

BILL ANALYSIS

S.B. 1236
By: Seliger
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Section 42.0131 of the Code of Criminal Procedure requires the court to notify a person convicted of a misdemeanor involving family violence that it is unlawful for the person to possess or transfer a firearm or ammunition.

This bill amends the Code of Criminal Procedure to authorize federally mandated language on a written citation to be issued to persons charged with committing a Class C misdemeanor offense regarding the possible loss of their right to possess or purchase a firearm if they are convicted of certain offenses.

S.B. 1236 amends current law relating to admonishments given to a person charged with a misdemeanor.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Article 14.06(b), Code of Criminal Procedure, as follows:

(b) Authorizes a peace officer to issue a citation to the person that contains written notice of certain information, including the following admonishment, in boldfaced or underlined type in capital letters: "If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney." Makes nonsubstantive changes.

SECTION 2. Amends Article 26.13(a), Code of Criminal Procedure, to delete existing text requiring the court, prior to accepting a plea of guilty or a plea of nolo contendere, to admonish the defendant of the fact that it is unlawful for the defendant to possess or transfer a firearm or ammunition if the defendant is convicted of a misdemeanor involving family violence, as defined by Section 71.004 (Family Violence), Family Code. Makes nonsubstantive changes.

SECTION 3. Amends Article 27.14, Code of Criminal Procedure, by adding Subsection (e), to require the court, before accepting a guilty or a plea of nolo contendere by a defendant charged with a misdemeanor involving family violence, as defined by Section 71.004, Family Code, to admonish the defendant by using certain federally mandated language and to authorize the court to provide the admonishment under Subdivision (1) (relating to the court admonishing the defendant before a plea is accepted by using a certain statement) orally or in writing, except that if the defendant is charged with a misdemeanor punishable by fine only, the statement printed on a citation issued under Article 14.06(b) may serve as the court admonishment required by this subsection.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2009.

EFFECTIVE DATE

September 1, 2009.