

By: A. Johnson of Harris

H.B. No. 2037

A BILL TO BE ENTITLED

AN ACT

relating to certain proceedings in juvenile court for children with mental illness and intellectual disabilities.

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

SECTION 1. Sections 51.20(a), (b), (c), and (d), Family Code, are amended to read as follows:

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

1 ~~the examination only if the expert is qualified under Subchapter B,~~
2 ~~Chapter 46B, Code of Criminal Procedure, to examine a defendant in a~~
3 ~~criminal case, and the examination and the report resulting from an~~
4 ~~examination under this subsection must comply with the requirements~~
5 ~~under Subchapter B, Chapter 46B, Code of Criminal Procedure, for~~
6 ~~the examination and resulting report of a defendant in a criminal~~
7 ~~case.]~~

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

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

1 legally authorized agency or provider for evaluation and services.

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

8 SECTION 2. Subchapter A, Chapter 55, Family Code, is
9 amended to read as follows:

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 55.01. DEFINITIONS [~~MEANING OF "HAVING A MENTAL~~
12 ~~ILLNESS"~~]. In [~~For purposes of~~] this chapter:

13 (1) "Adaptive behavior" and "intellectual disability"
14 have the meanings assigned by Section 591.003, Health and Safety
15 Code.

16 (2) "Child with an intellectual disability" means a
17 child determined by a physician or psychologist licensed in this
18 state to have subaverage general intellectual functioning with
19 deficits in adaptive behavior.

20 (3) "Child with mental illness" [~~, a child who is~~
21 ~~described as having a mental illness~~] means a child determined by a
22 physician or psychologist licensed in this state to have [~~with~~]
23 mental illness.

24 (4) "Interdisciplinary team" means a group of
25 intellectual disability professionals and paraprofessionals who
26 assess the treatment, training, and habilitation needs of a person
27 with an intellectual disability and make recommendations for

1 services for that person.

2 (5) "Least restrictive appropriate setting" means the
3 treatment or service setting closest to the child's home that
4 provides the child with the greatest probability of improvement and
5 is no more restrictive of the child's physical or social liberties
6 than is necessary to provide the child with the most effective
7 treatment or services and to protect adequately against any danger
8 the child poses to self or others.

9 (6) "Mental illness" has the meaning assigned by
10 Section 571.003, Health and Safety Code.

11 (7) "Restoration classes" means curriculum-based
12 educational sessions a child attends to assist in restoring the
13 child's fitness to proceed, including the child's capacity to
14 understand the proceedings in juvenile court and to assist in the
15 child's own defense.

16 (8) "Subaverage general intellectual functioning"
17 means intelligence that is measured on standardized psychometric
18 instruments of two or more standard deviations below the age-group
19 mean for the instruments used [~~as defined by Section 571.003,~~
20 ~~Health and Safety Code~~].

21 Sec. 55.02. MENTAL HEALTH AND INTELLECTUAL DISABILITY
22 JURISDICTION. For the purpose of initiating proceedings to order
23 mental health or intellectual disability services for a child [~~or~~
24 ~~for commitment of a child~~] as provided by this chapter, the juvenile
25 court has jurisdiction of proceedings under Subtitle C or D, Title
26 7, Health and Safety Code.

27 Sec. 55.03. STANDARDS OF CARE. (a) Except as provided by

1 this chapter, a child for whom inpatient or outpatient mental
2 health services are [~~is~~] ordered by a court under this chapter shall
3 be cared for as provided by Subtitle C, Title 7, Health and Safety
4 Code.

5 (b) Except as provided by this chapter, a child who is
6 ordered [~~committed~~] by a court to a residential care facility due to
7 an intellectual disability shall be cared for as provided by
8 Subtitle D, Title 7, Health and Safety Code.

9 Sec. 55.04. FORENSIC MENTAL EXAMINATION. (a) In this
10 section, "forensic mental examination" means an examination by a
11 disinterested physician or psychologist to determine if a child who
12 is alleged by petition or found to have engaged in delinquent
13 conduct or conduct indicating a need for supervision is a child with
14 mental illness, is unfit to proceed in juvenile court due to mental
15 illness or an intellectual disability, or lacks responsibility for
16 conduct due to mental illness or an intellectual disability.

17 (b) A juvenile court may order a forensic mental examination
18 if the court determines that probable cause exists to believe that a
19 child who is alleged by petition or found to have engaged in
20 delinquent conduct or conduct indicating a need for supervision is
21 a child with mental illness, is unfit to proceed in juvenile court
22 due to mental illness or an intellectual disability, or lacks
23 responsibility for conduct due to mental illness or an intellectual
24 disability.

25 (c) To qualify for appointment as an expert under this
26 chapter, a physician or psychologist must:

27 (1) as appropriate, be a physician licensed in this

1 state or be a psychologist licensed in this state who has a doctoral
2 degree in psychology; and

3 (2) have the following certification or training:

4 (A) as appropriate, certification by:

5 (i) the American Board of Psychiatry and
6 Neurology with added or special qualifications in forensic
7 psychiatry; or

8 (ii) the American Board of Professional
9 Psychology in forensic psychology; or

10 (B) training consisting of:

11 (i) at least 24 hours of specialized
12 forensic training relating to incompetency, fitness to proceed,
13 lack of responsibility for conduct, or insanity evaluations; and

14 (ii) at least eight hours of continuing
15 education relating to forensic evaluations, completed in the 12
16 months preceding the date of the appointment.

17 (d) In addition to meeting the qualifications required by
18 Subsection (c), to be appointed as an expert, a physician or
19 psychologist must have completed six hours of required continuing
20 education in courses in forensic psychiatry or psychology, as
21 appropriate, in the 24 months preceding the appointment.

22 (e) A court may appoint as an expert a physician or
23 psychologist who does not meet the requirements of Subsections (c)
24 and (d) only if the court determines that exigent circumstances
25 require the court to appoint an expert with specialized expertise
26 to examine the child that is not ordinarily possessed by a physician
27 or psychologist who meets the requirements of Subsections (c) and

1 (d).

2 Sec. 55.05. CRITERIA FOR COURT-ORDERED MENTAL HEALTH
3 SERVICES FOR CHILD. (a) A juvenile court may order a child who is
4 subject to the jurisdiction of the juvenile court to receive
5 temporary inpatient mental health services only if the court finds,
6 from clear and convincing evidence, that:

7 (1) the child is a child with mental illness; and

8 (2) as a result of that mental illness, the child:

9 (A) is likely to cause serious harm to the
10 child's self;

11 (B) is likely to cause serious harm to others; or

12 (C) is:

13 (i) suffering severe and abnormal mental,
14 emotional, or physical distress;

15 (ii) experiencing substantial mental or
16 physical deterioration of the child's ability to function
17 independently; and

18 (iii) unable to make a rational and
19 informed decision as to whether to submit to treatment or is
20 unwilling to submit to treatment.

21 (b) A juvenile court may order a child who is subject to the
22 jurisdiction of the juvenile court to receive temporary outpatient
23 mental health services only if the court finds:

24 (1) that appropriate mental health services are
25 available to the child; and

26 (2) clear and convincing evidence that:

27 (A) the child is a child with severe and

1 persistent mental illness;

2 (B) as a result of the mental illness, the child
3 will, if not treated, experience deterioration of the ability to
4 function independently to the extent that the child will be unable
5 to live safely in the community without court-ordered outpatient
6 mental health services;

7 (C) outpatient mental health services are needed
8 to prevent a relapse that would likely result in serious harm to the
9 child or others; and

10 (D) the child has an inability to effectively and
11 voluntarily participate in outpatient treatment services,
12 demonstrated by:

13 (i) any of the child's actions occurring
14 within the two-year period preceding the date of the hearing; or

15 (ii) specific characteristics of the
16 child's clinical condition that significantly impair the child's
17 ability to make a rational and informed decision as to whether to
18 submit to voluntary outpatient treatment.

19 (c) A juvenile court may order a child who is subject to the
20 jurisdiction of the juvenile court to receive extended inpatient
21 mental health services only if the court finds, from clear and
22 convincing evidence, that, in addition to the findings in
23 Subsection (a):

24 (1) the child's condition is expected to continue for
25 more than 90 days; and

26 (2) the child has received court-ordered inpatient
27 mental health services under this chapter or under Chapter 574,

1 Health and Safety Code, for at least 60 consecutive days during the
2 preceding 12 months.

3 (d) A juvenile court may order a child who is subject to the
4 jurisdiction of the juvenile court to receive extended outpatient
5 mental health services only if, in addition to the findings in
6 Subsection (b):

7 (1) the child's condition is expected to continue for
8 more than 90 days; and

9 (2) the child has received:

10 (A) court-ordered inpatient mental health
11 services under this chapter or under Chapter 574, Health and Safety
12 Code, for at least 60 consecutive days during the preceding 12
13 months; or

14 (B) court-ordered outpatient mental health
15 services under this chapter or under Chapter 574, Health and Safety
16 Code, during the preceding 60 days.

17 Sec. 55.06. CRITERIA FOR COURT-ORDERED RESIDENTIAL
18 INTELLECTUAL DISABILITY SERVICES FOR CHILD. A child may not be
19 court-ordered to receive services at a residential care facility
20 unless:

21 (1) the child is a child with an intellectual
22 disability;

23 (2) evidence is presented showing that because of the
24 child's intellectual disability, the child:

25 (A) represents a substantial risk of physical
26 impairment or injury to the child or others; or

27 (B) is unable to provide for and is not providing

1 for the child's most basic personal physical needs;

2 (3) the child cannot be adequately and appropriately
3 habilitated in an available, less restrictive setting;

4 (4) the residential care facility provides
5 habilitative services, care, training, and treatment appropriate
6 to the child's needs; and

7 (5) an interdisciplinary team recommends placement in
8 the residential care facility.

9 SECTION 3. The heading to Subchapter B, Chapter 55, Family
10 Code, is amended to read as follows:

11 SUBCHAPTER B. COURT-ORDERED MENTAL HEALTH SERVICES FOR CHILD WITH
12 MENTAL ILLNESS

13 SECTION 4. Sections 55.11(b) and (c), Family Code, are
14 amended to read as follows:

15 (b) If the court determines that probable cause exists to
16 believe that the child is a child with ~~[has a]~~ mental illness, the
17 court shall temporarily stay the juvenile court proceedings and
18 immediately order the child to be examined under Section 55.04
19 ~~[51.20]~~. The information obtained from the examination must
20 include expert opinion as to:

21 (1) whether the child is a child with ~~[has a]~~ mental
22 illness; ~~and~~

23 (2) whether the child meets the ~~[commitment]~~ criteria
24 for court-ordered mental health services under Section 55.05 for:

25 (A) temporary inpatient mental health services;

26 (B) temporary outpatient mental health services;

27 (C) extended inpatient mental health services;

1 or

2 (D) extended outpatient mental health services;

3 and

4 (3) if applicable, the specific criteria the child
5 meets under Subdivision (2) [~~under Subtitle C, Title 7, Health and~~
6 Safety Code. If ordered by the court, the information must also
7 include expert opinion as to whether the child is unfit to proceed
8 with the juvenile court proceedings].

9 (c) After considering all relevant information, including
10 information obtained from an examination under Section 55.04
11 [~~51.20~~], the court shall:

12 (1) proceed under Section 55.12 if the court
13 determines that evidence exists to support a finding that the child
14 is a child with [~~has a~~] mental illness and that the child meets the
15 [~~commitment~~] criteria for court-ordered mental health services
16 under Section 55.05 [~~Subtitle C, Title 7, Health and Safety Code,~~
17 ~~proceed under Section 55.12~~]; or

18 (2) dissolve the stay and continue the juvenile court
19 proceedings if the court determines that evidence does not exist to
20 support a finding that the child is a child with [~~has a~~] mental
21 illness or that the child meets the [~~commitment~~] criteria for
22 court-ordered mental health services under Section 55.05 [~~Subtitle~~
23 ~~C, Title 7, Health and Safety Code, dissolve the stay and continue~~
24 ~~the juvenile court proceedings~~].

25 SECTION 5. Sections 55.12, 55.15, 55.16, 55.17, 55.18, and
26 55.19, Family Code, are amended to read as follows:

27 Sec. 55.12. INITIATION OF [~~COMMITMENT~~] PROCEEDINGS FOR

1 COURT-ORDERED MENTAL HEALTH SERVICES. If, after considering all
2 relevant information, the juvenile court determines that evidence
3 exists to support a finding that a child is a child with [~~has a~~]
4 mental illness and that the child meets the [~~commitment~~] criteria
5 for court-ordered mental health services under Section 55.05 [~~under~~
6 ~~Subtitle C, Title 7, Health and Safety Code~~], the court shall:

7 (1) initiate proceedings as provided by Section 55.65
8 [~~55.13~~] to order temporary or extended mental health services, as
9 provided in this chapter and Subchapter C, Chapter 574, Health and
10 Safety Code; or

11 (2) refer the child's case as provided by Section 55.68
12 [~~55.14~~] to the appropriate court for the initiation of proceedings
13 in that court to order temporary or extended mental health services
14 for [~~commitment of~~] the child under this chapter and Subchapter C,
15 Chapter 574, Health and Safety Code.

16 Sec. 55.15. STANDARDS OF CARE; EXPIRATION OF COURT ORDER
17 FOR MENTAL HEALTH SERVICES. Treatment ordered under this
18 subchapter for a child with mental illness must focus on the
19 stabilization of the child's mental illness and on meeting the
20 child's psychiatric needs in the least restrictive appropriate
21 setting. If the juvenile court or a court to which the child's case
22 is referred under Section 55.12(2) orders mental health services
23 for the child, the child shall be cared for, treated, and released
24 in conformity to Subtitle C, Title 7, Health and Safety Code,
25 except:

26 (1) a court order for mental health services for a
27 child automatically expires on the 120th day after the date the

1 child becomes 18 years of age; and

2 (2) the administrator of a mental health facility
3 shall notify, in writing, by certified mail, return receipt
4 requested, the juvenile court that ordered mental health services
5 or the juvenile court that referred the case to a court that ordered
6 the mental health services of the intent to discharge the child at
7 least 10 days prior to discharge.

8 Sec. 55.16. ORDER FOR MENTAL HEALTH SERVICES; STAY OF
9 PROCEEDINGS. (a) If the court to which the child's case is
10 referred under Section 55.12(2) orders temporary or extended
11 ~~[inpatient]~~ mental health services for the child, the court shall
12 immediately notify in writing the referring juvenile court of the
13 court's order for mental health services.

14 (b) If the juvenile court orders temporary or extended
15 ~~[inpatient]~~ mental health services for the child or if the juvenile
16 court receives notice under Subsection (a) from the court to which
17 the child's case is referred, the proceedings under this title then
18 pending in juvenile court shall be stayed.

19 Sec. 55.17. MENTAL HEALTH SERVICES NOT ORDERED;
20 DISSOLUTION OF STAY. (a) If the court to which a child's case is
21 referred under Section 55.12(2) does not order temporary or
22 extended ~~[inpatient]~~ mental health services for the child, the
23 court shall immediately notify in writing the referring juvenile
24 court of the court's decision.

25 (b) If the juvenile court does not order temporary or
26 extended ~~[inpatient]~~ mental health services for the child or if the
27 juvenile court receives notice under Subsection (a) from the court

1 to which the child's case is referred, the juvenile court shall
2 dissolve the stay and continue the juvenile court proceedings.

3 Sec. 55.18. DISCHARGE FROM COURT-ORDERED INPATIENT OR
4 OUTPATIENT MENTAL HEALTH SERVICES [~~FACILITY~~] BEFORE REACHING 18
5 YEARS OF AGE. If the child is discharged from the mental health
6 facility or from outpatient treatment services before reaching 18
7 years of age, the juvenile court may:

8 (1) dismiss the juvenile court proceedings with
9 prejudice; or

10 (2) dissolve the stay and continue with proceedings
11 under this title as though no order of mental health services had
12 been made.

13 Sec. 55.19. DISCRETIONARY TRANSFER TO CRIMINAL COURT ON
14 18TH BIRTHDAY. (a) The juvenile court may waive its exclusive
15 original jurisdiction and [~~shall~~] transfer all pending proceedings
16 from the juvenile court to a criminal court on or after the 18th
17 birthday of a child for whom the juvenile court or a court to which
18 the child's case was [~~is~~] referred under Section 55.12(2) [~~has~~]
19 ordered inpatient mental health services if:

20 (1) the child is not discharged or furloughed from the
21 inpatient mental health facility before reaching 18 years of age;
22 and

23 (2) the child is alleged to have engaged in delinquent
24 conduct that included a violation of a penal law listed in Section
25 53.045 and no adjudication concerning the alleged conduct has been
26 made.

27 (b) A court conducting a waiver of jurisdiction and

1 discretionary transfer hearing under this section shall conduct the
2 hearing according to Sections 54.02(j), (k), and (l).

3 (c) If after the hearing the juvenile court waives its
4 jurisdiction and transfers the person to criminal court, the [The]
5 juvenile court shall send notification of the transfer of a child
6 under Subsection (a) to the inpatient mental health facility. The
7 criminal court shall, within 90 days of the transfer, institute
8 proceedings under Chapter 46B, Code of Criminal Procedure. If
9 those or any subsequent proceedings result in a determination that
10 the defendant is competent to stand trial, the defendant may not
11 receive a punishment for the delinquent conduct described by
12 Subsection (a)(2) that results in confinement for a period longer
13 than the maximum period of confinement the defendant could have
14 received if the defendant had been adjudicated for the delinquent
15 conduct while still a child and within the jurisdiction of the
16 juvenile court.

17 SECTION 6. Section 55.31, Family Code, is amended by
18 amending Subsections (c) and (d) and adding Subsections (e) and (f)
19 to read as follows:

20 (c) If the court determines that probable cause exists to
21 believe that the child is unfit to proceed, the court shall
22 temporarily stay the juvenile court proceedings and immediately
23 order the child to be examined under Section 55.04 ~~[51.20. The~~
24 ~~information obtained from the examination must include expert~~
25 ~~opinion as to whether the child is unfit to proceed as a result of~~
26 ~~mental illness or an intellectual disability].~~

27 (d) During an examination ordered under this section, and in

1 any report based on that examination, an expert shall consider, in
2 addition to other issues determined relevant by the expert:

3 (1) whether the child, as supported by current
4 indications and the child's personal history:

5 (A) is a child with mental illness; or

6 (B) is a child with an intellectual disability;

7 (2) the child's capacity to:

8 (A) appreciate the allegations against the
9 child;

10 (B) appreciate the range and nature of allowable
11 dispositions that may be imposed in the proceedings against the
12 child;

13 (C) understand the roles of the participants and
14 the adversarial nature of the legal process;

15 (D) display appropriate courtroom behavior; and

16 (E) testify relevantly; and

17 (3) the degree of impairment resulting from the
18 child's mental illness or intellectual disability and the specific
19 impact on the child's capacity to engage with counsel in a
20 reasonable and rational manner.

21 (e) An expert's report to the court must state an opinion on
22 the child's fitness to proceed or explain why the expert is unable
23 to state that opinion and include:

24 (1) the child's history and current status regarding
25 any possible mental illness or intellectual disability;

26 (2) the child's developmental history as it relates to
27 any possible mental illness or intellectual disability;

1 (3) the child's functional abilities related to
2 fitness to stand trial;

3 (4) the relationship between deficits in the child's
4 functional abilities related to fitness to proceed and any mental
5 illness or intellectual disability; and

6 (5) if the expert believes the child is in need of
7 remediation or restoration services, a discussion of:

8 (A) whether the child's abilities are likely to
9 be remediated or restored within the period described by Section
10 55.33(a)(1), (2), or (3);

11 (B) whether the child may be adequately treated
12 in an alternative setting;

13 (C) any recommended interventions to aid in the
14 remediation or restoration of the child's fitness;

15 (D) whether the child meets criteria for
16 court-ordered treatment or services under Section 55.05 or 55.06;
17 and

18 (E) if applicable, the specific criteria the
19 child meets under Paragraph (D).

20 (f) [~~(d)~~] After considering all relevant information,
21 including information obtained from an examination under Section
22 55.04 [~~51.20~~], the court shall:

23 (1) if the court determines that evidence exists to
24 support a finding that the child is unfit to proceed, proceed under
25 Section 55.32; or

26 (2) if the court determines that evidence does not
27 exist to support a finding that the child is unfit to proceed,

1 dissolve the stay and continue the juvenile court proceedings.

2 SECTION 7. Sections 55.33 and 55.35, Family Code, are
3 amended to read as follows:

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

9 (1) provided that the child meets the inpatient mental
10 health services or residential intellectual disability services
11 ~~[commitment]~~ criteria under Section 55.05 or 55.06 ~~[Subtitle C or~~
12 ~~D, Title 7, Health and Safety Code]~~, order the child placed with the
13 Health and Human Services Commission ~~[Department of State Health~~
14 ~~Services or the Department of Aging and Disability Services, as~~
15 ~~appropriate,~~ for a period of not more than 90 days, which order may
16 not specify a shorter period, for placement in a facility
17 designated by the commission ~~[department]~~;

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

23 (A) the unfitness to proceed is a result of
24 mental illness or an intellectual disability; and

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

27 (3) subject to Subsection (d) ~~[(c)]~~, if the court

1 determines that the child may be adequately treated or served in an
2 alternative setting and finds that the child does not meet criteria
3 for court-ordered inpatient mental health services or residential
4 intellectual disability services under Section 55.05 or 55.06,
5 order the child to receive treatment for mental illness or services
6 for the child's intellectual disability, as appropriate, on an
7 outpatient basis for a period of [~~not more than~~] 90 days, with the
8 possibility of extension as ordered by the court [~~which order may~~
9 ~~not specify a shorter period~~].

10 (b) If a child receives treatment for mental illness or
11 services for the child's intellectual disability on an outpatient
12 basis in an alternative setting under Subsection (a)(3), juvenile
13 probation departments may provide restoration classes in
14 collaboration with the outpatient alternative setting.

15 (c) If the court orders a child placed in a private
16 psychiatric inpatient facility or residential care facility under
17 Subsection (a)(2) or in an alternative setting under Subsection
18 (a)(3), the state or a political subdivision of the state may be
19 ordered to pay any costs associated with the ordered services
20 [~~child's placement~~], subject to an express appropriation of funds
21 for the purpose.

22 (d) [~~(c)~~] Before issuing an order described by Subsection
23 (a)(3), the court shall consult with the local juvenile probation
24 department, [~~and~~] with local treatment or service providers, with
25 the local mental health authority, and with the local intellectual
26 and developmental disability authority to determine the
27 appropriate treatment or services and restoration classes for the

1 child.

2 Sec. 55.35. INFORMATION REQUIRED TO BE SENT TO FACILITY OR
3 ALTERNATIVE SETTING; REPORT TO COURT. (a) If the juvenile court
4 issues an [~~a placement~~] order under Section 55.33(a), the court
5 shall order the probation department to send copies of any
6 information in the possession of the department and relevant to the
7 issue of the child's mental illness or intellectual disability to
8 the public or private facility or outpatient alternative setting
9 [~~center~~], as appropriate.

10 (b) Not later than the 75th day after the date the court
11 issues an [~~a placement~~] order under Section 55.33(a), the public or
12 private facility or outpatient alternative setting [~~center~~], as
13 appropriate, shall submit to the court a report that:

14 (1) describes the treatment or services provided to
15 the child by the facility or alternative setting [~~center~~]; and

16 (2) states the opinion of the director of the facility
17 or alternative setting [~~center~~] as to whether the child is fit or
18 unfit to proceed.

19 (c) If the report under Subsection (b) states that the child
20 is unfit to proceed, the report must also include an opinion and the
21 reasons for that opinion as to whether the child meets the criteria
22 for court-ordered mental health services or court-ordered
23 intellectual disability services under Section 55.05 or 55.06.

24 (d) The report of an outpatient alternative setting
25 collaborating with a juvenile probation department to provide
26 restoration classes must include any information provided by the
27 juvenile probation department regarding the child's assessment at

1 the conclusion of the restoration classes.

2 (e) The court shall provide a copy of the report submitted
3 under Subsection (b) to the prosecuting attorney and the attorney
4 for the child.

5 SECTION 8. Section 55.36(d), Family Code, is amended to
6 read as follows:

7 (d) If, after a hearing, the court or jury finds that the
8 child is unfit to proceed, the court shall proceed under Section
9 55.37 or 55.40, as appropriate.

10 SECTION 9. Sections 55.37 and 55.40, Family Code, are
11 amended to read as follows:

12 Sec. 55.37. REPORT THAT CHILD IS UNFIT TO PROCEED AS A
13 RESULT OF MENTAL ILLNESS; INITIATION OF [~~COMMITMENT~~]
14 FOR COURT-ORDERED MENTAL HEALTH SERVICES. If a report submitted
15 under Section 55.35(b) states that a child is unfit to proceed as a
16 result of mental illness and that the child meets the [~~commitment~~]
17 criteria for court-ordered mental health services under Section
18 55.05 [~~civil commitment under Subtitle C, Title 7, Health and~~
19 ~~Safety Code~~], the director of the public or private facility or
20 outpatient alternative setting [~~center~~], as appropriate, shall
21 submit to the court two certificates of medical examination for
22 mental illness, as described by Subchapter A, Chapter 574, Health
23 and Safety Code. On receipt of the certificates, the court shall:

24 (1) initiate proceedings as provided by Section 55.66
25 for temporary or extended mental health services, as provided by
26 this chapter and Subchapter C, Chapter 574, [~~55.38 in the juvenile~~
27 ~~court for commitment of the child under Subtitle C, Title 7,~~] Health

1 and Safety Code; or

2 (2) refer the child's case as provided by Section 55.68
3 ~~[55.39]~~ to the appropriate court for the initiation of proceedings
4 in that court for temporary or extended mental health services for
5 ~~[commitment of]~~ the child under this chapter and Subchapter C,
6 Chapter 574, [Subtitle C, Title 7,] Health and Safety Code.

7 Sec. 55.40. REPORT THAT CHILD IS UNFIT TO PROCEED AS A
8 RESULT OF INTELLECTUAL DISABILITY. If a report submitted under
9 Section 55.35(b) states that a child is unfit to proceed as a result
10 of an intellectual disability and that the child meets the
11 ~~[commitment]~~ criteria for court-ordered residential intellectual
12 disability services under Section 55.06 ~~[civil commitment under~~
13 ~~Subtitle D, Title 7, Health and Safety Code]~~, the director of the
14 residential care facility or alternative setting shall submit to
15 the court an affidavit stating the conclusions reached as a result
16 of the diagnosis. On receipt of the affidavit, the court shall:

17 (1) initiate proceedings as provided by Section 55.67
18 ~~[55.41]~~ in the juvenile court for court-ordered residential
19 intellectual disability services for ~~[commitment of]~~ the child
20 under Subtitle D, Title 7, Health and Safety Code; or

21 (2) refer the child's case as provided by Section 55.68
22 ~~[55.42]~~ to the appropriate court for the initiation of proceedings
23 in that court for court-ordered residential intellectual
24 disability services for ~~[commitment of]~~ the child under Subtitle D,
25 Title 7, Health and Safety Code.

26 SECTION 10. Section 55.43(a), Family Code, is amended to
27 read as follows:

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

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

5 (2) the child:

6 (A) is not:

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

9 (ii) ordered [~~committed~~] by a court to
10 receive services at a residential care facility; or

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

13 (B) is discharged or currently on furlough from a
14 mental health facility or discharged from an alternative setting
15 [~~outpatient center~~] before the child reaches 18 years of age.

16 SECTION 11. Section 55.44, Family Code, is amended to read
17 as follows:

18 Sec. 55.44. DISCRETIONARY TRANSFER TO CRIMINAL COURT ON
19 18TH BIRTHDAY OF CHILD. (a) The juvenile court may waive its
20 exclusive original jurisdiction and [~~shall~~] transfer all pending
21 proceedings from the juvenile court to a criminal court on or after
22 the 18th birthday of a child for whom the juvenile court or a court
23 to which the child's case is referred has ordered inpatient mental
24 health services or residential care for persons with an
25 intellectual disability if:

26 (1) the child is not discharged or currently on
27 furlough from the facility before reaching 18 years of age; and

1 (2) the child is alleged to have engaged in delinquent
2 conduct that included a violation of a penal law listed in Section
3 53.045 and no adjudication concerning the alleged conduct has been
4 made.

5 (b) A court conducting a waiver of jurisdiction and
6 discretionary transfer hearing under this section shall conduct the
7 hearing according to Sections 54.02(j), (k), and (l).

8 (c) If after the hearing the juvenile court waives its
9 jurisdiction and transfers the case to criminal court, the [The]
10 juvenile court shall send notification of the transfer of a child
11 under Subsection (a) to the facility. The criminal court shall,
12 before the 91st day after the date of the transfer, institute
13 proceedings under Chapter 46B, Code of Criminal Procedure. If
14 those or any subsequent proceedings result in a determination that
15 the defendant is competent to stand trial, the defendant may not
16 receive a punishment for the delinquent conduct described by
17 Subsection (a)(2) that results in confinement for a period longer
18 than the maximum period of confinement the defendant could have
19 received if the defendant had been adjudicated for the delinquent
20 conduct while still a child and within the jurisdiction of the
21 juvenile court.

22 SECTION 12. Sections 55.45(b) and (c), Family Code, are
23 amended to read as follows:

24 (b) If the juvenile court or a court to which the child's
25 case is referred under Section 55.40(2) orders the intellectual
26 disability services for [~~commitment of~~] the child to be provided at
27 [~~to~~] a residential care facility, the child shall be cared for,

1 treated, and released in accordance with Subtitle D, Title 7,
2 Health and Safety Code, except that the administrator of the
3 residential care facility shall notify, in writing, by certified
4 mail, return receipt requested, the juvenile court that ordered
5 intellectual disability services for [~~commitment of~~] the child or
6 that referred the case to a court that ordered intellectual
7 disability services for [~~commitment of~~] the child of the intent to
8 discharge or furlough the child on or before the 20th day before the
9 date of discharge or furlough.

10 (c) If the referred child, as described in Subsection (b),
11 is alleged to have committed an offense listed in Article [42A.054](#),
12 Code of Criminal Procedure, the administrator of the residential
13 care facility shall apply, in writing, by certified mail, return
14 receipt requested, to the juvenile court that ordered services for
15 [~~commitment of~~] the child or that referred the case to a court that
16 ordered services for [~~commitment of~~] the child and show good cause
17 for any release of the child from the facility for more than 48
18 hours. Notice of this request must be provided to the prosecuting
19 attorney responsible for the case. The prosecuting attorney, the
20 juvenile, or the administrator may apply for a hearing on this
21 application. If no one applies for a hearing, the trial court shall
22 resolve the application on the written submission. The rules of
23 evidence do not apply to this hearing. An appeal of the trial
24 court's ruling on the application is not allowed. The release of a
25 child described in this subsection without the express approval of
26 the trial court is punishable by contempt.

27 SECTION 13. Section [55.51\(b\)](#), Family Code, is amended to

1 read as follows:

2 (b) On a motion by a party in which it is alleged that a
3 child may not be responsible as a result of mental illness or an
4 intellectual disability for the child's conduct, the court shall
5 order the child to be examined under Section 55.04 [~~51.20~~]. The
6 information obtained from the examinations must include expert
7 opinion as to:

8 (1) whether the child is a child with mental illness or
9 an intellectual disability;

10 (2) whether the child is not responsible for the
11 child's conduct as a result of mental illness or an intellectual
12 disability;

13 (3) whether the child meets criteria for court-ordered
14 mental health or intellectual disability services under Section
15 55.05 or 55.06; and

16 (4) if applicable, the specific criteria the child
17 meets under Subdivision (3).

18 SECTION 14. Sections 55.52 and 55.54, Family Code, are
19 amended to read as follows:

20 Sec. 55.52. PROCEEDINGS FOLLOWING FINDING OF LACK OF
21 RESPONSIBILITY FOR CONDUCT. (a) If the court or jury finds that a
22 child is not responsible for the child's conduct under Section
23 55.51 as a result of mental illness or an intellectual disability,
24 the court shall:

25 (1) provided that the child meets the inpatient mental
26 health services or residential intellectual disability services
27 [~~commitment~~] criteria under Section 55.05 or 55.06 [~~Subtitle C or~~

1 ~~D, Title 7, Health and Safety Code],~~ order the child placed with the
2 Health and Human Services Commission [~~Department of State Health~~
3 ~~Services or the Department of Aging and Disability Services, as~~
4 ~~appropriate,~~] for a period of not more than 90 days, which order may
5 not specify a shorter period, for placement in a facility
6 designated by the commission [~~department~~];

7 (2) on application by the child's parent, guardian, or
8 guardian ad litem, order the child placed in a private psychiatric
9 inpatient facility or residential care facility for a period of not
10 more than 90 days, which order may not specify a shorter period, but
11 only if:

12 (A) the child's lack of responsibility is a
13 result of mental illness or an intellectual disability; and

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

16 (3) subject to Subsection (c), if the court determines
17 that the child may be adequately treated or served in an alternative
18 setting and finds that the child does not meet criteria for
19 court-ordered inpatient mental health services or residential
20 intellectual disability services under Section 55.05 or 55.06,
21 order the child to receive treatment for mental illness or services
22 for the child's intellectual disability, as appropriate, on an
23 outpatient basis for a period of [~~not more than~~] 90 days, with the
24 possibility of extension as ordered by the court [~~which order may~~
25 ~~not specify a shorter period~~].

26 (b) If the court orders a child placed in a private
27 psychiatric inpatient facility or residential care facility under

1 Subsection (a)(2) or in an alternative setting under Subsection
2 (a)(3), the state or a political subdivision of the state may be
3 ordered to pay any costs associated with the ordered services
4 ~~[child's placement]~~, subject to an express appropriation of funds
5 for the purpose.

6 (c) Before issuing an order described by Subsection (a)(3),
7 the court shall consult with the local juvenile probation
8 department, ~~[and]~~ with local treatment or service providers, with
9 the local mental health authority, and with the local intellectual
10 and developmental disability authority to determine the
11 appropriate treatment or services for the child.

12 Sec. 55.54. INFORMATION REQUIRED TO BE SENT TO FACILITY OR
13 ALTERNATIVE SETTING; REPORT TO COURT. (a) If the juvenile court
14 issues an ~~[a placement]~~ order under Section 55.52(a), the court
15 shall order the probation department to send copies of any
16 information in the possession of the department and relevant to the
17 issue of the child's mental illness or intellectual disability to
18 the public or private facility or alternative setting ~~[outpatient~~
19 ~~center]~~, as appropriate.

20 (b) Not later than the 75th day after the date the court
21 issues an ~~[a placement]~~ order under Section 55.52(a), the public or
22 private facility or alternative setting ~~[outpatient center]~~, as
23 appropriate, shall submit to the court a report that:

24 (1) describes the treatment or services provided to
25 the child by the facility or alternative setting ~~[center]~~; and

26 (2) states the opinion of the director of the facility
27 or alternative setting ~~[center]~~ as to whether the child is a child

1 with [~~has a~~] mental illness or an intellectual disability.

2 (c) If the report under Subsection (b) states that the child
3 is a child with mental illness or an intellectual disability, the
4 report must include an opinion as to whether the child meets
5 criteria for court-ordered mental health services or court-ordered
6 intellectual disability services under Section 55.05 or 55.06.

7 (d) [~~e~~] The court shall send a copy of the report
8 submitted under Subsection (b) to the prosecuting attorney and the
9 attorney for the child.

10 SECTION 15. Sections 55.55(b), (c), (d), and (e), Family
11 Code, are amended to read as follows:

12 (b) On objection by the prosecuting attorney under
13 Subsection (a), the juvenile court shall hold a hearing without a
14 jury to determine whether the child is a child with [~~has a~~] mental
15 illness or an intellectual disability and whether the child meets
16 the [~~commitment~~] criteria for court-ordered mental health services
17 or court-ordered intellectual disability services [~~civil~~
18 ~~commitment~~] under Section 55.05 or 55.06 [~~Subtitle C or D, Title 7,~~
19 ~~Health and Safety Code~~].

20 (c) At the hearing, the burden is on the state to prove by
21 clear and convincing evidence that the child is a child with [~~has a~~]
22 mental illness or an intellectual disability and that the child
23 meets the [~~commitment~~] criteria for court-ordered mental health
24 services or court-ordered intellectual disability services [~~civil~~
25 ~~commitment~~] under Section 55.05 or 55.06 [~~Subtitle C or D, Title 7,~~
26 ~~Health and Safety Code~~].

27 (d) If, after a hearing, the court finds that the child does

1 not have a mental illness or an intellectual disability and that the
2 child does not meet the [~~commitment~~] criteria for court-ordered
3 treatment services under Section 55.05 or 55.06 [~~Subtitle C or D,~~
4 ~~Title 7, Health and Safety Code~~], the court shall discharge the
5 child.

6 (e) If, after a hearing, the court finds that the child has a
7 mental illness or an intellectual disability and that the child
8 meets the [~~commitment~~] criteria for court-ordered treatment
9 services under Section 55.05 or 55.06 [~~Subtitle C or D, Title 7,~~
10 ~~Health and Safety Code~~], the court shall issue an appropriate
11 [~~commitment~~] order for court-ordered mental health services or
12 court-ordered intellectual disability services.

13 SECTION 16. Section 55.56, Family Code, is amended to read
14 as follows:

15 Sec. 55.56. REPORT THAT CHILD HAS MENTAL ILLNESS;
16 INITIATION OF [~~COMMITMENT~~] PROCEEDINGS FOR COURT-ORDERED MENTAL
17 HEALTH SERVICES. If a report submitted under Section 55.54(b)
18 states that a child is a child with [~~has a~~] mental illness and that
19 the child meets the [~~commitment~~] criteria for court-ordered mental
20 health services [~~civil commitment~~] under Section 55.05 [~~Subtitle C,~~
21 ~~Title 7, Health and Safety Code~~], the director of the public or
22 private facility or alternative setting [~~outpatient center~~], as
23 appropriate, shall submit to the court two certificates of medical
24 examination for mental illness, as described by Subchapter A,
25 Chapter 574, Health and Safety Code. On receipt of the
26 certificates, the court shall:

27 (1) initiate proceedings as provided by Section 55.66

1 ~~[55.57]~~ in the juvenile court for court-ordered mental health
2 services for ~~[commitment of]~~ the child under Subtitle C, Title 7,
3 Health and Safety Code; or

4 (2) refer the child's case as provided by Section 55.68
5 ~~[55.58]~~ to the appropriate court for the initiation of proceedings
6 in that court for court-ordered mental health services for
7 ~~[commitment of]~~ the child under Subtitle C, Title 7, Health and
8 Safety Code.

9 SECTION 17. Section 55.59, Family Code, is amended to read
10 as follows:

11 Sec. 55.59. REPORT THAT CHILD HAS INTELLECTUAL DISABILITY;
12 INITIATION OF ~~[COMMITMENT]~~ PROCEEDINGS FOR COURT-ORDERED
13 RESIDENTIAL INTELLECTUAL DISABILITY SERVICES. If a report
14 submitted under Section 55.54(b) states that a child is a child with
15 ~~[has]~~ an intellectual disability and that the child meets the
16 ~~[commitment]~~ criteria for court-ordered residential intellectual
17 disability services under Section 55.06 ~~[civil commitment under~~
18 ~~Subtitle D, Title 7, Health and Safety Code]~~, the director of the
19 residential care facility or alternative setting shall submit to
20 the court an affidavit stating the conclusions reached as a result
21 of the diagnosis. On receipt of an affidavit, the juvenile court
22 shall:

23 (1) initiate proceedings in the juvenile court as
24 provided by Section 55.67 ~~[55.60]~~ for court-ordered residential
25 intellectual disability services for ~~[commitment of]~~ the child
26 under Subtitle D, Title 7, Health and Safety Code; or

27 (2) refer the child's case to the appropriate court as

1 provided by Section 55.68 [~~55.61~~] for the initiation of proceedings
2 in that court for court-ordered residential intellectual
3 disability services for [~~commitment of~~] the child under Subtitle D,
4 Title 7, Health and Safety Code.

5 SECTION 18. Chapter 55, Family Code, is amended by adding
6 Subchapter E, and a heading is added to that subchapter to read as
7 follows:

8 SUBCHAPTER E. PROCEEDINGS FOR COURT-ORDERED MENTAL HEALTH OR
9 RESIDENTIAL INTELLECTUAL DISABILITY SERVICES

10 SECTION 19. Sections 55.13 and 55.14, Family Code, are
11 transferred to Subchapter E, Chapter 55, Family Code, as added by
12 this Act, redesignated as Sections 55.65 and 55.68, Family Code,
13 respectively, and amended to read as follows:

14 Sec. 55.65 [~~55.13~~]. [~~COMMITMENT~~] PROCEEDINGS IN JUVENILE
15 COURT FOR CHILD WITH MENTAL ILLNESS. (a) If the juvenile court
16 initiates proceedings for temporary or extended mental health
17 services under Section 55.12(1), the prosecuting attorney or the
18 attorney for the child may file with the juvenile court an
19 application for court-ordered mental health services under
20 Sections [~~Section~~] 574.001 and 574.002, Health and Safety Code.
21 The juvenile court shall:

22 (1) set a date for a hearing and provide notice as
23 required by Sections 574.005 and 574.006, Health and Safety Code;
24 [~~and~~]

25 (2) direct the local mental health authority to file,
26 before the date set for the hearing, its recommendation for the
27 child's proposed treatment, as required by Section 574.012, Health

1 and Safety Code;

2 (3) identify the person responsible for court-ordered
3 outpatient mental health services not later than the third day
4 before the date set for a hearing that may result in the court
5 ordering the child to receive court-ordered outpatient mental
6 health services, as required by Section 574.0125, Health and Safety
7 Code;

8 (4) appoint physicians necessary to examine the child
9 and to complete the certificates of medical examination for mental
10 illness required under Section 574.009, Health and Safety Code; and

11 (5) conduct the hearing in accordance with Subchapter
12 C, Chapter 574, Health and Safety Code.

13 (b) The burden of proof at the hearing is on the party who
14 filed the application.

15 (c) ~~[The juvenile court shall appoint the number of~~
16 ~~physicians necessary to examine the child and to complete the~~
17 ~~certificates of medical examination for mental illness required~~
18 ~~under Section 574.009, Health and Safety Code.~~

19 ~~[(d)]~~ After conducting a hearing on an application under
20 this section and with consideration given to the least restrictive
21 appropriate setting for treatment of the child and to the parent's,
22 managing conservator's, or guardian's availability and willingness
23 to participate in the treatment of the child, the juvenile court
24 shall:

25 (1) if the criteria under Section 55.05(a) or (b)
26 ~~[574.034 or 574.0345, Health and Safety Code,~~ are satisfied, order
27 temporary inpatient or outpatient mental health services for the

1 child under Chapter 574, Health and Safety Code; or

2 (2) if the criteria under Section 55.05(c) or (d)
3 [574.035 or 574.0355, Health and Safety Code,] are satisfied, order
4 extended inpatient or outpatient mental health services for the
5 child under Chapter 574, Health and Safety Code.

6 (d) On receipt of the court's order for inpatient mental
7 health services, the Health and Human Services Commission shall
8 identify a facility and admit the child to the identified facility.

9 (e) If the child is currently detained in a juvenile
10 detention facility, the juvenile court shall:

11 (1) order the child released from detention to the
12 child's home or another appropriate place;

13 (2) order the child detained or placed in an
14 appropriate facility other than a juvenile detention facility; or

15 (3) conduct a detention hearing and, if the court
16 makes findings under Section 54.01 to support further detention of
17 the child, order the child to remain in the juvenile detention
18 facility subject to further detention orders of the court.

19 Sec. 55.68 [55.14]. REFERRAL FOR [COMMITMENT] PROCEEDINGS
20 FOR CHILD WITH MENTAL ILLNESS OR CHILD FOUND UNFIT TO PROCEED OR
21 LACKING RESPONSIBILITY FOR CONDUCT DUE TO MENTAL ILLNESS OR
22 INTELLECTUAL DISABILITY. (a) If the juvenile court refers the
23 child's case to an [the] appropriate court for the initiation of
24 [commitment] proceedings for court-ordered treatment services
25 under Section 55.12(2), 55.37(2), 55.40(2), 55.56(2), or 55.59(2),
26 the juvenile court shall:

27 (1) send to the clerk of the court to which the case is

1 referred all papers, including evaluations, examination reports,
2 court findings, orders, verdicts, judgments, and reports from
3 facilities and alternative settings, relating to:

4 (A) the child's mental illness or intellectual
5 disability;

6 (B) the child's unfitness to proceed, if
7 applicable; and

8 (C) the finding that the child was not
9 responsible for the child's conduct, if applicable [~~to the clerk of~~
10 ~~the court to which the case is referred~~]; and

11 (2) send to the office of the appropriate county
12 attorney or, if a county attorney is not available, to the office of
13 the appropriate district attorney, copies of all papers sent to the
14 clerk of the court under Subdivision (1) [~~, and~~

15 [~~(3) if the child is in detention:~~

16 [~~(A) order the child released from detention to~~
17 ~~the child's home or another appropriate place,~~

18 [~~(B) order the child detained in an appropriate~~
19 ~~place other than a juvenile detention facility, or~~

20 [~~(C) if an appropriate place to release or detain~~
21 ~~the child as described by Paragraph (A) or (B) is not available,~~
22 ~~order the child to remain in the juvenile detention facility~~
23 ~~subject to further detention orders of the court].~~

24 (b) The papers sent to the clerk of a court under Subsection
25 (a)(1) constitute an application for court-ordered mental health
26 services under Section 574.001, Health and Safety Code, or an
27 application for placement under Section 593.041, Health and Safety

1 Code, as applicable.

2 (c) If the child is currently detained in a juvenile
3 detention facility, the juvenile court shall:

4 (1) order the child released from detention to the
5 child's home or another appropriate place;

6 (2) order the child detained or placed in an
7 appropriate facility other than a juvenile detention facility; or

8 (3) conduct a detention hearing and, if the court
9 makes findings under Section 54.01 to support further detention of
10 the child, order the child to remain in the juvenile detention
11 facility subject to further detention orders of the court.

12 SECTION 20. Sections 55.38 and 55.41, Family Code, are
13 transferred to Subchapter E, Chapter 55, Family Code, as added by
14 this Act, redesignated as Sections 55.66 and 55.67, Family Code,
15 respectively, and amended to read as follows:

16 Sec. 55.66 [~~55.38~~]. [~~COMMITMENT~~] PROCEEDINGS IN JUVENILE
17 COURT FOR CHILD FOUND UNFIT TO PROCEED OR LACKING RESPONSIBILITY
18 FOR CONDUCT DUE TO MENTAL ILLNESS. (a) If the juvenile court
19 initiates [~~commitment~~] proceedings for court-ordered mental health
20 services under Section 55.37(1) or 55.56(1), the prosecuting
21 attorney may file with the juvenile court an application for
22 court-ordered mental health services under Sections [~~Section~~]
23 574.001 and 574.002, Health and Safety Code. The juvenile court
24 shall:

25 (1) set a date for a hearing and provide notice as
26 required by Sections 574.005 and 574.006, Health and Safety Code;

27 [~~and~~]

1 (2) direct the local mental health authority to file,
2 before the date set for the hearing, its recommendation for the
3 child's proposed treatment, as required by Section 574.012, Health
4 and Safety Code;

5 (3) identify the person responsible for court-ordered
6 outpatient mental health services at least three days before the
7 date of a hearing that may result in the court ordering the child to
8 receive court-ordered outpatient mental health services, as
9 required by Section 574.012, Health and Safety Code; and

10 (4) conduct the hearing in accordance with Subchapter
11 C, Chapter 574, Health and Safety Code.

12 (b) After conducting a hearing under this section and with
13 consideration given to the least restrictive appropriate setting
14 for treatment of the child and to the parent's, managing
15 conservator's, or guardian's availability and willingness to
16 participate in the treatment of the child [~~Subsection (a)(2)~~], the
17 juvenile court shall:

18 (1) if the criteria for court-ordered mental health
19 services under Section 55.05(a) or (b) [~~574.034 or 574.0345, Health~~
20 ~~and Safety Code,~~] are satisfied, order temporary inpatient or
21 outpatient mental health services; or

22 (2) if the criteria for court-ordered mental health
23 services under Section 55.05(c) or (d) [~~574.035 or 574.0355, Health~~
24 ~~and Safety Code,~~] are satisfied, order extended inpatient or
25 outpatient mental health services.

26 (c) On receipt of the court's order for inpatient mental
27 health services, the Health and Human Services Commission shall

1 identify a facility and admit the child to the identified facility.

2 (d) If the child is currently detained in a juvenile
3 detention facility, the juvenile court shall:

4 (1) order the child released from detention to the
5 child's home or another appropriate place;

6 (2) order the child detained or placed in an
7 appropriate facility other than a juvenile detention facility; or

8 (3) conduct a detention hearing and, if the court
9 makes findings under Section 54.01 to support further detention of
10 the child, order the child to remain in the juvenile detention
11 facility subject to further detention orders of the court.

12 Sec. 55.67 [~~55.41~~]. [~~COMMITMENT~~] PROCEEDINGS IN JUVENILE
13 COURT FOR CHILD FOUND UNFIT TO PROCEED OR LACKING RESPONSIBILITY
14 FOR CONDUCT DUE TO [~~CHILDREN WITH~~] INTELLECTUAL DISABILITY. (a) If
15 the juvenile court initiates [~~commitment~~] proceedings under
16 Section 55.40(1) or 55.59(1), the prosecuting attorney may file
17 with the juvenile court an application for an interdisciplinary
18 team report and recommendation that the child is in need of
19 long-term placement in a residential care facility, under Section
20 593.041, Health and Safety Code. The juvenile court shall:

21 (1) set a date for a hearing and provide notice as
22 required by Sections 593.047 and 593.048, Health and Safety Code;
23 and

24 (2) conduct the hearing in accordance with Sections
25 593.049-593.056, Health and Safety Code.

26 (b) After conducting a hearing under this section and with
27 consideration given to the least restrictive appropriate setting

1 for services for the child and to the parent's, managing
2 conservator's, or guardian's availability and willingness to
3 participate in the services for the child [~~Subsection (a)(2)~~], the
4 juvenile court may order residential intellectual disability
5 services for the child if the [~~commitment of the child to a~~
6 ~~residential care facility if the commitment~~] criteria under Section
7 55.06 [~~593.052, Health and Safety Code,~~] are satisfied.

8 (c) On receipt of the court's order, the Health and Human
9 Services Commission [~~Department of Aging and Disability Services or~~
10 ~~the appropriate community center~~] shall identify a residential care
11 facility and admit the child to the identified [~~a residential care~~]
12 facility.

13 (d) If the child is currently detained in a juvenile
14 detention facility, the juvenile court shall:

15 (1) order the child released from detention to the
16 child's home or another appropriate place;

17 (2) order the child detained or placed in an
18 appropriate facility other than a juvenile detention facility; or

19 (3) conduct a detention hearing and, if the court
20 makes findings under Section 54.01 to support further detention of
21 the child, order the child to remain in the juvenile detention
22 facility subject to further detention orders of the court.

23 SECTION 21. Sections 55.39, 55.42, 55.57, 55.58, 55.60, and
24 55.61, Family Code, are repealed.

25 SECTION 22. The changes in law made by this Act apply only
26 to a juvenile court hearing or proceeding that commences on or after
27 the effective date of this Act. A juvenile court hearing or

1 proceeding that commences before the effective date of this Act is
2 governed by the law in effect on the date the hearing or proceeding
3 commenced, and the former law is continued in effect for that
4 purpose.

5 SECTION 23. This Act takes effect September 1, 2023.