

1-1 By: Watson S.B. No. 361  
1-2 (In the Senate - Filed February 4, 2013; February 11, 2013,  
1-3 read first time and referred to Committee on Agriculture, Rural  
1-4 Affairs, and Homeland Security; March 20, 2013, reported favorably  
1-5 by the following vote: Yeas 5, Nays 0; March 20, 2013, sent to  
1-6 printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			

1-14 A BILL TO BE ENTITLED  
1-15 AN ACT

1-16 relating to the duties of a magistrate to inform an arrested person  
1-17 of consequences of a plea of guilty or nolo contendere.

1-18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-19 SECTION 1. Subsection (a), Article 15.17, Code of Criminal  
1-20 Procedure, is amended to read as follows:

1-21 (a) In each case enumerated in this Code, the person making  
1-22 the arrest or the person having custody of the person arrested shall  
1-23 without unnecessary delay, but not later than 48 hours after the  
1-24 person is arrested, take the person arrested or have him taken  
1-25 before some magistrate of the county where the accused was arrested  
1-26 or, to provide more expeditiously to the person arrested the  
1-27 warnings described by this article, before a magistrate in any  
1-28 other county of this state. The arrested person may be taken before  
1-29 the magistrate in person or the image of the arrested person may be  
1-30 presented to the magistrate by means of an electronic broadcast  
1-31 system. The magistrate shall inform in clear language the person  
1-32 arrested, either in person or through the electronic broadcast  
1-33 system, of the accusation against him and of any affidavit filed  
1-34 therewith, of his right to retain counsel, of his right to remain  
1-35 silent, of his right to have an attorney present during any  
1-36 interview with peace officers or attorneys representing the state,  
1-37 of his right to terminate the interview at any time, and of his  
1-38 right to have an examining trial. The magistrate shall inform the  
1-39 person arrested that, if the person is not a citizen of the United  
1-40 States of America, a plea of guilty or nolo contendere for the  
1-41 offense charged may affect the person's immigration or residency  
1-42 status and may result in deportation, the exclusion from admission  
1-43 to this country, or the denial of naturalization under federal law.  
1-44 The magistrate shall also inform the person arrested of the  
1-45 person's right to request the appointment of counsel if the person  
1-46 cannot afford counsel. The magistrate shall inform the person  
1-47 arrested of the procedures for requesting appointment of counsel.  
1-48 If the person does not speak and understand the English language or  
1-49 is deaf, the magistrate shall inform the person in a manner  
1-50 consistent with Articles 38.30 and 38.31, as appropriate. The  
1-51 magistrate shall ensure that reasonable assistance in completing  
1-52 the necessary forms for requesting appointment of counsel is  
1-53 provided to the person at the same time. If the person arrested is  
1-54 indigent and requests appointment of counsel and if the magistrate  
1-55 is authorized under Article 26.04 to appoint counsel for indigent  
1-56 defendants in the county, the magistrate shall appoint counsel in  
1-57 accordance with Article 1.051. If the magistrate is not authorized  
1-58 to appoint counsel, the magistrate shall without unnecessary delay,  
1-59 but not later than 24 hours after the person arrested requests  
1-60 appointment of counsel, transmit, or cause to be transmitted to the  
1-61 court or to the courts' designee authorized under Article 26.04 to

2-1 appoint counsel in the county, the forms requesting the appointment  
2-2 of counsel. The magistrate shall also inform the person arrested  
2-3 that he is not required to make a statement and that any statement  
2-4 made by him may be used against him. The magistrate shall allow the  
2-5 person arrested reasonable time and opportunity to consult counsel  
2-6 and shall, after determining whether the person is currently on  
2-7 bail for a separate criminal offense, admit the person arrested to  
2-8 bail if allowed by law. A recording of the communication between  
2-9 the arrested person and the magistrate shall be made. The recording  
2-10 shall be preserved until the earlier of the following dates: (1)  
2-11 the date on which the pretrial hearing ends; or (2) the 91st day  
2-12 after the date on which the recording is made if the person is  
2-13 charged with a misdemeanor or the 120th day after the date on which  
2-14 the recording is made if the person is charged with a felony. The  
2-15 counsel for the defendant may obtain a copy of the recording on  
2-16 payment of a reasonable amount to cover costs of reproduction. For  
2-17 purposes of this subsection, "electronic broadcast system" means a  
2-18 two-way electronic communication of image and sound between the  
2-19 arrested person and the magistrate and includes secure Internet  
2-20 videoconferencing.

2-21 SECTION 2. This Act takes effect September 1, 2013.

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