88R9141 LHC/EAS/CJD-D

By:  Zaffirini S.B. No. 2479

A BILL TO BE ENTITLED

AN ACT

relating to procedures regarding certain persons who are or may be persons with a mental illness or intellectual disability.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Chapter 14, Code of Criminal Procedure, is amended by adding Article 14.036 to read as follows:

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

(b)  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 shall defer the arrest of the person until the person has completed the emergency mental health services, unless exigent circumstances require an immediate arrest.

(c)  A peace officer who defers the arrest of a person under Subsection (b) may not subsequently arrest the person for the same conduct unless a warrant has been issued.

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

(e)  This article does not apply with respect to a person accused of committing a violent offense, as defined by Article 17.032, or an offense under Section 28.03, Penal Code, that is punishable as a felony.

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

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

(a)(1)  Not later than 12 hours after 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, the sheriff or municipal jailer shall provide written or electronic notice to the magistrate. The notice must include any information related to the sheriff's or municipal jailer's determination, such as information regarding the defendant's behavior immediately before, during, and after the defendant's arrest and, if applicable, the results of any previous assessment of the defendant. On a determination that there is reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability, the magistrate, except as provided by Subdivision (2), shall order the service provider that contracts with the jail to provide mental health or intellectual and developmental disability services, the local mental health authority, the local intellectual and developmental disability authority, or another qualified mental health or intellectual and developmental disability expert to:

(A)  interview the defendant if the defendant has not previously been interviewed by a qualified mental health or intellectual and developmental disability expert on or after the date the defendant was arrested for the offense for which the defendant is in custody and otherwise collect information regarding whether the defendant has a mental illness as defined by Section 571.003, Health and Safety Code, or is a person with an intellectual disability as defined by Section 591.003, Health and Safety Code, including, if applicable, information obtained from any previous assessment of the defendant and information regarding any previously recommended treatment or service; and

(B)  provide to the magistrate a written report of an interview described by Paragraph (A) and the other information collected under that paragraph on the form approved by the Texas Correctional Office on Offenders with Medical or Mental Impairments under Section 614.0032(c), Health and Safety Code.

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

(A)  is no longer in custody;

(B)  [~~or if the defendant~~] in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability by the service provider that contracts with the jail to provide mental health or intellectual and developmental disability services, the local mental health authority, the local intellectual and developmental disability authority, or another mental health or intellectual and developmental disability expert described by Subdivision (1); or

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

(3)  A court that elects to use the results of a [~~that previous~~] determination described by Subdivision (2)(B) may proceed under Subsection (c).

(4) [~~(3)~~]  If the defendant fails or refuses to submit to the interview and collection of other information regarding the defendant as required under Subdivision (1), the magistrate may order the defendant to submit to an examination in a jail, or in another place determined to be appropriate by the local mental health authority or local intellectual and developmental disability authority, for a reasonable period not to exceed 72 hours. If applicable, the county in which the committing court is located shall reimburse the local mental health authority or local intellectual and developmental disability authority for the mileage and per diem expenses of the personnel required to transport the defendant, calculated in accordance with the state travel regulations in effect at the time.

(b-2)  The written report must 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)  whether the defendant is a person who has a mental illness or is a person with an intellectual disability;

(2)  subject to Article 46B.002, 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, Chapter 46B; and

(3)  any appropriate or recommended treatment or service.

(d)  This article 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)  releasing a defendant who has a mental illness or is a person with an intellectual disability from custody on personal or surety bond, including imposing as a condition of release that the defendant submit to an examination or other assessment; or

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

SECTION 3.  Article 17.03(b-2), Code of Criminal Procedure, is amended to read as follows:

(b-2)  Except as provided by Articles 15.21, 17.032, 17.033, and 17.151, a defendant may not be released on personal bond if the defendant:

(1)  is charged with an offense involving violence; or

(2)  while released on bail or community supervision for an offense involving violence, is charged with committing:

(A)  any offense punishable as a felony; or

(B)  an offense under the following provisions of the Penal Code:

(i)  Section 22.01(a)(1) (assault);

(ii)  Section 22.05 (deadly conduct);

(iii)  Section 22.07 (terroristic threat); or

(iv)  Section 42.01(a)(7) or (8) (disorderly conduct involving firearm).

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

(a)  A law enforcement officer who seizes a firearm from a person taken into custody under Section 573.001 or 573.012, Health and Safety Code, and not in connection with an offense involving the use of a weapon or an offense under Chapter 46, Penal Code, shall 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 this article.

(b)  The law enforcement agency holding a firearm subject to disposition under this article shall, as soon as possible, but not later than the 15th day after the date the person is taken into custody under Section 573.001 or 573.012, Health and Safety Code, provide written notice of the procedure for the return of a firearm under this article to the last known address of the person's closest immediate family member as identified by the person or reasonably identifiable by the law enforcement agency, sent by certified mail, return receipt requested.  The written notice must state the date by which a request for the return of the firearm must be submitted to the law enforcement agency as provided by Subsection (h).

(f)  A person who receives notice under Subsection (e) may dispose of the person's firearm by:

(1)  releasing the firearm to the person's designee, if:

(A)  the law enforcement agency holding the firearm conducts a check of state and national criminal history record information and verifies that the designee may lawfully possess a firearm under 18 U.S.C. Section 922(g);

(B)  the person provides to the law enforcement agency a copy of a notarized statement releasing the firearm to the designee; and

(C)  the designee provides to the law enforcement agency an affidavit confirming that the designee:

(i)  will not allow access to the firearm by the person who was taken into custody under Section 573.001 or 573.012, Health and Safety Code, at any time during which the person may not lawfully possess a firearm under 18 U.S.C. Section 922(g); and

(ii)  acknowledges the responsibility of the designee and no other person to verify whether the person has reestablished the person's eligibility to lawfully possess a firearm under 18 U.S.C. Section 922(g); or

(2)  releasing the firearm to the law enforcement agency holding the firearm, for disposition under Subsection (h).

(g)  If a firearm subject to disposition under this article is wholly or partly owned by a person other than the person taken into custody under Section 573.001 or 573.012, Health and Safety Code, the law enforcement agency holding the firearm shall release the firearm to the person claiming a right to or interest in the firearm after:

(1)  the person provides an affidavit confirming that the person:

(A)  wholly or partly owns the firearm;

(B)  will not allow access to the firearm by the person who was taken into custody under Section 573.001 or 573.012, Health and Safety Code, at any time during which that person may not lawfully possess a firearm under 18 U.S.C. Section 922(g); and

(C)  acknowledges the responsibility of the person and no other person to verify whether the person who was taken into custody under Section 573.001 or 573.012, Health and Safety Code, has reestablished the person's eligibility to lawfully possess a firearm under 18 U.S.C. Section 922(g); and

(2)  the law enforcement agency holding the firearm conducts a check of state and national criminal history record information and verifies that the person claiming a right to or interest in the firearm may lawfully possess a firearm under 18 U.S.C. Section 922(g).

(h)  If a person to whom written notice is provided under Subsection (b) or another lawful owner of a firearm subject to disposition under this article does not submit a written request to the law enforcement agency for the return of the firearm before the 121st day after the date the law enforcement agency holding the firearm provides written notice under Subsection (b), the law enforcement agency may have the firearm sold by a person who is a licensed firearms dealer under 18 U.S.C. Section 923. The proceeds from the sale of a firearm under this subsection shall be given to the owner of the seized firearm, less the cost of administering this subsection. An unclaimed firearm that was seized from a person taken into custody under Section 573.001 or 573.012, Health and Safety Code, may not be destroyed or forfeited to the state.

SECTION 5.  Subchapter B, Chapter 45, Code of Criminal Procedure, is amended by adding Article 45.0214 to read as follows:

Art. 45.0214.  DISMISSAL BASED ON DEFENDANT'S LACK OF CAPACITY. (a) On motion by the state, the defendant, or a person standing in parental relation to the defendant, or on the court's own motion, a justice or judge shall determine whether probable cause exists to believe that a defendant, including a defendant who is a child as defined by Article 45.058(h) 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)  If the justice or judge determines that probable cause exists for a finding under Subsection (a), after providing notice to the state, the justice or judge may dismiss the complaint.

(c)  A dismissal of a complaint under Subsection (b) may be appealed as provided by Article 44.01.

SECTION 6.  Article 46B.009, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.009.  TIME CREDITS. (a) A court sentencing a person convicted of a criminal offense shall credit to the term of the person's sentence each of the following periods for which the person may be confined in a mental health facility, residential care facility, or jail:

(1)  any period of confinement that occurs pending a determination under Subchapter C as to the defendant's competency to stand trial; and

(2)  any period of confinement that occurs between the date of any initial determination of the defendant's incompetency under that subchapter and the date the person is transported to jail following a final judicial determination that the person has been restored to competency.

(b)  A court sentencing a person convicted of a criminal offense shall 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.  Article 46B.025(b), Code of Criminal Procedure, is amended to read as follows:

(b)  If in the opinion of an expert appointed under Article 46B.021 the defendant is incompetent to proceed, the expert shall state in the report:

(1)  the symptoms, exact nature, severity, and expected duration of the deficits resulting from the defendant's mental illness or intellectual disability, if any, and the impact of the identified condition on the factors listed in Article 46B.024;

(2)  an estimate of the period needed to restore the defendant's competency;

(3)  [~~, including~~] whether the defendant is likely to be restored to competency in the initial restoration period authorized under Subchapter D, including any possible extension under Article 46B.080 [~~foreseeable future~~]; and

(4) [~~(3)~~]  prospective treatment options, if any, appropriate for the defendant.

SECTION 8.  Article 46B.055, Code of Criminal Procedure, is amended to read as follows:

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

(1)  proceed under Subchapter D if the report under Article 46B.025 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 or F; or

(B)  release the defendant on bail as permitted under Chapter 17.

SECTION 9.  Article 46B.071(a), Code of Criminal Procedure, is amended to read as follows:

(a)  On [~~Except as provided by Subsection (b), 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, the court shall:

(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)  release the defendant on bail under Article 46B.0711; 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

[~~(B)  commit the defendant to:~~

[~~(i)  a jail-based competency restoration program under Article 46B.073(e); or~~

[~~(ii)  a mental health facility or residential care facility under Article 46B.073(f); 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)  release the defendant on bail under Article 46B.072; or

(B)  commit the defendant to a facility or a jail-based competency restoration program under Article 46B.073(c) or (d).

SECTION 10.  The heading to Article 46B.0711, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.0711.  RELEASE ON BAIL: CERTAIN OFFENSES NOT INVOLVING BODILY INJURY [~~FOR CLASS B MISDEMEANOR~~].

SECTION 11.  Article 46B.0711(b), Code of Criminal Procedure, is amended to read as follows:

(b)  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, the court shall:

(1)  release the defendant on bail or continue the defendant's release on bail; and

(2)  order the defendant to participate in an outpatient competency restoration program for a period not to exceed 60 days.

SECTION 12.  The heading to Article 46B.072, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.072.  RELEASE ON BAIL: FELONIES; CERTAIN OFFENSES INVOLVING BODILY INJURY [~~FOR FELONY OR CLASS A MISDEMEANOR~~].

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

(a-1)  Subject to conditions reasonably related to ensuring public safety and the effectiveness of the defendant's treatment, [~~if~~] the court may release on bail, or continue the release on bail of, [~~determines that~~] 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 [~~or~~] 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[~~, the court:~~

[~~(1)  may release on bail a defendant found incompetent to stand trial with respect to an offense punishable as a felony or may continue the defendant's release on bail; and~~

[~~(2)  shall release on bail a defendant found incompetent to stand trial with respect to an offense punishable as a Class A misdemeanor or shall continue the defendant's release on bail~~].

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

(a)  This article 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) [~~46B.071~~].

(b)  For purposes of further examination and competency restoration services with the specific objective of the defendant attaining competency to stand trial, the court shall 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)  a period of not more than 120 days, if the defendant is charged with an offense punishable as a felony.

(d)  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) or (d), the court shall enter an order committing the defendant to a mental health facility or residential care facility determined to be appropriate by the commission [~~local mental health authority or local intellectual and developmental disability authority~~] or to a jail-based competency restoration program. The court may enter an order committing the defendant [~~A defendant may be committed~~] to a jail-based competency restoration program only if the program provider has informed the court that [~~determines~~] the defendant will begin to receive competency restoration services not later than the third business day after the date of the order [~~within 72 hours of arriving at the program~~].

SECTION 15.  Article 46B.077(a), Code of Criminal Procedure, is amended to read as follows:

(a)  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 shall:

(1)  develop an individual program of treatment;

(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 [~~foreseeable future~~]; and

(3)  report to the court and to the local mental health authority or to the local intellectual and developmental disability authority on the defendant's progress toward achieving competency.

SECTION 16.  Articles 46B.079(b) and (b-1), Code of Criminal Procedure, are amended to read as follows:

(b)  The head of the facility or jail-based competency restoration program provider shall promptly notify the court when the head of the facility or program provider believes that:

(1)  the defendant is clinically ready and can be safely transferred to a competency restoration program for education services but has not yet attained competency to stand trial;

(2)  the defendant has attained competency to stand trial; or

(3)  the defendant is not likely to attain competency in the period authorized under this subchapter, including any possible extension under Article 46B.080 [~~foreseeable future~~].

(b-1)  The outpatient competency restoration program provider shall promptly notify the court when the program provider believes that:

(1)  the defendant has attained competency to stand trial; or

(2)  the defendant is not likely to attain competency in the period authorized under this subchapter, including any possible extension under Article 46B.080 [~~foreseeable future~~].

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

(a-1)(1)  Following the defendant's return to the court, the court shall make a determination with regard to the defendant's competency to stand trial. The court may make the determination based only on the most recent report that is filed under Article 46B.079(c) and based on notice under that article, other than notice under Subsection (b)(1) of that article, and on other medical information or personal history information relating to the defendant. A party may object in writing or in open court to the findings of the most recent report not later than the 15th day after the date on which the court received the applicable notice under Article 46B.079. If no party objects to the findings of the most recent report within that period, the [~~The~~] court shall 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)  Notwithstanding Subdivision (1), in a county with a population of less than one million or in a county with a population of four million or more, if no party objects to the findings of the most recent report within the period specified by that subdivision, the court shall make the determination described by that subdivision not later than the 20th day after the date on which the court received notification under Article 46B.079 [~~, regardless of whether a party objects to the report as described by that subdivision and the issue is set for a hearing under Subsection (b)~~].

(b)  If a party objects as provided by [~~under~~] Subsection (a-1) and raises a suggestion that the defendant may no longer be competent to stand trial, the court shall 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. If, after an informal inquiry, the court determines that evidence from a credible source exists to support a finding of incompetency, the court shall order a further examination under Subchapter B to determine whether the defendant is incompetent to stand trial. Following receipt of the expert's report under that subchapter, the issue shall be set for a hearing not later than the 10th day after the date the report is received by the court. The hearing is before the court, except that on motion by the defendant, the defense counsel, the prosecuting attorney, or the court, the hearing shall be held before a jury.

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

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

SECTION 19.  Article 46B.091(i), Code of Criminal Procedure, is amended to read as follows:

(i)  If at any time during a defendant's commitment to a program implemented under this article the psychiatrist or psychologist for the provider determines that the defendant's competency to stand trial is unlikely to be restored to competency in the period authorized under this subchapter, including any possible extension under Article 46B.080 [~~foreseeable future~~]:

(1)  the psychiatrist or psychologist for the provider shall promptly issue and send to the court a report demonstrating that fact; and

(2)  the court shall:

(A)  proceed under Subchapter E or F and order the transfer of the defendant, without unnecessary delay, to the first available facility that is appropriate for that defendant, as provided under Subchapter E or F, as applicable; or

(B)  release the defendant on bail as permitted under Chapter 17.

SECTION 20.  Article 46B.101, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.101.  APPLICABILITY. This subchapter applies to a defendant against whom a court is required to proceed according to Article 46B.084(e) or 46B.0855 or according to the court's appropriate determination under Article 46B.055(2) [~~46B.071~~].

SECTION 21.  Article 46B.104, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.104.  CIVIL COMMITMENT PLACEMENT: FINDING OF VIOLENCE. (a) A defendant committed to a facility as a result of proceedings initiated under this chapter shall be committed to the facility designated by the commission if:

(1)  the defendant is charged with an offense listed in Article 17.032(a); or

(2)  the indictment charging the offense alleges an affirmative finding under Article 42A.054(c) or (d).

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

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

(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.  Article 46B.109(b), Code of Criminal Procedure, is amended to read as follows:

(b)  The head of the facility or outpatient treatment provider shall provide with the request a written statement that in their opinion the defendant is competent to stand trial and shall 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. The head of the facility or outpatient treatment provider must 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. The court shall provide copies of the written statement and report to the attorney representing the state and the defendant's attorney. Either party may object to the findings in the written statement or report as provided by Article 46B.1115.

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

Art. 46B.1115.  PROCEEDINGS TO DETERMINE RESTORATION OF COMPETENCY. The periods for objecting to the written statement and report filed under Article 46B.109(b) 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.  Article 46B.114, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.114.  TRANSPORTATION OF DEFENDANT TO COURT. (a) If the hearing is not conducted at the facility to which the defendant has been committed under this chapter or conducted by means of an electronic broadcast system as described by this subchapter, an order setting a hearing to determine whether the defendant has been restored to competency shall 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. [~~The sheriff or the sheriff's designee may not take custody of the defendant under this article until 72 hours before the date the hearing is scheduled.~~]

(b)  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, the head of the facility or outpatient treatment provider shall 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. The county in which the court is located shall reimburse the commission 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.  Article 46B.151(a), Code of Criminal Procedure, is amended to read as follows:

(a)  If a court is required by Article 46B.084(f) or 46B.0855 or by its appropriate determination under Article 46B.055(2) [~~46B.071~~] to proceed under this subchapter, or if the court is permitted by Article 46B.004(e) to proceed under this subchapter, the court shall 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.  Sections 51.20(a), (b), (c), and (d), Family Code, are amended to read as follows:

(a)  At any stage of the proceedings under this title, including when a child is initially detained in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility, the juvenile court may, at its discretion or at the request of the child's parent or guardian, order a child who is referred to the juvenile court or who is alleged by a petition or found to have engaged in delinquent conduct or conduct indicating a need for supervision to be examined by a disinterested expert, including a physician, psychiatrist, or psychologist, qualified by education and clinical training in mental health or intellectual disability [~~mental retardation~~] and experienced in forensic evaluation, to determine whether the child has a mental illness as defined by Section 571.003, Health and Safety Code, is a person with an intellectual disability [~~mental retardation~~] as defined by Section 591.003, Health and Safety Code, or suffers from chemical dependency as defined by Section 464.001, Health and Safety Code.  [~~If the examination is to include a determination of the child's fitness to proceed, an expert may 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 must 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)  If, after conducting an examination of a child ordered under Subsection (a) and reviewing any other relevant information, there is reason to believe that the child has a mental illness or intellectual disability [~~mental retardation~~] or suffers from chemical dependency, the probation department shall refer the child to the local mental health [~~or mental retardation~~] authority, to the local intellectual and developmental disability authority, or to another appropriate and legally authorized agency or provider for evaluation and services, unless the prosecuting attorney has filed a petition under Section 53.04.

(c)  If, while a child is under deferred prosecution supervision or court-ordered probation, a qualified professional determines that the child has a mental illness or intellectual disability [~~mental retardation~~] or suffers from chemical dependency and the child is not currently receiving treatment services for the mental illness, intellectual disability [~~mental retardation~~], or chemical dependency, the probation department shall refer the child to the local mental health [~~or mental retardation~~] authority, to the local intellectual and developmental disability authority, or to another appropriate and legally authorized agency or provider for evaluation and services.

(d)  A probation department shall report each referral of a child to a local mental health [~~or mental retardation~~] authority, to a local intellectual and developmental disability authority, or to another agency or provider made under Subsection (b) or (c) to the Texas Juvenile Justice Department in a format specified by the department.

SECTION 27.  Subchapter A, Chapter 55, Family Code, is amended to read as follows:

SUBCHAPTER A.  GENERAL PROVISIONS

Sec. 55.01.  DEFINITIONS [~~MEANING OF "HAVING A MENTAL ILLNESS"~~]. In [~~For purposes of~~] this chapter:

(1)  "Adaptive behavior" and "intellectual disability" have the meanings assigned by Section 591.003, Health and Safety Code.

(2)  "Child with an intellectual disability" means a child determined by a physician or psychologist licensed in this state to have subaverage general intellectual functioning with deficits in adaptive behavior.

(3)  "Child with mental illness" [~~, a child who is described as having a mental illness~~] means a child determined by a physician or psychologist licensed in this state to have [~~with~~] a mental illness.

(4)  "Interdisciplinary team" means a group of intellectual disability professionals and paraprofessionals who assess the treatment, training, and habilitation needs of a person with an intellectual disability and make recommendations for services for that person.

(5)  "Least restrictive appropriate setting" means the treatment or service setting closest to the child's home that provides the child with the greatest probability of improvement and is no more restrictive of the child's physical or social liberties than is necessary to provide the child with the most effective treatment or services and to protect adequately against any danger the child poses to self or others.

(6)  "Mental illness" has the meaning assigned by Section 571.003, Health and Safety Code.

(7)  "Restoration classes" means curriculum-based educational sessions a child attends to assist in restoring the child's fitness to proceed, including the child's capacity to understand the proceedings in juvenile court and to assist in the child's own defense.

(8)  "Subaverage general intellectual functioning" means intelligence that is measured on standardized psychometric instruments of two or more standard deviations below the age-group mean for the instruments used [~~as defined by Section 571.003, Health and Safety Code~~].

Sec. 55.02.  MENTAL HEALTH AND INTELLECTUAL DISABILITY JURISDICTION. For the purpose of initiating proceedings to order mental health or intellectual disability services for a child [~~or for commitment of a child~~] as provided by this chapter, the juvenile court has jurisdiction of proceedings under Subtitle C or D, Title 7, Health and Safety Code.

Sec. 55.03.  STANDARDS OF CARE. (a) Except as provided by this chapter, a child for whom inpatient or outpatient mental health services are [~~is~~] ordered by a court under this chapter shall be cared for as provided by Subtitle C, Title 7, Health and Safety Code.

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

Sec. 55.04.  FORENSIC MENTAL EXAMINATION. (a) In this section, "forensic mental examination" means an examination by a disinterested physician or psychologist to determine if 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.

(b)  A juvenile court may 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)  To qualify for appointment as an expert under this chapter, a physician or psychologist must:

(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:

(i)  the American Board of Psychiatry and Neurology with added or special qualifications in forensic psychiatry; or

(ii)  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)  In addition to meeting the qualifications required by Subsection (c), to be appointed as an expert, a physician or psychologist must 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)  A court may 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) A juvenile court may 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)  A juvenile court may 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:

(i)  any of the child's actions occurring within the two-year period preceding the date of the hearing; or

(ii)  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)  A juvenile court may 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)  A juvenile court may 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. A child may not be 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:

(A)  represents a substantial risk of physical impairment or injury to the child or others; or

(B)  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.  The heading to Subchapter B, Chapter 55, Family Code, is amended to read as follows:

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

SECTION 29.  Sections 55.11(b) and (c), Family Code, are amended to read as follows:

(b)  If the court determines that probable cause exists to believe that the child is a child with [~~has a~~] mental illness, the court shall temporarily stay the juvenile court proceedings and immediately order the child to be examined under Section 55.04 [~~51.20~~]. The information obtained from the examination must include expert opinion as to:

(1)  whether the child is a child with [~~has a~~] mental illness; [~~and~~]

(2)  whether the child meets the [~~commitment~~] 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) [~~under Subtitle C, Title 7, Health and Safety Code. If ordered by the court, the information must also include expert opinion as to whether the child is unfit to proceed with the juvenile court proceedings~~].

(c)  After considering all relevant information, including information obtained from an examination under Section 55.04 [~~51.20~~], the court shall:

(1)  proceed under Section 55.12 if the court determines that evidence exists to support a finding that the child is a child with [~~has a~~] mental illness and that the child meets the [~~commitment~~] criteria for court-ordered mental health services under Section 55.05 [~~Subtitle C, Title 7, Health and Safety Code, proceed under Section 55.12~~]; 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 [~~has a~~] mental illness or that the child meets the [~~commitment~~] criteria for court-ordered mental health services under Section 55.05 [~~Subtitle C, Title 7, Health and Safety Code, dissolve the stay and continue the juvenile court proceedings~~].

SECTION 30.  Sections 55.12, 55.15, 55.16, 55.17, 55.18, and 55.19, Family Code, are amended to read as follows:

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

(1)  initiate proceedings as provided by Section 55.65 [~~55.13~~] 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 [~~55.14~~] to the appropriate court for the initiation of proceedings in that court to order temporary or extended mental health services 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. Treatment ordered under this subchapter for a child with mental illness must focus on the stabilization of the child's mental illness and on meeting the child's psychiatric needs in the least restrictive appropriate setting. If the juvenile court or a court to which the child's case is referred under Section 55.12(2) orders mental health services for the child, the child shall be transported, cared for, treated, and released in conformity to Subtitle C, Title 7, Health and Safety Code, except:

(1)  a court order for mental health services for a child automatically expires on the 120th day after the date the child becomes 18 years of age; and

(2)  the administrator of a mental health facility shall notify, in writing, by certified mail, return receipt requested, the juvenile court that ordered mental health services or the juvenile court that referred the case to a court that ordered the mental health services of the intent to discharge the child at least 10 days prior to discharge.

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

(b)  If the juvenile court orders temporary or extended [~~inpatient~~] mental health services for the child or if the juvenile court receives notice under Subsection (a) from the court to which the child's case is referred, the proceedings under this title then pending in juvenile court shall be stayed.

Sec. 55.17.  MENTAL HEALTH SERVICES NOT ORDERED; DISSOLUTION OF STAY. (a) If the court to which a child's case is referred under Section 55.12(2) does not order temporary or extended [~~inpatient~~] mental health services for the child, the court shall immediately notify in writing the referring juvenile court of the court's decision.

(b)  If the juvenile court does not order temporary or extended [~~inpatient~~] mental health services for the child or if the juvenile court receives notice under Subsection (a) from the court to which the child's case is referred, the juvenile court shall dissolve the stay and continue the juvenile court proceedings.

Sec. 55.18.  DISCHARGE FROM COURT-ORDERED INPATIENT OR OUTPATIENT MENTAL HEALTH SERVICES [~~FACILITY~~] BEFORE REACHING 18 YEARS OF AGE. If the child is discharged from the mental health facility or from outpatient treatment services before reaching 18 years of age, the juvenile court may:

(1)  dismiss the juvenile court proceedings with prejudice; or

(2)  dissolve the stay and continue with proceedings under this title as though no order of mental health services had been made.

Sec. 55.19.  DISCRETIONARY TRANSFER TO CRIMINAL COURT ON 18TH BIRTHDAY. (a) The juvenile court may waive its exclusive original jurisdiction and [~~shall~~] 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 [~~is~~] referred under Section 55.12(2) [~~has~~] ordered inpatient mental health services if:

(1)  the child is not discharged or furloughed from the inpatient mental health facility before reaching 18 years of age; and

(2)  the child is alleged to have engaged in delinquent conduct that included a violation of a penal law listed in Section 53.045 and no adjudication concerning the alleged conduct has been made.

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

(c)  If after the hearing the juvenile court waives its jurisdiction and transfers the person to criminal court, the [~~The~~] juvenile court shall send notification of the transfer of a child under Subsection (a) to the inpatient mental health facility. The criminal court shall, within 90 days of the transfer, institute proceedings under Chapter 46B, Code of Criminal Procedure. If those or any subsequent proceedings result in a determination that the defendant is competent to stand trial, the defendant may not receive a punishment for the delinquent conduct described by Subsection (a)(2) that results in confinement for a period longer than the maximum period of confinement the defendant could have received if the defendant had been adjudicated for the delinquent conduct while still a child and within the jurisdiction of the juvenile court.

SECTION 31.  Section 55.31, Family Code, is amended by amending Subsections (c) and (d) and adding Subsections (e) and (f) to read as follows:

(c)  If the court determines that probable cause exists to believe that the child is unfit to proceed, the court shall temporarily stay the juvenile court proceedings and immediately order the child to be examined under Section 55.04 [~~51.20. The information obtained from the examination must include expert opinion as to whether the child is unfit to proceed as a result of mental illness or an intellectual disability~~].

(d)  During an examination ordered under this section, and in any report based on that examination, an expert shall 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:

(A)  is a child with mental illness; or

(B)  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 may 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)  An expert's report to the court must 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) [~~(d)~~]  After considering all relevant information, including information obtained from an examination under Section 55.04 [~~51.20~~], the court shall:

(1)  if the court determines that evidence exists to support a finding that the child is unfit to proceed, proceed under Section 55.32; or

(2)  if the court determines that evidence does not exist to support a finding that the child is unfit to proceed, dissolve the stay and continue the juvenile court proceedings.

SECTION 32.  Sections 55.33 and 55.35, Family Code, are amended to read as follows:

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

(1)  provided that the child meets the inpatient mental health services or residential intellectual disability services [~~commitment~~] criteria under Section 55.05 or 55.06 [~~Subtitle C or D, Title 7, Health and Safety Code~~], order the child placed with the Health and Human Services Commission [~~Department of State Health Services or the Department of Aging and Disability Services, as appropriate,~~] for a period of not more than 90 days, which order may not specify a shorter period, for placement in a facility designated by the commission [~~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 may not specify a shorter period, but only if:

(A)  the unfitness to proceed is a result of mental illness or an intellectual disability; and

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

(3)  subject to Subsection (d) [~~(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 [~~not more than~~] 90 days, with the possibility of extension as ordered by the court [~~which order may not specify a shorter period~~].

(b)  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), juvenile probation departments may provide restoration classes in collaboration with the outpatient alternative setting.

(c)  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), the state or a political subdivision of the state may be ordered to pay any costs associated with the ordered services [~~child's placement~~], subject to an express appropriation of funds for the purpose.

(d) [~~(c)~~]  Before issuing an order described by Subsection (a)(3), the court shall consult with the local juvenile probation department, [~~and~~] 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.

Sec. 55.35.  INFORMATION REQUIRED TO BE SENT TO FACILITY OR ALTERNATIVE SETTING; REPORT TO COURT. (a) If the juvenile court issues an [~~a placement~~] order under Section 55.33(a), the court shall 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 [~~center~~], as appropriate.

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

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

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

(c)  If the report under Subsection (b) states that the child is unfit to proceed, the report must 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)  The report of an outpatient alternative setting collaborating with a juvenile probation department to provide restoration classes must include any information provided by the juvenile probation department regarding the child's assessment at the conclusion of the restoration classes.

(e)  The court shall provide a copy of the report submitted under Subsection (b) to the prosecuting attorney and the attorney for the child.

SECTION 33.  Section 55.36(d), Family Code, is amended to read as follows:

(d)  If, after a hearing, the court or jury finds that the child is unfit to proceed, the court shall proceed under Section 55.37 or 55.40, as appropriate.

SECTION 34.  Sections 55.37 and 55.40, Family Code, are amended to read as follows:

Sec. 55.37.  REPORT THAT CHILD IS UNFIT TO PROCEED AS A RESULT OF MENTAL ILLNESS; INITIATION OF [~~COMMITMENT~~] PROCEEDINGS FOR COURT-ORDERED MENTAL HEALTH SERVICES. 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 court-ordered mental health services under Section 55.05 [~~civil commitment under Subtitle C, Title 7, Health and Safety Code~~], the director of the public or private facility or outpatient alternative setting [~~center~~], as appropriate, shall submit to the court two certificates of medical examination for mental illness, as described by Subchapter A, Chapter 574, Health and Safety Code. On receipt of the certificates, the court shall:

(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, [~~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 [~~55.39~~] to the appropriate court for the initiation of proceedings in that court for temporary or extended mental health services for [~~commitment of~~] the child under this chapter and Subchapter C, Chapter 574, [~~Subtitle C, Title 7,~~] Health and Safety Code.

Sec. 55.40.  REPORT THAT CHILD IS UNFIT TO PROCEED AS A RESULT OF INTELLECTUAL DISABILITY.  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 [~~commitment~~] criteria for court-ordered residential intellectual disability services under Section 55.06 [~~civil commitment under Subtitle D, Title 7, Health and Safety Code~~], the director of the residential care facility or alternative setting shall submit to the court an affidavit stating the conclusions reached as a result of the diagnosis.  On receipt of the affidavit, the court shall:

(1)  initiate proceedings as provided by Section 55.67 [~~55.41~~] in the juvenile court for court-ordered residential intellectual disability services 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 [~~55.42~~] to the appropriate court for the initiation of proceedings in that court for court-ordered residential intellectual disability services for [~~commitment of~~] the child under Subtitle D, Title 7, Health and Safety Code.

SECTION 35.  Section 55.43(a), Family Code, is amended to read as follows:

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

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

(2)  the child:

(A)  is not:

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

(ii)  ordered [~~committed~~] by a court to receive services at a residential care facility; or

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

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

SECTION 36.  Section 55.44, Family Code, is amended to read as follows:

Sec. 55.44.  DISCRETIONARY TRANSFER TO CRIMINAL COURT ON 18TH BIRTHDAY OF CHILD. (a) The juvenile court may waive its exclusive original jurisdiction and [~~shall~~] 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:

(1)  the child is not discharged or currently on furlough from the facility before reaching 18 years of age; and

(2)  the child is alleged to have engaged in delinquent conduct that included a violation of a penal law listed in Section 53.045 and no adjudication concerning the alleged conduct has been made.

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

(c)  If after the hearing the juvenile court waives its jurisdiction and transfers the case to criminal court, the [~~The~~] juvenile court shall send notification of the transfer of a child under Subsection (a) to the facility. The criminal court shall, before the 91st day after the date of the transfer, institute proceedings under Chapter 46B, Code of Criminal Procedure. If those or any subsequent proceedings result in a determination that the defendant is competent to stand trial, the defendant may not receive a punishment for the delinquent conduct described by Subsection (a)(2) that results in confinement for a period longer than the maximum period of confinement the defendant could have received if the defendant had been adjudicated for the delinquent conduct while still a child and within the jurisdiction of the juvenile court.

SECTION 37.  Sections 55.45(b) and (c), Family Code, are amended to read as follows:

(b)  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 [~~commitment of~~] the child to be provided at [~~to~~] a residential care facility, the child shall 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 shall notify, in writing, by certified mail, return receipt requested, the juvenile court that ordered intellectual disability services for [~~commitment of~~] the child or that referred the case to a court that ordered intellectual disability services for [~~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)  If the referred child, as described in Subsection (b), is alleged to have committed an offense listed in Article 42A.054, Code of Criminal Procedure, the administrator of the residential care facility shall apply, in writing, by certified mail, return receipt requested, to the juvenile court that ordered services for [~~commitment of~~] the child or that referred the case to a court that ordered services for [~~commitment of~~] the child and show good cause for any release of the child from the facility for more than 48 hours. Notice of this request must be provided to the prosecuting attorney responsible for the case. The prosecuting attorney, the juvenile, or the administrator may apply for a hearing on this application. If no one applies for a hearing, the trial court shall resolve the application on the written submission. The rules of evidence do not apply to this hearing. An appeal of the trial court's ruling on the application is not allowed. The release of a child described in this subsection without the express approval of the trial court is punishable by contempt.

SECTION 38.  Section 55.51(b), Family Code, is amended to read as follows:

(b)  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, the court shall order the child to be examined under Section 55.04 [~~51.20~~]. The information obtained from the examinations must include expert opinion as to:

(1)  whether the child is a child with mental illness or an intellectual disability;

(2)  whether the child is not responsible for the child's conduct as a result of mental illness or an intellectual disability;

(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.  Sections 55.52 and 55.54, Family Code, are amended to read as follows:

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

(1)  provided that the child meets the inpatient mental health services or residential intellectual disability services [~~commitment~~] criteria under Section 55.05 or 55.06 [~~Subtitle C or D, Title 7, Health and Safety Code~~], order the child placed with the Health and Human Services Commission [~~Department of State Health Services or the Department of Aging and Disability Services, as appropriate,~~] for a period of not more than 90 days, which order may not specify a shorter period, for placement in a facility designated by the commission [~~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 may not specify a shorter period, but only if:

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

(B)  the placement is agreed to in writing by the administrator of the facility; 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 [~~not more than~~] 90 days, with the possibility of extension as ordered by the court [~~which order may not specify a shorter period~~].

(b)  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), the state or a political subdivision of the state may be ordered to pay any costs associated with the ordered services [~~child's placement~~], subject to an express appropriation of funds for the purpose.

(c)  Before issuing an order described by Subsection (a)(3), the court shall consult with the local juvenile probation department, [~~and~~] 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.  INFORMATION REQUIRED TO BE SENT TO FACILITY OR ALTERNATIVE SETTING; REPORT TO COURT. (a) If the juvenile court issues an [~~a placement~~] order under Section 55.52(a), the court shall 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 [~~outpatient center~~], as appropriate.

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

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

(2)  states the opinion of the director of the facility or alternative setting [~~center~~] as to whether the child is a child with [~~has a~~] mental illness or an intellectual disability.

(c)  If the report under Subsection (b) states that the child is a child with mental illness or an intellectual disability, the report must 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) [~~(c)~~]  The court shall send a copy of the report submitted under Subsection (b) to the prosecuting attorney and the attorney for the child.

SECTION 40.  Sections 55.55(b), (c), (d), and (e), Family Code, are amended to read as follows:

(b)  On objection by the prosecuting attorney under Subsection (a), the juvenile court shall hold a hearing without a jury to determine whether the child is a child with [~~has a~~] mental illness or an intellectual disability and whether the child meets the [~~commitment~~] criteria for court-ordered mental health services or court-ordered intellectual disability services [~~civil commitment~~] under Section 55.05 or 55.06 [~~Subtitle C or D, Title 7, Health and Safety Code~~].

(c)  At the hearing, the burden is on the state to prove by clear and convincing evidence that the child is a child with [~~has a~~] mental illness or an intellectual disability and that the child meets the [~~commitment~~] criteria for court-ordered mental health services or court-ordered intellectual disability services [~~civil commitment~~] under Section 55.05 or 55.06 [~~Subtitle C or D, Title 7, Health and Safety Code~~].

(d)  If, after a hearing, the court finds that the child does not have a mental illness or an intellectual disability and that the child does not meet the [~~commitment~~] criteria for court-ordered treatment services under Section 55.05 or 55.06 [~~Subtitle C or D, Title 7, Health and Safety Code~~], the court shall discharge the child.

(e)  If, after a hearing, the court finds that the child has a mental illness or an intellectual disability and that the child meets the [~~commitment~~] criteria for court-ordered treatment services under Section 55.05 or 55.06 [~~Subtitle C or D, Title 7, Health and Safety Code~~], the court shall issue an appropriate [~~commitment~~] order for court-ordered mental health services or court-ordered intellectual disability services.

SECTION 41.  Section 55.56, Family Code, is amended to read as follows:

Sec. 55.56.  REPORT THAT CHILD HAS MENTAL ILLNESS; INITIATION OF [~~COMMITMENT~~] PROCEEDINGS FOR COURT-ORDERED MENTAL HEALTH SERVICES. If a report submitted under Section 55.54(b) states that a child is a child with [~~has a~~] mental illness and that the child meets the [~~commitment~~] criteria for court-ordered mental health services [~~civil commitment~~] under Section 55.05 [~~Subtitle C, Title 7, Health and Safety Code~~], the director of the public or private facility or alternative setting [~~outpatient center~~], as appropriate, shall submit to the court two certificates of medical examination for mental illness, as described by Subchapter A, Chapter 574, Health and Safety Code. On receipt of the certificates, the court shall:

(1)  initiate proceedings as provided by Section 55.66 [~~55.57~~] in the juvenile court for court-ordered mental health services 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 [~~55.58~~] to the appropriate court for the initiation of proceedings in that court for court-ordered mental health services for [~~commitment of~~] the child under Subtitle C, Title 7, Health and Safety Code.

SECTION 42.  Section 55.59, Family Code, is amended to read as follows:

Sec. 55.59.  REPORT THAT CHILD HAS INTELLECTUAL DISABILITY; INITIATION OF [~~COMMITMENT~~] PROCEEDINGS FOR COURT-ORDERED RESIDENTIAL INTELLECTUAL DISABILITY SERVICES. If a report submitted under Section 55.54(b) states that a child is a child with [~~has~~] an intellectual disability and that the child meets the [~~commitment~~] criteria for court-ordered residential intellectual disability services under Section 55.06 [~~civil commitment under Subtitle D, Title 7, Health and Safety Code~~], the director of the residential care facility or alternative setting shall submit to the court an affidavit stating the conclusions reached as a result of the diagnosis. On receipt of an affidavit, the juvenile court shall:

(1)  initiate proceedings in the juvenile court as provided by Section 55.67 [~~55.60~~] for court-ordered residential intellectual disability services for [~~commitment of~~] 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 [~~55.61~~] for the initiation of proceedings in that court for court-ordered residential intellectual disability services for [~~commitment of~~] the child under Subtitle D, Title 7, Health and Safety Code.

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

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

SECTION 44.  Sections 55.13 and 55.14, Family Code, are transferred to Subchapter E, Chapter 55, Family Code, as added by this Act, redesignated as Sections 55.65 and 55.68, Family Code, respectively, and amended to read as follows:

Sec. 55.65  [~~55.13~~]. [~~COMMITMENT~~] PROCEEDINGS IN JUVENILE COURT FOR CHILD WITH MENTAL ILLNESS. (a) If the juvenile court initiates proceedings for temporary or extended mental health services under Section 55.12(1), the prosecuting attorney or the attorney for the child may file with the juvenile court an application for court-ordered mental health services under Sections [~~Section~~] 574.001 and 574.002, Health and Safety Code. The juvenile court shall:

(1)  set a date for a hearing and provide notice as required by Sections 574.005 and 574.006, Health and Safety Code; [~~and~~]

(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 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, 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, Health and Safety Code; and

(5)  conduct the hearing in accordance with Subchapter C, Chapter 574, Health and Safety Code.

(b)  The burden of proof at the hearing is on the party who filed the application.

(c)  [~~The juvenile court shall 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)~~]  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, the juvenile court shall:

(1)  if the criteria under Section 55.05(a) or (b) [~~574.034 or 574.0345, 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) [~~574.035 or 574.0355, Health and Safety Code,~~] are satisfied, order extended inpatient or outpatient mental health services for the child under Chapter 574, Health and Safety Code.

(d)  On receipt of the court's order for inpatient mental health services, the Health and Human Services Commission shall identify a facility and admit the child to the identified facility.

(e)  If the child is currently detained in a juvenile detention facility, the juvenile court shall:

(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. 55.68 [~~55.14~~]. REFERRAL FOR [~~COMMITMENT~~] 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) If the juvenile court refers the child's case to an [~~the~~] appropriate court for the initiation of [~~commitment~~] proceedings for court-ordered treatment services under Section 55.12(2), 55.37(2), 55.40(2), 55.56(2), or 55.59(2), the juvenile court shall:

(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 [~~to the clerk of the court to which the case is referred~~]; 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) [~~; and~~

[~~(3)  if the child is in detention:~~

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

[~~(B)  order the child detained in an appropriate place other than a juvenile detention facility; or~~

[~~(C)  if an appropriate place to release or detain the child as described by Paragraph (A) or (B) is not available, order the child to remain in the juvenile detention facility subject to further detention orders of the court~~].

(b)  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, Health and Safety Code, as applicable.

(c)  If the child is currently detained in a juvenile detention facility, the juvenile court shall:

(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.  Sections 55.38 and 55.41, Family Code, are transferred to Subchapter E, Chapter 55, Family Code, as added by this Act, redesignated as Sections 55.66 and 55.67, Family Code, respectively, and amended to read as follows:

Sec. 55.66 [~~55.38~~]. [~~COMMITMENT~~] PROCEEDINGS IN JUVENILE COURT FOR CHILD FOUND UNFIT TO PROCEED OR LACKING RESPONSIBILITY FOR CONDUCT DUE TO MENTAL ILLNESS. (a) If the juvenile court initiates [~~commitment~~] proceedings for court-ordered mental health services under Section 55.37(1) or 55.56(1), the prosecuting attorney may file with the juvenile court an application for court-ordered mental health services under Sections [~~Section~~] 574.001 and 574.002, Health and Safety Code. The juvenile court shall:

(1)  set a date for a hearing and provide notice as required by Sections 574.005 and 574.006, Health and Safety Code; [~~and~~]

(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 may 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)  conduct the hearing in accordance with Subchapter C, Chapter 574, Health and Safety Code.

(b)  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 [~~Subsection (a)(2)~~], the juvenile court shall:

(1)  if the criteria for court-ordered mental health services under Section 55.05(a) or (b) [~~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) [~~574.035 or 574.0355, Health and Safety Code,~~] are satisfied, order extended inpatient or outpatient mental health services.

(c)  On receipt of the court's order for inpatient mental health services, the Health and Human Services Commission shall identify a facility and admit the child to the identified facility.

(d)  If the child is currently detained in a juvenile detention facility, the juvenile court shall:

(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 [~~55.41~~]. [~~COMMITMENT~~] PROCEEDINGS IN JUVENILE COURT FOR CHILD FOUND UNFIT TO PROCEED OR LACKING RESPONSIBILITY FOR CONDUCT DUE TO [~~CHILDREN WITH~~] INTELLECTUAL DISABILITY. (a) If the juvenile court initiates [~~commitment~~] proceedings under Section 55.40(1) or 55.59(1), the prosecuting attorney may 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. The juvenile court shall:

(1)  set a date for a hearing and provide notice as required by Sections 593.047 and 593.048, Health and Safety Code; and

(2)  conduct the hearing in accordance with Sections 593.049-593.056, Health and Safety Code.

(b)  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 [~~Subsection (a)(2)~~], the juvenile court may order residential intellectual disability services for the child if the [~~commitment of the child to a residential care facility if the commitment~~] criteria under Section 55.06 [~~593.052, Health and Safety Code,~~] are satisfied.

(c)  On receipt of the court's order, the Health and Human Services Commission [~~Department of Aging and Disability Services or the appropriate community center~~] shall identify a residential care facility and admit the child to the identified [~~a residential care~~] facility.

(d)  If the child is currently detained in a juvenile detention facility, the juvenile court shall:

(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.  Section 573.012, Health and Safety Code, is amended by adding Subsections (d-1) and (d-2) and amending Subsection (h) to read as follows:

(d-1)  A peace officer who apprehends a person under this section may immediately seize any firearm found in the person's possession. A peace officer who seizes a firearm under this subsection must comply with the requirements of Article 18.191, Code of Criminal Procedure.

(d-2)  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)  may leave the facility immediately after:

(A)  the person is taken into custody by appropriate facility staff; and

(B)  the peace officer provides to the facility the required documentation.

(h)  A judge or magistrate may 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)  e-mail with the application attached as a secure document in a portable document format (PDF); or

(2)  secure electronic means, including:

(A)  satellite transmission;

(B)  closed-circuit television transmission; or

(C)  any other method of two-way electronic communication that:

(i)  is secure;

(ii)  is available to the judge or magistrate; and

(iii)  provides for a simultaneous, compressed full-motion video and interactive communication of image and sound between the judge or magistrate and the applicant.

SECTION 47.  Section 574.106, Health and Safety Code, is amended by adding Subsection (m) to read as follows:

(m)  An order issued under this section 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.  The following provisions are repealed:

(1)  Sections 55.39, 55.42, 55.57, 55.58, 55.60, and 55.61, Family Code;

(2)  Article 46B.071(b), Code of Criminal Procedure;

(3)  Articles 46B.073(e) and (f), Code of Criminal Procedure; and

(4)  Sections 574.035(d) and 574.0355(b), Health and Safety Code.

SECTION 49.  Chapters 51 and 55, Family Code, as amended by this Act, apply only to a juvenile court hearing or proceeding that commences on or after the effective date of this Act. A juvenile court hearing or proceeding that commences before the effective date of this Act is governed by the law in effect on the date the hearing or proceeding commenced, and the former law is continued in effect for that purpose.

SECTION 50.  This Act takes effect September 1, 2023.