

By: Dukes

H.B. No. 1644

A BILL TO BE ENTITLED

AN ACT

1
2 relating to admonishments given to a person charged with a
3 misdemeanor.

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

5 SECTION 1. Article 14.06(b), Code of Criminal Procedure, is
6 amended to read as follows:

7 (b) A peace officer who is charging a person, including a
8 child, with committing an offense that is a Class C misdemeanor,
9 other than an offense under Section 49.02, Penal Code, may, instead
10 of taking the person before a magistrate, issue a citation to the
11 person that contains written notice of the time and place the person
12 must appear before a magistrate, the name and address of the person
13 charged, ~~and~~ the offense charged, and the following admonishment,
14 in boldfaced or underlined type or in capital letters:

15 "If you are convicted of a misdemeanor offense involving
16 violence where you are or were a spouse, intimate partner, parent,
17 or guardian of the victim or are or were involved in another,
18 similar relationship with the victim, it may be unlawful for you to
19 possess or purchase a firearm, including a handgun or long gun, or
20 ammunition, pursuant to federal law under 18 U.S.C. Section
21 922(g)(9) or Section 46.04(b), Penal Code. If you have any
22 questions whether these laws make it illegal for you to possess or
23 purchase a firearm, you should consult an attorney."

24 SECTION 2. Article 26.13(a), Code of Criminal Procedure, is

1 amended to read as follows:

2 (a) Prior to accepting a plea of guilty or a plea of nolo
3 contendere, the court shall admonish the defendant of:

4 (1) the range of the punishment attached to the
5 offense;

6 (2) the fact that the recommendation of the
7 prosecuting attorney as to punishment is not binding on the
8 court. Provided that the court shall inquire as to the existence
9 of any plea bargaining agreements between the state and the
10 defendant and, in the event that such an agreement exists, the court
11 shall inform the defendant whether it will follow or reject such
12 agreement in open court and before any finding on the plea. Should
13 the court reject any such agreement, the defendant shall be
14 permitted to withdraw his plea of guilty or nolo contendere;

15 (3) the fact that if the punishment assessed does not
16 exceed the punishment recommended by the prosecutor and agreed to
17 by the defendant and his attorney, the trial court must give its
18 permission to the defendant before he may prosecute an appeal on any
19 matter in the case except for those matters raised by written
20 motions filed prior to trial;

21 (4) the fact that if the defendant is not a citizen of
22 the United States of America, a plea of guilty or nolo contendere
23 for the offense charged may result in deportation, the exclusion
24 from admission to this country, or the denial of naturalization
25 under federal law; and

26 (5) the fact that the defendant will be required to
27 meet the registration requirements of Chapter 62, if the defendant

1 is convicted of or placed on deferred adjudication for an offense
2 for which a person is subject to registration under that chapter[+
3 and

4 ~~[(6) the fact that it is unlawful for the defendant to~~
5 ~~possess or transfer a firearm or ammunition if the defendant is~~
6 ~~convicted of a misdemeanor involving family violence, as defined by~~
7 ~~Section 71.004, Family Code].~~

8 SECTION 3. Article 27.14, Code of Criminal Procedure, is
9 amended by adding Subsection (e) to read as follows:

10 (e)(1) Before accepting a plea of guilty or a plea of nolo
11 contendere by a defendant charged with a misdemeanor involving
12 family violence, as defined by Section 71.004, Family Code, the
13 court shall admonish the defendant by using the following
14 statement:

15 "If you are convicted of a misdemeanor offense involving
16 violence where you are or were a spouse, intimate partner, parent,
17 or guardian of the victim or are or were involved in another,
18 similar relationship with the victim, it may be unlawful for you to
19 possess or purchase a firearm, including a handgun or long gun, or
20 ammunition, pursuant to federal law under 18 U.S.C. Section
21 922(g)(9) or Section 46.04(b), Penal Code. If you have any
22 questions whether these laws make it illegal for you to possess or
23 purchase a firearm, you should consult an attorney."

24 (2) The court may provide the admonishment under
25 Subdivision (1) orally or in writing, except that if the defendant
26 is charged with a misdemeanor punishable by fine only, the
27 statement printed on a citation issued under Article 14.06(b) may

1 serve as the court admonishment required by this subsection.

2 SECTION 4. The change in law made by this Act applies only
3 to an offense committed on or after the effective date of this Act.
4 An offense committed before the effective date of this Act is
5 governed by the law in effect at the time the offense was committed,
6 and the former law is continued in effect for that purpose. For
7 purposes of this section, an offense was committed before the
8 effective date of this Act if any element of the offense occurred
9 before that date.

10 SECTION 5. This Act takes effect September 1, 2009.