

SUBJECT: Warning of loss of right to keep firearms in domestic violence pleadings

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Peña, Vaught, Riddle, Escobar, Hodge, Mallory Caraway,
Pierson, Talton

0 nays

1 absent — Moreno

WITNESSES: For — Laura Wolf, Texas Council on Family Violence; (*Registered, but did not testify*): Torie Camp, Texas Association Against Sexual Assault)

Against — None

On — Shannon Edmonds, Texas District and County Attorneys Association

BACKGROUND: Penal Code, sec. 22.01 defines assault as intentionally, knowingly, or recklessly causing or threatening imminent bodily injury to another, including the person's spouse. The offense is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

Penal Code, 46.04 (b) prohibits a person convicted of domestic violence under sec. 22.01 from lawfully possessing a firearm. Under 18 U.S.C., sec. 922 (g) (9), federal law prohibits those who have been convicted in any court of a misdemeanor crime of domestic violence from possessing a firearm or ammunition.

Code of Criminal Procedure, Art. 26.13 requires that before a plea of guilty or nolo contendere may be accepted, a judge must warn the defendant of the consequences of the plea, including the range of sentence, that the agreement with the prosecutor is not binding on the court, and other conditions. Code of Criminal Procedure, Art. 42.01 specifies the kinds of information must be included in a judgment showing either a conviction or acquittal.

DIGEST: HB 3021 would amend Code of Criminal Procedure, Art. 26.13 to require that a judge warn a defendant that a plea of guilty or nolo contendere to domestic violence assault could make it unlawful for the defendant to possess a firearm or ammunition under federal and state law.

The bill also would require that a judgment for a conviction of domestic violence assault include a notice that the defendant may be prohibited from possessing a firearm or ammunition under federal and state law.

The bill would take effect September 1, 2007.

SUPPORTERS SAY: HB 3021 would make Texas compliant with provisions of the federal Violence Against Women Act enacted in 1994. The state must meet these requirements to receive federal grants to support non-profit and local government groups that assist victims of rape and domestic violence and that offer programs designed to reduce the incidence of all sexual assaults. Texas received about \$7.5 million through federal Violence Against Women Act funds in fiscal 2006, and the program has provided between \$6.8 million and \$7.8 million every year since fiscal 2003. Approval of the bill would help ensure that the state continued to receive this money.

OPPONENTS SAY: No apparent opposition

NOTES: The companion bill, SB 1470 by Seliger, , passed the Senate on the Local and Uncontested Calendar on April 19 and is scheduled for a public hearing in the Criminal Jurisprudence Committee today.