

SUBJECT: Judicial notice of sex offender registration for guilty or no contest plea

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Hinojosa, Dunnam, Garcia, Keel, Nixon, Wise
0 nays
3 absent — Green, Smith, Talton

WITNESSES: For — Keith Hampton, Texas Criminal Defense Lawyers Association
Against — None

BACKGROUND: Under current law, judges are required to provide certain information to defendants when they plead guilty or no contest. The information includes such things as the range of punishment for the offense, the fact that the court is not bound by recommendations of the prosecutor on punishment, and the fact that the defendant's plea may result in deportation if the defendant is not a U.S. citizen.

DIGEST: HB 3488 would require judges to inform defendants who are pleading guilty or no contest that, if they are convicted of certain sex offenses, they would be required to meet requirements of the sex offender registration and notification law. The judge also would be required to add a description of the duration of the registration requirements. HB 3488 would add this requirement to the list of information that judges are required to give defendants pleading guilty or no contest.

HB 3488 would take effect September 1, 1999, and would apply only to criminal proceedings commenced on or after that date.

SUPPORTERS SAY: It is fair and reasonable that criminal defendants who will be subject to sex offender registration requirements that could be in force for their entire lives be fully informed of this when they plead guilty or no contest. Current law requires judges to tell defendants pleading guilty or no contest numerous things including

the range of punishment attached to the offense and the fact that a guilty or no contest plea could result in deportation for non-citizens.

Defendants formerly were informed of the registration requirements, but the admonishment was not included in the 1997 codification of the sex offender program.

HB 3488 would not put a burden on courts. This admonishment would simply be added to the others on the list. HB 3488 could reduce challenges to the sex offender registration and notification law that could arise if defendants claimed they were not given due process by not being informed of the full consequences of their plea.

It would be proper for the judge to tell defendants not only of their duty to register but also the duration of the registration since the purpose of the admonishment is to ensure defendants have full information before pleading.

OPPONENTS
SAY:

HB 3488 could open the door to attempts to require judges to inform defendants about other possible repercussions of a guilty or no contest plea, adding to an already lengthy list.

OTHER
OPPONENTS
SAY:

While it may be proper for a judge to admonish defendants that they would have to register as a sex offender, it would be improper for the judge to give a description of the duration of the program. It is unclear what this phrase means and could be difficult for a judge to accurately provide all program details. It would be best to allow the defendant's attorney to provide these details.