

By: Burns

H.B. No. 3540

A BILL TO BE ENTITLED

AN ACT

1
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 an intermediate care
12 facility for persons with an intellectual or developmental
13 disability or other institutional care facility operated under the
14 home and community-based services waiver program in accordance with
15 Section 1915(c) of the Social Security Act (42 U.S.C. Section
16 1396n).

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

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

23 (2) make reasonable efforts to consult with the
24 person's legal guardian or representative and the staff at the

1 person's residence regarding that decision.

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

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

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