

By: Van de Putte

S.B. No. 640

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the notification of foreign consular officials on the  
3 arrest of foreign nationals and to communications between those  
4 consular officials and arrested persons.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 15, Code of Criminal Procedure, is  
7 amended by adding Article 15.28 to read as follows:

8 Art. 15.28. ARREST OF FOREIGN NATIONAL; CONSULAR  
9 NOTIFICATION. (a) A law enforcement agency that knows or suspects  
10 that a person arrested by the agency is a foreign national shall  
11 inform the person that:

12 (1) after an arrest a foreign national has a right to  
13 communicate with an official from the consulate of the person's  
14 country before the person is questioned about the offense for which  
15 the person was arrested;

16 (2) an official from the consulate of the person's  
17 country will be notified of the person's arrest regardless of any  
18 objection by the person, if a treaty requiring consular  
19 notification exists between the United States and the person's  
20 country; and

21 (3) if a treaty described by Subdivision (2) does not  
22 exist, an official from the consulate of the person's country will  
23 be notified of the person's arrest unless the person objects to the  
24 notification.

1       (b) The law enforcement agency shall notify the appropriate  
2 office of the attorney representing the state of the person's  
3 preferences concerning notification of an official from the  
4 consulate of the person's country.

5       (c) The office of the attorney representing the state shall  
6 notify a consular official from the person's country in accordance  
7 with Subsection (a). If applicable, the office of the attorney  
8 representing the state shall inform the person that the consular  
9 official has been notified.

10       (d) The official of the penal institution in which the  
11 person is confined shall allow the person to communicate with,  
12 correspond with, and be visited by a consular official from the  
13 person's country.

14       (e) In providing a foreign national with rights described by  
15 this section and in discharging duties imposed by this section, the  
16 law enforcement agency, the office of the attorney representing the  
17 state, and the official of the penal institution shall comply with  
18 policies and procedures adopted by the United States Department of  
19 State that apply to the notification of foreign consular officials  
20 on the arrest of foreign nationals.

21       SECTION 2. This Act takes effect September 1, 2005.