

BILL ANALYSIS

Senate Research Center
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S.B. 268
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Article 26.13(a)(4) of the Code of Criminal Procedure requires a court to admonish (or warn) defendants in a felony proceeding that if they are not an American citizen, a guilty or nolo contendere plea may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law. However, this admonishment is not required in misdemeanor cases, even though the consequences could be the same. Misdemeanors that could affect a person's immigration status include family and domestic violence offenses; child abuse, neglect, or abandonment; assault; burglary, theft, or fraud; controlled substance offenses; and firearm offenses.

S.B. 268 brings the law into conformity so that the immigration admonishment will be given in all criminal cases. Specifically, S.B. 268 amends Article 15.17(a) of the Code of Criminal Procedure by adding an immigration warning to the list of those that a magistrate is required to give individuals who are being held for a crime. These warnings are issued during the "initial appearance" or "magistration," which occurs within 48 hours of a defendant's arrest pursuant to a warrant and before the defendant is arraigned or enters a plea.

Importantly, S.B. 268 does not change the consequences for breaking the law, nor does it modify existing immigration law or proceedings. It merely creates parity between the procedures followed for felony and misdemeanor pleas to ensure that all defendants fully comprehend the magnitude of their actions.

As proposed, S.B. 268 amends current law relating to the duties of a magistrate to inform an arrested person of consequences of a plea of guilty or nolo contendere.

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 Article 15.17(a), Code of Criminal Procedure, as follows:

(a) Requires a magistrate to inform the person arrested that, if the person is not a citizen of the United States of America, 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 this country, or the denial of naturalization under federal law.

SECTION 2. Effective date: September 1, 2015.