

SUBJECT: Notice for person charged with a misdemeanor involving family violence

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Gallego, Christian, Kent, Miklos, Moody, Pierson, Vaught, Vo

2 nays — Fletcher, Riddle

1 absent — Hodge

WITNESSES: For — Sherry Murphy; Aaron Setliff, The Texas Council on Family Violence; (*Registered, but did not testify*: Ballard C. Shapleigh, El Paso District Attorney's Office)

Against — None

BACKGROUND: The Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA) provides states with grants for prosecutors, law enforcement, and advocacy groups to provide services to victims of family violence, provided states meet certain requirements. VAWA, 42 U.S.C. sec. 3796gg-4(e) requires states to give an offender notification that the offender may not be able to possess a firearm if convicted.

DIGEST: HB 1644 would amend Code of Criminal Procedure, art. 14.06 to require that for a person charged with a class C misdemeanor (maximum fine of \$500) other than public intoxication and issued a citation, the citation would have to include the following admonishment in boldfaced or underlined type, or in capital letters:

- If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18. U.S.C., sec. 922(g)(9) or Penal Code, sec. 46.04(b). If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney.

The court would be required to issue the same admonishment, orally or in writing, before accepting a plea of guilty or no contest by a defendant charged with a misdemeanor involving family violence. The statement on the citation issued under art. 14.06 could serve as the admonishment if the defendant was charged with a misdemeanor punishable by fine only.

At arraignment, before accepting a plea of guilty or no contest, the court no longer would have to admonish the defendant that it is unlawful for the defendant to possess or transfer a firearm or ammunition if the defendant was convicted of a misdemeanor involving family violence.

The bill would take effect September 1, 2009, and would apply only to offenses committed on or after this date.

NOTES:

The companion bill, SB 1236 by Seliger, passed the Senate by 31-0 on the Local and Uncontested Calendar on April 30, and has been referred to the House Criminal Jurisprudence Committee.