

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Moody

H.B. No. 3165

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the duties of a personal bond pretrial release office.

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

4 SECTION 1. Section 5(a), Article 17.42, Code of Criminal  
5 Procedure, is amended to read as follows:

6 (a) A personal bond pretrial release office established  
7 under this article shall:

8 (1) prepare a record containing information about any  
9 accused person identified by case number only who, after review by  
10 the office, is released by a court on personal bond before  
11 sentencing in a pending case;

12 (2) update the record on a monthly basis; and

13 (3) file a copy of the record with the district or  
14 county clerk, as applicable based on court jurisdiction over the  
15 categories of offenses addressed in the records, in any county  
16 served by the office.

17 SECTION 2. Section 6(b), Article 17.42, Code of Criminal  
18 Procedure, is amended to read as follows:

19 (b) In preparing an annual report under Subsection (a), the  
20 office shall include in the report a statement of:

21 (1) the office's operating budget;

22 (2) the number of positions maintained for office  
23 staff;

24 (3) the number of accused persons who, after review by

1 the office, were released by a court on personal bond before  
2 sentencing in a pending case; and

3 (4) the number of persons described by Subdivision  
4 (3):

5 (A) [~~who were convicted of the same offense or of~~  
6 ~~any felony within the six years preceding the date on which charges~~  
7 ~~were filed in the matter pending during the person's release,~~

8 [~~(B)~~] who failed to attend a scheduled court  
9 appearance;

10 (B) [~~(C)~~] for whom a warrant was issued for the  
11 [~~person's~~] arrest of those persons for failure to appear in  
12 accordance with the terms of their [~~the person's~~] release; or

13 (C) [~~(D)~~] who, while released on personal bond,  
14 were arrested for any other offense in the same county in which the  
15 persons were released [~~while~~] on [~~the personal~~] bond.

16 SECTION 3. This Act takes effect September 1, 2017.

ADOPTED

MAY 23 2017

Lataj Spaw  
Secretary of the Senate

By: Jose Rodriguez

H.B. No. 3165

Substitute the following for H.B. No. 3165 :

By: Jose Rodriguez  
John Whitman

C.S. H.B. No. 3165

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain pretrial procedures in criminal cases.

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

4 SECTION 1. Articles 15.17(a) and (f), Code of Criminal  
5 Procedure, are amended to read as follows:

6 (a) In each case enumerated in this Code, the person making  
7 the arrest or the person having custody of the person arrested shall  
8 without unnecessary delay, but not later than 48 hours after the  
9 person is arrested, take the person arrested or have him taken  
10 before some magistrate of the county where the accused was arrested  
11 or, to provide more expeditiously to the person arrested the  
12 warnings described by this article, before a magistrate in any  
13 other county of this state. The arrested person may be taken before  
14 the magistrate in person or the image of the arrested person may be  
15 presented to the magistrate by means of a videoconference [~~an~~  
16 ~~electronic broadcast system~~]. The magistrate shall inform in clear  
17 language the person arrested, either in person or through a  
18 videoconference [~~the electronic broadcast system~~], of the  
19 accusation against him and of any affidavit filed therewith, of his  
20 right to retain counsel, of his right to remain silent, of his right  
21 to have an attorney present during any interview with peace  
22 officers or attorneys representing the state, of his right to  
23 terminate the interview at any time, and of his right to have an  
24 examining trial. The magistrate shall also inform the person

1 arrested of the person's right to request the appointment of  
2 counsel if the person cannot afford counsel. The magistrate shall  
3 inform the person arrested of the procedures for requesting  
4 appointment of counsel. If the person does not speak and understand  
5 the English language or is deaf, the magistrate shall inform the  
6 person in a manner consistent with Articles 38.30 and 38.31, as  
7 appropriate. The magistrate shall ensure that reasonable  
8 assistance in completing the necessary forms for requesting  
9 appointment of counsel is provided to the person at the same time.  
10 If the person arrested is indigent and requests appointment of  
11 counsel and if the magistrate is authorized under Article 26.04 to  
12 appoint counsel for indigent defendants in the county, the  
13 magistrate shall appoint counsel in accordance with Article 1.051.  
14 If the magistrate is not authorized to appoint counsel, the  
15 magistrate shall without unnecessary delay, but not later than 24  
16 hours after the person arrested requests appointment of counsel,  
17 transmit, or cause to be transmitted to the court or to the courts'  
18 designee authorized under Article 26.04 to appoint counsel in the  
19 county, the forms requesting the appointment of counsel. The  
20 magistrate shall also inform the person arrested that he is not  
21 required to make a statement and that any statement made by him may  
22 be used against him. The magistrate shall allow the person arrested  
23 reasonable time and opportunity to consult counsel and shall, after  
24 determining whether the person is currently on bail for a separate  
25 criminal offense, admit the person arrested to bail if allowed by  
26 law. A record [~~recording~~] of the communication between the  
27 arrested person and the magistrate shall be made. The record

1 [~~recording~~] shall be preserved until the earlier of the following  
2 dates: (1) the date on which the pretrial hearing ends; or (2) the  
3 91st day after the date on which the record [~~recording~~] is made if  
4 the person is charged with a misdemeanor or the 120th day after the  
5 date on which the record [~~recording~~] is made if the person is  
6 charged with a felony. The counsel for the defendant may obtain a  
7 copy of an electronic [~~the~~] recording, if an electronic recording  
8 was created, on payment of a reasonable amount to cover costs of  
9 reproduction. For purposes of this subsection, "videoconference"  
10 [~~"electronic broadcast system"~~] means a two-way electronic  
11 communication of image and sound between the arrested person and  
12 the magistrate and includes secure Internet videoconferencing.

13 (f) A record required under Subsection (a) or (e) may  
14 consist of written forms, electronic recordings, or other  
15 documentation as authorized by procedures adopted in the county  
16 under Article 26.04(a).

17 SECTION 2. Section 5(a), Article 17.42, Code of Criminal  
18 Procedure, is amended to read as follows:

19 (a) A personal bond pretrial release office established  
20 under this article shall:

21 (1) prepare a record containing information about any  
22 accused person identified by case number only who, after review by  
23 the office, is released by a court on personal bond before  
24 sentencing in a pending case;

25 (2) update the record on a monthly basis; and

26 (3) file a copy of the record with the district or  
27 county clerk, as applicable based on court jurisdiction over the

1 categories of offenses addressed in the records, in any county  
2 served by the office.

3 SECTION 3. Section 6(b), Article 17.42, Code of Criminal  
4 Procedure, is amended to read as follows:

5 (b) In preparing an annual report under Subsection (a), the  
6 office shall include in the report a statement of:

7 (1) the office's operating budget;

8 (2) the number of positions maintained for office  
9 staff;

10 (3) the number of accused persons who, after review by  
11 the office, were released by a court on personal bond before  
12 sentencing in a pending case; and

13 (4) the number of persons described by Subdivision  
14 (3):

15 (A) [~~who were convicted of the same offense or of~~  
16 ~~any felony within the six years preceding the date on which charges~~  
17 ~~were filed in the matter pending during the person's release,~~

18 [~~B~~] who failed to attend a scheduled court  
19 appearance;

20 (B) [~~C~~] for whom a warrant was issued for the  
21 [~~person's~~] arrest of those persons for failure to appear in  
22 accordance with the terms of their [~~the person's~~] release; or

23 (C) [~~D~~] who, while released on personal bond,  
24 were arrested for any other offense in the same county in which the  
25 persons were released [~~while~~] on [~~the personal~~] bond.

26 SECTION 4. The heading to Article 27.18, Code of Criminal  
27 Procedure, is amended to read as follows:

1 Art. 27.18. PLEA OR WAIVER OF RIGHTS BY VIDEOCONFERENCE  
2 [~~CLOSED CIRCUIT VIDEO TELECONFERENCING~~].

3 SECTION 5. Articles 27.18(a) and (b), Code of Criminal  
4 Procedure, are amended to read as follows:

5 (a) Notwithstanding any provision of this code requiring  
6 that a plea or a waiver of a defendant's right be made in open court,  
7 a court may accept the plea or waiver by videoconference [~~broadcast~~  
8 ~~by closed circuit video teleconferencing~~] to the court if:

9 (1) the defendant and the attorney representing the  
10 state file with the court written consent to the use of  
11 videoconference [~~closed circuit video teleconferencing~~];

12 (2) the videoconference [~~closed circuit video~~  
13 ~~teleconferencing system~~] provides for a simultaneous, compressed  
14 full motion video, and interactive communication of image and sound  
15 between the judge, the attorney representing the state, the  
16 defendant, and the defendant's attorney; and

17 (3) on request of the defendant, the defendant and the  
18 defendant's attorney are able to communicate privately without  
19 being recorded or heard by the judge or the attorney representing  
20 the state.

21 (b) On motion of the defendant or the attorney representing  
22 the state or in the court's discretion, the court may terminate an  
23 appearance by videoconference [~~closed circuit video~~  
24 ~~teleconferencing~~] at any time during the appearance and require an  
25 appearance by the defendant in open court.

26 SECTION 6. Article 27.18(c), Code of Criminal Procedure, as  
27 amended by Chapters 1341 (S.B. 1233) and 1031 (H.B. 2847), Acts of

1 the 82nd Legislature, Regular Session, 2011, is reenacted and  
2 amended to read as follows:

3 (c) A record of the communication shall be made by a court  
4 reporter or by electronic recording and preserved by the court  
5 reporter or by electronic recording until all appellate proceedings  
6 have been disposed of. A court reporter or court recorder is not  
7 required to transcribe or make a duplicate electronic [~~separate~~]  
8 recording of a plea taken under this article unless an appeal is  
9 taken in the case and a party requests a transcript.

10 SECTION 7. Article 27.18(c-1), Code of Criminal Procedure,  
11 as added by Chapter 1341 (S.B. 1233), Acts of the 82nd Legislature,  
12 Regular Session, 2011, is amended to read as follows:

13 (c-1) The defendant may obtain a copy of an electronic [a]  
14 recording, if an electronic recording was created, [~~made under~~  
15 ~~Subsection (c)~~] on payment of a reasonable amount to cover the costs  
16 of reproduction or, if the defendant is indigent, the court shall  
17 provide a copy to the defendant without charging a cost for the  
18 copy.

19 SECTION 8. Articles 27.18(c-2) and (d), Code of Criminal  
20 Procedure, are amended to read as follows:

21 (c-2) The loss or destruction of or failure to create a  
22 court record or an electronic [~~make a video~~] recording of a plea  
23 entered under this article is not alone sufficient grounds for a  
24 defendant to withdraw the defendant's plea or to request the court  
25 to set aside a conviction, sentence, or plea.

26 (d) A defendant who is confined in a county other than the  
27 county in which charges against the defendant are pending may use



1 the videoconference [~~teleconferencing~~] method provided by this  
2 article or by [~~the electronic broadcast system authorized in~~]  
3 Article 15.17 to enter a plea or waive a right in the court with  
4 jurisdiction over the case.

5 SECTION 9. Article 27.18(c-1), Code of Criminal Procedure,  
6 as added by Chapter 1031 (H.B. 2847), Acts of the 82nd Legislature,  
7 Regular Session, 2011, is repealed.

8 SECTION 10. Article 15.17, Code of Criminal Procedure, as  
9 amended by this Act, applies to an arrested person brought before a  
10 magistrate on or after the effective date of this Act, regardless of  
11 whether the offense for which the person was arrested was committed  
12 before, on, or after that date.

13 SECTION 11. Article 27.18, Code of Criminal Procedure, as  
14 amended by this Act, applies to a plea of guilty or nolo contendere  
15 entered on or after the effective date of this Act, regardless of  
16 whether the offense with reference to which the plea is entered is  
17 committed before, on, or after that date.

18 SECTION 12. This Act takes effect September 1, 2017.

ADOPTED

VV  
MAY 23 2017

*Atay Spaul*  
Secretary of the Senate

*Jose Rodriguez*

FLOOR AMENDMENT NO. 1

BY: \_\_\_\_\_

1 Amend C.S.H.B. No. 3165 (senate committee printing) as  
2 follows:

3 (1) In SECTION 1 of the bill, in amended Article 15.17(a),  
4 Code of Criminal Procedure (page 2, lines 16-19), strike "The  
5 counsel for the defendant may obtain a copy of an electronic [the]  
6 recording, if an electronic recording was created, on payment of a  
7 reasonable amount to cover costs of reproduction." and substitute  
8 "[~~The counsel for the defendant may obtain a copy of the recording~~  
9 ~~on payment of a reasonable amount to cover costs of~~  
10 ~~reproduction.~~]"

11 (2) In SECTION 1 of the bill, in amended Article 15.17(f),  
12 Code of Criminal Procedure (page 2, line 26), following the period,  
13 insert "The counsel for the defendant may obtain a copy of the  
14 record on payment of a reasonable amount to cover the costs of  
15 reproduction or, if the defendant is indigent, the court shall  
16 provide a copy to the defendant without charging a cost for the  
17 copy."

18 (3) In SECTION 7 of the bill, in amended Article 27.18(c-1),  
19 Code of Criminal Procedure (page 3, lines 35-37), strike "a copy of  
20 an electronic [a] recording, if an electronic recording was  
21 created, [made under Subsection (c)]" and substitute "a copy of the  
22 record, including any electronic [a] recording, [made under  
23 Subsection (c)]".

ADOPTED

MAY 23 2017

FLOOR AMENDMENT NO. 2

BY:

Bullerham

*Atty. Gen.*  
Secretary of the Senate

1 Amend C.S.S.B. No. 3165 (senate committee report) by adding  
2 the following appropriately numbered SECTIONS to the bill and  
3 renumbering existing SECTIONS of the bill accordingly:

4 SECTION \_\_\_\_ . Article 15.21, Code of Criminal Procedure, is  
5 amended to read as follows:

6 Art. 15.21. RELEASE ON PERSONAL BOND [~~PRISONER DISCHARGED~~]  
7 IF NOT TIMELY DEMANDED. If the proper office of the county  
8 where the offense is alleged to have been committed does not  
9 demand an [~~the~~] arrested person described by Article 15.19 and  
10 take charge of the arrested person before the 11th day after the  
11 date the person is committed to the jail of the county in which  
12 the person is arrested, a magistrate in the county where the  
13 person was arrested shall:

14 (1) release the arrested person on personal bond  
15 without sureties or other security; and

16 (2) forward the personal bond to:

17 (A) the sheriff of the county where the offense  
18 is alleged to have been committed; or

19 (B) the court that issued the warrant of arrest  
20 [~~the arrested person shall be discharged from custody~~].

21 SECTION \_\_\_\_ . Article 15.21, Code of Criminal Procedure,  
22 applies only to a person who is arrested on or after the  
23 effective date of this Act. A person arrested before the  
24 effective date of this Act is governed by the law in effect on  
25 the date the person was arrested, and the former law is  
26 continued in effect for that purpose.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 25, 2017**

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

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3165** by Moody (Relating to certain pretrial procedures in criminal cases.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Code of Criminal Procedure to modify the information required to be included in statistical reports that are filed by a personal bond pretrial release office. The bill would allow an arrested person to appear before a magistrate by videoconference, and would allow a magistrate to inform the arrested person of his or her rights by videoconference. The bill would allow the person who had appeared via teleconference to obtain a copy of any electronic recording by paying the costs of reproduction. The bill would prohibit a court from charging a cost for the copy if the defendant is indigent. The bill would require a magistrate to release an arrested person on personal bond without sureties or other security on the 11th day after the date the person is committed to jail unless a proper office of the county where the offense is alleged to have been committed demands and takes charge of the person. The bill would require the magistrate to forward the personal bond to the sheriff of the county where the offense is alleged to have been committed or to the court that issued the warrant.

Based on the analysis of the Office of Court Administration and the Department of Public Safety, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

**Local Government Impact**

According to the Office of Court Administration, no significant fiscal impact on local courts is anticipated.

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

**LBB Staff:** UP, JGA, KJo, ZB, PBO

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 17, 2017**

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

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3165** by Moody (relating to certain pretrial procedures in criminal cases.), **Committee Report 2nd House, Substituted**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would amend the Code of Criminal Procedure to modify the information required to be included in statistical reports that are filed by a personal bond pretrial release office. The bill would allow an arrested person to appear before a magistrate by videoconference, and would allow a magistrate to inform the arrested person of his or her rights by videoconference. The bill would allow the person who had appeared via teleconference to obtain a copy of any electronic recording by paying the costs of reproduction. Based on the analysis of the Office of Court Administration and the Department of Public Safety, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

**Local Government Impact**

According to the Office of Court Administration, no significant fiscal impact on local courts is anticipated.

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

**LBB Staff:** UP, JGA, KJo, ZB, PBO

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 8, 2017**

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

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3165** by Moody (Relating to the duties of a personal bond pretrial release office.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure to modify the information required to be included in statistical reports that are filed by a personal bond pretrial release office. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

**Local Government Impact**

According to the Office of Court Administration, no significant fiscal impact on local courts is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** UP, KJo, ZB, PBO, JGA

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 6, 2017**

**TO:** Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3165** by Moody (Relating to the duties of a personal bond pretrial release office.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure to modify the information required to be included in statistical reports that are filed by a personal bond pretrial release office. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

**Local Government Impact**

According to the Office of Court Administration, no significant fiscal impact on local courts is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** UP, KJo, PBO, JGA