

By: Wu

H.B. No. 2107

A BILL TO BE ENTITLED

1 AN ACT
2 relating to services for children who are unfit or lack
3 responsibility to proceed in juvenile court proceedings as a result
4 of intellectual disabilities.

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

6 SECTION 1. Section 55.33, Family Code, is amended to read as
7 follows:

8 Sec. 55.33. PROCEEDINGS FOLLOWING FINDING OF UNFITNESS TO
9 PROCEED. (a) If the juvenile court or jury determines under
10 Section 55.32 that a child is unfit as a result of mental illness or
11 an intellectual disability to proceed with the juvenile court
12 proceedings for delinquent conduct, the court shall:

13 (1) ~~[if the unfitness to proceed is a result of mental~~
14 ~~illness or an intellectual disability.~~

15 ~~[(A)]~~ provided that the child meets the
16 commitment criteria under Subtitle C or D, Title 7, Health and
17 Safety Code, order the child placed with the Department of State
18 Health Services or the Department of Aging and Disability Services,
19 as appropriate, for a period of not more than 90 days, which order
20 may not specify a shorter period, for placement in a facility
21 designated by the department; ~~[or]~~

22 (2) (B) ~~[(B)]~~ on application by the child's parent,
23 guardian, or guardian ad litem, order the child placed in a private
24 psychiatric inpatient facility for a period of not more than 90

1 days, which order may not specify a shorter period, but only if:

2 (A) the unfitness to proceed is a result of
3 mental illness; and

4 (B) the placement is agreed to in writing by the
5 administrator of the facility; or

6 (3) subject to Subsection (c), ~~[(2)]~~ if ~~[the unfitness~~

7 ~~to proceed is a result of mental illness and]~~ the court determines

8 that the child may be adequately treated or served in an alternative

9 setting, order the child to receive treatment for mental illness or

10 services for the child's intellectual disability, as appropriate,

11 on an outpatient basis for a period of not more than 90 days, which

12 order may not specify a shorter period.

13 (b) If the court orders a child placed in a private

14 psychiatric inpatient facility under Subsection (a)(2)

15 ~~[(a)(1)(B)]~~, the state or a political subdivision of the state may

16 be ordered to pay any costs associated with the child's placement,

17 subject to an express appropriation of funds for the purpose.

18 (c) Before issuing an order described by Subsection (a)(3),

19 the court shall consult with the probation department and with

20 local treatment or service providers to determine the appropriate

21 treatment or services for the child.

22 SECTION 2. Section 55.34(a), Family Code, is amended to

23 read as follows:

24 (a) If the court issues a placement order under Section

25 55.33(a)(1) or (2), the court shall order the probation department

26 or sheriff's department to transport the child to the designated

27 facility.

1 SECTION 3. Section 55.35(b), Family Code, is amended to
2 read as follows:

3 (b) Not later than the 75th day after the date the court
4 issues a placement order under Section 55.33(a), the public or
5 private facility or outpatient center, as appropriate, shall submit
6 to the court a report that:

7 (1) describes the treatment or services provided to
8 ~~[of]~~ the child ~~[provided]~~ by the facility or center; and

9 (2) states the opinion of the director of the facility
10 or center as to whether the child is fit or unfit to proceed.

11 SECTION 4. Section 55.43(a), Family Code, is amended to
12 read as follows:

13 (a) The prosecuting attorney may file with the juvenile
14 court a motion for a restoration hearing concerning a child if:

15 (1) the child is found unfit to proceed as a result of
16 mental illness or an intellectual disability; and

17 (2) the child:

18 (A) is not:

19 (i) ordered by a court to receive inpatient
20 mental health or intellectual disability services;

21 (ii) committed by a court to a residential
22 care facility; or

23 (iii) ordered by a court to receive
24 treatment or services on an outpatient basis; or

25 (B) is discharged or currently on furlough from a
26 mental health facility or outpatient center before the child
27 reaches 18 years of age.

1 SECTION 5. Section 55.52, Family Code, is amended to read as
2 follows:

3 Sec. 55.52. PROCEEDINGS FOLLOWING FINDING OF LACK OF
4 RESPONSIBILITY FOR CONDUCT. (a) If the court or jury finds that a
5 child is not responsible for the child's conduct under Section
6 55.51 as a result of mental illness or an intellectual disability,
7 the court shall:

8 (1) ~~[if the lack of responsibility is a result of~~
9 ~~mental illness or an intellectual disability.]~~

10 ~~[(A)]~~ provided that the child meets the
11 commitment criteria under Subtitle C or D, Title 7, Health and
12 Safety Code, order the child placed with the Department of State
13 Health Services or the Department of Aging and Disability Services,
14 as appropriate, for a period of not more than 90 days, which order
15 may not specify a shorter period, for placement in a facility
16 designated by the department; ~~[or]~~

17 (2) ~~[(B)]~~ on application by the child's parent,
18 guardian, or guardian ad litem, order the child placed in a private
19 psychiatric inpatient facility for a period of not more than 90
20 days, which order may not specify a shorter period, but only if:

21 (A) the child's lack of responsibility is a
22 result of mental illness; and

23 (B) the placement is agreed to in writing by the
24 administrator of the facility; or

25 (3) subject to Subsection (c), ~~[(2)]~~ if ~~[the child's~~
26 ~~lack of responsibility is a result of mental illness and]~~ the court
27 determines that the child may be adequately treated or served in an

1 alternative setting, order the child to receive treatment for
2 mental illness or services for the child's intellectual disability,
3 as appropriate, on an outpatient basis for a period of not more than
4 90 days, which order may not specify a shorter period.

5 (b) If the court orders a child placed in a private
6 psychiatric inpatient facility under Subsection (a)(2)
7 [~~(a)(1)(B)~~], the state or a political subdivision of the state may
8 be ordered to pay any costs associated with the child's placement,
9 subject to an express appropriation of funds for the purpose.

10 (c) Before issuing an order described by Subsection (a)(3),
11 the court shall consult with the probation department and with
12 local treatment or service providers to determine the appropriate
13 treatment or services for the child.

14 SECTION 6. Section 55.53(a), Family Code, is amended to
15 read as follows:

16 (a) If the court issues a placement order under Section
17 55.52(a)(1) or (2), the court shall order the probation department
18 or sheriff's department to transport the child to the designated
19 facility.

20 SECTION 7. Section 55.54(b), Family Code, is amended to
21 read as follows:

22 (b) Not later than the 75th day after the date the court
23 issues a placement order under Section 55.52(a), the public or
24 private facility or outpatient center, as appropriate, shall submit
25 to the court a report that:

26 (1) describes the treatment or services provided to
27 [~~of~~] the child [~~provided~~] by the facility or center; and

1 (2) states the opinion of the director of the facility
2 or center as to whether the child has a mental illness or an
3 intellectual disability.

4 SECTION 8. This Act takes effect September 1, 2021.