

1-1 By: Sparks, et al. S.B. No. 1585
1-2 (In the Senate - Filed March 3, 2023; March 16, 2023, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 12, 2023, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; April 12, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Whitmire	X		
1-9	Flores	X		
1-10	Bettencourt	X		
1-11	Hinojosa	X		
1-12	Huffman	X		
1-13	King	X		
1-14	Miles	X		

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to certain proceedings in juvenile court for children with
1-18 mental illness and intellectual disabilities.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Sections 51.20(a), (b), (c), and (d), Family
1-21 Code, are amended to read as follows:

1-22 (a) At any stage of the proceedings under this title,
1-23 including when a child is initially detained in a pre-adjudication
1-24 secure detention facility or a post-adjudication secure
1-25 correctional facility, the juvenile court may, at its discretion or
1-26 at the request of the child's parent or guardian, order a child who
1-27 is referred to the juvenile court or who is alleged by a petition or
1-28 found to have engaged in delinquent conduct or conduct indicating a
1-29 need for supervision to be examined by a disinterested expert,
1-30 including a physician, psychiatrist, or psychologist, qualified by
1-31 education and clinical training in mental health or intellectual
1-32 disability [~~mental retardation~~] and experienced in forensic
1-33 evaluation, to determine whether the child has a mental illness as
1-34 defined by Section 571.003, Health and Safety Code, is a person with
1-35 an intellectual disability [~~mental retardation~~] as defined by
1-36 Section 591.003, Health and Safety Code, or suffers from chemical
1-37 dependency as defined by Section 464.001, Health and Safety
1-38 Code. [~~If the examination is to include a determination of the~~
1-39 ~~child's fitness to proceed, an expert may be appointed to conduct~~
1-40 ~~the examination only if the expert is qualified under Subchapter B,~~
1-41 ~~Chapter 46B, Code of Criminal Procedure, to examine a defendant in a~~
1-42 ~~criminal case, and the examination and the report resulting from an~~
1-43 ~~examination under this subsection must comply with the requirements~~
1-44 ~~under Subchapter B, Chapter 46B, Code of Criminal Procedure, for~~
1-45 ~~the examination and resulting report of a defendant in a criminal~~
1-46 ~~case.]~~

1-47 (b) If, after conducting an examination of a child ordered
1-48 under Subsection (a) and reviewing any other relevant information,
1-49 there is reason to believe that the child has a mental illness or
1-50 intellectual disability [~~mental retardation~~] or suffers from
1-51 chemical dependency, the probation department shall refer the child
1-52 to the local mental health [~~or mental retardation~~] authority, to
1-53 the local intellectual and developmental disability authority, or
1-54 to another appropriate and legally authorized agency or provider
1-55 for evaluation and services, unless the prosecuting attorney has
1-56 filed a petition under Section 53.04.

1-57 (c) If, while a child is under deferred prosecution
1-58 supervision or court-ordered probation, a qualified professional
1-59 determines that the child has a mental illness or intellectual
1-60 disability [~~mental retardation~~] or suffers from chemical
1-61 dependency and the child is not currently receiving treatment

2-1 services for the mental illness, intellectual disability [~~mental~~
 2-2 ~~retardation~~], or chemical dependency, the probation department
 2-3 shall refer the child to the local mental health [~~or mental~~
 2-4 ~~retardation~~] authority, to the local intellectual and
 2-5 developmental disability authority, or to another appropriate and
 2-6 legally authorized agency or provider for evaluation and services.

2-7 (d) A probation department shall report each referral of a
 2-8 child to a local mental health [~~or mental retardation~~] authority,
 2-9 to a local intellectual and developmental disability authority, or
 2-10 to another agency or provider made under Subsection (b) or (c) to
 2-11 the Texas Juvenile Justice Department in a format specified by the
 2-12 department.

2-13 SECTION 2. Subchapter A, Chapter 55, Family Code, is
 2-14 amended to read as follows:

2-15 SUBCHAPTER A. GENERAL PROVISIONS

2-16 Sec. 55.01. DEFINITIONS [~~MEANING OF "HAVING A MENTAL~~
 2-17 ~~ILLNESS"~~]. In [~~For purposes of~~] this chapter:

2-18 (1) "Adaptive behavior" and "intellectual disability"
 2-19 have the meanings assigned by Section 591.003, Health and Safety
 2-20 Code.

2-21 (2) "Child with an intellectual disability" means a
 2-22 child determined by a physician or psychologist licensed in this
 2-23 state to have subaverage general intellectual functioning with
 2-24 deficits in adaptive behavior.

2-25 (3) "Child with mental illness" [~~, a child who is~~
 2-26 ~~described as having a mental illness~~] means a child determined by a
 2-27 physician or psychologist licensed in this state to have [~~with~~] a
 2-28 mental illness.

2-29 (4) "Interdisciplinary team" means a group of
 2-30 intellectual disability professionals and paraprofessionals who
 2-31 assess the treatment, training, and habilitation needs of a person
 2-32 with an intellectual disability and make recommendations for
 2-33 services for that person.

2-34 (5) "Least restrictive appropriate setting" means the
 2-35 treatment or service setting closest to the child's home that
 2-36 provides the child with the greatest probability of improvement and
 2-37 is no more restrictive of the child's physical or social liberties
 2-38 than is necessary to provide the child with the most effective
 2-39 treatment or services and to protect adequately against any danger
 2-40 the child poses to self or others.

2-41 (6) "Mental illness" has the meaning assigned by
 2-42 Section 571.003, Health and Safety Code.

2-43 (7) "Restoration classes" means curriculum-based
 2-44 educational sessions a child attends to assist in restoring the
 2-45 child's fitness to proceed, including the child's capacity to
 2-46 understand the proceedings in juvenile court and to assist in the
 2-47 child's own defense.

2-48 (8) "Subaverage general intellectual functioning"
 2-49 means intelligence that is measured on standardized psychometric
 2-50 instruments of two or more standard deviations below the age-group
 2-51 mean for the instruments used [~~as defined by Section 571.003,~~
 2-52 ~~Health and Safety Code~~].

2-53 Sec. 55.02. MENTAL HEALTH AND INTELLECTUAL DISABILITY
 2-54 JURISDICTION. For the purpose of initiating proceedings to order
 2-55 mental health or intellectual disability services for a child [~~or~~
 2-56 ~~for commitment of a child~~] as provided by this chapter, the juvenile
 2-57 court has jurisdiction of proceedings under Subtitle C or D, Title
 2-58 7, Health and Safety Code.

2-59 Sec. 55.03. STANDARDS OF CARE. (a) Except as provided by
 2-60 this chapter, a child for whom inpatient or outpatient mental
 2-61 health services are [~~is~~] ordered by a court under this chapter shall
 2-62 be cared for as provided by Subtitle C, Title 7, Health and Safety
 2-63 Code.

2-64 (b) Except as provided by this chapter, a child who is
 2-65 ordered [~~committed~~] by a court to a residential care facility due to
 2-66 an intellectual disability shall be cared for as provided by
 2-67 Subtitle D, Title 7, Health and Safety Code.

2-68 Sec. 55.04. FORENSIC MENTAL EXAMINATION. (a) In this
 2-69 section, "forensic mental examination" means an examination by a

3-1 disinterested physician or psychologist to determine if a child who
3-2 is alleged by petition or found to have engaged in delinquent
3-3 conduct or conduct indicating a need for supervision is a child with
3-4 mental illness, is unfit to proceed in juvenile court due to mental
3-5 illness or an intellectual disability, or lacks responsibility for
3-6 conduct due to mental illness or an intellectual disability.

3-7 (b) A juvenile court may order a forensic mental examination
3-8 if the court determines that probable cause exists to believe that a
3-9 child who is alleged by petition or found to have engaged in
3-10 delinquent conduct or conduct indicating a need for supervision is
3-11 a child with mental illness, is unfit to proceed in juvenile court
3-12 due to mental illness or an intellectual disability, or lacks
3-13 responsibility for conduct due to mental illness or an intellectual
3-14 disability.

3-15 (c) To qualify for appointment as an expert under this
3-16 chapter, a physician or psychologist must:

3-17 (1) as appropriate, be a physician licensed in this
3-18 state or be a psychologist licensed in this state who has a doctoral
3-19 degree in psychology; and

3-20 (2) have the following certification or training:

3-21 (A) as appropriate, certification by:

3-22 (i) the American Board of Psychiatry and
3-23 Neurology with added or special qualifications in forensic
3-24 psychiatry; or

3-25 (ii) the American Board of Professional
3-26 Psychology in forensic psychology; or

3-27 (B) training consisting of:

3-28 (i) at least 24 hours of specialized
3-29 forensic training relating to incompetency, fitness to proceed,
3-30 lack of responsibility for conduct, or insanity evaluations; and

3-31 (ii) at least eight hours of continuing
3-32 education relating to forensic evaluations, completed in the 12
3-33 months preceding the date of the appointment.

3-34 (d) In addition to meeting the qualifications required by
3-35 Subsection (c), to be appointed as an expert, a physician or
3-36 psychologist must have completed six hours of required continuing
3-37 education in courses in forensic psychiatry or psychology, as
3-38 appropriate, in the 24 months preceding the appointment.

3-39 (e) A court may appoint as an expert a physician or
3-40 psychologist who does not meet the requirements of Subsections (c)
3-41 and (d) only if the court determines that exigent circumstances
3-42 require the court to appoint an expert with specialized expertise
3-43 to examine the child that is not ordinarily possessed by a physician
3-44 or psychologist who meets the requirements of Subsections (c) and
3-45 (d).

3-46 Sec. 55.05. CRITERIA FOR COURT-ORDERED MENTAL HEALTH
3-47 SERVICES FOR CHILD. (a) A juvenile court may order a child who is
3-48 subject to the jurisdiction of the juvenile court to receive
3-49 temporary inpatient mental health services only if the court finds,
3-50 from clear and convincing evidence, that:

3-51 (1) the child is a child with mental illness; and

3-52 (2) as a result of that mental illness, the child:

3-53 (A) is likely to cause serious harm to the
3-54 child's self;

3-55 (B) is likely to cause serious harm to others; or

3-56 (C) is:

3-57 (i) suffering severe and abnormal mental,
3-58 emotional, or physical distress;

3-59 (ii) experiencing substantial mental or
3-60 physical deterioration of the child's ability to function
3-61 independently; and

3-62 (iii) unable to make a rational and
3-63 informed decision as to whether to submit to treatment or is
3-64 unwilling to submit to treatment.

3-65 (b) A juvenile court may order a child who is subject to the
3-66 jurisdiction of the juvenile court to receive temporary outpatient
3-67 mental health services only if the court finds:

3-68 (1) that appropriate mental health services are
3-69 available to the child; and

5-1 amended to read as follows:

5-2 (b) If the court determines that probable cause exists to
 5-3 believe that the child is a child with ~~[has a]~~ mental illness, the
 5-4 court shall temporarily stay the juvenile court proceedings and
 5-5 immediately order the child to be examined under Section 55.04
 5-6 ~~[51.20]~~. The information obtained from the examination must
 5-7 include expert opinion as to:

5-8 (1) whether the child is a child with ~~[has a]~~ mental
 5-9 illness; ~~[and]~~

5-10 (2) whether the child meets the ~~[commitment]~~ criteria
 5-11 for court-ordered mental health services under Section 55.05 for:

5-12 (A) temporary inpatient mental health services;

5-13 (B) temporary outpatient mental health services;

5-14 (C) extended inpatient mental health services;

5-15 or

5-16 (D) extended outpatient mental health services;

5-17 and

5-18 (3) if applicable, the specific criteria the child
 5-19 meets under Subdivision (2) [under Subtitle C, Title 7, Health and
 5-20 Safety Code. If ordered by the court, the information must also
 5-21 include expert opinion as to whether the child is unfit to proceed
 5-22 with the juvenile court proceedings].

5-23 (c) After considering all relevant information, including
 5-24 information obtained from an examination under Section 55.04
 5-25 ~~[51.20]~~, the court shall:

5-26 (1) proceed under Section 55.12 if the court
 5-27 determines that evidence exists to support a finding that the child
 5-28 is a child with ~~[has a]~~ mental illness and that the child meets the
 5-29 ~~[commitment]~~ criteria for court-ordered mental health services
 5-30 under Section 55.05 ~~[Subtitle C, Title 7, Health and Safety Code,~~
 5-31 ~~proceed under Section 55.12]; or~~

5-32 (2) dissolve the stay and continue the juvenile court
 5-33 proceedings if the court determines that evidence does not exist to
 5-34 support a finding that the child is a child with ~~[has a]~~ mental
 5-35 illness or that the child meets the ~~[commitment]~~ criteria for
 5-36 court-ordered mental health services under Section 55.05 ~~[Subtitle~~
 5-37 ~~C, Title 7, Health and Safety Code, dissolve the stay and continue~~
 5-38 ~~the juvenile court proceedings].~~

5-39 SECTION 5. Sections 55.12, 55.15, 55.16, 55.17, 55.18, and
 5-40 55.19, Family Code, are amended to read as follows:

5-41 Sec. 55.12. INITIATION OF ~~[COMMITMENT]~~ PROCEEDINGS FOR
 5-42 COURT-ORDERED MENTAL HEALTH SERVICES. If, after considering all
 5-43 relevant information, the juvenile court determines that evidence
 5-44 exists to support a finding that a child is a child with ~~[has a]~~
 5-45 mental illness and that the child meets the ~~[commitment]~~ criteria
 5-46 for court-ordered mental health services under Section 55.05 ~~[under~~
 5-47 ~~Subtitle C, Title 7, Health and Safety Code]~~, the court shall:

5-48 (1) initiate proceedings as provided by Section 55.65
 5-49 [55.13] to order temporary or extended mental health services, as
 5-50 provided in this chapter and Subchapter C, Chapter 574, Health and
 5-51 Safety Code; or

5-52 (2) refer the child's case as provided by Section 55.68
 5-53 [55.14] to the appropriate court for the initiation of proceedings
 5-54 in that court to order temporary or extended mental health services
 5-55 for [commitment of] the child under this chapter and Subchapter C,
 5-56 Chapter 574, Health and Safety Code.

5-57 Sec. 55.15. STANDARDS OF CARE; EXPIRATION OF COURT ORDER
 5-58 FOR MENTAL HEALTH SERVICES. Treatment ordered under this
 5-59 subchapter for a child with mental illness must focus on the
 5-60 stabilization of the child's mental illness and on meeting the
 5-61 child's psychiatric needs in the least restrictive appropriate
 5-62 setting. If the juvenile court or a court to which the child's case
 5-63 is referred under Section 55.12(2) orders mental health services
 5-64 for the child, the child shall be cared for, treated, and released
 5-65 in conformity to Subtitle C, Title 7, Health and Safety Code,
 5-66 except:

5-67 (1) a court order for mental health services for a
 5-68 child automatically expires on the 120th day after the date the
 5-69 child becomes 18 years of age; and

6-1 (2) the administrator of a mental health facility
 6-2 shall notify, in writing, by certified mail, return receipt
 6-3 requested, the juvenile court that ordered mental health services
 6-4 or the juvenile court that referred the case to a court that ordered
 6-5 the mental health services of the intent to discharge the child at
 6-6 least 10 days prior to discharge.

6-7 Sec. 55.16. ORDER FOR MENTAL HEALTH SERVICES; STAY OF
 6-8 PROCEEDINGS. (a) If the court to which the child's case is
 6-9 referred under Section 55.12(2) orders temporary or extended
 6-10 ~~[inpatient]~~ mental health services for the child, the court shall
 6-11 immediately notify in writing the referring juvenile court of the
 6-12 court's order for mental health services.

6-13 (b) If the juvenile court orders temporary or extended
 6-14 ~~[inpatient]~~ mental health services for the child or if the juvenile
 6-15 court receives notice under Subsection (a) from the court to which
 6-16 the child's case is referred, the proceedings under this title then
 6-17 pending in juvenile court shall be stayed.

6-18 Sec. 55.17. MENTAL HEALTH SERVICES NOT ORDERED;
 6-19 DISSOLUTION OF STAY. (a) If the court to which a child's case is
 6-20 referred under Section 55.12(2) does not order temporary or
 6-21 extended ~~[inpatient]~~ mental health services for the child, the
 6-22 court shall immediately notify in writing the referring juvenile
 6-23 court of the court's decision.

6-24 (b) If the juvenile court does not order temporary or
 6-25 extended ~~[inpatient]~~ mental health services for the child or if the
 6-26 juvenile court receives notice under Subsection (a) from the court
 6-27 to which the child's case is referred, the juvenile court shall
 6-28 dissolve the stay and continue the juvenile court proceedings.

6-29 Sec. 55.18. DISCHARGE FROM COURT-ORDERED INPATIENT OR
 6-30 OUTPATIENT MENTAL HEALTH SERVICES ~~[FACILITY]~~ BEFORE REACHING 18
 6-31 YEARS OF AGE. If the child is discharged from the mental health
 6-32 facility or from outpatient treatment services before reaching 18
 6-33 years of age, the juvenile court may:

6-34 (1) dismiss the juvenile court proceedings with
 6-35 prejudice; or

6-36 (2) dissolve the stay and continue with proceedings
 6-37 under this title as though no order of mental health services had
 6-38 been made.

6-39 Sec. 55.19. DISCRETIONARY TRANSFER TO CRIMINAL COURT ON
 6-40 18TH BIRTHDAY. (a) The juvenile court may waive its exclusive
 6-41 original jurisdiction and ~~[shall]~~ transfer all pending proceedings
 6-42 from the juvenile court to a criminal court on or after the 18th
 6-43 birthday of a child for whom the juvenile court or a court to which
 6-44 the child's case was ~~[is]~~ referred under Section 55.12(2) ~~[has]~~
 6-45 ordered inpatient mental health services if:

6-46 (1) the child is not discharged or furloughed from the
 6-47 inpatient mental health facility before reaching 18 years of age;
 6-48 and

6-49 (2) the child is alleged to have engaged in delinquent
 6-50 conduct that included a violation of a penal law listed in Section
 6-51 53.045 and no adjudication concerning the alleged conduct has been
 6-52 made.

6-53 (b) A court conducting a waiver of jurisdiction and
 6-54 discretionary transfer hearing under this section shall conduct the
 6-55 hearing according to Sections 54.02(j), (k), and (l).

6-56 (c) If after the hearing the juvenile court waives its
 6-57 jurisdiction and transfers the person to criminal court, the ~~[The]~~
 6-58 juvenile court shall send notification of the transfer of a child
 6-59 under Subsection (a) to the inpatient mental health facility. The
 6-60 criminal court shall, within 90 days of the transfer, institute
 6-61 proceedings under Chapter 46B, Code of Criminal Procedure. If
 6-62 those or any subsequent proceedings result in a determination that
 6-63 the defendant is competent to stand trial, the defendant may not
 6-64 receive a punishment for the delinquent conduct described by
 6-65 Subsection (a)(2) that results in confinement for a period longer
 6-66 than the maximum period of confinement the defendant could have
 6-67 received if the defendant had been adjudicated for the delinquent
 6-68 conduct while still a child and within the jurisdiction of the
 6-69 juvenile court.

7-1 SECTION 6. Section 55.31, Family Code, is amended by
7-2 amending Subsections (c) and (d) and adding Subsections (e) and (f)
7-3 to read as follows:

7-4 (c) If the court determines that probable cause exists to
7-5 believe that the child is unfit to proceed, the court shall
7-6 temporarily stay the juvenile court proceedings and immediately
7-7 order the child to be examined under Section 55.04 [~~51.20~~. The
7-8 information obtained from the examination must include expert
7-9 opinion as to whether the child is unfit to proceed as a result of
7-10 mental illness or an intellectual disability].

7-11 (d) During an examination ordered under this section, and in
7-12 any report based on that examination, an expert shall consider, in
7-13 addition to other issues determined relevant by the expert:

7-14 (1) whether the child, as supported by current
7-15 indications and the child's personal history:

7-16 (A) is a child with mental illness; or
7-17 (B) is a child with an intellectual disability;

7-18 (2) the child's capacity to:
7-19 (A) appreciate the allegations against the
7-20 child;

7-21 (B) appreciate the range and nature of allowable
7-22 dispositions that may be imposed in the proceedings against the
7-23 child;

7-24 (C) understand the roles of the participants and
7-25 the adversarial nature of the legal process;

7-26 (D) display appropriate courtroom behavior; and
7-27 (E) testify relevantly; and

7-28 (3) the degree of impairment resulting from the
7-29 child's mental illness or intellectual disability and the specific
7-30 impact on the child's capacity to engage with counsel in a
7-31 reasonable and rational manner.

7-32 (e) An expert's report to the court must state an opinion on
7-33 the child's fitness to proceed or explain why the expert is unable
7-34 to state that opinion and include:

7-35 (1) the child's history and current status regarding
7-36 any possible mental illness or intellectual disability;

7-37 (2) the child's developmental history as it relates to
7-38 any possible mental illness or intellectual disability;

7-39 (3) the child's functional abilities related to
7-40 fitness to stand trial;

7-41 (4) the relationship between deficits in the child's
7-42 functional abilities related to fitness to proceed and any mental
7-43 illness or intellectual disability; and

7-44 (5) if the expert believes the child is in need of
7-45 remediation or restoration services, a discussion of:

7-46 (A) whether the child's abilities are likely to
7-47 be remediated or restored within the period described by Section
7-48 55.33(a)(1), (2), or (3);

7-49 (B) whether the child may be adequately treated
7-50 in an alternative setting;

7-51 (C) any recommended interventions to aid in the
7-52 remediation or restoration of the child's fitness;

7-53 (D) whether the child meets criteria for
7-54 court-ordered treatment or services under Section 55.05 or 55.06;
7-55 and

7-56 (E) if applicable, the specific criteria the
7-57 child meets under Paragraph (D).

7-58 (f) [~~(a)~~] After considering all relevant information,
7-59 including information obtained from an examination under Section
7-60 55.04 [~~51.20~~], the court shall:

7-61 (1) if the court determines that evidence exists to
7-62 support a finding that the child is unfit to proceed, proceed under
7-63 Section 55.32; or

7-64 (2) if the court determines that evidence does not
7-65 exist to support a finding that the child is unfit to proceed,
7-66 dissolve the stay and continue the juvenile court proceedings.

7-67 SECTION 7. Sections 55.33 and 55.35, Family Code, are
7-68 amended to read as follows:

7-69 Sec. 55.33. PROCEEDINGS FOLLOWING FINDING OF UNFITNESS TO

8-1 PROCEED. (a) If the juvenile court or jury determines under
 8-2 Section 55.32 that a child is unfit as a result of mental illness or
 8-3 an intellectual disability to proceed with the juvenile court
 8-4 proceedings for delinquent conduct, the court shall:

8-5 (1) provided that the child meets the inpatient mental
 8-6 health services or residential intellectual disability services
 8-7 [commitment] criteria under Section 55.05 or 55.06 [Subtitle C or
 8-8 D, Title 7, Health and Safety Code], order the child placed with the
 8-9 Health and Human Services Commission [Department of State Health
 8-10 Services or the Department of Aging and Disability Services, as
 8-11 appropriate,] for a period of not more than 90 days, which order may
 8-12 not specify a shorter period, for placement in a facility
 8-13 designated by the commission [department];

8-14 (2) on application by the child's parent, guardian, or
 8-15 guardian ad litem, order the child placed in a private psychiatric
 8-16 inpatient facility or residential care facility for a period of not
 8-17 more than 90 days, which order may not specify a shorter period, but
 8-18 only if:

8-19 (A) the unfitness to proceed is a result of
 8-20 mental illness or an intellectual disability; and

8-21 (B) the placement is agreed to in writing by the
 8-22 administrator of the facility; or

8-23 (3) subject to Subsection (d) [~~(c)~~], if the court
 8-24 determines that the child may be adequately treated or served in an
 8-25 alternative setting and finds that the child does not meet criteria
 8-26 for court-ordered inpatient mental health services or residential
 8-27 intellectual disability services under Section 55.05 or 55.06,
 8-28 order the child to receive treatment for mental illness or services
 8-29 for the child's intellectual disability, as appropriate, on an
 8-30 outpatient basis for a period of [not more than] 90 days, with the
 8-31 possibility of extension as ordered by the court [which order may
 8-32 not specify a shorter period].

8-33 (b) If a child receives treatment for mental illness or
 8-34 services for the child's intellectual disability on an outpatient
 8-35 basis in an alternative setting under Subsection (a)(3), juvenile
 8-36 probation departments may provide restoration classes in
 8-37 collaboration with the outpatient alternative setting.

8-38 (c) If the court orders a child placed in a private
 8-39 psychiatric inpatient facility or residential care facility under
 8-40 Subsection (a)(2) or in an alternative setting under Subsection
 8-41 (a)(3), the state or a political subdivision of the state may be
 8-42 ordered to pay any costs associated with the ordered services
 8-43 [child's placement], subject to an express appropriation of funds
 8-44 for the purpose.

8-45 (d) [~~(c)~~] Before issuing an order described by Subsection
 8-46 (a)(3), the court shall consult with the local juvenile probation
 8-47 department, [and] with local treatment or service providers, with
 8-48 the local mental health authority, and with the local intellectual
 8-49 and developmental disability authority to determine the
 8-50 appropriate treatment or services and restoration classes for the
 8-51 child.

8-52 Sec. 55.35. INFORMATION REQUIRED TO BE SENT TO FACILITY OR
 8-53 ALTERNATIVE SETTING; REPORT TO COURT. (a) If the juvenile court
 8-54 issues an [a placement] order under Section 55.33(a), the court
 8-55 shall order the probation department to send copies of any
 8-56 information in the possession of the department and relevant to the
 8-57 issue of the child's mental illness or intellectual disability to
 8-58 the public or private facility or outpatient alternative setting
 8-59 [center], as appropriate.

8-60 (b) Not later than the 75th day after the date the court
 8-61 issues an [a placement] order under Section 55.33(a), the public or
 8-62 private facility or outpatient alternative setting [center], as
 8-63 appropriate, shall submit to the court a report that:

8-64 (1) describes the treatment or services provided to
 8-65 the child by the facility or alternative setting [center]; and

8-66 (2) states the opinion of the director of the facility
 8-67 or alternative setting [center] as to whether the child is fit or
 8-68 unfit to proceed.

8-69 (c) If the report under Subsection (b) states that the child

9-1 is unfit to proceed, the report must also include an opinion and the
9-2 reasons for that opinion as to whether the child meets the criteria
9-3 for court-ordered mental health services or court-ordered
9-4 intellectual disability services under Section 55.05 or 55.06.

9-5 (d) The report of an outpatient alternative setting
9-6 collaborating with a juvenile probation department to provide
9-7 restoration classes must include any information provided by the
9-8 juvenile probation department regarding the child's assessment at
9-9 the conclusion of the restoration classes.

9-10 (e) The court shall provide a copy of the report submitted
9-11 under Subsection (b) to the prosecuting attorney and the attorney
9-12 for the child.

9-13 SECTION 8. Section 55.36(d), Family Code, is amended to
9-14 read as follows:

9-15 (d) If, after a hearing, the court or jury finds that the
9-16 child is unfit to proceed, the court shall proceed under Section
9-17 55.37 or 55.40, as appropriate.

9-18 SECTION 9. Sections 55.37 and 55.40, Family Code, are
9-19 amended to read as follows:

9-20 Sec. 55.37. REPORT THAT CHILD IS UNFIT TO PROCEED AS A
9-21 RESULT OF MENTAL ILLNESS; INITIATION OF [~~COMMITMENT~~]
9-22 FOR COURT-ORDERED MENTAL HEALTH SERVICES. If a report submitted
9-23 under Section 55.35(b) states that a child is unfit to proceed as a
9-24 result of mental illness and that the child meets the [~~commitment~~]
9-25 criteria for court-ordered mental health services under Section
9-26 55.05 [~~civil commitment under Subtitle C, Title 7, Health and~~
9-27 ~~Safety Code~~], the director of the public or private facility or
9-28 outpatient alternative setting [~~center~~], as appropriate, shall
9-29 submit to the court two certificates of medical examination for
9-30 mental illness, as described by Subchapter A, Chapter 574, Health
9-31 and Safety Code. On receipt of the certificates, the court shall:

9-32 (1) initiate proceedings as provided by Section 55.66
9-33 for temporary or extended mental health services, as provided by
9-34 this chapter and Subchapter C, Chapter 574, [~~55.38 in the juvenile~~
9-35 ~~court for commitment of the child under Subtitle C, Title 7,~~] Health
9-36 and Safety Code; or

9-37 (2) refer the child's case as provided by Section 55.68
9-38 [~~55.39~~] to the appropriate court for the initiation of proceedings
9-39 in that court for temporary or extended mental health services for
9-40 [~~commitment of~~] the child under this chapter and Subchapter C,
9-41 Chapter 574, [~~Subtitle C, Title 7,~~] Health and Safety Code.

9-42 Sec. 55.40. REPORT THAT CHILD IS UNFIT TO PROCEED AS A
9-43 RESULT OF INTELLECTUAL DISABILITY. If a report submitted under
9-44 Section 55.35(b) states that a child is unfit to proceed as a result
9-45 of an intellectual disability and that the child meets the
9-46 [~~commitment~~] criteria for court-ordered residential intellectual
9-47 disability services under Section 55.06 [~~civil commitment under~~
9-48 ~~Subtitle D, Title 7, Health and Safety Code~~], the director of the
9-49 residential care facility or alternative setting shall submit to
9-50 the court an affidavit stating the conclusions reached as a result
9-51 of the diagnosis. On receipt of the affidavit, the court shall:

9-52 (1) initiate proceedings as provided by Section 55.67
9-53 [~~55.41~~] in the juvenile court for court-ordered residential
9-54 intellectual disability services for [~~commitment of~~] the child
9-55 under Subtitle D, Title 7, Health and Safety Code; or

9-56 (2) refer the child's case as provided by Section 55.68
9-57 [~~55.42~~] to the appropriate court for the initiation of proceedings
9-58 in that court for court-ordered residential intellectual
9-59 disability services for [~~commitment of~~] the child under Subtitle D,
9-60 Title 7, Health and Safety Code.

9-61 SECTION 10. Section 55.43(a), Family Code, is amended to
9-62 read as follows:

9-63 (a) The prosecuting attorney may file with the juvenile
9-64 court a motion for a restoration hearing concerning a child if:

9-65 (1) the child is found unfit to proceed as a result of
9-66 mental illness or an intellectual disability; and

9-67 (2) the child:

9-68 (A) is not:
9-69 (i) ordered by a court to receive inpatient

10-1 mental health or intellectual disability services;
 10-2 (ii) ordered ~~[committed]~~ by a court to
 10-3 receive services at a residential care facility; or
 10-4 (iii) ordered by a court to receive
 10-5 treatment or services on an outpatient basis; or
 10-6 (B) is discharged or currently on furlough from a
 10-7 mental health facility or discharged from an alternative setting
 10-8 ~~[outpatient center]~~ before the child reaches 18 years of age.

10-9 SECTION 11. Section 55.44, Family Code, is amended to read
 10-10 as follows:

10-11 Sec. 55.44. DISCRETIONARY TRANSFER TO CRIMINAL COURT ON
 10-12 18TH BIRTHDAY OF CHILD. (a) The juvenile court may waive its
 10-13 exclusive original jurisdiction and ~~[shall]~~ transfer all pending
 10-14 proceedings from the juvenile court to a criminal court on or after
 10-15 the 18th birthday of a child for whom the juvenile court or a court
 10-16 to which the child's case is referred has ordered inpatient mental
 10-17 health services or residential care for persons with an
 10-18 intellectual disability if:

10-19 (1) the child is not discharged or currently on
 10-20 furlough from the facility before reaching 18 years of age; and

10-21 (2) the child is alleged to have engaged in delinquent
 10-22 conduct that included a violation of a penal law listed in Section
 10-23 53.045 and no adjudication concerning the alleged conduct has been
 10-24 made.

10-25 (b) A court conducting a waiver of jurisdiction and
 10-26 discretionary transfer hearing under this section shall conduct the
 10-27 hearing according to Sections 54.02(j), (k), and (l).

10-28 (c) If after the hearing the juvenile court waives its
 10-29 jurisdiction and transfers the case to criminal court, the ~~[The]~~
 10-30 juvenile court shall send notification of the transfer of a child
 10-31 under Subsection (a) to the facility. The criminal court shall,
 10-32 before the 91st day after the date of the transfer, institute
 10-33 proceedings under Chapter 46B, Code of Criminal Procedure. If
 10-34 those or any subsequent proceedings result in a determination that
 10-35 the defendant is competent to stand trial, the defendant may not
 10-36 receive a punishment for the delinquent conduct described by
 10-37 Subsection (a)(2) that results in confinement for a period longer
 10-38 than the maximum period of confinement the defendant could have
 10-39 received if the defendant had been adjudicated for the delinquent
 10-40 conduct while still a child and within the jurisdiction of the
 10-41 juvenile court.

10-42 SECTION 12. Sections 55.45(b) and (c), Family Code, are
 10-43 amended to read as follows:

10-44 (b) If the juvenile court or a court to which the child's
 10-45 case is referred under Section 55.40(2) orders the intellectual
 10-46 disability services for ~~[commitment of]~~ the child to be provided at
 10-47 ~~[to]~~ a residential care facility, the child shall be cared for,
 10-48 treated, and released in accordance with Subtitle D, Title 7,
 10-49 Health and Safety Code, except that the administrator of the
 10-50 residential care facility shall notify, in writing, by certified
 10-51 mail, return receipt requested, the juvenile court that ordered
 10-52 intellectual disability services for ~~[commitment of]~~ the child or
 10-53 that referred the case to a court that ordered intellectual
 10-54 disability services for ~~[commitment of]~~ the child of the intent to
 10-55 discharge or furlough the child on or before the 20th day before the
 10-56 date of discharge or furlough.

10-57 (c) If the referred child, as described in Subsection (b),
 10-58 is alleged to have committed an offense listed in Article 42A.054,
 10-59 Code of Criminal Procedure, the administrator of the residential
 10-60 care facility shall apply, in writing, by certified mail, return
 10-61 receipt requested, to the juvenile court that ordered services for
 10-62 ~~[commitment of]~~ the child or that referred the case to a court that
 10-63 ordered services for ~~[commitment of]~~ the child and show good cause
 10-64 for any release of the child from the facility for more than 48
 10-65 hours. Notice of this request must be provided to the prosecuting
 10-66 attorney responsible for the case. The prosecuting attorney, the
 10-67 juvenile, or the administrator may apply for a hearing on this
 10-68 application. If no one applies for a hearing, the trial court shall
 10-69 resolve the application on the written submission. The rules of

11-1 evidence do not apply to this hearing. An appeal of the trial
 11-2 court's ruling on the application is not allowed. The release of a
 11-3 child described in this subsection without the express approval of
 11-4 the trial court is punishable by contempt.

11-5 SECTION 13. Section 55.51(b), Family Code, is amended to
 11-6 read as follows:

11-7 (b) On a motion by a party in which it is alleged that a
 11-8 child may not be responsible as a result of mental illness or an
 11-9 intellectual disability for the child's conduct, the court shall
 11-10 order the child to be examined under Section 55.04 [51.20]. The
 11-11 information obtained from the examinations must include expert
 11-12 opinion as to:

11-13 (1) whether the child is a child with mental illness or
 11-14 an intellectual disability;

11-15 (2) whether the child is not responsible for the
 11-16 child's conduct as a result of mental illness or an intellectual
 11-17 disability;

11-18 (3) whether the child meets criteria for court-ordered
 11-19 mental health or intellectual disability services under Section
 11-20 55.05 or 55.06; and

11-21 (4) if applicable, the specific criteria the child
 11-22 meets under Subdivision (3).

11-23 SECTION 14. Sections 55.52 and 55.54, Family Code, are
 11-24 amended to read as follows:

11-25 Sec. 55.52. PROCEEDINGS FOLLOWING FINDING OF LACK OF
 11-26 RESPONSIBILITY FOR CONDUCT. (a) If the court or jury finds that a
 11-27 child is not responsible for the child's conduct under Section
 11-28 55.51 as a result of mental illness or an intellectual disability,
 11-29 the court shall:

11-30 (1) provided that the child meets the inpatient mental
 11-31 health services or residential intellectual disability services
 11-32 [commitment] criteria under Section 55.05 or 55.06 [Subtitle C or
 11-33 D, Title 7, Health and Safety Code], order the child placed with the
 11-34 Health and Human Services Commission [Department of State Health
 11-35 Services or the Department of Aging and Disability Services, as
 11-36 appropriate,] for a period of not more than 90 days, which order may
 11-37 not specify a shorter period, for placement in a facility
 11-38 designated by the commission [department];

11-39 (2) on application by the child's parent, guardian, or
 11-40 guardian ad litem, order the child placed in a private psychiatric
 11-41 inpatient facility or residential care facility for a period of not
 11-42 more than 90 days, which order may not specify a shorter period, but
 11-43 only if:

11-44 (A) the child's lack of responsibility is a
 11-45 result of mental illness or an intellectual disability; and

11-46 (B) the placement is agreed to in writing by the
 11-47 administrator of the facility; or

11-48 (3) subject to Subsection (c), if the court determines
 11-49 that the child may be adequately treated or served in an alternative
 11-50 setting and finds that the child does not meet criteria for
 11-51 court-ordered inpatient mental health services or residential
 11-52 intellectual disability services under Section 55.05 or 55.06,
 11-53 order the child to receive treatment for mental illness or services
 11-54 for the child's intellectual disability, as appropriate, on an
 11-55 outpatient basis for a period of [not more than] 90 days, with the
 11-56 possibility of extension as ordered by the court [which order may
 11-57 not specify a shorter period].

11-58 (b) If the court orders a child placed in a private
 11-59 psychiatric inpatient facility or residential care facility under
 11-60 Subsection (a)(2) or in an alternative setting under Subsection
 11-61 (a)(3), the state or a political subdivision of the state may be
 11-62 ordered to pay any costs associated with the ordered services
 11-63 [child's placement], subject to an express appropriation of funds
 11-64 for the purpose.

11-65 (c) Before issuing an order described by Subsection (a)(3),
 11-66 the court shall consult with the local juvenile probation
 11-67 department, [and] with local treatment or service providers, with
 11-68 the local mental health authority, and with the local intellectual
 11-69 and developmental disability authority to determine the

12-1 appropriate treatment or services for the child.

12-2 Sec. 55.54. INFORMATION REQUIRED TO BE SENT TO FACILITY OR
12-3 ALTERNATIVE SETTING; REPORT TO COURT. (a) If the juvenile court
12-4 issues an [a placement] order under Section 55.52(a), the court
12-5 shall order the probation department to send copies of any
12-6 information in the possession of the department and relevant to the
12-7 issue of the child's mental illness or intellectual disability to
12-8 the public or private facility or alternative setting ~~[outpatient~~
12-9 ~~center]~~, as appropriate.

12-10 (b) Not later than the 75th day after the date the court
12-11 issues an [a placement] order under Section 55.52(a), the public or
12-12 private facility or alternative setting ~~[outpatient center]~~, as
12-13 appropriate, shall submit to the court a report that:

12-14 (1) describes the treatment or services provided to
12-15 the child by the facility or alternative setting ~~[center]~~; and

12-16 (2) states the opinion of the director of the facility
12-17 or alternative setting ~~[center]~~ as to whether the child is a child
12-18 with ~~[has a]~~ mental illness or an intellectual disability.

12-19 (c) If the report under Subsection (b) states that the child
12-20 is a child with mental illness or an intellectual disability, the
12-21 report must include an opinion as to whether the child meets
12-22 criteria for court-ordered mental health services or court-ordered
12-23 intellectual disability services under Section 55.05 or 55.06.

12-24 (d) ~~[(e)]~~ The court shall send a copy of the report
12-25 submitted under Subsection (b) to the prosecuting attorney and the
12-26 attorney for the child.

12-27 SECTION 15. Sections 55.55(b), (c), (d), and (e), Family
12-28 Code, are amended to read as follows:

12-29 (b) On objection by the prosecuting attorney under
12-30 Subsection (a), the juvenile court shall hold a hearing without a
12-31 jury to determine whether the child is a child with ~~[has a]~~ mental
12-32 illness or an intellectual disability and whether the child meets
12-33 the ~~[commitment]~~ criteria for court-ordered mental health services
12-34 or court-ordered intellectual disability services ~~[civil~~
12-35 ~~commitment]~~ under Section 55.05 or 55.06 ~~[Subtitle C or D, Title 7,~~
12-36 ~~Health and Safety Code]~~.

12-37 (c) At the hearing, the burden is on the state to prove by
12-38 clear and convincing evidence that the child is a child with ~~[has a]~~
12-39 mental illness or an intellectual disability and that the child
12-40 meets the ~~[commitment]~~ criteria for court-ordered mental health
12-41 services or court-ordered intellectual disability services ~~[civil~~
12-42 ~~commitment]~~ under Section 55.05 or 55.06 ~~[Subtitle C or D, Title 7,~~
12-43 ~~Health and Safety Code]~~.

12-44 (d) If, after a hearing, the court finds that the child does
12-45 not have a mental illness or an intellectual disability and that the
12-46 child does not meet the ~~[commitment]~~ criteria for court-ordered
12-47 treatment services under Section 55.05 or 55.06 ~~[Subtitle C or D,~~
12-48 ~~Title 7, Health and Safety Code]~~, the court shall discharge the
12-49 child.

12-50 (e) If, after a hearing, the court finds that the child has a
12-51 mental illness or an intellectual disability and that the child
12-52 meets the ~~[commitment]~~ criteria for court-ordered treatment
12-53 services under Section 55.05 or 55.06 ~~[Subtitle C or D, Title 7,~~
12-54 ~~Health and Safety Code]~~, the court shall issue an appropriate
12-55 ~~[commitment]~~ order for court-ordered mental health services or
12-56 court-ordered intellectual disability services.

12-57 SECTION 16. Section 55.56, Family Code, is amended to read
12-58 as follows:

12-59 Sec. 55.56. REPORT THAT CHILD HAS MENTAL ILLNESS;
12-60 INITIATION OF ~~[COMMITMENT]~~ PROCEEDINGS FOR COURT-ORDERED MENTAL
12-61 HEALTH SERVICES. If a report submitted under Section 55.54(b)
12-62 states that a child is a child with ~~[has a]~~ mental illness and that
12-63 the child meets the ~~[commitment]~~ criteria for court-ordered mental
12-64 health services ~~[civil commitment]~~ under Section 55.05 ~~[Subtitle C,~~
12-65 ~~Title 7, Health and Safety Code]~~, the director of the public or
12-66 private facility or alternative setting ~~[outpatient center]~~, as
12-67 appropriate, shall submit to the court two certificates of medical
12-68 examination for mental illness, as described by Subchapter A,
12-69 Chapter 574, Health and Safety Code. On receipt of the

13-1 certificates, the court shall:

13-2 (1) initiate proceedings as provided by Section 55.66
 13-3 [55.57] in the juvenile court for court-ordered mental health
 13-4 services for [commitment of] the child under Subtitle C, Title 7,
 13-5 Health and Safety Code; or

13-6 (2) refer the child's case as provided by Section 55.68
 13-7 [55.58] to the appropriate court for the initiation of proceedings
 13-8 in that court for court-ordered mental health services for
 13-9 [commitment of] the child under Subtitle C, Title 7, Health and
 13-10 Safety Code.

13-11 SECTION 17. Section 55.59, Family Code, is amended to read
 13-12 as follows:

13-13 Sec. 55.59. REPORT THAT CHILD HAS INTELLECTUAL DISABILITY;
 13-14 INITIATION OF [COMMITMENT] PROCEEDINGS FOR COURT-ORDERED
 13-15 RESIDENTIAL INTELLECTUAL DISABILITY SERVICES. If a report
 13-16 submitted under Section 55.54(b) states that a child is a child with
 13-17 [has] an intellectual disability and that the child meets the
 13-18 [commitment] criteria for court-ordered residential intellectual
 13-19 disability services under Section 55.06 [civil commitment under
 13-20 Subtitle D, Title 7, Health and Safety Code], the director of the
 13-21 residential care facility or alternative setting shall submit to
 13-22 the court an affidavit stating the conclusions reached as a result
 13-23 of the diagnosis. On receipt of an affidavit, the juvenile court
 13-24 shall:

13-25 (1) initiate proceedings in the juvenile court as
 13-26 provided by Section 55.67 [55.60] for court-ordered residential
 13-27 intellectual disability services for [commitment of] the child
 13-28 under Subtitle D, Title 7, Health and Safety Code; or

13-29 (2) refer the child's case to the appropriate court as
 13-30 provided by Section 55.68 [55.61] for the initiation of proceedings
 13-31 in that court for court-ordered residential intellectual
 13-32 disability services for [commitment of] the child under Subtitle D,
 13-33 Title 7, Health and Safety Code.

13-34 SECTION 18. Chapter 55, Family Code, is amended by adding
 13-35 Subchapter E, and a heading is added to that subchapter to read as
 13-36 follows:

13-37 SUBCHAPTER E. PROCEEDINGS FOR COURT-ORDERED MENTAL HEALTH OR
 13-38 RESIDENTIAL INTELLECTUAL DISABILITY SERVICES

13-39 SECTION 19. Sections 55.13 and 55.14, Family Code, are
 13-40 transferred to Subchapter E, Chapter 55, Family Code, as added by
 13-41 this Act, redesignated as Sections 55.65 and 55.68, Family Code,
 13-42 respectively, and amended to read as follows:

13-43 Sec. 55.65 [55.13]. [COMMITMENT] PROCEEDINGS IN JUVENILE
 13-44 COURT FOR CHILD WITH MENTAL ILLNESS. (a) If the juvenile court
 13-45 initiates proceedings for temporary or extended mental health
 13-46 services under Section 55.12(1), the prosecuting attorney or the
 13-47 attorney for the child may file with the juvenile court an
 13-48 application for court-ordered mental health services under
 13-49 Sections [Section] 574.001 and 574.002, Health and Safety Code.
 13-50 The juvenile court shall:

13-51 (1) set a date for a hearing and provide notice as
 13-52 required by Sections 574.005 and 574.006, Health and Safety Code;
 13-53 [and]

13-54 (2) direct the local mental health authority to file,
 13-55 before the date set for the hearing, its recommendation for the
 13-56 child's proposed treatment, as required by Section 574.012, Health
 13-57 and Safety Code;

13-58 (3) identify the person responsible for court-ordered
 13-59 outpatient mental health services not later than the third day
 13-60 before the date set for a hearing that may result in the court
 13-61 ordering the child to receive court-ordered outpatient mental
 13-62 health services, as required by Section 574.0125, Health and Safety
 13-63 Code;

13-64 (4) appoint physicians necessary to examine the child
 13-65 and to complete the certificates of medical examination for mental
 13-66 illness required under Section 574.009, Health and Safety Code; and

13-67 (5) conduct the hearing in accordance with Subchapter
 13-68 C, Chapter 574, Health and Safety Code.

13-69 (b) The burden of proof at the hearing is on the party who

14-1 filed the application.

14-2 (c) ~~[The juvenile court shall appoint the number of~~
 14-3 ~~physicians necessary to examine the child and to complete the~~
 14-4 ~~certificates of medical examination for mental illness required~~
 14-5 ~~under Section 574.009, Health and Safety Code.~~

14-6 ~~[(d)]~~ After conducting a hearing on an application under
 14-7 this section and with consideration given to the least restrictive
 14-8 appropriate setting for treatment of the child and to the parent's,
 14-9 managing conservator's, or guardian's availability and willingness
 14-10 to participate in the treatment of the child, the juvenile court
 14-11 shall:

14-12 (1) if the criteria under Section 55.05(a) or (b)
 14-13 ~~[574.034 or 574.0345, Health and Safety Code,]~~ are satisfied, order
 14-14 temporary inpatient or outpatient mental health services for the
 14-15 child under Chapter 574, Health and Safety Code; or

14-16 (2) if the criteria under Section 55.05(c) or (d)
 14-17 ~~[574.035 or 574.0355, Health and Safety Code,]~~ are satisfied, order
 14-18 extended inpatient or outpatient mental health services for the
 14-19 child under Chapter 574, Health and Safety Code.

14-20 (d) On receipt of the court's order for inpatient mental
 14-21 health services, the Health and Human Services Commission shall
 14-22 identify a facility and admit the child to the identified facility.

14-23 (e) If the child is currently detained in a juvenile
 14-24 detention facility, the juvenile court shall:

14-25 (1) order the child released from detention to the
 14-26 child's home or another appropriate place;

14-27 (2) order the child detained or placed in an
 14-28 appropriate facility other than a juvenile detention facility; or

14-29 (3) conduct a detention hearing and, if the court
 14-30 makes findings under Section 54.01 to support further detention of
 14-31 the child, order the child to remain in the juvenile detention
 14-32 facility subject to further detention orders of the court.

14-33 Sec. 55.68 ~~[55.14]~~. REFERRAL FOR ~~[COMMITMENT]~~ PROCEEDINGS
 14-34 FOR CHILD WITH MENTAL ILLNESS OR CHILD FOUND UNFIT TO PROCEED OR
 14-35 LACKING RESPONSIBILITY FOR CONDUCT DUE TO MENTAL ILLNESS OR
 14-36 INTELLECTUAL DISABILITY. (a) If the juvenile court refers the
 14-37 child's case to an ~~[the]~~ appropriate court for the initiation of
 14-38 ~~[commitment]~~ proceedings for court-ordered treatment services
 14-39 under Section 55.12(2), 55.37(2), 55.40(2), 55.56(2), or 55.59(2),
 14-40 the juvenile court shall:

14-41 (1) send to the clerk of the court to which the case is
 14-42 referred all papers, including evaluations, examination reports,
 14-43 court findings, orders, verdicts, judgments, and reports from
 14-44 facilities and alternative settings, relating to:

14-45 (A) the child's mental illness or intellectual
 14-46 disability;

14-47 (B) the child's unfitness to proceed, if
 14-48 applicable; and

14-49 (C) the finding that the child was not
 14-50 responsible for the child's conduct, if applicable ~~[to the clerk of~~
 14-51 ~~the court to which the case is referred]; and~~

14-52 (2) send to the office of the appropriate county
 14-53 attorney or, if a county attorney is not available, to the office of
 14-54 the appropriate district attorney, copies of all papers sent to the
 14-55 clerk of the court under Subdivision (1) [, and

14-56 ~~[(3) if the child is in detention:~~

14-57 ~~[(A) order the child released from detention to~~
 14-58 ~~the child's home or another appropriate place;~~

14-59 ~~[(B) order the child detained in an appropriate~~
 14-60 ~~place other than a juvenile detention facility; or~~

14-61 ~~[(C) if an appropriate place to release or detain~~
 14-62 ~~the child as described by Paragraph (A) or (B) is not available,~~
 14-63 ~~order the child to remain in the juvenile detention facility~~
 14-64 ~~subject to further detention orders of the court].~~

14-65 (b) The papers sent to the clerk of a court under Subsection
 14-66 (a)(1) constitute an application for court-ordered mental health
 14-67 services under Section 574.001, Health and Safety Code, or an
 14-68 application for placement under Section 593.041, Health and Safety
 14-69 Code, as applicable.

15-1 (c) If the child is currently detained in a juvenile
 15-2 detention facility, the juvenile court shall:

15-3 (1) order the child released from detention to the
 15-4 child's home or another appropriate place;

15-5 (2) order the child detained or placed in an
 15-6 appropriate facility other than a juvenile detention facility; or

15-7 (3) conduct a detention hearing and, if the court
 15-8 makes findings under Section 54.01 to support further detention of
 15-9 the child, order the child to remain in the juvenile detention
 15-10 facility subject to further detention orders of the court.

15-11 SECTION 20. Sections 55.38 and 55.41, Family Code, are
 15-12 transferred to Subchapter E, Chapter 55, Family Code, as added by
 15-13 this Act, redesignated as Sections 55.66 and 55.67, Family Code,
 15-14 respectively, and amended to read as follows:

15-15 Sec. 55.66 [55.38]. [COMMITMENT] PROCEEDINGS IN JUVENILE
 15-16 COURT FOR CHILD FOUND UNFIT TO PROCEED OR LACKING RESPONSIBILITY
 15-17 FOR CONDUCT DUE TO MENTAL ILLNESS. (a) If the juvenile court
 15-18 initiates [commitment] proceedings for court-ordered mental health
 15-19 services under Section 55.37(1) or 55.56(1), the prosecuting
 15-20 attorney may file with the juvenile court an application for
 15-21 court-ordered mental health services under Sections [Section]
 15-22 574.001 and 574.002, Health and Safety Code. The juvenile court
 15-23 shall:

15-24 (1) set a date for a hearing and provide notice as
 15-25 required by Sections 574.005 and 574.006, Health and Safety Code;
 15-26 [and]

15-27 (2) direct the local mental health authority to file,
 15-28 before the date set for the hearing, its recommendation for the
 15-29 child's proposed treatment, as required by Section 574.012, Health
 15-30 and Safety Code;

15-31 (3) identify the person responsible for court-ordered
 15-32 outpatient mental health services at least three days before the
 15-33 date of a hearing that may result in the court ordering the child to
 15-34 receive court-ordered outpatient mental health services, as
 15-35 required by Section 574.012, Health and Safety Code; and

15-36 (4) conduct the hearing in accordance with Subchapter
 15-37 C, Chapter 574, Health and Safety Code.

15-38 (b) After conducting a hearing under this section and with
 15-39 consideration given to the least restrictive appropriate setting
 15-40 for treatment of the child and to the parent's, managing
 15-41 conservator's, or guardian's availability and willingness to
 15-42 participate in the treatment of the child [Subsection (a)(2)], the
 15-43 juvenile court shall:

15-44 (1) if the criteria for court-ordered mental health
 15-45 services under Section 55.05(a) or (b) [574.034 or 574.0345, Health
 15-46 and Safety Code,] are satisfied, order temporary inpatient or
 15-47 outpatient mental health services; or

15-48 (2) if the criteria for court-ordered mental health
 15-49 services under Section 55.05(c) or (d) [574.035 or 574.0355, Health
 15-50 and Safety Code,] are satisfied, order extended inpatient or
 15-51 outpatient mental health services.

15-52 (c) On receipt of the court's order for inpatient mental
 15-53 health services, the Health and Human Services Commission shall
 15-54 identify a facility and admit the child to the identified facility.

15-55 (d) If the child is currently detained in a juvenile
 15-56 detention facility, the juvenile court shall:

15-57 (1) order the child released from detention to the
 15-58 child's home or another appropriate place;

15-59 (2) order the child detained or placed in an
 15-60 appropriate facility other than a juvenile detention facility; or

15-61 (3) conduct a detention hearing and, if the court
 15-62 makes findings under Section 54.01 to support further detention of
 15-63 the child, order the child to remain in the juvenile detention
 15-64 facility subject to further detention orders of the court.

15-65 Sec. 55.67 [55.41]. [COMMITMENT] PROCEEDINGS IN JUVENILE
 15-66 COURT FOR CHILD FOUND UNFIT TO PROCEED OR LACKING RESPONSIBILITY
 15-67 FOR CONDUCT DUE TO [CHILDREN WITH] INTELLECTUAL DISABILITY. (a) If
 15-68 the juvenile court initiates [commitment] proceedings under
 15-69 Section 55.40(1) or 55.59(1), the prosecuting attorney may file

16-1 with the juvenile court an application for an interdisciplinary
16-2 team report and recommendation that the child is in need of
16-3 long-term placement in a residential care facility, under Section
16-4 593.041, Health and Safety Code. The juvenile court shall:

16-5 (1) set a date for a hearing and provide notice as
16-6 required by Sections 593.047 and 593.048, Health and Safety Code;
16-7 and

16-8 (2) conduct the hearing in accordance with Sections
16-9 593.049-593.056, Health and Safety Code.

16-10 (b) After conducting a hearing under this section and with
16-11 consideration given to the least restrictive appropriate setting
16-12 for services for the child and to the parent's, managing
16-13 conservator's, or guardian's availability and willingness to
16-14 participate in the services for the child [~~Subsection (a)(2)~~], the
16-15 juvenile court may order residential intellectual disability
16-16 services for the child if the [~~commitment of the child to a~~
16-17 ~~residential care facility if the commitment~~] criteria under Section
16-18 55.06 [~~593.052, Health and Safety Code,~~] are satisfied.

16-19 (c) On receipt of the court's order, the Health and Human
16-20 Services Commission [~~Department of Aging and Disability Services or~~
16-21 ~~the appropriate community center~~] shall identify a residential care
16-22 facility and admit the child to the identified [~~a residential care~~]
16-23 facility.

16-24 (d) If the child is currently detained in a juvenile
16-25 detention facility, the juvenile court shall:

16-26 (1) order the child released from detention to the
16-27 child's home or another appropriate place;

16-28 (2) order the child detained or placed in an
16-29 appropriate facility other than a juvenile detention facility; or

16-30 (3) conduct a detention hearing and, if the court
16-31 makes findings under Section 54.01 to support further detention of
16-32 the child, order the child to remain in the juvenile detention
16-33 facility subject to further detention orders of the court.

16-34 SECTION 21. Sections 55.39, 55.42, 55.57, 55.58, 55.60, and
16-35 55.61, Family Code, are repealed.

16-36 SECTION 22. The changes in law made by this Act apply only
16-37 to a juvenile court hearing or proceeding that commences on or after
16-38 the effective date of this Act. A juvenile court hearing or
16-39 proceeding that commences before the effective date of this Act is
16-40 governed by the law in effect on the date the hearing or proceeding
16-41 commenced, and the former law is continued in effect for that
16-42 purpose.

16-43 SECTION 23. This Act takes effect September 1, 2023.

16-44 * * * * *