

Senate Bill No. 1608

CHAPTER 924

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

[Approved by Governor September 29, 2004. Filed with Secretary of State September 30, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1608, 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 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.

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

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

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

(b) (1) The Board of Prison Terms shall actively encourage each eligible foreign born inmate to apply for return to his or her nation of citizenship as provided in federal treaties and shall provide quarterly reports outlining its efforts under this section to the Chairperson of the



Joint Legislative Budget Committee and the chairperson of each fiscal committee of the Legislature.

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

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

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

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

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

