

BILL ANALYSIS

Senate Research Center
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S.B. 603
By: Ellis
Criminal Justice
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Both the United States and Mexico are parties to the 1963 Vienna Convention on Consular Relations (convention). Article 36 of the convention requires that a foreign national placed under arrest be informed of his or her right to contact the person's embassy or consulate. In certain countries, the convention requires local authorities to notify the relevant consulate of the foreign national's arrest, regardless of whether the arrested national requests such notification.

Currently, Texas does not have a state law regarding the issue. However, the International Court of Justice (ICJ) has ruled that Texas is obligated to comply with the Vienna Convention. Texas has, in the past, taken the position that it is not under the jurisdiction of the ICJ.

As proposed, S.B. 603 requires law enforcement authorities in Texas to comply with the requirements of the convention. It requires that a foreign national, upon arrest or detention, be advised of the person's right to have a consular official notified. S.B. 603 authorizes consular officials access to their nationals in detention and requires consular notification when a Mexican or Canadian national is arrested in Texas.

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 Article 15.17, Code of Criminal Procedure, by adding Subsection (g), as follows:

(g)(1) Requires a magistrate, upon confirmed knowledge or suspicion that a person brought before the magistrate after an arrest is a foreign national, other than a national of Canada or Mexico, to inform the person that after an arrest a foreign national has the right to communicate with an official from the consulate of the person's country. Requires the magistrate to notify an official of the penal institution in which the person is confined that the person wants a foreign consular official to be notified, if the person chooses to exercise this right.

(2) Requires a magistrate, upon knowledge or suspicion that a person brought before the magistrate after an arrest is a national of Canada or Mexico, to inform the person that he or she has the right to communicate with an official from the consulate of the person's country and notify the appropriate consulate of the person's arrest or detention.

(3) Requires the official of the penal institution in which the person is confined to allow the person to communicate, correspond, and be visited by a consular official of the person's country.

(4) Requires the magistrate and official of the penal institution, in providing a foreign national with rights described by this subsection, to comply with policies and procedures adopted by the United States Department of State that apply to the notification of foreign consular officials on the arrest of foreign nationals.

SECTION 2. Amends Section 1701.253, Occupations Code, by adding Subsection (j), as follows:

(j) Requires the Commission on Law Enforcement Officer Standards and Education (commission), as part of the minimum curriculum requirements, to establish a statewide comprehensive education and training program on the requirements for handling the arrest and detention of a foreign national. Requires an officer to complete a program established under this subsection not later than the second anniversary of the date the officer is licensed or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 3. Amends Section 1701.402, Occupations Code, by adding Subsection (g) to require an officer, as a requirement for an intermediate proficiency certificate, to complete an education and training program on the requirements for handling the arrest of a foreign national that are established by the commission under Section 1701.253(j).

SECTION 4. Requires the commission, not later than January 1, 2006, to establish the curriculum for a comprehensive education and training program for peace officers as added by this Act. Requires a person who on September 1, 2005, holds an intermediate proficiency certificate or has held a peace officer license issued by the commission for more than two years to complete an education training program on the requirements for handling the arrest of a foreign national not later than September 1, 2007.

SECTION 5. Effective date: September 1, 2005.