

By: Hochberg

H.B. No. 824

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Section 13A(b), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(b) The court may not grant community supervision on its own motion or on the recommendation of the jury to a defendant convicted of an offense for which the court has made an affirmative finding under Article 42.014 of this code if:

(1) the offense is murder under Section 19.02, Penal Code; ~~or~~

(2) the defendant has been previously convicted of an offense for which the court made an affirmative finding under Article 42.014 of this code; or

(3) the defendant has been previously adjudicated for engaging in delinquent conduct constituting an offense that resulted in an affirmative finding under Section 54.035, Family Code.

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

Sec. 54.035. CONDUCT THAT CONSTITUTES COMMISSION OF HATE CRIME. (a) In a proceeding for conduct that constitutes the

1 commission of an offense under Title 5, Penal Code, or Section  
2 28.02, 28.03, or 28.08, Penal Code, the court shall make an  
3 affirmative finding of fact and enter the affirmative finding in  
4 the judgment of the case if the judge or jury, whichever is the  
5 trier of fact, determines beyond a reasonable doubt that the child  
6 intentionally selected the person against whom the offense was  
7 committed or intentionally selected property damaged or affected as  
8 a result of the offense because of the child's bias or prejudice  
9 against a group identified by race, color, disability, religion,  
10 national origin or ancestry, age, gender, or sexual preference, as  
11 defined by Article 42.014, Code of Criminal Procedure.

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

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

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

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

23 (d) A clerk of the court in which an affirmative finding  
24 under this section is requested shall report that request to the  
25 Texas Judicial Council, along with a statement as to whether the  
26 request was granted by the court and, if so, whether the affirmative  
27 finding was entered in the judgment of the case. The clerk shall

1 make the report required by this subsection not later than the 30th  
2 day after the date the judgment is entered in the case.

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

5 Sec. 61.08141. COMMUNITY SERVICE FOR CERTAIN RELEASES. The  
6 commission may require as a condition of release that a child for  
7 whom a court has made an affirmative finding under Section 54.035,  
8 Family Code, perform community service at a project designated by  
9 the commission that primarily serves the interests of the person or  
10 group that was the target of the child's conduct.

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

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

24 SECTION 5. (a) The change in law made by this Act applies  
25 only to conduct that occurs on or after the effective date of this  
26 Act. Conduct violating the penal law of this state occurs on or  
27 after the effective date of this Act if any element of the violation

1 occurs on or after that date.

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

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