

BILL ANALYSIS

Senate Research Center

H.B. 3165
By: Moody (Rodríguez)
Criminal Justice
7/31/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that some reporting requirements of a personal bond pretrial release office regarding a defendant's criminal history or applicable post-trial events create an undue burden on these offices considering that relevant information is often inaccessible. H.B. 3165 addresses this issue by removing and revising certain reporting requirements of a personal bond pretrial release office with respect to information related to certain released defendants. (Original Author's / Sponsor's Statement of Intent)

H.B. 3165 amends current law relating to certain pretrial procedures in criminal cases.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Articles 15.17(a) and (f), Code of Criminal Procedure, as follows:

(a) Changes references to electronic broadcast system to videoconference and changes references to recording to record. Defines "videoconference." Makes nonsubstantive changes. Deletes existing text authorizing the counsel for the defendant to obtain a copy of the recording on payment of a reasonable amount to cover costs of reproduction.

(f) Authorizes that a record required under Subsection (a) (relating to certain procedures for a certain arrested person) or (e) (relating to requiring a record of certain information be made when a person arrested is taken before a magistrate) consist of written forms, electronic recordings, or other documentation as authorized by procedures adopted in the county under Article 26.04(a) (relating to adopting certain procedures for timely and fairly appointed counsel for certain defendants). Authorizes the counsel for the defendant to 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 is required to provide a copy to the defendant without charging a cost for the copy.

SECTION 2. Amends Article 15.21, Code of Criminal Procedure, as follows:

Art. 15.21. New heading: **RELEASE ON PERSONAL BOND IF NOT TIMELY DEMANDED**. Requires a magistrate in the county where the person was arrested, if the proper office of the county where the offense is alleged to have been committed does not demand an arrested person described by Article 15.19 (Notice of Arrest) and take charge of the arrested person before the 11th day after the date the person is committed to the jail of the county in which the person is arrested, to release the arrested person on personal bond without sureties or other security and forward the personal bond to the sheriff of the county where the offense is alleged to have been committed or the court that issued the warrant of arrest, rather than requiring that the arrested person be discharged from custody. Makes a nonsubstantive change.

SECTION 3. Amends Section 5(a), Article 17.42, Code of Criminal Procedure, to require a personal bond pretrial release office (office) established under this article (Personal Bond Office) to prepare a record containing information about any accused person identified by case number only who, after review by the office, is released by a court on personal bond before sentencing in a pending case.

SECTION 4. Amends Section 6(b), Article 17.42, Code of Criminal Procedure, as follows:

(b) Requires the office, in preparing an annual report under Subsection (a) (relating to requiring an office to submit a certain annual report), to include in the report a statement of:

(1) and (2) makes no changes to these subdivisions;

(3) the number of accused persons who, after review by the office, were released by a court on personal bond before sentencing in a pending case; and

(4) the number of persons described by Subdivision (3):

(A) who failed to attend a scheduled court appearance. Deletes existing text relating to the number of persons described by Subdivision (3) who were convicted of the same offense or of any felony within the six years preceding the date on which charges were filed in the matter pending during the person's release;

(B) for whom a warrant was issued for the arrest of those persons for failure to appear in accordance with the terms of their release, rather than for whom a warrant was issued for the person's arrest for failure to appear in accordance with the terms of the person's release; or

(C) who, while released on personal bond, were arrested for any other offense in the same county in which the persons were released on bond. Makes nonsubstantive changes.

SECTION 5. Amends the heading to Article 27.18, Code of Criminal Procedure, to read as follows:

Art. 27.18. PLEA OR WAIVER OF RIGHTS BY VIDEOCONFERENCE.

SECTION 6. Amends Articles 27.18(a) and (b), Code of Criminal Procedure, as follows:

(a) Authorizes a court, notwithstanding any provision of this code requiring that a plea or a waiver of a defendant's right be made in open court, to accept the plea or waiver by videoconference, rather than broadcast by closed circuit video teleconferencing, to the court if:

(1) the defendant and the attorney representing the state file with the court written consent to the use of videoconference, rather than closed circuit video teleconferencing;

(2) the video conference, rather than closed circuit video teleconferencing system, provides for a simultaneous, compressed full motion video, and interactive communication of image and sound between the judge, the attorney representing the state, the defendant, and the defendant's attorney; and

(3) makes no changes to this subdivision.

(b) Makes conforming changes.

SECTION 7. Reenacts Article 27.18(c), Code of Criminal Procedure, as amended by Chapters 1341 (S.B. 1233) and 1031 (H.B. 2847), Acts of the 82nd Legislature, Regular Session, 2011, and amends it, as follows:

(c) Requires that a record of the communication be made by a court reporter or by electronic recording and preserved by the court reporter or by electronic recording until all appellate proceedings have been disposed of. Provides that a court reporter or court recorder, is not required to transcribe or make a duplicate electronic, rather than separate, recording of a plea taken under this article unless an appeal is taken in the case and a party requests a transcript.

SECTION 8. Amends Article 27.18(c-1), Code of Criminal Procedure, as added by Chapter 1341 (S.B. 1233), Acts of the 82nd Legislature, Regular Session, 2011, as follows:

(c-1) Authorizes the defendant to obtain a copy of the record, including any electronic recording, rather than of a recording made under Subsection (c), on payment of a reasonable amount to cover the costs of reproduction or, if the defendant is indigent, the court is required to provide a copy to the defendant without charging a cost for the copy.

SECTION 9. Amends Articles 27.18(c-2) and (d), Code of Criminal Procedure, as follows:

(c-2) Provides that the loss or destruction of or failure to create a court record or an electronic recording, rather than make a video 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.

(d) Authorizes a defendant who is confined in a county other than the county in which charges against the defendant are pending to use the videoconference, rather than teleconferencing, method provided by this article or by Article 15.17 (Duties of Arresting Officer and Magistrate), rather than the electronic broadcast system authorized in Article 15.17, to enter a plea or waive a right in the court with jurisdiction over the case.

SECTION 10. Repealer: Article 27.18(c-1) (relating to authorizing the defendant to obtain a copy of a recording), Code of Criminal Procedure, as added by Chapter 1031 (H.B. 2847), Acts of the 82nd Legislature, Regular Session, 2011.

SECTION 11. Provides that Article 15.17, Code of Criminal Procedure, as amended by this Act, applies to an arrested person brought before a magistrate on or after the effective date of this Act, regardless of whether the offense for which the person was arrested was committed before, on, or after that date.

SECTION 12. Provides that Article 15.21, Code of Criminal Procedure, applies only to a person who is arrested on or after the effective date of this Act. Provides that a person arrested before the effective date of this Act is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.

SECTION 13. Provides that Article 27.18, Code of Criminal Procedure, as amended by this Act, applies to certain pleas entered on or after the effective date of this Act, regardless of whether the offense with reference to which the plea is entered is committed before, on, or after that date.

SECTION 14. Effective date: September 1, 2017.