

By: Rodriguez

S.B. No. 1706

A BILL TO BE ENTITLED

AN ACT

relating to mental health in juvenile cases.

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

SECTION 1. Section 55.33, Family Code, is amended to read as follows:

Sec. 55.33. PROCEEDINGS FOLLOWING FINDING OF UNFITNESS TO PROCEED. (a) If the juvenile court or jury determines under Section 55.32 that a child is unfit to proceed with the juvenile court proceedings for delinquent conduct, the court shall:

(1) if the unfitness to proceed is a result of mental illness [~~or mental retardation~~]:

(A) provided that the child meets the commitment criteria under Subtitle C or D, Title 7, Health and Safety Code, order the child placed with the [~~Texas~~] Department of State Health Services [~~Mental Health and Mental Retardation~~] for a period of not more than 90 days, which order may not specify a shorter period, for placement in a facility designated by the department; [~~or~~]

(B) on application by the child's parent, guardian, or guardian ad litem, order the child placed in a private psychiatric inpatient facility for a period of not more than 90 days, which order may not specify a shorter period, but only if the placement is agreed to in writing by the administrator of the facility; or

(C) [~~(2)~~] if [~~the unfitness to proceed is a~~

1 ~~result of mental illness and]~~ the court determines that the child  
2 may be adequately treated in an alternative setting, order the  
3 child to receive treatment for mental illness on an outpatient  
4 basis for a period of not more than 90 days, which order may not  
5 specify a shorter period; or

6 (2) if the unfitness to proceed is a result of mental  
7 retardation:

8 (A) provided that the child meets the commitment  
9 criteria under Subtitle C or D, Title 7, Health and Safety Code,  
10 order the child placed with the Department of Aging and Disability  
11 Services for a period of not more than 90 days, which order may not  
12 specify a shorter period, for placement in a facility designated by  
13 the department; or

14 (B) on application by the child's parent,  
15 guardian, or guardian ad litem, order the child placed in a private  
16 psychiatric inpatient facility for a period of not more than 90  
17 days, which order may not specify a shorter period, but only if the  
18 placement is agreed to in writing by the administrator of the  
19 facility.

20 (b) If the court orders a child placed in a private  
21 psychiatric inpatient facility under Subsection (a)(1)(B) or  
22 (a)(2)(B), the state or a political subdivision of the state may be  
23 ordered to pay any costs associated with the child's placement,  
24 subject to an express appropriation of funds for the purpose.

25 SECTION 2. Subsection (a), Section 55.34, Family Code, is  
26 amended to read as follows:

27 (a) If the court issues a placement order under Section

1 55.33(a)(1)(A) or (B) or (a)(2) [~~55.33(a)(1)~~], the court shall  
2 order the probation department or sheriff's department to transport  
3 the child to the designated facility.

4 SECTION 3. Subsection (c), Section 55.41, Family Code, is  
5 amended to read as follows:

6 (c) On receipt of the court's order, the [~~Texas~~] Department  
7 of Aging and Disability Services [~~Mental Health and Mental~~  
8 ~~Retardation~~] or the appropriate community center shall admit the  
9 child to a residential care facility.

10 SECTION 4. Section 55.52, Family Code, is amended to read as  
11 follows:

12 Sec. 55.52. PROCEEDINGS FOLLOWING FINDING OF LACK OF  
13 RESPONSIBILITY FOR CONDUCT. (a) If the court or jury finds that a  
14 child is not responsible for the child's conduct under Section  
15 55.51, the court shall:

16 (1) if the lack of responsibility is a result of mental  
17 illness [~~or mental retardation~~]:

18 (A) provided that the child meets the commitment  
19 criteria under Subtitle C or D, Title 7, Health and Safety Code,  
20 order the child placed with the [~~Texas~~] Department of State Health  
21 Services [~~Mental Health and Mental Retardation~~] for a period of not  
22 more than 90 days, which order may not specify a shorter period, for  
23 placement in a facility designated by the department; [~~or~~]

24 (B) on application by the child's parent,  
25 guardian, or guardian ad litem, order the child placed in a private  
26 psychiatric inpatient facility for a period of not more than 90  
27 days, which order may not specify a shorter period, but only if the

1 placement is agreed to in writing by the administrator of the  
2 facility; or

3 (C) [(2)] if [the child's lack of responsibility  
4 is a result of mental illness and] the court determines that the  
5 child may be adequately treated in an alternative setting, order  
6 the child to receive treatment on an outpatient basis for a period  
7 of not more than 90 days, which order may not specify a shorter  
8 period; or

9 (2) if the lack of responsibility is a result of mental  
10 retardation:

11 (A) provided that the child meets the commitment  
12 criteria under Subtitle C or D, Title 7, Health and Safety Code,  
13 order the child placed with the Department of Aging and Disability  
14 Services for a period of not more than 90 days, which order may not  
15 specify a shorter period, for placement in a facility designated by  
16 the department; or

17 (B) on application by the child's parent,  
18 guardian, or guardian ad litem, order the child placed in a private  
19 psychiatric inpatient facility for a period of not more than 90  
20 days, which order may not specify a shorter period, but only if the  
21 placement is agreed to in writing by the administrator of the  
22 facility.

23 (b) If the court orders a child placed in a private  
24 psychiatric inpatient facility under Subsection (a)(1)(B) or  
25 (a)(2)(B), the state or a political subdivision of the state may be  
26 ordered to pay any costs associated with the child's placement,  
27 subject to an express appropriation of funds for the purpose.

1 SECTION 5. Subsection (a), Section 55.53, Family Code, is  
2 amended to read as follows:

3 (a) If the court issues a placement order under Section  
4 55.52(a)(1)(A) or (B) or (a)(2) [~~55.52(a)(1)~~], the court shall  
5 order the probation department or sheriff's department to transport  
6 the child to the designated facility.

7 SECTION 6. Subsection (c), Section 55.60, Family Code, is  
8 amended to read as follows:

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

13 SECTION 7. This Act takes effect September 1, 2013.