

1-1 By: Seliger S.B. No. 1236  
1-2 (In the Senate - Filed March 2, 2009; March 17, 2009, read  
1-3 first time and referred to Committee on Criminal Justice;  
1-4 April 20, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 20, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1236 By: Seliger

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to admonishments given to a person charged with a  
1-11 misdemeanor.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (b), Article 14.06, Code of Criminal  
1-14 Procedure, is amended to read as follows:

1-15 (b) A peace officer who is charging a person, including a  
1-16 child, with committing an offense that is a Class C misdemeanor,  
1-17 other than an offense under Section 49.02, Penal Code, may, instead  
1-18 of taking the person before a magistrate, issue a citation to the  
1-19 person that contains written notice of the time and place the person  
1-20 must appear before a magistrate, the name and address of the person  
1-21 charged, ~~and~~ the offense charged, and the following admonishment,  
1-22 in boldfaced or underlined type or in capital letters:

1-23 "If you are convicted of a misdemeanor offense involving  
1-24 violence where you are or were a spouse, intimate partner, parent,  
1-25 or guardian of the victim or are or were involved in another,  
1-26 similar relationship with the victim, it may be unlawful for you to  
1-27 possess or purchase a firearm, including a handgun or long gun, or  
1-28 ammunition, pursuant to federal law under 18 U.S.C. Section  
1-29 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any  
1-30 questions whether these laws make it illegal for you to possess or  
1-31 purchase a firearm, you should consult an attorney."

1-32 SECTION 2. Subsection (a), Article 26.13, Code of Criminal  
1-33 Procedure, is amended to read as follows:

1-34 (a) Prior to accepting a plea of guilty or a plea of nolo  
1-35 contendere, the court shall admonish the defendant of:

1-36 (1) the range of the punishment attached to the  
1-37 offense;

1-38 (2) the fact that the recommendation of the  
1-39 prosecuting attorney as to punishment is not binding on the  
1-40 court. Provided that the court shall inquire as to the existence  
1-41 of any plea bargaining agreements between the state and the  
1-42 defendant and, in the event that such an agreement exists, the court  
1-43 shall inform the defendant whether it will follow or reject such  
1-44 agreement in open court and before any finding on the plea. Should  
1-45 the court reject any such agreement, the defendant shall be  
1-46 permitted to withdraw his plea of guilty or nolo contendere;

1-47 (3) the fact that if the punishment assessed does not  
1-48 exceed the punishment recommended by the prosecutor and agreed to  
1-49 by the defendant and his attorney, the trial court must give its  
1-50 permission to the defendant before he may prosecute an appeal on any  
1-51 matter in the case except for those matters raised by written  
1-52 motions filed prior to trial;

1-53 (4) the fact that if the defendant is not a citizen of  
1-54 the United States of America, a plea of guilty or nolo contendere  
1-55 for the offense charged may result in deportation, the exclusion  
1-56 from admission to this country, or the denial of naturalization  
1-57 under federal law; and

1-58 (5) the fact that the defendant will be required to  
1-59 meet the registration requirements of Chapter 62, if the defendant  
1-60 is convicted of or placed on deferred adjudication for an offense  
1-61 for which a person is subject to registration under that chapter[+  
1-62 ~~and~~

1-63 ~~(6) the fact that it is unlawful for the defendant to~~

2-1 ~~possess or transfer a firearm or ammunition if the defendant is~~  
2-2 ~~convicted of a misdemeanor involving family violence, as defined by~~  
2-3 ~~Section 71.004, Family Code].~~

2-4 SECTION 3. Article 27.14, Code of Criminal Procedure, is  
2-5 amended by adding Subsection (e) to read as follows:

2-6 (e)(1) Before accepting a plea of guilty or a plea of nolo  
2-7 contendere by a defendant charged with a misdemeanor involving  
2-8 family violence, as defined by Section 71.004, Family Code, the  
2-9 court shall admonish the defendant by using the following  
2-10 statement:

2-11 "If you are convicted of a misdemeanor offense involving  
2-12 violence where you are or were a spouse, intimate partner, parent,  
2-13 or guardian of the victim or are or were involved in another,  
2-14 similar relationship with the victim, it may be unlawful for you to  
2-15 possess or purchase a firearm, including a handgun or long gun, or  
2-16 ammunition, pursuant to federal law under 18 U.S.C. Section  
2-17 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any  
2-18 questions whether these laws make it illegal for you to possess or  
2-19 purchase a firearm, you should consult an attorney."

2-20 (2) The court may provide the admonishment under  
2-21 Subdivision (1) orally or in writing, except that if the defendant  
2-22 is charged with a misdemeanor punishable by fine only, the  
2-23 statement printed on a citation issued under Article 14.06(b) may  
2-24 serve as the court admonishment required by this subsection.

2-25 SECTION 4. The change in law made by this Act applies only  
2-26 to an offense committed on or after the effective date of this Act.  
2-27 An offense committed before the effective date of this Act is  
2-28 governed by the law in effect at the time the offense was committed,  
2-29 and the former law is continued in effect for that purpose. For  
2-30 purposes of this section, an offense was committed before the  
2-31 effective date of this Act if any element of the offense occurred  
2-32 before that date.

2-33 SECTION 5. This Act takes effect September 1, 2009.

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