

By: Burns, Raymond, Collier

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 one of the following types of facilities 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):

(1) a group home; or

(2) an intermediate care facility for persons with an intellectual or developmental disability (ICF/IID) as defined by 40 T.A.C. Section 9.153.

(b) In lieu of arresting a person described by Subsection (a), a peace officer may release the person at the person's residence if the officer:

(1) believes confinement of the person in a correctional facility as defined by Section 1.07, Penal Code, is unnecessary to protect the person and the other persons who reside

1 at the residence; and

2 (2) made reasonable efforts to consult with the staff
3 at the person's residence and with the person regarding that
4 decision.

5 (c) A peace officer and the agency or political subdivision
6 that employs the peace officer may not be held liable for damage to
7 persons or property that results from the actions of a person
8 released under Subsection (b).

9 SECTION 2. This Act takes effect September 1, 2019.