

BILL ANALYSIS

H.B. 1617
By: Ordaz
Community Safety, Select
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2019, the Texas Safety Commission published the Texas Safety Action Report. One of the commission's recommendations was for the legislature to consider requiring courts to inform convicted criminals, both orally and in writing, that they may no longer legally possess firearms. Currently, state law is inconsistent in this regard. This lack of consistency makes it confusing for the judges who must provide notification to the defendants in question as well as for the defendants themselves who may be unaware their rights have changed. Courts should tell defendants during each stage of the sentencing process that conviction means they are no longer allowed by law to possess firearms and that a failure to forfeit their firearms could lead to additional charges for unlawful possession. H.B. 1617 seeks to ensure that all defendants, if applicable, are admonished of the fact that certain convictions render a person ineligible to legally own a firearm or ammunition and that making a false statement regarding the possession of a firearm could lead to a perjury charge.

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

H.B. 1617 amends the Code of Criminal Procedure to require a court, before accepting a plea of guilty or a plea of nolo contendere, to admonish the defendant of the following using a specific statement prescribed by the bill:

- a felony conviction may make it unlawful for the defendant to possess or acquire a firearm, including a handgun or long gun, or ammunition, under state or federal law;
- the defendant should consult an attorney if they have any questions whether those laws make it illegal for them to possess or acquire a firearm; and
- making a false statement to the court under oath relating to the defendant's possession or acquisition of a firearm or ammunition may subject them to prosecution for perjury.

This requirement applies only to an offense committed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

H.B. 1617 revises the following prescribed statements to align their contents with the contents of the felony conviction admonishment, except with respect to a conviction of the applicable offense, including the admonishment regarding false statements under oath that may be subject to perjury prosecution:

- the statement a judge is required to use to admonish a defendant charged with a misdemeanor involving family violence before accepting a plea of guilty or nolo contendere; and
- the statement included as part of the citation issued by a peace officer to a person, including a child, the officer is charging with a Class C misdemeanor offense, other than public intoxication, instead of taking the person before a magistrate, but with respect to a misdemeanor offense involving violence where the person has a specified relationship with the victim.

This change applies to a plea of guilty or a plea of nolo contendere accepted by a court on or after the bill's effective date, regardless of whether the offense for which the plea was accepted was committed before, on, or after that date.

H.B. 1617 revises the requirement for the court to notify a person convicted of a misdemeanor involving family violence that it is unlawful for the person to possess or transfer a firearm or ammunition as follows:

- requires the notice instead to include the fact that it is unlawful for the person to possess or acquire a firearm or ammunition;
- makes the requirement applicable also with respect to a person convicted of a felony; and
- requires the notice to also include the fact that a person who makes a false statement to the court under oath relating to the person's possession or acquisition of a firearm or ammunition is subject to prosecution for perjury.

This change applies to a judgment of conviction entered on or after the bill's effective date, regardless of whether the offense of which the defendant is convicted was committed before, on, or after that date.

EFFECTIVE DATE

September 1, 2023.