

See
use

S.B. No. 815

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

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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~~

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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.

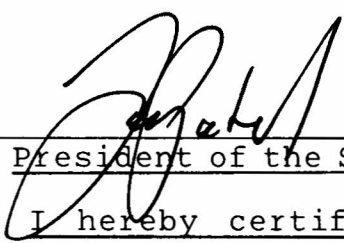
27 (h) For purposes of this article, "videoconference" means a

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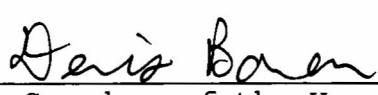
1 two-way electronic communication of image and sound between the
2 arrested person and the magistrate and includes secure Internet
3 videoconferencing.

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

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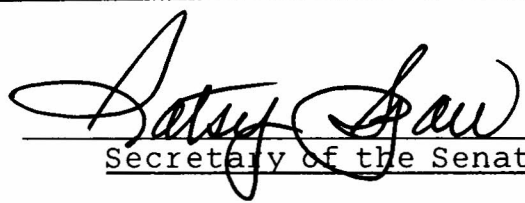


President of the Senate



Speaker of the House

I hereby certify that S.B. No. 815 passed the Senate on May 7, 2019, by the following vote: Yeas 31, Nays 0; May 23, 2019, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 23, 2019, House granted request of the Senate; May 26, 2019, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0. _____



Secretary of the Senate

I hereby certify that S.B. No. 815 passed the House, with amendment, on May 21, 2019, by the following vote: Yeas 81, Nays 52, two present not voting; May 23, 2019, House granted request of the Senate for appointment of Conference Committee; May 26, 2019, House adopted Conference Committee Report by the following vote: Yeas 102, Nays 39, two present not voting. _____



Chief Clerk of the House

Approved:

Date

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:45 pm O'CLOCK

JUN 15 2019


Secretary of State

PROCLAMATION
BY THE
Governor of the State of Texas
41-3675

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 815 as passed by the Eighty-Sixth Texas Legislature, Regular Session, because of the following objections:

The law requires that arrested individuals be brought before a magistrate to be informed about the charges against them and to receive important warnings about their rights. Records must be made of these communications, and while a statute currently fixes the periods for which courts must retain the records, Senate Bill 815 would instead have delegated to an agency the discretion to set—and change—the retention periods. Administrative flexibility is not a virtue in this instance. The Legislature should be the one to provide clear direction on this issue.

Since the Eighty-Sixth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.



IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 15th day of June, 2019.

Handwritten signature of Greg Abbott in black ink.

GREG ABBOTT
Governor of Texas

ATTESTED BY:

Handwritten signature of Joe Esparza in black ink.

JOE ESPARZA
Deputy Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:45pm O'CLOCK

JUN 15 2019