

BILL ANALYSIS

S.B. 268
By: Watson
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Sixth Amendment to the United States Constitution provides the right of a criminal defendant to have a lawyer assist in the individual's defense, even if the individual cannot afford to pay for one. Interested parties contend that, although the United States Supreme Court in recent rulings has held that the Sixth Amendment right to legal counsel extends to non-citizen criminal defendants and includes the right to be advised about the immigration consequences of a guilty plea, in criminal cases in Texas involving non-citizen defendants, deportation is a common consequence for a defendant who pleads guilty or no contest in an effort to secure a reduced penalty for the charges, including in circumstances involving relatively minor charges such as shoplifting. Although the Supreme Court has continuously reaffirmed the spirit of the Sixth Amendment, the interested parties assert that non-citizen defendants remain exposed to an inconsistency within the law and that a large number of non-citizens, including certain permanent residents legally authorized to live and work in the United States, self-deport because they are unaware that their plea in a criminal matter would affect their immigration status. These parties contend that current state law does not provide clear, consistent, uniform instructions in regards to criminal immigration admonishments. S.B. 268 seeks to remedy this situation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 268 amends the Code of Criminal Procedure to require a magistrate to inform an arrested person taken before the magistrate that, if the person is not a citizen of the United States, a plea of guilty or nolo contendere for the offense charged may affect the person's immigration or residency status and may result in deportation, the exclusion from admission to the United States, or the denial of naturalization under federal law.

EFFECTIVE DATE

September 1, 2015.