

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~~] PROCEEDINGS  
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.