

By: Moody

H.B. No. 5088

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

1 the person and shall provide the address where the person will be
2 released.

3 (e) This article does not apply with respect to a person
4 accused of committing a violent offense, as defined by Article
5 17.032, or an offense under Section 28.03, Penal Code, that is
6 punishable as a felony.

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

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

12 (a)(1) Not later than 12 hours after the sheriff or
13 municipal jailer having custody of a defendant [~~for an offense~~
14 ~~punishable as a Class B misdemeanor or any higher category of~~
15 ~~offense]~~ receives credible information that may establish
16 reasonable cause to believe that the defendant has a mental illness
17 or is a person with an intellectual disability, the sheriff or
18 municipal jailer shall provide written or electronic notice to the
19 magistrate. The notice must include any information related to the
20 sheriff's or municipal jailer's determination, such as information
21 regarding the defendant's behavior immediately before, during, and
22 after the defendant's arrest and, if applicable, the results of any
23 previous assessment of the defendant. On a determination that
24 there is reasonable cause to believe that the defendant has a mental
25 illness or is a person with an intellectual disability, the
26 magistrate, except as provided by Subdivision (2), shall order the
27 service provider that contracts with the jail to provide mental

1 health or intellectual and developmental disability services, the
2 local mental health authority, the local intellectual and
3 developmental disability authority, or another qualified mental
4 health or intellectual and developmental disability expert to:

5 (A) interview the defendant if the defendant has
6 not previously been interviewed by a qualified mental health or
7 intellectual and developmental disability expert on or after the
8 date the defendant was arrested for the offense for which the
9 defendant is in custody and otherwise collect information regarding
10 whether the defendant has a mental illness as defined by Section
11 571.003, Health and Safety Code, or is a person with an intellectual
12 disability as defined by Section 591.003, Health and Safety Code,
13 including, if applicable, information obtained from any previous
14 assessment of the defendant and information regarding any
15 previously recommended treatment or service; and

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

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

24 (A) is no longer in custody;

25 (B) ~~[or if the defendant]~~ in the year preceding
26 the defendant's applicable date of arrest has been determined to
27 have a mental illness or to be a person with an intellectual

1 disability by the service provider that contracts with the jail to
2 provide mental health or intellectual and developmental disability
3 services, the local mental health authority, the local intellectual
4 and developmental disability authority, or another mental health or
5 intellectual and developmental disability expert described by
6 Subdivision (1); or

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

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

12 (4) [~~3~~] If the defendant fails or refuses to submit
13 to the interview and collection of other information regarding the
14 defendant as required under Subdivision (1), the magistrate may
15 order the defendant to submit to an examination in a jail, or in
16 another place determined to be appropriate by the local mental
17 health authority or local intellectual and developmental
18 disability authority, for a reasonable period not to exceed 72
19 hours. If applicable, the county in which the committing court is
20 located shall reimburse the local mental health authority or local
21 intellectual and developmental disability authority for the
22 mileage and per diem expenses of the personnel required to
23 transport the defendant, calculated in accordance with the state
24 travel regulations in effect at the time.

25 (b-2) The written report must include a description of the
26 procedures used in the interview and collection of other
27 information under Subsection (a)(1)(A) and the applicable expert's

1 observations and findings pertaining to:

2 (1) whether the defendant is a person who has a mental
3 illness or is a person with an intellectual disability;

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

8 (3) any appropriate or recommended treatment or
9 service.

10 (d) This article does not prevent the applicable court from,
11 before, during, or after the interview and collection of other
12 information regarding the defendant as described by this article:

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

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

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

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

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

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

- 1 (A) any offense punishable as a felony; or
2 (B) an offense under the following provisions of
3 the Penal Code:
4 (i) Section 22.01(a)(1) (assault);
5 (ii) Section 22.05 (deadly conduct);
6 (iii) Section 22.07 (terroristic threat);
7 or
8 (iv) Section 42.01(a)(7) or (8) (disorderly
9 conduct involving firearm).

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

12 (a) A law enforcement officer who seizes a firearm from a
13 person taken into custody under Section 573.001 or 573.012, Health
14 and Safety Code, and not in connection with an offense involving the
15 use of a weapon or an offense under Chapter 46, Penal Code, shall
16 immediately provide the person a written copy of the receipt for the
17 firearm and a written notice of the procedure for the return of a
18 firearm under this article.

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

1 by which a request for the return of the firearm must be submitted
2 to the law enforcement agency as provided by Subsection (h).

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

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

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

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

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

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

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

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

27 (g) If a firearm subject to disposition under this article

1 is wholly or partly owned by a person other than the person taken
2 into custody under Section [573.001](#) or [573.012](#), Health and Safety
3 Code, the law enforcement agency holding the firearm shall release
4 the firearm to the person claiming a right to or interest in the
5 firearm after:

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

8 (A) wholly or partly owns the firearm;

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

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

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

23 (h) If a person to whom written notice is provided under
24 Subsection (b) or another lawful owner of a firearm subject to
25 disposition under this article does not submit a written request to
26 the law enforcement agency for the return of the firearm before the
27 121st day after the date the law enforcement agency holding the

1 firearm provides written notice under Subsection (b), the law
2 enforcement agency may have the firearm sold by a person who is a
3 licensed firearms dealer under 18 U.S.C. Section 923. The proceeds
4 from the sale of a firearm under this subsection shall be given to
5 the owner of the seized firearm, less the cost of administering this
6 subsection. An unclaimed firearm that was seized from a person
7 taken into custody under Section [573.001](#) or [573.012](#), Health and
8 Safety Code, may not be destroyed or forfeited to the state.

9 SECTION 5. Subchapter [B](#), Chapter [45](#), Code of Criminal
10 Procedure, is amended by adding Article 45.0214 to read as follows:

11 Art. 45.0214. DISMISSAL BASED ON DEFENDANT'S LACK OF
12 CAPACITY. (a) On motion by the state, the defendant, or a person
13 standing in parental relation to the defendant, or on the court's
14 own motion, a justice or judge shall determine whether probable
15 cause exists to believe that a defendant, including a defendant who
16 is a child as defined by Article [45.058](#)(h) and a defendant with a
17 mental illness or developmental disability, lacks the capacity to
18 understand the proceedings in criminal court or to assist in the
19 defendant's own defense and is unfit to proceed.

20 (b) If the justice or judge determines that probable cause
21 exists for a finding under Subsection (a), after providing notice
22 to the state, the justice or judge may dismiss the complaint.

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

25 SECTION 6. Article [46B.009](#), Code of Criminal Procedure, is
26 amended to read as follows:

27 Art. 46B.009. TIME CREDITS. (a) A court sentencing a

1 person convicted of a criminal offense shall credit to the term of
2 the person's sentence each of the following periods for which the
3 person may be confined in a mental health facility, residential
4 care facility, or jail:

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

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

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

17 SECTION 7. Article 46B.025(b), Code of Criminal Procedure,
18 is amended to read as follows:

19 (b) If in the opinion of an expert appointed under Article
20 46B.021 the defendant is incompetent to proceed, the expert shall
21 state in the report:

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

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

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

5 (4) [~~(3)~~] prospective treatment options, if any,
6 appropriate for the defendant.

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

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

11 (1) proceed under Subchapter D if the report under
12 Article 46B.025 states that the defendant is likely to be restored
13 to competency in the initial restoration period authorized under
14 that subchapter; or

15 (2) for a defendant unlikely to be restored to
16 competency as described by Subdivision (1):

17 (A) proceed under Subchapter E or F; or

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

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

22 (a) On [~~Except as provided by Subsection (b), on~~] a
23 determination under Article 46B.055(1) that a defendant is
24 incompetent to stand trial and is likely to be restored to
25 competency in the period authorized under this subchapter including
26 any possible extension under Article 46B.080, the court shall:

27 (1) if the defendant is charged with an offense

1 punishable as a Class B misdemeanor, or is charged with an offense
2 punishable as a Class A misdemeanor that did not result in bodily
3 injury to another person and the defendant has not been convicted in
4 the preceding two years of an offense that resulted in bodily injury
5 to another person:

6 (A) release the defendant on bail under Article
7 [46B.0711](#); or

8 (B) if an outpatient competency restoration
9 program is unavailable or the defendant cannot be placed in an
10 outpatient competency restoration program before the 14th day after
11 the date of the court's order:

12 (i) on the motion of the attorney
13 representing the state, dismiss the charge and proceed under
14 Subchapter F; or

15 (ii) on the motion of the attorney
16 representing the defendant and notice to the attorney representing
17 the state:

18 (a) set the matter to be heard not
19 later than the 10th day after the date of filing of the motion; and

20 (b) dismiss the charge and proceed
21 under Subchapter F on a finding that an outpatient competency
22 restoration program is unavailable or that the defendant cannot be
23 placed in an outpatient competency restoration program before the
24 14th day after the date of the court's order; or

25 ~~[(B) commit the defendant to:~~

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

1 [~~(ii) a mental health facility or~~
2 ~~residential care facility under Article 46B.073(f); or]~~

3 (2) if the defendant is charged with an offense
4 punishable as a Class A misdemeanor that resulted in bodily injury
5 to another person or any higher category of offense or if the
6 defendant is charged with an offense punishable as a Class A
7 misdemeanor that did not result in bodily injury to another person
8 and the defendant has been convicted in the preceding two years of
9 an offense that resulted in bodily injury to another person:

10 (A) release the defendant on bail under Article
11 46B.072; or

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

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

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

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

21 (b) Subject to conditions reasonably related to ensuring
22 public safety and the effectiveness of the defendant's treatment,
23 if the court determines that a defendant charged with an offense
24 punishable as a Class B misdemeanor, or charged under the
25 circumstances described by Article 46B.071(a)(1) with an offense
26 punishable as a Class A misdemeanor, and found incompetent to stand
27 trial is not a danger to others and may be safely treated on an

1 outpatient basis with the specific objective of attaining
2 competency to stand trial, and an appropriate outpatient competency
3 restoration program is available for the defendant, the court
4 shall:

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

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

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

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

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

16 (a-1) Subject to conditions reasonably related to ensuring
17 public safety and the effectiveness of the defendant's treatment,
18 [~~if~~] the court may release on bail, or continue the release on bail
19 of, [determines that] a defendant charged with an offense
20 punishable as a felony, or charged under the circumstances
21 described by Article 46B.071(a)(2) with an offense punishable as
22 [~~or~~] a Class A misdemeanor and found incompetent to stand trial if
23 the court determines the defendant is not a danger to others and may
24 be safely treated on an outpatient basis with the specific
25 objective of attaining competency to stand trial, and an
26 appropriate outpatient competency restoration program is available
27 for the defendant [~~, the court:~~

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

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

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

10 (a) This article applies only to a defendant not released on
11 bail who is subject to an initial restoration period based on
12 Article [46B.071](#)(a)(2)(B) [~~46B.071~~].

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

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

21 (2) a period of not more than 120 days, if the
22 defendant is charged with an offense punishable as a felony.

23 (d) If the defendant is not charged with an offense
24 described by Subsection (c) and the indictment does not allege an
25 affirmative finding under Article [42A.054](#)(c) or (d), the court
26 shall enter an order committing the defendant to a mental health
27 facility or residential care facility determined to be appropriate

1 by the commission [~~local mental health authority or local~~
2 ~~intellectual and developmental disability authority~~] or to a
3 jail-based competency restoration program. The court may enter an
4 order committing the defendant [~~A defendant may be committed~~] to a
5 jail-based competency restoration program only if the program
6 provider has informed the court that [~~determines~~] the defendant
7 will begin to receive competency restoration services not later
8 than the third business day after the date of the order [~~within 72~~
9 ~~hours of arriving at the program~~].

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

12 (a) The facility or jail-based competency restoration
13 program to which the defendant is committed or the outpatient
14 competency restoration program to which the defendant is released
15 on bail shall:

16 (1) develop an individual program of treatment;

17 (2) assess and evaluate whether the defendant is
18 likely to be restored to competency in the period authorized under
19 this subchapter, including any possible extension under Article
20 46B.080 [~~foreseeable future~~]; and

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

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

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

1 the head of the facility or program provider believes that:

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

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

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

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

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

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

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

21 (a-1)(1) Following the defendant's return to the court, the
22 court shall make a determination with regard to the defendant's
23 competency to stand trial. The court may make the determination
24 based only on the most recent report that is filed under Article
25 46B.079(c) and based on notice under that article, other than
26 notice under Subsection (b)(1) of that article, and on other
27 medical information or personal history information relating to the

1 defendant. A party may object in writing or in open court to the
2 findings of the most recent report not later than the 15th day after
3 the date on which the court received the applicable notice under
4 Article 46B.079. If no party objects to the findings of the most
5 recent report within that period, the [~~The~~] court shall make the
6 determination not later than the 20th day after the date on which
7 the court received the applicable notice under Article 46B.079, or
8 not later than the fifth day after the date of the defendant's
9 return to court, whichever occurs first [~~, regardless of whether a~~
10 ~~party objects to the report as described by this subsection and the~~
11 ~~issue is set for hearing under Subsection (b)].~~

12 (2) Notwithstanding Subdivision (1), in a county with
13 a population of less than one million or in a county with a
14 population of four million or more, if no party objects to the
15 findings of the most recent report within the period specified by
16 that subdivision, the court shall make the determination described
17 by that subdivision not later than the 20th day after the date on
18 which the court received notification under Article 46B.079 [~~,~~
19 ~~regardless of whether a party objects to the report as described by~~
20 ~~that subdivision and the issue is set for a hearing under Subsection~~
21 ~~(b)].~~

22 (b) If a party objects as provided by [~~under~~] Subsection
23 (a-1) and raises a suggestion that the defendant may no longer be
24 competent to stand trial, the court shall determine, by informal
25 inquiry not later than the fifth day after the date of the
26 objection, whether there exists any evidence from a credible source
27 that the defendant may no longer be competent. If, after an

1 informal inquiry, the court determines that evidence from a
2 credible source exists to support a finding of incompetency, the
3 court shall order a further examination under Subchapter B to
4 determine whether the defendant is incompetent to stand trial.
5 Following receipt of the expert's report under that subchapter, the
6 issue shall be set for a hearing not later than the 10th day after
7 the date the report is received by the court. The hearing is before
8 the court, except that on motion by the defendant, the defense
9 counsel, the prosecuting attorney, or the court, the hearing shall
10 be held before a jury.

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

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

27 SECTION 19. Article 46B.091(i), Code of Criminal Procedure,

1 is amended to read as follows:

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

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

11 (2) the court shall:

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

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

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

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

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

26 Art. 46B.104. CIVIL COMMITMENT PLACEMENT: FINDING OF
27 VIOLENCE. (a) A defendant committed to a facility as a result of

1 proceedings initiated under this chapter shall be committed to the
2 facility designated by the commission if:

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

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

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

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

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

13 (A) reports of each expert;

14 (B) psychiatric, psychological, or social work
15 reports that relate to the current mental condition of the
16 defendant;

17 (C) documents provided by the attorney
18 representing the state or the defendant's attorney that relate to
19 the defendant's current or past mental condition;

20 (D) copies of the indictment or information and
21 any supporting documents used to establish probable cause in the
22 case;

23 (E) the defendant's criminal history record
24 information; and

25 (F) the addresses of the attorney representing
26 the state and the defendant's attorney; and

27 (2) direct the court reporter to promptly prepare and

1 provide to the facility transcripts of all medical testimony
2 received by the jury or court.

3 SECTION 22. Article 46B.109(b), Code of Criminal Procedure,
4 is amended to read as follows:

5 (b) The head of the facility or outpatient treatment
6 provider shall provide with the request a written statement that in
7 their opinion the defendant is competent to stand trial and shall
8 file with the court as provided by Article 46B.025 a report stating
9 the reason why the facility or provider believes the defendant has
10 been restored to competency. The head of the facility or outpatient
11 treatment provider must include with the report a list of the types
12 and dosages of medications prescribed for the defendant while the
13 defendant was receiving services in the facility or through the
14 outpatient treatment program. The court shall provide copies of
15 the written statement and report to the attorney representing the
16 state and the defendant's attorney. Either party may object to the
17 findings in the written statement or report as provided by Article
18 46B.1115.

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

22 Art. 46B.1115. PROCEEDINGS TO DETERMINE RESTORATION OF
23 COMPETENCY. The periods for objecting to the written statement and
24 report filed under Article 46B.109(b) and for conducting a hearing
25 on the defendant's competency under this subchapter are the same as
26 those specified under Article 46B.084.

27 SECTION 24. Article 46B.114, Code of Criminal Procedure, is

1 amended to read as follows:

2 Art. 46B.114. TRANSPORTATION OF DEFENDANT TO COURT. (a) If
3 the hearing is not conducted at the facility to which the defendant
4 has been committed under this chapter or conducted by means of an
5 electronic broadcast system as described by this subchapter, an
6 order setting a hearing to determine whether the defendant has been
7 restored to competency shall direct that [~~, as soon as practicable~~
8 ~~but not earlier than 72 hours before the date the hearing is~~
9 ~~scheduled,~~] the defendant be placed in the custody of the sheriff of
10 the county in which the committing court is located or the sheriff's
11 designee for prompt transportation to the court. [~~The sheriff or~~
12 ~~the sheriff's designee may not take custody of the defendant under~~
13 ~~this article until 72 hours before the date the hearing is~~
14 ~~scheduled.~~]

15 (b) If before the 15th day after the date on which the court
16 received notification under Article 46B.109 that a defendant
17 committed to a facility or ordered to participate in an outpatient
18 treatment program has not been transported to the court that issued
19 the order under this subchapter, the head of the facility or
20 outpatient treatment provider shall cause the defendant to be
21 promptly transported to the court and placed in the custody of the
22 sheriff of the county in which the court is located. The county in
23 which the court is located shall reimburse the commission or
24 outpatient treatment provider, as appropriate, for the mileage and
25 per diem expenses of the personnel required to transport the
26 defendant, calculated in accordance with rates provided in the
27 General Appropriations Act for state employees.

1 SECTION 25. Article [46B.151](#)(a), Code of Criminal Procedure,
2 is amended to read as follows:

3 (a) If a court is required by Article [46B.084](#)(f) or [46B.0855](#)
4 or by its appropriate determination under Article [46B.055](#)(2)
5 [~~[46B.071](#)~~] to proceed under this subchapter, or if the court is
6 permitted by Article [46B.004](#)(e) to proceed under this subchapter,
7 the court shall determine whether there is evidence to support a
8 finding that the defendant is either a person with mental illness or
9 a person with an intellectual disability.

10 SECTION 26. Sections [51.20](#)(a), (b), (c), and (d), Family
11 Code, are amended to read as follows:

12 (a) At any stage of the proceedings under this title,
13 including when a child is initially detained in a pre-adjudication
14 secure detention facility or a post-adjudication secure
15 correctional facility, the juvenile court may, at its discretion or
16 at the request of the child's parent or guardian, order a child who
17 is referred to the juvenile court or who is alleged by a petition or
18 found to have engaged in delinquent conduct or conduct indicating a
19 need for supervision to be examined by a disinterested expert,
20 including a physician, psychiatrist, or psychologist, qualified by
21 education and clinical training in mental health or intellectual
22 disability [~~mental retardation~~] and experienced in forensic
23 evaluation, to determine whether the child has a mental illness as
24 defined by Section [571.003](#), Health and Safety Code, is a person with
25 an intellectual disability [~~mental retardation~~] as defined by
26 Section [591.003](#), Health and Safety Code, or suffers from chemical
27 dependency as defined by Section [464.001](#), Health and Safety

1 Code. [~~If the examination is to include a determination of the~~
2 ~~child's fitness to proceed, an expert may be appointed to conduct~~
3 ~~the examination only if the expert is qualified under Subchapter B,~~
4 ~~Chapter 46B, Code of Criminal Procedure, to examine a defendant in a~~
5 ~~criminal case, and the examination and the report resulting from an~~
6 ~~examination under this subsection must comply with the requirements~~
7 ~~under Subchapter B, Chapter 46B, Code of Criminal Procedure, for~~
8 ~~the examination and resulting report of a defendant in a criminal~~
9 ~~case.~~]

10 (b) If, after conducting an examination of a child ordered
11 under Subsection (a) and reviewing any other relevant information,
12 there is reason to believe that the child has a mental illness or
13 intellectual disability [~~mental retardation~~] or suffers from
14 chemical dependency, the probation department shall refer the child
15 to the local mental health [~~or mental retardation~~] authority, to
16 the local intellectual and developmental disability authority, or
17 to another appropriate and legally authorized agency or provider
18 for evaluation and services, unless the prosecuting attorney has
19 filed a petition under Section 53.04.

20 (c) If, while a child is under deferred prosecution
21 supervision or court-ordered probation, a qualified professional
22 determines that the child has a mental illness or intellectual
23 disability [~~mental retardation~~] or suffers from chemical
24 dependency and the child is not currently receiving treatment
25 services for the mental illness, intellectual disability [~~mental~~
26 ~~retardation~~], or chemical dependency, the probation department
27 shall refer the child to the local mental health [~~or mental~~

1 ~~retardation]~~ authority, to the local intellectual and
2 developmental disability authority, or to another appropriate and
3 legally authorized agency or provider for evaluation and services.

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

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

12 SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

26 (4) "Interdisciplinary team" means a group of
27 intellectual disability professionals and paraprofessionals who

1 assess the treatment, training, and habilitation needs of a person
2 with an intellectual disability and make recommendations for
3 services for that person.

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

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

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

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

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

1 7, Health and Safety Code.

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

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

12 Sec. 55.04. FORENSIC MENTAL EXAMINATION. (a) In this
13 section, "forensic mental examination" means an examination by a
14 disinterested physician or psychologist to determine if a child who
15 is alleged by petition or found to have engaged in delinquent
16 conduct or conduct indicating a need for supervision is a child with
17 mental illness, is unfit to proceed in juvenile court due to mental
18 illness or an intellectual disability, or lacks responsibility for
19 conduct due to mental illness or an intellectual disability.

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

1 (c) To qualify for appointment as an expert under this
2 chapter, a physician or psychologist must:

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

6 (2) have the following certification or training:

7 (A) as appropriate, certification by:

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

11 (ii) the American Board of Professional
12 Psychology in forensic psychology; or

13 (B) training consisting of:

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

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

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

25 (e) A court may appoint as an expert a physician or
26 psychologist who does not meet the requirements of Subsections (c)
27 and (d) only if the court determines that exigent circumstances

1 require the court to appoint an expert with specialized expertise
2 to examine the child that is not ordinarily possessed by a physician
3 or psychologist who meets the requirements of Subsections (c) and
4 (d).

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

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

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

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

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

15 (C) is:

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

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

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

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

27 (1) that appropriate mental health services are

1 available to the child; and

2 (2) clear and convincing evidence that:

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

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

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

13 (D) the child has an inability to effectively and
14 voluntarily participate in outpatient treatment services,
15 demonstrated by:

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

18 (ii) specific characteristics of the
19 child's clinical condition that significantly impair the child's
20 ability to make a rational and informed decision as to whether to
21 submit to voluntary outpatient treatment.

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

27 (1) the child's condition is expected to continue for

1 more than 90 days; and

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

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

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

12 (2) the child has received:

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

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

20 Sec. 55.06. CRITERIA FOR COURT-ORDERED RESIDENTIAL
21 INTELLECTUAL DISABILITY SERVICES FOR CHILD. A child may not be
22 court-ordered to receive services at a residential care facility
23 unless:

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

26 (2) evidence is presented showing that because of the
27 child's intellectual disability, the child:

1 (A) temporary inpatient mental health services;

2 (B) temporary outpatient mental health services;

3 (C) extended inpatient mental health services;

4 or

5 (D) extended outpatient mental health services;

6 and

7 (3) if applicable, the specific criteria the child
8 meets under Subdivision (2) [under Subtitle C, Title 7, Health and
9 Safety Code. If ordered by the court, the information must also
10 include expert opinion as to whether the child is unfit to proceed
11 with the juvenile court proceedings].

12 (c) After considering all relevant information, including
13 information obtained from an examination under Section 55.04
14 [51.20], the court shall:

15 (1) proceed under Section 55.12 if the court
16 determines that evidence exists to support a finding that the child
17 is a child with [has a] mental illness and that the child meets the
18 [commitment] criteria for court-ordered mental health services
19 under Section 55.05 [Subtitle C, Title 7, Health and Safety Code,
20 proceed under Section 55.12]; or

21 (2) dissolve the stay and continue the juvenile court
22 proceedings if the court determines that evidence does not exist to
23 support a finding that the child is a child with [has a] mental
24 illness or that the child meets the [commitment] criteria for
25 court-ordered mental health services under Section 55.05 [Subtitle
26 C, Title 7, Health and Safety Code, dissolve the stay and continue
27 the juvenile court proceedings].

1 SECTION 30. Sections 55.12, 55.15, 55.16, 55.17, 55.18, and
2 55.19, Family Code, are amended to read as follows:

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

10 (1) initiate proceedings as provided by Section 55.65
11 [~~55.13~~] to order temporary or extended mental health services, as
12 provided in this chapter and Subchapter C, Chapter 574, Health and
13 Safety Code; or

14 (2) refer the child's case as provided by Section 55.68
15 [~~55.14~~] to the appropriate court for the initiation of proceedings
16 in that court to order temporary or extended mental health services
17 for [~~commitment of~~] the child under this chapter and Subchapter C,
18 Chapter 574, Health and Safety Code.

19 Sec. 55.15. STANDARDS OF CARE; EXPIRATION OF COURT ORDER
20 FOR MENTAL HEALTH SERVICES. Treatment ordered under this
21 subchapter for a child with mental illness must focus on the
22 stabilization of the child's mental illness and on meeting the
23 child's psychiatric needs in the least restrictive appropriate
24 setting. If the juvenile court or a court to which the child's case
25 is referred under Section 55.12(2) orders mental health services
26 for the child, the child shall be transported, cared for, treated,
27 and released in conformity to Subtitle C, Title 7, Health and Safety

1 Code, except:

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

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

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

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

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

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

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

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

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

16 Sec. 55.19. DISCRETIONARY TRANSFER TO CRIMINAL COURT ON
17 18TH BIRTHDAY. (a) The juvenile court may waive its exclusive
18 original jurisdiction and [~~shall~~] transfer all pending proceedings
19 from the juvenile court to a criminal court on or after the 18th
20 birthday of a child for whom the juvenile court or a court to which
21 the child's case was [~~is~~] referred under Section 55.12(2) [~~has~~]
22 ordered inpatient mental health services if:

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

26 (2) the child is alleged to have engaged in delinquent
27 conduct that included a violation of a penal law listed in Section

1 53.045 and no adjudication concerning the alleged conduct has been
2 made.

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

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

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

23 (c) If the court determines that probable cause exists to
24 believe that the child is unfit to proceed, the court shall
25 temporarily stay the juvenile court proceedings and immediately
26 order the child to be examined under Section 55.04 ~~[51.20. The~~
27 ~~information obtained from the examination must include expert~~

1 ~~opinion as to whether the child is unfit to proceed as a result of~~
2 ~~mental illness or an intellectual disability].~~

3 (d) During an examination ordered under this section, and in
4 any report based on that examination, an expert shall consider, in
5 addition to other issues determined relevant by the expert:

6 (1) whether the child, as supported by current
7 indications and the child's personal history:

8 (A) is a child with mental illness; or

9 (B) is a child with an intellectual disability;

10 (2) the child's capacity to:

11 (A) appreciate the allegations against the
12 child;

13 (B) appreciate the range and nature of allowable
14 dispositions that may be imposed in the proceedings against the
15 child;

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

18 (D) display appropriate courtroom behavior; and

19 (E) testify relevantly; and

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

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

27 (1) the child's history and current status regarding

1 any possible mental illness or intellectual disability;

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

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

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

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

11 (A) whether the child's abilities are likely to
12 be remediated or restored within the period described by Section
13 55.33(a)(1), (2), or (3);

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

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

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

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

23 (f) [~~(d)~~] After considering all relevant information,
24 including information obtained from an examination under Section
25 55.04 [~~51.20~~], the court shall:

26 (1) if the court determines that evidence exists to
27 support a finding that the child is unfit to proceed, proceed under

1 Section 55.32; or

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

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

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

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

21 (2) on application by the child's parent, guardian, or
22 guardian ad litem, order the child placed in a private psychiatric
23 inpatient facility or residential care facility for a period of not
24 more than 90 days, which order may not specify a shorter period, but
25 only if:

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

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

3 (3) subject to Subsection (d) [~~(c)~~], if the court
4 determines that the child may be adequately treated or served in an
5 alternative setting and finds that the child does not meet criteria
6 for court-ordered inpatient mental health services or residential
7 intellectual disability services under Section 55.05 or 55.06,
8 order the child to receive treatment for mental illness or services
9 for the child's intellectual disability, as appropriate, on an
10 outpatient basis for a period of [~~not more than~~] 90 days, with the
11 possibility of extension as ordered by the court [~~which order may~~
12 ~~not specify a shorter period~~].

13 (b) If a child receives treatment for mental illness or
14 services for the child's intellectual disability on an outpatient
15 basis in an alternative setting under Subsection (a)(3), juvenile
16 probation departments may provide restoration classes in
17 collaboration with the outpatient alternative setting.

18 (c) If the court orders a child placed in a private
19 psychiatric inpatient facility or residential care facility under
20 Subsection (a)(2) or in an alternative setting under Subsection
21 (a)(3), the state or a political subdivision of the state may be
22 ordered to pay any costs associated with the ordered services
23 [~~child's placement~~], subject to an express appropriation of funds
24 for the purpose.

25 (d) [~~(c)~~] Before issuing an order described by Subsection
26 (a)(3), the court shall consult with the local juvenile probation
27 department, [~~and~~] with local treatment or service providers, with

1 the local mental health authority, and with the local intellectual
2 and developmental disability authority to determine the
3 appropriate treatment or services and restoration classes for the
4 child.

5 Sec. 55.35. INFORMATION REQUIRED TO BE SENT TO FACILITY OR
6 ALTERNATIVE SETTING; REPORT TO COURT. (a) If the juvenile court
7 issues an [~~a placement~~] order under Section 55.33(a), the court
8 shall order the probation department to send copies of any
9 information in the possession of the department and relevant to the
10 issue of the child's mental illness or intellectual disability to
11 the public or private facility or outpatient alternative setting
12 [~~center~~], as appropriate.

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

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

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

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

27 (d) The report of an outpatient alternative setting

1 collaborating with a juvenile probation department to provide
2 restoration classes must include any information provided by the
3 juvenile probation department regarding the child's assessment at
4 the conclusion of the restoration classes.

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

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

10 (d) If, after a hearing, the court or jury finds that the
11 child is unfit to proceed, the court shall proceed under Section
12 55.37 or 55.40, as appropriate.

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

15 Sec. 55.37. REPORT THAT CHILD IS UNFIT TO PROCEED AS A
16 RESULT OF MENTAL ILLNESS; INITIATION OF [~~COMMITMENT~~]
17 FOR COURT-ORDERED MENTAL HEALTH SERVICES. If a report submitted
18 under Section 55.35(b) states that a child is unfit to proceed as a
19 result of mental illness and that the child meets the [~~commitment~~]
20 criteria for court-ordered mental health services under Section
21 55.05 [~~civil commitment under Subtitle C, Title 7, Health and~~
22 ~~Safety Code~~], the director of the public or private facility or
23 outpatient alternative setting [~~center~~], as appropriate, shall
24 submit to the court two certificates of medical examination for
25 mental illness, as described by Subchapter A, Chapter 574, Health
26 and Safety Code. On receipt of the certificates, the court shall:

27 (1) initiate proceedings as provided by Section 55.66

1 for temporary or extended mental health services, as provided by
2 this chapter and Subchapter C, Chapter 574, [55.38 in the juvenile
3 court for commitment of the child under Subtitle C, Title 7,] Health
4 and Safety Code; or

5 (2) refer the child's case as provided by Section 55.68
6 ~~[55.39]~~ to the appropriate court for the initiation of proceedings
7 in that court for temporary or extended mental health services for
8 ~~[commitment of]~~ the child under this chapter and Subchapter C,
9 Chapter 574, [Subtitle C, Title 7,] Health and Safety Code.

10 Sec. 55.40. REPORT THAT CHILD IS UNFIT TO PROCEED AS A
11 RESULT OF INTELLECTUAL DISABILITY. If a report submitted under
12 Section 55.35(b) states that a child is unfit to proceed as a result
13 of an intellectual disability and that the child meets the
14 ~~[commitment]~~ criteria for court-ordered residential intellectual
15 disability services under Section 55.06 ~~[civil commitment under~~
16 ~~Subtitle D, Title 7, Health and Safety Code]~~, the director of the
17 residential care facility or alternative setting shall submit to
18 the court an affidavit stating the conclusions reached as a result
19 of the diagnosis. On receipt of the affidavit, the court shall:

20 (1) initiate proceedings as provided by Section 55.67
21 ~~[55.41]~~ in the juvenile court for court-ordered residential
22 intellectual disability services for ~~[commitment of]~~ the child
23 under Subtitle D, Title 7, Health and Safety Code; or

24 (2) refer the child's case as provided by Section 55.68
25 ~~[55.42]~~ to the appropriate court for the initiation of proceedings
26 in that court for court-ordered residential intellectual
27 disability services for ~~[commitment of]~~ the child under Subtitle D,

1 Title 7, Health and Safety Code.

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

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

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

8 (2) the child:

9 (A) is not:

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

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

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

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

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

21 Sec. 55.44. DISCRETIONARY TRANSFER TO CRIMINAL COURT ON
22 18TH BIRTHDAY OF CHILD. (a) The juvenile court may waive its
23 exclusive original jurisdiction and ~~shall~~ transfer all pending
24 proceedings from the juvenile court to a criminal court on or after
25 the 18th birthday of a child for whom the juvenile court or a court
26 to which the child's case is referred has ordered inpatient mental
27 health services or residential care for persons with an

1 intellectual disability if:

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

4 (2) the child is alleged to have engaged in delinquent
5 conduct that included a violation of a penal law listed in Section
6 53.045 and no adjudication concerning the alleged conduct has been
7 made.

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

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

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

27 (b) If the juvenile court or a court to which the child's

1 case is referred under Section 55.40(2) orders the intellectual
2 disability services for [~~commitment of~~] the child to be provided at
3 [~~to~~] a residential care facility, the child shall be cared for,
4 treated, and released in accordance with Subtitle D, Title 7,
5 Health and Safety Code, except that the administrator of the
6 residential care facility shall notify, in writing, by certified
7 mail, return receipt requested, the juvenile court that ordered
8 intellectual disability services for [~~commitment of~~] the child or
9 that referred the case to a court that ordered intellectual
10 disability services for [~~commitment of~~] the child of the intent to
11 discharge or furlough the child on or before the 20th day before the
12 date of discharge or furlough.

13 (c) If the referred child, as described in Subsection (b),
14 is alleged to have committed an offense listed in Article 42A.054,
15 Code of Criminal Procedure, the administrator of the residential
16 care facility shall apply, in writing, by certified mail, return
17 receipt requested, to the juvenile court that ordered services for
18 [~~commitment of~~] the child or that referred the case to a court that
19 ordered services for [~~commitment of~~] the child and show good cause
20 for any release of the child from the facility for more than 48
21 hours. Notice of this request must be provided to the prosecuting
22 attorney responsible for the case. The prosecuting attorney, the
23 juvenile, or the administrator may apply for a hearing on this
24 application. If no one applies for a hearing, the trial court shall
25 resolve the application on the written submission. The rules of
26 evidence do not apply to this hearing. An appeal of the trial
27 court's ruling on the application is not allowed. The release of a

1 child described in this subsection without the express approval of
2 the trial court is punishable by contempt.

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

5 (b) On a motion by a party in which it is alleged that a
6 child may not be responsible as a result of mental illness or an
7 intellectual disability for the child's conduct, the court shall
8 order the child to be examined under Section 55.04 [~~51.20~~]. The
9 information obtained from the examinations must include expert
10 opinion as to:

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

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

16 (3) whether the child meets criteria for court-ordered
17 mental health or intellectual disability services under Section
18 55.05 or 55.06; and

19 (4) if applicable, the specific criteria the child
20 meets under Subdivision (3).

21 SECTION 39. Sections 55.52 and 55.54, Family Code, are
22 amended to read as follows:

23 Sec. 55.52. PROCEEDINGS FOLLOWING FINDING OF LACK OF
24 RESPONSIBILITY FOR CONDUCT. (a) If the court or jury finds that a
25 child is not responsible for the child's conduct under Section
26 55.51 as a result of mental illness or an intellectual disability,
27 the court shall:

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

10 (2) on application by the child's parent, guardian, or
11 guardian ad litem, order the child placed in a private psychiatric
12 inpatient facility or residential care facility for a period of not
13 more than 90 days, which order may not specify a shorter period, but
14 only if:

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

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

19 (3) subject to Subsection (c), if the court determines
20 that the child may be adequately treated or served in an alternative
21 setting and finds that the child does not meet criteria for
22 court-ordered inpatient mental health services or residential
23 intellectual disability services under Section 55.05 or 55.06,
24 order the child to receive treatment for mental illness or services
25 for the child's intellectual disability, as appropriate, on an
26 outpatient basis for a period of ~~[not more than]~~ 90 days, with the
27 possibility of extension as ordered by the court ~~[which order may~~

1 ~~not specify a shorter period].~~

2 (b) If the court orders a child placed in a private
3 psychiatric inpatient facility or residential care facility under
4 Subsection (a)(2) or in an alternative setting under Subsection
5 (a)(3), the state or a political subdivision of the state may be
6 ordered to pay any costs associated with the ordered services
7 ~~[child's placement]~~, subject to an express appropriation of funds
8 for the purpose.

9 (c) Before issuing an order described by Subsection (a)(3),
10 the court shall consult with the local juvenile probation
11 department, ~~[and]~~ with local treatment or service providers, with
12 the local mental health authority, and with the local intellectual
13 and developmental disability authority to determine the
14 appropriate treatment or services for the child.

15 Sec. 55.54. INFORMATION REQUIRED TO BE SENT TO FACILITY OR
16 ALTERNATIVE SETTING; REPORT TO COURT. (a) If the juvenile court
17 issues an ~~[a placement]~~ order under Section 55.52(a), the court
18 shall order the probation department to send copies of any
19 information in the possession of the department and relevant to the
20 issue of the child's mental illness or intellectual disability to
21 the public or private facility or alternative setting ~~[outpatient~~
22 ~~center]~~, as appropriate.

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

27 (1) describes the treatment or services provided to

1 the child by the facility or alternative setting [~~center~~]; and

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

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

10 (d) [~~(e)~~] The court shall send a copy of the report
11 submitted under Subsection (b) to the prosecuting attorney and the
12 attorney for the child.

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

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

23 (c) At the hearing, the burden is on the state to prove by
24 clear and convincing evidence that the child is a child with [~~has a~~]
25 mental illness or an intellectual disability and that the child
26 meets the [~~commitment~~] criteria for court-ordered mental health
27 services or court-ordered intellectual disability services [~~civil~~

1 ~~commitment~~] under Section 55.05 or 55.06 [~~Subtitle C or D, Title 7,~~
2 ~~Health and Safety Code~~].

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

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

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

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

1 Chapter 574, Health and Safety Code. On receipt of the
2 certificates, the court shall:

3 (1) initiate proceedings as provided by Section 55.66
4 ~~[55.57]~~ in the juvenile court for court-ordered mental health
5 services for ~~[commitment of]~~ the child under Subtitle C, Title 7,
6 Health and Safety Code; or

7 (2) refer the child's case as provided by Section 55.68
8 ~~[55.58]~~ to the appropriate court for the initiation of proceedings
9 in that court for court-ordered mental health services for
10 ~~[commitment of]~~ the child under Subtitle C, Title 7, Health and
11 Safety Code.

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

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

26 (1) initiate proceedings in the juvenile court as
27 provided by Section 55.67 ~~[55.60]~~ for court-ordered residential

1 intellectual disability services for [~~commitment of~~] the child
2 under Subtitle D, Title 7, Health and Safety Code; or

3 (2) refer the child's case to the appropriate court as
4 provided by Section 55.68 [~~55.61~~] for the initiation of proceedings
5 in that court for court-ordered residential intellectual
6 disability services for [~~commitment of~~] the child under Subtitle D,
7 Title 7, Health and Safety Code.

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

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

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

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

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

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

5 (3) identify the person responsible for court-ordered
6 outpatient mental health services not later than the third day
7 before the date set for a hearing that may result in the court
8 ordering the child to receive court-ordered outpatient mental
9 health services, as required by Section 574.0125, Health and Safety
10 Code;

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

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

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

18 (c) ~~[The juvenile court shall appoint the number of~~
19 ~~physicians necessary to examine the child and to complete the~~
20 ~~certificates of medical examination for mental illness required~~
21 ~~under Section 574.009, Health and Safety Code.~~

22 ~~[(d)]~~ After conducting a hearing on an application under
23 this section and with consideration given to the least restrictive
24 appropriate setting for treatment of the child and to the parent's,
25 managing conservator's, or guardian's availability and willingness
26 to participate in the treatment of the child, the juvenile court
27 shall:

1 (1) if the criteria under Section 55.05(a) or (b)
2 ~~[574.034 or 574.0345, Health and Safety Code,]~~ are satisfied, order
3 temporary inpatient or outpatient mental health services for the
4 child under Chapter 574, Health and Safety Code; or

5 (2) if the criteria under Section 55.05(c) or (d)
6 ~~[574.035 or 574.0355, Health and Safety Code,]~~ are satisfied, order
7 extended inpatient or outpatient mental health services for the
8 child under Chapter 574, Health and Safety Code.

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

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

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

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

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

22 Sec. 55.68 [55.14]. REFERRAL FOR [COMMITMENT] PROCEEDINGS
23 FOR CHILD WITH MENTAL ILLNESS OR CHILD FOUND UNFIT TO PROCEED OR
24 LACKING RESPONSIBILITY FOR CONDUCT DUE TO MENTAL ILLNESS OR
25 INTELLECTUAL DISABILITY. (a) If the juvenile court refers the
26 child's case to an [the] appropriate court for the initiation of
27 [commitment] proceedings for court-ordered treatment services

1 under Section 55.12(2), 55.37(2), 55.40(2), 55.56(2), or 55.59(2),
2 the juvenile court shall:

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

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

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

11 (C) the finding that the child was not
12 responsible for the child's conduct, if applicable [~~to the clerk of~~
13 ~~the court to which the case is referred~~]; and

14 (2) send to the office of the appropriate county
15 attorney or, if a county attorney is not available, to the office of
16 the appropriate district attorney, copies of all papers sent to the
17 clerk of the court under Subdivision (1) [~~, and~~

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

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

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

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

27 (b) The papers sent to the clerk of a court under Subsection

1 (a)(1) constitute an application for court-ordered mental health
2 services under Section 574.001, Health and Safety Code, or an
3 application for placement under Section 593.041, Health and Safety
4 Code, as applicable.

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

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

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

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

15 SECTION 45. Sections 55.38 and 55.41, Family Code, are
16 transferred to Subchapter E, Chapter 55, Family Code, as added by
17 this Act, redesignated as Sections 55.66 and 55.67, Family Code,
18 respectively, and amended to read as follows:

19 Sec. 55.66 [~~55.38~~]. [~~COMMITMENT~~] PROCEEDINGS IN JUVENILE
20 COURT FOR CHILD FOUND UNFIT TO PROCEED OR LACKING RESPONSIBILITY
21 FOR CONDUCT DUE TO MENTAL ILLNESS. (a) If the juvenile court
22 initiates [~~commitment~~] proceedings for court-ordered mental health
23 services under Section 55.37(1) or 55.56(1), the prosecuting
24 attorney may file with the juvenile court an application for
25 court-ordered mental health services under Sections [~~Section~~]
26 574.001 and 574.002, Health and Safety Code. The juvenile court
27 shall:

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

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

8 (3) identify the person responsible for court-ordered
9 outpatient mental health services at least three days before the
10 date of a hearing that may result in the court ordering the child to
11 receive court-ordered outpatient mental health services, as
12 required by Section 574.012, Health and Safety Code; and

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

15 (b) After conducting a hearing under this section and with
16 consideration given to the least restrictive appropriate setting
17 for treatment of the child and to the parent's, managing
18 conservator's, or guardian's availability and willingness to
19 participate in the treatment of the child ~~[Subsection (a)(2)]~~, the
20 juvenile court shall:

21 (1) if the criteria for court-ordered mental health
22 services under Section 55.05(a) or (b) ~~[574.034 or 574.0345, Health~~
23 ~~and Safety Code,~~] are satisfied, order temporary inpatient or
24 outpatient mental health services; or

25 (2) if the criteria for court-ordered mental health
26 services under Section 55.05(c) or (d) ~~[574.035 or 574.0355, Health~~
27 ~~and Safety Code,~~] are satisfied, order extended inpatient or

1 outpatient mental health services.

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

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

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

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

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

15 Sec. 55.67 [~~55.41~~]. [~~COMMITMENT~~] PROCEEDINGS IN JUVENILE
16 COURT FOR CHILD FOUND UNFIT TO PROCEED OR LACKING RESPONSIBILITY
17 FOR CONDUCT DUE TO [~~CHILDREN WITH~~] INTELLECTUAL DISABILITY. (a) If
18 the juvenile court initiates [~~commitment~~] proceedings under
19 Section 55.40(1) or 55.59(1), the prosecuting attorney may file
20 with the juvenile court an application for an interdisciplinary
21 team report and recommendation that the child is in need of
22 long-term placement in a residential care facility, under Section
23 593.041, Health and Safety Code. The juvenile court shall:

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

27 (2) conduct the hearing in accordance with Sections

1 593.049-593.056, Health and Safety Code.

2 (b) After conducting a hearing under this section and with
3 consideration given to the least restrictive appropriate setting
4 for services for the child and to the parent's, managing
5 conservator's, or guardian's availability and willingness to
6 participate in the services for the child [~~Subsection (a)(2)~~], the
7 juvenile court may order residential intellectual disability
8 services for the child if the [~~commitment of the child to a~~
9 ~~residential care facility if the commitment~~] criteria under Section
10 55.06 [~~593.052, Health and Safety Code,~~] are satisfied.

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

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

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

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

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

26 SECTION 46. Section 573.012, Health and Safety Code, is
27 amended by adding Subsections (d-1) and (d-2) and amending

1 Subsection (h) to read as follows:

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

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

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

12 (2) may leave the facility immediately after:

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

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

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

20 (1) e-mail with the application attached as a secure
21 document in a portable document format (PDF); or

22 (2) secure electronic means, including:

23 (A) satellite transmission;

24 (B) closed-circuit television transmission; or

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

27 (i) is secure;

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

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

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

8 (m) An order issued under this section authorizes the taking
9 of a patient's blood sample to conduct reasonable and medically
10 necessary evaluations and laboratory tests to safely administer a
11 psychoactive medication authorized by the order.

12 SECTION 48. The following provisions are repealed:

13 (1) Sections 55.39, 55.42, 55.57, 55.58, 55.60, and
14 55.61, Family Code;

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

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

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

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

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