

BILL ANALYSIS

C.S.H.B. 3540
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Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been suggested that individuals with intellectual and developmental disabilities are overrepresented in the criminal justice system and are more likely than their similarly situated non-disabled peers to be arrested, convicted, and incarcerated and to serve lengthy sentences. C.S.H.B. 3540 seeks to address these disparities by authorizing a peace officer to release certain persons with an intellectual or developmental disability in lieu of arrest.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3540 amends the Code of Criminal Procedure to authorize a peace officer, with respect to a person with an intellectual or developmental disability who resides at a group home or an intermediate care facility for persons with an intellectual or developmental disability operated under the home and community-based services Medicaid waiver program, to release the person at the person's residence in lieu of arresting the person if the officer:

- believes confinement of the person in a correctional facility is unnecessary to protect the person and the other persons who reside at the residence; and
- made reasonable efforts to consult with the staff at the person's residence and with the person regarding that decision.

The bill exempts a peace officer and the agency or political subdivision that employs the peace officer from liability for damage to persons or property that results from the actions of a person released at the person's residence under the bill's provisions.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3540 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include provisions setting out certain required actions for a peace officer before arresting a person the officer knows is a person with an intellectual or developmental disability who resides at an applicable institutional care facility. The substitute includes instead provisions authorizing a peace officer to release a person with such a disability who resides at an applicable group home or intermediate care facility in lieu of arresting the person if certain conditions are met.

The substitute includes an exemption from liability for a peace officer and the agency or political subdivision the employs the officer for damage resulting from the actions of a person the officer released in lieu of arresting.