

By: Burns

H.B. No. 3540

Substitute the following for H.B. No. 3540:

By: Paul

C.S.H.B. No. 3540

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

8 Art. 14.035. AUTHORITY TO RELEASE IN LIEU OF ARREST CERTAIN
9 PERSONS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITY. (a) This
10 article applies only to a person with an intellectual or
11 developmental disability who resides at one of the following types
12 of facilities operated under the home and community-based services
13 waiver program in accordance with Section 1915(c) of the Social
14 Security Act (42 U.S.C. Section 1396n):

15 (1) a group home; or

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

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

22 (1) believes confinement of the person in a
23 correctional facility as defined by Section 1.07, Penal Code, is
24 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.