

Revising record retention requirements for certain criminal proceedings

SB 815 by Rodríguez (Moody)

Digest

SB 815 would have revised requirements for the retention of records of communications between a magistrate and an arrested person about the charges against the person, the person's rights, and certain other information. It would have eliminated the current requirement that records be kept until either the date the pretrial hearing ends or the 91st day after the record was made for misdemeanor charges and the 120th day after the record was made for felonies. Records would have to have been retained according to a retention schedule prepared by the director and librarian of the Texas State Library and Archives Commission.

Governor's reason for veto

"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."

Response

Sen. Jose Rodríguez, the bill's author, said "SB 815 was a clean-up bill intended to resolve a potential conflict in statute, which was created by legislation passed in 2017, that risks magistration records being destroyed prematurely. The governor's stated rationale for the veto is perplexing to say the least. Under current law, the Texas State Library and Archives Commission already administratively sets the records retention schedules for criminal case papers for county clerks, district clerks, and

justice and municipal courts; despite what the governor may have thought, these schedules are not set in statute. We look forward to working with the governor's office next session to make sure we have a clear, practical retention policy that ensures increasingly important magistration records are maintained appropriately."

Rep. Joe Moody, the House sponsor, said, "The Texas State Library and Archives Commission already administratively sets records retention schedules for other court records — SB 815 was just a conforming change to fill a policy gap — so the stated reason for the veto is confusing. That's why we look forward to working with the governor's office next session to make sure we have a clear, practical retention policy that ensures increasingly important magistration records are kept appropriately."

Notes

[SB 815](#) was digested in Part Three of the May 20 *Daily Floor Report*.