

BILL ANALYSIS

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S.B. 2479
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Background Information:

- The Judicial Commission on Mental Health (JCMH) identified several issues in the criminal and civil code that the legislature should correct, specifically regarding inpatient competency restoration for nonviolent misdemeanors, participation in outpatient competency restoration programs, early mental health interventions, applications for emergency detention warrants, security of firearms found in possession of persons in emergency detention under a warrant, and antiquated language and code organization.

S.B. 2479 would:

- limit inpatient competency restoration for nonviolent misdemeanors to extraordinary circumstances and create outpatient treatment alternatives in nonviolent misdemeanor cases.
- The proposed amendments would also address deteriorating mental conditions, credit participation in outpatient competency restoration programs, permit Class C misdemeanor dismissal when the defendant is found not competent, and harmonize mental health personal bonds with recent amendments.
- What's more, S.B. 2479 would allow law enforcement to defer the arrest of a nonviolent person who is undergoing emergency mental health or intellectual disability health care.
- This bill would improve mental health treatment options for persons charged with nonviolent misdemeanors, reduce the strain on the criminal justice system, and enhance outcomes for those with mental health conditions.

As proposed, S.B. 2479 amends current law relating to procedures regarding certain persons who are or may be persons with a mental illness or intellectual disability.

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 Chapter 14, Code of Criminal Procedure, by adding Article 14.036, as follows:

Art. 14.036. DEFERRAL OF ARREST FOR NONVIOLENT OFFENDERS RECEIVING EMERGENCY MENTAL HEALTH SERVICES. (a) Provides that this article, except as provided by Subsection (e), applies only to a person who is detained in a facility under Chapter 573 (Emergency Detention), Health and Safety Code, or Subchapter B (Protective Custody), Chapter 574 (Court Ordered Mental Health Services), Health and Safety Code, for the purpose of receiving emergency mental health services.

(b) Requires a peace officer who has probable cause to arrest, without a warrant, a person described by Subsection (a) for conduct constituting an offense committed at the applicable facility to defer the arrest of the person until the person has

completed the emergency mental health services, unless exigent circumstances require an immediate arrest.

(c) Prohibits a peace officer who defers the arrest of a person under Subsection (b) from subsequently arresting the person for the same conduct unless a warrant has been issued.

(d) Requires the facility in which the conduct constituting the offense occurred to notify the law enforcement agency that sought the arrest of the person at least 12 hours before releasing the person and to provide the address where the person will be released.

(e) Provides that this article does not apply with respect to a person accused of committing a violent offense, as defined by Article 17.032 (Release on Personal Bond of Certain Defendants With Mental Illness or Intellectual Disability), or an offense under Section 28.03 (Criminal Mischief), Penal Code, that is punishable as a felony.

(f) Provides that this article does not limit the lawful disposition of the criminal charge for the offense for which an arrest was deferred.

SECTION 2. Amends Articles 16.22(a), (b-2), and (d), Code of Criminal Procedure, as follows:

(a)(1) Requires the sheriff or municipal jailer to provide written or electronic notice to the magistrate not later than 12 hours after the sheriff or municipal jailer having custody of a defendant, rather than the sheriff or municipal jailer having custody of a defendant for an offense punishable as a Class B misdemeanor or any higher category of offense, receives credible information that may establish reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability.

(2) Provides that the magistrate is not required to order the interview and collection of other information under Subdivision (1) if the defendant:

(A)-(B) makes nonsubstantive changes to these paragraphs; or

(C) was only arrested or charged with an offense punishable as a Class C misdemeanor.

(3) Authorizes a court that elects to use the results of a determination described by Subdivision (2)(B), rather than the results of that previous determination, to proceed under Subsection (c).

(4) Redesignates existing Subdivision (3) as Subdivision (4).

(b-2) Requires that the written report include a description of the procedures used in the interview and collection of other information under Subsection (a)(1)(A) and the applicable expert's observations and findings pertaining to:

(1) makes no changes to this subdivision;

(2) subject to Article 46B.002 (Applicability), whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B (Examination), Chapter 46B; and

(3) makes no changes to this subdivision.

(d) Provides that Article 16.22 (Early Identification of Defendant Suspected of Having Mental Illness or Intellectual Disability) does not prevent the applicable court from,

before, during, or after the interview and collection of other information regarding the defendant as described by this article:

(1) makes no changes to this subdivision; or

(2) subject to Article 46B.002, ordering an examination regarding the defendant's competency to stand trial.

SECTION 3. Amends Article 17.03(b-2), Code of Criminal Procedure, to create an exception under Article 17.032.

SECTION 4. Amends Articles 18.191(a), (b), (f), (g), and (h), Code of Criminal Procedure, as follows:

(a) Requires a law enforcement officer who seizes a firearm from a person taken into custody under Section 573.001 (Apprehension by Peace Officer Without Warrant) or 573.012 (Issuance of Warrant), Health and Safety Code, and not in connection with an offense involving the use of a weapon or an offense under Chapter 46 (Weapons), Penal Code, to immediately provide the person a written copy of the receipt for the firearm and a written notice of the procedure for the return of a firearm under Article 18.191 (Disposition of Firearm Seized from Certain Persons With Mental Illness).

(b), (f), (g), and (h) Makes conforming changes to these subsections.

SECTION 5. Amends Subchapter B, Chapter 45, Code of Criminal Procedure, by adding Article 45.0214, as follows:

Art. 45.0214. DISMISSAL BASED ON DEFENDANT'S LACK OF CAPACITY. (a) Requires a justice or judge, on motion by the state, the defendant, or a person standing in parental relation to the defendant, or on the court's own motion, to determine whether probable cause exists to believe that a defendant, including a defendant who is a child as defined by Article 45.058(h) (relating to the definition of "child") and a defendant with a mental illness or developmental disability, lacks the capacity to understand the proceedings in criminal court or to assist in the defendant's own defense and is unfit to proceed.

(b) Authorizes the justice or judge to dismiss the complaint if the justice or judge determines that probable cause exists for a finding under Subsection (a), after providing notice to the state.

(c) Authorizes a dismissal of a complaint under Subsection (b) to be appealed as provided by Article 44.01 (Appeal by State).

SECTION 6. Amends Article 46B.009, Code of Criminal Procedure, as follows:

Art. 46B.009. TIME CREDITS. (a) Creates this subsection from existing text.

(b) Requires a court sentencing a person convicted of a criminal offense to credit to the term of the person's sentence any period that the person was ordered to and participated in, or was committed to and attended, an outpatient competency restoration program.

SECTION 7. Amends Article 46B.025(b), Code of Criminal Procedure, as follows:

(b) Requires the expert, if in the opinion of an expert appointed under Article 46B.021 (Appointment of Experts) the defendant is incompetent to proceed, to state in the report certain information, including whether the defendant is likely to be restored to competency in the initial restoration period authorized under Subchapter D (Procedures After Determination of Incompetency), including any possible extension under Article

46B.080 (Extension of Order), rather than whether the defendant is likely to be restored to competency in the foreseeable future. Makes nonsubstantive changes.

SECTION 8. Amends Article 46B.055, Code of Criminal Procedure, as follows:

Art. 46B.055. PROCEDURE AFTER FINDING OF INCOMPETENCY. Requires the court, if the defendant is found incompetent to stand trial, to:

- (1) proceed under Subchapter D if the report under Article 46B.025 (Expert's Report) states that the defendant is likely to be restored to competency in the initial restoration period authorized under that subchapter; or
- (2) for a defendant unlikely to be restored to competency as described by Subdivision (1):
 - (A) proceed under Subchapter E (Civil Commitment: Charges Pending) or F (Civil Commitment: Charges Dismissed); or
 - (B) release the defendant on bail as permitted under Chapter 17 (Bail).

SECTION 9. Amends Article 46B.071(a), Code of Criminal Procedure, as follows:

(a) Requires the court, on a determination under Article 46B.055(1) that a defendant is incompetent to stand trial and is likely to be restored to competency in the period authorized under this subchapter including any possible extension under Article 46B.080, to:

- (1) if the defendant is charged with an offense punishable as a Class B misdemeanor, or is charged with an offense punishable as a Class A misdemeanor that did not result in bodily injury to another person and the defendant has not been convicted in the preceding two years of an offense that resulted in bodily injury to another person:
 - (A) makes no changes to this paragraph; or
 - (B) if an outpatient competency restoration program is unavailable or the defendant cannot be placed in an outpatient competency restoration program before the 14th day after the date of the court's order:
 - (i) on the motion of the attorney representing the state, dismiss the charge and proceed under Subchapter F; or
 - (ii) on the motion of the attorney representing the defendant and notice to the attorney representing the state:
 - (a) set the matter to be heard not later than the 10th day after the date of filing of the motion; and
 - (b) dismiss the charge and proceed under Subchapter F on a finding that an outpatient competency restoration program is unavailable or that the defendant cannot be placed in an outpatient competency restoration program before the 14th day after the date of the court's order; or
- (2) if the defendant is charged with an offense punishable as a Class A misdemeanor that resulted in bodily injury to another person or any higher category of offense or if the defendant is charged with an offense punishable as a Class A misdemeanor that did not result in bodily injury to another person and the defendant has been convicted in the preceding two years of an offense that resulted in bodily injury to another person:

(A)-(B) makes no changes to these paragraphs.

Deletes existing text requiring the court, except as provided by Subsection (b), on a determination that a defendant is incompetent to stand trial, if the defendant is charged with an offense punishable as a Class B misdemeanor to commit the defendant to a jail-based competency restoration program under Article 46B.073(e) (relating to requiring that a defendant charged with an offense punishable by a Class B misdemeanor is authorized to be committed only to a jail-based competency restoration program) or a mental health facility or residential care facility under Article 46B.073(f) (relating to authorizing a defendant charged with an offense punishable by a Class B misdemeanor to be committed to a mental health facility or residential care facility under certain conditions).

SECTION 10. Amends the heading to Article 46B.0711, Code of Criminal Procedure, to read as follows:

Art. 46B.0711. **RELEASE ON BAIL: CERTAIN OFFENSES NOT INVOLVING BODILY INJURY.**

SECTION 11. Amends Article 46B.0711(b), Code of Criminal Procedure, as follows:

(b) Requires the court to take certain actions, subject to conditions reasonably related to ensuring public safety and the effectiveness of the defendant's treatment, if the court determines that a defendant charged with an offense punishable as a Class B misdemeanor, or charged under the circumstances described by Article 46B.071(a)(1) with an offense punishable as a Class A misdemeanor, and found incompetent to stand trial is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial, and an appropriate outpatient competency restoration program is available for the defendant.

SECTION 12. Amends the heading to Article 46B.072, Code of Criminal Procedure, to read as follows:

Art. 46B.072. **RELEASE ON BAIL: FELONIES; CERTAIN OFFENSES INVOLVING BODILY INJURY.**

SECTION 13. Amends Article 46B.072(a-1), Code of Criminal Procedure, as follows:

(a-1) Authorizes the court, subject to conditions reasonably related to ensuring public safety and the effectiveness of the defendant's treatment, to release on bail, or continue the release on bail of, a defendant charged with an offense punishable as a felony, or charged under the circumstances described by Article 46B.071(a)(2) with an offense punishable as a Class A misdemeanor and found incompetent to stand trial if the court determines the defendant is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial, and an appropriate outpatient competency restoration program is available for the defendant.

Deletes existing text providing that the court, subject to conditions reasonably related to ensuring public safety and the effectiveness of the defendant's treatment, if the court determines that a defendant charged with an offense punishable as a felony or a Class A misdemeanor and found incompetent to stand trial is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial, and an appropriate outpatient competency restoration program is available for the defendant, is authorized to release on bail a defendant found incompetent to stand trial with respect to an offense punishable as a felony or to continue the defendant's release on bail and is required to release on bail a defendant found incompetent to stand trial with respect to an offense punishable as a Class A misdemeanor or to continue the defendant's release on bail.

SECTION 14. Amends Articles 46B.073(a), (b), and (d), Code of Criminal Procedure, as follows:

(a) Provides that Article 46B.073 (Commitment for Restoration to Competency) applies only to a defendant not released on bail who is subject to an initial restoration period based on Article 46B.071(a)(2)(B), rather than Article 46B.071 (Options on Determination of Incompetency).

(b) Requires the court, for purposes of further examination and competency restoration services with the specific objective of the defendant attaining competency to stand trial, to commit a defendant described by Subsection (a) to a mental health facility, residential care facility, or jail-based competency restoration program for the applicable period as follows:

(1) a period of not more than 60 days, if the defendant is charged with an offense punishable as a Class A misdemeanor; or

(2) makes no changes to this subdivision.

(d) Requires the court, if the defendant is not charged with an offense described by Subsection (c) and the indictment does not allege an affirmative finding under Article 42A.054(c) (relating to requiring the trial court to enter the finding in the judgment of the court on an affirmative finding regarding the use or exhibition of a deadly weapon) or (d) (relating to requiring the court to enter certain findings given an affirmative finding that the deadly weapon used was a firearm), to enter an order committing the defendant to a mental health facility or residential care facility determined to be appropriate by the Health and Human Services Commission (HHSC) or to a jail-based competency restoration program, rather than the local mental health authority or local intellectual and developmental disability authority or to a jail-based competency restoration program. Authorizes the court to enter an order committing the defendant to a jail-based competency restoration program only if the program provider has informed the court that the defendant will begin to receive competency restoration services not later than the third business day after the date of the order. Deletes existing text authorizing a defendant to be committed to a jail-based competency restoration program only if the program provider determines the defendant will begin to receive competency restoration services within 72 hours of arriving at the program.

SECTION 15. Amends Article 46B.077(a), Code of Criminal Procedure, as follows:

(a) Requires the facility or jail-based competency restoration program to which the defendant is committed or the outpatient competency restoration program to which the defendant is released on bail to:

(1) makes no changes to this subdivision;

(2) assess and evaluate whether the defendant is likely to be restored to competency in the period authorized under this subchapter, including any possible extension under Article 46B.080, rather than assess and evaluate whether the defendant is likely to be restored to competency in the foreseeable future; and

(3) makes no changes to this subdivision.

SECTION 16. Amends Articles 46B.079(b) and (b-1), Code of Criminal Procedure, to make conforming changes.

SECTION 17. Amends Articles 46B.084(a-1) and (b), Code of Criminal Procedure, as follows:

(a-1)(1) Requires the court, if no party objects to the findings of the most recent report within that period, to make the determination not later than the 20th day after the date on which the court received the applicable notice under Article 46B.079 (Notice and Report

to Court), or not later than the fifth day after the date of the defendant's return to court, whichever occurs first. Deletes existing text requiring the court to make the determination not later than the 20th day after the date on which the court received the applicable notice under Article 46B.079, or not later than the fifth day after the date of the defendant's return to court, whichever occurs first, regardless of whether a party objects to the report as described by this subsection and the issue is set for hearing under Subsection (b).

(2) makes conforming changes to this subdivision.

(b) Requires the court, if a party objects as provided by Subsection (a-1) and raises a suggestion that the defendant may no longer be competent to stand trial, to determine, by informal inquiry not later than the fifth day after the date of the objection, whether there exists any evidence from a credible source that the defendant may no longer be competent. Requires the court, if, after an informal inquiry, the court determines that evidence from a credible source exists to support a finding of incompetency, to order a further examination under Subchapter B to determine whether the defendant is incompetent to stand trial. Requires that the issue, following receipt of the expert's report under that subchapter, be set for a hearing not later than the 10th day after the date the report is received by the court. Makes a nonsubstantive change.

SECTION 18. Amends Subchapter D, Chapter 46B, Code of Criminal Procedure, by adding Article 46B.0855, as follows:

Art. 46B.0855. RAISING ISSUE OF INCOMPETENCY WHEN CRIMINAL PROCEEDINGS ARE NOT TIMELY RESUMED. Provides that if the court has found the defendant competent to stand trial under Article 46B.084 (Proceedings on Return of Defendant to Court), but the criminal proceedings against the defendant were not resumed within the period specified by Subsection (d) of that article, the court is required to, on motion of either party suggesting that the defendant may no longer be competent to stand trial, follow the procedures provided under Subchapters A (General Provisions) and B, except any subsequent court orders for treatment are required to be issued under Subchapter E or F. Provides that if, following the end of the period specified by Article 46B.084(d), the court suspects that the defendant may no longer be competent to stand trial, the court is authorized to make that suggestion under this article on its own motion.

SECTION 19. Amends Article 46B.091(i), Code of Criminal Procedure, to make conforming changes.

SECTION 20. Amends Article 46B.101, Code of Criminal Procedure, as follows:

Art. 46B.101. APPLICABILITY. Provides that this subchapter applies to a defendant against whom a court is required to proceed according to Article 46B.084(e) (relating to the procedures for a court to take in the event that a defendant is found incompetent to stand trial and pending charges are not dismissed) or 46B.0855 or according to the court's appropriate determination under Article 46B.055(2), rather than under Article 46B.071.

SECTION 21. Amends Article 46B.104, Code of Criminal Procedure, as follows:

Art. 46B.104. CIVIL COMMITMENT PLACEMENT: FINDING OF VIOLENCE. (a) Creates this subsection from existing text.

(b) Requires the court to send a copy of the order of commitment to the applicable facility.

(c) Requires the court, for a defendant whose initial commitment is under this subchapter as provided by Article 46B.055(2), to:

(1) provide to the facility copies of the following items made available to the court during the incompetency trial:

- (A) reports of each expert;
- (B) psychiatric, psychological, or social work reports that relate to the current mental condition of the defendant;
- (C) documents provided by the attorney representing the state or the defendant's attorney that relate to the defendant's current or past mental condition;
- (D) copies of the indictment or information and any supporting documents used to establish probable cause in the case;
- (E) the defendant's criminal history record information; and
- (F) the addresses of the attorney representing the state and the defendant's attorney; and

(2) direct the court reporter to promptly prepare and provide to the facility transcripts of all medical testimony received by the jury or court.

SECTION 22. Amends Article 46B.109(b), Code of Criminal Procedure, as follows:

(b) Requires the head of the facility or outpatient treatment provider to provide with the request a written statement that in their opinion the defendant is competent to stand trial and to file with the court as provided by Article 46B.025 a report stating the reason why the facility or provider believes the defendant has been restored to competency. Requires the head of the facility or outpatient treatment provider to include with the report a list of the types and dosages of medications prescribed for the defendant while the defendant was receiving services in the facility or through the outpatient treatment program. Requires the court to provide copies of the written statement and report to the attorney representing the state and the defendant's attorney. Authorizes either party to object to the findings in the written statement or report as provided by Article 46B.1115.

SECTION 23. Amends Subchapter E, Chapter 46B, Code of Criminal Procedure, by adding Article 46B.1115, as follows:

Art. 46B.1115. PROCEEDINGS TO DETERMINE RESTORATION OF COMPETENCY. Provides that the periods for objecting to the written statement and report filed under Article 46B.109(b) (relating to requiring the head of a facility or outpatient treatment provider to provide with certain requests by a court a statement that in their opinion the defendant is competent to stand trial) and for conducting a hearing on the defendant's competency under this subchapter are the same as those specified under Article 46B.084.

SECTION 24. Amends Article 46B.114, Code of Criminal Procedure, is as follows:

Art. 46B.114. TRANSPORTATION OF DEFENDANT TO COURT. (a) Requires that an order setting a hearing to determine whether the defendant has been restored to competency, if the hearing is not conducted at the facility to which the defendant has been committed under Chapter 46B (Incompetency to Stand Trial) or conducted by means of an electronic broadcast system as described by this subchapter, direct that the defendant, rather than direct that as soon as practicable but not earlier than 72 hours before the date the hearing is scheduled, the defendant, be placed in the custody of the sheriff of the county in which the committing court is located or the sheriff's designee for prompt transportation to the court. Deletes existing text prohibiting the sheriff or the sheriff's designee from taking custody of the defendant under this article until 72 hours before the date the hearing is scheduled.

(b) Requires the head of the facility or outpatient treatment provider, if before the 15th day after the date on which the court received notification under Article

46B.109 that a defendant committed to a facility or ordered to participate in an outpatient treatment program has not been transported to the court that issued the order under this subchapter, to cause the defendant to be promptly transported to the court and placed in the custody of the sheriff of the county in which the court is located. Requires the county in which the court is located to reimburse HHSC or outpatient treatment provider, as appropriate, for the mileage and per diem expenses of the personnel required to transport the defendant, calculated in accordance with rates provided in the General Appropriations Act for state employees.

SECTION 25. Amends Article 46B.151(a), Code of Criminal Procedure, as follows:

(a) Requires the court, if a court is required by Article 46B.084(f) or 46B.0855 or by its appropriate determination under Article 46B.055(2), rather than Article 46B.071, to proceed under this subchapter, or if the court is permitted by Article 46B.004(e) (relating to the attorney representing the state directing the court to dismiss all charges upon the issue of the defendant's incompetency to stand trial being raised with the court) to proceed under this subchapter, to determine whether there is evidence to support a finding that the defendant is either a person with mental illness or a person with an intellectual disability.

SECTION 26. Amends Sections 51.20(a), (b), (c), and (d), Family Code, as follows:

(a) Refers to "intellectual disability" rather than "mental retardation." Deletes existing text providing that if the examination is to include a determination of the child's fitness to proceed, an expert is authorized to be appointed to conduct the examination only if the expert is qualified under Subchapter B, 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.

(b) Refers to "local intellectual and developmental disability authority" rather than "mental retardation authority." Makes a conforming change.

(c)-(d) Makes conforming changes to these subsections.

SECTION 27. 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." Redefines "child with mental illness." Makes nonsubstantive changes.

Sec. 55.02. MENTAL HEALTH AND INTELLECTUAL DISABILITY JURISDICTION. Provides that for the purpose of initiating proceedings to order mental health or intellectual disability services for a child, rather than for a child or for commitment of a child, as provided by Chapter 55 (Proceedings Concerning Children With Mental Illness or Intellectual Disability), the juvenile court 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 by a court under this chapter to be cared for as provided by Subtitle C, Title 7, Health and Safety Code, except as provided by this chapter. Makes a nonsubstantive change.

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

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 by the American Board of Professional Psychology in forensic psychology; or

(B) training consisting of at least 24 hours of specialized forensic training relating to incompetency, fitness to proceed, lack of responsibility for conduct, or insanity evaluations; and 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 suffering severe and abnormal mental, emotional, or physical distress; is experiencing substantial mental or physical deterioration of the child's ability to function independently; and is 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 by 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, 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 the child 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 28. 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 29. 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 the information obtained from the examination include expert opinion as to:

- (1) whether the child is a child with mental illness;
- (2) whether the child meets the criteria for court-ordered mental health services under Section 55.05 for temporary inpatient mental health services, temporary outpatient mental health services, extended inpatient mental health services, or 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, to:

- (1) proceed under Section 55.12 (Initiation of Commitment Proceedings) if the court determines that evidence exists to support a finding that the child is a child

with mental illness and that the child meets the criteria for court-ordered mental health services under Section 55.05; or

(2) dissolve the stay and continue the juvenile court proceedings if the court determines that evidence does not exist to support a finding that the child is a child with mental illness or that the child meets the criteria for court-ordered mental health services under Section 55.05.

Deletes existing text requiring the court, after considering all relevant information, including information obtained from an examination under Section 51.20, if the court determines that evidence exists to support a finding that the child has a mental illness and that the child meets the commitment criteria under Subtitle C, Title 7, Health and Safety Code, to proceed under Section 55.12, or, if the court determines that evidence does not exist to support a finding that the child has a mental illness or that the child meets the commitment criteria under Subtitle C, Title 7, Health and Safety Code, to dissolve the stay and continue the juvenile court proceedings.

SECTION 30. 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 court, if, after considering all relevant information, the juvenile court determines that evidence exists to support a finding that a child is a child with mental illness and that the child meets the criteria for court-ordered mental health services under Section 55.05, rather than a finding that a child has a mental illness and that the child meets the commitment criteria under Subtitle C, Title 7, Health and Safety Code, to:

- (1) initiate proceedings as provided by Section 55.65, rather than Section 55.13 (Commitment Proceedings in Juvenile Court) to order temporary or extended mental health services, as provided in this chapter and Subchapter C, Chapter 574, Health and Safety Code; or
- (2) refer the child's case as provided by Section 55.68, rather than Section 55.14 (Referral for Commitment Proceedings), 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 for commitment of the child, under this chapter and Subchapter C, 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. Requires the child, if the juvenile court or a court to which the child's case is referred under Section 55.12(2) (relating to requiring the court to refer a child's case to the appropriate court for the initiation of proceedings in that court for the commitment of the child) orders mental health services for the child, to be transported, cared for, treated, and released in conformity to Subtitle C, Title 7, Health and Safety Code, except:

(1)-(2) makes no changes to these subdivisions.

Sec. 55.16. **ORDER FOR MENTAL HEALTH SERVICES; STAY OF PROCEEDINGS**. (a) Requires the court, if the court to which the child's case is referred under Section 55.12(2) orders temporary or extended mental health services for the child, rather than temporary or 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:

- (1) makes no changes to this subdivision; or
- (2) dissolve the stay and continue with proceedings under Title 3 (Juvenile Justice Code) 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 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 inpatient mental health services if certain criteria are met. Deletes existing text requiring the juvenile court to transfer all pending proceedings from the juvenile court to a criminal court on the 18th birthday of a child for whom the juvenile court or a court to which the child's case is referred under Section 55.12(2) has ordered inpatient mental health services 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) (relating to authorizing a juvenile court to waive its exclusive original jurisdiction and transfer a person to the appropriate district court or criminal district court for criminal proceedings under certain circumstances), (k) (relating to satisfying the petition and notice requirements of certain sections and requiring that the summons state the purpose of the hearing), and (l) (relating to the conducting by a juvenile court of a hearing 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 31. Amends Section 55.31, Family Code, by amending Subsections (c) and (d) and adding Subsections (e) and (f), as follows:

- (c) Requires the court, if the court determines that probable cause exists to believe that the child is unfit to proceed, to temporarily stay the juvenile court proceedings and immediately order the child to be examined under Section 55.04, rather than Section 51.20. 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.
- (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 authorized 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; and

(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) and makes a conforming change.

SECTION 32. Amends Sections 55.33 and 55.35, Family Code, as follows:

Sec. 55.33. PROCEEDINGS FOLLOWING FINDING OF UNFITNESS TO PROCEED. (a) Requires the court, if the juvenile court or jury determines under Section 55.32 (Hearing on Issue of Fitness to Proceed) 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, order the child placed with 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 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 (DSHS) 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 DSHS or DADS;

(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. Makes a conforming change; 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 on an outpatient basis 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) 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) 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 nonsubstantive changes.

Sec. 55.35. New heading: INFORMATION REQUIRED TO BE SENT TO FACILITY OR ALTERNATIVE SETTING; REPORT TO COURT. (a) Requires the court, if the juvenile court issues an order, rather than a placement order, under Section 55.33(a) (relating to the specific proceedings by a court following the finding by a juvenile court or jury that a child is unfit to proceed with juvenile court proceedings), 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 the public or private facility or outpatient center, as appropriate.

(b) Makes conforming changes to this subsection.

(c) Requires that the report, if the report under Subsection (b) 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) Creates this subsection from existing text.

SECTION 33. 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 34. 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, as appropriate, if a report submitted under Section 55.35(b) (relating to requiring a public or private facility to submit to the court a report describing certain information) 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, 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 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 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 refer the child's case as provided by Section 55.39 (Referral for Commitment Proceedings for Mental Illness) to the appropriate court for the initiation of proceedings 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, as appropriate, 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, 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 that the child meets 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 (Commitment Proceedings in Juvenile Court for Children With Intellectual Disability), 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 (Referral for Commitment Proceedings for Children With Intellectual Disability),

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 35. 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:

(1) makes no changes to this subdivision; and

(2) the child:

(A) is not:

(i) makes no changes to this subparagraph;

(ii) ordered by a court to receive services at a residential care facility, rather than committed by a court to a residential care facility; or

(iii) makes no changes to this subparagraph; or

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

SECTION 36. 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, 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 37. 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 of the intent to discharge or furlough the child on or before the 20th day before the date of discharge or furlough. Makes conforming changes.

(c) Makes conforming changes to this subsection.

SECTION 38. Amends Section 55.51(b), Family Code, as follows:

(b) Requires the court, on a motion by a party in which it is alleged that a child may not be responsible as a result of mental illness or an intellectual disability for the child's conduct, to order the child to be examined under Section 55.04, rather than Section 51.20. 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).

SECTION 39. 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) provided that the child meets the inpatient mental health services or residential intellectual disability services criteria under Section 55.05 or 55.06, order the child placed with 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 provided that the child meets the commitment criteria under Subtitle C or D, Title 7, Health and Safety Code, order the child placed with DSHS or 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 DSHS or DADS;

(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. Makes a conforming change; 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 on an outpatient basis for a period of not more than 90 days, which order is prohibited from specifying a shorter period.

(b) 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.

(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) Requires the court, if the juvenile court issues an order, rather than a placement order, under Section 55.52(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 alternative setting, rather than the public or private facility or outpatient center, as appropriate.

(b) Makes conforming changes to this subsection.

(c) Requires that the report, if the report under Subsection (b) 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 40. Amends Sections 55.55(b), (c), (d), and (e), Family Code, as follows:

(b) Requires the juvenile court, on objection by the prosecuting attorney under Subsection (a), to hold a hearing without a jury to determine whether the child is a child with mental illness or an intellectual disability and 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, rather than to determine whether the child has a mental illness or an intellectual disability and whether the child meets the commitment criteria for civil commitment under Subtitle C or D, Title 7, Health and Safety Code.

(c)-(e) Makes conforming changes to these subsections.

SECTION 41. 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 director of the public or private facility or alternative setting, as appropriate, if a report submitted under Section 55.54(b) states that a child is a child with mental illness and that the child meets the criteria for court-ordered mental health services under Section 55.05, to submit to the court two certificates of medical examination for mental illness, as described by Subchapter A, Chapter 574, Health and Safety Code. Requires the court, on receipt of the certificates, to:

(1) initiate proceedings as provided by Section 55.66 in the juvenile court for court-ordered mental health services for the child under Subtitle C, Title 7, Health and Safety Code; or

(2) refer the child's case as provided by Section 55.68 to the appropriate court for the initiation of proceedings in that court for court-ordered mental health services for 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, as appropriate, if a report submitted under Section 55.54(b) states that a child has a mental illness and that the child meets the commitment criteria for civil commitment under Subtitle C, Title 7, Health and Safety Code, to submit to the court two certificates of medical examination for mental illness. Deletes existing text requiring the court, on receipt of the certificates, to initiate proceedings as provided by Section 55.57 in the

juvenile court for commitment of the child under Subtitle C, Title 7, Health and Safety Code, or to refer the child's case as provided by Section 55.58 to the appropriate court for the initiation of proceedings in that court for commitment of the child under Subtitle C, Title 7, Health and Safety Code.

SECTION 42. 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. Requires the director of the residential care facility or alternative setting, if a report submitted under Section 55.54(b) states that a child is a child with an intellectual disability and that the child meets the criteria for court-ordered residential intellectual disability services under Section 55.06, to submit to the court an affidavit stating the conclusions reached as a result of the diagnosis. Requires the juvenile court, on receipt of an affidavit, to:

- (1) initiate proceedings in the juvenile court as provided by Section 55.67 for court-ordered residential intellectual disability services for the child under Subtitle D, Title 7, Health and Safety Code; or
- (2) refer the child's case to the appropriate court as provided by Section 55.68 for the initiation of proceedings in that court for court-ordered residential intellectual disability services for the child under Subtitle D, Title 7, Health and Safety Code.

Deletes existing text requiring the director of the residential care facility, if a report submitted under Section 55.54(b) states that a child has an intellectual disability and that the child meets 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. Deletes existing text requiring the juvenile court, on receipt of an affidavit, to initiate proceedings in the juvenile court as provided by Section 55.60 for commitment of the child under Subtitle D, Title 7, Health and Safety Code, or to refer the child's case to the appropriate court as provided by Section 55.61 for the initiation of proceedings in that court for commitment of the child under Subtitle D, Title 7, Health and Safety Code.

SECTION 43. Amends Chapter 55, Family Code, by adding Subchapter E, and adding a heading to that subchapter, as follows:

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

SECTION 44. 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 initiates proceedings for temporary or extended mental health services under Section 55.12(1), to file with the juvenile court an application for court-ordered mental health services under Sections 574.001 (Application for Court-Ordered Mental Health Services) and 574.002 (Form of Application), Health and Safety Code, rather than Section 574.001 (Application for Court-Ordered Mental Health Services), 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 is authorized to 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) creates this subdivision from existing text.

(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 Section 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 Section 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.

(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 for court-ordered treatment services under Section 55.12(2), 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) send to the office of the appropriate county attorney or, if a county attorney is not available, to the office of the appropriate district attorney, copies of all papers sent to the clerk of the court under Subdivision (1).

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 under Section 55.12(2), to send all papers relating to the child's mental illness to the clerk of the court to which the case is referred and, if the child is in detention, to order the child released from detention to the child's home or another appropriate place; to order the child detained in an appropriate place other than a juvenile detention facility; or, if an appropriate place to release or detain the child as described by Paragraph (A) or (B) is not available, to order the child to remain in the juvenile detention facility subject to further detention orders of the court.

(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, 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 45. 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 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 574.012, 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 is authorized to result in the court ordering the child to receive court-ordered outpatient mental health services, as required by Section 574.012, Health and Safety Code; and
- (4) creates this subdivision from existing text.

Makes conforming changes.

(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, to:

- (1) if the criteria for court-ordered mental health services under Section 55.05(a) or (b) 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) are satisfied, order extended inpatient or outpatient mental health services.

Deletes existing text requiring the juvenile court, after conducting a hearing under Subsection (a)(2), if the criteria under Section 574.034 or 574.0345, Health and Safety Code, are satisfied, to order temporary inpatient or outpatient mental health services, or if the criteria under Section 574.035 or 574.0355, Health and Safety Code, are satisfied, to order extended 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 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 (Application for Placement; Jurisdiction), 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, to order residential intellectual disability services for the child if the criteria under Section 55.06 are satisfied. Deletes existing text authorizing the juvenile court, after conducting a hearing under Subsection (a)(2), to 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, on receipt of the court's order, to identify a residential care facility and admit the child to the identified facility. Deletes existing text requiring DADS or the appropriate community center, on receipt of the court's order, to admit the child 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 46. Amends Section 573.012, Health and Safety Code, by adding Subsections (d-1) and (d-2) and amending Subsection (h), as follows:

(d-1) Authorizes a peace officer who apprehends a person under Section 573.012 (Issuance of Warrant) to immediately seize any firearm found in the person's possession. Requires a peace officer who seizes a firearm under this subsection to comply with the requirements of Article 18.191, Code of Criminal Procedure.

(d-2) Provides that a peace officer who transports an apprehended person to a facility in accordance with this section:

(1) is not required to remain at the facility while the person is medically screened or treated or while the person's insurance coverage is verified; and

(2) is authorized to leave the facility immediately after the person is taken into custody by appropriate facility staff and the peace officer provides to the facility the required documentation.

(h) Authorizes a judge or magistrate to permit an applicant who is a physician or a licensed mental health professional employed by a local mental health authority to present an application by:

(1)-(2) makes no changes to these subdivisions.

SECTION 47. Amends Section 574.106, Health and Safety Code, by adding Subsection (m), as follows:

(m) Provides that an order issued under Section 574.106 (Hearing and Order Authorizing Psychoactive Medications) authorizes the taking of a patient's blood sample to conduct reasonable and medically necessary evaluations and laboratory tests to safely administer a psychoactive medication authorized by the order.

SECTION 48. Repealers: Sections 55.39 (Referral for Commitment Proceedings for Mental Illness) and 55.42 (Referral for Commitment Proceedings for 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.

Repealer: Article 46B.071(b) (relating to the options for a court on the determination that a defendant is incompetent to stand trial and is unlikely to be restored to competency in the foreseeable future), Code of Criminal Procedure.

Repealers: Articles 46B.073(e) (relating to the type of competency restoration program a of a defendant charged with a Class B misdemeanor can be committed to) and (f) (relating to certain cases in which a defendant charged with a Class B misdemeanor can be committed to a mental health facility or residential care facility), Code of Criminal Procedure.

Repealers: Sections 574.035(d) (relating to the procedures for a judge or jury for a patient who has already been subject to an order for extended mental health services) and 574.0355(b) (relating to the procedures for a judge or jury for a patient who has already been subject to an order for extended mental health services), Health and Safety Code.

SECTION 49. Makes application of Chapters 51 and 55, Family Code, as amended by this Act, prospective.

SECTION 50. Effective date: September 1, 2023.