

BILL ANALYSIS

C.S.H.B. 144
By: Raymond
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, a judge may order the physical and mental examination of any juvenile in the juvenile justice system. If the expert conducting the exam finds that a juvenile has a mental illness or is mentally retarded, the youth must be referred to the appropriate mental health agency. Interested parties assert that this evaluation process is particularly critical in assessing a juvenile's condition when entering the system and in alerting the appropriate officials to any special needs a juvenile might have so that those involved in the juvenile's rehabilitation can treat the full extent of the juvenile's physical or mental problems.

Because of the unique challenges posed by a juvenile suffering from chemical dependency, these interested parties further assert that screening for chemical dependencies is equally important. C.S.H.B. 144 seeks to address this additional need by increasing the availability of mental examinations in the juvenile justice system.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 144 amends the Family Code to clarify that a juvenile court is authorized to order a physical and mental examination for a child subject to the juvenile justice system when the child is initially detained in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility, as well as at any other stage of the proceedings under provisions related to juvenile justice. The bill specifies that a juvenile court is authorized to so order the examination of a child at the court's discretion or at the request of the child's parent or guardian. The bill includes chemical dependency among the child's illnesses that are to be determined by the examination. The bill requires a probation department to refer to an appropriate and legally authorized agency or provider for evaluation and services a child whose examination indicates there is reason to believe the child suffers from chemical dependency or a child who has been determined to suffer from chemical dependency and who is not currently receiving treatment for chemical dependency while under deferred prosecution supervision or court-ordered probation. The bill requires a probation department to include such a referral among the referrals the probation department is required to report to the Texas Juvenile Justice Department.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 144 may differ from the original in nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantive differences

between the introduced and committee substitute versions of the bill.

INTRODUCED

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 facility operated by the Texas Juvenile Justice Department, a pre-adjudication secure detention facility, or a post-adjudication secure correctional facility, the juvenile court may 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 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, [ø] is a person with 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 the examination only if the expert is qualified under Subchapter B, Chapter 46B, Code of Criminal Procedure, to examine a defendant in a criminal case, and the examination and the report resulting from an examination under this subsection must comply with the requirements under Subchapter B, Chapter 46B, Code of Criminal Procedure, for the examination and resulting report of a defendant in a criminal case.

(b) If, after conducting an examination of a child ordered under Subsection (a) and reviewing any other relevant information, there is reason to believe that the child has a mental illness or mental retardation or suffers from chemical dependency, the probation department shall refer the child to the local mental health or mental retardation

HOUSE COMMITTEE SUBSTITUTE

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 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, [ø] is a person with 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 the examination only if the expert is qualified under Subchapter B, Chapter 46B, Code of Criminal Procedure, to examine a defendant in a criminal case, and the examination and the report resulting from an examination under this subsection must comply with the requirements under Subchapter B, Chapter 46B, Code of Criminal Procedure, for the examination and resulting report of a defendant in a criminal case.

(b) If, after conducting an examination of a child ordered under Subsection (a) and reviewing any other relevant information, there is reason to believe that the child has a mental illness or mental retardation or suffers from chemical dependency, the probation department shall refer the child to the local mental health or mental retardation

authority or to another appropriate and legally authorized agency or provider for evaluation and services, unless the prosecuting attorney has filed a petition under Section 53.04.

(c) If, while a child is under deferred prosecution supervision or court-ordered probation, a qualified professional determines that the child has a mental illness or mental retardation or suffers from chemical dependency and the child is not currently receiving treatment services for the mental illness, ~~or~~ mental retardation, or chemical dependency, the probation department shall refer the child to the local mental health or mental retardation authority or to another appropriate and legally authorized agency or provider for evaluation and services.

(d) A probation department shall report each referral of a child to a local mental health or mental retardation authority or another agency or provider made under Subsection (b) or (c) to the Texas Juvenile Justice Department [~~Texas Juvenile Probation Commission~~] in a format specified by the department [~~commission~~].

SECTION 2. This Act takes effect September 1, 2013.

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(c) If, while a child is under deferred prosecution supervision or court-ordered probation, a qualified professional determines that the child has a mental illness or mental retardation or suffers from chemical dependency and the child is not currently receiving treatment services for the mental illness, ~~or~~ mental retardation, or chemical dependency, the probation department shall refer the child to the local mental health or mental retardation authority or to another appropriate and legally authorized agency or provider for evaluation and services.

(d) A probation department shall report each referral of a child to a local mental health or mental retardation authority or another agency or provider made under Subsection (b) or (c) to the Texas Juvenile Justice Department [~~Texas Juvenile Probation Commission~~] in a format specified by the department [~~commission~~].

SECTION 2. Same as introduced version.