

House Bill 2847
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 conferencing system for

SENATE VERSION (IE)

SECTION 1. Same as House version.

SECTION 2. Same as House version.

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

(b) In addition to being administered the oath described by Article 20.16(a), before being interrogated, a peace officer testifying through the use of a closed circuit video

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teleconferencing system under this article shall affirm that:

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

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

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

SECTION 5. Article 27.18, Code of Criminal Procedure, is amended by amending Subsection (c) and adding Subsections (c-1) and (c-2) to read as follows:

(c) A **recording** of the communication shall be made and preserved until all appellate proceedings have been disposed of.

A court reporter or court recorder is not required to transcribe or make a separate recording of a plea taken under this article.

(c-1) The defendant may obtain a copy of a ~~the~~ recording made under Subsection (c) on payment of a reasonable amount to cover the costs of reproduction or, if the defendant is indigent, the court shall provide a copy to the defendant without charging a cost for the copy.

(c-2) The loss or destruction of or failure to make a **video recording** of a plea entered under this article is not alone sufficient grounds for a defendant to withdraw the defendant's plea or to request the court to set aside a conviction or

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

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

(c-1) The defendant may obtain a copy of a ~~the~~ recording made under Subsection (c) on payment of a reasonable amount to cover the costs of reproduction or, if the defendant is indigent, the court shall provide a copy to the defendant without charging a cost for the copy.

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

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sentence based on the plea.

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

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

No equivalent provision.

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plea. [CA1(1)-(4)]

SECTION 6. Same as House version.

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

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

- (1) the purchase or repair of X-ray machines and conveying systems;
- (2) handheld metal detectors;
- (3) walkthrough metal detectors;
- (4) identification cards and systems;
- (5) electronic locking and surveillance equipment;
- (6) video teleconferencing systems;
- (7) bailiffs, deputy sheriffs, deputy constables, or contract security personnel during times when they are providing appropriate security services;
- (8) [~~(7)~~] signage;
- (9) [~~(8)~~] confiscated weapon inventory and tracking systems;

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(10) [~~(9)~~] locks, chains, alarms, or similar security devices;
(11) [~~(10)~~] the purchase or repair of bullet-proof glass; and
(12) [~~(11)~~] continuing education on security issues
for court personnel and security personnel. [CA1(5)]

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

SECTION 7. Same as House version.

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

SECTION 8. Same as House version.

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

SECTION 9. Same as House version.

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

SECTION 10. Same as House version.