

## **BILL ANALYSIS**

Senate Research Center

S.B. 1585  
By: Sparks; Perry  
Criminal Justice  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, judges must refer to multiple sections of code when conducting court proceedings concerning juveniles with mental illness and intellectual disabilities. In addition, much of the current statute judges reference are written with adult-first language, rather than being tailored for juveniles.

During the interim, a workgroup comprised of mental health professionals, juvenile probation officers, attorneys, the Texas Juvenile Justice Department, and others was created to review and propose revisions to Chapter 55 of the Texas Family Code, which addresses proceedings concerning children with mental illness or intellectual disabilities, and has not undergone a thorough revision since 1999.

S.B. 1585 consolidates the different areas of statute judges have to reference for court proceedings for juveniles with mental illness and intellectual disabilities down to one, Chapter 55. Language from the Texas Code of Criminal Procedure and the Texas Health and Safety Code is incorporated into Chapter 55 and revised for the juvenile population.

S.B. 1585 clarifies how to identify minors with mental illness/intellectual disabilities, because the identification/forensic evaluation process is different for minors than it is for adults. It also lets the courts know what options they have for minors in this situation, such as whether they should order inpatient or outpatient services. There is a need for these minors to have better access to mental health facilities/services, rather than just being in detention or incarceration.

If passed, judges would receive much-needed clarification as to what they should do in juvenile court proceedings involving minors with mental illness and intellectual disabilities. Forensic evaluators would also receive clear direction on how to conduct evaluations of these minors and what to include in their reports to the court. Juvenile probation departments would be given the latitude to work with treatment and service providers to provide competency restoration to juveniles, and local mental health authorities would be directed to file recommendations to the court for juveniles' treatment.

#### **Key Provisions**

- S.B. 1585 is a total package to revise, update, and add to Chapter 55 of the Texas Family Code relating to proceedings in juvenile court for children with mental illness and intellectual disabilities.
- Chapter 55, Subchapter A, is amended to provide clear definitions for Chapter 55, including definitions of forensic mental examinations of juveniles and criteria for the experts who conduct these examinations. It also includes comprehensive criteria for court-ordered treatment and services for juveniles.
- Chapter 55, Subchapter B, is amended to specifically concern court-ordered mental health services for children with mental illness. It is also amended to address inpatient and outpatient treatment for mental illness for juveniles, details what information must be included in a forensic mental examination, and gives juvenile courts discretionary transfer of these juveniles to district court on their 18th birthday.

- Chapter 55, Subchapter C, concerns children who are unfit to proceed as a result of mental illness or intellectual disability. It is amended to detail what a forensic evaluator must consider in a forensic evaluation for fitness to proceed of juveniles with mental illness and/or intellectual disability and what must be reported to the court. It also clarifies the criteria for ordering inpatient versus outpatient fitness restoration treatment and services and the competency restoration process, and gives the juvenile court discretionary transfer of these juveniles to district court on their 18th birthday.
- Chapter 55, Subchapter D, concerns juveniles' lack of responsibility for conduct as a result of mental illness or intellectual disability. It is amended to detail what a forensic evaluator must consider in a forensic mental examination for lack of responsibility of conduct for juveniles with mental illness and/or intellectual disability, as well as what must be included in a report to the court and clarifies the criteria for ordering inpatient versus outpatient treatment and services for the juvenile.
- Chapter 55, Subchapter E, is a new subchapter added by S.B. 1585 concerning proceedings for court-ordered mental health or residential intellectual disability services. It combines multiple sections from existing language in Chapter 55 and adds language updated for juveniles from the Health and Safety Code to provide clearer guidance on these proceedings. It also addresses juveniles being held in juvenile detention facilities.
- The bill also amends and revises current language in Texas Family Code Section 51.20 to use the term intellectual disability instead of mental retardation, and moves any language referring to a forensic mental evaluation of a juvenile into Chapter 55.

#### House Companions

- H.B. 1347 by Rep. Gene Wu
- H.B. 2037 by Rep. Ann Johnson (Passed House Juvenile Justice and Family Issues Committee 3/29/23)

S.B. 1585 amends current law relating to certain proceedings in juvenile court for children with mental illness and intellectual disabilities.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 51.20(a), (b), (c), and (d), Family Code, to replace references to mental retardation and mental retardation facility with intellectual disability and local intellectual and developmental disability authority, respectively.

Deletes existing text providing that an expert, if the examination is to include a determination of the child's fitness to proceed, is authorized to be appointed to conduct the examination only if the expert is qualified under Subchapter B (Examination), 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 is required to 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.

SECTION 2. Amends Subchapter A, Chapter 55, Family Code, as follows:

#### **SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 55.01. New heading: DEFINITIONS. Defines "adaptive behavior," "intellectual disability," "child with an intellectual disability," "interdisciplinary team," "least

restrictive appropriate setting," "mental illness," "restoration classes," and "subaverage general intellectual functioning," and redefines "child with mental illness." Makes nonsubstantive changes.

Sec. 55.02. MENTAL HEALTH AND INTELLECTUAL DISABILITY JURISDICTION. Deletes existing text providing that the juvenile court, for the purpose of initiating proceedings to order mental health or intellectual disability services for commitment of a child as provided by Chapter 55 (Proceedings Concerning Children with Mental Illness or Intellectual Disability), has jurisdiction of proceedings under Subtitle C (Texas Mental Health Code) or D (Persons with an Intellectual Disability Act), Title 7, Health and Safety Code.

Sec. 55.03. STANDARDS OF CARE. (a) Requires a child for whom inpatient or outpatient mental health services are ordered, rather than for whom inpatient services are ordered, by a court under this chapter, except as provided by this chapter, to be cared for as provided by Subtitle C, Title 7, Health and Safety Code.

(b) Requires a child who is ordered, rather than committed, by a court to a residential care facility due to an intellectual disability, except as provided by this chapter, to be cared for as provided by Subtitle D, Title 7, Health and Safety Code.

Sec. 55.04. FORENSIC MENTAL EXAMINATION. (a) Defines "forensic mental examination."

(b) Authorizes a juvenile court to order a forensic mental examination if the court determines that probable cause exists to believe that a child who is alleged by petition or found to have engaged in delinquent conduct or conduct indicating a need for supervision is a child with mental illness, is unfit to proceed in juvenile court due to mental illness or an intellectual disability, or lacks responsibility for conduct due to mental illness or an intellectual disability.

(c) Requires a physician or psychologist, to qualify for appointment as an expert under this chapter, to:

(1) as appropriate, be a physician licensed in this state or be a psychologist licensed in this state who has a doctoral degree in psychology; and

(2) have the following certification or training:

(A) as appropriate, certification by the American Board of Psychiatry and Neurology with added or special qualifications in forensic psychiatry or the American Board of Professional Psychology in forensic psychology; or

(B) training consisting of:

(i) at least 24 hours of specialized forensic training relating to incompetency, fitness to proceed, lack of responsibility for conduct, or insanity evaluations; and

(ii) at least eight hours of continuing education relating to forensic evaluations, completed in the 12 months preceding the date of the appointment.

(d) Requires a physician or psychologist, in addition to meeting the qualifications required by Subsection (c), to be appointed as an expert, to have completed six hours of required continuing education in courses in forensic psychiatry or psychology, as appropriate, in the 24 months preceding the appointment.

(e) Authorizes a court to appoint as an expert a physician or psychologist who does not meet the requirements of Subsections (c) and (d) only if the court determines that exigent circumstances require the court to appoint an expert with specialized expertise to examine the child that is not ordinarily possessed by a physician or psychologist who meets the requirements of Subsections (c) and (d).

Sec. 55.05. CRITERIA FOR COURT-ORDERED MENTAL HEALTH SERVICES FOR CHILD. (a) Authorizes a juvenile court to order a child who is subject to the jurisdiction of the juvenile court to receive temporary inpatient mental health services only if the court finds, from clear and convincing evidence, that:

(1) the child is a child with mental illness; and

(2) as a result of that mental illness, the child:

(A) is likely to cause serious harm to the child's self;

(B) is likely to cause serious harm to others; or

(C) is:

(i) suffering severe and abnormal mental, emotional, or physical distress;

(ii) experiencing substantial mental or physical deterioration of the child's ability to function independently; and

(iii) unable to make a rational and informed decision as to whether to submit to treatment or is unwilling to submit to treatment.

(b) Authorizes a juvenile court to order a child who is subject to the jurisdiction of the juvenile court to receive temporary outpatient mental health services only if the court finds:

(1) that appropriate mental health services are available to the child; and

(2) clear and convincing evidence that:

(A) the child is a child with severe and persistent mental illness;

(B) as a result of the mental illness, the child will, if not treated, experience deterioration of the ability to function independently to the extent that the child will be unable to live safely in the community without court-ordered outpatient mental health services;

(C) outpatient mental health services are needed to prevent a relapse that would likely result in serious harm to the child or others; and

(D) the child has an inability to effectively and voluntarily participate in outpatient treatment services, demonstrated by any of the child's actions occurring within the two-year period preceding the date of the hearing or specific characteristics of the child's clinical condition that significantly impair the child's ability to make a rational and informed decision as to whether to submit to voluntary outpatient treatment.

(c) Authorizes a juvenile court to order a child who is subject to the jurisdiction of the juvenile court to receive extended inpatient mental health services only if the court finds, from clear and convincing evidence, that, in addition to the findings in Subsection (a):

(1) the child's condition is expected to continue for more than 90 days; and

(2) the child has received court-ordered inpatient mental health services under this chapter or under Chapter 574 (Court-Ordered Mental Health Services), Health and Safety Code, for at least 60 consecutive days during the preceding 12 months.

(d) Authorizes a juvenile court to order a child who is subject to the jurisdiction of the juvenile court to receive extended outpatient mental health services only if, in addition to the findings in Subsection (b):

(1) the child's condition is expected to continue for more than 90 days; and

(2) the child has received:

(A) court-ordered inpatient mental health services under this chapter or under Chapter 574, Health and Safety Code, for at least 60 consecutive days during the preceding 12 months; or

(B) court-ordered outpatient mental health services under this chapter or under Chapter 574, Health and Safety Code, during the preceding 60 days.

**Sec. 55.06. CRITERIA FOR COURT-ORDERED RESIDENTIAL INTELLECTUAL DISABILITY SERVICES FOR CHILD.** Prohibits a child from being court-ordered to receive services at a residential care facility unless:

(1) the child is a child with an intellectual disability;

(2) evidence is presented showing that because of the child's intellectual disability, the child represents a substantial risk of physical impairment or injury to the child or others or is unable to provide for and is not providing for the child's most basic personal physical needs;

(3) the child cannot be adequately and appropriately habilitated in an available, less restrictive setting;

(4) the residential care facility provides habilitative services, care, training, and treatment appropriate to the child's needs; and

(5) an interdisciplinary team recommends placement in the residential care facility.

**SECTION 3.** Amends the heading to Subchapter B, Chapter 55, Family Code, to read as follows:

**SUBCHAPTER B. COURT-ORDERED MENTAL HEALTH SERVICES FOR CHILD WITH MENTAL ILLNESS**

**SECTION 4.** Amends Sections 55.11(b) and (c), Family Code, as follows:

(b) Requires the court, if the court determines that probable cause exists to believe that the child is a child with mental illness, rather than that the child has a mental illness, to temporarily stay the juvenile court proceedings and immediately order the child to be examined under Section 55.04, rather than Section 51.20 (Physical or Mental

Examination). Requires that information obtained from the examination include expert opinion as to:

- (1) makes a conforming change to this subdivision; and
- (2) whether the child meets the criteria for court-ordered mental health services under Section 55.05 for:
  - (A) temporary inpatient mental health services;
  - (B) temporary outpatient mental health services;
  - (C) extended inpatient mental health services; or
  - (D) extended outpatient mental health services; and
- (3) if applicable, the specific criteria the child meets under Subdivision (2).

Deletes existing text requiring that the information obtained from the examination include expert opinion as to whether the child has a mental illness and whether the child meets the commitment criteria under Subtitle C, Title 7, Health and Safety Code. Deletes existing text requiring that the information, if ordered by the court, also include expert opinion as to whether the child is unfit to proceed with the juvenile court proceedings.

(c) Requires the court, after considering all relevant information, including information obtained from an examination under Section 55.04, rather than Section 51.20, to:

- (1) proceed under Section 55.12 if the court determines that evidence exists to support a finding that the child is a child with mental illness, rather than that the child has a mental illness, and that the child meets the criteria for court-ordered mental health services under Section 55.05, rather than the commitment criteria under Subtitle C, Title 7, Health and Safety Code; or
- (2) makes conforming and nonsubstantive changes to this subdivision.

Makes nonsubstantive changes.

SECTION 5. Amends Sections 55.12, 55.15, 55.16, 55.17, 55.18, and 55.19, Family Code, as follows:

Sec. 55.12. New heading: INITIATION OF PROCEEDINGS FOR COURT-ORDERED MENTAL HEALTH SERVICES. Requires the juvenile court, if, after considering all relevant information, the court determines that evidence exists to support a finding that a child is a child with mental illness, rather than that the child has a mental illness, and that the child meets the criteria for court-ordered mental health services under Section 55.05, rather than the commitment criteria under Subtitle C, Title 7, Health and Safety Code, to:

- (1) makes conforming changes to this subdivision; or
- (2) refer the child's case as provided by Section 55.68, rather than Section 55.14, to the appropriate court for the initiation of proceedings in that court to order temporary or extended mental health services for the child, rather than in that court for commitment of the child, under this chapter and Subchapter C (Proceedings for Court-Ordered Mental Health Services), Chapter 574, Health and Safety Code.

Sec. 55.15. STANDARDS OF CARE; EXPIRATION OF COURT ORDER FOR MENTAL HEALTH SERVICES. Requires that treatment ordered under this subchapter for a child with mental illness focus on the stabilization of the child's mental illness and on meeting the child's psychiatric needs in the least restrictive appropriate setting.

Sec. 55.16. ORDER FOR MENTAL HEALTH SERVICES; STAY OF PROCEEDINGS. (a) Requires the court to which the child's case is referred under Section 55.12(2), if the court orders temporary or extended mental health services, rather than extended inpatient mental health services, for the child, to immediately notify in writing the referring juvenile court of the court's order for mental health services.

(b) Makes a conforming change to this subsection.

Sec. 55.17. MENTAL HEALTH SERVICES NOT ORDERED; DISSOLUTION OF STAY. (a)-(b) Makes conforming changes to these subsections.

Sec. 55.18. New heading: DISCHARGE FROM COURT-ORDERED INPATIENT OR OUTPATIENT MENTAL HEALTH SERVICES BEFORE REACHING 18 YEARS OF AGE. Authorizes the juvenile court, if the child is discharged from the mental health facility or from outpatient treatment services before reaching 18 years of age, to dismiss the juvenile court proceedings with prejudice or to dissolve the stay and continue with proceedings under this title as though no order of mental health services had been made.

Sec. 55.19. New heading: DISCRETIONARY TRANSFER TO CRIMINAL COURT ON 18TH BIRTHDAY. (a) Authorizes the juvenile court to waive its exclusive original jurisdiction and to transfer all pending proceedings, rather than requires the juvenile court to transfer all pending proceedings, from the juvenile court to a criminal court on or after the 18th birthday of a child for whom the juvenile court or a court to which the child's case was referred under Section 55.12(2) ordered, rather than the juvenile court or a court the child's case is referred under Section 55.12(2) has ordered, inpatient mental health services if certain requirements are met.

(b) Requires a court conducting a waiver of jurisdiction and discretionary transfer hearing under this section to conduct the hearing according to Sections 54.02(j) (relating to authorizing the juvenile court to waive its exclusive original jurisdiction and transfer a person to the appropriate court or criminal district court for criminal proceedings in certain circumstances), (k) (relating to requiring that the petition and notice requirements of certain statutes be satisfied, and that the summons state that the hearing is for the purpose of considering waiver of jurisdiction), and (l) (relating to requiring the juvenile court to conduct a hearing without a jury to consider waiver of jurisdiction).

(c) Requires the juvenile court, if after the hearing the juvenile court waives its jurisdiction and transfers the person to criminal court, to send notification of the transfer of a child under Subsection (a) to the inpatient mental health facility.

SECTION 6. Amends Section 55.31, Family Code, by amending Subsections (c) and (d) and adding Subsections (e) and (f), as follows:

(c) Deletes existing text requiring that the information obtained from the examination include expert opinion as to whether the child is unfit to proceed as a result of mental illness or an intellectual disability. Makes a conforming change.

(d) Requires an expert, during an examination ordered under Section 55.31 (Unfitness to Proceed Determination; Examination), and in any report based on that examination, to consider, in addition to other issues determined relevant by the expert:

(1) whether the child, as supported by current indications and the child's personal history, is a child with mental illness or is a child with an intellectual disability;

(2) the child's capacity to:

(A) appreciate the allegations against the child;

(B) appreciate the range and nature of allowable dispositions that are allowed to be imposed in the proceedings against the child;

(C) understand the roles of the participants and the adversarial nature of the legal process;

(D) display appropriate courtroom behavior;

(E) testify relevantly; and

(3) the degree of impairment resulting from the child's mental illness or intellectual disability and the specific impact on the child's capacity to engage with counsel in a reasonable and rational manner.

(e) Requires that an expert's report to the court state an opinion on the child's fitness to proceed or explain why the expert is unable to state that opinion and include:

(1) the child's history and current status regarding any possible mental illness or intellectual disability;

(2) the child's developmental history as it relates to any possible mental illness or intellectual disability;

(3) the child's functional abilities related to fitness to stand trial;

(4) the relationship between deficits in the child's functional abilities related to fitness to proceed and any mental illness or intellectual disability; and

(5) if the expert believes the child is in need of remediation or restoration services, a discussion of:

(A) whether the child's abilities are likely to be remediated or restored within the period described by Section 55.33(a)(1), (2), or (3);

(B) whether the child may be adequately treated in an alternative setting;

(C) any recommended interventions to aid in the remediation or restoration of the child's fitness;

(D) whether the child meets criteria for court-ordered treatment or services under Section 55.05 or 55.06; and

(E) if applicable, the specific criteria the child meets under Paragraph (D).

(f) Redesignates existing Subsection (d) as Subsection (f). Makes a nonsubstantive change and a conforming change to this subsection.

SECTION 7. Amends Sections 55.33 and 55.35, Family Code, as follows:

Sec. 55.33. PROCEEDINGS FOLLOWING FINDING OF UNFITNESS TO PROCEED.

(a) Requires the juvenile court, if the 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, to:

(1) provided that the child meets the inpatient mental health services or residential intellectual disability services criteria under Section 55.05 or 55.06, rather than meets the commitment criteria under Subtitle C or D, Title 7, Health and Safety Code, order the child placed with the Health and Human Services Commission (HHSC) for a period of not more than 90 days, which order is prohibited from specifying a shorter period, for

placement in a facility designated by HHSC, rather than order the child placed with the Department of State Health Services or the Department of Aging and Disability Services (DADS), as appropriate, for a period of not more than 90 days, which order is prohibited from specifying a shorter period, for placement in a facility designated by the department;

(2) on application by the child's parent, guardian, or guardian ad litem, order the child placed in a private psychiatric inpatient facility or residential care facility for a period of not more than 90 days, which order is prohibited from specifying a shorter period, but only if the unfitness to proceed is a result of mental illness or an intellectual disability and the placement is agreed to in writing by the administrator of the facility; or

(3) subject to Subsection (d), rather than Subsection (c), if the court determines that the child may be adequately treated or served in an alternative setting and finds that the child does not meet criteria for court-ordered inpatient mental health services or residential intellectual disability services under Section 55.05 or 55.06, 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 90 days, with the possibility of extension as ordered by the court, rather than for a period of not more than 90 days, which order is prohibited from specifying a shorter period.

(b) Authorizes juvenile probation departments, if a child receives treatment for mental illness or services for the child's intellectual disability on an outpatient basis in an alternative setting under Subsection (a)(3), to provide restoration classes in collaboration with the outpatient alternative setting.

(c) Redesignates existing Subsection (b) as Subsection (c). Authorizes the state or a political subdivision of the state, if the court orders a child placed in a private psychiatric inpatient facility or residential care facility under Subsection (a)(2) or in an alternative setting under Subsection (a)(3), to be ordered to pay any costs associated with the ordered services, rather than with the child's placement, subject to an express appropriation of funds for the purpose.

(d) Redesignates existing Subsection (c) as Subsection (d). Requires the court, before issuing an order described by Subsection (a)(3), to consult with the local juvenile probation department, with local treatment or service providers, with the local mental health authority, and with the local intellectual and developmental disability authority to determine the appropriate treatment or services and restoration classes for the child. Makes a nonsubstantive change.

Sec. 55.35. New heading: INFORMATION REQUIRED TO BE SENT TO FACILITY OR ALTERNATIVE SETTING; REPORT TO COURT. (a) Requires the juvenile court, if the court issues an order, rather than a placement order, under Section 55.33(a), to order the probation department to send copies of any information in the possession of the department and relevant to the issue of the child's mental illness or intellectual disability to the public or private facility or outpatient alternative setting, rather than outpatient center, as appropriate.

(b) Makes conforming changes to this subsection.

(c) Requires that the report under Subsection (b), if the report states that the child is unfit to proceed, also include an opinion and the reasons for that opinion as to whether the child meets the criteria for court-ordered mental health services or court-ordered intellectual disability services under Section 55.05 or 55.06.

(d) Requires that the report of an outpatient alternative setting collaborating with a juvenile probation department to provide restoration classes include any

information provided by the juvenile probation department regarding the child's assessment at the conclusion of the restoration classes.

(e) Redesignates existing Subsection (c) as Subsection (e).

SECTION 8. Amends Section 55.36(d), Family Code, to require the court, if, after a hearing, the court or jury finds that the child is unfit to proceed, to proceed under Section 55.37 or 55.40, as appropriate.

SECTION 9. Amends Sections 55.37 and 55.40, Family Code, as follows:

Sec. 55.37. New heading: REPORT THAT CHILD IS UNFIT TO PROCEED AS A RESULT OF MENTAL ILLNESS; INITIATION OF PROCEEDINGS FOR COURT-ORDERED MENTAL HEALTH SERVICES. Requires the director of the public or private facility or outpatient alternative setting, if a report submitted under Section 55.35(b) states that a child is unfit to proceed as a result of mental illness and that the child meets the criteria for court-ordered mental health services under Section 55.05, as appropriate, to submit to the court two certificates of medical examination for mental illness, as described by Subchapter A (Application for Commitment and Prehearing Procedures), Chapter 574, Health and Safety Code. Requires the court, on receipt of the certificates, to:

(1) initiate proceedings as provided by Section 55.66 for temporary or extended mental health services, as provided by this chapter and Subchapter C, Chapter 574, Health and Safety Code, rather than initiate proceedings as provided by Section 55.38 in the juvenile court for commitment of the child under Subtitle C, Title 7, Health and Safety Code; or

(2) refer the child's case as provided by Section 55.68, rather than by Section 55.39 (Referral for Commitment Proceedings for Mental Illness), to the appropriate court for the initiation of proceedings in that court for temporary or extended mental health services for the child under this chapter and Subchapter C, Chapter 574, Health and Safety Code, rather than in that court for commitment of the child under Subtitle C, Title 7, Health and Safety Code.

Deletes existing text requiring the director of the public or private facility or outpatient center, if a report submitted under Section 55.35(b) states that a child is unfit to proceed as a result of mental illness and that the child meets the commitment criteria for civil commitment under Subtitle C, Title 7, Health and Safety Code, as appropriate, to submit to the court two certificates of medical examination for mental illness.

Sec. 55.40. REPORT THAT CHILD IS UNFIT TO PROCEED AS A RESULT OF INTELLECTUAL DISABILITY. Requires the director of the residential care facility or alternative setting, if a report submitted under Section 55.35(b) states that a child is unfit to proceed as a result of an intellectual disability and that the child meets the criteria for court-ordered residential intellectual disability services under Section 55.06, rather than the commitment criteria for civil commitment under Subtitle D, Title 7, Health and Safety Code, to submit to the court an affidavit stating the conclusions reached as a result of the diagnosis. Requires the court, on receipt of the affidavit, to:

(1) initiate proceedings as provided by Section 55.67, rather than Section 55.41, in the juvenile court for court-ordered residential intellectual disability services for the child, rather than for commitment of the child, under Subtitle D, Title 7, Health and Safety Code; or

(2) refer the child's case as provided by Section 55.68, rather than Section 55.42, to the appropriate court for the initiation of proceedings in that court for court-ordered residential intellectual disability services for the child, rather than for the commitment of the child, under Subtitle D, Title 7, Health and Safety Code.

SECTION 10. Amends Section 55.43(a), Family Code, as follows:

(a) Authorizes the prosecuting attorney to file with the juvenile court a motion for a restoration hearing concerning a child if certain criteria are met, including if the child is not ordered by a court to receive services at, rather than if the child is not committed by a court to, a residential care facility or if the child is discharged or currently on furlough from a mental health facility or discharged from an alternative setting, rather than from a mental health facility or outpatient center, before the child reaches 18 years of age.

SECTION 11. Amends Section 55.44, Family Code, as follows:

Sec. 55.44. New heading: DISCRETIONARY TRANSFER TO CRIMINAL COURT ON 18TH BIRTHDAY OF CHILD. (a) Authorizes the juvenile court to waive its exclusive original jurisdiction and to transfer all pending proceedings, rather than requires the juvenile court to transfer all pending proceedings, from the juvenile court to a criminal court on or after the 18th birthday of a child for whom the juvenile court or a court to which the child's case is referred has ordered inpatient mental health services or residential care for persons with an intellectual disability if certain criteria are met.

(b) Requires a court conducting a waiver of jurisdiction and discretionary transfer hearing under this section to conduct the hearing according to Sections 54.02(j), (k), and (l).

(c) Requires the juvenile court, if after the hearing the juvenile court waives its jurisdiction and transfers the case to criminal court, to send notification of the transfer of a child under Subsection (a) to the facility.

SECTION 12. Amends Sections 55.45(b) and (c), Family Code, as follows:

(b) Requires the child, if the juvenile court or a court to which the child's case is referred under Section 55.40(2) orders the intellectual disability services for the child to be provided at a residential care facility, rather than orders the commitment of the child to a residential care facility, to be cared for, treated, and released in accordance with Subtitle D, Title 7, Health and Safety Code, except that the administrator of the residential care facility is required to notify, in writing, by certified mail, return receipt requested, the juvenile court that ordered intellectual disability services for the child or that referred the case to a court that ordered intellectual disability services for the child, rather than ordered commitment of the child or that referred to the case to a court that ordered commitment of the child, of the intent to discharge or furlough the child on or before the 20th day before the date of discharge or furlough.

(c) Makes conforming changes to this subsection.

SECTION 13. Amends Section 55.51(b), Family Code, as follows:

(b) Requires that the information obtained from the examinations include expert opinion as to:

- (1) whether the child is a child with mental illness or an intellectual disability;
- (2) creates this subdivision from existing text;
- (3) whether the child meets criteria for court-ordered mental health or intellectual disability services under Section 55.05 or 55.06; and
- (4) if applicable, the specific criteria the child meets under Subdivision (3).

Makes a conforming change.

SECTION 14. Amends Sections 55.52 and 55.54, Family Code, as follows:

Sec. 55.52. PROCEEDINGS FOLLOWING FINDING OF LACK OF RESPONSIBILITY FOR CONDUCT. (a) Requires the court, if the court or jury finds that a child is not responsible for the child's conduct under Section 55.51 (Lack of Responsibility for Conduct Determination; Examination) as a result of mental illness or an intellectual disability, to:

(1) makes conforming changes to this subdivision;

(2) on application by the child's parent, guardian, or guardian ad litem, order the child placed in a private psychiatric inpatient facility or residential care facility for a period of not more than 90 days, which order is prohibited from specifying a shorter period, but only if certain criteria are met, including if the child's lack of responsibility is a result of mental illness or an intellectual disability; or

(3) subject to Subsection (c), if the court determines that the child may be adequately treated or served in an alternative setting and finds that the child does not meet criteria for court-ordered inpatient mental health services or residential intellectual disability services under Section 55.05 or 55.06, 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 90 days, with the possibility of extension as ordered by the court, rather than for a period of not more than 90 days, which order is prohibited from specifying a shorter period.

(b) Makes conforming changes to this subsection.

(c) Requires the court, before issuing an order described by Subsection (a)(3), to consult with the local juvenile probation department, with local treatment or service providers, with the local mental health authority, and with the local intellectual and developmental disability authority to determine the appropriate treatment or services for the child.

Sec. 55.54. New heading: INFORMATION REQUIRED TO BE SENT TO FACILITY OR ALTERNATIVE SETTING; REPORT TO COURT. (a) Makes conforming changes to this subsection.

(b) Makes conforming changes to this subsection.

(c) Requires that the report under Subsection (b), if the report states that the child is a child with mental illness or an intellectual disability, include an opinion as to whether the child meets criteria for court-ordered mental health services or court-ordered intellectual disability services under Section 55.05 or 55.06.

(d) Redesignates existing Subsection (c) as Subsection (d).

SECTION 15. Amends Sections 55.55(b), (c), (d), and (e), Family Code, to make conforming changes.

SECTION 16. Amends Section 55.56, Family Code, as follows:

Sec. 55.56. New heading: REPORT THAT CHILD HAS MENTAL ILLNESS; INITIATION OF PROCEEDINGS FOR COURT-ORDERED MENTAL HEALTH SERVICES. Requires the court, on receipt of the two certificates of medical examination for mental illness, to:

(1) initiate proceedings as provided by Section 55.66, rather than Section 55.57, in the juvenile court for court-ordered mental health services for the child, rather

than for commitment of the child, under Subtitle C, Title 7, Health and Safety Code; or

(2) refer the child's case as provided by Section 55.68, rather than Section 55.58, to the appropriate court for the initiation of proceedings in that court for court-ordered mental health services for the child, rather than for commitment of the child, under Subtitle C, Title 7, Health and Safety Code.

Makes conforming changes to this section.

SECTION 17. Amends Section 55.59, Family Code, as follows:

Sec. 55.59. New heading: REPORT THAT CHILD HAS INTELLECTUAL DISABILITY; INITIATION OF PROCEEDINGS FOR COURT-ORDERED RESIDENTIAL INTELLECTUAL DISABILITY SERVICES. Makes conforming changes to this section.

SECTION 18. Amends Chapter 55, Family Code, by adding Subchapter E, and by adding a heading to that subchapter, to read as follows:

#### SUBCHAPTER E. PROCEEDINGS FOR COURT-ORDERED MENTAL HEALTH OR RESIDENTIAL INTELLECTUAL DISABILITY SERVICES

SECTION 19. Transfers Sections 55.13 and 55.14, Family Code, to Subchapter E, Chapter 55, Family Code, as added by this Act, redesignates them as Sections 55.65 and 55.68, Family Code, respectively, and amends them, as follows:

Sec. 55.65. New heading: PROCEEDINGS IN JUVENILE COURT FOR CHILD WITH MENTAL ILLNESS. (a) Authorizes the prosecuting attorney or the attorney for the child, if the juvenile court takes certain actions, to file with the juvenile court an application for court-ordered mental health services under certain statutes, including Section 574.002 (Form of Application), Health and Safety Code. Requires the juvenile court to:

(1) makes a nonsubstantive change to this subdivision;

(2) direct the local mental health authority to file, before the date set for the hearing, its recommendation for the child's proposed treatment, as required by Section 574.012 (Recommendation for Treatment), Health and Safety Code;

(3) identify the person responsible for court-ordered outpatient mental health services not later than the third day before the date set for a hearing that may result in the court ordering the child to receive court-ordered outpatient mental health services, as required by Section 574.0125 (Identification of Person Responsible for Court-Ordered Outpatient Mental Health Services), Health and Safety Code;

(4) appoint physicians necessary to examine the child and to complete the certificates of medical examination for mental illness required under Section 574.009 (Requirement of Medical Examination), Health and Safety Code; and

(5) redesignates existing Subdivision (2) as Subdivision (5).

(b) Makes no changes to this subsection.

(c) Requires the juvenile court, after conducting a hearing on an application under this section and with consideration given to the least restrictive appropriate setting for treatment of the child and to the parent's, managing conservator's, or

guardian's availability and willingness to participate in the treatment of the child, to:

(1) if the criteria under Section 55.05(a) or (b), rather than under Sections 574.034 (Order for Temporary Inpatient Mental Health Services) or 574.0345 (Order for Temporary Outpatient Mental Health Services), Health and Safety Code, are satisfied, order temporary inpatient or outpatient mental health services for the child under Chapter 574, Health and Safety Code; or

(2) if the criteria under Section 55.05(c) or (d), rather than under Sections 574.035 (Order for Extended Inpatient Mental Health Services) or 574.0355 (Order for Extended Outpatient Mental Health Services), Health and Safety Code, are satisfied, order extended inpatient or outpatient mental health services for the child under Chapter 574, Health and Safety Code.

Deletes existing text requiring the juvenile court to appoint the number of physicians necessary to examine the child and to complete the certificates of medical examination for mental illness required under Section 574.009, Health and Safety Code. Makes conforming changes.

(d) Requires HHSC, on receipt of the court's order for inpatient mental health services, to identify a facility and admit the child to the identified facility.

(e) Requires the juvenile court, if the child is currently detained in a juvenile detention facility, to:

(1) order the child released from detention to the child's home or another appropriate place;

(2) order the child detained or placed in an appropriate facility other than a juvenile detention facility; or

(3) conduct a detention hearing and, if the court makes findings under Section 54.01 (Detention Hearing) to support further detention of the child, order the child to remain in the juvenile detention facility subject to further detention orders of the court.

Sec. 55.68. New heading: REFERRAL FOR PROCEEDINGS FOR CHILD WITH MENTAL ILLNESS OR CHILD FOUND UNFIT TO PROCEED OR LACKING RESPONSIBILITY FOR CONDUCT DUE TO MENTAL ILLNESS OR INTELLECTUAL DISABILITY. (a) Requires the juvenile court, if the juvenile court refers the child's case to an appropriate court for the initiation of proceedings, rather than to the appropriate court for the initiation of commitment proceedings, for court-ordered treatment services under certain statutes, including Sections 55.37(2), 55.40(2), 55.56(2), or 55.59(2), to:

(1) send to the clerk of the court to which the case is referred all papers, including evaluations, examination reports, court findings, orders, verdicts, judgments, and reports from facilities and alternative settings, relating to:

(A) the child's mental illness or intellectual disability;

(B) the child's unfitness to proceed, if applicable; and

(C) the finding that the child was not responsible for the child's conduct, if applicable; and

(2) makes a nonsubstantive change to this subdivision.

Deletes existing text requiring the juvenile court, if the juvenile court refers the child's case to the appropriate court for the initiation of commitment proceedings, for court-ordered treatment services under certain statutes, including 55.37(2), 55.40(2), 55.56(2), or 55.59(2), if the child is in detention, to take certain actions.

(b) Provides that the papers sent to the clerk of a court under Subsection (a)(1) constitute an application for court-ordered mental health services under Section 574.001 (Application for Court-Ordered Mental Health Services), Health and Safety Code, or an application for placement under Section 593.041 (Application for Placement; Jurisdiction), Health and Safety Code, as applicable.

(c) Requires the juvenile court, if the child is currently detained in a juvenile detention facility, to:

(1) order the child released from detention to the child's home or another appropriate place;

(2) order the child detained or placed in an appropriate facility other than a juvenile detention facility; or

(3) conduct a detention hearing and, if the court makes findings under Section 54.01 to support further detention of the child, order the child to remain in the juvenile detention facility subject to further detention orders of the court.

SECTION 20. Transfers Sections 55.38 and 55.41, Family Code, to Subchapter E, Chapter 55, Family Code, as added by this Act, redesignates them as Sections 55.66 and 55.67, Family Code, respectively, and amends them, as follows:

Sec. 55.66. New heading: PROCEEDINGS IN JUVENILE COURT FOR CHILD FOUND UNFIT TO PROCEED OR LACKING RESPONSIBILITY FOR CONDUCT DUE TO MENTAL ILLNESS. (a) Authorizes the prosecuting attorney, if the juvenile court initiates proceedings, rather than commitment proceedings, for court-ordered mental health services under Section 55.37(1) or 55.56(1), to file with the juvenile court an application for court-ordered mental health services under Sections 574.001 and 574.002, Health and Safety Code. Requires the juvenile court to:

(1) makes a nonsubstantive change to this subdivision;

(2) direct the local mental health authority to file, before the date set for the hearing, its recommendation for the child's proposed treatment, as required by Section 574.0125, Health and Safety Code;

(3) identify the person responsible for court-ordered outpatient mental health services at least three days before the date of a hearing that may result in the court ordering the child to receive court-ordered outpatient mental health services, as required by Section 574.0125, Health and Safety Code; and

(4) creates this subdivision from existing text.

(b) Requires the juvenile court, after conducting a hearing under this section and with consideration given to the least restrictive appropriate setting for treatment of the child and to the parent's, managing conservator's, or guardian's availability and willingness to participate in the treatment of the child, rather than under Subsection (a)(2), to:

(1) if the criteria for court-ordered mental health services under Section 55.05(a) or (b), rather than under Sections 574.034 or 574.0345, Health and Safety Code, are satisfied, order temporary inpatient or outpatient mental health services; or

(2) if the criteria for court-ordered mental health services under Section 55.05(c) or (d), rather than under Sections 574.035 or 574.0355, Health and Safety Code, are satisfied, order extended inpatient or outpatient mental health services.

(c) Requires HHSC, on receipt of the court's order for inpatient mental health services, to identify a facility and admit the child to the identified facility.

(d) Requires the juvenile court, if the child is currently detained in a juvenile detention facility, to:

(1) order the child released from detention to the child's home or another appropriate place;

(2) order the child detained or placed in an appropriate facility other than a juvenile detention facility; or

(3) conduct a detention hearing and, if the court makes findings under Section 54.01 to support further detention of the child, order the child to remain in the juvenile detention facility subject to further detention orders of the court.

Sec. 55.67. New heading: PROCEEDINGS IN JUVENILE COURT FOR CHILD FOUND UNFIT TO PROCEED OR LACKING RESPONSIBILITY FOR CONDUCT DUE TO INTELLECTUAL DISABILITY. (a) Authorizes the prosecuting attorney, if the juvenile court initiates proceedings under Section 55.40(1) or 55.59(1), rather than initiates commitment proceedings under Section 55.40(1), to file with the juvenile court an application for an interdisciplinary team report and recommendation that the child is in need of long-term placement in a residential care facility, under Section 593.041, Health and Safety Code.

(b) Authorizes the juvenile court, after conducting a hearing under this section and with consideration given to the least restrictive appropriate setting for services for the child and to the parent's, managing conservator's, or guardian's availability and willingness to participate in the services for the child, rather than under Subsection (a)(2), to order residential intellectual disability services for the child if the criteria under Section 55.06 are satisfied, rather than order commitment of the child to a residential care facility if the commitment criteria under Section 593.052 (Order for Commitment), Health and Safety Code, are satisfied.

(c) Requires HHSC, rather than DADS or the appropriate community center, on receipt of the court's order, to identify a residential care facility and admit the child to the identified facility, rather than to a residential care facility.

(d) Requires the juvenile court, if the child is currently detained in a juvenile detention facility, to:

(1) order the child released from detention to the child's home or another appropriate place;

(2) order the child detained or placed in an appropriate facility other than a juvenile detention facility; or

(3) conduct a detention hearing and, if the court makes findings under Section 54.01 to support further detention of the child, order the child to remain in the juvenile detention facility subject to further detention orders of the court.

SECTION 21. Repealers: Sections 55.39 (Referral for Commitment Proceedings for Mental Illness) and 55.42 (Referral for Commitment Proceedings or Children with Intellectual Disability), Family Code.

Repealers: Sections 55.57 (Commitment Proceedings in Juvenile Court for Mental Illness) and 55.58 (Referral for Commitment Proceedings for Mental Illness), Family Code.

Repealers: Sections 55.60 (Commitment Proceedings in Juvenile Court for Children with Intellectual Disability) and 55.61 (Referral for Commitment Proceedings for Children with Intellectual Disability), Family Code.

SECTION 22. Makes application of this Act prospective.

SECTION 23. Effective date: September 1, 2023.