

By: Moody

H.B. No. 4474

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation and preservation of certain records of
3 criminal proceedings.

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

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

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

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

1 ~~on which the pretrial hearing ends, or (2) the 91st day after the~~
2 ~~date on which the record is made if the person is charged with a~~
3 ~~misdemeanor or the 120th day after the date on which the record is~~
4 ~~made if the person is charged with a felony.]~~ For purposes of this
5 subsection, "videoconference" means a two-way electronic
6 communication of image and sound between the arrested person and
7 the magistrate and includes secure Internet videoconferencing.

8 (f) A record required under Subsection (a) or (e) may
9 consist of written forms, electronic recordings, or other
10 documentation as authorized by procedures adopted in the county
11 under Article [26.04](#)(a). The record must be retained in compliance
12 with the applicable records retention schedule prepared by the
13 director and librarian of the Texas State Library and Archives
14 Commission under Section [441.158](#), Government Code. The counsel for
15 the defendant may obtain a copy of the record on payment of a
16 reasonable amount to cover the costs of reproduction or, if the
17 defendant is indigent, the court shall provide a copy to the
18 defendant without charging a cost for the copy.

19 SECTION 2. Article [27.18](#), Code of Criminal Procedure, is
20 amended by amending Subsection (d) and adding Subsection (h) to
21 read as follows:

22 (d) A defendant who is confined in a county other than the
23 county in which charges against the defendant are pending may use
24 the videoconference method provided by this article [~~or by Article~~
25 ~~[15.17](#)~~] to enter a plea or waive a right in the court with
26 jurisdiction over the case.

27 (h) For purposes of this article, "videoconference" means a

1 two-way electronic communication of image and sound between the
2 arrested person and the magistrate and includes secure Internet
3 videoconferencing.

4 SECTION 3. This Act takes effect September 1, 2019.