

- SUBJECT:** Diverting certain foster youth from the juvenile justice system
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 9 ayes — Neave, Swanson, Cook, Frank, Leach, Ramos, Talarico, Vasut, Wu
0 nays
- WITNESSES:** For — Gabriella McDonald, Texas Appleseed; (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; M. Paige Williams, for Dallas County Criminal District John Creuzot; Aaryce Hayes, Disability Rights Texas; Nicholas Chu, Justices of the Peace and Constables Association; Carlos Lopez and Jama Pantel, Justices of the Peace and Constables Association of Texas; Matthew Lovitt, National Alliance on Mental Illness Texas; Alison Mohr Boleware, National Association of Social Workers - Texas Chapter; Sarah Crockett, Texas CASA; Eric Woomer, Texas Pediatric Society; Brittney Taylor, TexProtects; Molly Weiner, United Ways of Texas; Knox Kimberly, Upbring)

Against — (*Registered, but did not testify*: Tina Lincoln, Hill County Juvenile Probation Department; Cristy Malott)

On — Liz Kromrei, Department of Family and Protective Services; (*Registered, but did not testify*: William Carter, Lubbock County Juvenile Justice Center and Juvenile Justice Association of Texas)
- BACKGROUND:** Family Code sec. 53.01 requires that, on the referral of a person believed to be a child or on referral of the person's case to the office or official designated by the juvenile board, the intake office, probation officer, or other authorized person must conduct a preliminary investigation to determine whether the person is a child and there is probable cause to believe the person engaged in delinquent conduct or conduct indicating a need for supervision.

Sec. 53.01 (b-1) states that the person conducting the preliminary investigation shall, as appropriate, refer the child's case to a community resource coordination group, a local-level interagency staffing group, or other community juvenile service provider for certain services if the person determines that:

- the child is younger than 12 years of age;
- there is probable cause to believe the child engaged in delinquent conduct or conduct indicating a need for supervision;
- the child's case did not require referral to the prosecuting attorney;
- the child is eligible for deferred prosecution; and
- the child and the child's family are not currently receiving services and would benefit from receiving the services.

Human Resources Code sec. 42.002 defines "general residential operation" to mean a child-care facility that provides care for seven or more children for 24 hours a day, including facilities known as residential treatment centers and emergency shelters.

Concerns have been raised that children who are in foster care are too often referred to the juvenile justice system by general residential operations (GROs) for trauma-related behavior.

DIGEST:

HB 2821 would require the person conducting a preliminary investigation of a child under Family Code sec. 53.01 to refer the child's case to a community resource coordination group, a local-level interagency staffing group, or other community juvenile service provider if the person determined that the child resided in a general residential operation (GRO).

The bill also would require a behavior intervention program implemented by a residential child-care facility that included behavior intervention instruction for staff members who worked directly with children served by the facility to include crisis response training for emergency behavior intervention with a goal of limiting law enforcement involvement.

A juvenile board would have to establish policies that prioritized:

- the diversion from referral to a prosecuting attorney under the juvenile justice code of children who resided in a GRO, particularly children alleged to have engaged in conduct that constituted a misdemeanor involving violence to a person; and
- the limitation of detention, to circumstances of last resort, of children who resided in a GRO.

The bill would require the juvenile board to monitor the success of these policies for children who resided in GROs by tracking:

- the number of children referred to the board who resided in a GRO;
- the number of such children who received deferred prosecution or were referred to the juvenile probation department; and
- the GRO where a child referred to the board resided.

The bill would take effect September 1, 2021, and would apply only to conduct that occurred on or after that date.