

By: Bucy

H.B. No. 5277

A BILL TO BE ENTITLED

AN ACT

relating to public access to criminal proceedings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 1.24, Code of Criminal Procedure, is amended to read as follows:

Art. 1.24. PUBLIC TRIAL. (a) Except as provided by Subsections (c) and (e), the [The] proceedings, including a proceeding under Article 15.17, and trials in all courts shall be public.

(b) For each criminal proceeding conducted in this state, the court shall publish the following information on its Internet website as soon as practicable before the proceeding:

- (1) the defendant's name;
- (2) the time and location of the proceeding;
- (3) the purpose of the proceeding; and
- (4) the manner in which the public may access the proceeding, including through videoconference technology for a proceeding that is closed under Subsection (c) or for a proceeding in a court described by Subsection (e).

(c) On motion of a party to a proceeding, the court may order the proceeding to be closed to some or all of the public if the court determines that:

- (1) there exists a reasonable and substantial basis for believing that public access to the proceeding could harm or

1 prejudice the party;

2 (2) the evidence supporting the closure is specific to
3 the proceeding; and

4 (3) the harm or prejudice can be remedied only by
5 excluding some or all of the public from the proceeding.

6 (d) An order under Subsection (c) may only close the
7 proceeding to the extent necessary to remedy the harm or prejudice.
8 A court that orders a proceeding to be closed shall issue written
9 findings of fact and conclusions of law stating that the evidence of
10 potential harm or prejudice to a party clearly outweighs the public
11 interest in the proceeding being open to the public as otherwise
12 required under Subsection (a).

13 (e) A court that as of January 1, 2024, does not have the
14 physical capacity to provide sufficient in-person public access to
15 a proceeding shall provide public access by videoconference
16 technology. The videoconference technology must:

17 (1) include communication access realtime translation
18 captioning as defined by Section 57.001, Government Code; and

19 (2) allow members of the public to discern the
20 demeanor of the judge, the defendant, and any other participant in
21 the proceeding.

22 (f) This article may not be construed as prohibiting a judge
23 from placing reasonable limits on in-person access to the court to
24 prevent overcrowding.

25 (g) Any person, including a member of the media, or the
26 attorney general may file a petition for a writ of mandamus or apply
27 for other appropriate equitable relief to enforce the right of the

1 public to access a proceeding in accordance with this article. The
2 petition or application must be filed in:

3 (1) a district court in the county in which the court
4 conducting the applicable proceeding is located; or

5 (2) if filed by the attorney general, a district court
6 in Travis County.

7 (h) A district court in which a petition or application is
8 filed under Subsection (g) may award a plaintiff who substantially
9 prevails in the action court costs and reasonable attorney's fees.
10 In exercising its discretion to award costs and fees, the district
11 court shall consider whether the action was brought in good faith
12 and whether the conduct of the court with respect to the proceeding
13 had a reasonable basis in law.

14 SECTION 2. The change in law made by this Act applies only
15 to a criminal proceeding that commences on or after January 1, 2024.
16 A criminal proceeding that commenced before January 1, 2024, is
17 governed by the law in effect immediately before the effective date
18 of this Act, and the former law is continued in effect for that
19 purpose.

20 SECTION 3. This Act takes effect September 1, 2023.