

## **BILL ANALYSIS**

H.B. 3637  
By: Ortega  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties note that certain statutory language used to describe the required method for recording certain criminal proceedings is obsolete and assert the need to update the relevant law. H.B. 3637 seeks to clarify and update the law regarding such recordings.

### **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**

H.B. 3637 amends the Code of Criminal Procedure to replace the authorization for the image of an arrested person to be presented to a magistrate, for purposes of informing the person of the charges against the person and the person's rights, by means of an electronic broadcast system with an authorization for the image of an arrested person to be presented to a magistrate for such purposes by means of a videoconference. The bill expands the authorized methods to record the communication between the person and a magistrate from a recording of the communication to a record of the communication that may consist of written forms, electronic recordings, or certain other documents. The bill specifies that the recording that the counsel for the defendant is authorized to obtain is an electronic recording, if an electronic recording was created.

H.B. 3637 replaces the authorization for a court to accept a defendant's plea or waiver of rights by broadcast by closed circuit video teleconferencing under certain conditions with an authorization for a court to accept a defendant's plea or waiver of rights by videoconference under those same conditions. The bill adds electronic recording as an alternative method to make and preserve the required record of communication involving such a plea or waiver. The bill specifies that the copy of a recording of such communication that a defendant may obtain is an electronic recording, if an electronic recording was created. The bill establishes that the loss or destruction of or failure to create a court record or an electronic recording of a plea entered under this article is not alone sufficient grounds for a defendant to withdraw the defendant's plea or to request the court to set aside a conviction, sentence, or plea.

H.B. 3637 repeals Article 27.18(c-1), Code of Criminal Procedure, as added by Chapter 1031 (H.B. 2847), Acts of the 82nd Legislature, Regular Session, 2011.

### **EFFECTIVE DATE**

September 1, 2017.