H.B. No. 2107

AN ACT

relating to services for children who are unfit or lack responsibility to proceed in juvenile court proceedings as a result of intellectual disabilities.

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 as a result of mental illness or an intellectual disability 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 an intellectual disability:~~

[~~(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 Department of State Health Services or the Department of Aging and Disability Services, as appropriate, 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~~]

(2) [~~(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:

(A)  the unfitness to proceed is a result of mental illness; and

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

(3)  subject to Subsection (c), [~~(2)~~] if [~~the unfitness to proceed is a result of mental illness and~~] the court determines that the child may be adequately treated or served in an alternative setting, order the child to receive treatment for mental illness or services for the child's intellectual disability, as appropriate, on an outpatient basis for a period of not more than 90 days, which order may not specify a shorter period.

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

(c)  Before issuing an order described by Subsection (a)(3), the court shall consult with the probation department and with local treatment or service providers to determine the appropriate treatment or services for the child.

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

(a)  If the court issues a placement order under Section 55.33(a)(1) or (2), the court shall order the probation department or sheriff's department to transport the child to the designated facility.

SECTION 3.  Section 55.35(b), Family Code, is amended to read as follows:

(b)  Not later than the 75th day after the date the court issues a placement order under Section 55.33(a), the public or private facility or outpatient center, as appropriate, shall submit to the court a report that:

(1)  describes the treatment or services provided to [~~of~~] the child [~~provided~~] by the facility or center; and

(2)  states the opinion of the director of the facility or center as to whether the child is fit or unfit to proceed.

SECTION 4.  Section 55.43(a), Family Code, is amended to read as follows:

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

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

(2)  the child:

(A)  is not:

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

(ii)  committed by a court to a residential care facility; or

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

(B)  is discharged or currently on furlough from a mental health facility or outpatient center before the child reaches 18 years of age.

SECTION 5.  Section 55.52, Family Code, is amended to read as follows:

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

(1)  [~~if the lack of responsibility is a result of mental illness or an intellectual disability:~~

[~~(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 Department of State Health Services or the Department of Aging and Disability Services, as appropriate, 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~~]

(2) [~~(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:

(A)  the child's lack of responsibility is a result of mental illness; and

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

(3)  subject to Subsection (c), [~~(2)~~] if [~~the child's lack of responsibility is a result of mental illness and~~] the court determines that the child may be adequately treated or served in an alternative setting, order the child to receive treatment for mental illness or services for the child's intellectual disability, as appropriate, on an outpatient basis for a period of not more than 90 days, which order may not specify a shorter period.

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

(c)  Before issuing an order described by Subsection (a)(3), the court shall consult with the probation department and with local treatment or service providers to determine the appropriate treatment or services for the child.

SECTION 6.  Section 55.53(a), Family Code, is amended to read as follows:

(a)  If the court issues a placement order under Section 55.52(a)(1) or (2), the court shall order the probation department or sheriff's department to transport the child to the designated facility.

SECTION 7.  Section 55.54(b), Family Code, is amended to read as follows:

(b)  Not later than the 75th day after the date the court issues a placement order under Section 55.52(a), the public or private facility or outpatient center, as appropriate, shall submit to the court a report that:

(1)  describes the treatment or services provided to [~~of~~] the child [~~provided~~] by the facility or center; and

(2)  states the opinion of the director of the facility or center as to whether the child has a mental illness or an intellectual disability.

SECTION 8.  This Act takes effect September 1, 2021.

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    President of the Senate Speaker of the House

I certify that H.B. No. 2107 was passed by the House on May 8, 2021, by the following vote:  Yeas 119, Nays 20, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2107 was passed by the Senate on May 24, 2021, by the following vote:  Yeas 29, Nays 1.

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Secretary of the Senate

APPROVED:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

                    Date

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                  Governor