

SUBJECT: Identifying illegal criminal aliens

COMMITTEE: Corrections — favorable, without amendment

VOTE: 5 ayes — Hightower, Gray, Culberson, Longoria, Pitts
0 nays
4 absent — Allen, Farrar, Serna, Telford

SENATE VOTE: On final passage March 22 — 30-0

WITNESSES: For — None
Against — None
On — Bob Lauder, Comptroller of Public Accounts, Texas Performance Review

DIGEST: SB 279 would amend the Government Code to require the Texas Department of Criminal Justice (TDCJ) to notify the criminal justice division in the governor's office of any illegal criminal alien inmates and to require the criminal justice division to apply to the federal government for reimbursement of criminal justice costs for those inmates. The monies would be deposited in the general revenue fund.

The bill would require TDCJ to identify inmates imprisoned or awaiting transfer to the institutional division for whom TDCJ cannot ascertain citizenship. The bill would require TDCJ to notify the United States Immigration and Naturalization Service (INS) of any illegal criminal aliens and request assistance with determining citizenship status of other inmates if necessary.

An "illegal criminal alien" would be defined as a convicted felon who entered the United States without inspection, failed to maintain nonimmigrant status before the commission of the crime, or is a Marielito Cuban. To ascertain whether an inmate is an illegal criminal alien, the TDCJ would be able to use the individual's admission of illegal status and

any information in the criminal history record information, including presentence investigation reports that may reflect place of birth, registration with the Social Security Administration or work history.

The bill would also require TDCJ to cooperate with the INS to implement an efficient system for deporting illegal criminal aliens upon their release. To this end, the department would consider:

- designating facilities to hold illegal criminal aliens immediately preceding their release, and
- providing video teleconferencing equipment and other technology to assist with efficient deportation after release.

SB 279 would also amend the Code of Criminal Procedure to require a judge to report convictions of illegal criminal aliens to the INS.

This bill would take immediate effect if approved by two-thirds of the membership of each house.

**SUPPORTERS
SAY:**

Implementing SB 279 would infuse the general revenue fund with approximately \$67 million in federal funds from 1996 through 2000. The federal Violent Crime Control and Law Enforcement Act of 1994 provides for reimbursement to states for the average cost of incarceration of undocumented criminal aliens, but Texas will only be reimbursed to the extent that it can actually identify the undocumented criminal aliens in Texas prisons.

Texas received \$2.1 million while California received \$33.5 million of federal funds in the first round of distribution at the end of 1994, due partly to the fact that California used methods of determining citizenship status other than relying on where the inmate said he or she was born, as Texas does currently, and ineffectively. Although TDCJ had estimated that Texas prisons hold only 3,500 illegal criminal alien inmates, the INS estimated that Texas has imprisoned 10,000 illegal criminal aliens.

SB 279 would allow TDCJ, for determining illegal criminal alien status, to take into account presentence investigation reports that may reflect registration with the Social Security Administration or work history. In addition, TDCJ would be required to request assistance on those inmates with questionable citizenship status. Allowing TDCJ to use these means to identify illegal criminal aliens would lead to more accurate reporting to the criminal justice division in the governor's office, thereby resulting in a more equitable federal reimbursement to Texas for the illegal criminal aliens the state incarcerates.

The bill would also require greater coordination efforts between INS and TDCJ on an efficient deportation system. In addition to requiring TDCJ to promptly notify the INS of identified illegal criminal aliens, the bill would require TDCJ to look into two methods of improving deportation methods. One method would be to separately locate the illegal criminal inmates immediately before their release so that deportation hearings could be heard regularly in that location. The second method would be to install video teleconferencing capabilities, or other technology, between the prison and the immigration court to make better use of the few immigration judges in the state.

SB 279 would also try to identify the illegal criminal aliens before they become imprisoned by requiring judges to report convictions of illegal criminal aliens to the INS. After trial a judge would be familiar with a defendant's record and would be in an excellent position to determine whether the defendant was an illegal criminal alien.

**OPPONENTS
SAY:**

Allowing TDCJ to investigate an inmate's citizenship beyond asking place of birth could lead to discrimination since it may be more likely that persons judged to be Hispanic would be subjected to further investigation.