

SUBJECT: Requiring a certain language for a written statement made by the accused

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Herrero, Carter, Burnam, Canales, Hughes, Moody

1 nay — Schaefer

2 absent — Leach, Toth

WITNESSES: For — William Cox, El Paso County Public Defender's Office;
(*Registered, but did not testify:* Yannis Banks, Texas NAACP; Marisa Bono, MALDEF; Cindy Eigler, Texas Interfaith Center for Public Policy; Brian Eppes, Tarrant County District Attorney's Office; Kristin Etter, Texas Criminal Defense Lawyers Association; Kathryn Kase, Texas Defender Service; Travis Leete, The Texas Criminal Justice Coalition; Andrea Marsh, Texas Fair Defense Project; Bill Shier; Celeste Villarreal, Mexican American Bar Association of Texas; Justin Wood, Harris County District Attorney's Office)

Against — None

On — Steven Tays, Bexar County Criminal District Attorney's Office;
(*Registered, but did not testify:* J D Robertson, Texas Rangers, Department of Public Safety)

BACKGROUND: Code of Criminal Procedure, art. 38.22, sec. 1 requires that a written statement made by the accused be made in his or her own handwriting or, if the accused is unable to write, that a statement bear the mark of the accused and that the mark be witnessed by someone other than a peace officer.

DIGEST: HB 2090 would require a written statement made by the accused to be made in a language the accused could read and understand, if the statement was not made by the accused in his or her own handwriting. Such a statement would have to be signed by the accused or bear the mark of the accused, witnessed by a person other than a peace officer, if the accused was unable to write.

HB 2090 would take effect September 1, 2013.

**SUPPORTERS
SAY:**

HB 2090 would establish a sensible procedure to ensure the integrity of the judicial system by requiring that the accused be able read and understand the written statement the person signs. Currently, it is possible that a non-English speaker could sign a written statement in English without understanding the content of the statement.

This could put important evidence in doubt or could be used wrongfully as evidence in a case. In some instances in Texas, a statement signed by an accused person who did not understand the statement has been used against the accused in trial. This inaccuracy can undermine the criminal justice system. HB 2090 would promote fundamental fairness by simply requiring that the accused be able to read and understand their statements.

**OPPONENTS
SAY:**

HB 2090 should require that the written statement be made in a language of which the accused displays an understanding , instead of a language the accused can read and understand. By requiring the ability to read and understand, an accused person who could not read in any language would be unable to provide a statement.

Additionally, the current language in HB 2090 could lead to uncertainty because it is difficult to prove that someone understands and can read a language. There would be no safeguards to prevent a defendant from falsely claiming that he or she was unable to understand or read the statement after having signed it.