

By: Turner of Harris

H.B. No. 2888

A BILL TO BE ENTITLED

AN ACT

relating to establishing the juvenile first offender program.

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

SECTION 1. Sec. 52.031. FIRST OFFENDER PROGRAM. (a) A juvenile board may establish a first offender program under this section for the referral and disposition of children taken into custody for:

(1) conduct indicating a need for supervision; or

(2) delinquent conduct other than conduct that constitutes:

(A) a felony of the first, second, or third degree, an aggravated controlled substance felony, or a capital felony; or

(B) a state jail felony or misdemeanor involving violence to a person or the use or possession of a firearm, illegal knife, or club, as those terms are defined by Section 46.01, Penal Code, or a prohibited weapon, as described by Section 46.05, Penal Code.

(b) Each juvenile board in the county in which a first offender program is established shall designate one or more law enforcement officers and agencies, or a juvenile probation department [~~which may be law enforcement agencies,~~] to process a child under the first offender program.

(c) The disposition of a child under the first offender

1 program may not take place until guidelines for the disposition  
2 have been adopted by the juvenile board of the county in which the  
3 disposition is made as required by Section 52.032.

4 (d) A law enforcement officer taking a child into custody  
5 may refer the child to the law enforcement officer or agency, or a  
6 juvenile probation department designated under Subsection (b) for  
7 disposition under the first offender program and not refer the  
8 child to juvenile court only if:

9 (1) the child has not previously been adjudicated as  
10 having engaged in delinquent conduct;

11 (2) the referral complies with guidelines for  
12 disposition under Subsection (c); and

13 (3) the officer reports in writing the referral to the  
14 agency, identifying the child and specifying the grounds for taking  
15 the child into custody.

16 (e) A child referred for disposition under the first  
17 offender program may not be detained in law enforcement, or  
18 juvenile probation department custody.

19 (f) The parent, guardian, or other custodian of the child  
20 must receive notice that the child has been referred for  
21 disposition under the first offender program. The notice must:

22 (1) state the grounds for taking the child into  
23 custody;

24 (2) identify the law enforcement officer or agency, or  
25 juvenile probation department to which the child was referred;

26 (3) briefly describe the nature of the program; and

27 (4) state that the child's failure to complete the

1 program will result in the child being referred to the juvenile  
2 court.

3 (g) The child and the parent, guardian, or other custodian  
4 of the child must consent to participation by the child in the first  
5 offender program.

6 (h) Disposition under a first offender program may include:

7 (1) voluntary restitution by the child or the parent,  
8 guardian, or other custodian of the child to the victim of the  
9 conduct of the child;

10 (2) voluntary community service restitution by the  
11 child;

12 (3) educational, vocational training, counseling, or  
13 other rehabilitative services; and

14 (4) periodic reporting by the child to the law  
15 enforcement officer or agency, or the juvenile probation department  
16 to which the child has been referred.

17 (i) The case of a child who successfully completes the first  
18 offender program is closed and may not be referred to juvenile  
19 court, unless the child is taken into custody under circumstances  
20 described by Subsection (j)(3).

21 (j) The case of a child referred for disposition under the  
22 first offender program shall be referred to juvenile court if:

23 (1) the child fails to complete the program;

24 (2) the child or the parent, guardian, or other  
25 custodian of the child terminates the child's participation in the  
26 program before the child completes it; or

27 (3) the child completes the program but is taken into

1 custody under Section 52.01 before the 90th day after the date the  
2 child completes the program for conduct other than the conduct for  
3 which the child was referred to the first offender program.

4 (k) A statement made by a child to a person giving advice or  
5 supervision or participating in the first offender program may not  
6 be used against the child in any proceeding under this title or any  
7 criminal proceeding.

8 (l) The law enforcement agency, or the juvenile probation  
9 department must report to the juvenile board in December of each  
10 year the following:

11 (1) the last known address of the child, including the  
12 census tract;

13 (2) the gender and ethnicity of the child referred to  
14 the program; and

15 (3) the offense committed by the child.

16 (m) The law enforcement agency, juvenile probation  
17 department, or other agency is prohibited from sending information  
18 about the arrest or referral of a child who completes the program to  
19 the statewide Juvenile Justice Information System, unless the child  
20 is taken into custody under (j)(3).

21 SECTION 2. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2013.