

By: Madden

H.B. No. 1480

A BILL TO BE ENTITLED

AN ACT

relating to the use of video teleconferencing systems in certain criminal proceedings.

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

SECTION 1. Article 20.011(a), Code of Criminal Procedure, is amended to read as follows:

(a) Only the following persons may be present in a grand jury room while the grand jury is conducting proceedings:

- (1) grand jurors;
- (2) bailiffs;
- (3) the attorney representing the state;
- (4) witnesses while being examined or when necessary to assist the attorney representing the state in examining other witnesses or presenting evidence to the grand jury;
- (5) interpreters, if necessary; ~~and~~
- (6) a stenographer or person operating an electronic recording device, as provided by Article 20.012; and
- (7) a person operating a video teleconferencing system for use under Article 20.151.

SECTION 2. Article 20.02(b), Code of Criminal Procedure, is amended to read as follows:

(b) A grand juror, bailiff, interpreter, stenographer or person operating an electronic recording device, ~~or~~ person preparing a typewritten transcription of a stenographic or

1 electronic recording, or person operating a video teleconferencing
2 system for use under Article 20.151 who discloses anything
3 transpiring before the grand jury, regardless of whether the thing
4 transpiring is recorded, in the course of the official duties of the
5 grand jury, is ~~[shall be]~~ liable to a fine as for contempt of the
6 court, not exceeding \$500 ~~[five hundred dollars]~~, imprisonment not
7 exceeding 30 ~~[thirty]~~ days, or both the ~~[such]~~ fine and
8 imprisonment.

9 SECTION 3. Chapter 20, Code of Criminal Procedure, is
10 amended by adding Article 20.151 to read as follows:

11 Art. 20.151. CERTAIN TESTIMONY BY VIDEO TELECONFERENCING.

12 (a) With the consent of the foreman of the grand jury and the
13 attorney representing the state, a peace officer summoned to
14 testify before the grand jury may testify through the use of a
15 closed circuit video teleconferencing system that provides an
16 encrypted, simultaneous, compressed full motion video and
17 interactive communication of image and sound between the peace
18 officer, the attorney representing the state, and the grand jury.

19 (b) In addition to being administered the oath described by
20 Article 20.16(a), before being interrogated, a peace officer
21 testifying through the use of a closed circuit video
22 teleconferencing system under this article shall affirm that:

23 (1) no person other than a person in the grand jury
24 room is capable of hearing the peace officer's testimony; and

25 (2) the peace officer's testimony is not being
26 recorded or otherwise preserved by any person at the location from
27 which the peace officer is testifying.

1 (c) Testimony received from a peace officer under this
2 article shall be recorded in the same manner as other testimony
3 taken before the grand jury.

4 SECTION 4. Article 27.18, Code of Criminal Procedure, is
5 amended by amending Subsection (c) and adding Subsection (c-1) to
6 read as follows:

7 (c) A recording of the communication shall be made and
8 preserved until all appellate proceedings have been disposed of. A
9 court reporter or court recorder is not required to record a plea
10 taken under this article, unless the defendant or attorney
11 representing the state requests the presence of a court reporter or
12 court recorder.

13 (c-1) The defendant may obtain a copy of a [the] recording
14 made under Subsection (c) on payment of a reasonable amount to cover
15 the costs of reproduction or, if the defendant is indigent, the
16 court shall provide a copy to the defendant without charging a cost
17 for the copy. The loss or destruction of or failure to make a video
18 recording of a plea entered under this article is not alone
19 sufficient grounds for a defendant to withdraw the defendant's plea
20 or to request the court to set aside a conviction or sentence based
21 on the plea.

22 SECTION 5. Chapter 27, Code of Criminal Procedure, is
23 amended by adding Article 27.19 to read as follows:

24 Art. 27.19. PLEA BY CERTAIN INMATES. Notwithstanding any
25 other provision of this code, a court shall accept a plea of guilty
26 or nolo contendere under the procedure established by Article 27.18
27 from an inmate who is incarcerated in a facility operated by or

1 under contract with the Texas Department of Criminal Justice.

2 SECTION 6. Article 38.073, Code of Criminal Procedure, is
3 amended to read as follows:

4 Art. 38.073. TESTIMONY OF INMATE WITNESSES. In a
5 proceeding in the prosecution of a criminal offense in which an
6 inmate in the custody of the Texas Department of Criminal Justice is
7 required to testify as a witness, any deposition or testimony of the
8 inmate witness may be conducted by a video teleconferencing system
9 in the manner described by Article 27.18 [~~electronic means, in the~~
10 ~~same manner as permitted in civil cases under Section 30.012, Civil~~
11 ~~Practice and Remedies Code~~].

12 SECTION 7. Articles 20.011(a) and 20.02(b), Code of
13 Criminal Procedure, as amended by this Act, and Article 20.151,
14 Code of Criminal Procedure, as added by this Act, apply only to
15 testimony before a grand jury that is impaneled on or after the
16 effective date of this Act.

17 SECTION 8. Article 27.18, Code of Criminal Procedure, as
18 amended by this Act, and Article 27.19, Code of Criminal Procedure,
19 as added by this Act, apply to a plea of guilty or nolo contendere
20 entered on or after the effective date of this Act, regardless of
21 whether the offense with reference to which the plea is entered is
22 committed before, on, or after that date.

23 SECTION 9. Article 38.073, Code of Criminal Procedure, as
24 amended by this Act, applies only to the testimony of an inmate
25 witness that is taken on or after the effective date of this Act.

26 SECTION 10. This Act takes effect September 1, 2009.