

1-1 By: Wu (Senate Sponsor - Menéndez) H.B. No. 2107
1-2 (In the Senate - Received from the House May 10, 2021;
1-3 May 14, 2021, read first time and referred to Committee on
1-4 Jurisprudence; May 21, 2021, reported favorably by the following
1-5 vote: Yeas 4, Nays 0; May 21, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			

1-13 A BILL TO BE ENTITLED
1-14 AN ACT

1-15 relating to services for children who are unfit or lack
1-16 responsibility to proceed in juvenile court proceedings as a result
1-17 of intellectual disabilities.

1-18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-19 SECTION 1. Section 55.33, Family Code, is amended to read as
1-20 follows:

1-21 Sec. 55.33. PROCEEDINGS FOLLOWING FINDING OF UNFITNESS TO
1-22 PROCEED. (a) If the juvenile court or jury determines under
1-23 Section 55.32 that a child is unfit as a result of mental illness or
1-24 an intellectual disability to proceed with the juvenile court
1-25 proceedings for delinquent conduct, the court shall:

1-26 (1) ~~[if the unfitness to proceed is a result of mental~~
1-27 ~~illness or an intellectual disability:~~

1-28 ~~[(A)]~~ provided that the child meets the
1-29 commitment criteria under Subtitle C or D, Title 7, Health and
1-30 Safety Code, order the child placed with the Department of State
1-31 Health Services or the Department of Aging and Disability Services,
1-32 as appropriate, for a period of not more than 90 days, which order
1-33 may not specify a shorter period, for placement in a facility
1-34 designated by the department; ~~[or]~~

1-35 (2) ~~[(B)]~~ on application by the child's parent,
1-36 guardian, or guardian ad litem, order the child placed in a private
1-37 psychiatric inpatient facility for a period of not more than 90
1-38 days, which order may not specify a shorter period, but only if:

1-39 (A) the unfitness to proceed is a result of
1-40 mental illness; and

1-41 (B) the placement is agreed to in writing by the
1-42 administrator of the facility; or

1-43 (3) subject to Subsection (c), [(2)] if [the unfitness
1-44 to proceed is a result of mental illness and] the court determines
1-45 that the child may be adequately treated or served in an alternative
1-46 setting, order the child to receive treatment for mental illness or
1-47 services for the child's intellectual disability, as appropriate,
1-48 on an outpatient basis for a period of not more than 90 days, which
1-49 order may not specify a shorter period.

1-50 (b) If the court orders a child placed in a private
1-51 psychiatric inpatient facility under Subsection (a)(2)
1-52 ~~[(a)(1)(B)]~~, the state or a political subdivision of the state may
1-53 be ordered to pay any costs associated with the child's placement,
1-54 subject to an express appropriation of funds for the purpose.

1-55 (c) Before issuing an order described by Subsection (a)(3),
1-56 the court shall consult with the probation department and with
1-57 local treatment or service providers to determine the appropriate
1-58 treatment or services for the child.

1-59 SECTION 2. Section 55.34(a), Family Code, is amended to
1-60 read as follows:

1-61 (a) If the court issues a placement order under Section

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

2-4 SECTION 3. Section 55.35(b), Family Code, is amended to
2-5 read as follows:

2-6 (b) Not later than the 75th day after the date the court
2-7 issues a placement order under Section 55.33(a), the public or
2-8 private facility or outpatient center, as appropriate, shall submit
2-9 to the court a report that:

2-10 (1) describes the treatment or services provided to
2-11 ~~[of]~~ the child ~~[provided]~~ by the facility or center; and

2-12 (2) states the opinion of the director of the facility
2-13 or center as to whether the child is fit or unfit to proceed.

2-14 SECTION 4. Section 55.43(a), Family Code, is amended to
2-15 read as follows:

2-16 (a) The prosecuting attorney may file with the juvenile
2-17 court a motion for a restoration hearing concerning a child if:

2-18 (1) the child is found unfit to proceed as a result of
2-19 mental illness or an intellectual disability; and

2-20 (2) the child:
2-21 (A) is not:

2-22 (i) ordered by a court to receive inpatient
2-23 mental health or intellectual disability services;

2-24 (ii) committed by a court to a residential
2-25 care facility; or

2-26 (iii) ordered by a court to receive
2-27 treatment or services on an outpatient basis; or

2-28 (B) is discharged or currently on furlough from a
2-29 mental health facility or outpatient center before the child
2-30 reaches 18 years of age.

2-31 SECTION 5. Section 55.52, Family Code, is amended to read as
2-32 follows:

2-33 Sec. 55.52. PROCEEDINGS FOLLOWING FINDING OF LACK OF
2-34 RESPONSIBILITY FOR CONDUCT. (a) If the court or jury finds that a
2-35 child is not responsible for the child's conduct under Section
2-36 55.51 as a result of mental illness or an intellectual disability,
2-37 the court shall:

2-38 (1) ~~[if the lack of responsibility is a result of~~
2-39 ~~mental illness or an intellectual disability;~~

2-40 ~~[(A)]~~ provided that the child meets the
2-41 commitment criteria under Subtitle C or D, Title 7, Health and
2-42 Safety Code, order the child placed with the Department of State
2-43 Health Services or the Department of Aging and Disability Services,
2-44 as appropriate, for a period of not more than 90 days, which order
2-45 may not specify a shorter period, for placement in a facility
2-46 designated by the department; ~~[or]~~

2-47 (2) ~~[(B)]~~ on application by the child's parent,
2-48 guardian, or guardian ad litem, order the child placed in a private
2-49 psychiatric inpatient facility for a period of not more than 90
2-50 days, which order may not specify a shorter period, but only if:

2-51 (A) the child's lack of responsibility is a
2-52 result of mental illness; and

2-53 (B) the placement is agreed to in writing by the
2-54 administrator of the facility; or

2-55 (3) subject to Subsection (c), [(2)] if [the child's
2-56 lack of responsibility is a result of mental illness and] the court
2-57 determines that the child may be adequately treated or served in an
2-58 alternative setting, order the child to receive treatment for
2-59 mental illness or services for the child's intellectual disability,
2-60 as appropriate, on an outpatient basis for a period of not more than
2-61 90 days, which order may not specify a shorter period.

2-62 (b) If the court orders a child placed in a private
2-63 psychiatric inpatient facility under Subsection (a)(2)
2-64 ~~[(a)(1)(B)]~~, the state or a political subdivision of the state may
2-65 be ordered to pay any costs associated with the child's placement,
2-66 subject to an express appropriation of funds for the purpose.

2-67 (c) Before issuing an order described by Subsection (a)(3),
2-68 the court shall consult with the probation department and with
2-69 local treatment or service providers to determine the appropriate

3-1 treatment or services for the child.

3-2 SECTION 6. Section 55.53(a), Family Code, is amended to
3-3 read as follows:

3-4 (a) If the court issues a placement order under Section
3-5 55.52(a)(1) or (2), the court shall order the probation department
3-6 or sheriff's department to transport the child to the designated
3-7 facility.

3-8 SECTION 7. Section 55.54(b), Family Code, is amended to
3-9 read as follows:

3-10 (b) Not later than the 75th day after the date the court
3-11 issues a placement order under Section 55.52(a), the public or
3-12 private facility or outpatient center, as appropriate, shall submit
3-13 to the court a report that:

3-14 (1) describes the treatment or services provided to
3-15 ~~[of]~~ the child ~~[provided]~~ by the facility or center; and

3-16 (2) states the opinion of the director of the facility
3-17 or center as to whether the child has a mental illness or an
3-18 intellectual disability.

3-19 SECTION 8. This Act takes effect September 1, 2021.

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