

By: Raymond

H.B. No. 539

A BILL TO BE ENTITLED

AN ACT

relating to a physical and mental examination of a child subject to the juvenile justice system.

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

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

(a) At any stage of the proceedings under this title, including when a child is initially detained in a facility operated by the Texas Youth Commission, a pre-adjudication secure detention facility, or a post-adjudication secure correctional facility, the juvenile court may order a child who is referred to the juvenile court or who is alleged by a petition or found to have engaged in delinquent conduct or conduct indicating a need for supervision to be examined by a disinterested expert, including a physician, psychiatrist, or psychologist, qualified by education and clinical training in mental health or mental retardation and experienced in forensic evaluation, to determine whether the child has a mental illness as defined by Section 571.003, Health and Safety Code, ~~or~~ is a person with mental retardation as defined by Section 591.003, Health and Safety Code, or suffers from chemical dependency as defined by Section 464.001, Health and Safety Code. If the examination is to include a determination of the child's fitness to proceed, an expert may be appointed to conduct the examination only if the expert is qualified under Subchapter B, Chapter 46B, Code of

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

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

15 (c) If, while a child is under deferred prosecution
16 supervision or court-ordered probation, a qualified professional
17 determines that the child has a mental illness or mental
18 retardation or suffers from chemical dependency and the child is
19 not currently receiving treatment services for the mental illness,
20 ~~or~~ mental retardation, or chemical dependency, the probation
21 department shall refer the child to the local mental health or
22 mental retardation authority or to another appropriate and legally
23 authorized agency or provider for evaluation and services.

24 (d) A probation department shall report each referral of a
25 child to a local mental health or mental retardation authority or
26 another agency or provider made under Subsection (b) or (c) to the
27 Texas Juvenile Probation Commission in a format specified by the

H.B. No. 539

1 commission.

2 SECTION 2. This Act takes effect September 1, 2009.