

By: Rodríguez  
(Moody)

S.B. No. 815

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.