

1-1 By: Rodríguez S.B. No. 815
 1-2 (In the Senate - Filed February 13, 2019; March 1, 2019,
 1-3 read first time and referred to Committee on Criminal Justice;
 1-4 May 1, 2019, reported favorably by the following vote: Yeas 7,
 1-5 Nays 0; May 1, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the creation and preservation of certain records of
 1-18 criminal proceedings.
 1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-20 SECTION 1. Articles 15.17(a) and (f), Code of Criminal
 1-21 Procedure, are amended to read as follows:
 1-22 (a) In each case enumerated in this Code, the person making
 1-23 the arrest or the person having custody of the person arrested shall
 1-24 without unnecessary delay, but not later than 48 hours after the
 1-25 person is arrested, take the person arrested or have him taken
 1-26 before some magistrate of the county where the accused was arrested
 1-27 or, to provide more expeditiously to the person arrested the
 1-28 warnings described by this article, before a magistrate in any
 1-29 other county of this state. The arrested person may be taken before
 1-30 the magistrate in person or the image of the arrested person may be
 1-31 presented to the magistrate by means of a videoconference. The
 1-32 magistrate shall inform in clear language the person arrested,
 1-33 either in person or through a videoconference, of the accusation
 1-34 against him and of any affidavit filed therewith, of his right to
 1-35 retain counsel, of his right to remain silent, of his right to have
 1-36 an attorney present during any interview with peace officers or
 1-37 attorneys representing the state, of his right to terminate the
 1-38 interview at any time, and of his right to have an examining trial.
 1-39 The magistrate shall also inform the person arrested of the
 1-40 person's right to request the appointment of counsel if the person
 1-41 cannot afford counsel. The magistrate shall inform the person
 1-42 arrested of the procedures for requesting appointment of counsel.
 1-43 If the person does not speak and understand the English language or
 1-44 is deaf, the magistrate shall inform the person in a manner
 1-45 consistent with Articles 38.30 and 38.31, as appropriate. The
 1-46 magistrate shall ensure that reasonable assistance in completing
 1-47 the necessary forms for requesting appointment of counsel is
 1-48 provided to the person at the same time. If the person arrested is
 1-49 indigent and requests appointment of counsel and if the magistrate
 1-50 is authorized under Article 26.04 to appoint counsel for indigent
 1-51 defendants in the county, the magistrate shall appoint counsel in
 1-52 accordance with Article 1.051. If the magistrate is not authorized
 1-53 to appoint counsel, the magistrate shall without unnecessary delay,
 1-54 but not later than 24 hours after the person arrested requests
 1-55 appointment of counsel, transmit, or cause to be transmitted to the
 1-56 court or to the courts' designee authorized under Article 26.04 to
 1-57 appoint counsel in the county, the forms requesting the appointment
 1-58 of counsel. The magistrate shall also inform the person arrested
 1-59 that he is not required to make a statement and that any statement
 1-60 made by him may be used against him. The magistrate shall allow the
 1-61 person arrested reasonable time and opportunity to consult counsel

2-1 and shall, after determining whether the person is currently on
2-2 bail for a separate criminal offense, admit the person arrested to
2-3 bail if allowed by law. A record of the communication between the
2-4 arrested person and the magistrate shall be made. [~~The record shall
2-5 be preserved until the earlier of the following dates: (1) the date
2-6 on which the pretrial hearing ends, or (2) the 91st day after the
2-7 date on which the record is made if the person is charged with a
2-8 misdemeanor or the 120th day after the date on which the record is
2-9 made if the person is charged with a felony.~~] For purposes of this
2-10 subsection, "videoconference" means a two-way electronic
2-11 communication of image and sound between the arrested person and
2-12 the magistrate and includes secure Internet videoconferencing.

2-13 (f) A record required under Subsection (a) or (e) may
2-14 consist of written forms, electronic recordings, or other
2-15 documentation as authorized by procedures adopted in the county
2-16 under Article 26.04(a). The record must be retained in compliance
2-17 with the applicable records retention schedule prepared by the
2-18 director and librarian of the Texas State Library and Archives
2-19 Commission under Section 441.158, Government Code. The counsel for
2-20 the defendant may obtain a copy of the record on payment of a
2-21 reasonable amount to cover the costs of reproduction or, if the
2-22 defendant is indigent, the court shall provide a copy to the
2-23 defendant without charging a cost for the copy.

2-24 SECTION 2. Article 27.18, Code of Criminal Procedure, is
2-25 amended by amending Subsection (d) and adding Subsection (h) to
2-26 read as follows:

2-27 (d) A defendant who is confined in a county other than the
2-28 county in which charges against the defendant are pending may use
2-29 the videoconference method provided by this article [~~or by Article
2-30 15.17~~] to enter a plea or waive a right in the court with
2-31 jurisdiction over the case.

2-32 (h) For purposes of this article, "videoconference" means a
2-33 two-way electronic communication of image and sound between the
2-34 arrested person and the magistrate and includes secure Internet
2-35 videoconferencing.

2-36 SECTION 3. This Act takes effect September 1, 2019.

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