

1-1 By: Craddick, et al. H.B. No. 446
 1-2 (Senate Sponsor - Kolkhorst)
 1-3 (In the Senate - Received from the House March 29, 2023;
 1-4 March 30, 2023, read first time and referred to Committee on Health
 1-5 & Human Services; April 27, 2023, reported favorably by the
 1-6 following vote: Yeas 9, Nays 0; April 27, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to the terminology used in statute to refer to
 1-21 intellectual disability and certain references to abolished health
 1-22 and human services agencies.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 ARTICLE 1. CIVIL PRACTICE AND REMEDIES CODE PROVISIONS

1-25 SECTION 1.01. Sections 74.001(a)(11) and (18), Civil
 1-26 Practice and Remedies Code, are amended to read as follows:

1-27 (11) "Health care institution" includes:

1-28 (A) an ambulatory surgical center;

1-29 (B) an assisted living facility licensed under
 1-30 Chapter 247, Health and Safety Code;

1-31 (C) an emergency medical services provider;

1-32 (D) a health services district created under
 1-33 Chapter 287, Health and Safety Code;

1-34 (E) a home and community support services agency;

1-35 (F) a hospice;

1-36 (G) a hospital;

1-37 (H) a hospital system;

1-38 (I) an intermediate care facility for
 1-39 individuals with an intellectual disability [~~the mentally~~

1-40 ~~retarded~~] or a home and community-based services waiver program for
 1-41 individuals [~~persons~~] with an intellectual disability [~~mental~~

1-42 ~~retardation~~] adopted in accordance with Section 1915(c) of the
 1-43 federal Social Security Act (42 U.S.C. Section 1396n), as amended;

1-44 (J) a nursing home; or

1-45 (K) an end stage renal disease facility licensed
 1-46 under Section 251.011, Health and Safety Code.

1-47 (18) "Intermediate care facility for individuals with
 1-48 an intellectual disability [~~the mentally retarded~~]" means a

1-49 licensed public or private institution to which Chapter 252, Health
 1-50 and Safety Code, applies.

1-51 ARTICLE 2. CODE OF CRIMINAL PROCEDURE PROVISIONS

1-52 SECTION 2.01. Article 46C.001(4), Code of Criminal
 1-53 Procedure, is amended to read as follows:

1-54 (4) "Intellectual disability [~~Mental retardation~~]"
 1-55 has the meaning assigned by Section 591.003, Health and Safety
 1-56 Code.

1-57 SECTION 2.02. Article 46C.105(c), Code of Criminal
 1-58 Procedure, is amended to read as follows:

1-59 (c) The examiner shall submit a separate report stating the
 1-60 examiner's observations and findings concerning:

1-61 (1) whether the defendant is presently a person with a

2-1 mental illness and requires court-ordered mental health services
2-2 under Subtitle C, Title 7, Health and Safety Code; or
2-3 (2) whether the defendant is presently a person with
2-4 an intellectual disability [~~mental retardation~~].

2-5 SECTION 2.03. Article 46C.201, Code of Criminal Procedure,
2-6 is amended to read as follows:

2-7 Art. 46C.201. DISPOSITION: NONDANGEROUS CONDUCT. (a) If
2-8 the court determines that the offense of which the person was
2-9 acquitted did not involve conduct that caused serious bodily injury
2-10 to another person, placed another person in imminent danger of
2-11 serious bodily injury, or consisted of a threat of serious bodily
2-12 injury to another person through the use of a deadly weapon, the
2-13 court shall determine whether there is evidence to support a
2-14 finding that the person is a person with a mental illness or an
2-15 intellectual disability [~~with mental retardation~~].

2-16 (b) If the court determines that there is evidence to
2-17 support a finding of mental illness or intellectual disability
2-18 [~~mental retardation~~], the court shall enter an order transferring
2-19 the person to the appropriate court for civil commitment
2-20 proceedings to determine whether the person should receive
2-21 court-ordered mental health services under Subtitle C, Title 7,
2-22 Health and Safety Code, or be committed to a residential care
2-23 facility to receive intellectual disability [~~mental retardation~~]
2-24 services under Subtitle D, Title 7, Health and Safety Code. The
2-25 court may also order the person:

2-26 (1) detained in jail or any other suitable place
2-27 pending the prompt initiation and prosecution of appropriate civil
2-28 proceedings by the attorney representing the state or other person
2-29 designated by the court; or

2-30 (2) placed in the care of a responsible person on
2-31 satisfactory security being given for the acquitted person's proper
2-32 care and protection.

2-33 SECTION 2.04. Article 46C.252(c), Code of Criminal
2-34 Procedure, is amended to read as follows:

2-35 (c) The report must address:

2-36 (1) whether the acquitted person has a mental illness
2-37 or an intellectual disability [~~mental retardation~~] and, if so,
2-38 whether the mental illness or intellectual disability [~~mental~~
2-39 ~~retardation~~] is severe;

2-40 (2) whether as a result of any severe mental illness or
2-41 intellectual disability [~~mental retardation~~] the acquitted person
2-42 is likely to cause serious harm to another;

2-43 (3) whether as a result of any impairment the
2-44 acquitted person is subject to commitment under Subtitle C or D,
2-45 Title 7, Health and Safety Code;

2-46 (4) prospective treatment and supervision options, if
2-47 any, appropriate for the acquitted person; and

2-48 (5) whether any required treatment and supervision can
2-49 be safely and effectively provided as outpatient or community-based
2-50 treatment and supervision.

2-51 SECTION 2.05. Article 46C.253(b), Code of Criminal
2-52 Procedure, is amended to read as follows:

2-53 (b) At the hearing, the court shall address:

2-54 (1) whether the person acquitted by reason of insanity
2-55 has a severe mental illness or an intellectual disability [~~mental~~
2-56 ~~retardation~~];

2-57 (2) whether as a result of any mental illness or
2-58 intellectual disability [~~mental retardation~~] the person is likely
2-59 to cause serious harm to another; and

2-60 (3) whether appropriate treatment and supervision for
2-61 any mental illness or intellectual disability [~~mental retardation~~]
2-62 rendering the person dangerous to another can be safely and
2-63 effectively provided as outpatient or community-based treatment
2-64 and supervision.

2-65 SECTION 2.06. Article 46C.255(c), Code of Criminal
2-66 Procedure, is amended to read as follows:

2-67 (c) If a hearing is held before a jury and the jury
2-68 determines that the person has a mental illness or an intellectual
2-69 disability [~~mental retardation~~] and is likely to cause serious harm

3-1 to another, the court shall determine whether inpatient treatment
3-2 or residential care is necessary to protect the safety of others.

3-3 SECTION 2.07. Article 46C.256(a), Code of Criminal
3-4 Procedure, is amended to read as follows:

3-5 (a) The court shall order the acquitted person committed to
3-6 a mental hospital or other appropriate facility for inpatient
3-7 treatment or residential care if the state establishes by clear and
3-8 convincing evidence that:

3-9 (1) the person has a severe mental illness or an
3-10 intellectual disability [~~mental retardation~~];

3-11 (2) the person, as a result of that mental illness or
3-12 intellectual disability [~~mental retardation~~], is likely to cause
3-13 serious bodily injury to another if the person is not provided with
3-14 treatment and supervision; and

3-15 (3) inpatient treatment or residential care is
3-16 necessary to protect the safety of others.

3-17 SECTION 2.08. Article 46C.257(a), Code of Criminal
3-18 Procedure, is amended to read as follows:

3-19 (a) The court shall order the acquitted person to receive
3-20 outpatient or community-based treatment and supervision if:

3-21 (1) the state establishes by clear and convincing
3-22 evidence that the person:

3-23 (A) has a severe mental illness or an
3-24 intellectual disability [~~mental retardation~~]; and

3-25 (B) as a result of that mental illness or
3-26 intellectual disability [~~mental retardation~~] is likely to cause
3-27 serious bodily injury to another if the person is not provided with
3-28 treatment and supervision; and

3-29 (2) the state fails to establish by clear and
3-30 convincing evidence that inpatient treatment or residential care is
3-31 necessary to protect the safety of others.

3-32 SECTION 2.09. Articles 46C.258(a) and (b), Code of Criminal
3-33 Procedure, are amended to read as follows:

3-34 (a) The head of the facility to which an acquitted person is
3-35 committed has, during the commitment period, a continuing
3-36 responsibility to determine:

3-37 (1) whether the acquitted person continues to have a
3-38 severe mental illness or an intellectual disability [~~mental~~
3-39 ~~retardation~~] and is likely to cause serious harm to another because
3-40 of any severe mental illness or intellectual disability [~~mental~~
3-41 ~~retardation~~]; and

3-42 (2) if so, whether treatment and supervision cannot be
3-43 safely and effectively provided as outpatient or community-based
3-44 treatment and supervision.

3-45 (b) The head of the facility must notify the committing
3-46 court and seek modification of the order of commitment if the head
3-47 of the facility determines that an acquitted person no longer has a
3-48 severe mental illness or an intellectual disability [~~mental~~
3-49 ~~retardation~~], is no longer likely to cause serious harm to another,
3-50 or that treatment and supervision can be safely and effectively
3-51 provided as outpatient or community-based treatment and
3-52 supervision.

3-53 SECTION 2.10. Article 46C.260(d), Code of Criminal
3-54 Procedure, is amended to read as follows:

3-55 (d) The executive commissioner shall appoint a review board
3-56 of five members, including one psychiatrist licensed to practice
3-57 medicine in this state and two persons who work directly with
3-58 persons with mental illnesses or persons with intellectual
3-59 disabilities [~~mental retardation~~], to determine whether the person
3-60 is manifestly dangerous and, as a result of the danger the person
3-61 presents, requires continued placement in a maximum security unit.

3-62 SECTION 2.11. Article 46C.263(d), Code of Criminal
3-63 Procedure, is amended to read as follows:

3-64 (d) The court may order that supervision of the acquitted
3-65 person be provided by the appropriate community supervision and
3-66 corrections department or the facility administrator of a community
3-67 center that provides mental health or intellectual disability
3-68 [~~mental retardation~~] services.

3-69 SECTION 2.12. Article 46C.268(f), Code of Criminal

4-1 Procedure, is amended to read as follows:

4-2 (f) The court shall discharge the acquitted person from all
4-3 court-ordered commitment and treatment and supervision and
4-4 terminate the court's jurisdiction over the person if the court
4-5 finds that the acquitted person has established by a preponderance
4-6 of the evidence that:

4-7 (1) the acquitted person does not have a severe mental
4-8 illness or an intellectual disability [~~mental retardation~~]; or

4-9 (2) the acquitted person is not likely to cause
4-10 serious harm to another because of any severe mental illness or
4-11 intellectual disability [~~mental retardation~~].

4-12 ARTICLE 3. FAMILY CODE PROVISIONS

4-13 SECTION 3.01. Sections 51.20(a), (b), (c), and (d), Family
4-14 Code, are amended to read as follows:

4-15 (a) At any stage of the proceedings under this title,
4-16 including when a child is initially detained in a pre-adjudication
4-17 secure detention facility or a post-adjudication secure
4-18 correctional facility, the juvenile court may, at its discretion or
4-19 at the request of the child's parent or guardian, order a child who
4-20 is referred to the juvenile court or who is alleged by a petition or
4-21 found to have engaged in delinquent conduct or conduct indicating a
4-22 need for supervision to be examined by a disinterested expert,
4-23 including a physician, psychiatrist, or psychologist, qualified by
4-24 education and clinical training in mental health or intellectual
4-25 and developmental disabilities [~~mental retardation~~] and
4-26 experienced in forensic evaluation, to determine whether the child
4-27 has a mental illness as defined by Section 571.003, Health and
4-28 Safety Code, is a person with an intellectual disability [~~mental~~
4-29 ~~retardation~~] as defined by Section 591.003, Health and Safety Code,
4-30 or suffers from chemical dependency as defined by Section 464.001,
4-31 Health and Safety Code. If the examination is to include a
4-32 determination of the child's fitness to proceed, an expert may be
4-33 appointed to conduct the examination only if the expert is
4-34 qualified under Subchapter B, Chapter 46B, Code of Criminal
4-35 Procedure, to examine a defendant in a criminal case, and the
4-36 examination and the report resulting from an examination under this
4-37 subsection must comply with the requirements under Subchapter B,
4-38 Chapter 46B, Code of Criminal Procedure, for the examination and
4-39 resulting report of a defendant in a criminal case.

4-40 (b) If, after conducting an examination of a child ordered
4-41 under Subsection (a) and reviewing any other relevant information,
4-42 there is reason to believe that the child has a mental illness or an
4-43 intellectual disability [~~mental retardation~~] or suffers from
4-44 chemical dependency, the probation department shall refer the child
4-45 to the local mental health authority or local intellectual and
4-46 developmental disability [~~mental retardation~~] authority or to
4-47 another appropriate and legally authorized agency or provider for
4-48 evaluation and services, unless the prosecuting attorney has filed
4-49 a petition under Section 53.04.

4-50 (c) If, while a child is under deferred prosecution
4-51 supervision or court-ordered probation, a qualified professional
4-52 determines that the child has a mental illness or an intellectual
4-53 disability [~~mental retardation~~] or suffers from chemical
4-54 dependency and the child is not currently receiving treatment
4-55 services for the mental illness, intellectual disability [~~mental~~
4-56 ~~retardation~~], or chemical dependency, the probation department
4-57 shall refer the child to the local mental health authority or local
4-58 intellectual and developmental disability [~~mental retardation~~]
4-59 authority or to another appropriate and legally authorized agency
4-60 or provider for evaluation and services.

4-61 (d) A probation department shall report each referral of a
4-62 child to a local mental health authority or local intellectual and
4-63 developmental disability [~~mental retardation~~] authority or another
4-64 agency or provider made under Subsection (b) or (c) to the Texas
4-65 Juvenile Justice Department in a format specified by the
4-66 department.

4-67 SECTION 3.02. Section 54.0408, Family Code, is amended to
4-68 read as follows:

4-69 Sec. 54.0408. REFERRAL OF CHILD EXITING PROBATION TO MENTAL

5-1 HEALTH AUTHORITY OR INTELLECTUAL AND DEVELOPMENTAL DISABILITY
 5-2 [~~MENTAL RETARDATION~~] AUTHORITY. A juvenile probation officer shall
 5-3 refer a child who has been determined to have a mental illness or an
 5-4 intellectual disability [~~mental retardation~~] to an appropriate
 5-5 local mental health authority or local intellectual and
 5-6 developmental disability [~~mental retardation~~] authority at least
 5-7 three months before the child is to complete the child's juvenile
 5-8 probation term unless the child is currently receiving treatment
 5-9 from the local mental health authority or local intellectual and
 5-10 developmental disability [~~mental retardation~~] authority of the
 5-11 county in which the child resides.

5-12 SECTION 3.03. Section 58.0051(a)(2), Family Code, is
 5-13 amended to read as follows:

5-14 (2) "Juvenile service provider" means a governmental
 5-15 entity that provides juvenile justice or prevention, medical,
 5-16 educational, or other support services to a juvenile. The term
 5-17 includes:

5-18 (A) a state or local juvenile justice agency as
 5-19 defined by Section 58.101;

5-20 (B) health and human services agencies, as
 5-21 defined by Section 531.001, Government Code, and the Health and
 5-22 Human Services Commission;

5-23 (C) the Department of Family and Protective
 5-24 Services;

5-25 (D) the Department of Public Safety;

5-26 (E) the Texas Education Agency;

5-27 (F) an independent school district;

5-28 (G) a juvenile justice alternative education
 5-29 program;

5-30 (H) a charter school;

5-31 (I) a local mental health authority or local
 5-32 intellectual and developmental disability [~~mental retardation~~]
 5-33 authority;

5-34 (J) a court with jurisdiction over juveniles;

5-35 (K) a district attorney's office;

5-36 (L) a county attorney's office; and

5-37 (M) a children's advocacy center established
 5-38 under Section 264.402.

5-39 ARTICLE 4. FINANCE CODE PROVISIONS

5-40 SECTION 4.01. Section 393.624(a), Finance Code, is amended
 5-41 to read as follows:

5-42 (a) A credit access business may not advertise on the
 5-43 premises of a nursing facility, assisted living facility, group
 5-44 home, intermediate care facility for persons with an intellectual
 5-45 disability [~~mental retardation~~], or other similar facility subject
 5-46 to regulation by the Health and Human Services Commission
 5-47 [~~Department of Aging and Disability Services~~].

5-48 ARTICLE 5. GOVERNMENT CODE PROVISIONS

5-49 SECTION 5.01. Section 54A.209(a), Government Code, is
 5-50 amended to read as follows:

5-51 (a) Except as limited by an order of referral, an associate
 5-52 judge may:

5-53 (1) conduct a hearing;

5-54 (2) hear evidence;

5-55 (3) compel production of relevant evidence;

5-56 (4) rule on the admissibility of evidence;

5-57 (5) issue a summons for the appearance of witnesses;

5-58 (6) examine a witness;

5-59 (7) swear a witness for a hearing;

5-60 (8) make findings of fact on evidence;

5-61 (9) formulate conclusions of law;

5-62 (10) rule on pretrial motions;

5-63 (11) recommend the rulings, orders, or judgment to be
 5-64 made in a case;

5-65 (12) regulate all proceedings in a hearing before the
 5-66 associate judge;

5-67 (13) take action as necessary and proper for the
 5-68 efficient performance of the duties required by the order of
 5-69 referral;

6-1 (14) order the attachment of a witness or party who
6-2 fails to obey a subpoena;

6-3 (15) order the detention of a witness or party found
6-4 guilty of contempt, pending approval by the referring court as
6-5 provided by Section 54A.214;

6-6 (16) without prejudice to the right to a de novo
6-7 hearing under Section 54A.216, render and sign:

6-8 (A) a final order agreed to in writing as to both
6-9 form and substance by all parties;

6-10 (B) a final default order;

6-11 (C) a temporary order;

6-12 (D) a final order in a case in which a party files
6-13 an unrevoked waiver made in accordance with Rule 119, Texas Rules of
6-14 Civil Procedure, that waives notice to the party of the final
6-15 hearing or waives the party's appearance at the final hearing;

6-16 (E) an order specifying that the court clerk
6-17 shall issue:

6-18 (i) letters testamentary or of
6-19 administration; or

6-20 (ii) letters of guardianship; or

6-21 (F) an order for inpatient or outpatient mental
6-22 health, intellectual disability [~~mental retardation~~], or chemical
6-23 dependency services or an order authorizing psychoactive
6-24 medications; and

6-25 (17) sign a final order that includes a waiver of the
6-26 right to a de novo hearing in accordance with Section 54A.216.

6-27 SECTION 5.02. Section 76.003(c), Government Code, is
6-28 amended to read as follows:

6-29 (c) The community justice council shall appoint a community
6-30 justice task force to provide support staff for the development of a
6-31 community justice plan. The task force may consist of any number of
6-32 members, but must [~~should~~] include:

6-33 (1) the county or regional director of the Health and
6-34 Human Services Commission, or the division of the commission
6-35 performing the functions previously performed by the Texas
6-36 Department of Human Services, with responsibility for the area
6-37 served by the department;

6-38 (2) the chief of police of the most populous
6-39 municipality served by the department;

6-40 (3) the chief juvenile probation officer of the
6-41 juvenile probation office serving the most populous area served by
6-42 the department;

6-43 (4) the superintendent of the most populous school
6-44 district served by the department;

6-45 (5) the supervisor of the Department of Public Safety
6-46 region closest to the department, or the supervisor's designee;

6-47 (6) the county or regional director of the Health and
6-48 Human Services Commission, or the division of the commission
6-49 performing the functions previously performed by the Texas
6-50 Department of Mental Health and Mental Retardation, with
6-51 responsibility for the area served by the department;

6-52 (7) a substance abuse treatment professional
6-53 appointed by the Council of Governments serving the area served by
6-54 the department;

6-55 (8) the department director;

6-56 (9) the local or regional representative of the parole
6-57 division of the Texas Department of Criminal Justice with
6-58 responsibility for the area served by the department;

6-59 (10) the representative of the Texas Workforce
6-60 Commission with responsibility for the area served by the
6-61 department;

6-62 (11) the representative of the Health and Human
6-63 Services Commission, or the division of the commission performing
6-64 the functions previously performed by the Department of Assistive
6-65 and Rehabilitative Services, with responsibility for the area
6-66 served by the department;

6-67 (12) a licensed attorney who practices in the area
6-68 served by the department and whose practice consists primarily of
6-69 criminal law;

7-1 (13) a court administrator, if one serves the area
7-2 served by the department;

7-3 (14) a representative of a community service
7-4 organization that provides adult treatment, educational, or
7-5 vocational services to the area served by the department;

7-6 (15) a representative of an organization in the area
7-7 served by the department that is actively involved in issues
7-8 relating to defendants' rights, chosen by the county commissioners
7-9 and county judges of the counties served by the department; and

7-10 (16) an advocate for rights of victims of crime and
7-11 awareness of issues affecting victims.

7-12 SECTION 5.03. Section 125.001(a), Government Code, is
7-13 amended to read as follows:

7-14 (a) In this chapter, "mental health court program" means a
7-15 program that has the following essential characteristics:

7-16 (1) the integration of mental illness treatment
7-17 services and intellectual disability [~~mental retardation~~] services
7-18 in the processing of cases in the judicial system;

7-19 (2) the use of a nonadversarial approach involving
7-20 prosecutors and defense attorneys to promote public safety and to
7-21 protect the due process rights of program participants;

7-22 (3) early identification and prompt placement of
7-23 eligible participants in the program;

7-24 (4) access to mental illness treatment services and
7-25 intellectual disability [~~mental retardation~~] services;

7-26 (5) ongoing judicial interaction with program
7-27 participants;

7-28 (6) diversion of defendants who potentially have a
7-29 mental illness [~~mentally ill~~] or an intellectual disability
7-30 [~~mentally retarded defendants~~] to needed services as an alternative
7-31 to subjecting those defendants to the criminal justice system;

7-32 (7) monitoring and evaluation of program goals and
7-33 effectiveness;

7-34 (8) continuing interdisciplinary education to promote
7-35 effective program planning, implementation, and operations; and

7-36 (9) development of partnerships with public agencies
7-37 and community organizations, including local intellectual and
7-38 developmental disability [~~mental retardation~~] authorities.

7-39 SECTION 5.04. Section 125.002, Government Code, is amended
7-40 to read as follows:

7-41 Sec. 125.002. AUTHORITY TO ESTABLISH PROGRAM. The
7-42 commissioners court of a county may establish a mental health court
7-43 program for persons who:

7-44 (1) have been arrested for or charged with a
7-45 misdemeanor or felony; and

7-46 (2) are suspected by a law enforcement agency or a
7-47 court of having a mental illness or an intellectual disability
7-48 [~~mental retardation~~].

7-49 SECTION 5.05. Section 403.252, Government Code, is amended
7-50 to read as follows:

7-51 Sec. 403.252. EXCEPTIONS. This subchapter does not apply
7-52 to:

7-53 (1) state agency funds located completely outside the
7-54 state treasury;

7-55 (2) the petty cash accounts maintained by the [~~Texas~~]
7-56 Department of State Health Services [~~Mental Health and Mental~~
7-57 ~~Retardation~~] under Section 533.037(d), Health and Safety Code
7-58 [~~2.17(b)(3), Texas Mental Health and Mental Retardation Act~~
7-59 [~~Article 5547-202, Vernon's Texas Civil Statutes~~]; or

7-60 (3) imprest funds kept by enforcement agencies for the
7-61 purchase of evidence or other enforcement purposes.

7-62 SECTION 5.06. Section 411.052(a), Government Code, is
7-63 amended to read as follows:

7-64 (a) In this section, "federal prohibited person
7-65 information" means information that identifies an individual as:

7-66 (1) a person ordered by a court to receive inpatient
7-67 mental health services under Chapter 574, Health and Safety Code;

7-68 (2) a person acquitted in a criminal case by reason of
7-69 insanity or lack of mental responsibility, regardless of whether

8-1 the person is ordered by a court to receive inpatient treatment or
 8-2 residential care under Chapter 46C, Code of Criminal Procedure;

8-3 (3) a person determined to have an intellectual
 8-4 disability [~~mental retardation~~] and committed by a court for
 8-5 long-term placement in a residential care facility under Chapter
 8-6 593, Health and Safety Code;

8-7 (4) an incapacitated adult individual for whom a court
 8-8 has appointed a guardian of the individual under Title 3, Estates
 8-9 Code, based on the determination that the person lacks the mental
 8-10 capacity to manage the person's affairs; or

8-11 (5) a person determined to be incompetent to stand
 8-12 trial under Chapter 46B, Code of Criminal Procedure.

8-13 SECTION 5.07. Section 411.0521(a), Government Code, is
 8-14 amended to read as follows:

8-15 (a) The clerk of the court shall prepare and forward to the
 8-16 department the information described by Subsection (b) not later
 8-17 than the 30th day after the date the court:

8-18 (1) orders a person to receive inpatient mental health
 8-19 services under Chapter 574, Health and Safety Code;

8-20 (2) acquits a person in a criminal case by reason of
 8-21 insanity or lack of mental responsibility, regardless of whether
 8-22 the person is ordered to receive inpatient treatment or residential
 8-23 care under Chapter 46C, Code of Criminal Procedure;

8-24 (3) commits a person determined to have an
 8-25 intellectual disability [~~mental retardation~~] for long-term
 8-26 placement in a residential care facility under Chapter 593, Health
 8-27 and Safety Code;

8-28 (4) appoints a guardian of the incapacitated adult
 8-29 individual under Title 3, Estates Code, based on the determination
 8-30 that the person lacks the mental capacity to manage the person's
 8-31 affairs;

8-32 (5) determines a person is incompetent to stand trial
 8-33 under Chapter 46B, Code of Criminal Procedure; or

8-34 (6) finds a person is entitled to relief from
 8-35 disabilities under Section 574.088, Health and Safety Code.

8-36 SECTION 5.08. Sections 411.126(a)(2) and (3), Government
 8-37 Code, are amended to read as follows:

8-38 (2) "Volunteer" or "volunteer applicant" means a
 8-39 person who will perform one or more of the following services
 8-40 without remuneration:

8-41 (A) any service performed in a residence;

8-42 (B) any service that requires the access to or
 8-43 the handling of money or confidential or privileged information; or

8-44 (C) any service that involves the care of or
 8-45 access to:

8-46 (i) a child;

8-47 (ii) an elderly person; or

8-48 (iii) a person who is mentally incompetent,
 8-49 [~~mentally retarded,~~] physically disabled, ill, or incapacitated,
 8-50 or who has an intellectual disability.

8-51 (3) "Employee" or "employee applicant" means a person
 8-52 who will perform one or more of the following services or functions
 8-53 for remuneration:

8-54 (A) any service performed in a residence;

8-55 (B) any service that requires the access to or
 8-56 the handling of money or confidential or privileged information; or

8-57 (C) any service that involves the care of or
 8-58 access to:

8-59 (i) a child;

8-60 (ii) an elderly person; or

8-61 (iii) a person who is mentally incompetent,
 8-62 [~~mentally retarded,~~] physically disabled, ill, or incapacitated,
 8-63 or who has an intellectual disability;

8-64 (D) coordination or referral of volunteers; or

8-65 (E) executive administrative responsibilities.

8-66 SECTION 5.09. Section 495.023(a), Government Code, is
 8-67 amended to read as follows:

8-68 (a) The institutional division shall request proposals and
 8-69 may award one contract to a private vendor or community supervision

9-1 and corrections department to screen and diagnose, either before or
 9-2 after adjudications of guilt, persons who may be transferred to the
 9-3 division. The term of the contract may not be for more than two
 9-4 years. The institutional division shall award the contract if the
 9-5 division determines that:

9-6 (1) the person proposing to enter into the contract
 9-7 can provide psychiatric, psychological, or social evaluations of
 9-8 persons who are to be transferred to the division;

9-9 (2) the services provided will reduce the chances of
 9-10 misdiagnosis of ~~[mentally ill and mentally retarded]~~ persons with
 9-11 mental illness or persons with intellectual disabilities who are to
 9-12 be transferred to the division, expedite the diagnostic process,
 9-13 and offer savings to the division;

9-14 (3) the quality of services offered equals or exceeds
 9-15 the quality of the same services provided by the division; and

9-16 (4) the state will assume no additional liability by
 9-17 entering into a contract for the services.

9-18 SECTION 5.10. Section 499.102(a), Government Code, is
 9-19 amended to read as follows:

9-20 (a) The staff of the institutional division, on its own
 9-21 initiative or as directed by the governor or the board, may
 9-22 recommend to the administration of the institutional division that
 9-23 the maximum capacity established under Section 499.101 for a unit
 9-24 be increased if the staff determines through written findings that
 9-25 the division can increase the maximum capacity and provide:

9-26 (1) proper inmate classification and housing within
 9-27 the unit that is consistent with the classification system;

9-28 (2) housing flexibility to allow necessary repairs and
 9-29 routine and preventive maintenance to be performed without
 9-30 compromising the classification system;

9-31 (3) adequate space in dayrooms;

9-32 (4) all meals within a reasonable time, allowing each
 9-33 inmate a reasonable time within which to eat;

9-34 (5) operable hygiene facilities that ensure the
 9-35 availability of a sufficient number of fixtures to serve the inmate
 9-36 population;

9-37 (6) adequate laundry services;

9-38 (7) sufficient staff to:

9-39 (A) meet operational and security needs;

9-40 (B) meet health care needs, including the needs
 9-41 of inmates requiring psychiatric care, ~~[mentally retarded]~~ inmates
 9-42 with an intellectual disability, and inmates with a physical
 9-43 disability ~~[physically handicapped inmates]~~;

9-44 (C) provide a safe environment for inmates and
 9-45 staff; and

9-46 (D) provide adequate internal affairs
 9-47 investigation and review;

9-48 (8) medical, dental, and psychiatric care adequate to
 9-49 ensure:

9-50 (A) minimal delays in delivery of service from
 9-51 the time sick call requests are made until the service is performed;

9-52 (B) access to regional medical facilities;

9-53 (C) access to the institutional division
 9-54 hospital at Galveston or contract facilities performing the same
 9-55 services;

9-56 (D) access to specialty clinics; and

9-57 (E) a sufficient number of psychiatric inpatient
 9-58 beds and sheltered beds for ~~[mentally retarded]~~ inmates with an
 9-59 intellectual disability;

9-60 (9) a fair disciplinary system that ensures due
 9-61 process and is adequate to ensure safety and order in the unit;

9-62 (10) work, vocational, academic, and on-the-job
 9-63 training programs that afford all eligible inmates with an
 9-64 opportunity to learn job skills or work habits that can be applied
 9-65 on release, appropriately staffed and of sufficient quality;

9-66 (11) a sufficient number and quality of
 9-67 nonprogrammatic and recreational activities for all eligible
 9-68 inmates who choose to participate;

9-69 (12) adequate assistance from persons trained in the

10-1 law or a law library with a collection containing necessary
10-2 materials and space adequate for inmates to use the law library for
10-3 study related to legal matters;

10-4 (13) adequate space and staffing to permit contact and
10-5 noncontact visitation of all eligible inmates;

10-6 (14) adequate maintenance programs to repair and
10-7 prevent breakdowns caused by increased use of facilities and
10-8 fixtures; and

10-9 (15) space and staff sufficient to provide all the
10-10 services and facilities required by this section.

10-11 SECTION 5.11. Section 501.006(a), Government Code, is
10-12 amended to read as follows:

10-13 (a) The institutional division may grant an emergency
10-14 absence under escort to an inmate so that the inmate may:

10-15 (1) obtain a medical diagnosis or medical treatment;

10-16 (2) obtain treatment and supervision at a [~~Texas~~
10-17 ~~Department of Mental Health and Mental Retardation~~] facility
10-18 operated by the Health and Human Services Commission; or

10-19 (3) attend a funeral or visit a critically ill
10-20 relative.

10-21 SECTION 5.12. Section 501.056, Government Code, is amended
10-22 to read as follows:

10-23 Sec. 501.056. CONTRACT FOR CARE OF [~~MENTALLY ILL AND~~
10-24 ~~MENTALLY RETARDED~~] INMATES WITH MENTAL ILLNESS OR INTELLECTUAL
10-25 DISABILITY. The department shall contract with the Health and
10-26 Human Services Commission [~~Texas Department of Mental Health and~~
10-27 ~~Mental Retardation~~] for provision of commission [~~Texas Department~~
10-28 ~~of Mental Health and Mental Retardation~~] facilities, treatment, and
10-29 habilitation for [~~mentally ill and mentally retarded~~] inmates with
10-30 mental illness or an intellectual disability in the custody of the
10-31 department. The contract must provide:

10-32 (1) detailed characteristics of the [~~mentally ill~~]
10-33 inmate population with mental illness and the [~~mentally retarded~~]
10-34 inmate population with intellectual disabilities to be affected
10-35 under the contract;

10-36 (2) for the respective responsibilities of the
10-37 commission [~~Texas Department of Mental Health and Mental~~
10-38 ~~Retardation~~] and the department with regard to the care and
10-39 supervision of the affected inmates; and

10-40 (3) that the department remains responsible for
10-41 security.

10-42 SECTION 5.13. Section 501.058, Government Code, is amended
10-43 to read as follows:

10-44 Sec. 501.058. COMPENSATION OF PSYCHIATRISTS. The amount of
10-45 compensation paid by the institutional division to psychiatrists
10-46 employed by the division should be similar to the amount of
10-47 compensation authorized for the Health and Human Services
10-48 Commission [~~Texas Department of Mental Health and Mental~~
10-49 ~~Retardation~~] to pay to psychiatrists [~~employed by the Texas~~
10-50 ~~Department of Mental Health and Mental Retardation~~].

10-51 SECTION 5.14. Sections 501.093(a) and (c), Government Code,
10-52 are amended to read as follows:

10-53 (a) The department and [~~7~~] the Health and Human Services
10-54 Commission [~~Texas Department of Mental Health and Mental~~
10-55 ~~Retardation, and the Texas Commission on Alcohol and Drug Abuse~~]
10-56 shall by rule adopt a memorandum of understanding that establishes
10-57 their respective responsibilities to establish a continuity of care
10-58 program for inmates with a history of drug or alcohol abuse.

10-59 (c) The memorandum of understanding must establish methods
10-60 for:

10-61 (1) identifying inmates with a history of drug or
10-62 alcohol abuse;

10-63 (2) notifying the pardons and paroles division and the
10-64 Health and Human Services Commission [~~7, the Texas Department of~~
10-65 ~~Mental Health and Mental Retardation, and the commission~~] as to
10-66 when an inmate with a history of drug or alcohol abuse is to be
10-67 released and as to the inmate's release destination;

10-68 (3) identifying the services needed by inmates with a
10-69 history of drug or alcohol abuse to reenter the community

11-1 successfully; and

11-2 (4) determining the manner in which each agency that
11-3 participates in the establishment of the memorandum can share
11-4 information about inmates and use that information to provide
11-5 continuity of care.

11-6 SECTION 5.15. Section 501.113(b), Government Code, is
11-7 amended to read as follows:

11-8 (b) The institutional division shall house the following
11-9 classes of inmates in single occupancy cells:

11-10 (1) inmates confined in death row segregation;
11-11 (2) inmates confined in administrative segregation;
11-12 (3) inmates assessed as having intellectual
11-13 disabilities [~~mentally retarded~~] and whose habilitation plans
11-14 recommend housing in a single occupancy cell;

11-15 (4) inmates with a diagnosed psychiatric illness being
11-16 treated on an inpatient or outpatient basis whose individual
11-17 treatment plans recommend housing in single occupancy cells; and

11-18 (5) inmates whose medical treatment plans recommend
11-19 housing in a single occupancy cell.

11-20 SECTION 5.16. Section 507.031(a), Government Code, is
11-21 amended to read as follows:

11-22 (a) The director of a state jail felony facility may grant a
11-23 furlough to a defendant so that the defendant may:

11-24 (1) obtain a medical diagnosis or medical treatment;

11-25 (2) obtain treatment and supervision at a [~~Texas~~
11-26 ~~Department of Mental Health and Mental Retardation~~] facility
11-27 operated by the Health and Human Services Commission;

11-28 (3) attend a funeral or visit a critically ill
11-29 relative; or

11-30 (4) participate in a programmatic activity sanctioned
11-31 by the state jail division.

11-32 SECTION 5.17. Section 508.223, Government Code, is amended
11-33 to read as follows:

11-34 Sec. 508.223. PSYCHOLOGICAL COUNSELING. A parole panel may
11-35 require as a condition of parole or mandatory supervision that a
11-36 releasee serving a sentence for an offense under Section 42.072,
11-37 Penal Code, attend psychological counseling sessions of a type and
11-38 for a duration as specified by the parole panel, if the parole panel
11-39 determines in consultation with a local mental health services
11-40 provider that appropriate mental health services are available
11-41 through the [~~Texas~~] Department of State Health Services [~~Mental~~
11-42 ~~Health and Mental Retardation~~] in accordance with Section 534.053,
11-43 Health and Safety Code, or through another mental health services
11-44 provider.

11-45 SECTION 5.18. Section 508.316(a), Government Code, is
11-46 amended to read as follows:

11-47 (a) The department may contract for services for releasees
11-48 if funds are appropriated to the department for the services,
11-49 including services for releasees who have a history of:

11-50 (1) mental impairment or intellectual disability
11-51 [~~mental retardation~~];

11-52 (2) substance abuse; or

11-53 (3) sexual offenses.

11-54 SECTION 5.19. Section 659.015(j), Government Code, is
11-55 amended to read as follows:

11-56 (j) With authorization from the administrative head of the
11-57 agency for which an employee works, or that person's designee, an
11-58 employee employed by a state mental health facility or an
11-59 intellectual disability [~~mental retardation~~] facility may be paid
11-60 for any unused compensatory time if the employing agency determines
11-61 that taking the compensatory time off would disrupt the normal
11-62 business functions of the agency.

11-63 SECTION 5.20. Section 659.016(j), Government Code, is
11-64 amended to read as follows:

11-65 (j) With authorization from the administrative head of the
11-66 agency for which an employee works, or that person's designee, an
11-67 employee employed by a state mental health facility or an
11-68 intellectual disability [~~mental retardation~~] facility may be paid
11-69 for any unused compensatory time if the employing agency determines

12-1 that taking the compensatory time off would disrupt the normal
 12-2 business functions of the agency.

12-3 SECTION 5.21. The heading to Chapter 1401, Government Code,
 12-4 is amended to read as follows:

12-5 CHAPTER 1401. BONDS FOR CERTAIN CRIMINAL JUSTICE, ~~[OR] MENTAL~~
 12-6 HEALTH, OR INTELLECTUAL DISABILITY ~~[AND MENTAL RETARDATION]~~
 12-7 FACILITIES

12-8 SECTION 5.22. Sections 1401.041(b) and (c), Government
 12-9 Code, are amended to read as follows:

12-10 (b) As provided by Section 49-h(c), Article III, Texas
 12-11 Constitution, as that section existed September 1, 1999, the
 12-12 authority may:

12-13 (1) issue general obligation bonds in an amount not to
 12-14 exceed \$400 million; and

12-15 (2) distribute the bond proceeds to any appropriate
 12-16 agency to:

12-17 (A) acquire, construct, or equip a new facility;
 12-18 or

12-19 (B) make a major repair of or renovate a
 12-20 facility, corrections institution, youth corrections institution,
 12-21 ~~[or] mental health institution, or intellectual disability [and~~
 12-22 ~~mental retardation] institution.~~

12-23 (c) As provided by Section 49-h(d), Article III, Texas
 12-24 Constitution, as that section existed September 1, 1999, the
 12-25 authority may:

12-26 (1) issue general obligation bonds in an amount not to
 12-27 exceed \$1.055 billion and distribute the bond proceeds to any
 12-28 appropriate agency to:

12-29 (A) acquire, construct, or equip a:
 12-30 (i) new prison or substance abuse felony
 12-31 punishment facility to confine criminals; or

12-32 (ii) youth corrections institution;
 12-33 (B) make a major repair of or renovate a prison
 12-34 facility or youth corrections institution; or

12-35 (C) acquire, make a major repair of, or renovate
 12-36 a facility for use as a state prison, a substance abuse felony
 12-37 punishment facility, or a facility in which a pilot program
 12-38 established as provided by Section 614.011, Health and Safety Code,
 12-39 is conducted;

12-40 (2) issue general obligation bonds in an amount not to
 12-41 exceed \$45 million and distribute the bond proceeds to any
 12-42 appropriate agency to:

12-43 (A) acquire, construct, or equip a new mental
 12-44 health facility or intellectual disability ~~[mental retardation]~~
 12-45 facility, including a community-based mental health facility or
 12-46 community-based intellectual disability ~~[mental retardation]~~
 12-47 facility; or

12-48 (B) make a major repair of or renovate a mental
 12-49 health facility or intellectual disability ~~[mental retardation]~~
 12-50 facility; and

12-51 (3) issue general obligation bonds in an amount not to
 12-52 exceed \$50 million and distribute the bond proceeds to any
 12-53 appropriate agency to:

12-54 (A) acquire, construct, or equip a new youth
 12-55 corrections facility; or

12-56 (B) make a major repair of or renovate a youth
 12-57 corrections facility.

12-58 SECTION 5.23. Section 1401.061(a), Government Code, is
 12-59 amended to read as follows:

12-60 (a) The authority may:

12-61 (1) issue revenue bonds; and
 12-62 (2) distribute the bond proceeds to any appropriate
 12-63 agency to:

12-64 (A) acquire, construct, or equip a new facility;
 12-65 or

12-66 (B) make a major repair of or renovate a:
 12-67 (i) facility;

12-68 (ii) corrections institution, including a
 12-69 facility authorized by Section 495.001(a) or 495.021(a);

13-1 (iii) criminal justice facility for the
 13-2 Texas Department of Criminal Justice;
 13-3 (iv) youth corrections institution; or
 13-4 (v) mental health institution or
 13-5 intellectual disability [and mental retardation] institution.
 13-6 SECTION 5.24. Section 2052.003(b), Government Code, is
 13-7 amended to read as follows:
 13-8 (b) In this section, "individual with a disability" means an
 13-9 individual who has:
 13-10 (1) a mental disability or impairment, including an
 13-11 intellectual disability [mental retardation]; or
 13-12 (2) a physical disability or impairment, including:
 13-13 (A) an impairment of hearing, speech, or vision;
 13-14 (B) blindness;
 13-15 (C) deafness; or
 13-16 (D) a crippling condition that requires special
 13-17 ambulatory devices or services.
 13-18 SECTION 5.25. Section 2155.202, Government Code, is amended
 13-19 to read as follows:
 13-20 Sec. 2155.202. [~~MENTAL HEALTH AND MENTAL RETARDATION~~]
 13-21 COMMUNITY CENTERS; ASSISTANCE ORGANIZATIONS; CHILD-CARE PROVIDERS.
 13-22 The following entities may purchase goods and services through the
 13-23 comptroller:
 13-24 (1) a community center for mental health services or
 13-25 intellectual disability [and mental retardation] services that
 13-26 receives state grants-in-aid under Subchapter B, Chapter 534,
 13-27 Health and Safety Code;
 13-28 (2) an assistance organization as defined by Section
 13-29 2175.001 that receives state funds; and
 13-30 (3) a child-care provider that meets Texas Rising Star
 13-31 Program certification criteria.
 13-32 SECTION 5.26. The heading to Section 2155.441, Government
 13-33 Code, is amended to read as follows:
 13-34 Sec. 2155.441. PREFERENCE FOR PRODUCTS OF PERSONS WITH
 13-35 INTELLECTUAL [MENTAL RETARDATION] OR PHYSICAL DISABILITIES.
 13-36 SECTION 5.27. Section 2155.441(a), Government Code, is
 13-37 amended to read as follows:
 13-38 (a) The products of workshops, organizations, or
 13-39 corporations whose primary purpose is training and employing
 13-40 individuals having an intellectual disability [mental retardation]
 13-41 or a physical disability shall be given preference if they meet
 13-42 state specifications regarding quantity, quality, delivery, life
 13-43 cycle costs, and price.
 13-44 SECTION 5.28. Section 2167.001(b), Government Code, is
 13-45 amended to read as follows:
 13-46 (b) This chapter does not apply to:
 13-47 (1) radio antenna space;
 13-48 (2) residential space for a [~~Texas~~] Department of
 13-49 State Health Services or Health and Human Services Commission
 13-50 [~~Mental Health and Mental Retardation~~] program;
 13-51 (3) residential space for a Texas Juvenile Justice
 13-52 Department program;
 13-53 (4) space to be used for less than one month for
 13-54 meetings, conferences, conventions, seminars, displays,
 13-55 examinations, auctions, or similar purposes;
 13-56 (5) district office space for members of the
 13-57 legislature;
 13-58 (6) space used by the Texas Workforce Commission;
 13-59 (7) residential property acquired by the Texas
 13-60 Department of Housing and Community Affairs or the Texas State
 13-61 Affordable Housing Corporation that is offered for sale or rental
 13-62 to individuals and families of low or very low income or families of
 13-63 moderate income;
 13-64 (8) except as provided by Section 2167.007, space for
 13-65 a university system or institution of higher education;
 13-66 (9) space leased by the Texas Veterans Commission to
 13-67 administer the veterans employment services program; or
 13-68 (10) space for the Texas Department of Motor Vehicles.
 13-69 SECTION 5.29. Section 2171.055(k), Government Code, is

14-1 amended to read as follows:

14-2 (k) An officer or employee of a qualified cooperative entity
14-3 who is engaged in official business of the qualified cooperative
14-4 entity may participate in the comptroller's contracts for travel
14-5 services. The comptroller shall adopt rules and make or amend
14-6 contracts as necessary to administer this subsection. For purposes
14-7 of this subsection, a "qualified cooperative entity" includes:

- 14-8 (1) a local government, as defined by Section [271.081](#),
14-9 Local Government Code;
14-10 (2) a community center for mental health services or
14-11 intellectual disability [~~and mental retardation~~] services
14-12 described by Section [2155.202](#)(1);
14-13 (3) an assistance organization, as defined by Section
14-14 [2175.001](#), that receives any state funds; and
14-15 (4) a political subdivision, as defined by Section
14-16 [791.003](#).

14-17 SECTION 5.30. Section [2171.104](#)(b), Government Code, is
14-18 amended to read as follows:

14-19 (b) The Texas Department of Transportation, Department of
14-20 Public Safety of the State of Texas, [~~Texas Department of Mental~~
14-21 ~~Health and Mental Retardation~~], Parks and Wildlife Department, and
14-22 Texas Department of Criminal Justice shall assist the office of
14-23 vehicle fleet management in preparing the management plan for the
14-24 state's vehicle fleet.

14-25 ARTICLE 6. HEALTH AND SAFETY CODE PROVISIONS

14-26 SECTION 6.01. Sections [33.001](#)(1-b), (2), and (4), Health
14-27 and Safety Code, are amended to read as follows:

14-28 (1-b) "Heritable disease" means an inherited disease
14-29 that may result in a physical or intellectual
14-30 disability [~~retardation~~] or death.

14-31 (2) "Hypothyroidism" means a condition that may cause
14-32 a severe intellectual disability [~~mental retardation~~] if not
14-33 treated.

14-34 (4) "Phenylketonuria" means an inherited condition
14-35 that may cause a severe intellectual disability [~~mental~~
14-36 ~~retardation~~] if not treated.

14-37 SECTION 6.02. Section [33.002](#)(a), Health and Safety Code, is
14-38 amended to read as follows:

14-39 (a) The department shall carry out a program to combat
14-40 morbidity, including intellectual disability [~~mental retardation~~],
14-41 and mortality in persons who have phenylketonuria, other heritable
14-42 diseases, or hypothyroidism.

14-43 SECTION 6.03. Section [281.094](#)(a), Health and Safety Code,
14-44 is amended to read as follows:

14-45 (a) With the approval of the Nueces County Commissioners
14-46 Court, the board of the Nueces County Hospital District may use
14-47 funds made available to the district from sources other than a tax
14-48 levy to fund health care services, including public health
14-49 services, mental health services, intellectual disability [~~and~~
14-50 ~~mental retardation~~] services, emergency medical services, health
14-51 services provided to persons confined in jail facilities, and for
14-52 other health related purposes.

14-53 SECTION 6.04. Section [431.4031](#)(b), Health and Safety Code,
14-54 is amended to read as follows:

14-55 (b) A state agency or a political subdivision of this state
14-56 that distributes prescription drugs using federal or state funding
14-57 to nonprofit health care facilities, [~~or~~] local mental health
14-58 authorities, or local intellectual and developmental disability
14-59 [~~mental retardation~~] authorities for distribution to a pharmacy,
14-60 practitioner, or patient is exempt from Sections [431.405](#)(b),
14-61 [431.407](#), [431.412](#), and [431.413](#).

14-62 SECTION 6.05. The heading to Section [531.0021](#), Health and
14-63 Safety Code, is amended to read as follows:

14-64 Sec. 531.0021. REFERENCE TO STATE SCHOOL OR [~~7~~]
14-65 SUPERINTENDENT [~~7 OR LOCAL MENTAL RETARDATION AUTHORITY~~].

14-66 SECTION 6.06. The heading to Subtitle E, Title 7, Health and
14-67 Safety Code, is amended to read as follows:

14-68 SUBTITLE E. SPECIAL PROVISIONS RELATING TO MENTAL ILLNESS AND
14-69 INTELLECTUAL DISABILITY [~~MENTAL RETARDATION~~]

15-1 SECTION 6.07. The heading to Chapter 613, Health and Safety
15-2 Code, is amended to read as follows:

15-3 CHAPTER 613. KIDNEY DONATION BY WARD WITH INTELLECTUAL DISABILITY
15-4 [MENTAL RETARDATION]

15-5 SECTION 6.08. Section 613.001, Health and Safety Code, is
15-6 amended to read as follows:

15-7 Sec. 613.001. DEFINITION. In this chapter, "ward with an
15-8 intellectual disability [mental retardation]" means a ward who is a
15-9 person with an intellectual disability [mental retardation], as
15-10 defined by Subtitle D.

15-11 SECTION 6.09. Section 613.002, Health and Safety Code, is
15-12 amended to read as follows:

15-13 Sec. 613.002. COURT ORDER AUTHORIZING KIDNEY DONATION. A
15-14 district court may authorize the donation of a kidney of a ward with
15-15 an intellectual disability [mental retardation] to a father,
15-16 mother, son, daughter, brother, or sister of the ward if:

15-17 (1) the guardian of the ward with an intellectual
15-18 disability [mental retardation] consents to the donation;

15-19 (2) the ward is 12 years of age or older;

15-20 (3) the ward assents to the kidney transplant;

15-21 (4) the ward has two kidneys;

15-22 (5) without the transplant the donee will soon die or
15-23 suffer severe and progressive deterioration, and with the
15-24 transplant the donee will probably benefit substantially;

15-25 (6) there are no medically preferable alternatives to
15-26 a kidney transplant for the donee;

15-27 (7) the risks of the operation and the long-term risks
15-28 to the ward are minimal;

15-29 (8) the ward will not likely suffer psychological
15-30 harm; and

15-31 (9) the transplant will promote the ward's best
15-32 interests.

15-33 SECTION 6.10. Section 613.003, Health and Safety Code, is
15-34 amended to read as follows:

15-35 Sec. 613.003. PETITION FOR COURT ORDER. The guardian of the
15-36 person of a ward with an intellectual disability [mental
15-37 retardation] may petition a district court having jurisdiction of
15-38 the guardian for an order authorizing the ward to donate a kidney
15-39 under Section 613.002.

15-40 SECTION 6.11. Section 613.004(c), Health and Safety Code,
15-41 is amended to read as follows:

15-42 (c) The court shall appoint an attorney ad litem and a
15-43 guardian ad litem to represent the interest of the ward with an
15-44 intellectual disability [mental retardation]. Neither person
15-45 appointed may be related to the ward within the second degree by
15-46 consanguinity.

15-47 SECTION 6.12. Section 613.005, Health and Safety Code, is
15-48 amended to read as follows:

15-49 Sec. 613.005. INTERVIEW AND EVALUATION ORDER BY COURT. (a)
15-50 Before the eighth day after the date of the hearing, the court shall
15-51 interview the ward with an intellectual disability [mental
15-52 retardation] to determine if the ward assents to the donation. The
15-53 interview shall be conducted in chambers and out of the presence of
15-54 the guardian.

15-55 (b) If the court considers it necessary, the court may order
15-56 the performance of a determination of intellectual disability
15-57 [mental retardation], as provided by Section 593.005, to help the
15-58 court evaluate the ward's capacity to agree to the donation.

15-59 ARTICLE 7. HUMAN RESOURCES CODE PROVISIONS

15-60 SECTION 7.01. Section 221.056(a), Human Resources Code, is
15-61 amended to read as follows:

15-62 (a) The department may contract with a local mental health
15-63 authority and local intellectual and developmental disability [and
15-64 mental retardation] authority for the establishment of a
15-65 residential treatment facility for juveniles with mental illness or
15-66 emotional injury who, as a condition of juvenile probation, are
15-67 ordered by a court to reside at the facility and receive education
15-68 services at the facility. The department may work in cooperation
15-69 with the local mental health authority and local intellectual and

16-1 developmental disability [~~and mental retardation~~] authority to
 16-2 provide mental health residential treatment services for juveniles
 16-3 residing at a facility established under this section.

16-4 SECTION 7.02. The heading to Section 244.011, Human
 16-5 Resources Code, is amended to read as follows:

16-6 Sec. 244.011. CHILDREN WITH MENTAL ILLNESS OR INTELLECTUAL
 16-7 DISABILITY [~~MENTAL RETARDATION~~].

16-8 SECTION 7.03. Sections 244.011(a), (b), (e), (f), and (g),
 16-9 Human Resources Code, are amended to read as follows:

16-10 (a) The department shall accept a child committed to the
 16-11 department who is a person with a mental illness or a person with an
 16-12 intellectual disability [~~mentally ill or mentally retarded~~].

16-13 (b) Unless a child is committed to the department under a
 16-14 determinate sentence under Section 54.04(d)(3), 54.04(m), or
 16-15 54.05(f), Family Code, the department shall discharge a child who
 16-16 is a person with a mental illness or a person with an intellectual
 16-17 disability [~~mentally ill or mentally retarded~~] from its custody if:

16-18 (1) the child has completed the minimum length of stay
 16-19 for the child's committing offense; and

16-20 (2) the department determines that the child is unable
 16-21 to progress in the department's rehabilitation programs because of
 16-22 the child's mental illness or intellectual disability [~~mental~~
 16-23 ~~retardation~~].

16-24 (e) If a child who is discharged from the department under
 16-25 Subsection (b) as a result of an intellectual disability [~~mental~~
 16-26 ~~retardation~~] is not receiving intellectual disability [~~mental~~
 16-27 ~~retardation~~] services, the child's discharge is effective on the
 16-28 earlier of:

16-29 (1) the date the court enters an order regarding an
 16-30 application for intellectual disability [~~mental retardation~~]
 16-31 services filed under Section 244.012(b); or

16-32 (2) the 30th day after the date that the application is
 16-33 filed.

16-34 (f) If a child who is discharged from the department under
 16-35 Subsection (b) as a result of an intellectual disability [~~mental~~
 16-36 ~~retardation~~] is receiving intellectual disability [~~mental~~
 16-37 ~~retardation~~] services, the child's discharge from the department is
 16-38 effective immediately.

16-39 (g) If a child who is a person with a mental illness or a
 16-40 person with an intellectual disability [~~mentally ill or mentally~~
 16-41 ~~retarded~~] is discharged from the department under Subsection (b),
 16-42 the child is eligible to receive continuity of care services from
 16-43 the Texas Correctional Office on Offenders with Medical or Mental
 16-44 Impairments under Chapter 614, Health and Safety Code.

16-45 SECTION 7.04. Sections 244.012(a) and (c), Human Resources
 16-46 Code, are amended to read as follows:

16-47 (a) The department shall establish a system that identifies
 16-48 children in the department's custody who have a mental illness or an
 16-49 intellectual disability [~~are mentally ill or mentally retarded~~].

16-50 (c) Before a child who is identified as a person with an
 16-51 intellectual disability [~~mentally retarded~~] under Chapter 593,
 16-52 Health and Safety Code, is discharged from the department's custody
 16-53 under Section 244.011(b), the department shall refer the child for
 16-54 intellectual disability [~~mental retardation~~] services if the child
 16-55 is not receiving those [~~mental retardation~~] services.

16-56 ARTICLE 8. INSURANCE CODE PROVISIONS

16-57 SECTION 8.01. Sections 843.002(18) and (21), Insurance
 16-58 Code, are amended to read as follows:

16-59 (18) "Limited health care services" means:

16-60 (A) services for mental health, chemical
 16-61 dependency, or intellectual disability [~~mental retardation~~], or
 16-62 any combination of those services; or

16-63 (B) an organized long-term care service delivery
 16-64 system that provides for diagnostic, preventive, therapeutic,
 16-65 rehabilitative, and personal care services required by an
 16-66 individual with a loss in functional capacity on a long-term basis.

16-67 (21) "Person" means any natural or artificial person,
 16-68 including an individual, partnership, association, corporation,
 16-69 organization, trust, hospital district, community mental health

17-1 center, intellectual disability [~~mental retardation~~] center,
 17-2 mental health [~~and mental retardation~~] center, limited liability
 17-3 company, or limited liability partnership or the statewide rural
 17-4 health care system under Chapter 845.

17-5 SECTION 8.02. Section 1201.059(a), Insurance Code, is
 17-6 amended to read as follows:

17-7 (a) An accident and health insurance policy, including an
 17-8 individual, blanket, or group policy, and including a policy issued
 17-9 by a corporation operating under Chapter 842, that provides that
 17-10 coverage of a child terminates when the child attains a limiting age
 17-11 specified in the policy must provide in substance that the child's
 17-12 attainment of that age does not terminate coverage while the child
 17-13 is:

17-14 (1) incapable of self-sustaining employment because
 17-15 of an intellectual [~~mental retardation~~] or physical disability; and

17-16 (2) chiefly dependent on the insured or group member
 17-17 for support and maintenance.

17-18 SECTION 8.03. Section 1305.004(a)(18), Insurance Code, is
 17-19 amended to read as follows:

17-20 (18) "Person" means any natural or artificial person,
 17-21 including an individual, partnership, association, corporation,
 17-22 organization, trust, hospital district, community mental health
 17-23 center, intellectual disability [~~mental retardation~~] center,
 17-24 mental health [~~and mental retardation~~] center, limited liability
 17-25 company, or limited liability partnership.

17-26 SECTION 8.04. Section 1355.056(c), Insurance Code, is
 17-27 amended to read as follows:

17-28 (c) Treatment provided to an individual by a crisis
 17-29 stabilization unit licensed or certified by the Health and Human
 17-30 Services Commission [~~Texas Department of Mental Health and Mental~~
 17-31 ~~Retardation~~] shall be reimbursed.

17-32 SECTION 8.05. Section 1355.058, Insurance Code, is amended
 17-33 to read as follows:

17-34 Sec. 1355.058. HEALTH AND HUMAN SERVICES COMMISSION
 17-35 ASSISTANCE [~~OF THE TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL~~
 17-36 ~~RETARDATION~~]. (a) The Health and Human Services Commission [~~Texas~~
 17-37 ~~Department of Mental Health and Mental Retardation~~] shall assist
 17-38 the department in carrying out the department's responsibilities
 17-39 under this subchapter.

17-40 (b) The department and the Health and Human Services
 17-41 Commission [~~Texas Department of Mental Health and Mental~~
 17-42 ~~Retardation~~] by rule may adopt a memorandum of understanding to
 17-43 carry out this subchapter.

17-44 SECTION 8.06. Section 1355.202, Insurance Code, is amended
 17-45 to read as follows:

17-46 Sec. 1355.202. PROHIBITION OF EXCLUSION OF MENTAL HEALTH OR
 17-47 INTELLECTUAL DISABILITY [~~MENTAL RETARDATION~~] BENEFITS FOR
 17-48 TREATMENT BY TAX-SUPPORTED INSTITUTION. (a) An individual or
 17-49 group accident and health insurance policy delivered or issued for
 17-50 delivery to a person in this state that provides coverage for mental
 17-51 illness or intellectual disability [~~mental retardation~~] may not
 17-52 exclude benefits under that coverage for support, maintenance, and
 17-53 treatment provided by a tax-supported institution of this state, or
 17-54 by a community center for mental health services or intellectual
 17-55 disability [~~mental retardation~~] services, that regularly and
 17-56 customarily charges patients who are not indigent for those
 17-57 services.

17-58 (b) In determining whether a patient is not indigent, as
 17-59 provided by Subchapter B, Chapter 552, Health and Safety Code, a
 17-60 tax-supported institution of this state or a community center for
 17-61 mental health services or intellectual disability [~~mental~~
 17-62 ~~retardation~~] services shall consider any insurance policy or
 17-63 policies that provide coverage to the patient for mental illness or
 17-64 intellectual disability [~~mental retardation~~].

17-65 SECTION 8.07. Section 1359.001, Insurance Code, is amended
 17-66 to read as follows:

17-67 Sec. 1359.001. DEFINITIONS. In this chapter:

17-68 (1) "Heritable disease" means an inherited disease
 17-69 that may result in a [~~mental or~~] physical or intellectual

18-1 disability [~~retardation~~] or death.

18-2 (2) "Phenylketonuria" means an inherited condition
18-3 that, if not treated, may cause a severe intellectual disability
18-4 [~~mental retardation~~].

18-5 SECTION 8.08. Section 1601.004(a), Insurance Code, is
18-6 amended to read as follows:

18-7 (a) In this chapter, "dependent," with respect to an
18-8 individual eligible to participate in the uniform program under
18-9 Section 1601.101 or 1601.102, means the individual's:

18-10 (1) spouse;

18-11 (2) unmarried child younger than 25 years of age; and

18-12 (3) child of any age who lives with or has the child's
18-13 care provided by the individual on a regular basis if the child is a
18-14 person with an intellectual disability [~~is mentally retarded~~] or is
18-15 physically incapacitated to the extent that the child is dependent
18-16 on the individual for care or support, as determined by the system.

18-17 ARTICLE 9. LABOR CODE PROVISIONS

18-18 SECTION 9.01. The heading to Section 62.057, Labor Code, is
18-19 amended to read as follows:

18-20 Sec. 62.057. PATIENTS AND CLIENTS OF [~~TEXAS~~] DEPARTMENT OF
18-21 STATE [~~MENTAL~~] HEALTH SERVICES [~~AND MENTAL RETARDATION~~].

18-22 SECTION 9.02. Section 62.057(a), Labor Code, is amended to
18-23 read as follows:

18-24 (a) A person may be compensated for services rendered to the
18-25 [~~Texas~~] Department of State [~~Mental~~] Health Services [~~and Mental~~
18-26 ~~Retardation~~] or a department facility at a percentage of the base
18-27 wage adopted under this section if:

18-28 (1) the person is a patient or client of a department
18-29 facility;

18-30 (2) the person's productive capacity is impaired;

18-31 (3) the person:

18-32 (A) assists in the operation of the facility as
18-33 part of the person's therapy; or

18-34 (B) receives occupational training in a
18-35 sheltered workshop or other program operated by the department; and

18-36 (4) the facility or department derives an economic
18-37 benefit from the person's services.

18-38 SECTION 9.03. Section 406.098(b)(4), Labor Code, is amended
18-39 to read as follows:

18-40 (4) "Political subdivision" means a county,
18-41 municipality, special district, school district, junior college
18-42 district, housing authority, community center [~~for mental health~~
18-43 ~~and mental retardation services~~] established under Subchapter A,
18-44 Chapter 534, Health and Safety Code, or any other legally
18-45 constituted political subdivision of the state.

18-46 SECTION 9.04. Section 504.001(3), Labor Code, is amended to
18-47 read as follows:

18-48 (3) "Political subdivision" means a county,
18-49 municipality, special district, school district, junior college
18-50 district, housing authority, community center [~~for mental health~~
18-51 ~~and mental retardation services~~] established under Subchapter A,
18-52 Chapter 534, Health and Safety Code, or any other legally
18-53 constituted political subdivision of the state.

18-54 ARTICLE 10. LOCAL GOVERNMENT CODE PROVISIONS

18-55 SECTION 10.01. Section 244.006, Local Government Code, is
18-56 amended to read as follows:

18-57 Sec. 244.006. EXEMPTIONS. This subchapter does not apply
18-58 to the operation of a correctional or rehabilitation facility at a
18-59 location subject to this subchapter if:

18-60 (1) on September 1, 1997, the correctional or
18-61 rehabilitation facility was in operation, under construction,
18-62 under contract for operation or construction, or planned for
18-63 construction at the location on land owned or leased by an agency or
18-64 political subdivision of the state and designated for use as a
18-65 correctional or rehabilitation facility;

18-66 (2) the correctional or rehabilitation facility was in
18-67 operation or under construction before the establishment of a
18-68 residential area the location of which makes the facility subject
18-69 to this subchapter;

19-1 (3) the correctional or rehabilitation facility is a
 19-2 temporary correctional or rehabilitation facility that will be
 19-3 operated at the location for less than one year;

19-4 (4) the correctional or rehabilitation facility is
 19-5 required to obtain a special use permit or a conditional use permit
 19-6 from the municipality in which the facility is located before
 19-7 beginning operation;

19-8 (5) the correctional or rehabilitation facility is an
 19-9 expansion of a facility operated by the correctional institutions
 19-10 division of the Texas Department of Criminal Justice for the
 19-11 imprisonment of individuals convicted of felonies other than state
 19-12 jail felonies or by the Texas Juvenile Justice Department;

19-13 (6) the correctional or rehabilitation facility is a
 19-14 county jail or a pre-adjudication or post-adjudication juvenile
 19-15 detention facility operated by a county or county juvenile board;

19-16 (7) the facility is:

19-17 (A) a juvenile probation office located at, and
 19-18 operated in conjunction with, a juvenile justice alternative
 19-19 education center; and

19-20 (B) used exclusively by students attending the
 19-21 juvenile justice alternative education center;

19-22 (8) the facility is a public or private institution of
 19-23 higher education or vocational training to which admission is open
 19-24 to the general public;

19-25 (9) the facility is operated primarily as a treatment
 19-26 facility for juveniles under contract with the Health and Human
 19-27 [Department of Aging and Disability] Services Commission, [or] the
 19-28 Department of State Health Services, [or] a local mental health
 19-29 authority, or a local intellectual and developmental disability
 19-30 [mental retardation] authority;

19-31 (10) the facility is operated as a juvenile justice
 19-32 alternative education program;

19-33 (11) the facility:

19-34 (A) is not operated primarily as a correctional
 19-35 or rehabilitation facility; and

19-36 (B) only houses persons or children described by
 19-37 Section 244.001(1)(B) for a purpose related to treatment or
 19-38 education; or

19-39 (12) the facility is a probation or parole office
 19-40 located in a commercial use area.

19-41 ARTICLE 11. OCCUPATIONS CODE PROVISIONS

19-42 SECTION 11.01. Section 1701.404(b), Occupations Code, is
 19-43 amended to read as follows:

19-44 (b) The commission may certify a sheriff, sheriff's deputy,
 19-45 constable, other peace officer, county jailer, or justice of the
 19-46 peace as a special officer for offenders with mental impairments if
 19-47 the person:

19-48 (1) completes a training course in emergency first aid
 19-49 and lifesaving techniques approved by the commission;

19-50 (2) completes a training course administered by the
 19-51 commission on mental health issues and offenders with mental
 19-52 impairments; and

19-53 (3) passes an examination administered by the
 19-54 commission that is designed to test the person's:

19-55 (A) knowledge and recognition of the
 19-56 characteristics and symptoms of mental illness [~~mental~~
 19-57 ~~retardation,~~] and intellectual disability [~~mental disabilities~~];
 19-58 and

19-59 (B) knowledge of mental health crisis
 19-60 intervention strategies for people with mental impairments.

19-61 ARTICLE 12. TRANSPORTATION CODE PROVISIONS

19-62 SECTION 12.01. Section 201.603, Transportation Code, is
 19-63 amended to read as follows:

19-64 Sec. 201.603. AGREEMENT WITH OTHER AGENCIES FOR ROADS. (a)
 19-65 On request of the Health and Human Services Commission [~~Texas~~
 19-66 ~~Department of Mental Health and Mental Retardation~~] or the Texas
 19-67 Juvenile Justice Department, the department may enter into
 19-68 agreements with either agency [~~department~~] for the construction,
 19-69 maintenance, or repair of roads in an institution, hospital, or

20-1 school under the control, management, or supervision of that agency
20-2 [~~department~~].

20-3 (b) The Health and Human Services Commission [~~Texas~~
20-4 ~~Department of Mental Health and Mental Retardation~~] or the Texas
20-5 Juvenile Justice Department may reimburse the appropriate fund of
20-6 the department for the cost of construction or maintenance
20-7 performed under Subsection (a). Before a transfer of an amount
20-8 under this subsection, the reimbursing agency shall notify in
20-9 writing the comptroller of the amount to be transferred and the fund
20-10 from which the amount is to be taken.

20-11 ARTICLE 13. TAX CODE PROVISIONS

20-12 SECTION 13.01. Section 171.1011(p)(2), Tax Code, is amended
20-13 to read as follows:

20-14 (2) "Health care institution" means:

20-15 (A) an ambulatory surgical center;

20-16 (B) an assisted living facility licensed under
20-17 Chapter 247, Health and Safety Code;

20-18 (C) an emergency medical services provider;

20-19 (D) a home and community support services agency;

20-20 (E) a hospice;

20-21 (F) a hospital;

20-22 (G) a hospital system;

20-23 (H) an intermediate care facility for
20-24 individuals with an intellectual disability [~~the mentally~~
20-25 ~~retarded~~] or a home and community-based services waiver program for
20-26 individuals [persons] with an intellectual disability [~~mental~~
20-27 ~~retardation~~] adopted in accordance with Section 1915(c) of the
20-28 federal Social Security Act (42 U.S.C. Section 1396n);

20-29 (I) a birthing center;

20-30 (J) a nursing home;

20-31 (K) an end stage renal disease facility licensed
20-32 under Section 251.011, Health and Safety Code; or

20-33 (L) a pharmacy.

20-34 ARTICLE 14. REPEALERS

20-35 SECTION 14.01. The following provisions of the Health and
20-36 Safety Code are repealed:

20-37 (1) Section 531.0021(c); and

20-38 (2) Sections 591.003(13) and (16).

20-39 ARTICLE 15. EFFECTIVE DATE

20-40 SECTION 15.01. This Act takes effect September 1, 2023.

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