

By: Watson

S.B. No. 265

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 result in other negative consequences in
4 addition to the criminal punishment for the offense, including the
5 loss or denial of employment, professional licenses, housing,
6 public benefits, immigration status, child custody, eligibility
7 for military service, and the right to possess a firearm. The
8 magistrate shall also inform the person arrested of the person's
9 right to request the appointment of counsel if the person cannot
10 afford counsel. The magistrate shall inform the person arrested of
11 the procedures for requesting appointment of counsel. If the
12 person arrested does not speak and understand the English language
13 or is deaf, the magistrate shall inform the person in a manner
14 consistent with Articles 38.30 and 38.31, as appropriate. The
15 magistrate shall ensure that reasonable assistance in completing
16 the necessary forms for requesting appointment of counsel is
17 provided to the person at the same time. If the person arrested is
18 indigent and requests appointment of counsel and if the magistrate
19 is authorized under Article 26.04 to appoint counsel for indigent
20 defendants in the county, the magistrate shall appoint counsel in
21 accordance with Article 1.051. If the magistrate is not authorized
22 to appoint counsel, the magistrate shall without unnecessary delay,
23 but not later than 24 hours after the person arrested requests
24 appointment of counsel, transmit, or cause to be transmitted to the
25 court or to the courts' designee authorized under Article 26.04 to
26 appoint counsel in the county, the forms requesting the appointment
27 of counsel. The magistrate shall also inform the person arrested

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

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