

By: White

H.B. No. 2821

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the diversion of certain foster youth from the juvenile  
3 justice system, including through emergency behavior intervention  
4 by certain persons providing foster care services.

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

6 SECTION 1. Section 53.01(b-1), Family Code, is amended to  
7 read as follows:

8 (b-1) The person who is conducting the preliminary  
9 investigation shall, as appropriate, refer the child's case to a  
10 community resource coordination group, a local-level interagency  
11 staffing group, or other community juvenile service provider for  
12 services under Section 53.011, if the person determines that:

13 (1) ~~[the child is younger than 12 years of age,~~

14 ~~(2)]~~ there is probable cause to believe the child  
15 engaged in delinquent conduct or conduct indicating a need for  
16 supervision;

17 (2) ~~[(3)]~~ the child's case does not require referral  
18 to the prosecuting attorney under Subsection (d) or (f);

19 (3) ~~[(4)]~~ the child is eligible for deferred  
20 prosecution under Section 53.03; and

21 (4) ~~[(5)]~~ the child:

22 (A) is younger than 12 years of age, and the child  
23 and the child's family are not currently receiving services under  
24 Section 53.011 and would benefit from receiving the services; or

1                   (B) resides in a general residential operation,  
2 as that term is defined by Section 42.002, Human Resources Code.

3           SECTION 2. Section 42.0426, Human Resources Code, is  
4 amended by amending Subsection (b) and adding Subsection (b-1) to  
5 read as follows:

6           (b) A residential child-care facility shall implement a  
7 behavior intervention program approved by the department for the  
8 benefit of a child served by the facility who needs assistance in  
9 managing the child's conduct. The program must include:

10           (1) behavior intervention instruction for staff  
11 members who work directly with children served by the facility,  
12 including crisis response training for emergency behavior  
13 intervention with a goal of limiting law enforcement involvement;  
14 and

15           (2) training for all employees regarding the risks  
16 associated with the use of prone restraints.

17           (b-1) The crisis response training required by Subsection  
18 (b)(1) may be conducted jointly with local law enforcement to  
19 maximize the effectiveness of the training.

20           SECTION 3. Section 152.00145, Human Resources Code, is  
21 amended to read as follows:

22           Sec. 152.00145. DIVERSION AND DETENTION POLICY FOR CERTAIN  
23 JUVENILES. (a) In this section, "general residential operation"  
24 has the meaning assigned by Section 42.002.

25           (b) A juvenile board shall establish policies that  
26 prioritize:

27           (1) the diversion from referral to a prosecuting

1 attorney under Chapter 53, Family Code, of children who are:

2 (A) younger than 12 years of age [~~from referral~~  
3 ~~to a prosecuting attorney under Chapter 53, Family Code]; or~~

4 (B) residing in a general residential operation,  
5 particularly children alleged to have engaged in conduct  
6 constituting a misdemeanor involving violence to a person; and

7 (2) the limitation of detention, to circumstances of  
8 last resort, of children who are:

9 (A) younger than 12 years of age; or

10 (B) residing in a general residential operation  
11 [~~to circumstances of last resort~~].

12 (c) To monitor the success of policies implemented under  
13 Subsection (b) for children who reside in general residential  
14 operations, a juvenile board shall track:

15 (1) the number of children referred to the board who  
16 reside in a general residential operation;

17 (2) the number of children described by Subdivision  
18 (1) who receive deferred prosecution or are referred to the  
19 juvenile probation department; and

20 (3) the general residential operation where a child  
21 described by Subdivision (1) resides.

22 SECTION 4. Section 53.01(b-1), Family Code, as amended by  
23 this Act, applies only to conduct that occurs on or after the  
24 effective date of this Act. Conduct that occurs before the  
25 effective date of this Act is governed by the law in effect on the  
26 date the conduct occurred, and the former law is continued in effect  
27 for that purpose. For the purposes of this section, conduct

1 occurred before the effective date of this Act if any element of the  
2 conduct occurred before that date.

3           SECTION 5. The change in law made by this Act to Section  
4 42.0426(b), Human Resources Code, is intended to permit a  
5 residential child-care facility to supplement existing training  
6 requirements in effect before the effective date of this Act and to  
7 conduct the training outside of the existing training curricula.  
8 Section 42.0426, Human Resources Code, as amended by this Act, may  
9 not be construed as requiring the purchase of a new training program  
10 or as requiring additional training hours.

11           SECTION 6. This Act takes effect September 1, 2021.