

FAMILY CODE

TITLE 3. JUVENILE JUSTICE CODE

CHAPTER 55. PROCEEDINGS CONCERNING CHILDREN WITH MENTAL ILLNESS OR
INTELLECTUAL DISABILITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 55.01. DEFINITIONS. In this chapter:

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

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

(3) "Child with mental illness" means a child determined by a physician or psychologist licensed in this state to have a mental illness.

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

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

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

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

(8) "Subaverage general intellectual functioning" means intelligence that is measured on standardized psychometric instruments of two or more standard deviations below the age-group mean for the instruments used.

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.002, eff. April 2, 2015.

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 2, eff. September 1, 2023.

Sec. 55.02. MENTAL HEALTH AND INTELLECTUAL DISABILITY JURISDICTION. For the purpose of initiating proceedings to order mental health or intellectual disability services for a child as provided by this chapter, the juvenile court has jurisdiction of proceedings under Subtitle C or D, Title 7, Health and Safety Code.

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.003, eff. April 2, 2015.

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 2, eff. September 1, 2023.

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

(b) Except as provided by this chapter, a child who is ordered by a court to a residential care facility due to an intellectual disability shall be cared for as provided by Subtitle D, Title 7, Health and Safety Code.

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.004, eff. April 2, 2015.

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 2, eff. September 1, 2023.

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

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

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

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

(2) have the following certification or training:

(A) as appropriate, certification by:

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

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

(B) training consisting of:

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

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

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

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

Added by Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 2, eff. September 1, 2023.

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

- (1) the child is a child with mental illness; and
- (2) as a result of that mental illness, the child:
 - (A) is likely to cause serious harm to the child's self;
 - (B) is likely to cause serious harm to others; or
 - (C) is:
 - (i) suffering severe and abnormal mental, emotional, or physical distress;
 - (ii) experiencing substantial mental or physical deterioration of the child's ability to function independently; and
 - (iii) unable to make a rational and informed decision as to whether to submit to treatment or is unwilling to submit to treatment.

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

(1) that appropriate mental health services are available to the child; and

(2) clear and convincing evidence that:

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

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

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

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

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

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

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

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

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

(d) A juvenile court may order a child who is subject to the

jurisdiction of the juvenile court to receive extended outpatient mental health services only if, in addition to the findings in Subsection (b):

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

(2) the child has received:

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

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

Added by Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 2, eff. September 1, 2023.

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

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

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

(A) represents a substantial risk of physical impairment or injury to the child or others; or

(B) is unable to provide for and is not providing for the child's most basic personal physical needs;

(3) the child cannot be adequately and appropriately habilitated in an available, less restrictive setting;

(4) the residential care facility provides habilitative services, care, training, and treatment appropriate to the child's needs; and

(5) an interdisciplinary team recommends placement in the residential care facility.

Added by Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 2, eff. September 1, 2023.

SUBCHAPTER B. COURT-ORDERED MENTAL HEALTH SERVICES FOR CHILD WITH
MENTAL ILLNESS

Sec. 55.11. MENTAL ILLNESS DETERMINATION; EXAMINATION.

(a) On a motion by a party, the juvenile court shall determine whether probable cause exists to believe that a child who is alleged by petition or found to have engaged in delinquent conduct or conduct indicating a need for supervision has a mental illness. In making its determination, the court may:

(1) consider the motion, supporting documents, professional statements of counsel, and witness testimony; and

(2) make its own observation of the child.

(b) If the court determines that probable cause exists to believe that the child is a child with mental illness, the court shall temporarily stay the juvenile court proceedings and immediately order the child to be examined under Section 55.04. The information obtained from the examination must include expert opinion as to:

(1) whether the child is a child with mental illness;

(2) whether the child meets the criteria for court-ordered mental health services under Section 55.05 for:

(A) temporary inpatient mental health services;

(B) temporary outpatient mental health services;

(C) extended inpatient mental health services;

or

(D) extended outpatient mental health services;

and

(3) if applicable, the specific criteria the child meets under Subdivision (2).

(c) After considering all relevant information, including information obtained from an examination under Section 55.04, the court shall:

(1) proceed under Section 55.12 if the court determines that evidence exists to support a finding that the child is a child with mental illness and that the child meets the criteria for court-ordered mental health services under Section 55.05; or

(2) dissolve the stay and continue the juvenile court proceedings if the court determines that evidence does not exist to support a finding that the child is a child with mental illness or that the child meets the criteria for court-ordered mental health services under Section 55.05.

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 4, eff. September 1, 2023.

Sec. 55.12. INITIATION OF PROCEEDINGS FOR COURT-ORDERED MENTAL HEALTH SERVICES. If, after considering all relevant information, the juvenile court determines that evidence exists to support a finding that a child is a child with mental illness and that the child meets the criteria for court-ordered mental health services under Section 55.05, the court shall:

(1) initiate proceedings as provided by Section 55.65 to order temporary or extended mental health services, as provided in this chapter and Subchapter C, Chapter 574, Health and Safety Code; or

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

Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973.

Amended by Acts 1995, 74th Leg., ch. 262, Sec. 47, eff. May 31, 1995. Redesignated from Family Code Sec. 55.02(a) and amended by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 5, eff. September 1, 2023.

Sec. 55.15. STANDARDS OF CARE; EXPIRATION OF COURT ORDER FOR MENTAL HEALTH SERVICES. Treatment ordered under this subchapter for a child with mental illness must focus on the

stabilization of the child's mental illness and on meeting the child's psychiatric needs in the least restrictive appropriate setting. If the juvenile court or a court to which the child's case is referred under Section 55.12(2) orders mental health services for the child, the child shall be cared for, treated, and released in conformity to Subtitle C, Title 7, Health and Safety Code, except:

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

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

Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973. Amended by Acts 1975, 64th Leg., p. 2157, ch. 693, Sec. 20 and 21, eff. Sept. 1, 1975; Acts 1991, 72nd Leg., ch. 76, Sec. 9, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 262, Sec. 47, eff. May 31, 1995. Redesignated from Family Code Sec. 55.02(c) and amended by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 5, eff. September 1, 2023.

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

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

Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973.
Amended by Acts 1995, 74th Leg., ch. 262, Sec. 47, eff. May 31,
1995. Redesignated from Family Code Sec. 55.02(d) and amended by
Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. [1585](#)), Sec. 5, eff.
September 1, 2023.

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

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

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1,
1999.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. [1585](#)), Sec. 5, eff.
September 1, 2023.

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

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

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

Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973.
Amended by Acts 1995, 74th Leg., ch. 262, Sec. 47, eff. May 31,

1995. Redesignated from Family Code Sec. 55.02(e) by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. [1585](#)), Sec. 5, eff. September 1, 2023.

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

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

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

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

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

Added by Acts 1995, 74th Leg., ch. 262, Sec. 47, eff. May 31, 1995. Redesignated from Sec. 55.02(f) and (g) and amended by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 35, Sec. 7, eff. Jan. 1, 2004.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. [1585](#)), Sec. 5, eff. September 1, 2023.

SUBCHAPTER C. CHILD UNFIT TO PROCEED AS A RESULT OF MENTAL ILLNESS
OR INTELLECTUAL DISABILITY

Sec. 55.31. UNFITNESS TO PROCEED DETERMINATION; EXAMINATION. (a) A child alleged by petition or found to have engaged in delinquent conduct or conduct indicating a need for supervision who as a result of mental illness or an intellectual disability lacks capacity to understand the proceedings in juvenile court or to assist in the child's own defense is unfit to proceed and shall not be subjected to discretionary transfer to criminal court, adjudication, disposition, or modification of disposition as long as such incapacity endures.

(b) On a motion by a party, the juvenile court shall determine whether probable cause exists to believe that a child who is alleged by petition or who is found to have engaged in delinquent conduct or conduct indicating a need for supervision is unfit to proceed as a result of mental illness or an intellectual disability. In making its determination, the court may:

- (1) consider the motion, supporting documents, professional statements of counsel, and witness testimony; and
- (2) make its own observation of the child.

(c) If the court determines that probable cause exists to believe that the child is unfit to proceed, the court shall temporarily stay the juvenile court proceedings and immediately order the child to be examined under Section [55.04](#).

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

- (1) whether the child, as supported by current

indications and the child's personal history:

- (A) is a child with mental illness; or
- (B) is a child with an intellectual disability;
- (2) the child's capacity to:
 - (A) appreciate the allegations against the child;
 - (B) appreciate the range and nature of allowable dispositions that may be imposed in the proceedings against the child;
 - (C) understand the roles of the participants and the adversarial nature of the legal process;
 - (D) display appropriate courtroom behavior; and
 - (E) testify relevantly; and
- (3) the degree of impairment resulting from the child's mental illness or intellectual disability and the specific impact on the child's capacity to engage with counsel in a reasonable and rational manner.

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

- (1) the child's history and current status regarding any possible mental illness or intellectual disability;
- (2) the child's developmental history as it relates to any possible mental illness or intellectual disability;
- (3) the child's functional abilities related to fitness to stand trial;
- (4) the relationship between deficits in the child's functional abilities related to fitness to proceed and any mental illness or intellectual disability; and
- (5) if the expert believes the child is in need of remediation or restoration services, a discussion of:
 - (A) whether the child's abilities are likely to be remediated or restored within the period described by Section [55.33\(a\)\(1\), \(2\), or \(3\)](#);
 - (B) whether the child may be adequately treated in an alternative setting;
 - (C) any recommended interventions to aid in the

remediation or restoration of the child's fitness;

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

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

(f) After considering all relevant information, including information obtained from an examination under Section 55.04, the court shall:

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

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

Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973.

Amended by Acts 1995, 74th Leg., ch. 262, Sec. 47, eff. May 31, 1995. Redesignated from Family Code Sec. 55.04(a) and (b) and amended by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.006, eff. April 2, 2015.

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 6, eff. September 1, 2023.

Sec. 55.32. HEARING ON ISSUE OF FITNESS TO PROCEED. (a) If the juvenile court determines that evidence exists to support a finding that a child is unfit to proceed as a result of mental illness or an intellectual disability, the court shall set the case for a hearing on that issue.

(b) The issue of whether the child is unfit to proceed as a result of mental illness or an intellectual disability shall be determined at a hearing separate from any other hearing.

(c) The court shall determine the issue of whether the child is unfit to proceed unless the child or the attorney for the child demands a jury before the 10th day before the date of the hearing.

(d) Unfitness to proceed as a result of mental illness or an intellectual disability must be proved by a preponderance of the evidence.

(e) If the court or jury determines that the child is fit to proceed, the juvenile court shall continue with proceedings under this title as though no question of fitness to proceed had been raised.

(f) If the court or jury determines that the child is unfit to proceed as a result of mental illness or an intellectual disability, the court shall:

(1) stay the juvenile court proceedings for as long as that incapacity endures; and

(2) proceed under Section 55.33.

(g) The fact that the child is unfit to proceed as a result of mental illness or an intellectual disability does not preclude any legal objection to the juvenile court proceedings which is susceptible of fair determination prior to the adjudication hearing and without the personal participation of the child.

Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973. Amended by Acts 1995, 74th Leg., ch. 262, Sec. 47, eff. May 31, 1995. Redesignated from Family Code Sec. 55.04(c) to (f) and (h) and amended by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.007, eff. April 2, 2015.

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

(1) provided that the child meets the inpatient mental health services or residential intellectual disability services criteria under Section 55.05 or 55.06, order the child placed with the Health and Human Services Commission for a period of not more than 90 days, which order may not specify a shorter period, for

placement in a facility designated by the commission;

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

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

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

(3) subject to Subsection (d), if the court determines that the child may be adequately treated or served in an alternative setting and finds that the child does not meet criteria for court-ordered inpatient mental health services or residential intellectual disability services under Section 55.05 or 55.06, 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 90 days, with the possibility of extension as ordered by the court.

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

(c) If the court orders a child placed in a private psychiatric inpatient facility or residential care facility under Subsection (a)(2) or in an alternative setting under Subsection (a)(3), the state or a political subdivision of the state may be ordered to pay any costs associated with the ordered services, subject to an express appropriation of funds for the purpose.

(d) Before issuing an order described by Subsection (a)(3), the court shall consult with the local juvenile probation department, with local treatment or service providers, with the local mental health authority, and with the local intellectual and developmental disability authority to determine the appropriate treatment or services and restoration classes for the child.

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1,

1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 1.008, eff. April 2, 2015.

Acts 2021, 87th Leg., R.S., Ch. 814 (H.B. [2107](#)), Sec. 1, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. [1585](#)), Sec. 7, eff. September 1, 2023.

Sec. 55.34. TRANSPORTATION TO AND FROM FACILITY. (a) If the court issues a placement order under Section [55.33](#)(a)(1) or (2), the court shall order the probation department or sheriff's department to transport the child to the designated facility.

(b) On receipt of a report from a facility to which a child has been transported under Subsection (a), the court shall order the probation department or sheriff's department to transport the child from the facility to the court. If the child is not transported to the court before the 11th day after the date of the court's order, an authorized representative of the facility shall transport the child from the facility to the court.

(c) The county in which the juvenile court is located shall reimburse the facility for the costs incurred in transporting the child to the juvenile court as required by Subsection (b).

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 814 (H.B. [2107](#)), Sec. 2, eff. September 1, 2021.

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

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

(1) describes the treatment or services provided to the child by the facility or alternative setting; and

(2) states the opinion of the director of the facility or alternative setting as to whether the child is fit or unfit to proceed.

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

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

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

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.009, eff. April 2, 2015.

Acts 2021, 87th Leg., R.S., Ch. 814 (H.B. 2107), Sec. 3, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 7, eff. September 1, 2023.

Sec. 55.36. REPORT THAT CHILD IS FIT TO PROCEED; HEARING ON OBJECTION. (a) If a report submitted under Section 55.35(b) states that a child is fit to proceed, the juvenile court shall find that the child is fit to proceed unless the child's attorney objects in writing or in open court not later than the second day after the

date the attorney receives a copy of the report under Section 55.35(c).

(b) On objection by the child's attorney under Subsection (a), the juvenile court shall promptly hold a hearing to determine whether the child is fit to proceed, except that the hearing may be held after the date that the placement order issued under Section 55.33(a) expires. At the hearing, the court shall determine the issue of the fitness of the child to proceed unless the child or the child's attorney demands in writing a jury before the 10th day before the date of the hearing.

(c) If, after a hearing, the court or jury finds that the child is fit to proceed, the court shall dissolve the stay and continue the juvenile court proceedings as though a question of fitness to proceed had not been raised.

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

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 8, eff. September 1, 2023.

Sec. 55.37. REPORT THAT CHILD IS UNFIT TO PROCEED AS A RESULT OF MENTAL ILLNESS; INITIATION OF PROCEEDINGS FOR COURT-ORDERED MENTAL HEALTH SERVICES. If a report submitted under Section 55.35(b) states that a child is unfit to proceed as a result of mental illness and that the child meets the criteria for court-ordered mental health services under Section 55.05, the director of the public or private facility or outpatient alternative setting, as appropriate, shall submit to the court two certificates of medical examination for mental illness, as described by Subchapter A, Chapter 574, Health and Safety Code. On receipt of the certificates, the court shall:

(1) initiate proceedings as provided by Section 55.66 for temporary or extended mental health services, as provided by this chapter and Subchapter C, Chapter 574, Health and Safety Code;

or

(2) refer the child's case as provided by Section 55.68 to the appropriate court for the initiation of proceedings in that court for temporary or extended mental health services for the child under this chapter and Subchapter C, Chapter 574, Health and Safety Code.

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 9, eff. September 1, 2023.

Sec. 55.40. REPORT THAT CHILD IS UNFIT TO PROCEED AS A RESULT OF INTELLECTUAL DISABILITY. If a report submitted under Section 55.35(b) states that a child is unfit to proceed as a result of an intellectual disability and that the child meets the criteria for court-ordered residential intellectual disability services under Section 55.06, the director of the residential care facility or alternative setting shall submit to the court an affidavit stating the conclusions reached as a result of the diagnosis. On receipt of the affidavit, the court shall:

(1) initiate proceedings as provided by Section 55.67 in the juvenile court for court-ordered residential intellectual disability services for the child under Subtitle D, Title 7, Health and Safety Code; or

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

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.010, eff. April 2, 2015.

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 9, eff. September 1, 2023.

Sec. 55.43. RESTORATION HEARING. (a) The prosecuting attorney may file with the juvenile court a motion for a restoration hearing concerning a child if:

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

(2) the child:

(A) is not:

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

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

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

(B) is discharged or currently on furlough from a mental health facility or discharged from an alternative setting before the child reaches 18 years of age.

(b) At the restoration hearing, the court shall determine the issue of whether the child is fit to proceed.

(c) The restoration hearing shall be conducted without a jury.

(d) The issue of fitness to proceed must be proved by a preponderance of the evidence.

(e) If, after a hearing, the court finds that the child is fit to proceed, the court shall continue the juvenile court proceedings.

(f) If, after a hearing, the court finds that the child is unfit to proceed, the court shall dismiss the motion for restoration.

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 908 (H.B. [2884](#)), Sec. 13, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 1.015, eff. April 2, 2015.

Acts 2021, 87th Leg., R.S., Ch. 814 (H.B. [2107](#)), Sec. 4, eff.

September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 10, eff. September 1, 2023.

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

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

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

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

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

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 35, Sec. 8, eff. Jan. 1, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 908 (H.B. [2884](#)), Sec. 14, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 1.016, eff. April 2, 2015.

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. [1585](#)), Sec. 11, eff. September 1, 2023.

Sec. 55.45. STANDARDS OF CARE; NOTICE OF RELEASE OR FURLOUGH. (a) If the juvenile court or a court to which the child's case is referred under Section [55.37](#)(2) orders mental health services for the child, the child shall be cared for, treated, and released in accordance with Subtitle C, Title 7, Health and Safety Code, except that the administrator of a mental health facility shall notify, in writing, by certified mail, return receipt requested, the juvenile court that ordered mental health services or that referred the case to a court that ordered mental health services of the intent to discharge the child on or before the 10th day before the date of discharge.

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

(c) If the referred child, as described in Subsection (b), is alleged to have committed an offense listed in Article [42A.054](#), Code of Criminal Procedure, the administrator of the residential care facility shall apply, in writing, by certified mail, return receipt requested, to the juvenile court that ordered services for the child or that referred the case to a court that ordered services

for the child and show good cause for any release of the child from the facility for more than 48 hours. Notice of this request must be provided to the prosecuting attorney responsible for the case. The prosecuting attorney, the juvenile, or the administrator may apply for a hearing on this application. If no one applies for a hearing, the trial court shall resolve the application on the written submission. The rules of evidence do not apply to this hearing. An appeal of the trial court's ruling on the application is not allowed. The release of a child described in this subsection without the express approval of the trial court is punishable by contempt.

Added by Acts 2001, 77th Leg., ch. 1297, Sec. 31, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 908 (H.B. 2884), Sec. 15, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.34, eff. January 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 12, eff. September 1, 2023.

SUBCHAPTER D. LACK OF RESPONSIBILITY FOR CONDUCT AS A RESULT OF
MENTAL ILLNESS OR INTELLECTUAL DISABILITY

Sec. 55.51. LACK OF RESPONSIBILITY FOR CONDUCT DETERMINATION; EXAMINATION. (a) A child alleged by petition to have engaged in delinquent conduct or conduct indicating a need for supervision is not responsible for the conduct if at the time of the conduct, as a result of mental illness or an intellectual disability, the child lacks substantial capacity either to appreciate the wrongfulness of the child's conduct or to conform the child's conduct to the requirements of law.

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

opinion as to:

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

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

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

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

(c) The issue of whether the child is not responsible for the child's conduct as a result of mental illness or an intellectual disability shall be tried to the court or jury in the adjudication hearing.

(d) Lack of responsibility for conduct as a result of mental illness or an intellectual disability must be proved by a preponderance of the evidence.

(e) In its findings or verdict the court or jury must state whether the child is not responsible for the child's conduct as a result of mental illness or an intellectual disability.

(f) If the court or jury finds the child is not responsible for the child's conduct as a result of mental illness or an intellectual disability, the court shall proceed under Section [55.52](#).

(g) A child found to be not responsible for the child's conduct as a result of mental illness or an intellectual disability shall not be subject to proceedings under this title with respect to such conduct, other than proceedings under Section [55.52](#).

Acts 1973, 63rd Leg., p. 1460, ch. 544, Sec. 1, eff. Sept. 1, 1973. Amended by Acts 1995, 74th Leg., ch. 262, Sec. 47, eff. May 31, 1995. Renumbered from Family Code Sec. 55.05 and amended by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 1.018, eff. April 2, 2015.

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. [1585](#)), Sec. 13,

eff. September 1, 2023.

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

(1) provided that the child meets the inpatient mental health services or residential intellectual disability services criteria under Section 55.05 or 55.06, order the child placed with the Health and Human Services Commission for a period of not more than 90 days, which order may not specify a shorter period, for placement in a facility designated by the commission;

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

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

(B) 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 and finds that the child does not meet criteria for court-ordered inpatient mental health services or residential intellectual disability services under Section 55.05 or 55.06, 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 90 days, with the possibility of extension as ordered by the court.

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

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

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.019, eff. April 2, 2015.

Acts 2021, 87th Leg., R.S., Ch. 814 (H.B. 2107), Sec. 5, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 14, eff. September 1, 2023.

Sec. 55.53. TRANSPORTATION TO AND FROM FACILITY. (a) If the court issues a placement order under Section 55.52(a)(1) or (2), the court shall order the probation department or sheriff's department to transport the child to the designated facility.

(b) On receipt of a report from a facility to which a child has been transported under Subsection (a), the court shall order the probation department or sheriff's department to transport the child from the facility to the court. If the child is not transported to the court before the 11th day after the date of the court's order, an authorized representative of the facility shall transport the child from the facility to the court.

(c) The county in which the juvenile court is located shall reimburse the facility for the costs incurred in transporting the child to the juvenile court as required by Subsection (b).

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 814 (H.B. 2107), Sec. 6, eff. September 1, 2021.

Sec. 55.54. INFORMATION REQUIRED TO BE SENT TO FACILITY OR

ALTERNATIVE SETTING; REPORT TO COURT. (a) If the juvenile court issues an order under Section 55.52(a), the court shall order the probation department to send copies of any information in the possession of the department and relevant to the issue of the child's mental illness or intellectual disability to the public or private facility or alternative setting, as appropriate.

(b) Not later than the 75th day after the date the court issues an order under Section 55.52(a), the public or private facility or alternative setting, as appropriate, shall submit to the court a report that:

(1) describes the treatment or services provided to the child by the facility or alternative setting; and

(2) states the opinion of the director of the facility or alternative setting as to whether the child is a child with mental illness or an intellectual disability.

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

(d) The court shall send a copy of the report submitted under Subsection (b) to the prosecuting attorney and the attorney for the child.

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.020, eff. April 2, 2015.

Acts 2021, 87th Leg., R.S., Ch. 814 (H.B. 2107), Sec. 7, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 14, eff. September 1, 2023.

Sec. 55.55. REPORT THAT CHILD DOES NOT HAVE MENTAL ILLNESS OR INTELLECTUAL DISABILITY; HEARING ON OBJECTION. (a) If a report submitted under Section 55.54(b) states that a child does not have a mental illness or an intellectual disability, the

juvenile court shall discharge the child unless:

(1) an adjudication hearing was conducted concerning conduct that included a violation of a penal law listed in Section 53.045(a) and a petition was approved by a grand jury under Section 53.045; and

(2) the prosecuting attorney objects in writing not later than the second day after the date the attorney receives a copy of the report under Section 55.54(c).

(b) On objection by the prosecuting attorney under Subsection (a), the juvenile court shall hold a hearing without a jury to determine whether the child is a child with mental illness or an intellectual disability and whether the child meets the criteria for court-ordered mental health services or court-ordered intellectual disability services under Section 55.05 or 55.06.

(c) At the hearing, the burden is on the state to prove by clear and convincing evidence that the child is a child with mental illness or an intellectual disability and that the child meets the criteria for court-ordered mental health services or court-ordered intellectual disability services under Section 55.05 or 55.06.

(d) If, after a hearing, the court finds that the child does not have a mental illness or an intellectual disability and that the child does not meet the criteria for court-ordered treatment services under Section 55.05 or 55.06, the court shall discharge the child.

(e) If, after a hearing, the court finds that the child has a mental illness or an intellectual disability and that the child meets the criteria for court-ordered treatment services under Section 55.05 or 55.06, the court shall issue an appropriate order for court-ordered mental health services or court-ordered intellectual disability services.

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.021, eff. April 2, 2015.

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 15, eff. September 1, 2023.

Sec. 55.56. REPORT THAT CHILD HAS MENTAL ILLNESS; INITIATION OF PROCEEDINGS FOR COURT-ORDERED MENTAL HEALTH SERVICES. If a report submitted under Section 55.54(b) states that a child is a child with mental illness and that the child meets the criteria for court-ordered mental health services under Section 55.05, the director of the public or private facility or alternative setting, as appropriate, shall submit to the court two certificates of medical examination for mental illness, as described by Subchapter A, Chapter 574, Health and Safety Code. On receipt of the certificates, the court shall:

(1) initiate proceedings as provided by Section 55.66 in the juvenile court for court-ordered mental health services for the child under Subtitle C, Title 7, Health and Safety Code; or

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

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 16, eff. September 1, 2023.

Sec. 55.59. REPORT THAT CHILD HAS INTELLECTUAL DISABILITY; INITIATION OF PROCEEDINGS FOR COURT-ORDERED RESIDENTIAL INTELLECTUAL DISABILITY SERVICES. If a report submitted under Section 55.54(b) states that a child is a child with an intellectual disability and that the child meets the criteria for court-ordered residential intellectual disability services under Section 55.06, the director of the residential care facility or alternative setting shall submit to the court an affidavit stating the conclusions reached as a result of the diagnosis. On receipt of an affidavit, the juvenile court shall:

(1) initiate proceedings in the juvenile court as provided by Section 55.67 for court-ordered residential intellectual disability services for the child under Subtitle D,

Title 7, Health and Safety Code; or

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

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.022, eff. April 2, 2015.

Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 17, eff. September 1, 2023.

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

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

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

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

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

(4) appoint physicians necessary to examine the child

and to complete the certificates of medical examination for mental illness required under Section 574.009, Health and Safety Code; and

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

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

(c) After conducting a hearing on an application under this section and with consideration given to the least restrictive appropriate setting for treatment of the child and to the parent's, managing conservator's, or guardian's availability and willingness to participate in the treatment of the child, the juvenile court shall:

(1) if the criteria under Section 55.05(a) or (b) are satisfied, order temporary inpatient or outpatient mental health services for the child under Chapter 574, Health and Safety Code; or

(2) if the criteria under Section 55.05(c) or (d) are satisfied, order extended inpatient or outpatient mental health services for the child under Chapter 574, Health and Safety Code.

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

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

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

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

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

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 582 (S.B. 362), Sec. 3, eff. September 1, 2019.

Transferred, redesignated and amended from Family Code, Section

55.13 by Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 19, eff. September 1, 2023.

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

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

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

(3) identify the person responsible for court-ordered outpatient mental health services at least three days before the date of a hearing that may result in the court ordering the child to receive court-ordered outpatient mental health services, as required by Section 574.0125, Health and Safety Code; and

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

(b) After conducting a hearing under this section and with consideration given to the least restrictive appropriate setting for treatment of the child and to the parent's, managing conservator's, or guardian's availability and willingness to participate in the treatment of the child, the juvenile court shall:

(1) if the criteria for court-ordered mental health services under Section 55.05(a) or (b) are satisfied, order temporary inpatient or outpatient mental health services; or

(2) if the criteria for court-ordered mental health services under Section 55.05(c) or (d) are satisfied, order extended inpatient or outpatient mental health services.

(c) On receipt of the court's order for inpatient mental

health services, the Health and Human Services Commission shall identify a facility and admit the child to the identified facility.

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

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

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

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

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 582 (S.B. 362), Sec. 4, eff. September 1, 2019.

Transferred, redesignated and amended from Family Code, Section 55.38 by Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 20, eff. September 1, 2023.

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

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

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

(b) After conducting a hearing under this section and with consideration given to the least restrictive appropriate setting

for services for the child and to the parent's, managing conservator's, or guardian's availability and willingness to participate in the services for the child, the juvenile court may order residential intellectual disability services for the child if the criteria under Section 55.06 are satisfied.

(c) On receipt of the court's order, the Health and Human Services Commission shall identify a residential care facility and admit the child to the identified facility.

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

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

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

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

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1297, Sec. 30, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.012, eff. April 2, 2015.

Transferred, redesignated and amended from Family Code, Section 55.41 by Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 20, eff. September 1, 2023.

Sec. 55.68. REFERRAL FOR PROCEEDINGS FOR CHILD WITH MENTAL ILLNESS OR CHILD FOUND UNFIT TO PROCEED OR LACKING RESPONSIBILITY FOR CONDUCT DUE TO MENTAL ILLNESS OR INTELLECTUAL DISABILITY.

(a) If the juvenile court refers the child's case to an appropriate court for the initiation of proceedings for court-ordered treatment services under Section 55.12(2), 55.37(2), 55.40(2), 55.56(2), or 55.59(2), the juvenile court shall:

(1) send to the clerk of the court to which the case is referred all papers, including evaluations, examination reports,

court findings, orders, verdicts, judgments, and reports from facilities and alternative settings, relating to:

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

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

(C) the finding that the child was not responsible for the child's conduct, if applicable; and

(2) send to the office of the appropriate county attorney or, if a county attorney is not available, to the office of the appropriate district attorney, copies of all papers sent to the clerk of the court under Subdivision (1).

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

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

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

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

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

Added by Acts 1999, 76th Leg., ch. 1477, Sec. 14, eff. Sept. 1, 1999.

Transferred, redesignated and amended from Family Code, Section 55.14 by Acts 2023, 88th Leg., R.S., Ch. 1166 (S.B. 1585), Sec. 19, eff. September 1, 2023.