

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/25/2019

Date

Honorable Dan Patrick
President of the Senate

Honorable Dennis Bonnen
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 815 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Jose Rodriguez

Peter P. Fox

Charles Perry

(Perry)

Jan Huffman

John Whitcomb

On the part of the Senate

Phil S. King

Moody, Chair

Medi Collin

Collins

Phil King

King of Packed

Matt Krause

Krause

J. E. White

On the part of the House

White

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 815

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

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

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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.

Senate Bill 815
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Articles 15.17(a) and (f), Code of Criminal Procedure, are amended.

SECTION 2. Article 27.18, Code of Criminal Procedure, is amended.

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

HOUSE VERSION (IE)

SECTION 1. Same as Senate version except adds requirements in subsection (a) for the magistrate before whom a person who was arrested solely for a misdemeanor punishable by fine only is taken to dismiss the case unless a record of the arrest is presented in which the arresting officer provides a reason demonstrating an ongoing danger to public safety or breach of the peace, a danger to public safety or breach of the peace that is likely to reoccur, the inability to identify the person, or the person's refusal to sign a citation promising to pay the fine or appear in court and that reason required the person to be taken into custody at that time; and for the record to be retained and preserved as provided by Subsection (f). [FA1;FA2,3rd]

SECTION 2. Same as Senate version.

SECTION 3. Same as Senate version.

CONFERENCE

SECTION 1. Same as Senate version.

SECTION 2. Same as Senate version.

SECTION 3. Same as Senate version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 25, 2019

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: SB815 by Rodríguez (Relating to the creation and preservation of certain records of criminal proceedings.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

According to analysis provided by the Office of Court Administration, duties and responsibilities associated with implementing the provisions of this bill can be absorbed using current resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 306 Library & Archives Commission

LBB Staff: WP, LBO, NV, LLo