

SENATE AMENDMENTS

2nd Printing

By: Madden

H.B. No. 2847

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the use of video teleconferencing systems in certain
3 criminal proceedings.

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

5 SECTION 1. Article 1.13(a), Code of Criminal Procedure, is
6 amended to read as follows:

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

20 SECTION 2. Article 20.011(a), Code of Criminal Procedure,
21 is amended to read as follows:

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

24 (1) grand jurors;

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

11 SECTION 3. Article 20.02(b), Code of Criminal Procedure, is

12 amended to read as follows:

13 (b) A grand juror, bailiff, interpreter, stenographer or

14 person operating an electronic recording device, ~~or~~ person

15 preparing a typewritten transcription of a stenographic or

16 electronic recording, or person operating a video teleconferencing

17 system for use under Article 20.151 who discloses anything

18 transpiring before the grand jury, regardless of whether the thing

19 transpiring is recorded, in the course of the official duties of the

20 grand jury, is ~~shall be~~ liable to a fine as for contempt of the

21 court, not exceeding \$500 ~~[five hundred dollars]~~, imprisonment not

22 exceeding 30 ~~[thirty]~~ days, or both the ~~[such]~~ fine and

23 imprisonment.

24 SECTION 4. Chapter 20, Code of Criminal Procedure, is

25 amended by adding Article 20.151 to read as follows:

26 Art. 20.151. CERTAIN TESTIMONY BY VIDEO TELECONFERENCING.

27 (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 Subsections (c-1) and
21 (c-2) to read as follows:

22 (c) A recording of the communication shall be made and
23 preserved until all appellate proceedings have been disposed of. A
24 court reporter or court recorder is not required to transcribe or
25 make a separate recording of a plea taken under this article.

26 (c-1) The defendant may obtain a copy of a [the] recording
27 made under Subsection (c) on payment of a reasonable amount to cover

1 the costs of reproduction or, if the defendant is indigent, the
2 court shall provide a copy to the defendant without charging a cost
3 for the copy.

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

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

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

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

24 SECTION 8. Article 27.18, Code of Criminal Procedure, as
25 amended by this Act, applies to a plea of guilty or nolo contendere
26 entered on or after the effective date of this Act, regardless of
27 whether the offense with reference to which the plea is entered is

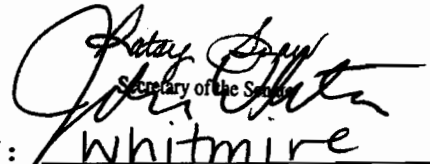
1 committed before, on, or after that date.

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

5 SECTION 10. This Act takes effect September 1, 2011.

ADOPTED

MAY 25 2011


Secretary of the Senate
BY: Whitmire

COMMITTEE AMENDMENT NO. 1

1 Amend H.B. No. 2847 (house engrossment) as follows:

2 (1) On page 3, lines 20-21, strike "Subsections (c-1) and
3 (c-2)" and substitute "Subsection (c-1)".

4 (2) Strike the language beginning on page 3, line (22), and
5 ending on page 4, line 3, and substitute the following:

6 (c) A record [~~recording~~] of the communication shall be made
7 by a court reporter and preserved by the court reporter until all
8 appellate proceedings have been disposed of. The defendant may
9 obtain a copy of the record [~~recording~~] on payment of a reasonable
10 amount to cover the costs of reproduction or, if the defendant is
11 indigent, the court shall provide a copy to the defendant without
12 charging a cost for the copy.

13 (3) On page (4, line 4, strike "(c-2)" and substitute
14 "(c-1)".

15 (4) On page (4, lines 4-5, strike "video recording" and
16 substitute "record".

17 (5) Add the following appropriately numbered SECTION to the
18 bill and renumber existing SECTIONS of the bill accordingly:

19 SECTION _____. Article 102.017(d-1), Code of Criminal
20 Procedure, is amended to read as follows:

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

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

25 (2) handheld metal detectors;

26 (3) walkthrough metal detectors;

27 (4) identification cards and systems;

28 (5) electronic locking and surveillance equipment;

29 (6) video teleconferencing systems;

1 (7) bailiffs, deputy sheriffs, deputy constables, or
2 contract security personnel during times when they are providing
3 appropriate security services;
4 (8) [~~(7)~~] signage;
5 (9) [~~(8)~~] confiscated weapon inventory and tracking
6 systems;
7 (10) [~~(9)~~] locks, chains, alarms, or similar security
8 devices;
9 (11) [~~(10)~~] the purchase or repair of bullet-proof
10 glass; and
11 (12) [~~(11)~~] continuing education on security issues
12 for court personnel and security personnel.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 26, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB2847 by Madden (Relating to the use of video teleconferencing systems in certain criminal proceedings.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to ensure a defendant's plea made by video teleconferencing must be recorded by a court reporter. The bill would also authorize an existing \$3-\$5 security fee paid as a cost of court to be used for the purchase of video teleconferencing equipment. The bill would allow the use of video teleconferencing in certain other criminal proceedings, including officers testifying in grand jury proceedings and inmates testifying in criminal proceedings. To the extent the use of such equipment, including use by court reporters, would make court proceedings more convenient and efficient, no significant positive impact on judicial workloads or fiscal implication to the state is anticipated. The bill would take effect September 1, 2011.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety, 696 Department of Criminal Justice

LBB Staff: JOB, TB, ESi

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 20, 2011

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: **HB2847** by Madden (Relating to the use of video teleconferencing systems in certain criminal proceedings.), **Committee Report 2nd House, As Amended**

No significant fiscal implication to the State is anticipated.

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Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 13, 2011

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB2847 by Madden (Relating to the use of video teleconferencing systems in certain criminal proceedings.), **As Engrossed**

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LBB Staff: JOB, ESi, TB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 9, 2011

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB2847 by Madden (Relating to the use of video teleconferencing systems in certain criminal proceedings.), **As Introduced**

No significant fiscal implication to the State is anticipated.

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Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety, 696 Department of Criminal Justice

LBB Staff: JOB, ESi, TB

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

May 20, 2011

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB2847 by Madden (Relating to the use of video teleconferencing systems in certain criminal proceedings.), **Committee Report 2nd House, As Amended**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, LM, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

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LBB Staff: JOB, LM, GG

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Austin, Texas

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