

AMENDED IN ASSEMBLY JUNE 2, 2005

AMENDED IN ASSEMBLY MAY 17, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1446

Introduced by Assembly Member Karnette

February 22, 2005

An act to amend Section 2912 and 5028 of the Penal Code, relating to foreign prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1446, as amended, Karnette. Foreign prisoners.

Existing law requires foreign-born inmates subject to the jurisdiction of the Department of Corrections to be informed that they may be eligible to serve their term of imprisonment in their country of citizenship. Existing law specifies other notification requirements in this regard, and similar notification to the consul of the inmate's nation of citizenship.

This bill would instead require that the department make that notification to inmates who are nationals of countries . The bill would require the Director of Corrections to inform the inmate that they may contact their consulate and would be required to ensure that if notification is requested, that the inmate's nearest consulate or embassy is notified without delay, as specified. *The bill would also provide that to the extent possible under federal law, the Department of Corrections would not transfer a foreign national in its custody to his or her nation of citizenship if the Director of Corrections determines that country is not in compliance with the obligations of an extradition treaty, as specified.*

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 inmate in a prison or reception center operated by the
6 Department of Corrections who is a national of a country with
7 which the United States has a prisoner transfer treaty that he or
8 she may be eligible to serve his or her term of imprisonment in
9 his or her country of nationality and of the substance of the
10 relevant treaty.
11 (b) (1) The Board of Prison Terms shall actively encourage
12 each eligible foreign national inmate to apply for return to his or
13 her country of nationality as provided in prisoner transfer treaties
14 and shall provide quarterly reports outlining its efforts under this
15 section to the Chairperson of the Joint Legislative Budget
16 Committee and the chairperson of each fiscal committee of the
17 Legislature.
18 (2) The Board of Prison Terms shall adopt the model program
19 developed by the State of Texas for encouraging participation in
20 the federal prisoner transfer program where appropriate.
21 SEC. 2. Section 5028 of the Penal Code is amended to read:
22 5028. (a) Upon the entry of any person who is a foreign
23 national into a facility operated by the Department of
24 Corrections, the Director of Corrections shall inform the person
25 that he or she may apply to be transferred to serve the remainder
26 of his or her prison term in his or her country of nationality. The
27 director shall inform the person the he or she may contact his or
28 her consulate and shall ensure that if this action is requested by
29 the inmate, that the department shall facilitate contact with the
30 inmate's nearest consulate or embassy without delay.
31 (b) Upon the request of a foreign consulate representing a
32 country with which the United States is a party to an international
33 agreement requiring consular notification of every arrest
34 involving a national of that country, that is, a "mandatory
35 notification country," the Department of Corrections shall

1 provide the foreign consulate with a list of the names and
2 locations of all inmates in its custody that have identified
3 themselves as nationals of the country making the request.

4 (c) The Department of Corrections shall implement and
5 maintain procedures to process applications for the transfer of
6 prisoners to their countries of nationality under subdivision (a)
7 and shall forward all applications to the Governor or his or her
8 designee for appropriate action *provided, however, that to the*
9 *extent possible under federal law, the Department of Corrections*
10 *shall not transfer a foreign national in its custody to his or her*
11 *nation of citizenship if the Director of Corrections determines*
12 *that country is not in compliance with the obligations of an*
13 *extradition treaty because, after having been requested by the*
14 *Attorney General or a district attorney to extradite any person*
15 *wanted for a criminal offense in California, it refused to do so.*
16 *The director shall report to the Senate and Assembly Public*
17 *Safety Committees whenever a transfer of a prisoner in the*
18 *department's custody is refused pursuant to this subdivision.*