

BILL ANALYSIS

H.B. 3289
By: Swinford
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Article 32A of the Texas Code of Criminal Procedure, named the "Speedy Trial Act", places restrictions on the amount of time the state may take to prepare for trial. In the event that the state is not prepared within the restrictions of the statute, the court has various options, depending on the situation, to remedy the situation.

The Court of Criminal Appeals ruled that the Article 32A.02 of the Speedy Trial Act, which deals with time limitations for the state to prepare for trial, violate the Texas Constitution's separation of powers provisions in Texas Constitution Article II, Section 1. This was the case of *Moshell v. State*, 739 S.W.2d 246, 255 (Tex. Crim. App. 1987). Now, a defendant's right to speedy trial comes from other sources instead of Article 32A.

Even though this section of the Code of Criminal Procedure has been declared unconstitutional by the Court of Criminal Appeals, defendants continue to make motions based on the act. As a result, it is a further waste of judicial resources to determine that this bill is, in fact, no longer constitutional. This bill repeals Article 32A.02, Texas Code of Criminal Procedure, relating to the procedure for "Speedy Trials" in the state of Texas.

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

SECTION 1. Repeals Article 32A.02, Code of Criminal Procedure.

SECTION 2. Effective date.

EFFECTIVE DATE

September 1, 2005.