

By: Anchia

H.B. No. 244

A BILL TO BE ENTITLED

AN ACT

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

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

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

(a) In each case enumerated in this Code, the person making the arrest or the person having custody of the person arrested shall without unnecessary delay, but not later than 48 hours after the person is arrested, take the person arrested or have the person arrested ~~[him]~~ taken before some magistrate of the county where the accused was arrested or, to provide more expeditiously to the person arrested the warnings described by this article, before a magistrate in any other county of this state. The person arrested ~~[person]~~ may be taken before the magistrate in person or the image of the person arrested ~~[person]~~ may be presented to the magistrate by means of an electronic broadcast system. The magistrate shall inform in clear language the person arrested, either in person or through the electronic broadcast system, of the accusation against the person ~~[him]~~ and ~~[of]~~ any affidavit filed therewith and of the person's rights ~~[, of his right]~~ to retain counsel, ~~[of his right]~~ to remain silent, ~~[of his right]~~ to have an attorney present during any interview with peace officers or attorneys representing the state, ~~[of his right]~~ to terminate the interview at any time, and ~~[of his~~

1 ~~right]~~ to have an examining trial. The magistrate shall inform the
2 person arrested that a plea of guilty or nolo contendere for the
3 offense charged may affect the person's eligibility for enlistment
4 or reenlistment in the United States armed forces or may result in
5 the person's discharge from the United States armed forces if the
6 person is a member of the armed forces. The magistrate shall also
7 inform the person arrested of the person's right to request the
8 appointment of counsel if the person cannot afford counsel. The
9 magistrate shall inform the person arrested of the procedures for
10 requesting appointment of counsel. If the person arrested does not
11 speak and understand the English language or is deaf, the
12 magistrate shall inform the person in a manner consistent with
13 Articles 38.30 and 38.31, as appropriate. The magistrate shall
14 ensure that reasonable assistance in completing the necessary forms
15 for requesting appointment of counsel is provided to the person at
16 the same time. If the person arrested is indigent and requests
17 appointment of counsel and if the magistrate is authorized under
18 Article 26.04 to appoint counsel for indigent defendants in the
19 county, the magistrate shall appoint counsel in accordance with
20 Article 1.051. If the magistrate is not authorized to appoint
21 counsel, the magistrate shall without unnecessary delay, but not
22 later than 24 hours after the person arrested requests appointment
23 of counsel, transmit, or cause to be transmitted to the court or to
24 the courts' designee authorized under Article 26.04 to appoint
25 counsel in the county, the forms requesting the appointment of
26 counsel. The magistrate shall also inform the person arrested that
27 the person ~~[he]~~ is not required to make a statement and that any

1 statement made by the person [~~him~~] may be used against the person
 2 [~~him~~]. The magistrate shall allow the person arrested reasonable
 3 time and opportunity to consult counsel and shall, after
 4 determining whether the person is currently on bail for a separate
 5 criminal offense, admit the person arrested to bail if allowed by
 6 law. A recording of the communication between the person arrested
 7 [~~person~~] and the magistrate shall be made. The recording shall be
 8 preserved until the earlier of the following dates: (1) the date on
 9 which the pretrial hearing ends; or (2) the 91st day after the date
 10 on which the recording is made if the person is charged with a
 11 misdemeanor or the 120th day after the date on which the recording
 12 is made if the person is charged with a felony. The counsel for the
 13 defendant may obtain a copy of the recording on payment of a
 14 reasonable amount to cover costs of reproduction. For purposes of
 15 this subsection, "electronic broadcast system" means a two-way
 16 electronic communication of image and sound between the person
 17 arrested [~~person~~] and the magistrate and includes secure Internet
 18 videoconferencing.

19 SECTION 2. This Act takes effect September 1, 2017.