

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 1.13(a), Code of Criminal Procedure, is amended to read as follows:

(a) The defendant in a criminal prosecution for any offense other than a capital felony case in which the state [~~State~~] notifies the court and the defendant that it will seek the death penalty shall have the right, upon entering a plea, to waive the right of trial by jury, conditioned, however, that, except as provided by Article 27.19, the [~~such~~] waiver must be made in person by the defendant in writing in open court with the consent and approval of the court, and the attorney representing the state [~~State~~]. The consent and approval by the court shall be entered of record on the minutes of the court, and the consent and approval of the attorney representing the state [~~State~~] shall be in writing, signed by that attorney [~~him~~], and filed in the papers of the cause before the defendant enters the defendant's [~~his~~] plea.

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

SECTION 4. Chapter 20, Code of Criminal Procedure, is amended by adding Article 20.151 to read as follows:

Art. 20.151. CERTAIN TESTIMONY BY VIDEO TELECONFERENCING.

(a) With the consent of the foreman of the grand jury and the

1 attorney representing the state, a peace officer summoned to
2 testify before the grand jury may testify through the use of a
3 closed circuit video teleconferencing system that provides an
4 encrypted, simultaneous, compressed full motion video and
5 interactive communication of image and sound between the peace
6 officer, the attorney representing the state, and the grand jury.

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

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

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

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

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

22 (c) A record [~~recording~~] of the communication shall be made
23 by a court reporter and preserved by the court reporter until all
24 appellate proceedings have been disposed of. The defendant may
25 obtain a copy of the record [~~recording~~] on payment of a reasonable
26 amount to cover the costs of reproduction or, if the defendant is
27 indigent, the court shall provide a copy to the defendant without

1 charging a cost for the copy.

2 (c-1) The loss or destruction of or failure to make a record
3 of a plea entered under this article is not alone sufficient grounds
4 for a defendant to withdraw the defendant's plea or to request the
5 court to set aside a conviction or sentence based on the plea.

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

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

16 SECTION 7. Article 102.017(d-1), Code of Criminal
17 Procedure, is amended to read as follows:

18 (d-1) For purposes of this article, the term "security
19 personnel, services, and items" includes:

20 (1) the purchase or repair of X-ray machines and
21 conveying systems;

22 (2) handheld metal detectors;

23 (3) walkthrough metal detectors;

24 (4) identification cards and systems;

25 (5) electronic locking and surveillance equipment;

26 (6) video teleconferencing systems;

27 (7) bailiffs, deputy sheriffs, deputy constables, or

1 contract security personnel during times when they are providing
2 appropriate security services;

3 (8) [~~(7)~~] signage;

4 (9) [~~(8)~~] confiscated weapon inventory and tracking
5 systems;

6 (10) [~~(9)~~] locks, chains, alarms, or similar security
7 devices;

8 (11) [~~(10)~~] the purchase or repair of bullet-proof
9 glass; and

10 (12) [~~(11)~~] continuing education on security issues
11 for court personnel and security personnel.

12 SECTION 8. 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 9. Article 27.18, Code of Criminal Procedure, as
18 amended by this Act, applies to a plea of guilty or nolo contendere
19 entered on or after the effective date of this Act, regardless of
20 whether the offense with reference to which the plea is entered is
21 committed before, on, or after that date.

22 SECTION 10. Article 38.073, Code of Criminal Procedure, as
23 amended by this Act, applies only to the testimony of an inmate
24 witness that is taken on or after the effective date of this Act.

25 SECTION 11. This Act takes effect September 1, 2011.

H.B. No. 2847

President of the Senate

Speaker of the House

I certify that H.B. No. 2847 was passed by the House on May 3, 2011, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2847 on May 28, 2011, by the following vote: Yeas 147, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2847 was passed by the Senate, with amendments, on May 25, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor