

## **BILL ANALYSIS**

C.S.H.B. 905  
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State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

A new report from Family Security Matters estimates that the 267,000 illegal aliens currently incarcerated are responsible for nearly 1.3 million crimes ranging from drug arrests and DWI's, to rape and murder. The report goes on to estimate that 2,158 murders are committed every year by illegal aliens in the U.S. That number is more than 15% of all the murders reported by the FBI, and about three times the representation of illegal aliens in the general population. More than half of the murders are estimated to be committed by illegal aliens with previous convictions.

Under current law, there is no requirement for correctional officers to attempt to make a determination of nationality when a defendant is being held in a correctional facility awaiting trial for a felony or an intoxication offense. This creates unfair burden on our correctional facilities to continue to incarcerate illegal aliens eligible for deportation and fails to protect the public from potentially violent re-offenders who should be deported.

C.S.H.B. 905 requires the sheriff or officer in charge where a defendant is awaiting trial for a felony or intoxication offense to make a reasonable effort to determine the defendant's nationality.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 905 defines "intoxication offense." The bill requires the sheriff or officer in charge of a correctional facility in which a defendant is confined awaiting trial for a felony or an intoxication offense to immediately, on receipt of the defendant, to make a reasonable effort to determine the defendant's nationality.

The bill provides that if the sheriff or other officer has reason to believe the defendant is a foreign national and the sheriff or other officer cannot verify the defendant's immigration status from documents in the defendant's possession, then within 48 hours after the defendant is received at the correctional facility, the officer shall contact the Law Enforcement Support Center of the U.S. Department of Homeland Security, or other agency designated for that purpose by the Department of Homeland Security, to verify the defendant's immigration status.

The bill provides that the sheriff or other officer shall notify the Department of Homeland Security if the sheriff or officer determines that the defendant was not lawfully admitted to the United States or although lawfully admitted, the defendant's lawful status has expired.

C.S.H.B. 905 provides that this article does not authorize a denial of bond or other manner of release to a person otherwise eligible for release. The bill provides that the Commission on Jail Standards shall prepare and issue guidelines and procedures to ensure compliance with this article. The bill provides that this Act applies only to a defendant admitted to a correctional facility on or after the effective date of this Act.

### **EFFECTIVE DATE**

C.S.H.B. 905 80(R)

September 1, 2007.

**COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute modifies the original by removing "the sheriff or officer shall make a reasonable effort to verify that the defendant has been lawfully admitted to the United States and if lawfully admitted, the defendant's lawful status has not expired" from Subsection (c) of the original and the words "if" and "under Subsection (c)" from Subsection (d) of the original to form a single Subsection (c) in the substitute. The substitute makes conforming changes and clarifies that sheriffs or other officers are not required to act as immigration officers regarding documentation verification.