

AMENDED IN ASSEMBLY AUGUST 23, 2004

AMENDED IN ASSEMBLY AUGUST 9, 2004

AMENDED IN SENATE MAY 24, 2004

AMENDED IN SENATE MARCH 30, 2004

SENATE BILL

No. 1608

**Introduced by Senator Karnette
(Coauthors: Senators Romero and Vasconcellos)**

February 20, 2004

An act to amend Sections 2912 and 5028 of the Penal Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1608, as amended, Karnette. Corrections: prisoners: foreign nationals.

Existing law requires that upon entry of any person who is an undocumented alien subject to deportation into a facility operated by the Department of Corrections, and at least every year thereafter, the Director of Corrections inform the person of his or her right to be transferred to his or her country of origin to serve the remainder of his or her prison term.

This bill would delete the annual notification requirement, would expand these provisions to include all foreign nationals, and would provide the person the option to serve the remainder of his or her term in his or her *current or former* nation of citizenship. The bill would also impose additional notification requirements, upon *the request of a foreign consulate, as specified, on* the director, including notifying consulates or embassies ~~provided there is no objection by the foreign~~

~~national, and compliance with~~ pursuant to the 1963 Vienna Convention on Consular Relations Treaty of the names and locations of all inmates in the department's custody that have self-identified that nation as his or her place of birth.

This bill would make other technical conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2912 of the Penal Code is amended to
2 read:

3 2912. (a) Under its Foreign Prisoner Transfer Program, the
4 Board of Prison Terms shall devise a method of notifying each
5 ~~undocumented felon~~ foreign born inmate in a prison or reception
6 center operated by the Department of Corrections that he or she
7 may be eligible to serve his or her term of imprisonment in his or
8 her nation of citizenship as provided in federal treaties.

9 (b) (1) The Board of Prison Terms shall actively encourage
10 each eligible ~~undocumented felon~~ foreign born inmate to apply for
11 return to his or her nation of citizenship as provided in federal
12 treaties and shall provide quarterly reports outlining its efforts
13 under this section to the Chairperson of the Joint Legislative
14 Budget Committee and the chairperson of each fiscal committee
15 of the Legislature.

16 (2) The Board of Prison Terms shall adopt the model program
17 developed by the State of Texas for encouraging participation in
18 the federal repatriation program where appropriate.

19 SEC. 2. Section 5028 of the Penal Code is amended to read:

20 5028. (a) Upon the entry of any person who is *currently or*
21 *was previously* a foreign national into a facility operated by the
22 Department of Corrections, the Director of Corrections shall
23 inform the person that he or she may apply to be transferred to
24 serve the remainder of his or her prison term in his or her *current*
25 *or former* nation of citizenship. The director shall inform the
26 person that he or she may contact his or her consulate and shall
27 ensure that if notification is requested *by the inmate*, that the
28 ~~person's inmate's~~ nearest consulate or embassy is notified without
29 delay of his or her incarceration.



1 ~~(b) If a foreign national with citizenship in a nation that~~
2 ~~requires mandatory notification according to the 1963 Vienna~~
3 ~~Convention on Consular Relations Treaty is received as a~~
4 ~~committed felon by the department, the director shall inform the~~
5 ~~consulate of that nation of the committed felon's incarceration~~
6 ~~without delay. The director shall inform the foreign national that~~
7 ~~the consulate has been notified. The director shall keep written~~
8 ~~records sufficient to show compliance with notification~~
9 ~~requirements. Semi-annually, the director shall provide to the~~
10 ~~appropriate foreign consulate a list of that nation's citizens who are~~
11 ~~incarcerated in department institutions.~~

12 ~~(c) Notwithstanding subdivision (b), a foreign national shall be~~
13 ~~advised by the department that he or she may request that the~~
14 ~~department withhold notification of his or her incarceration from~~
15 ~~the consulate of the nation of which he or she is a citizen. The name~~
16 ~~of any prisoner who makes such a request shall be omitted from~~
17 ~~the semiannual list provided by the department to the appropriate~~
18 ~~foreign consulate of that nation's citizens who are incarcerated in~~
19 ~~department institutions under subdivision (b).~~

20 ~~(d) The Department of Corrections may pay any foreign nation~~
21 ~~to which an inmate is transferred under subdivision (a) no more~~
22 ~~than two thousand dollars (\$2,000) from moneys appropriated by~~
23 ~~the Legislature for that purpose for every year that the inmate is~~
24 ~~imprisoned until he or she has completed the prison term which he~~
25 ~~or she began serving in this state.~~

26 *(b) Upon the request of a foreign consulate representing a*
27 *nation that requires mandatory notification under Article 36 of the*
28 *Vienna Convention on Consular Relations Treaty listed in*
29 *subdivision (d) of Section 834c, the Department of Corrections*
30 *shall provide the foreign consulate with a list of the names and*
31 *locations of all inmates in its custody that have self-identified that*
32 *nation as his or her place of birth.*

33 *(c) The Department of Corrections shall implement and*
34 *maintain procedures to process applications for the transfer of*
35 *prisoners to their current or former nations of citizenship under*
36 *subdivision (a) and shall forward all applications to the Governor*
37 *or his or her designee for appropriate action.*

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