86R9515 JCG-F

By:  Burns H.B. No. 3540

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a peace officer to release in lieu of arrest certain persons with an intellectual or developmental disability.

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

SECTION 1.  Chapter 14, Code of Criminal Procedure, is amended by adding Article 14.035 to read as follows:

Art. 14.035.  AUTHORITY TO RELEASE IN LIEU OF ARREST CERTAIN PERSONS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITY. (a) This article applies only to a person with an intellectual or developmental disability who resides at an intermediate care facility for persons with an intellectual or developmental disability or other institutional care facility operated under the home and community-based services waiver program in accordance with Section 1915(c) of the Social Security Act (42 U.S.C. Section 1396n).

(b)  Except as provided by Subsection (c), before a peace officer arrests a person who the officer knows is a person described by Subsection (a), the officer shall:

(1)  consider whether it is in the best interest of the person to arrest the person or to release the person in lieu of arrest to the person's residence; and

(2)  make reasonable efforts to consult with the person's legal guardian or representative and the staff at the person's residence regarding that decision.

(c)  A peace officer is not required to comply with Subsection (b) if the officer has probable cause to believe that there is a continuing threat of violence by or against the person described by Subsection (a).

SECTION 2.  The change in law made by this Act applies only to an arrest that occurs on or after the effective date of this Act. An arrest that occurred before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3.  This Act takes effect September 1, 2019.