order its production. The granting of a motion for discovery is still predicated upon a defendant's showing of good cause as well as proper notice and the state's unfettered control of the evidence itself.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

HB 969 amends Code of Criminal Procedure, Art. 39.14(a) to mandate discovery in a criminal prosecution by the defendant of the prosecution's evidence, except that which is work product or privileged. The amendment changes the current language of the court "*may*" order the production of such evidence to the court "*shall*" order its production.

EFFECTIVE DATE

On passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.