

By: Van de Putte

S.B. No. 640

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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