

## **BILL ANALYSIS**

H.B. 4366  
By: Howard  
Youth Health & Safety, Select  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Texas Juvenile Justice Department (TJJD) reported an average daily population of 637 youth in its secure facilities and 56 youth in its halfway houses in fiscal year 2021. The Legislative Budget Board estimates that juvenile state residential populations will increase by 25.8 percent from fiscal years 2022 to 2024.

According to the Hogg Foundation for Mental Health, 70 percent of youth arrested each year have a mental health condition. This is unsurprising in light of the fact that in 2021, the American Academy of Pediatrics, along with the American Academy of Child and Adolescent Psychiatry and the Children's Hospital Association, declared a national emergency in child and adolescent mental health. Although some will point to the continued impact of the COVID-19 pandemic as the cause of this, the CDC's Youth Risk Behavior Surveillance System indicates that persistent mental health issues in youth have increased by 40 percent over the last decade.

The relationship between mental health problems and involvement in the juvenile justice system is complex. Many youth involved in the juvenile justice system are from low-income families of color, have suffered abuse, or were involved in the foster care system. These youth may require comprehensive and ongoing physical, reproductive, mental, and behavioral health services upon discharge from juvenile justice residential facilities. According to the Office of Juvenile Justice and Delinquency Prevention, research shows that the majority of incarcerated youth with untreated mental health issues are more likely to face legal issues than others. Furthermore, incarceration without access to behavioral health services can not only exacerbate current issues but also create additional issues that must be addressed.

H.B. 4366 seeks to begin to address these issues by expanding on current existing state law and requiring TJJD, in coordination with the Health and Human Services Commission and the Department of Family and Protective Services, to screen every individual for eligibility in Medicaid, including STAR Health. Comprehensive, coordinated, and regular physical and mental health services for youth while they are in the juvenile justice system is important to their rehabilitation and reintegration into society. Given the socioeconomic status of many of these youth, Medicaid, particularly STAR Health, has the potential to improve access to healthcare services both while they are incarcerated and after. In addition, H.B. 4366 would allow for incarcerated youth to access telehealth or telemedicine services while they are incarcerated. Prior to a child's release, H.B. 4366 would also require TJJD to create a release plan to ensure the continuity of care for the child. As mental and behavioral health issues continue to come to the forefront, it is important to ensure Texas youth have access to healthcare services and programs. H.B. 4366 would lay the foundation and ensure that a youth committed, placed, or detained under the Juvenile Justice Code receives needed healthcare services.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

## **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**

H.B. 4366 amends Government Code provisions requiring the Health and Human Services Commission (HHSC) to enter into a memorandum of understanding (MOU) with the Texas Juvenile Justice Department (TJJD) for purposes of ensuring that each individual who is committed, placed, or detained under the Juvenile Justice Code is assessed by HHSC for Medicaid and CHIP eligibility before the individual's release to include the Department of Family and Protective Services (DFPS) among the parties to the MOU and to specify that the assessment by HHSC for Medicaid eligibility includes an assessment for eligibility for the STAR Health managed care program. The bill replaces provisions establishing certain goals the MOU must be tailored to achieve with provisions requiring that the MOU require the following:

- that an individual determined eligible by HHSC for coverage under Medicaid, including STAR Health, or CHIP be enrolled in the program for which the individual is eligible and begins receiving services, including telehealth and telemedicine medical services, through the program as soon as possible after the eligibility determination is made;
- that TJJD, using available resources, assist the individual with accessing telehealth services or telemedicine medical services, including mental health and behavioral health services, through the program in which the individual is enrolled; and
- that TJJD, in coordination with HHSC and DFPS:
  - create a release plan for an individual who is enrolled in Medicaid, including STAR Health, or CHIP, to ensure the individual continues receiving services under the applicable program on the date of the individual's release; or
  - if TJJD is unable to create a release plan, include documentation in the individual's release order that describes the reasons TJJD was unable to create the plan and the anticipated impact on the individual's continuity of care under the program.

The bill requires HHSC, TJJD, and DFPS, as soon as practicable after the bill's effective date, to update the MOU.

H.B. 4366 requires TJJD, not later than September 1 of each year, to prepare and submit a report to the governor, lieutenant governor, and speaker of the house of representatives that contains the following information:

- the number of individuals committed, placed, or detained under the Juvenile Justice Code who were determined eligible by HHSC for Medicaid or CHIP coverage and enrolled in a program;
- the number of individuals enrolled in a program who received services under the program in which the individual was enrolled while the individual was committed, placed, or detained; and
- if an individual did not receive services under the program in which the individual was enrolled, an explanation regarding why the individual did not receive services.

H.B. 4366 repeals Section 32.0264, Human Resources Code, requiring HHSC, to the extent allowed under federal law, to suspend the Medicaid eligibility of a child placed in a juvenile facility during the period of confinement.

H.B. 4366 provides for the delayed implementation of any provision for which an applicable state agency determines a federal waiver or authorization is necessary for implementation until the waiver or authorization is requested and granted.

## **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.