

By: Lewis

H.B. No. 532

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain offenses and criminal procedures involving
3 persons who are not citizens of the United States; providing a
4 penalty.

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

6 SECTION 1. Chapter 2, Code of Criminal Procedure, is
7 amended by adding Article 2.252 to read as follows:

8 Art. 2.252. VERIFICATION OF IMMIGRATION STATUS OF CERTAIN
9 ARRESTED PERSONS. As soon as practicable after a person is arrested
10 for a felony or for an offense under Section 49.04, Penal Code, and
11 before the person is released on bond, the law enforcement agency
12 that arrested the person or that has custody of the person shall
13 make a reasonable effort to:

14 (1) have the person's immigration status verified by:
15 (A) a peace officer or other law enforcement
16 officer of this state who is authorized under federal law to verify
17 a person's immigration status; or

18 (B) a federal law enforcement officer, in
19 accordance with 8 U.S.C. Section 1373(c); and

20 (2) if United States Immigration and Customs
21 Enforcement does not have the results of the immigration status
22 verification under Subdivision (1), notify United States
23 Immigration and Customs Enforcement of the results of the
24 immigration status verification if the verification reveals that

1 the person:

2 (A) is not a citizen or national of the United
3 States; and

4 (B) is unlawfully present in the United States
5 according to the terms of the Immigration Reform and Control Act of
6 1986 (8 U.S.C. Section 1101 et seq.).

7 SECTION 2. Article 14.03, Code of Criminal Procedure, is
8 amended by adding Subsection (h) to read as follows:

9 (h) A peace officer may arrest, without warrant, a person
10 who the peace officer has probable cause to believe is not a citizen
11 or national of the United States and is unlawfully present in the
12 United States according to the terms of the Immigration Reform and
13 Control Act of 1986 (8 U.S.C. Section 1101 et seq.). The law
14 enforcement agency having jurisdiction over the arrest promptly
15 shall notify United States Immigration and Customs Enforcement of
16 any warrantless arrest made by an officer under this subsection
17 and, for purposes of delivering the person into federal custody,
18 may detain the person for a period not to exceed 48 hours. The
19 limitation on the detention period provided by this subsection does
20 not apply if, before the expiration of the period, the person is
21 placed under arrest for the commission of another offense.

22 SECTION 3. Chapter 17, Code of Criminal Procedure, is
23 amended by adding Article 17.154 to read as follows:

24 Art. 17.154. BAIL FOR CERTAIN PERSONS UNLAWFULLY PRESENT IN
25 UNITED STATES. (a) At any proceeding before a judge or magistrate
26 concerning a defendant's release on bail, a presumption exists that
27 a defendant taken into custody for a felony or for an offense under

1 Section 49.04, Penal Code, is at risk of flight if the judge or
2 magistrate determines that the defendant:

3 (1) is not a citizen or national of the United States;

4 and

5 (2) is unlawfully present in the United States
6 according to the terms of the Immigration Reform and Control Act of
7 1986 (8 U.S.C. Section 1101 et seq.).

8 (b) A defendant may present evidence to the judge or
9 magistrate to rebut the presumption established under Subsection
10 (a).

11 (c) Section 2.05, Penal Code, does not apply to a
12 presumption established under Subsection (a).

13 SECTION 4. Subchapter A, Chapter 13, Election Code, is
14 amended by adding Section 13.008 to read as follows:

15 Sec. 13.008. UNLAWFUL APPLICATION BY PERSON WHO IS NOT
16 UNITED STATES CITIZEN. (a) A person commits an offense if the
17 person is not a citizen of the United States and the person:

18 (1) submits an application for registration as a voter
19 in this state; or

20 (2) requests, commands, or attempts to induce another
21 to submit on the person's behalf a registration application.

22 (b) An offense under this section is a felony of the second
23 degree.

24 SECTION 5. Section 13.122(a), Election Code, is amended to
25 read as follows:

26 (a) In addition to the other statements and spaces for
27 entering information that appear on an officially prescribed

1 registration application form, each official form must include:

2 (1) the statement: "I understand that giving false
3 information to procure a voter registration is perjury and a crime
4 under state and federal law and that submitting a voter
5 registration or voting as a noncitizen is also a crime under state
6 law.";

7 (2) a space for the applicant's registration number;

8 (3) a space for the applicant's Texas driver's license
9 number or number of a personal identification card issued by the
10 Department of Public Safety;

11 (4) a space for the applicant's telephone number;

12 (5) a space for the applicant's social security
13 number;

14 (6) a space for the applicant's sex;

15 (7) a statement indicating that the furnishing of the
16 applicant's telephone number and sex is optional;

17 (8) a space or box for indicating whether the
18 applicant or voter is submitting new registration information or a
19 change in current registration information;

20 (9) a statement instructing a voter who is using the
21 form to make a change in current registration information to enter
22 the voter's name and the changed information in the appropriate
23 spaces on the form;

24 (10) a statement that if the applicant declines to
25 register to vote, that fact will remain confidential and will be
26 used only for voter registration purposes;

27 (11) a statement that if the applicant does register

1 to vote, information regarding the agency or office to which the
2 application is submitted will remain confidential and will be used
3 only for voter registration purposes;

4 (12) a space or box for indicating whether the
5 applicant is interested in working as an election judge;

6 (13) a statement warning that a conviction of an
7 offense under this code [~~for making a false statement~~] may result in
8 imprisonment for up to the maximum amount of time provided by law, a
9 fine of up to the maximum amount provided by law, or both the
10 imprisonment and the fine; and

11 (14) any other voter registration information
12 required by federal law or considered appropriate and required by
13 the secretary of state.

14 SECTION 6. Subchapter A, Chapter 64, Election Code, is
15 amended by adding Section 64.013 to read as follows:

16 Sec. 64.013. UNLAWFUL VOTING BY PERSON WHO IS NOT UNITED
17 STATES CITIZEN. (a) A person commits an offense if the person is
18 not a citizen of the United States and the person votes in an
19 election in this state.

20 (b) An offense under this section is a felony of the second
21 degree.

22 SECTION 7. The change in law made by this Act in adding
23 Article 17.154, Code of Criminal Procedure, applies only to a
24 proceeding regarding bail that is conducted on or after the
25 effective date of this Act, regardless of when the defendant
26 committed the underlying offense for which the defendant became
27 subject to the proceeding. A proceeding regarding bail conducted

1 before the effective date of this Act is governed by the law in
2 effect at the time of the proceeding, and the former law is
3 continued in effect for that purpose.

4 SECTION 8. This Act takes effect September 1, 2011.