

By: Ellis

S.B. No. 1308

A BILL TO BE ENTITLED

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AN ACT

relating to the right of an accused to be informed of their rights in a language they can understand.

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

SECTION 1. Section 2, Article 38.22(a), Code of Criminal Procedure, is amended to read as follows:

(a) the accused, prior to making the statement, either received from a magistrate the warning provided in Article 15.17 of this code or received from the person to whom the statement is made a warning, in a language the accused can understand, that:

(1) he has the right to remain silent and not make any statement at all and that any statement he makes may be used against him at his trial;

(2) any statement he makes may be used as evidence against him in court;

(3) he has the right to have a lawyer present to advise him prior to and during any questioning;

(4) if he is unable to employ a lawyer, he has the right to have a lawyer appointed to advise him prior to and during any questioning;

(5) he has the right to terminate the interview at any time; and

SECTION 2. Section 51.095(a)(1)(A), Family Code, is amended to read as follows:

1 (a) Notwithstanding Section 51.09, the statement of a child
2 is admissible in evidence in any future proceeding concerning the
3 matter about which the statement was given if:

4 (1) the statement is made in writing under a
5 circumstance described by Subsection (d) and:

6 (A) the statement shows that the child has at
7 some time before the making of the statement received from a
8 magistrate a warning, in a language the child can understand, that:

9 (i) the child may remain silent and not make
10 any statement at all and that any statement that the child makes may
11 be used in evidence against the child;

12 (ii) the child has the right to have an
13 attorney present to advise the child either prior to any
14 questioning or during the questioning;

15 (iii) if the child is unable to employ an
16 attorney, the child has the right to have an attorney appointed to
17 counsel with the child before or during any interviews with peace
18 officers or attorneys representing the state; and

19 (iv) the child has the right to terminate
20 the interview at any time;

21 SECTION 3. Article 38.22, Code of Criminal Procedure, as
22 amended by this Act, and Section 51.095, Family Code, as amended by
23 this Act, apply to the admissibility of a written, oral, or sign
24 language statement that is made on or after the effective date of
25 this Act. A written, oral, or sign language statement that is make
26 before the effective date of this Act is governed by the law in
27 effect at the time that the statement was made, and that law is

1 continued in effect for that purpose.

2 SECTION 4. This Act takes effect September 1, 2005.