

BILL ANALYSIS

H.B. 1644
By: Dukes
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The 80th Legislature enacted legislation to bring Texas into compliance with the federal Violence Against Women Act by requiring a person convicted of a family violence misdemeanor to be notified that it would be unlawful for the person to purchase or possess a firearm. However, one admonition required by the federal act to be given to a family violence offender was not correctly addressed in the legislation passed by the 80th Legislature. The federal act requires a state to ensure that a defendant who is charged with a Class C misdemeanor involving family violence is provided a notice stating that the person may no longer be able to lawfully possess or purchase a firearm. To secure the federal funding available under the act for state use, this admonition must be addressed. Texas receives \$6.5 million annually in grants from the federal government that allow advocates, direct service providers, law enforcement personnel, and prosecutors to provide vital services to victims of family violence.

H.B. 1644 requires a peace officer or judge to advise a defendant accused of a Class C misdemeanor involving family violence that the defendant may no longer be able to possess or purchase a firearm if the defendant is convicted, and to advise the defendant to seek legal counsel regarding the future possibility of possessing firearms.

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

H.B. 1644 amends the Code of Criminal Procedure to require a peace officer who issues a citation to a person charged with committing an offense that is a Class C misdemeanor, other than public intoxication, to include in the citation an admonishment relating to the prohibition against a person convicted of a misdemeanor offense involving family violence from possessing or purchasing a firearm or ammunition. The bill sets forth the required form and text of the admonishment.

H.B. 1644 requires a court, before accepting a plea of guilty or a plea of nolo contendere by a defendant charged with a misdemeanor involving family violence, to provide an admonishment to the defendant relating to the prohibition against the defendant, if convicted, from possessing or purchasing a firearm. The bill creates an exception to the requirement authorizing the admonishment printed on a citation issued by a peace officer to serve as the court admonishment if the defendant is charged with a misdemeanor punishable by fine only. The bill specifies that the admonishment required to be provided by the court before accepting a plea of guilty or nolo contendere by a defendant charged with a misdemeanor involving family violence may be provided orally or in writing and sets forth the required form and text of the admonishment.

EFFECTIVE DATE

September 1, 2009.