

BILL ANALYSIS

Senate Research Center
87R16781 ADM-D

H.B. 2107
By: Wu (Menéndez)
Jurisprudence
5/20/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Children with intellectual and developmental disabilities (IDD) end up in the juvenile justice system at nearly three times the rate of children without IDD. However, there are concerns that children with intellectual disabilities do not have certain options available to them that children with mental illness have under the juvenile justice code.

H.B. 2107 seeks to address this issue by helping to ensure that children who are unfit to proceed in juvenile court proceedings as a result of an intellectual disability receive appropriate services or treatment, including outpatient services as necessary.

H.B. 2107 amends current law relating to services for children who are unfit or lack responsibility to proceed in juvenile court proceedings as a result of intellectual disabilities.

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 55.33, Family Code, as follows:

Sec. 55.33. PROCEEDINGS FOLLOWING FINDING OF UNFITNESS TO PROCEED.

(a) Requires a juvenile court, if the court or jury determines under Section 55.32 (Hearing on Issue of Fitness to Proceed) that a child is unfit as a result of mental illness or an intellectual disability to proceed with the court proceedings for delinquent conduct, to:

(1) makes nonsubstantive changes to this subdivision;

(2) on application by the child's parent, guardian, or guardian ad litem, order the child placed in a private psychiatric inpatient facility for a period of not more than 90 days, which order is prohibited from specifying a shorter period, but only if the unfitness to proceed is a result of mental illness and if the placement is agreed to in writing by the administrator of the facility; or

(3) subject to Subsection (c), if the court determines that the child may be adequately treated or served in an alternative setting, order the child to receive treatment for mental illness or services for the child's intellectual disability, as appropriate, on an outpatient basis for a period of not more than 90 days, which order is prohibited from specifying a shorter period.

Makes nonsubstantive changes.

(b) Makes a conforming change to this subsection.

(c) Requires the court, before issuing an order described by Subsection (a)(3), to consult with the probation department and with local treatment or service providers to determine the appropriate treatment or services for the child.

SECTION 2. Amends Section 55.34(a), Family Code, to require a juvenile court, if the court issues a placement order under Section 55.33(a)(1) or (2), to order the probation department or sheriff's department to transport the child to the designated facility.

SECTION 3. Amends Section 55.35(b), Family Code, to require the public or private facility or outpatient center, as appropriate, not later than the 75th day after the date the court issues a placement order under Section 55.33(a), to submit to the court a report that describes the treatment or services provided to the child by the facility or center.

SECTION 4. Amends Section 55.43(a), Family Code, as follows:

(a) Authorizes the prosecuting attorney to file with the juvenile court a motion for a restoration hearing concerning a child if the child is not ordered by a court to receive inpatient mental health or intellectual disability services, committed by a court to a residential care facility, or ordered by a court to receive treatment or services on an outpatient basis.

SECTION 5. Amends Section 55.52, Family Code, as follows:

Sec. 55.52. PROCEEDINGS FOLLOWING FINDING OF LACK OF RESPONSIBILITY FOR CONDUCT. (a) Requires the court, if the court or jury finds that a child is not responsible for the child's conduct under Section 55.51 (Lack of Responsibility for Conduct Determination; Examination) as a result of mental illness or an intellectual disability, rather than if the lack of responsibility is a result of mental illness or an intellectual disability, to:

(1) provided that the child meets the commitment criteria under Subtitle C (Texas Mental Health Code) or D (Persons with an Intellectual Disability Act), Title 7 (Mental Health and Intellectual Disability), Health and Safety Code, order the child placed with the Department of State Health Services or the Health and Human Services Commission (HHSC), as appropriate, for a period of not more than 90 days, which order is prohibited from specifying a shorter period, for placement in a facility designated by the department;

(2) on application by the child's parent, guardian, or guardian ad litem, order the child placed in a private psychiatric inpatient facility for a period of not more than 90 days, which order is prohibited from specifying a shorter period, but only if:

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

(B) creates this paragraph from existing text and makes no further changes; or

(3) subject to Subsection (c), if the court determines that the child may be adequately treated or served in an alternative setting, order the child to receive treatment for mental illness or services for the child's intellectual disability, as appropriate, on an outpatient basis for a period of not more than 90 days, which order is prohibited from specifying a shorter period.

Makes conforming and nonsubstantive changes.

(b) Authorizes the state or a political subdivision of the state, if the court orders a child placed in a private psychiatric inpatient facility under Subsection (a)(2), rather than under Subsection (a)(1)(B), to be ordered to pay any costs associated

with the child's placement, subject to an express appropriation of funds for the purpose.

(c) Requires the court, before issuing an order described by Subsection (a)(3), to consult with the probation department and with local treatment or service providers to determine the appropriate treatment or services for the child.

SECTION 6. Amends Section 55.53(a), Family Code, as follows:

(a) Requires the court, if the court issues a placement order under Section 55.52(a)(1) or (2), to order the probation department or sheriff's department to transport the child to the designated facility.

SECTION 7. Amends Section 55.54(b), Family Code, as follows:

(b) Requires the public or private facility or outpatient center, not later than the 75th day after the date the court issues a placement order under Section 55.52(a), as appropriate, to submit to the court a report that:

(1) describes the treatment or services provided to the child by, rather than treatment of the child provided by, the facility or center; and

(2) makes no changes to this subdivision.

SECTION 8. Effective date: September 1, 2021.