

1-1 By: Watson S.B. No. 268  
1-2 (In the Senate - Filed December 19, 2014; January 28, 2015,  
1-3 read first time and referred to Subcommittee on Border Security;  
1-4 April 6, 2015, reported favorably to Committee on Veteran Affairs  
1-5 and Military Installations; April 13, 2015, reported favorably by  
1-6 the following vote: Yeas 7, Nays 0; April 13, 2015, sent to  
1-7 printer.)

1-8 COMMITTEE VOTE

1-9	Yea	Nay	Absent	PNV
1-10	Campbell	X		
1-11	Burton	X		
1-12	Birdwell	X		
1-13	Garcia	X		
1-14	Hall	X		
1-15	Lucio	X		
1-16	Rodríguez	X		

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the duties of a magistrate to inform an arrested person  
1-20 of consequences of a plea of guilty or nolo contendere.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Article 15.17(a), Code of Criminal Procedure, is  
1-23 amended to read as follows:

1-24 (a) In each case enumerated in this Code, the person making  
1-25 the arrest or the person having custody of the person arrested shall  
1-26 without unnecessary delay, but not later than 48 hours after the  
1-27 person is arrested, take the person arrested or have him taken  
1-28 before some magistrate of the county where the accused was arrested  
1-29 or, to provide more expeditiously to the person arrested the  
1-30 warnings described by this article, before a magistrate in any  
1-31 other county of this state. The arrested person may be taken before  
1-32 the magistrate in person or the image of the arrested person may be  
1-33 presented to the magistrate by means of an electronic broadcast  
1-34 system. The magistrate shall inform in clear language the person  
1-35 arrested, either in person or through the electronic broadcast  
1-36 system, of the accusation against him and of any affidavit filed  
1-37 therewith, of his right to retain counsel, of his right to remain  
1-38 silent, of his right to have an attorney present during any  
1-39 interview with peace officers or attorneys representing the state,  
1-40 of his right to terminate the interview at any time, and of his  
1-41 right to have an examining trial. The magistrate shall inform the  
1-42 person arrested that, if the person is not a citizen of the United  
1-43 States of America, a plea of guilty or nolo contendere for the  
1-44 offense charged may affect the person's immigration or residency  
1-45 status and may result in deportation, the exclusion from admission  
1-46 to this country, or the denial of naturalization under federal law.  
1-47 The magistrate shall also inform the person arrested of the  
1-48 person's right to request the appointment of counsel if the person  
1-49 cannot afford counsel. The magistrate shall inform the person  
1-50 arrested of the procedures for requesting appointment of counsel.  
1-51 If the person does not speak and understand the English language or  
1-52 is deaf, the magistrate shall inform the person in a manner  
1-53 consistent with Articles 38.30 and 38.31, as appropriate. The  
1-54 magistrate shall ensure that reasonable assistance in completing  
1-55 the necessary forms for requesting appointment of counsel is  
1-56 provided to the person at the same time. If the person arrested is  
1-57 indigent and requests appointment of counsel and if the magistrate  
1-58 is authorized under Article 26.04 to appoint counsel for indigent  
1-59 defendants in the county, the magistrate shall appoint counsel in  
1-60 accordance with Article 1.051. If the magistrate is not authorized  
1-61 to appoint counsel, the magistrate shall without unnecessary delay,

2-1 but not later than 24 hours after the person arrested requests  
2-2 appointment of counsel, transmit, or cause to be transmitted to the  
2-3 court or to the courts' designee authorized under Article 26.04 to  
2-4 appoint counsel in the county, the forms requesting the appointment  
2-5 of counsel. The magistrate shall also inform the person arrested  
2-6 that he is not required to make a statement and that any statement  
2-7 made by him may be used against him. The magistrate shall allow the  
2-8 person arrested reasonable time and opportunity to consult counsel  
2-9 and shall, after determining whether the person is currently on  
2-10 bail for a separate criminal offense, admit the person arrested to  
2-11 bail if allowed by law. A recording of the communication between  
2-12 the arrested person and the magistrate shall be made. The recording  
2-13 shall be preserved until the earlier of the following dates: (1)  
2-14 the date on which the pretrial hearing ends; or (2) the 91st day  
2-15 after the date on which the recording is made if the person is  
2-16 charged with a misdemeanor or the 120th day after the date on which  
2-17 the recording is made if the person is charged with a felony. The  
2-18 counsel for the defendant may obtain a copy of the recording on  
2-19 payment of a reasonable amount to cover costs of reproduction. For  
2-20 purposes of this subsection, "electronic broadcast system" means a  
2-21 two-way electronic communication of image and sound between the  
2-22 arrested person and the magistrate and includes secure Internet  
2-23 videoconferencing.

2-24 SECTION 2. This Act takes effect September 1, 2015.

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