

BILL ANALYSIS

Senate Research Center
78R15640 KCR-D

C.S.S.B. 1751
By: Lucio
International Relations and Trade
5-8-2003
Committee Report (Substituted)

DIGEST AND PURPOSE

Article 36 of the Vienna Convention on Consular Relations currently requires foreign nationals detained in the United States to be informed of their right to contact a consular officer from their country of nationality. The Vienna Convention is the major worldwide treaty on the topic of consular relations. More than 160 countries, including the United States, are party to the Vienna Convention. C.S.S.B. 1751 requires a magistrate to inform foreign nationals who have been arrested in Texas of their right to contact a consular officer from their country of nationality. This bill also establishes a statewide education and training program for law enforcement officers handling the arrest and detention of foreign nationals. C.S.S.B. 1751 also provides that, in a criminal case, not informing a person of their right to communicate with an official from the consulate of the person's country and informing the penal institution if the person wants to exercise that right, absent other factors, is not grounds for a mistrial or for excluding evidence from a trial, nor is it a reversible error on appeal.

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 (h), as follows:

(h)(1) Requires the magistrate, if a magistrate knows or suspects that a person brought before the magistrate after an arrest is a foreign national, to inform the person that after an arrest a foreign national has a right to communicate with an official from the consulate of the person's country. Requires the magistrate, if the person chooses to exercise the right to communicate with the consular official, 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. Requires the official of the penal institution to allow the person to communicate with, correspond with, and be visited by a consular official of the person's country.

(2) Requires the magistrate and official of the penal institution, in providing a foreign national with rights described by Subdivision (1), 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.

(3) Provides that absent other factors, the failure of a magistrate or an official of a penal institution to comply with Subdivision (1) or (2) is not, in a criminal case, sufficient grounds for a mistrial or for excluding evidence from use during the trial or a reversible error on appeal.

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

(i) Requires the Commission on Law Enforcement Officer Standards and Education (TCLEOSE), 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 as provided by Article 15.17(h), Code of Criminal Procedure.

SECTION 3. (a) Requires TCLEOSE to establish the curriculum for a comprehensive education and training program for peace officers as required by Section 1701.253(i), Occupations Code, as added by this Act, on or before January 1, 2004.

(b) Requires persons who are licensed peace officers on September 1, 2003, to complete the first course required under Section 1701.253(i), Occupations Code, as added by this Act, before September 1, 2005.

SECTION 4. Effective date: September 1, 2003.