

- SUBJECT:** Repealing time limits for the state to be ready for trial in a criminal case
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 7 ayes — Keel, Riddle, Denny, Escobar, Hodge, Raymond, Reyna
0 nays
2 absent — Pena, P. Moreno
- WITNESSES:** For — None
Against — Keith S. Hampton, Texas Criminal Defense Lawyers Association
- BACKGROUND:** Code of Criminal Procedure, sec. 32A.02, also known as the "Speedy Trial Act," sets time limits for dismissing prosecutions. Accordingly, a court is required to grant a motion to set aside an indictment, information, or complaint if the state is not ready for trial within:
- 180 days of the commencement of a criminal action if the defendant is accused of a felony;
 - 90 days of the commencement of a criminal action if the defendant is accused of a misdemeanor punishable by 180 days or more in jail; or
 - 60 days of the commencement of a criminal action if the defendant is accused of a misdemeanor punishable by 180 days in jail or a fine only.
- If a defendant fails to move for discharge prior to trial or the entry of a guilty plea, the defendant effectively waives the right to have the prosecution dismissed.
- In *Meshell v. State*, 729 S.W.2d 246 (Tex. Crim. App. 1987), the Court of Criminal Appeals held the Speedy Trial Act unconstitutional. The court found that the act violated the separation of powers provision of the Texas Constitution. In doing so, the Court of Criminal Appeals rendered sec. 32A.02 of the Code of Criminal Procedure void in its entirety. Because the Speedy Trial Act is still on the books, attorneys continue to file motions

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based on this act, requiring judicial time and resources to dispose of such motions.

DIGEST: HB 3289 would repeal art. 32A.02 of the Code of Criminal Procedure.

The bill would take effect on September 1, 2005.

NOTES: The companion bill, SB 1135 by Seliger, has been referred to the Senate Criminal Justice Committee.