

1-1 By: Hochberg, Marquez, Naishtat H.B. No. 824
1-2 (Senate Sponsor - Ellis)
1-3 (In the Senate - Received from the House April 6, 2009;
1-4 April 27, 2009, read first time and referred to Committee on State
1-5 Affairs; May 23, 2009, reported favorably by the following vote:
1-6 Yeas 5, Nays 3; May 23, 2009, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the imposition of conditions on and access to case
1-10 records regarding a child adjudicated of having engaged in conduct
1-11 that constitutes the commission of a hate crime.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 13A, Article 42.12, Code of Criminal
1-14 Procedure, is amended by adding Subsection (c) to read as follows:

1-15 (c) Before the court grants community supervision on its own
1-16 motion or on the recommendation of the jury to a defendant convicted
1-17 of an offense for which the court has made an affirmative finding
1-18 under Article 42.014, the court shall consider any previous
1-19 adjudication of the defendant for engaging in delinquent conduct
1-20 constituting an offense that resulted in an affirmative finding
1-21 under Section 54.035, Family Code.

1-22 SECTION 2. Chapter 54, Family Code, is amended by adding
1-23 Section 54.035 to read as follows:

1-24 Sec. 54.035. CONDUCT THAT CONSTITUTES COMMISSION OF HATE
1-25 CRIME. (a) In a proceeding for conduct that constitutes the
1-26 commission of an offense under Title 5, Penal Code, or Section
1-27 28.02, 28.03, or 28.08, Penal Code, the court shall make an
1-28 affirmative finding of fact and enter the affirmative finding in
1-29 the judgment of the case if the judge or jury, whichever is the
1-30 trier of fact, determines beyond a reasonable doubt that the child
1-31 intentionally selected the person against whom the offense was
1-32 committed or intentionally selected property damaged or affected as
1-33 a result of the offense because of the child's bias or prejudice
1-34 against a group identified by race, color, disability, religion,
1-35 national origin or ancestry, age, gender, or sexual preference, as
1-36 defined by Article 42.014, Code of Criminal Procedure.

1-37 (b) The court may require a child for whom an affirmative
1-38 finding is made under this section to attend an education program to
1-39 further the child's acceptance and understanding of others.

1-40 (c) If the court makes an affirmative finding under this
1-41 section, the court may order the child to perform community service
1-42 at a project designated by the court that primarily serves the
1-43 interests of the person or group that was the target of the child's
1-44 conduct.

1-45 (d) A clerk of the court in which an affirmative finding
1-46 under this section is requested shall report that request to the
1-47 Texas Judicial Council, along with a statement as to whether the
1-48 request was granted by the court and, if so, whether the affirmative
1-49 finding was entered in the judgment of the case. The clerk shall
1-50 make the report required by this subsection not later than the 30th
1-51 day after the date the judgment is entered in the case.

1-52 SECTION 3. Subchapter F, Chapter 61, Human Resources Code,
1-53 is amended by adding Section 61.08141 to read as follows:

1-54 Sec. 61.08141. COMMUNITY SERVICE FOR CERTAIN RELEASES. The
1-55 commission may require as a condition of release that a child for
1-56 whom a court has made an affirmative finding under Section 54.035,
1-57 Family Code, perform community service at a project designated by
1-58 the commission that primarily serves the interests of the person or
1-59 group that was the target of the child's conduct.

1-60 SECTION 4. Section 58.003, Family Code, is amended by
1-61 adding Subsection (k-1) to read as follows:

1-62 (k-1) This subsection applies only to a prosecution for an
1-63 offense for which the prosecuting attorney seeks an affirmative
1-64 finding under Article 42.014, Code of Criminal Procedure. For the

2-1 purposes of Section 3(a), Article 37.07, Code of Criminal
2-2 Procedure, or Section 13A(c), Article 42.12, Code of Criminal
2-3 Procedure, the prosecuting attorney may, on application to the
2-4 juvenile court, reopen at any time the files and records of a person
2-5 adjudicated as having engaged in delinquent conduct for an offense
2-6 for which an affirmative finding was made under Section 54.035 and
2-7 for which the files and records were sealed by the court under this
2-8 section.

2-9 SECTION 5. (a) The change in law made by this Act applies
2-10 only to conduct that occurs on or after the effective date of this
2-11 Act. Conduct violating the penal law of this state occurs on or
2-12 after the effective date of this Act if any element of the violation
2-13 occurs on or after that date.

2-14 (b) Conduct that occurs before the effective date of this
2-15 Act is governed by the law in effect at the time the conduct
2-16 occurred, and that law is continued in effect for that purpose.

2-17 SECTION 6. This Act takes effect September 1, 2009.

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