

By: Craddick

H.B. No. 446

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the terminology used in statute to refer to  
3 intellectual disability and certain references to abolished health  
4 and human services agencies.

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

6 ARTICLE 1. CIVIL PRACTICE AND REMEDIES CODE PROVISIONS

7 SECTION 1.01. Sections 74.001(a)(11) and (18), Civil  
8 Practice and Remedies Code, are amended to read as follows:

9 (11) "Health care institution" includes:

10 (A) an ambulatory surgical center;

11 (B) an assisted living facility licensed under  
12 Chapter 247, Health and Safety Code;

13 (C) an emergency medical services provider;

14 (D) a health services district created under  
15 Chapter 287, Health and Safety Code;

16 (E) a home and community support services agency;

17 (F) a hospice;

18 (G) a hospital;

19 (H) a hospital system;

20 (I) an intermediate care facility for  
21 individuals with an intellectual disability [~~the mentally~~

22 ~~retarded~~] or a home and community-based services waiver program for

23 individuals [~~persons~~] with an intellectual disability [~~mental~~

24 ~~retardation~~] adopted in accordance with Section 1915(c) of the

1 federal Social Security Act (42 U.S.C. Section 1396n), as amended;

2 (J) a nursing home; or

3 (K) an end stage renal disease facility licensed  
4 under Section 251.011, Health and Safety Code.

5 (18) "Intermediate care facility for individuals with  
6 an intellectual disability [~~the mentally retarded~~]" means a  
7 licensed public or private institution to which Chapter 252, Health  
8 and Safety Code, applies.

9 ARTICLE 2. CODE OF CRIMINAL PROCEDURE PROVISIONS

10 SECTION 2.01. Article 46C.001(4), Code of Criminal  
11 Procedure, is amended to read as follows:

12 (4) "Intellectual disability [~~Mental retardation~~]"  
13 has the meaning assigned by Section 591.003, Health and Safety  
14 Code.

15 SECTION 2.02. Article 46C.105(c), Code of Criminal  
16 Procedure, is amended to read as follows:

17 (c) The examiner shall submit a separate report stating the  
18 examiner's observations and findings concerning:

19 (1) whether the defendant is presently a person with a  
20 mental illness and requires court-ordered mental health services  
21 under Subtitle C, Title 7, Health and Safety Code; or

22 (2) whether the defendant is presently a person with  
23 an intellectual disability [~~mental retardation~~].

24 SECTION 2.03. Article 46C.201, Code of Criminal Procedure,  
25 is amended to read as follows:

26 Art. 46C.201. DISPOSITION: NONDANGEROUS CONDUCT. (a) If  
27 the court determines that the offense of which the person was

1 acquitted did not involve conduct that caused serious bodily injury  
2 to another person, placed another person in imminent danger of  
3 serious bodily injury, or consisted of a threat of serious bodily  
4 injury to another person through the use of a deadly weapon, the  
5 court shall determine whether there is evidence to support a  
6 finding that the person is a person with a mental illness or an  
7 intellectual disability [~~with mental retardation~~].

8 (b) If the court determines that there is evidence to  
9 support a finding of mental illness or intellectual disability  
10 [~~mental retardation~~], the court shall enter an order transferring  
11 the person to the appropriate court for civil commitment  
12 proceedings to determine whether the person should receive  
13 court-ordered mental health services under Subtitle C, Title 7,  
14 Health and Safety Code, or be committed to a residential care  
15 facility to receive intellectual disability [~~mental retardation~~]  
16 services under Subtitle D, Title 7, Health and Safety Code. The  
17 court may also order the person:

18 (1) detained in jail or any other suitable place  
19 pending the prompt initiation and prosecution of appropriate civil  
20 proceedings by the attorney representing the state or other person  
21 designated by the court; or

22 (2) placed in the care of a responsible person on  
23 satisfactory security being given for the acquitted person's proper  
24 care and protection.

25 SECTION 2.04. Article [46C.252\(c\)](#), Code of Criminal  
26 Procedure, is amended to read as follows:

27 (c) The report must address:

1           (1) whether the acquitted person has a mental illness  
2 or an intellectual disability [~~mental retardation~~] and, if so,  
3 whether the mental illness or intellectual disability [~~mental~~  
4 ~~retardation~~] is severe;

5           (2) whether as a result of any severe mental illness or  
6 intellectual disability [~~mental retardation~~] the acquitted person  
7 is likely to cause serious harm to another;

8           (3) whether as a result of any impairment the  
9 acquitted person is subject to commitment under Subtitle C or D,  
10 Title 7, Health and Safety Code;

11           (4) prospective treatment and supervision options, if  
12 any, appropriate for the acquitted person; and

13           (5) whether any required treatment and supervision can  
14 be safely and effectively provided as outpatient or community-based  
15 treatment and supervision.

16           SECTION 2.05. Article [46C.253\(b\)](#), Code of Criminal  
17 Procedure, is amended to read as follows:

18           (b) At the hearing, the court shall address:

19           (1) whether the person acquitted by reason of insanity  
20 has a severe mental illness or a severe intellectual disability  
21 [~~mental retardation~~];

22           (2) whether as a result of any mental illness or  
23 intellectual disability [~~mental retardation~~] the person is likely  
24 to cause serious harm to another; and

25           (3) whether appropriate treatment and supervision for  
26 any mental illness or intellectual disability [~~mental retardation~~]  
27 rendering the person dangerous to another can be safely and

1 effectively provided as outpatient or community-based treatment  
2 and supervision.

3 SECTION 2.06. Article 46C.255(c), Code of Criminal  
4 Procedure, is amended to read as follows:

5 (c) If a hearing is held before a jury and the jury  
6 determines that the person has a mental illness or an intellectual  
7 disability [~~mental retardation~~] and is likely to cause serious harm  
8 to another, the court shall determine whether inpatient treatment  
9 or residential care is necessary to protect the safety of others.

10 SECTION 2.07. Article 46C.256(a), Code of Criminal  
11 Procedure, is amended to read as follows:

12 (a) The court shall order the acquitted person committed to  
13 a mental hospital or other appropriate facility for inpatient  
14 treatment or residential care if the state establishes by clear and  
15 convincing evidence that:

16 (1) the person has a severe mental illness or a severe  
17 intellectual disability [~~mental retardation~~];

18 (2) the person, as a result of that mental illness or  
19 intellectual disability [~~mental retardation~~], is likely to cause  
20 serious bodily injury to another if the person is not provided with  
21 treatment and supervision; and

22 (3) inpatient treatment or residential care is  
23 necessary to protect the safety of others.

24 SECTION 2.08. Article 46C.257(a), Code of Criminal  
25 Procedure, is amended to read as follows:

26 (a) The court shall order the acquitted person to receive  
27 outpatient or community-based treatment and supervision if:

1           (1) the state establishes by clear and convincing  
2 evidence that the person:

3           (A) has a severe mental illness or a severe  
4 intellectual disability [~~mental retardation~~]; and

5           (B) as a result of that mental illness or  
6 intellectual disability [~~mental retardation~~] is likely to cause  
7 serious bodily injury to another if the person is not provided with  
8 treatment and supervision; and

9           (2) the state fails to establish by clear and  
10 convincing evidence that inpatient treatment or residential care is  
11 necessary to protect the safety of others.

12           SECTION 2.09. Articles 46C.258(a) and (b), Code of Criminal  
13 Procedure, are amended to read as follows:

14           (a) The head of the facility to which an acquitted person is  
15 committed has, during the commitment period, a continuing  
16 responsibility to determine:

17           (1) whether the acquitted person continues to have a  
18 severe mental illness or a severe intellectual disability [~~mental~~  
19 ~~retardation~~] and is likely to cause serious harm to another because  
20 of any severe mental illness or severe intellectual disability  
21 [~~mental retardation~~]; and

22           (2) if so, whether treatment and supervision cannot be  
23 safely and effectively provided as outpatient or community-based  
24 treatment and supervision.

25           (b) The head of the facility must notify the committing  
26 court and seek modification of the order of commitment if the head  
27 of the facility determines that an acquitted person no longer has a

1 severe mental illness or a severe intellectual disability [~~mental~~  
2 ~~retardation~~], is no longer likely to cause serious harm to another,  
3 or that treatment and supervision can be safely and effectively  
4 provided as outpatient or community-based treatment and  
5 supervision.

6 SECTION 2.10. Article 46C.260(d), Code of Criminal  
7 Procedure, is amended to read as follows:

8 (d) The executive commissioner shall appoint a review board  
9 of five members, including one psychiatrist licensed to practice  
10 medicine in this state and two persons who work directly with  
11 persons with mental illnesses or persons with intellectual  
12 disabilities [~~mental retardation~~], to determine whether the person  
13 is manifestly dangerous and, as a result of the danger the person  
14 presents, requires continued placement in a maximum security unit.

15 SECTION 2.11. Article 46C.263(d), Code of Criminal  
16 Procedure, is amended to read as follows:

17 (d) The court may order that supervision of the acquitted  
18 person be provided by the appropriate community supervision and  
19 corrections department or the facility administrator of a community  
20 center that provides mental health or intellectual disability  
21 [~~mental retardation~~] services.

22 SECTION 2.12. Article 46C.268(f), Code of Criminal  
23 Procedure, is amended to read as follows:

24 (f) The court shall discharge the acquitted person from all  
25 court-ordered commitment and treatment and supervision and  
26 terminate the court's jurisdiction over the person if the court  
27 finds that the acquitted person has established by a preponderance

1 of the evidence that:

2 (1) the acquitted person does not have a severe mental  
3 illness or a severe intellectual disability [~~mental retardation~~];  
4 or

5 (2) the acquitted person is not likely to cause  
6 serious harm to another because of any severe mental illness or  
7 intellectual disability [~~mental retardation~~].

8 ARTICLE 3. FAMILY CODE PROVISIONS

9 SECTION 3.01. Sections 51.20(a), (b), (c), and (d), Family  
10 Code, are amended to read as follows:

11 (a) At any stage of the proceedings under this title,  
12 including when a child is initially detained in a pre-adjudication  
13 secure detention facility or a post-adjudication secure  
14 correctional facility, the juvenile court may, at its discretion or  
15 at the request of the child's parent or guardian, order a child who  
16 is referred to the juvenile court or who is alleged by a petition or  
17 found to have engaged in delinquent conduct or conduct indicating a  
18 need for supervision to be examined by a disinterested expert,  
19 including a physician, psychiatrist, or psychologist, qualified by  
20 education and clinical training in mental health or intellectual  
21 and developmental disabilities [~~mental retardation~~] and  
22 experienced in forensic evaluation, to determine whether the child  
23 has a mental illness as defined by Section 571.003, Health and  
24 Safety Code, is a person with an intellectual disability [~~mental~~  
25 ~~retardation~~] as defined by Section 591.003, Health and Safety Code,  
26 or suffers from chemical dependency as defined by Section 464.001,  
27 Health and Safety Code. If the examination is to include a



1 determination of the child's fitness to proceed, an expert may be  
2 appointed to conduct the examination only if the expert is  
3 qualified under Subchapter B, Chapter 46B, Code of Criminal  
4 Procedure, to examine a defendant in a criminal case, and the  
5 examination and the report resulting from an examination under this  
6 subsection must comply with the requirements under Subchapter B,  
7 Chapter 46B, Code of Criminal Procedure, for the examination and  
8 resulting report of a defendant in a criminal case.

9 (b) If, after conducting an examination of a child ordered  
10 under Subsection (a) and reviewing any other relevant information,  
11 there is reason to believe that the child has a mental illness or an  
12 intellectual disability [~~mental retardation~~] or suffers from  
13 chemical dependency, the probation department shall refer the child  
14 to the local mental health authority or local intellectual and  
15 developmental disability [~~mental retardation~~] authority or to  
16 another appropriate and legally authorized agency or provider for  
17 evaluation and services, unless the prosecuting attorney has filed  
18 a petition under Section 53.04.

19 (c) If, while a child is under deferred prosecution  
20 supervision or court-ordered probation, a qualified professional  
21 determines that the child has a mental illness or an intellectual  
22 disability [~~mental retardation~~] or suffers from chemical  
23 dependency and the child is not currently receiving treatment  
24 services for the mental illness, intellectual disability [~~mental~~  
25 ~~retardation~~], or chemical dependency, the probation department  
26 shall refer the child to the local mental health authority or local  
27 intellectual and developmental disability [~~mental retardation~~]

1 authority or to another appropriate and legally authorized agency  
2 or provider for evaluation and services.

3 (d) A probation department shall report each referral of a  
4 child to a local mental health authority or local intellectual and  
5 developmental disability [~~mental retardation~~] authority or another  
6 agency or provider made under Subsection (b) or (c) to the Texas  
7 Juvenile Justice Department in a format specified by the  
8 department.

9 SECTION 3.02. Section 54.0408, Family Code, is amended to  
10 read as follows:

11 Sec. 54.0408. REFERRAL OF CHILD EXITING PROBATION TO MENTAL  
12 HEALTH AUTHORITY OR INTELLECTUAL AND DEVELOPMENTAL DISABILITY  
13 [~~MENTAL RETARDATION~~] AUTHORITY. A juvenile probation officer shall  
14 refer a child who has been determined to have a mental illness or an  
15 intellectual disability [~~mental retardation~~] to an appropriate  
16 local mental health authority or local intellectual and  
17 developmental disability [~~mental retardation~~] authority at least  
18 three months before the child is to complete the child's juvenile  
19 probation term unless the child is currently receiving treatment  
20 from the local mental health authority or local intellectual and  
21 developmental disability [~~mental retardation~~] authority of the  
22 county in which the child resides.

23 SECTION 3.03. Section 58.0051(a)(2), Family Code, is  
24 amended to read as follows:

25 (2) "Juvenile service provider" means a governmental  
26 entity that provides juvenile justice or prevention, medical,  
27 educational, or other support services to a juvenile. The term

1 includes:

2 (A) a state or local juvenile justice agency as  
3 defined by Section 58.101;

4 (B) health and human services agencies, as  
5 defined by Section 531.001, Government Code, and the Health and  
6 Human Services Commission;

7 (C) the Department of Family and Protective  
8 Services;

9 (D) the Department of Public Safety;

10 (E) the Texas Education Agency;

11 (F) an independent school district;

12 (G) a juvenile justice alternative education  
13 program;

14 (H) a charter school;

15 (I) a local mental health authority or local  
16 intellectual and developmental disability [~~mental retardation~~]  
17 authority;

18 (J) a court with jurisdiction over juveniles;

19 (K) a district attorney's office;

20 (L) a county attorney's office; and

21 (M) a children's advocacy center established  
22 under Section 264.402.

23 ARTICLE 4. FINANCE CODE PROVISIONS

24 SECTION 4.01. Section 393.624(a), Finance Code, is amended  
25 to read as follows:

26 (a) A credit access business may not advertise on the  
27 premises of a nursing facility, assisted living facility, group

1 home, intermediate care facility for persons with an intellectual  
2 disability [~~mental retardation~~], or other similar facility subject  
3 to regulation by the Health and Human Services Commission  
4 [~~Department of Aging and Disability Services~~].

5 ARTICLE 5. GOVERNMENT CODE PROVISIONS

6 SECTION 5.01. Section 54A.209(a), Government Code, is  
7 amended to read as follows:

8 (a) Except as limited by an order of referral, an associate  
9 judge may:

- 10 (1) conduct a hearing;
- 11 (2) hear evidence;
- 12 (3) compel production of relevant evidence;
- 13 (4) rule on the admissibility of evidence;
- 14 (5) issue a summons for the appearance of witnesses;
- 15 (6) examine a witness;
- 16 (7) swear a witness for a hearing;
- 17 (8) make findings of fact on evidence;
- 18 (9) formulate conclusions of law;
- 19 (10) rule on pretrial motions;
- 20 (11) recommend the rulings, orders, or judgment to be  
21 made in a case;
- 22 (12) regulate all proceedings in a hearing before the  
23 associate judge;
- 24 (13) take action as necessary and proper for the  
25 efficient performance of the duties required by the order of  
26 referral;
- 27 (14) order the attachment of a witness or party who

1 fails to obey a subpoena;

2 (15) order the detention of a witness or party found  
3 guilty of contempt, pending approval by the referring court as  
4 provided by Section 54A.214;

5 (16) without prejudice to the right to a de novo  
6 hearing under Section 54A.216, render and sign:

7 (A) a final order agreed to in writing as to both  
8 form and substance by all parties;

9 (B) a final default order;

10 (C) a temporary order;

11 (D) a final order in a case in which a party files  
12 an unrevoked waiver made in accordance with Rule 119, Texas Rules of  
13 Civil Procedure, that waives notice to the party of the final  
14 hearing or waives the party's appearance at the final hearing;

15 (E) an order specifying that the court clerk  
16 shall issue:

17 (i) letters testamentary or of  
18 administration; or

19 (ii) letters of guardianship; or

20 (F) an order for inpatient or outpatient mental  
21 health, intellectual disability [~~mental retardation~~], or chemical  
22 dependency services or an order authorizing psychoactive  
23 medications; and

24 (17) sign a final order that includes a waiver of the  
25 right to a de novo hearing in accordance with Section 54A.216.

26 SECTION 5.02. Section 76.003(c), Government Code, is  
27 amended to read as follows:

1 (c) The community justice council shall appoint a community  
2 justice task force to provide support staff for the development of a  
3 community justice plan. The task force may consist of any number of  
4 members, but must [~~should~~] include:

5 (1) the county or regional director of the Health and  
6 Human Services Commission, or the division of the commission  
7 performing the functions previously performed by the Texas  
8 Department of Human Services, with responsibility for the area  
9 served by the department;

10 (2) the chief of police of the most populous  
11 municipality served by the department;

12 (3) the chief juvenile probation officer of the  
13 juvenile probation office serving the most populous area served by  
14 the department;

15 (4) the superintendent of the most populous school  
16 district served by the department;

17 (5) the supervisor of the Department of Public Safety  
18 region closest to the department, or the supervisor's designee;

19 (6) the county or regional director of the Health and  
20 Human Services Commission, or the division of the commission  
21 performing the functions previously performed by the Texas  
22 Department of Mental Health and Mental Retardation, with  
23 responsibility for the area served by the department;

24 (7) a substance abuse treatment professional  
25 appointed by the Council of Governments serving the area served by  
26 the department;

27 (8) the department director;

1           (9) the local or regional representative of the parole  
2 division of the Texas Department of Criminal Justice with  
3 responsibility for the area served by the department;

4           (10) the representative of the Texas Workforce  
5 Commission with responsibility for the area served by the  
6 department;

7           (11) the representative of the Health and Human  
8 Services Commission, or the division of the commission performing  
9 the functions previously performed by the Department of Assistive  
10 and Rehabilitative Services, with responsibility for the area  
11 served by the department;

12           (12) a licensed attorney who practices in the area  
13 served by the department and whose practice consists primarily of  
14 criminal law;

15           (13) a court administrator, if one serves the area  
16 served by the department;

17           (14) a representative of a community service  
18 organization that provides adult treatment, educational, or  
19 vocational services to the area served by the department;

20           (15) a representative of an organization in the area  
21 served by the department that is actively involved in issues  
22 relating to defendants' rights, chosen by the county commissioners  
23 and county judges of the counties served by the department; and

24           (16) an advocate for rights of victims of crime and  
25 awareness of issues affecting victims.

26           SECTION 5.03. Section [125.001](#)(a), Government Code, is  
27 amended to read as follows:

1 (a) In this chapter, "mental health court program" means a  
2 program that has the following essential characteristics:

3 (1) the integration of mental illness treatment  
4 services and intellectual disability [~~mental retardation~~] services  
5 in the processing of cases in the judicial system;

6 (2) the use of a nonadversarial approach involving  
7 prosecutors and defense attorneys to promote public safety and to  
8 protect the due process rights of program participants;

9 (3) early identification and prompt placement of  
10 eligible participants in the program;

11 (4) access to mental illness treatment services and  
12 intellectual disability [~~mental retardation~~] services;

13 (5) ongoing judicial interaction with program  
14 participants;

15 (6) diversion of defendants who potentially have a  
16 mental illness [~~mentally ill~~] or an intellectual disability  
17 [~~mentally retarded defendants~~] to needed services as an alternative  
18 to subjecting those defendants to the criminal justice system;

19 (7) monitoring and evaluation of program goals and  
20 effectiveness;

21 (8) continuing interdisciplinary education to promote  
22 effective program planning, implementation, and operations; and

23 (9) development of partnerships with public agencies  
24 and community organizations, including local intellectual and  
25 developmental disability [~~mental retardation~~] authorities.

26 SECTION 5.04. Section [125.002](#), Government Code, is amended  
27 to read as follows:



1           Sec. 125.002. AUTHORITY TO ESTABLISH PROGRAM.       The  
2 commissioners court of a county may establish a mental health court  
3 program for persons who:

4           (1) have been arrested for or charged with a  
5 misdemeanor or felony; and

6           (2) are suspected by a law enforcement agency or a  
7 court of having a mental illness or an intellectual disability  
8 [~~mental retardation~~].

9           SECTION 5.05. Section 403.252, Government Code, is amended  
10 to read as follows:

11          Sec. 403.252. EXCEPTIONS. This subchapter does not apply  
12 to:

13          (1) state agency funds located completely outside the  
14 state treasury;

15          (2) the petty cash accounts maintained by the [~~Texas~~  
16 Department of State Health Services [~~Mental Health and Mental~~  
17 ~~Retardation~~] under Section 533.037(d), Health and Safety Code  
18 [~~2.17(b)(3), Texas Mental Health and Mental Retardation Act~~  
19 [~~Article 5547-202, Vernon's Texas Civil Statutes~~]]; or

20          (3) imprest funds kept by enforcement agencies for the  
21 purchase of evidence or other enforcement purposes.

22          SECTION 5.06. Section 411.052(a), Government Code, is  
23 amended to read as follows:

24          (a) In this section, "federal prohibited person  
25 information" means information that identifies an individual as:

26          (1) a person ordered by a court to receive inpatient  
27 mental health services under Chapter 574, Health and Safety Code;

1           (2) a person acquitted in a criminal case by reason of  
2 insanity or lack of mental responsibility, regardless of whether  
3 the person is ordered by a court to receive inpatient treatment or  
4 residential care under Chapter 46C, Code of Criminal Procedure;

5           (3) a person determined to have an intellectual  
6 disability [~~mental retardation~~] and committed by a court for  
7 long-term placement in a residential care facility under Chapter  
8 593, Health and Safety Code;

9           (4) an incapacitated adult individual for whom a court  
10 has appointed a guardian of the individual under Title 3, Estates  
11 Code, based on the determination that the person lacks the mental  
12 capacity to manage the person's affairs; or

13           (5) a person determined to be incompetent to stand  
14 trial under Chapter 46B, Code of Criminal Procedure.

15           SECTION 5.07. Section 411.0521(a), Government Code, is  
16 amended to read as follows:

17           (a) The clerk of the court shall prepare and forward to the  
18 department the information described by Subsection (b) not later  
19 than the 30th day after the date the court:

20           (1) orders a person to receive inpatient mental health  
21 services under Chapter 574, Health and Safety Code;

22           (2) acquits a person in a criminal case by reason of  
23 insanity or lack of mental responsibility, regardless of whether  
24 the person is ordered to receive inpatient treatment or residential  
25 care under Chapter 46C, Code of Criminal Procedure;

26           (3) commits a person determined to have an  
27 intellectual disability [~~mental retardation~~] for long-term

1 placement in a residential care facility under Chapter 593, Health  
2 and Safety Code;

3 (4) appoints a guardian of the incapacitated adult  
4 individual under Title 3, Estates Code, based on the determination  
5 that the person lacks the mental capacity to manage the person's  
6 affairs;

7 (5) determines a person is incompetent to stand trial  
8 under Chapter 46B, Code of Criminal Procedure; or

9 (6) finds a person is entitled to relief from  
10 disabilities under Section 574.088, Health and Safety Code.

11 SECTION 5.08. Sections 411.126(a)(2) and (3), Government  
12 Code, are amended to read as follows:

13 (2) "Volunteer" or "volunteer applicant" means a  
14 person who will perform one or more of the following services  
15 without remuneration:

16 (A) any service performed in a residence;

17 (B) any service that requires the access to or  
18 the handling of money or confidential or privileged information; or

19 (C) any service that involves the care of or  
20 access to:

21 (i) a child;

22 (ii) an elderly person; or

23 (iii) a person who is mentally incompetent,  
24 ~~[mentally retarded,~~ physically disabled, ill, or incapacitated,  
25 or who has an intellectual disability.

26 (3) "Employee" or "employee applicant" means a person  
27 who will perform one or more of the following services or functions

1 for remuneration:

2 (A) any service performed in a residence;

3 (B) any service that requires the access to or  
4 the handling of money or confidential or privileged information; or

5 (C) any service that involves the care of or  
6 access to:

7 (i) a child;

8 (ii) an elderly person; or

9 (iii) a person who is mentally incompetent,  
10 ~~mentally retarded,~~ physically disabled, ill, or incapacitated,  
11 or who has an intellectual disability;

12 (D) coordination or referral of volunteers; or

13 (E) executive administrative responsibilities.

14 SECTION 5.09. Section [495.023\(a\)](#), Government Code, is  
15 amended to read as follows:

16 (a) The institutional division shall request proposals and  
17 may award one contract to a private vendor or community supervision  
18 and corrections department to screen and diagnose, either before or  
19 after adjudications of guilt, persons who may be transferred to the  
20 division. The term of the contract may not be for more than two  
21 years. The institutional division shall award the contract if the  
22 division determines that:

23 (1) the person proposing to enter into the contract  
24 can provide psychiatric, psychological, or social evaluations of  
25 persons who are to be transferred to the division;

26 (2) the services provided will reduce the chances of  
27 misdiagnosis of ~~mentally ill and mentally retarded~~ persons with

1 mental illness or persons with intellectual disabilities who are to  
2 be transferred to the division, expedite the diagnostic process,  
3 and offer savings to the division;

4 (3) the quality of services offered equals or exceeds  
5 the quality of the same services provided by the division; and

6 (4) the state will assume no additional liability by  
7 entering into a contract for the services.

8 SECTION 5.10. Section 499.102(a), Government Code, is  
9 amended to read as follows:

10 (a) The staff of the institutional division, on its own  
11 initiative or as directed by the governor or the board, may  
12 recommend to the administration of the institutional division that  
13 the maximum capacity established under Section 499.101 for a unit  
14 be increased if the staff determines through written findings that  
15 the division can increase the maximum capacity and provide:

16 (1) proper inmate classification and housing within  
17 the unit that is consistent with the classification system;

18 (2) housing flexibility to allow necessary repairs and  
19 routine and preventive maintenance to be performed without  
20 compromising the classification system;

21 (3) adequate space in dayrooms;

22 (4) all meals within a reasonable time, allowing each  
23 inmate a reasonable time within which to eat;

24 (5) operable hygiene facilities that ensure the  
25 availability of a sufficient number of fixtures to serve the inmate  
26 population;

27 (6) adequate laundry services;

- 1           (7) sufficient staff to:
- 2                 (A) meet operational and security needs;
- 3                 (B) meet health care needs, including the needs
- 4 of inmates requiring psychiatric care, [~~mentally retarded~~] inmates
- 5 with an intellectual disability, and inmates with a physical
- 6 disability [~~physically handicapped inmates~~];
- 7                 (C) provide a safe environment for inmates and
- 8 staff; and
- 9                 (D) provide adequate internal affairs
- 10 investigation and review;
- 11           (8) medical, dental, and psychiatric care adequate to
- 12 ensure:
- 13                 (A) minimal delays in delivery of service from
- 14 the time sick call requests are made until the service is performed;
- 15                 (B) access to regional medical facilities;
- 16                 (C) access to the institutional division
- 17 hospital at Galveston or contract facilities performing the same
- 18 services;
- 19                 (D) access to specialty clinics; and
- 20                 (E) a sufficient number of psychiatric inpatient
- 21 beds and sheltered beds for [~~mentally retarded~~] inmates with an
- 22 intellectual disability;
- 23           (9) a fair disciplinary system that ensures due
- 24 process and is adequate to ensure safety and order in the unit;
- 25           (10) work, vocational, academic, and on-the-job
- 26 training programs that afford all eligible inmates with an
- 27 opportunity to learn job skills or work habits that can be applied

1 on release, appropriately staffed and of sufficient quality;

2 (11) a sufficient number and quality of  
3 nonprogrammatic and recreational activities for all eligible  
4 inmates who choose to participate;

5 (12) adequate assistance from persons trained in the  
6 law or a law library with a collection containing necessary  
7 materials and space adequate for inmates to use the law library for  
8 study related to legal matters;

9 (13) adequate space and staffing to permit contact and  
10 noncontact visitation of all eligible inmates;

11 (14) adequate maintenance programs to repair and  
12 prevent breakdowns caused by increased use of facilities and  
13 fixtures; and

14 (15) space and staff sufficient to provide all the  
15 services and facilities required by this section.

16 SECTION 5.11. Section 501.006(a), Government Code, is  
17 amended to read as follows:

18 (a) The institutional division may grant an emergency  
19 absence under escort to an inmate so that the inmate may:

20 (1) obtain a medical diagnosis or medical treatment;

21 (2) obtain treatment and supervision at a [~~Texas~~  
22 ~~Department of Mental Health and Mental Retardation~~] facility  
23 operated by the Health and Human Services Commission; or

24 (3) attend a funeral or visit a critically ill  
25 relative.

26 SECTION 5.12. Section 501.056, Government Code, is amended  
27 to read as follows:

1           Sec. 501.056. CONTRACT FOR CARE OF [~~MENTALLY ILL AND~~  
2 ~~MENTALLY RETARDED~~] INMATES WITH MENTAL ILLNESS OR INTELLECTUAL  
3 DISABILITY. The department shall contract with the Health and  
4 Human Services Commission [~~Texas Department of Mental Health and~~  
5 ~~Mental Retardation~~] for provision of commission [~~Texas Department~~  
6 ~~of Mental Health and Mental Retardation~~] facilities, treatment, and  
7 habilitation for [~~mentally ill and mentally retarded~~] inmates with  
8 mental illness or an intellectual disability in the custody of the  
9 department. The contract must provide:

10                   (1) detailed characteristics of the [~~mentally ill~~]  
11 inmate population with mental illness and the [~~mentally retarded~~]  
12 inmate population with intellectual disabilities to be affected  
13 under the contract;

14                   (2) for the respective responsibilities of the  
15 commission [~~Texas Department of Mental Health and Mental~~  
16 ~~Retardation~~] and the department with regard to the care and  
17 supervision of the affected inmates; and

18                   (3) that the department remains responsible for  
19 security.

20           SECTION 5.13. Section 501.058, Government Code, is amended  
21 to read as follows:

22           Sec. 501.058. COMPENSATION OF PSYCHIATRISTS. The amount of  
23 compensation paid by the institutional division to psychiatrists  
24 employed by the division should be similar to the amount of  
25 compensation authorized for the Health and Human Services  
26 Commission [~~Texas Department of Mental Health and Mental~~  
27 ~~Retardation~~] to pay to psychiatrists [~~employed by the Texas~~



1 ~~Department of Mental Health and Mental Retardation~~].

2 SECTION 5.14. Sections 501.093(a) and (c), Government Code,  
3 are amended to read as follows:

4 (a) The department and~~[~~ the Health and Human Services  
5 Commission [~~Texas Department of Mental Health and Mental~~  
6 ~~Retardation, and the Texas Commission on Alcohol and Drug Abuse~~]  
7 shall by rule adopt a memorandum of understanding that establishes  
8 their respective responsibilities to establish a continuity of care  
9 program for inmates with a history of drug or alcohol abuse.

10 (c) The memorandum of understanding must establish methods  
11 for:

12 (1) identifying inmates with a history of drug or  
13 alcohol abuse;

14 (2) notifying the pardons and paroles division and the  
15 Health and Human Services Commission~~[, the Texas Department of~~  
16 ~~Mental Health and Mental Retardation, and the commission]~~ as to  
17 when an inmate with a history of drug or alcohol abuse is to be  
18 released and as to the inmate's release destination;

19 (3) identifying the services needed by inmates with a  
20 history of drug or alcohol abuse to reenter the community  
21 successfully; and

22 (4) determining the manner in which each agency that  
23 participates in the establishment of the memorandum can share  
24 information about inmates and use that information to provide  
25 continuity of care.

26 SECTION 5.15. Section 501.113(b), Government Code, is  
27 amended to read as follows:

1 (b) The institutional division shall house the following  
2 classes of inmates in single occupancy cells:

3 (1) inmates confined in death row segregation;

4 (2) inmates confined in administrative segregation;

5 (3) inmates assessed as having intellectual  
6 disabilities [~~mentally retarded~~] and whose habilitation plans  
7 recommend housing in a single occupancy cell;

8 (4) inmates with a diagnosed psychiatric illness being  
9 treated on an inpatient or outpatient basis whose individual  
10 treatment plans recommend housing in single occupancy cells; and

11 (5) inmates whose medical treatment plans recommend  
12 housing in a single occupancy cell.

13 SECTION 5.16. Section 507.031(a), Government Code, is  
14 amended to read as follows:

15 (a) The director of a state jail felony facility may grant a  
16 furlough to a defendant so that the defendant may:

17 (1) obtain a medical diagnosis or medical treatment;

18 (2) obtain treatment and supervision at a [~~Texas~~  
19 ~~Department of Mental Health and Mental Retardation~~] facility  
20 operated by the Health and Human Services Commission;

21 (3) attend a funeral or visit a critically ill  
22 relative; or

23 (4) participate in a programmatic activity sanctioned  
24 by the state jail division.

25 SECTION 5.17. Section 508.223, Government Code, is amended  
26 to read as follows:

27 Sec. 508.223. PSYCHOLOGICAL COUNSELING. A parole panel may

1 require as a condition of parole or mandatory supervision that a  
2 releasee serving a sentence for an offense under Section 42.072,  
3 Penal Code, attend psychological counseling sessions of a type and  
4 for a duration as specified by the parole panel, if the parole panel  
5 determines in consultation with a local mental health services  
6 provider that appropriate mental health services are available  
7 through the ~~[Texas]~~ Department of State Health Services ~~[Mental~~  
8 ~~Health and Mental Retardation]~~ in accordance with Section 534.053,  
9 Health and Safety Code, or through another mental health services  
10 provider.

11 SECTION 5.18. Section 508.316(a), Government Code, is  
12 amended to read as follows:

13 (a) The department may contract for services for releasees  
14 if funds are appropriated to the department for the services,  
15 including services for releasees who have a history of:

16 (1) mental impairment or intellectual disability  
17 ~~[mental retardation]~~;

18 (2) substance abuse; or

19 (3) sexual offenses.

20 SECTION 5.19. Section 659.015(j), Government Code, is  
21 amended to read as follows:

22 (j) With authorization from the administrative head of the  
23 agency for which an employee works, or that person's designee, an  
24 employee employed by a state mental health facility or an  
25 intellectual disability ~~[mental retardation]~~ facility may be paid  
26 for any unused compensatory time if the employing agency determines  
27 that taking the compensatory time off would disrupt the normal

1 business functions of the agency.

2 SECTION 5.20. Section 659.016(j), Government Code, is  
3 amended to read as follows:

4 (j) With authorization from the administrative head of the  
5 agency for which an employee works, or that person's designee, an  
6 employee employed by a state mental health facility or an  
7 intellectual disability [~~mental retardation~~] facility may be paid  
8 for any unused compensatory time if the employing agency determines  
9 that taking the compensatory time off would disrupt the normal  
10 business functions of the agency.

11 SECTION 5.21. The heading to Chapter 1401, Government Code,  
12 is amended to read as follows:

13 CHAPTER 1401. BONDS FOR CERTAIN CRIMINAL JUSTICE, ~~[OR]~~ MENTAL  
14 HEALTH, OR INTELLECTUAL DISABILITY [~~AND MENTAL RETARDATION~~]  
15 FACILITIES

16 SECTION 5.22. Sections 1401.041(b) and (c), Government  
17 Code, are amended to read as follows:

18 (b) As provided by Section 49-h(c), Article III, Texas  
19 Constitution, as that section existed September 1, 1999, the  
20 authority may:

21 (1) issue general obligation bonds in an amount not to  
22 exceed \$400 million; and

23 (2) distribute the bond proceeds to any appropriate  
24 agency to:

25 (A) acquire, construct, or equip a new facility;

26 or

27 (B) make a major repair of or renovate a

1 facility, corrections institution, youth corrections institution,  
2 [~~or~~] mental health institution, or intellectual disability [~~and~~  
3 ~~mental retardation~~] institution.

4 (c) As provided by Section 49-h(d), Article III, Texas  
5 Constitution, as that section existed September 1, 1999, the  
6 authority may:

7 (1) issue general obligation bonds in an amount not to  
8 exceed \$1.055 billion and distribute the bond proceeds to any  
9 appropriate agency to:

10 (A) acquire, construct, or equip a:

11 (i) new prison or substance abuse felony  
12 punishment facility to confine criminals; or

13 (ii) youth corrections institution;

14 (B) make a major repair of or renovate a prison  
15 facility or youth corrections institution; or

16 (C) acquire, make a major repair of, or renovate  
17 a facility for use as a state prison, a substance abuse felony  
18 punishment facility, or a facility in which a pilot program  
19 established as provided by Section 614.011, Health and Safety Code,  
20 is conducted;

21 (2) issue general obligation bonds in an amount not to  
22 exceed \$45 million and distribute the bond proceeds to any  
23 appropriate agency to:

24 (A) acquire, construct, or equip a new mental  
25 health facility or intellectual disability [~~mental retardation~~]  
26 facility, including a community-based mental health facility or  
27 community-based intellectual disability [~~mental retardation~~]

1 facility; or

2 (B) make a major repair of or renovate a mental  
3 health facility or intellectual disability [~~mental retardation~~]  
4 facility; and

5 (3) issue general obligation bonds in an amount not to  
6 exceed \$50 million and distribute the bond proceeds to any  
7 appropriate agency to:

8 (A) acquire, construct, or equip a new youth  
9 corrections facility; or

10 (B) make a major repair of or renovate a youth  
11 corrections facility.

12 SECTION 5.23. Section [1401.061\(a\)](#), Government Code, is  
13 amended to read as follows:

14 (a) The authority may:

15 (1) issue revenue bonds; and

16 (2) distribute the bond proceeds to any appropriate  
17 agency to:

18 (A) acquire, construct, or equip a new facility;

19 or

20 (B) make a major repair of or renovate a:

21 (i) facility;

22 (ii) corrections institution, including a  
23 facility authorized by Section [495.001\(a\)](#) or [495.021\(a\)](#);

24 (iii) criminal justice facility for the  
25 Texas Department of Criminal Justice;

26 (iv) youth corrections institution; or

27 (v) mental health institution or

1 intellectual disability [~~and mental retardation~~] institution.

2 SECTION 5.24. Section 2052.003(b), Government Code, is  
3 amended to read as follows:

4 (b) In this section, "individual with a disability" means an  
5 individual who has:

6 (1) a mental disability or impairment, including an  
7 intellectual disability [~~mental retardation~~]; or

8 (2) a physical disability or impairment, including:

9 (A) an impairment of hearing, speech, or vision;

10 (B) blindness;

11 (C) deafness; or

12 (D) a crippling condition that requires special  
13 ambulatory devices or services.

14 SECTION 5.25. Section 2155.202, Government Code, is amended  
15 to read as follows:

16 Sec. 2155.202. [~~MENTAL HEALTH AND MENTAL RETARDATION~~]

17 COMMUNITY CENTERS; ASSISTANCE ORGANIZATIONS; CHILD-CARE PROVIDERS.

18 The following entities may purchase goods and services through the  
19 comptroller:

20 (1) a community center for mental health services or  
21 intellectual disability [~~and mental retardation~~] services that  
22 receives state grants-in-aid under Subchapter B, Chapter 534,  
23 Health and Safety Code;

24 (2) an assistance organization as defined by Section  
25 2175.001 that receives state funds; and

26 (3) a child-care provider that meets Texas Rising Star  
27 Program certification criteria.

1 SECTION 5.26. The heading to Section 2155.441, Government  
2 Code, is amended to read as follows:

3 Sec. 2155.441. PREFERENCE FOR PRODUCTS OF PERSONS WITH  
4 INTELLECTUAL [~~MENTAL RETARDATION~~] OR PHYSICAL DISABILITIES.

5 SECTION 5.27. Section 2155.441(a), Government Code, is  
6 amended to read as follows:

7 (a) The products of workshops, organizations, or  
8 corporations whose primary purpose is training and employing  
9 individuals having an intellectual disability [~~mental retardation~~]  
10 or a physical disability shall be given preference if they meet  
11 state specifications regarding quantity, quality, delivery, life  
12 cycle costs, and price.

13 SECTION 5.28. Section 2167.001(b), Government Code, is  
14 amended to read as follows:

15 (b) This chapter does not apply to:

- 16 (1) radio antenna space;
- 17 (2) residential space for a [~~Texas~~] Department of  
18 State Health Services or Health and Human Services Commission  
19 [~~Mental Health and Mental Retardation~~] program;
- 20 (3) residential space for a Texas Juvenile Justice  
21 Department program;
- 22 (4) space to be used for less than one month for  
23 meetings, conferences, conventions, seminars, displays,  
24 examinations, auctions, or similar purposes;
- 25 (5) district office space for members of the  
26 legislature;
- 27 (6) space used by the Texas Workforce Commission;



1           (7) residential property acquired by the Texas  
2 Department of Housing and Community Affairs or the Texas State  
3 Affordable Housing Corporation that is offered for sale or rental  
4 to individuals and families of low or very low income or families of  
5 moderate income;

6           (8) except as provided by Section 2167.007, space for  
7 a university system or institution of higher education;

8           (9) space leased by the Texas Veterans Commission to  
9 administer the veterans employment services program; or

10          (10) space for the Texas Department of Motor Vehicles.

11          SECTION 5.29. Section 2171.055(k), Government Code, is  
12 amended to read as follows:

13          (k) An officer or employee of a qualified cooperative entity  
14 who is engaged in official business of the qualified cooperative  
15 entity may participate in the comptroller's contracts for travel  
16 services. The comptroller shall adopt rules and make or amend  
17 contracts as necessary to administer this subsection. For purposes  
18 of this subsection, a "qualified cooperative entity" includes:

19           (1) a local government, as defined by Section 271.081,  
20 Local Government Code;

21           (2) a community center for mental health services or  
22 intellectual disability [~~and mental retardation~~] services  
23 described by Section 2155.202(1);

24           (3) an assistance organization, as defined by Section  
25 2175.001, that receives any state funds; and

26           (4) a political subdivision, as defined by Section  
27 791.003.

1 SECTION 5.30. Section 2171.104(b), Government Code, is  
2 amended to read as follows:

3 (b) The Texas Department of Transportation, Department of  
4 Public Safety of the State of Texas, [~~Texas Department of Mental~~  
5 ~~Health and Mental Retardation,~~] Parks and Wildlife Department, and  
6 Texas Department of Criminal Justice shall assist the office of  
7 vehicle fleet management in preparing the management plan for the  
8 state's vehicle fleet.

9 ARTICLE 6. HEALTH AND SAFETY CODE PROVISIONS

10 SECTION 6.01. Sections 33.001(1-b), (2), and (4), Health  
11 and Safety Code, are amended to read as follows:

12 (1-b) "Heritable disease" means an inherited disease  
13 that may result in a [~~mental-or~~] physical or intellectual  
14 disability [~~retardation~~] or death.

15 (2) "Hypothyroidism" means a condition that may cause  
16 a severe intellectual disability [~~mental-retardation~~] if not  
17 treated.

18 (4) "Phenylketonuria" means an inherited condition  
19 that may cause a severe intellectual disability [~~mental-~~  
20 ~~retardation~~] if not treated.

21 SECTION 6.02. Section 33.002(a), Health and Safety Code, is  
22 amended to read as follows:

23 (a) The department shall carry out a program to combat  
24 morbidity, including intellectual disability [~~mental-retardation~~],  
25 and mortality in persons who have phenylketonuria, other heritable  
26 diseases, or hypothyroidism.

27 SECTION 6.03. Section 281.094(a), Health and Safety Code,

1 is amended to read as follows:

2 (a) With the approval of the Nueces County Commissioners  
3 Court, the board of the Nueces County Hospital District may use  
4 funds made available to the district from sources other than a tax  
5 levy to fund health care services, including public health  
6 services, mental health services, intellectual disability [~~and~~  
7 ~~mental retardation~~] services, emergency medical services, health  
8 services provided to persons confined in jail facilities, and for  
9 other health related purposes.

10 SECTION 6.04. Section 431.4031(b), Health and Safety Code,  
11 is amended to read as follows:

12 (b) A state agency or a political subdivision of this state  
13 that distributes prescription drugs using federal or state funding  
14 to nonprofit health care facilities, [or] local mental health  
15 authorities, or local intellectual and developmental disability  
16 [~~mental retardation~~] authorities for distribution to a pharmacy,  
17 practitioner, or patient is exempt from Sections 431.405(b),  
18 431.407, 431.412, and 431.413.

19 SECTION 6.05. The heading to Section 531.0021, Health and  
20 Safety Code, is amended to read as follows:

21 Sec. 531.0021. REFERENCE TO STATE SCHOOL OR [~~7~~]  
22 SUPERINTENDENT [~~7 OR LOCAL MENTAL RETARDATION AUTHORITY~~].

23 SECTION 6.06. The heading to Subtitle E, Title 7, Health and  
24 Safety Code, is amended to read as follows:

25 SUBTITLE E. SPECIAL PROVISIONS RELATING TO MENTAL ILLNESS AND  
26 INTELLECTUAL DISABILITY [~~MENTAL RETARDATION~~]

27 SECTION 6.07. The heading to Chapter 613, Health and Safety

1 Code, is amended to read as follows:

2 CHAPTER 613. KIDNEY DONATION BY WARD WITH INTELLECTUAL DISABILITY  
3 ~~[MENTAL RETARDATION]~~

4 SECTION 6.08. Section 613.001, Health and Safety Code, is  
5 amended to read as follows:

6 Sec. 613.001. DEFINITION. In this chapter, "ward with an  
7 intellectual disability ~~[mental retardation]~~" means a ward who is a  
8 person with an intellectual disability ~~[mental retardation]~~, as  
9 defined by Subtitle D.

10 SECTION 6.09. Section 613.002, Health and Safety Code, is  
11 amended to read as follows:

12 Sec. 613.002. COURT ORDER AUTHORIZING KIDNEY DONATION. A  
13 district court may authorize the donation of a kidney of a ward with  
14 an intellectual disability ~~[mental retardation]~~ to a father,  
15 mother, son, daughter, brother, or sister of the ward if:

16 (1) the guardian of the ward with an intellectual  
17 disability ~~[mental retardation]~~ consents to the donation;

18 (2) the ward is 12 years of age or older;

19 (3) the ward assents to the kidney transplant;

20 (4) the ward has two kidneys;

21 (5) without the transplant the donee will soon die or  
22 suffer severe and progressive deterioration, and with the  
23 transplant the donee will probably benefit substantially;

24 (6) there are no medically preferable alternatives to  
25 a kidney transplant for the donee;

26 (7) the risks of the operation and the long-term risks  
27 to the ward are minimal;

1           (8) the ward will not likely suffer psychological  
2 harm; and

3           (9) the transplant will promote the ward's best  
4 interests.

5           SECTION 6.10. Section 613.003, Health and Safety Code, is  
6 amended to read as follows:

7           Sec. 613.003. PETITION FOR COURT ORDER. The guardian of the  
8 person of a ward with an intellectual disability [~~mental~~  
9 ~~retardation~~] may petition a district court having jurisdiction of  
10 the guardian for an order authorizing the ward to donate a kidney  
11 under Section 613.002.

12           SECTION 6.11. Section 613.004(c), Health and Safety Code,  
13 is amended to read as follows:

14           (c) The court shall appoint an attorney ad litem and a  
15 guardian ad litem to represent the interest of the ward with an  
16 intellectual disability [~~mental~~ ~~retardation~~]. Neither person  
17 appointed may be related to the ward within the second degree by  
18 consanguinity.

19           SECTION 6.12. Section 613.005, Health and Safety Code, is  
20 amended to read as follows:

21           Sec. 613.005. INTERVIEW AND EVALUATION ORDER BY COURT. (a)  
22 Before the eighth day after the date of the hearing, the court shall  
23 interview the ward with an intellectual disability [~~mental~~  
24 ~~retardation~~] to determine if the ward assents to the donation. The  
25 interview shall be conducted in chambers and out of the presence of  
26 the guardian.

27           (b) If the court considers it necessary, the court may order

1 the performance of a determination of intellectual disability  
2 [~~mental retardation~~], as provided by Section 593.005, to help the  
3 court evaluate the ward's capacity to agree to the donation.

4 ARTICLE 7. HUMAN RESOURCES CODE PROVISIONS

5 SECTION 7.01. Section 221.056(a), Human Resources Code, is  
6 amended to read as follows:

7 (a) The department may contract with a local mental health  
8 authority and local intellectual and developmental disability [~~and~~  
9 ~~mental retardation~~] authority for the establishment of a  
10 residential treatment facility for juveniles with mental illness or  
11 emotional injury who, as a condition of juvenile probation, are  
12 ordered by a court to reside at the facility and receive education  
13 services at the facility. The department may work in cooperation  
14 with the local mental health authority and local intellectual and  
15 developmental disability [~~and mental retardation~~] authority to  
16 provide mental health residential treatment services for juveniles  
17 residing at a facility established under this section.

18 SECTION 7.02. The heading to Section 244.011, Human  
19 Resources Code, is amended to read as follows:

20 Sec. 244.011. CHILDREN WITH MENTAL ILLNESS OR INTELLECTUAL  
21 DISABILITY [~~MENTAL RETARDATION~~].

22 SECTION 7.03. Sections 244.011(a), (b), (e), (f), and (g),  
23 Human Resources Code, are amended to read as follows:

24 (a) The department shall accept a child committed to the  
25 department who is a person with a mental illness or a person with an  
26 intellectual disability [~~mentally ill or mentally retarded~~].

27 (b) Unless a child is committed to the department under a

1 determinate sentence under Section 54.04(d)(3), 54.04(m), or  
2 54.05(f), Family Code, the department shall discharge a child who  
3 is a person with a mental illness or a person with an intellectual  
4 disability [~~mentally ill or mentally retarded~~] from its custody if:

5 (1) the child has completed the minimum length of stay  
6 for the child's committing offense; and

7 (2) the department determines that the child is unable  
8 to progress in the department's rehabilitation programs because of  
9 the child's mental illness or intellectual disability [~~mental~~  
10 ~~retardation~~].

11 (e) If a child who is discharged from the department under  
12 Subsection (b) as a result of an intellectual disability [~~mental~~  
13 ~~retardation~~] is not receiving intellectual disability [~~mental~~  
14 ~~retardation~~] services, the child's discharge is effective on the  
15 earlier of:

16 (1) the date the court enters an order regarding an  
17 application for intellectual disability [~~mental—retardation~~]  
18 services filed under Section 244.012(b); or

19 (2) the 30th day after the date that the application is  
20 filed.

21 (f) If a child who is discharged from the department under  
22 Subsection (b) as a result of an intellectual disability [~~mental~~  
23 ~~retardation~~] is receiving intellectual disability [~~mental~~  
24 ~~retardation~~] services, the child's discharge from the department is  
25 effective immediately.

26 (g) If a child who is a person with a mental illness or a  
27 person with an intellectual disability [~~mentally ill or mentally~~

1 ~~retarded~~] is discharged from the department under Subsection (b),  
2 the child is eligible to receive continuity of care services from  
3 the Texas Correctional Office on Offenders with Medical or Mental  
4 Impairments under Chapter 614, Health and Safety Code.

5 SECTION 7.04. Sections 244.012(a) and (c), Human Resources  
6 Code, are amended to read as follows:

7 (a) The department shall establish a system that identifies  
8 children in the department's custody who have a mental illness or an  
9 intellectual disability [~~are mentally ill or mentally retarded~~].

10 (c) Before a child who is identified as a person with an  
11 intellectual disability [~~mentally retarded~~] under Chapter 593,  
12 Health and Safety Code, is discharged from the department's custody  
13 under Section 244.011(b), the department shall refer the child for  
14 intellectual disability [~~mental retardation~~] services if the child  
15 is not receiving those [~~mental retardation~~] services.

16 ARTICLE 8. INSURANCE CODE PROVISIONS

17 SECTION 8.01. Sections 843.002(18) and (21), Insurance  
18 Code, are amended to read as follows:

19 (18) "Limited health care services" means:

20 (A) services for mental health, chemical  
21 dependency, or intellectual disability [~~mental retardation~~], or  
22 any combination of those services; or

23 (B) an organized long-term care service delivery  
24 system that provides for diagnostic, preventive, therapeutic,  
25 rehabilitative, and personal care services required by an  
26 individual with a loss in functional capacity on a long-term basis.

27 (21) "Person" means any natural or artificial person,



1 including an individual, partnership, association, corporation,  
2 organization, trust, hospital district, community mental health  
3 center, intellectual disability [~~mental retardation~~] center,  
4 mental health [~~and mental retardation~~] center, limited liability  
5 company, or limited liability partnership or the statewide rural  
6 health care system under Chapter 845.

7 SECTION 8.02. Section 1201.059(a), Insurance Code, is  
8 amended to read as follows:

9 (a) An accident and health insurance policy, including an  
10 individual, blanket, or group policy, and including a policy issued  
11 by a corporation operating under Chapter 842, that provides that  
12 coverage of a child terminates when the child attains a limiting age  
13 specified in the policy must provide in substance that the child's  
14 attainment of that age does not terminate coverage while the child  
15 is:

16 (1) incapable of self-sustaining employment because  
17 of an intellectual [~~mental retardation~~] or physical disability; and

18 (2) chiefly dependent on the insured or group member  
19 for support and maintenance.

20 SECTION 8.03. Section 1305.004(a)(18), Insurance Code, is  
21 amended to read as follows:

22 (18) "Person" means any natural or artificial person,  
23 including an individual, partnership, association, corporation,  
24 organization, trust, hospital district, community mental health  
25 center, intellectual disability [~~mental retardation~~] center,  
26 mental health [~~and mental retardation~~] center, limited liability  
27 company, or limited liability partnership.

1 SECTION 8.04. Section 1355.056(c), Insurance Code, is  
2 amended to read as follows:

3 (c) Treatment provided to an individual by a crisis  
4 stabilization unit licensed or certified by the Health and Human  
5 Services Commission [~~Texas Department of Mental Health and Mental~~  
6 ~~Retardation~~] shall be reimbursed.

7 SECTION 8.05. Section 1355.058, Insurance Code, is amended  
8 to read as follows:

9 Sec. 1355.058. HEALTH AND HUMAN SERVICES COMMISSION  
10 ASSISTANCE [~~OF THE TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL~~  
11 ~~RETARDATION~~]. (a) The Health and Human Services Commission [~~Texas~~  
12 ~~Department of Mental Health and Mental Retardation~~] shall assist  
13 the department in carrying out the department's responsibilities  
14 under this subchapter.

15 (b) The department and the Health and Human Services  
16 Commission [~~Texas Department of Mental Health and Mental~~  
17 ~~Retardation~~] by rule may adopt a memorandum of understanding to  
18 carry out this subchapter.

19 SECTION 8.06. Section 1355.202, Insurance Code, is amended  
20 to read as follows:

21 Sec. 1355.202. PROHIBITION OF EXCLUSION OF MENTAL HEALTH OR  
22 INTELLECTUAL DISABILITY [~~MENTAL RETARDATION~~] BENEFITS FOR  
23 TREATMENT BY TAX-SUPPORTED INSTITUTION. (a) An individual or  
24 group accident and health insurance policy delivered or issued for  
25 delivery to a person in this state that provides coverage for mental  
26 illness or intellectual disability [~~mental retardation~~] may not  
27 exclude benefits under that coverage for support, maintenance, and

1 treatment provided by a tax-supported institution of this state, or  
2 by a community center for mental health services or intellectual  
3 disability [~~mental-retardation~~] services, that regularly and  
4 customarily charges patients who are not indigent for those  
5 services.

6 (b) In determining whether a patient is not indigent, as  
7 provided by Subchapter B, Chapter 552, Health and Safety Code, a  
8 tax-supported institution of this state or a community center for  
9 mental health services or intellectual disability [~~mental-~~  
10 ~~retardation~~] services shall consider any insurance policy or  
11 policies that provide coverage to the patient for mental illness or  
12 intellectual disability [~~mental-retardation~~].

13 SECTION 8.07. Section 1359.001, Insurance Code, is amended  
14 to read as follows:

15 Sec. 1359.001. DEFINITIONS. In this chapter:

16 (1) "Heritable disease" means an inherited disease  
17 that may result in a [~~mental-or~~] physical or intellectual  
18 disability [~~retardation~~] or death.

19 (2) "Phenylketonuria" means an inherited condition  
20 that, if not treated, may cause a severe intellectual disability  
21 [~~mental-retardation~~].

22 SECTION 8.08. Section 1601.004(a), Insurance Code, is  
23 amended to read as follows:

24 (a) In this chapter, "dependent," with respect to an  
25 individual eligible to participate in the uniform program under  
26 Section 1601.101 or 1601.102, means the individual's:

27 (1) spouse;

1 (2) unmarried child younger than 25 years of age; and

2 (3) child of any age who lives with or has the child's  
3 care provided by the individual on a regular basis if the child is a  
4 person with an intellectual disability [~~is mentally retarded~~] or is  
5 physically incapacitated to the extent that the child is dependent  
6 on the individual for care or support, as determined by the system.

7 ARTICLE 9. LABOR CODE PROVISIONS

8 SECTION 9.01. The heading to Section 62.057, Labor Code, is  
9 amended to read as follows:

10 Sec. 62.057. PATIENTS AND CLIENTS OF [~~TEXAS~~] DEPARTMENT OF  
11 STATE [~~MENTAL~~] HEALTH SERVICES [~~AND MENTAL RETARDATION~~].

12 SECTION 9.02. Section 62.057(a), Labor Code, is amended to  
13 read as follows:

14 (a) A person may be compensated for services rendered to the  
15 [~~Texas~~] Department of State [~~Mental~~] Health Services [~~and Mental~~  
16 ~~Retardation~~] or a department facility at a percentage of the base  
17 wage adopted under this section if:

18 (1) the person is a patient or client of a department  
19 facility;

20 (2) the person's productive capacity is impaired;

21 (3) the person:

22 (A) assists in the operation of the facility as  
23 part of the person's therapy; or

24 (B) receives occupational training in a  
25 sheltered workshop or other program operated by the department; and

26 (4) the facility or department derives an economic  
27 benefit from the person's services.

1 SECTION 9.03. Section 406.098(b)(4), Labor Code, is amended  
2 to read as follows:

3 (4) "Political subdivision" means a county,  
4 municipality, special district, school district, junior college  
5 district, housing authority, community center [~~for mental health~~  
6 ~~and mental retardation services~~] established under Subchapter A,  
7 Chapter 534, Health and Safety Code, or any other legally  
8 constituted political subdivision of the state.

9 SECTION 9.04. Section 504.001(3), Labor Code, is amended to  
10 read as follows:

11 (3) "Political subdivision" means a county,  
12 municipality, special district, school district, junior college  
13 district, housing authority, community center [~~for mental health~~  
14 ~~and mental retardation services~~] established under Subchapter A,  
15 Chapter 534, Health and Safety Code, or any other legally  
16 constituted political subdivision of the state.

17 ARTICLE 10. LOCAL GOVERNMENT CODE PROVISIONS

18 SECTION 10.01. Section 244.006, Local Government Code, is  
19 amended to read as follows:

20 Sec. 244.006. EXEMPTIONS. This subchapter does not apply  
21 to the operation of a correctional or rehabilitation facility at a  
22 location subject to this subchapter if:

23 (1) on September 1, 1997, the correctional or  
24 rehabilitation facility was in operation, under construction,  
25 under contract for operation or construction, or planned for  
26 construction at the location on land owned or leased by an agency or  
27 political subdivision of the state and designated for use as a

1 correctional or rehabilitation facility;

2 (2) the correctional or rehabilitation facility was in  
3 operation or under construction before the establishment of a  
4 residential area the location of which makes the facility subject  
5 to this subchapter;

6 (3) the correctional or rehabilitation facility is a  
7 temporary correctional or rehabilitation facility that will be  
8 operated at the location for less than one year;

9 (4) the correctional or rehabilitation facility is  
10 required to obtain a special use permit or a conditional use permit  
11 from the municipality in which the facility is located before  
12 beginning operation;

13 (5) the correctional or rehabilitation facility is an  
14 expansion of a facility operated by the correctional institutions  
15 division of the Texas Department of Criminal Justice for the  
16 imprisonment of individuals convicted of felonies other than state  
17 jail felonies or by the Texas Juvenile Justice Department;

18 (6) the correctional or rehabilitation facility is a  
19 county jail or a pre-adjudication or post-adjudication juvenile  
20 detention facility operated by a county or county juvenile board;

21 (7) the facility is:

22 (A) a juvenile probation office located at, and  
23 operated in conjunction with, a juvenile justice alternative  
24 education center; and

25 (B) used exclusively by students attending the  
26 juvenile justice alternative education center;

27 (8) the facility is a public or private institution of

1 higher education or vocational training to which admission is open  
2 to the general public;

3 (9) the facility is operated primarily as a treatment  
4 facility for juveniles under contract with the Health and Human  
5 ~~[Department of Aging and Disability]~~ Services Commission, ~~[or]~~ the  
6 Department of State Health Services, ~~[or]~~ a local mental health  
7 authority, or a local intellectual and developmental disability  
8 ~~[mental retardation]~~ authority;

9 (10) the facility is operated as a juvenile justice  
10 alternative education program;

11 (11) the facility:

12 (A) is not operated primarily as a correctional  
13 or rehabilitation facility; and

14 (B) only houses persons or children described by  
15 Section 244.001(1)(B) for a purpose related to treatment or  
16 education; or

17 (12) the facility is a probation or parole office  
18 located in a commercial use area.

19 ARTICLE 11. OCCUPATIONS CODE PROVISIONS

20 SECTION 11.01. Section 1701.404(b), Occupations Code, is  
21 amended to read as follows:

22 (b) The commission may certify a sheriff, sheriff's deputy,  
23 constable, other peace officer, county jailer, or justice of the  
24 peace as a special officer for offenders with mental impairments if  
25 the person:

26 (1) completes a training course in emergency first aid  
27 and lifesaving techniques approved by the commission;

1 (2) completes a training course administered by the  
2 commission on mental health issues and offenders with mental  
3 impairments; and

4 (3) passes an examination administered by the  
5 commission that is designed to test the person's:

6 (A) knowledge and recognition of the  
7 characteristics and symptoms of mental illness [~~mental~~  
8 ~~retardation,~~] and intellectual disability [~~mental disabilities~~];  
9 and

10 (B) knowledge of mental health crisis  
11 intervention strategies for people with mental impairments.

12 ARTICLE 12. TRANSPORTATION CODE PROVISIONS

13 SECTION 12.01. Section 201.603, Transportation Code, is  
14 amended to read as follows:

15 Sec. 201.603. AGREEMENT WITH OTHER AGENCIES FOR ROADS. (a)  
16 On request of the Health and Human Services Commission [~~Texas~~  
17 ~~Department of Mental Health and Mental Retardation~~] or the Texas  
18 Juvenile Justice Department, the department may enter into  
19 agreements with either agency [~~department~~] for the construction,  
20 maintenance, or repair of roads in an institution, hospital, or  
21 school under the control, management, or supervision of that agency  
22 [~~department~~].

23 (b) The Health and Human Services Commission [~~Texas~~  
24 ~~Department of Mental Health and Mental Retardation~~] or the Texas  
25 Juvenile Justice Department may reimburse the appropriate fund of  
26 the department for the cost of construction or maintenance  
27 performed under Subsection (a). Before a transfer of an amount



1 under this subsection, the reimbursing agency shall notify in  
2 writing the comptroller of the amount to be transferred and the fund  
3 from which the amount is to be taken.

4 ARTICLE 13. TAX CODE PROVISIONS

5 SECTION 13.01. Section 171.1011(p)(2), Tax Code, is amended  
6 to read as follows:

7 (2) "Health care institution" means:

8 (A) an ambulatory surgical center;

9 (B) an assisted living facility licensed under  
10 Chapter 247, Health and Safety Code;

11 (C) an emergency medical services provider;

12 (D) a home and community support services agency;

13 (E) a hospice;

14 (F) a hospital;

15 (G) a hospital system;

16 (H) an intermediate care facility for  
17 individuals with an intellectual disability [~~the mentally~~  
18 ~~retarded~~] or a home and community-based services waiver program for  
19 individuals [~~persons~~] with an intellectual disability [~~mental~~  
20 ~~retardation~~] adopted in accordance with Section 1915(c) of the  
21 federal Social Security Act (42 U.S.C. Section 1396n);

22 (I) a birthing center;

23 (J) a nursing home;

24 (K) an end stage renal disease facility licensed  
25 under Section 251.011, Health and Safety Code; or

26 (L) a pharmacy.

27 ARTICLE 14. REPEALERS

1           SECTION 14.01. The following provisions of the Health and  
2 Safety Code are repealed:

3                   (1) Section 531.0021(c); and

4                   (2) Sections 591.003(13) and (16).

5                                   ARTICLE 15. EFFECTIVE DATE

6           SECTION 15.01. This Act takes effect September 1, 2023.