

Chapter 460

H.B. No. 3540

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 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

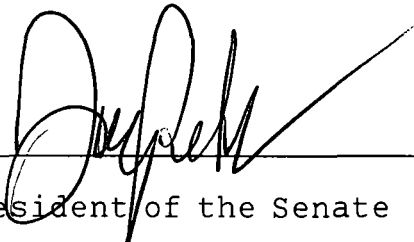
1 at the residence; and

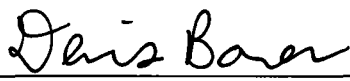
2 (2) made reasonable efforts to consult with the staff  
3 at the person's residence and with the person regarding that  
4 decision.

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.

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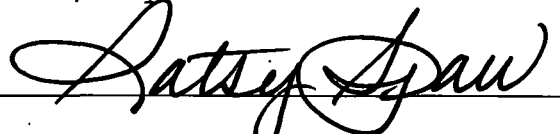
  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 3540 was passed by the House on May 3, 2019, by the following vote: Yeas 141, Nays 0, 2 present, not voting.


  
\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 3540 was passed by the Senate on May 22, 2019, by the following vote: Yeas 31, Nays 0.

  
\_\_\_\_\_  
Secretary of the Senate

APPROVED: 6-5-2019


Date

  
\_\_\_\_\_  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE

4:30 pm O'CLOCK

JUN 05 2019

  
\_\_\_\_\_  
Secretary of State