

BILL ANALYSIS

Senate Research Center
81R33165 KCR-D

C.S.H.B. 4451
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Criminal Justice
5/20/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a child with mental retardation or mental illness who is committed to the Texas Youth Commission (TYC) may be discharged if the child has completed the minimum length of stay and TYC determines the child is unable to progress through TYC's rehabilitation program because of the child's mental illness or mental retardation. The Texas Correctional Office on Offenders with Medical or Mental Impairments (office) is required to evaluate and provide continuity of care services to children with mental retardation or mental illness who are paroled from TYC. However, if a child's disability is so severe that the child cannot complete TYC's rehabilitation program, the child is discharged from TYC and is ineligible to receive continuity of care services from the office because the child is not being released on parole. Consequently, these children are not able to receive the community-based mental retardation or mental illness services they need to make a successful transition from TYC to their home communities.

Some children with mental illness who are paroled from TYC do not receive continuity of care services from the office when they are 17 or older because they do not meet the criteria for adult services, and they are no longer eligible to receive continuity of care services from their local mental health or mental retardation authority because they do not meet the priority population definition. Thus, these youth do not receive the mental health services they need in order to successfully complete their parole.

This bill authorizes a child discharged from TYC due to mental retardation or mental illness to qualify for and receive continuity of care services through the office. The bill authorizes a child who is receiving services through the office as a TYC parolee to continue with treatment until the child reaches the parole completion date.

C.S.H.B. 4451 amends current law relating to continuity of care services or mental health commitment proceedings for youth with mental illness or mental retardation who are transferred, discharged, or paroled from TYC.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 61.077, Human Resources Code, by adding Subsection (g), to provide that if a child who is mentally ill or mentally retarded is discharged from the Texas Youth Commission (TYC) under Subsection (b) (relating to the discharge of a child who is mentally ill or mentally retarded from TYC custody under certain conditions), the child is eligible to receive continuity of care services from the Texas Correctional Office on Offenders with Medical or Mental Impairments (office) under Chapter 614 (Texas Correctional Office on Offenders with Medical or Mental Impairments), Health and Safety Code.

SECTION 2. Amends Subchapter E, Chapter 61, Human Resources Code, by adding Section 61.0773, as follows:

Sec. 61.0773. TRANSFER OF CERTAIN CHILDREN SERVING DETERMINATE SENTENCES FOR MENTAL HEALTH SERVICES. (a) Authorizes TYC to petition

the juvenile court that entered the order of commitment for a child for the initiation of mental health commitment proceedings if the child is committed to TYC under a determinate sentence under Section 54.04(d)(3) (relating to sentence terms of commitment for delinquent conduct in violation of penal law), 54.04(m) (relating to sentence for habitual felony conduct and the conduct adjudicated in a pending case), or 54.05(f) (relating to the authorization of a disposition to be modified to commit the child to TYC and with possible transfer to the Texas Department of Criminal Justice), Family Code.

(b) Requires a petition made by TYC to be treated as a motion under Section 55.11 (Mental Illness Determination; Examination), Family Code, and requires the juvenile court to proceed in accordance with Subchapter B (Child with Mental Illness), Chapter 55 (Proceedings Concerning Children with Mental Illness or Mental Retardation), Family Code.

(c) Requires TYC to cooperate with the juvenile court in any proceeding under this section.

(d) Requires the juvenile court to credit to the term of the child's commitment to TYC any time the child is committed to an inpatient mental health facility.

(e) Prohibits a child committed to an inpatient mental health facility as a result of a petition filed under this section from being released from the facility on a pass or furlough.

(f) Requires the inpatient mental health facility, if the term of an order committing a child to an inpatient mental health facility is scheduled to expire before the end of the child's sentence and another order committing the child to an inpatient mental health facility is not scheduled to be entered, to notify the juvenile court that entered the order of commitment committing the child to TYC. Authorizes the juvenile court to transfer the child to the custody of TYC, transfer the child to the Texas Department of Criminal Justice, or release the child under supervision, as appropriate.

SECTION 3. Amends Section 614.019, Health and Safety Code, as follows:

Sec. 614.019. PROGRAMS FOR JUVENILES. (a) Creates this subsection from existing text.

(b) Authorizes a child with mental illness who is receiving continuity of care services during parole from TYC and who is no longer eligible to receive services from a local mental health authority when the child becomes 17 years of age because the child does not meet the requirements of a local service area plan under Section 533.0352(a) (relating to a requirement that each local mental health or mental retardation authority develop a local service area plan for certain purposes) to continue to receive continuity of care services from the office until the child completes the child's parole.

(c) Authorizes a child with mental illness or mental retardation who is discharged from TYC under Section 61.077, Human Resources Code, to receive continuity of care services from the office for a minimum of 90 days after discharge from TYC and for as long as necessary for the child to demonstrate sufficient stability to transition successfully to mental health or mental retardation services provided by a local mental health or mental retardation authority.

SECTION 4. Provides that Section 61.077(g), Human Resources Code, as added by this Act, and Section 614.019, Health and Safety Code, as amended by this Act, apply only to a child who is discharged or paroled from TYC on or after the effective date of this Act, regardless of when the child was committed to TYC.

SECTION 5. Makes application of Section 61.0773, Human Resources Code, as added by this Act, prospective.

SECTION 6. Effective date: upon passage or September 1, 2009.