

By: Hochberg

H.B. No. 824

Substitute the following for H.B. No. 824:

By: McReynolds

C.S.H.B. No. 824

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the imposition of conditions on and access to case  
3 records regarding a child adjudicated of having engaged in conduct  
4 that constitutes the commission of a hate crime.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 13A, Article 42.12, Code of Criminal  
7 Procedure, is amended by adding Subsection (c) to read as follows:

8 (c) Before the court grants community supervision on its own  
9 motion or on the recommendation of the jury to a defendant convicted  
10 of an offense for which the court has made an affirmative finding  
11 under Article 42.014, the court shall consider any previous  
12 adjudication of the defendant for engaging in delinquent conduct  
13 constituting an offense that resulted in an affirmative finding  
14 under Section 54.035, Family Code.

15 SECTION 2. Chapter 54, Family Code, is amended by adding  
16 Section 54.035 to read as follows:

17 Sec. 54.035. CONDUCT THAT CONSTITUTES COMMISSION OF HATE  
18 CRIME. (a) In a proceeding for conduct that constitutes the  
19 commission of an offense under Title 5, Penal Code, or Section  
20 28.02, 28.03, or 28.08, Penal Code, the court shall make an  
21 affirmative finding of fact and enter the affirmative finding in  
22 the judgment of the case if the judge or jury, whichever is the  
23 trier of fact, determines beyond a reasonable doubt that the child  
24 intentionally selected the person against whom the offense was

1 committed or intentionally selected property damaged or affected as  
2 a result of the offense because of the child's bias or prejudice  
3 against a group identified by race, color, disability, religion,  
4 national origin or ancestry, age, gender, or sexual preference, as  
5 defined by Article 42.014, Code of Criminal Procedure.

6 (b) The court may require a child for whom an affirmative  
7 finding is made under this section to attend:

8 (1) an education program to further the child's  
9 acceptance and understanding of others; or

10 (2) psychological counseling sessions with an  
11 individual or organization as specified or approved by the court.

12 (c) If the court makes an affirmative finding under this  
13 section, the court may order the child to perform community service  
14 at a project designated by the court that primarily serves the  
15 interests of the person or group that was the target of the child's  
16 conduct.

17 (d) A clerk of the court in which an affirmative finding  
18 under this section is requested shall report that request to the  
19 Texas Judicial Council, along with a statement as to whether the  
20 request was granted by the court and, if so, whether the affirmative  
21 finding was entered in the judgment of the case. The clerk shall  
22 make the report required by this subsection not later than the 30th  
23 day after the date the judgment is entered in the case.

24 SECTION 3. Subchapter F, Chapter 61, Human Resources Code,  
25 is amended by adding Section 61.08141 to read as follows:

26 Sec. 61.08141. COMMUNITY SERVICE FOR CERTAIN RELEASES. The  
27 commission may require as a condition of release that a child for

1 whom a court has made an affirmative finding under Section 54.035,  
2 Family Code, perform community service at a project designated by  
3 the commission that primarily serves the interests of the person or  
4 group that was the target of the child's conduct.

5 SECTION 4. Section 58.003, Family Code, is amended by  
6 adding Subsection (k-1) to read as follows:

7 (k-1) This subsection applies only to a prosecution for an  
8 offense for which the prosecuting attorney seeks an affirmative  
9 finding under Article 42.014, Code of Criminal Procedure. For the  
10 purposes of Section 3(a), Article 37.07, Code of Criminal  
11 Procedure, or Section 13A(c), Article 42.12, Code of Criminal  
12 Procedure, the prosecuting attorney may, on application to the  
13 juvenile court, reopen at any time the files and records of a person  
14 adjudicated as having engaged in delinquent conduct for an offense  
15 for which an affirmative finding was made under Section 54.035 and  
16 for which the files and records were sealed by the court under this  
17 section.

18 SECTION 5. (a) The change in law made by this Act applies  
19 only to conduct that occurs on or after the effective date of this  
20 Act. Conduct violating the penal law of this state occurs on or  
21 after the effective date of this Act if any element of the violation  
22 occurs on or after that date.

23 (b) Conduct that occurs before the effective date of this  
24 Act is governed by the law in effect at the time the conduct  
25 occurred, and that law is continued in effect for that purpose.

26 SECTION 6. This Act takes effect September 1, 2009.