

BILL ANALYSIS

C.S.H.B. 1604
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Sixth Amendment of the U.S. Constitution affords defendants the right to a public trial, including all phases of criminal cases, and state law requires criminal proceedings and trials to be public. The Supreme Court has also held that the press and public have a similar, independent right under the First Amendment to attend all criminal proceedings in both federal and state courts. Despite this, the bill author has informed the committee that some Texas courts exclude the public from hearings in which arrestees first appear before a judicial officer and bail is set and that, according to former District Attorney Kim Ogg, these exclusions were happening in Harris County in recent years. The Barbara McDowell Social Justice Center notes that these closed bail hearings are commonplace in Texas. The bill author has further informed the committee that excluding the public from these proceedings prevents crime victims and law enforcement from observing bail determinations and judicial decisions that impact public safety and hinders the ability of the press to keep the public informed about a crucial part of the criminal justice system. C.S.H.B. 1604 addresses this issue by specifying that the proceedings and trials in all courts that must be public include a proceeding in front of a magistrate following an arrest. The bill also establishes that the public access requirements may not be construed as prohibiting a judge from placing reasonable limits on in-person access for safety or to prevent overcrowding.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1604 amends the Code of Criminal Procedure to specify that the proceedings and trials in all courts that must be public include a proceeding in front of a magistrate following an arrest. The bill authorizes a court that as of January 1, 2026, does not have the physical capability, or is located in a secured facility without the physical capability, to provide in-person public access to such a proceeding to provide public access by livestream or videoconference. The livestream or videoconference must allow members of the public to clearly see and hear the proceeding.

C.S.H.B. 1604 establishes that its provisions may not be construed as prohibiting a judge from placing reasonable limits on in-person access to the court for safety or to prevent overcrowding.

C.S.H.B. 1604 applies only to a criminal proceeding that commences on or after January 1, 2026. A criminal proceeding that commenced before January 1, 2026, is governed by the law in

effect immediately before the bill's effective date, and the former law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1604 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute omits the following provisions included in the introduced:

- the requirement for a court, for each proceeding conducted before a magistrate, to publish as soon as practicable before the proceeding the following information on its website or at the location where the proceeding will be held:
 - the manner in which the public may inquire about a specific arrested person or proceeding;
 - the time, if known, and location of the proceeding; and
 - the manner in which the public may access the proceeding, including the website link for the livestream or videoconference, if applicable;
- the authorization for any person, including a member of the media, or the attorney general to file a petition for a writ of mandamus or apply for other appropriate equitable relief to enforce the right of the public to access a proceeding in accordance with the bill's provisions; and
- the requirement for the petition or application to be filed in a district court in the county in which the court conducting the applicable proceeding is located or, if filed by the attorney general, a district court in Travis County.

Whereas the introduced required a court that as of January 1, 2026, does not have the physical capability, or is located in a secured facility without the physical capability, to provide in-person public access to such a proceeding to provide public access by livestream or videoconference, the substitute authorizes such a court to do so.