

By: Zaffirini

S.B. No. 362

A BILL TO BE ENTITLED

AN ACT

relating to the terminology used in statute to refer to intellectual disability.

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

SECTION 1. Sections 51.20(a), (b), (c), and (d), Family Code, are amended to read as follows:

(a) At any stage of the proceedings under this title, including when a child is initially detained in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility, the juvenile court may, at its discretion or at the request of the child's parent or guardian, order a child who is referred to the juvenile court or who is alleged by a petition or found to have engaged in delinquent conduct or conduct indicating a need for supervision to be examined by a disinterested expert, including a physician, psychiatrist, or psychologist, qualified by education and clinical training in mental health or intellectual and developmental disabilities [~~mental retardation~~] and experienced in forensic evaluation, to determine whether the child has a mental illness as defined by Section 571.003, Health and Safety Code, is a person with an intellectual disability [~~mental retardation~~] as defined by Section 591.003, Health and Safety Code, or suffers from chemical dependency as defined by Section 464.001, Health and Safety Code. If the examination is to include a determination of the child's fitness to proceed, an expert may be

1 appointed to conduct the examination only if the expert is
2 qualified under Subchapter B, Chapter 46B, Code of Criminal
3 Procedure, to examine a defendant in a criminal case, and the
4 examination and the report resulting from an examination under this
5 subsection must comply with the requirements under Subchapter B,
6 Chapter 46B, Code of Criminal Procedure, for the examination and
7 resulting report of a defendant in a criminal case.

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

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

1 or provider for evaluation and services.

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

8 SECTION 2. Section 54.0408, Family Code, is amended to read
9 as follows:

10 Sec. 54.0408. REFERRAL OF CHILD EXITING PROBATION TO MENTAL
11 HEALTH AUTHORITY OR INTELLECTUAL AND DEVELOPMENTAL DISABILITY
12 [~~MENTAL RETARDATION~~] AUTHORITY. A juvenile probation officer shall
13 refer a child who has been determined to have a mental illness or an
14 intellectual disability [~~mental retardation~~] to an appropriate
15 local mental health authority or local intellectual and
16 developmental disability [~~mental retardation~~] authority at least
17 three months before the child is to complete the child's juvenile
18 probation term unless the child is currently receiving treatment
19 from the local mental health authority or local intellectual and
20 developmental disability [~~mental retardation~~] authority of the
21 county in which the child resides.

22 SECTION 3. Section 58.0051(a)(2), Family Code, is amended
23 to read as follows:

24 (2) "Juvenile service provider" means a governmental
25 entity that provides juvenile justice or prevention, medical,
26 educational, or other support services to a juvenile. The term
27 includes:

1 (A) a state or local juvenile justice agency as
2 defined by Section 58.101;

3 (B) health and human services agencies, as
4 defined by Section 531.001, Government Code, and the Health and
5 Human Services Commission;

6 (C) the Department of Family and Protective
7 Services;

8 (D) the Department of Public Safety;

9 (E) the Texas Education Agency;

10 (F) an independent school district;

11 (G) a juvenile justice alternative education
12 program;

13 (H) a charter school;

14 (I) a local mental health authority or local
15 intellectual and developmental disability [~~mental retardation~~]
16 authority;

17 (J) a court with jurisdiction over juveniles;

18 (K) a district attorney's office;

19 (L) a county attorney's office; and

20 (M) a children's advocacy center established
21 under Section 264.402.

22 SECTION 4. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2023.