

By: Ordaz, Plesa

H.B. No. 1617

A BILL TO BE ENTITLED

1 AN ACT
2 relating to notice for certain defendants regarding the unlawful
3 possession or acquisition of a firearm or ammunition.

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

5 SECTION 1. Article 14.06(b), Code of Criminal Procedure, is
6 amended to read as follows:

7 (b) A peace officer who is charging a person, including a
8 child, with committing an offense that is a Class C misdemeanor,
9 other than an offense under Section 49.02, Penal Code, may, instead
10 of taking the person before a magistrate, issue a citation to the
11 person that contains:

12 (1) written notice of the time and place the person
13 must appear before a magistrate;

14 (2) the name and address of the person charged;

15 (3) the offense charged;

16 (4) information regarding the alternatives to the full
17 payment of any fine or costs assessed against the person, if the
18 person is convicted of the offense and is unable to pay that amount;
19 and

20 (5) the following admonishment, in boldfaced or
21 underlined type or in capital letters:

22 "If you are convicted of a misdemeanor offense involving
23 violence where you are or were a spouse, intimate partner, parent,
24 or guardian of the victim or are or were involved in another,

1 similar relationship with the victim, it may be unlawful for you to
2 possess or acquire [~~purchase~~] a firearm, including a handgun or
3 long gun, or ammunition, pursuant to federal law under 18 U.S.C.
4 Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you
5 have any questions whether these laws make it illegal for you to
6 possess or acquire [~~purchase~~] a firearm, you should consult an
7 attorney. If you make a false statement to the court under oath
8 relating to your possession or acquisition of a firearm or
9 ammunition, you may be subject to prosecution for an offense under
10 Section 37.02, Texas Penal Code."

11 SECTION 2. Article 26.13, Code of Criminal Procedure, is
12 amended by adding Subsection (a-1) to read as follows:

13 (a-1) Before accepting a plea of guilty or a plea of nolo
14 contendere, the court shall admonish the defendant by using the
15 following statement:

16 "If you are convicted of a felony offense, it may be unlawful
17 for you to possess or acquire a firearm, including a handgun or long
18 gun, or ammunition, pursuant to federal law under 18 U.S.C. Section
19 922(g)(1) or Section 46.04(a), Texas Penal Code. If you have any
20 questions whether these laws make it illegal for you to possess or
21 acquire a firearm, you should consult an attorney. If you make a
22 false statement to the court under oath relating to your possession
23 or acquisition of a firearm or ammunition, you may be subject to
24 prosecution for an offense under Section 37.02, Texas Penal Code."

25 SECTION 3. Article 27.14(e)(1), Code of Criminal Procedure,
26 is amended to read as follows:

27 (e)(1) Before accepting a plea of guilty or a plea of nolo

1 contendere by a defendant charged with a misdemeanor involving
2 family violence, as defined by Section 71.004, Family Code, the
3 court shall admonish the defendant by using the following
4 statement:

5 "If you are convicted of a misdemeanor offense involving
6 violence where you are or were a spouse, intimate partner, parent,
7 or guardian of the victim or are or were involved in another,
8 similar relationship with the victim, it may be unlawful for you to
9 possess or acquire [~~purchase~~] a firearm, including a handgun or
10 long gun, or ammunition, pursuant to federal law under 18 U.S.C.
11 Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you
12 have any questions whether these laws make it illegal for you to
13 possess or acquire [~~purchase~~] a firearm, you should consult an
14 attorney. If you make a false statement to the court under oath
15 relating to your possession or acquisition of a firearm or
16 ammunition, you may be subject to prosecution for an offense under
17 Section 37.02, Texas Penal Code."

18 SECTION 4. Article 42.0131, Code of Criminal Procedure, is
19 amended to read as follows:

20 Art. 42.0131. REQUIRED NOTICE REGARDING FIREARMS [~~FOR~~
21 ~~PERSONS CONVICTED OF MISDEMEANORS INVOLVING FAMILY VIOLENCE~~]. If a
22 person is convicted of a misdemeanor involving family violence, as
23 defined by Section 71.004, Family Code, or of a felony, the court
24 shall notify the person of the fact that:

25 (1) it is unlawful for the person to possess or acquire
26 [~~transfer~~] a firearm or ammunition; and

27 (2) a person who makes a false statement to the court

1 under oath relating to the person's possession or acquisition of a
2 firearm is subject to prosecution for an offense under Section
3 37.02, Penal Code.

4 SECTION 5. (a) Article 14.06, Code of Criminal Procedure,
5 as amended by this Act, applies only to an offense committed on or
6 after the effective date of this Act. An offense committed before
7 the effective date of this Act is governed by the law in effect on
8 the date the offense was committed, and the former law is continued
9 in effect for that purpose. For purposes of this subsection, an
10 offense was committed before the effective date of this Act if any
11 element of the offense occurred before that date.

12 (b) Articles 26.13 and 27.14, Code of Criminal Procedure, as
13 amended by this Act, apply to a plea of guilty or a plea of nolo
14 contendere accepted by a court on or after the effective date of
15 this Act, regardless of whether the offense for which the plea was
16 accepted was committed before, on, or after that date.

17 (c) Article 42.0131, Code of Criminal Procedure, as amended
18 by this Act, applies to a judgment of conviction entered on or after
19 the effective date of this Act, regardless of whether the offense of
20 which the defendant is convicted was committed before, on, or after
21 that date.

22 SECTION 6. This Act takes effect September 1, 2023.