

BILL ANALYSIS

Senate Research Center

H.B. 2090
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Criminal Justice
5/13/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The United States Constitution provides that no person shall be compelled in any criminal case to be a witness against himself. Interested parties note that procedural safeguards under the United States Constitution and federal and state statutes protect this right but the Texas Code of Criminal Procedure does not require a written statement that is signed by an accused or on which the accused makes a mark in lieu of such signature to be written in a language the accused can read and understand. Thus, a non-English speaker potentially could sign a statement in English without understanding the content of the statement and, as a result, could be compelled to be a witness against himself or herself in violation of the individual's constitutional right. To address this issue, H.B. 2090 requires a statement signed by or bearing the mark of the accused to be made in a language the accused can read and understand.

H.B. 2090 amends current law relating to a written statement made by an accused as a result of custodial interrogation.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1, Article 38.22, Code of Criminal Procedure, as follows:

Sec. 1. Provides that, in this article, a written statement of an accused means:

- (1) a statement made by the accused in his own handwriting; or
- (2) a statement made in a language the accused can read or understand that is signed by the accused or bears the mark of the accused, if the accused is unable to write and the mark is witnessed by a person other than a peace officer, rather than that a written statement of an accused means a statement signed by the accused or a statement made by the accused in his own handwriting or, if the accused is unable to write, a statement bearing his mark, when the mark has been witnessed by a person other than a peace officer.

SECTION 2. Provides that this Act applies only to a statement made by an accused on or after the effective date of this Act. Provides that a statement made by an accused before the effective date of this Act is governed by the law in effect when the statement was made, and the former law is continued in effect for that purpose.

SECTION 3. Effective date: September 1, 2013.