

SUBJECT: Revising record retention requirements for certain criminal proceedings

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Collier, Zedler, J. González, Hunter, P. King, Moody, Murr

0 nays

2 absent — K. Bell, Pacheco

SENATE VOTE: On final passage, May 7 — 31-0

WITNESSES: No public hearing

BACKGROUND: Code of Criminal Procedure art. 15.17 governs the duties of a magistrate judge for handling a person who was arrested, including to inform the person of the procedures for requesting appointment of counsel. A record of the communication between the arrested person and the magistrate must be made.

Records must be preserved until the earlier of the following dates:

- the date on which the pretrial hearing ends; or
- the 91st day after the date on which the record is made if the person is charged with a misdemeanor or the 120th day after the date on which the record is made if the person is charged with a felony.

Interested parties have called for clarification on how long to preserve a record of a magistrate's notice to a defendant of the right to request appointment of counsel as well as the defendant's response.

DIGEST: SB 815 would eliminate the current requirement for records retention regarding communication between an arrested person and a magistrate and replace it with a requirement that the records of communications between arrested persons and magistrates be retained in compliance with the applicable records retention schedule prepared by the director and

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librarian of the Texas State Library and Archives Commission.

The bill would take effect September 1, 2019.