

By: Menéndez

S.B. No. 441

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(b), Human Resources Code, is
4 amended to read as follows:

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

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

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

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

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

21 (b) A juvenile board shall establish policies that
22 prioritize:

23 (1) the diversion from referral to a prosecuting
24 attorney under Chapter 53, Family Code, of children who are:

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

27 (B) residing in a general residential operation,

1 particularly children alleged to have engaged in conduct
2 constituting a misdemeanor involving violence to a person; and

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

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

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

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

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

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

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

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

26 SECTION 5. This Act takes effect September 1, 2023.