



86th Legislative Session

Bill Summaries

Mental Health and Intellectual and Developmental Disability

The 86th Texas Legislature adjourned on May 26, 2019. This session, 10,878 bills were introduced and 4,340 passed. For the third session in a row, the Legislature demonstrated a commitment to changing the mental health landscape in Texas. This paper summarizes sixty-two bills related to mental health and intellectual and developmental disability, with a focus on the criminal justice system. Though intended to be comprehensive, this paper might not contain every bill passed this session related to mental health or intellectual/developmental disabilities (IDD). Additionally, please note that many mandates in the bills summarized are contingent upon funding appropriated by the Legislature.

The staff would like to acknowledge Professor Brian Shannon, with Texas Tech University School of Law, the Meadows Mental Health Policy Institute, the JCMH Collaborative Council, the Texas Health and Human Services Commission, the House Research Organization, and the Senate Research Center for helping to bring this paper to fruition.

H.B. 18

Relating to consideration of the mental health of public school students in training requirements for certain school employees, curriculum requirements, counseling programs, educational programs, state and regional programs and services, and health care services for students and to mental health first aid program training and reporting regarding local mental health authority (LMHA) and school district personnel.

Effective: December 1, 2019

Definitions

H.B. 18 amends Section 5.001 of the Education Code by redefining “mental health condition” and adding a definition of “substance abuse.” As amended, “mental health condition” means a persistent or recurrent pattern of thoughts, feelings, or behaviors that (1) constitutes a mental illness, disease, or disorder, other than or in addition to epilepsy, substance abuse, or an intellectual disability; or (2) impairs a person’s social, emotional, or educational functioning and increases the risk of developing a mental illness, disease, or disorder described above.

Training

The bill adds training on substance use disorders as a requirement for teacher certification under Section 21.044 of the Education Code and requires continuing education for a classroom teacher to include educating students with a mental health condition, intellectual or developmental disabilities and students who engage in substance abuse (Section 21.054 of the Education Code). Continuing education for a principal must now include effective implementation of a comprehensive school counseling program, mental health programs addressing a mental health condition, and educating students with intellectual or developmental disabilities or mental health conditions or who engage in substance abuse.

For school counselors, the bill likewise requires continuing education to include instruction regarding counseling students concerning mental health conditions and substance abuse, including through the use of grief-informed and trauma-informed interventions and crisis management and suicide prevention strategies. Staff training must include training on suicide prevention, recognizing signs of mental health conditions and substance abuse, how grief and trauma affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma.

As amended, suicide prevention programs in newly designated Section 38.351 of the Education Code must provide training for school staff as well as law enforcement officers and social workers who regularly interact with students to assist students in returning to school following treatment of a mental health concern or suicide attempt. A school district must develop procedures to support the student's return and for suicide prevention, intervention, and postvention. New subsection (c) provides that postvention includes activities that promote healing necessary to reduce the risk of suicide by a person affected by the suicide of another. The word "committing" now reads "attempting" suicide in redesignated Section 38.351 of the Education Code.

The bill amends Section 1001.205 of the Health and Safety Code to require LMHAs to include additional information in their annual reports regarding mental health first aid training provided to certain school personnel. New Section 1001.207 of the Health and Safety Code requires the Health and Human Services Commission (HHSC) and the Texas Education Agency (TEA) to make available on their websites information about the mental health first aid program.

Counseling Program

H.B. 18 amends Section 11.252(a) of the Education Code requiring the district improvement plan (mandatory for every school district) to include provisions for evidence-based practices that address the needs of students for special programs, positive behavior interventions and support that integrate best practices on grief-informed and trauma-informed care, and implementation of a comprehensive school counseling program.

A comprehensive school counseling program under Section 33.005 (formerly called a developmental guidance and counseling program) must, as amended, conform to the most recent

edition of the Texas Model for Comprehensive School Counseling Programs developed by the Texas Counseling Association.

Curriculum

H.B. 18 also amends Section 28.002 of the Education Code requiring each school district to offer enrichment curriculum for grades K-12 that includes health with an emphasis on mental health, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making.

Section 38.013 of the Education Code is amended to add mental health education and substance abuse education to the health programs TEA is required to make available to each school district.

Mental Health Education and Services for Students

Section 28.004 of the Education Code is amended to add mental health education to the list of recommendations the local school health advisory council is tasked with providing and adds school counselors as representatives on that council. As amended, Section 28.004 requires the school district's student handbook and website to include a statement on the policies and procedures adopted to promote the physical health and mental health of students, related resources available at each campus, contact information for the nearest LMHA, and whether each campus has a full-time nurse or full-time school counselor.

H.B. 18 adds Section 38.0101 to the Education Code authorizing a school district to employ or contract with one or more nonphysician mental health professionals, defined as (1) a psychologist licensed to practice in Texas and designated as a health-service provider; (2) a registered nurse with a master's or doctoral degree in psychiatric nursing; (3) a licensed clinical social worker; (4) a professional counselor licensed to practice in Texas; or (5) a marriage and family therapist licensed to practice in Texas.

The bill amends Section 38.054 of the Education Code adding treatment for mental health conditions and substance abuse as permissible categories of services provided by a school-based health center.

As amended, Section 38.058 permits an open-enrollment charter school to establish a school-based health center.

New Section 38.0591 of the Education Code (Access to Mental Health Services) requires HHSC and TEA to develop guidelines for school districts regarding partnering with LMHAs or other providers to increase student access to mental health services and obtaining such services through the medical assistance program under Chapter 32 of the Human Resources Code.

Transferring Responsibilities

H.B. 18 transfers Subchapter O-1, Chapter 161 of the Health and Safety Code to Chapter 38 of the Education Code, redesignated as Subchapter G. That subchapter transfers the responsibility of

providing an annual list of recommended programs and practices for early mental health intervention, substance abuse and suicide prevention, and grief- and trauma-informed practices, among other areas, from the Department of State Health Services (DSHS) to TEA in coordination with HHSC. The bill also requires school districts to develop practices and procedures for those areas.

Implementation

The State Board for Educator Certification must propose rules by May 1, 2020, to comply with the bill's requirements. TEA, in cooperation with HHSC, is required to develop guidelines for providing access to mental health services by that date.

By August 1, 2020, TEA, in coordination with HHSC and regional education service centers, must provide a list of recommended best practice-based programs for mental health, substance abuse, and suicide prevention.

H.B. 19

Relating to mental health and substance use resources for certain school districts.

Effective September 1, 2019

One of the findings of Governor Abbott's School and Firearm Safety Action Plan was the importance of mental health first aid training for school staff. The plan also found that while LMHAs have trained some staff in Texas schools in mental health first aid, there are barriers to expanding the number of teachers who can be trained under this program.

To address this problem, H.B. 19 provides a resource for schools that will allow for more school staff to receive mental health first aid training and/or other training to increase awareness and understanding of mental health and co-occurring mental health and substance use disorders.

H.B. 19 adds Subchapter E (Mental Health and Substance Use Resources for School District Personnel) to Chapter 8 of the Education Code.

Section 8.152 requires a LMHA to employ a non-physician mental health professional (this term has the meaning assigned by Section 571.003 of the Health and Safety Code) to serve as a mental health and substance use resource for school districts located in the region served by a regional education service center and in which the LMHA provides services. The bill accounts for regions served by more than one LMHA by requiring the authority that primarily operates in the county in which the center is located to employ the non-physician mental health professional and consult with other LMHAs and the center regarding hiring decisions.

The bill requires the LMHA that employs the non-physician mental health professional and the regional education service center to collaborate in carrying out Subchapter E. Under Section 8.153, it is the responsibility of the center to provide a space for the professional to carry out his or her duties. The LMHA is responsible for paying the center a reasonable, negotiated cost-recovery fee, not to exceed \$15,000 per year unless the LMHA and the center agree to a higher amount. This arrangement must be done through a memorandum of understanding.

Section 8.154 tasks the LMHA that employs the non-physician mental health professional with supervision of the professional with input from the center.

Duties of the professional include working collaboratively with the regional education service center and serving as a resource for the center and school district personnel. This shall be done by helping personnel understand mental health and co-occurring mental health and substance use disorders and by assisting personnel to implement initiatives related to mental health or substance use, interagency memorandums of understanding, and related programs. Other duties under the statute include ensuring personnel are aware of programs and practices recommended under Section 161.325 of the Health and Safety Code; public and private prevention, treatment, and recovery programs available in the school district; and other resources administered by the LMHA or HHSC.

On a monthly basis, the professional will facilitate training on mental health first aid, grief and trauma, and prevention and intervention programs related to alcohol, cigarettes, illegal drugs, or prescription drug abuse. Subchapter E does not require a school district to participate in the training provided by the professional or otherwise use the professional as a resource.

The professional may not treat or provide counseling to any student or provide specific advice to school district personnel regarding a student.

H.B. 19 requires two annual reports. The LMHA must submit a report to HHSC regarding outcomes for school districts and students resulting from services provided by the professional. HHSC shall then compile such information into a report submitted to the Lieutenant Governor.

H.B. 53

Relating to the transitional living services program for certain youth in foster care.

Effective September 1, 2019

Recognizing the importance of young individuals in foster care receiving support that helps prepare them for the transition to adulthood, H.B. 53 expands the experiential life-skills training program. The bill amends Section 264.121 of the Family Code, which requires such training for youth who are 14 or older. Training on mental health services is included among other additions to the training program.

H.B. 253

Relating to a strategic plan to address postpartum depression.

Effective September 1, 2019

H.B. 253 adds Section 32.046 to the Health and Safety Code, requiring HHSC to develop and implement a five-year strategic plan to improve access to postpartum depression screening, referral, treatment, and support services. The bill requires development of the initial strategic plan by September 1, 2020.

H.B. 405

Relating to designating June as Neonatal Abstinence Syndrome Awareness Month.
Effective September 1, 2019

Opioids have become one of the most commonly abused substances in Texas. The increased use of opioids among pregnant women has led to a subsequent increase in the incidence of neonatal abstinence syndrome in Texas. H.B. 405 adds Section 662.112 of the Government Code designating June as Neonatal Abstinence Syndrome Awareness Month to encourage awareness of the dangers of opioid and substance abuse during pregnancy.

H.B. 598

Relating to the use of funds appropriated for the continuing legal education of certain appointed masters, magistrates, referees, and associate judges.
Effective September 1, 2019

H.B. 598 amends Section 56.003 of the Government Code to expressly authorize continuing legal education of part-time judicial officers as a permitted use of the judicial and court personnel training fund, administered by the Court of Criminal Appeals. This includes part-time masters, magistrates, referees, and associate judges appointed pursuant to Chapter 54 or 54A of the Government Code.

H.B. 601

Relating to criminal or juvenile procedures and reporting requirements regarding persons who are or may be persons with a mental illness or an intellectual disability.
Effective September 1, 2019

Interview and Collection of Information

In the 85th Legislative Session (2017), the Legislature passed S.B. 1326 and S.B. 1849, relating to procedures regarding criminal defendants who are or may be persons with a mental illness or an intellectual disability. The Office of Court Administration (OCA) received feedback from court staff and stakeholders regarding confusion with some of the amended language.

The bills contained multiple references to the performance of an “assessment” if there is reasonable cause to believe that a defendant has a mental illness or is a person with IDD. The phrases “collect,” “collection of information,” and “information collected” also were used in the bill. Feedback suggested a single uniform term should be used in place of “assessment” or “collection of information” to convey that a full-blown examination and mental illness or IDD diagnosis is not required. The intent of the bill was to require only an interview to identify potential indicators of mental illness or intellectual disability.

H.B. 601 amends Article 16.22 to clarify that the LMHA, local intellectual and developmental disability authority (LIDDA), or another qualified mental health or intellectual disability expert collecting information, as directed by a magistrate, regarding a defendant’s potential mental illness

or intellectual disability must simply “interview” the defendant and collect related information. Note that added subsection (a-4) allows an interview to be conducted in person in the jail, by telephone, or through a telemedicine medical service or telehealth service.

The bill also removes the reference to the preparation of a “written assessment” and replaces that language with “written report.”

H.B. 601 adds three new sections to Article 16.22 – (a-1), (a-2), and (a-3) – which address reimbursement for an LMHA, LIDDA, or another qualified mental health or IDD expert that conducts an interview or collects information under Article 16.22(a)(1) of the Code of Criminal Procedure. The commissioners court in the county in which the magistrate is located may adopt a fee schedule to pay for such costs, and if so, must consider the accepted reasonable cost in that county of performing such duties. If the commissioners court does not adopt a fee schedule or if the costs of performing the interview and collection of information exceed the amount by the applicable fee schedule, the authority or expert may request the judge with jurisdiction over the underlying offense to determine the reasonable amount for reimbursement. In that instance, the amount may not be less than the amount provided by the fee schedule if there is one. This determination must be made not later than the 45th day after the date the request is made. A hearing is not required. Note that this reimbursement is in addition to the reimbursement required under current law in Article 16.22(a)(1)(B)(3).

The bill adds a “service provider that contracts with the jail to provide mental health or intellectual and developmental disability services” to (1) the list of who the magistrate shall order to interview a defendant believed to have a mental illness or IDD in Article 16.22(a)(1) or could have already performed an interview under 16.22(a)(1)(B)(2) and (2) the list of who a defendant could have been examined by in Article 17.032(b)(2) necessitating release on personal bond unless good cause is shown and who can recommend outpatient or inpatient mental health or IDD services under 17.032(c).

Additionally, the bill amends 17.032 to allow magistrates to order “services” in addition to treatment; services are likewise considered in setting conditions of release on personal bond.

Rules and Reporting

The bill tasks the Texas Judicial Council with adopting rules to require the reporting of the number of written reports (formerly called assessments) provided to a court under 16.22(a)(1)(B). The rules must require submission of the reports to OCA on a monthly basis.

New subsection 42.09(a)(13) requires a copy of any mental health records, mental health screening reports, or similar information to accompany a defendant transferred by a county to the Texas Department of Criminal Justice (TDCJ). See also, S.B. 562. The bill amends subsection 42.09(c) requiring a written report provided to a court under Article 16.22(a)(1)(B) to be delivered to TDCJ as well. (This collection of information is commonly referred to as a pen packet.)

Stakeholders also identified the lack of express authority for the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) to promulgate the “written

assessment” form that is supposed to be used for the intake of criminal defendants and the lack of legal confidentiality of this form to protect sensitive medical information. H.B. 601 amends Section 614.0032 of the Health and Safety Code providing that TCOOMMI shall approve and make generally available in electronic format a standard form for use by a person providing a written report under Article 16.22(a)(1)(B) of the Code of Criminal Procedure. The heading of that section, as amended, is Special Duties Related to Medically Recommended Supervision; Determinations Regarding Mental Illness or Intellectual Disability (Determinations Regarding Competency or Fitness to Proceed under current law).

Under new subsection Article 16.22(f), a written report submitted to a magistrate is confidential and not subject to disclosure under Chapter 552 of the Government Code but may be used or disclosed as provided by Article 16.22.

H.B. 601 also adds “developmental disability” to accompany various references to mental illness and intellectual disability in Articles 16.22 and 17.032 of the Code of Criminal Procedure. Section 511.0085 of the Government Code, as amended, includes a reference to intellectual disability in addition to mental illness as it relates to compliance by the jail regarding screening and assessment protocols for early identification.

Other amendments made by H.B. 601 to Chapters 46B and 46C of the Code of Criminal Procedure are identical to those made in S.B. 562. See the summary for that bill for a discussion of those amendments.

H.B. 650

Relating to inmates of the Texas Department of Criminal Justice.
Effective September 1, 2019

Mental Health and Female Inmates

H.B. 650 adds Section 493.032 to the Government Code requiring TDCJ to provide training relating to medical and mental health care issues applicable to pregnant inmates. This training is required for each correctional officer employed by TDCJ at a facility in which female inmates are confined and any other department employee whose duties involve contact with pregnant inmates. The content of such training must include appropriate care for pregnant inmates and the impact on a pregnant inmate and the inmate’s unborn child of the use of restraints, placement in administrative segregation, and invasive searches.

New section 501.0215 of the Government Code requires TDCJ to develop and provide to each pregnant inmate educational programming relating to pregnancy and parenting that must include, among other things, medical and mental health issues applicable to children.

As added, Section 501.070 requires TDCJ to screen each female inmate during the diagnostic process to determine whether the inmate has experience adverse childhood experiences or other significant trauma and refer the inmate as needed to the appropriate medical or mental health care professional for treatment.

Other Amendments Related to Pregnant Inmates

H.B. 650 adds Section 501.026 of the Government Code requiring TDCJ to adopt a policy regarding a search of any room or other area that occurs while a female inmate who is not fully clothed is present in the room or area. Such policy must require the search to be conducted by a female correctional officer if available, include staffing procedures to ensure the availability of female officers, and require a written report to the warden explaining the reasons for a search by a male officer if it is necessary for a male officer to conduct the search.

Regarding restraints, Section 501.066 is amended to prohibit placing restraints around the ankles, legs, or waist of a pregnant woman in TDCJ custody at any time after the woman's pregnancy has been confirmed by a medical professional unless there is a determination that the use of restraints is necessary based on a reasonable belief that the woman will harm herself, her unborn child or infant, or any other person or will attempt escape.

New Section 501.0665 of the Government Code requires any invasive body cavity search of a pregnant inmate to be conducted by a medical professional unless a correctional officer has a reasonable belief that the inmate is concealing contraband. In that case, a correctional officer may conduct such a search, but must submit a written report to the warden not later than 72 hours after the search explaining the reasons for the search and identifying any contraband recovered in the search.

As added, Section 501.0666 of the Government Code requires TDCJ to ensure that pregnant inmates are provided sufficient food and dietary supplements, including prenatal vitamins, as ordered by an appropriate medical professional. New Section 501.0667 requires TDCJ to allow an infant to remain with the inmate for a period of 72 hours after birth, unless a medical professional determines doing so would pose a health or safety risk to the inmate or infant. That section also requires access to any nutritional or hygiene-related products necessary to care for the infant, including diapers. Such items must be made available free of charge to an indigent inmate. TDCJ must, under new Section 501.0675, provide up to 10 feminine hygiene products (as defined by the statute) per day upon the request of a female inmate.

Under new Section 501.114, TDCJ may not place in administrative segregation an inmate who is pregnant or who gave birth during the preceding 30 days unless determined necessary based on a reasonable belief that the inmate will harm herself, her unborn child or infant, or any other person or will attempt escape. TDCJ may not assign a pregnant inmate to any bed that is elevated more than three feet above the floor.

Mandated Study of Visitation Policies

The bill also mandates TDCJ to conduct a study of the effect of the department's visitation policies under Sections 501.010 (Visitors) and 507.030 (Visitation) of the Government Code on the relationships between inmates or defendants and their children. TDCJ must review visitation practices that enhance parental bonding and age-appropriate visitation activities for children that enhance cognitive motor skills. TDCJ must also consider implementing policy changes to

strengthen the relationships between inmates or defendants and their children. The bill mandates a report of the study results no later than December 31, 2020.

H.B. 696

Relating to employment and referral services for veterans and military service members.

Effective June 10, 2019

H.B. 696 adds Section 302.00335 to the Labor Code tasking the Texas Workforce Commission (TWC), in consultation with the Texas Veterans Commission, to establish the Texas Veterans Leadership Program. The mission of the program is to serve as a resource and referral network connecting veterans with the resources and tools they need to lead productive lives and enjoy the full benefits of the society they have willingly served. The program must employ veterans to serve as veteran resource and referral specialists, who must, among other things, make referrals and coordinate with other programs and agencies that provide services for veterans relating to mental health and counseling.

The bill also adds Section 302.0033 requiring TWC to establish and administer the Operation Welcome Home program to expedite the entry of veterans and military service members into the workforce through the use of enhanced employment services.

H.B. 833

Relating to the creation of a statewide alert system for missing military members.

Effective September 1, 2019

Nearly one in four active duty members showed signs of a mental health condition, according to a 2014 study in JAMA Psychiatry, published by the American Medical Association. The conditions may include post-traumatic stress disorder (PTSD), depression, and numerous other diagnoses. Symptoms of severe PTSD are associated with disappearance and suicide.

Over the last few years, a number of military personnel struggling with mental illnesses have disappeared in the U.S. In such cases, the missing individuals are often in need of immediate medical care of mental health services. Military personnel in these episodes may be a danger to themselves. Unfortunately, families have found themselves leading the search for their loved ones without immediate help from local and state law enforcement officials.

H.B. 833 adds Subchapter Q to Chapter 411 of the Government Code (Camo Alert for Missing Military Members), creating a system for locating missing military members who suffer from a mental illness, including PTSD or a traumatic brain injury.

The bill tasks the Department of Public Safety (DPS), with the cooperation of the Texas Department of Transportation, the Office of the Governor, and other law enforcement agencies in the state, to develop and implement a statewide system which could be activated on behalf of members who elect to participate.

If a law enforcement agency receives a report regarding a missing military member who is determined to be a participant in the alert system, the agency shall notify DPS. Prior to such

notification, the agency shall, as soon as practicable, verify that at the time the person is reported missing, he or she is a military member, the member's location is unknown, and the member suffers from a mental illness, and determine that the member's disappearance poses a credible threat to the member's health and safety or the health and safety of another. The agency shall require the family or legal guardian of the member to provide documentation of the illness or injury.

After notification from a law enforcement agency, DPS shall confirm the accuracy of the information and, if confirmed, immediately issue an alert.

The bill also provides required content of the alert in Section 411.468 and direction regarding termination of the alert in Section 411.469.

Subchapter Q expires September 1, 2023.

H.B. 906

Relating to the establishment of a collaborative task force to study certain public school mental health services.

Effective June 14, 2019

H.B. 906 adds Subchapter F (Collaborative Task Force on Public School Mental Health Services) to Chapter 38 of the Education Code. The purpose of the task force is to study and evaluate (1) mental health services funded by the state and provided at a school district or open-enrollment charter school directly to enrolled students, their parents, or district/school employees; (2) training provided to educators employed by the district/school to provide such mental health services; and (3) the impact the mental health services have on violent incidents at schools, the suicide rate of individuals provided such services, the number of referrals to the Department of Family and Protective Services (DFPS) and the reasons for those referrals, the number of individuals transported from each district/school for an emergency detention under Chapter 573 of the Health and Safety Code, and the number of public school students referred to outside counselors under Section 38.010 of the Education Code.

Duties of the task force under Section 38.308 of the Education Code include making recommendations regarding mental health services provided to students, parents, and employees and addressing outcomes and effectiveness of the services and training provided.

The bill also addresses task force membership, officers, compensation, reimbursement, meetings, support services for the task force, privacy of information, reports, and funding.

H.B. 965

Relating to updating references to certain former health services state agencies and certain terms used to describe persons with intellectual or developmental disabilities in the Education Code.

Effective September 1, 2019

H.B. 965 amends the Education Code to align its language with people-first respectful language regarding persons with disabilities and to update the names of state health agencies listed in the code.

H.B. 1051

Relating to an adult education program provided under an adult high school diploma and industry certification charter school program and reporting requirements regarding certain students.

Effective June 14, 2019

H.B. 1051 modifies the adult charter school program by, among other things, amending Section 29.259 of the Education Code requiring the program to provide support services including mental health counseling.

H.B. 1070

Relating to the mental health first aid training program reporting requirements.

Effective December 1, 2019

HHSC compiles and issues a report from information collected by LMHAs regarding mental health first aid training program attendance. H.B. 1070 amends Section 1001.205 of the Health and Safety Code to add number of trainers who left the program and the number of active trainers as information required to be provided to HHSC by the LMHAs and reported to the Legislature by HHSC. The bill also requires the number of university employees, school district employees, and school resource officers who completed the program to be categorized by LMHA region, university or school district, as applicable, and category of personnel. In addition, HHSC must provide a detailed accounting of expenditures of money appropriated for the purpose of implementing Chapter 1001. HHSC must also develop and provide to LMHAs a form to be used for reporting to HHSC the information required by the statute.

H.B. 1501

Relating to the creation of the Texas Behavioral Health Executive Council and to the continuation and transfer of the regulation of psychologists, marriage and family therapists, professional counselors, and social workers to the Texas Behavioral Health Executive Council; providing civil and administrative penalties; authorizing a fee.

Effective September 1, 2019

H.B. 1501 adds Chapter 507 to the Occupations Code creating the Texas Behavioral Health Executive Council (BHEC) by consolidating the Texas State Board of Examiners of Marriage and Family Therapists, Texas State Board of Examiners of Professional Counselors, and Texas State Board of Social Worker Examiners with the Texas State Board of Examiners of Psychologists.

The bill transfers to the BHEC the authority to administer examinations, issue licenses, set fees, and take disciplinary action against individuals who violated rules or provisions from the boards regulating psychologists, marriage and family therapists, licensed professional counselors, and social workers.

Amendments to Chapter 501 of the Occupations Code (Psychologists) and Chapter 502 (Marriage and Family Therapists) change licensing requirements for both those professions.

The bill also adds Subchapter L to Chapter 501 adopting the Psychology Interjurisdictional Compact (PSYPACT). Among other things, the Compact is designed to increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state which the psychologist is not licensed to practice psychology.

H.B. 2184

Relating to a public school student's transition from an alternative education program to a regular classroom.

Effective June 10, 2019

In 2017, over 800 juveniles were admitted to the juvenile justice system in Texas. As these youth are released from juvenile justice facilities and are asked to reenter a typical school environment, these students often face unintentional barriers to their transition back to everyday life.

H.B. 2184 adds Section 37.023 to the Education Code providing, among other things, that the campus administrator shall coordinate the student's transition to a regular classroom, including developing a personalized transition plan. That plan may include recommendations for assistance in obtaining access to mental health services.

H.B. 2454

Relating to continuing education requirements for certain health professionals regarding pain management and the prescribing of opioids.

Effective September 1, 2019

H.B. 2454 amends relevant sections of the Occupations Code requiring licensed physicians who submit an application for renewal of a license that designates a direct patient care practice, registered nurses and physician assistants who have entered into a prescriptive authority agreement authorizing the prescribing of opioids, and licensed dentists whose practice includes direct patient care to complete not less than two hours of respective continuing education regarding safe and effective pain management related to the prescription of opioids and other controlled substances.

See also, H.B. 2174 for related amendments.

H.B. 2737

Relating to judicial guidance related to child protective services cases and juvenile cases.

Effective September 1, 2019

H.B. 2737 adds Section 22.0135 to the Government Code requiring the Supreme Court of Texas, in conjunction with the Supreme Court of Texas Permanent Judicial Commission for Children, Youth, and Families, to provide guidance to judges who preside over child protective services

cases or juvenile cases to establish greater uniformity across the state regarding, among other things, placement of children with severe mental health issues. The Court must adopt rules to implement the bill.

H.B. 2764

Relating to minimum standards and caregiver training for substitute care providers for children in the conservatorship of the Department of Family and Protective Services.

Effective September 1, 2019

H.B. 2764 amends Section 42.042 of the Human Resources Code requiring DFPS to create and implement a process to simplify, streamline, and provide for greater flexibility in the application of the minimum standards to licensed child-placing agencies, agency foster homes, and adoptive homes with the goal of increasing the number of foster and adoptive homes in this state.

The bill requires DFPS to grant each child-placing agency and each single source continuum contractor the authority to waive certain minimum standards related to preservice training, annual training, or other requirements that are not directly related to caring for the child for (1) the child's foster or prospective adoptive parent; or (2) foster homes that have no citations or violations reported to the commission.

Under amended Section 42.0537, training for potential caregivers is limited to 35 hours, except for cases in which the child had complex medical needs, emotional disorders, intellectual or developmental disabilities, was a victim of human trafficking, or any other situation as determined by DFPS. The department may require additional training, as appropriate.

The bill authorizes a child-placing agency to issue a provisional verification to a prospective foster caregiver while the caregiver completes the training.

H.B. 2783

Relating to the establishment of the Pediatric Acute-Onset Neuropsychiatric Syndrome Advisory Council.

Effective September 1, 2019

Pediatric acute-onset neuropsychiatric syndrome is a condition characterized by the sudden onset of neuropsychiatric symptoms such as obsessive-compulsive behaviors or severe eating restrictions. This condition can often go undetected or unreported or be misdiagnosed or dismissed by physicians. H.B. 2783 adds Chapter 119A of the Health and Safety Code establishing the Pediatric Acute-Onset Neuropsychiatric Syndrome Advisory Council. The bill requires an annual report to the Governor, Legislature, and HHSC that includes recommendations on practice guidelines for diagnosis and treatment, increasing clinical awareness and education, strategies for outreach to educators and parents, and developing a network of volunteer experts.

H.B. 2813

Relating to the statewide behavioral health coordinating council.

Effective June 10, 2019

In 2015, H.B. 1, the General Appropriations Act for fiscal years 2016-2017 created the Texas Statewide Behavioral Health Coordinating Council, which is made up of state agencies that were appropriated funds for mental and behavioral health services. The main objectives of the council are to develop a statewide five-year strategic plan for mental and behavioral health and to create a statewide expenditure proposal. The council was continued by the 85th Legislature through SB 1, the general appropriations act for fiscal years 2018-2019.

H.B. 2813 codifies the council in Subchapter M-1 of Chapter 531 of the Government Code. Under Section 531.473, the council is composed of at least one representative designated by:

- the Governor's Office;
- the Texas Veterans Commission;
- HHSC;
- the Department of State Health Services;
- the Department of Family and Protective Services;
- the Texas Civil Commitment Office;
- The University of Texas Health Science Center at Houston;
- The University of Texas Health Science Center at Tyler;
- the Texas Tech University Health Sciences Center;
- the Texas Department of Criminal Justice;
- the Texas Correctional Office on Offenders with Medical or Mental Impairments;
- the Commission on Jail Standards;
- the Texas Indigent Defense Commission;
- the court of criminal appeals;
- the Texas Juvenile Justice Department;
- the Texas Military Department;
- the Texas Education Agency;
- the Texas Workforce Commission;
- the Health Professions Council, representing:
 - the State Board of Dental Examiners;
 - the Texas State Board of Pharmacy;
 - the State Board of Veterinary Medical Examiners;
 - the Texas Optometry Board;
 - the Texas Board of Nursing; and
 - the Texas Medical Board; and
- the Texas Department of Housing and Community Affairs.

The executive commissioner must determine the number of representatives that each entity may designate to serve on the council.

H.B. 2955

Relating to oversight of specialty court programs.

Effective September 1, 2019

The nearly 200 specialty courts throughout Texas, including DWI courts, drug courts, veteran courts, and mental health courts, play an important role in our judicial system. Under current law, Section 121.002 of the Government Code prohibits a specialty court program from operating until the program's judge, magistrate, or coordinator provides the Office of the Governor's Criminal Justice Division with certain information (i.e., notice of the program, the resolution establishing the program, and the strategic plan related to supervision of the program). Section 121.002 also requires programs to comply with certain best practices recommended by the Specialty Courts Advisory Council and approved by the Texas Judicial Council, in addition to reporting information related to the performance of the program to the Criminal Justice Division.

To coordinate oversight of specialty courts, H.B. 2955 amends Section 121.002 to require programs to provide information related to the program (notice, resolution, and strategic plan) to OCA instead of the Criminal Justice Division. New subsection (f) requires OCA to (1) provide technical assistance to the programs on request, (2) coordinate with an entity funded by the Criminal Justice Division that provides services to specialty court programs, (3) monitor compliance of the programs, and (4) notify the Criminal Justice Division about each program that is not in compliance with the best practices required by Subsection 121.002(d)(1).

H.B. 2955 requires specialty court programs to report to the Criminal Justice Division and the Texas Judicial Council regarding the performance of the program. On request of the Criminal Justice Division, OCA must also provide information to the division.

H.B. 3116

Relating to the establishment of a task force to conduct a comprehensive study on best practice standards for the detention of persons with intellectual and developmental disabilities.

Effective September 1, 2019

According to the Senate Research Center, individuals with IDD make up approximately two percent of the general population, yet they represent as much as 10 percent of the jail and prison population. Additionally, people with IDD are more likely than their similarly situated, non-disabled peers to be arrested, convicted, incarcerated, and serve longer sentences without equal opportunity for probation or parole.

H.B. 3116 establishes a task force to conduct a comprehensive study on best practice standards for the detention of a person with IDD. The study must identify and make recommendations regarding: (1) current policies and procedures; (2) barriers to accommodations and justice; (3) best practices used in other states; (4) policies that would improve jail standards; and (5) any other issue the task force considers appropriate.

The members of the task force will be appointed by the Commission on Jail Standards, and must include at least one representative of the commission, a statewide organization that advocates for individuals with IDD, a city or county governmental agency that supports persons with IDD, a city or county governmental agency that provides mental health services, a statewide organization that represents municipalities, a statewide organization that represents corrections professionals, a law enforcement entity, and a county jail. Not later than December 1, 2020, the task force must submit

a report that describes the activities of the task force, the findings and recommendations, a plan for implementation of identified best practices, and any proposals for legislation.

H.B. 3117

Relating to developing the proposed plan on long-term care for persons with an intellectual disability.

Effective June 14, 2019

H.B. 3117 amends Section 533A.062 of the Health and Safety Code requiring HHSC, as part of the proposed plan on long-term care for persons with an intellectual disability, to review the statewide bed capacity of community ICF-IID facilities for individuals with an intellectual disability or a related condition and, based on the review, develop a process to reallocate beds held in suspension by the commission.

H.B. 3284

Relating to the prescribing and dispensing of controlled substances under the Texas Controlled Substances Act; authorizing a fee; providing for administrative penalties; creating criminal offenses.

Effective September 1, 2019

Chapter 481 of the Health and Safety Code establishes the Texas Controlled Substance Act, which regulates prescription and dispensing of certain controlled substances and the Prescription Monitoring Program. To address the increase in prescription drug abuse, including opioids, H.B. 3284 adds Section 481.0755 to the Health and Safety Code prohibiting written, oral, or telephonically communicated prescriptions for a controlled substance and requiring individuals that prescribe or dispense a controlled substance, with exceptions, to use the electronic prescription record.

H.B. 3284 also amends Section 481.076 prohibiting access to certain information submitted to the Texas State Board of Pharmacy. Section 481.0767, as amended, creates an advisory committee to make recommendations regarding information submitted to the Board and access to that information.

The bill provides an administrative penalty for noncompliance with the bill's provisions and creates an offense if a person knowingly possesses a controlled substance by using a fraudulent electronic prescription (Section 481.129 of the Health and Safety Code).

H.B. 3285

Relating to programs and initiatives to prevent and respond to opioid addiction, misuse, abuse, and overdose and identify and treat co-occurring substance use disorders and mental illness.

Effective September 1, 2019

H.B. 3285 enacts programs and initiatives to prevent opioid addiction, misuse, and abuse. Those programs and initiatives are as follows.

HHSC

The bill tasks the executive commissioner of HHSC with ensuring that data is collected by HHSC regarding opioid overdose deaths and the co-occurrence of substance use disorders and mental illness (see new Subchapter K of Chapter 1001 of the Health and Safety Code). In analyzing the data, HHSC shall evaluate the capacity in this state for the treatment of co-occurring substance use disorders and mental illness.

H.B. 3285 requires the executive commissioner of HHSC to establish, by rule, a program to increase opportunities and expand access to telehealth treatment for substance use disorders in Texas (new Section 531.02253 of the Government Code). As added by Section 461A.058 of the Health and Safety Code, the executive commissioner shall also, by rule, develop a statewide public awareness campaign to deliver public service announcements that explain and clarify certain risks related to opioid misuse. HHSC will operate the campaign. Similarly, the bill tasks the executive commissioner with operating a program to provide opioid antagonists to emergency medical services personnel, first responders, public schools, community centers, and other persons likely to be in a position to respond to an opioid overdose.

HHSC must, with exceptions, provide medical assistance reimbursement for medication-assisted opioid or substance use disorder treatment without requiring prior authorization or precertification for the treatment, as added by Section 32.03115 of the Occupations Code.

H.B. 3285 adds Chapter 109 of the Health and Safety Code requiring the Statewide Behavioral Health Coordinating Council to incorporate strategies regarding substance abuse issues into the statewide behavioral health strategic plan.

Institutes of Higher Education

The bill adds Section 51.9362 to the Education Code requiring a public or private institution of higher education that imposes mandatory training requirements for residential advisors or officers of student organizations to ensure that overdose awareness and appropriate response training is included with that training.

New Section 61.08205 requires the Texas Higher Education Coordinating Board to encourage health-related institutions to conduct research regarding substance use disorders and addiction issues involving prescription drugs.

Office of the Governor

As added, Section 772.0078 of the Government Code tasks the Office of the Governor's Criminal Justice Division with establishing a grant program to provide financial assistance to a law enforcement agency in this state that seeks to provide opioid antagonists to peace officers, evidence technicians, and related personnel who, in the course of performing their duties, are likely to come

into contact with opioids or encounter persons suffering from an apparent opioid-related drug overdose.

Texas Board of Pharmacy

The bill adds Section 554.018 of the Occupations Code requiring the Texas State Board of Pharmacy to encourage pharmacists to participate in a program that provided a comprehensive approach to early intervention and treatment services for persons with and at risk of developing substance use disorders, such as programs promoted by SAMHSA.

As amended, Section 481.0764 of the Health and Safety Code requires a prescriber or dispenser whose practice includes the prescription or dispensation of opioids to annually attend at least one hour of continuing education covering best practices, alternative treatment options, and multi-modal approaches to pain management that may include physical therapy, psychotherapy, and other treatments. The board shall adopt rules to establish the content of such continuing education.

H.B. 3540

Relating to the authority of a peace officer to release in lieu of arrest certain persons with an intellectual or developmental disability.

Effective September 1, 2019

H.B. 3540 adds Article 14.035 of the Code of Criminal Procedure authorizing a peace officer to, in lieu of arrest, release a person with IDD who resides at a group home or an ICF-IID at the person's residence. The officer may release if the officer believes confinement of the person in a correctional facility is unnecessary to protect the person and the other persons who reside at the residence and the officer made reasonable efforts to consult with the staff at the person's residence and with the person regarding that decision.

Neither a peace officer nor the officer's employer may be held liable for damage to persons or property that results from the actions of a person released under Article 14.035(b).

H.B. 3630

Relating to prohibiting the use of certain aversive techniques on students enrolled in public schools.

Effective June 14, 2019

Texas educators are trained to employ a variety of techniques to redirect student behavior, including in situations where a student's safety is threatened. While certain emergency interventions have their place in protecting the safety of students, extreme aversive techniques—behavioral interventions that aim to use negative stimuli to stop or deter a behavior—can cause severe physical, mental, and emotional harm to students and should never be used. According to the Senate Research Center, reported instances of extreme interventions occur, though not in the vast majority of schools.

H.B. 3630 adds Section 37.0023 of the Education Code prohibiting a school district or school district employee, volunteer, or independent contractor from applying an aversive technique or causing one to be applied to a student. The new statute defines “aversive technique” as a technique or intervention that is intended to reduce the likelihood of a behavior reoccurring by intentionally inflicting on a student significant physical or emotional discomfort or pain. It also lists examples, such as releasing noxious, toxic, or otherwise unpleasant spray or denying adequate sleep, air, food, water, shelter, or access to a restroom.

See also, S.B. 712, which has almost identical language.

H.B. 3980

Relating to a requirement that the Statewide Behavioral Health Coordinating Council prepare a report regarding suicide rates in this state and state efforts to prevent suicides.

Effective June 14, 2019

H.B. 3980 requires HHSC and DSHS to prepare a summary report on the prevalence of suicide in Texas and state policies and programs adopted across state systems and agencies to prevent suicides and provide the report no later than May 1, 2020 to the Statewide Behavioral Health Coordinating Council, the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and each standing legislative committee with primary jurisdiction over health and mental health.

Using the summary report and with stakeholder input, the Statewide Behavioral Health Coordinating Council must prepare a legislative report on suicide in Texas that identifies opportunities and makes recommendations to improve data collection and decrease suicide in Texas. The council must establish a stakeholder workgroup to assist member agencies in preparing the report. The report is due to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and each standing legislative committee with primary jurisdiction over health and mental health by November 1, 2020.

H.B. 4170

Relating to nonsubstantive additions to, revisions of, and corrections in enacted codes, to the nonsubstantive codification or disposition of various laws omitted from enacted codes, and to conforming codifications enacted by the 85th Legislature to other Acts of that Legislature.

Effective September 1, 2019

Of the various codes amended, H.B. 4170 reenacts Article 16.22(a) of the Code of Criminal Procedure as amended by S.B. 1326 and S.B. 1874 (Sandra Bland Act) in the 85th Legislature and amends Article 18.01 of the Code of Criminal Procedure to correct references.

H.B. 4298

Relating to the licensing of satellite offices of outpatient chemical dependency care facilities.

Effective September 1, 2019

Current law requires each facility providing or offering chemical dependency treatment to have a license for each physical location at which it provides residential or outpatient services. This is not economically feasible for some rural areas.

H.B. 4298 amends Section 464.003 of the Health and Safety Code, which is the list of facilities exempt from the subchapter regulating chemical dependency treatment facilities, adding to the list a satellite office or location in which the person providing services is operating under the supervision of a licensed outpatient care facility and the services delivered at the satellite site fall within the scope of the licensure of the outpatient care facility.

H.B. 4429

Relating to mental health first aid training for veterans and immediate family members of veterans.
Effective September 1, 2019

H.B. 4429 amends Section 434.352 of the Government Code requiring the Texas Veterans Commission to coordinate local delivery of mental health first aid training to veterans and immediate family members. Amended Section 1001.205 of the Health and Safety Code requires LMHAs to report to DSHS the number of veterans and immediate family members who completed the veterans module of a mental health first aid training program offered by the LMHA during the preceding fiscal year. DSHS must compile that information and report to the Legislature.

The bill also amends Section 1001.222 of the Health and Safety Code adding coordination of mental health first aid for veterans training to the mental health intervention program for veterans.

H.B. 4455

Relating to the provision of mental health services through a telemedicine medical service or telehealth service.

Effective September 1, 2019

H.B. 4455 adds Chapter 113 to the Occupations Code (Mental Health Telemedicine and Telehealth Services) permitting a health professional to provide a mental health service that is within the scope of the professional's license, certification, or authorization through the use of a telemedicine medical service or a telehealth service to a patient who is located outside of this state, subject to any applicable regulation of the jurisdiction in which the patient is located.

H.B. 4468

Relating to county jails and community mental health programs in certain counties.

Effective September 1, 2019

Current law requires the jail to give inmates the ability to access a mental health professional at the jail or through a telemental health service 24 hours a day. H.B. 4468 amends Section 511.009 of the Government Code requiring the Commission on Jail Standards to require the jail to use all reasonable efforts to arrange for an inmate to have access to a mental health professional within a reasonable time if a mental health professional is not at the county jail at the time the inmate needs

access. The bill tasks the commission with updating rules and procedures to comply with this amendment.

The commission, under current law, must report noncompliance of a county jail to the county commissioners and the sheriff of the county responsible for the jail as well as to the Governor. H.B. 4468 additionally requires the commission to review the compliance status of a facility operated by a private entity if issued a notice of noncompliance (Subsection 511.011(b) of the Government Code).

H.B. 4468 amends Section 1701.310 of the Occupations Code requiring a county jailer appointed on a temporary basis to be enrolled in the preparatory training program on or before the 90th day after their temporary appointment. The bill removes the exception related to temporary appointments not being permitted to be renewed. A temporary county jailer may not be promoted to a supervisory position in a county jail under amended Section 1701.310.

As amended, Section 539.002 of the Government Code allows DSHS to award a grant to an entity for the purpose of establishing a community mental health program in a county with a population of less than 250,000, if the entity leverages additional funding from private sources in an amount equal to one-quarter of the amount of the grant to be awarded, and the entity otherwise meets requirements.

H.B. 4533

Relating to the administration and operation of Medicaid, including Medicaid managed care and the delivery of Medicaid acute care services and long-term services and supports to certain persons.
Effective September 1, 2019

H.B. 4533 implements a pilot program to determine the best method and approach for carving long-term Medicaid services into a managed care model for persons with IDD or similar functional needs.

The bill tasks HHSC with implementation rather than a joint effort by HHSC and DSHS. Among the amendments to Chapter 534 of the Government Code (System Redesign for Delivery of Medicaid Acute Care Services and Long-Term Services and Supports to Persons with an Intellectual or Developmental Disability), H.B. 4533 requires the executive commissioner, in consultation with the advisory committee, to establish a pilot program workgroup to provide assistance in developing and advice concerning the operation of the pilot program.

Section 534.104 of the Government Code, as amended, details the pilot program design addressing innovative technologies, person-centered plans, the consumer direction model, alternatives to guardianship, privacy, housing, and payments.

The bill adds Section 534.1045 requiring HHSC to ensure that a managed care organization participating in the pilot program provides certain benefits.

Also, among the bill's mandates are informational materials for potential participants and collection of information for an evaluation and report.

New Section 534.251 permits HHSC to delay implementation of a provision of Chapter 534 if HHSC determines the provision adversely affects the system of services and supports to persons and programs to which the chapter applies.

H.B. 4559

Relating to access to a county jail prisoner's health benefits coverage information for mental health service providers.

Effective September 1, 2019

H.B. 4559 adds Section 511.0098 of the Government Code requiring the Commission on Jail Standards to adopt procedures for collection of certain health coverage information by LMHAs or other mental health services provider providing services to a prisoner in a county jail under a contract with the county. A LMHA or other mental health services provider who provides mental health services to a prisoner under a contract with a county may arrange for the issuer of the health insurance policy or other health benefits coverage to pay for those services.

S.B. 11

Relating to policies, procedures, and measures for school safety and mental health promotion in public schools and the creation of the Texas Child Mental Health Care Consortium.

Effective June 6, 2019

Appointment of the Senate Select Committee on Violence in Schools and School Security followed the tragedy that occurred at Santa Fe High School. The committee studied methods to reduce the likelihood of school violence and reduce security threats, harden facilities, and facilitate mental health resources to schools.

This summary covers the bill's amendments related to mental health. Other amendments extensively address school safety, which are outside the scope of this paper.

S.B. 11 amends Section 28.002 of the Education Code adding mental health as a required curriculum for grades K-12, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, responsible decision-making, and suicide prevention, including recognizing suicide-related risk factors and warning signs. Amended Section 161.325 of the Health and Safety Code permits a school district to provide educational material to all parents and families in the district that contains information on identifying risk factors, accessing resources for treatment or support provided on and off campus, and accessing available student accommodations provided on campus.

The bill adds to the duties of the local school health advisory council in Section 28.004 of the Education Code, specifically strategies to increase parental awareness regarding mental health disorders and substance use disorders and available community programs and services to address suicide risks and behavioral health concerns. The local school health advisory council must also make policy recommendations to the district to increase parental awareness of suicide-related risk factors and warning signs and available community suicide prevention services.

New Section 37.115 of the Education Code requires the board of trustees of each school district to establish a threat assessment and safe and supportive school team to serve at each campus of the district. The superintendent of the district must ensure the members of such teams have expertise in, among other things, counseling, behavior management, mental health and substance abuse, and special education. Each team must conduct a threat assessment that includes gathering and analyzing data to determine the level of risk and appropriate intervention, such as referring a student for a mental health assessment.

S.B. 11 adds Subchapter F to Chapter 38 of the Education Code (Mental Health Resources). Under that new subchapter, TEA must develop, in conjunction with other state agencies, a rubric for use by regional education service centers in identifying resources related to student mental health that are available to schools and a list of statewide resources available to school districts to address the mental health of students. TEA must also develop a statewide plan to ensure all students have access to adequate mental health resources.

New Section 42.168 requires provision of a school safety allotment to school districts to be used to improve school safety and security, including costs associated with, among other things, providing mental health personnel and support and behavioral health services as well as programs related to suicide prevention, intervention, and postvention. Note that H.B. 1 appropriated \$100 million over the biennium to fund this allotment.

The bill also adds Chapter 113 of the Health and Safety Code establishing the Texas Child Mental Health Care Consortium to enhance the state's ability to address mental health care needs of children and adolescents through collaboration of Texas medical schools, HHSC, the Texas Higher Education Coordinating Board (to which the consortium is administratively attached), and nonprofit organizations focused on mental health. The consortium must establish a network of comprehensive child psychiatry access centers and telemedicine/telehealth programs for identifying and assessing behavioral health needs and providing access to mental health care services. This must be done with a focus on the behavioral health needs of at-risk children and adolescents. Note that H.B. 1 appropriated \$100 million to fund this consortium.

Additionally, S.B. 11 requires each school district to adopt and implement a policy requiring the integration of trauma-informed practices in each school environment. The policy must address increasing staff and parent awareness of trauma-informed care, implementing trauma-informed practices and care by district and campus staff, and available counseling options for students affected by trauma or grief.

S.B. 346

Relating to the consolidation, allocation, classification, and repeal of certain criminal court costs and other court-related costs, fines, and fees; imposing certain court costs and fees and increasing and decreasing the amounts of certain other court costs and fees.

Effective January 1, 2020

As it relates to mental health, S.B. 346 amends Articles 43.091 and 45.0491 of the Code of Criminal Procedure. Currently, those statutes permit courts to waive the payment of a fine if the

court determines that the defendant is indigent or does not have sufficient resources to pay all or part of the fine and discharging the fine would impose an undue hardship. As amended, in making that determination, the court may consider, as applicable, the defendant's significant physical or mental impairment or disability.

S.B. 355

Relating to developing a strategic plan regarding implementation of prevention and early intervention services and community-based care and conducting a study regarding the resources provided to foster parents.

Effective June 14, 2019

In preparation for federal funding as a result of the Family First Prevention Services Act, S.B. 355 directs DFPS to develop a strategic plan to ensure that Texas' prevention and early intervention services meet the requirements of the Act. Added Section 40.079 of the Human Resources Code requires the plan to identify a network of services providers to provide mental health, substance use, and in-home parenting support services for children at risk of entering foster care, the parents and caregivers of such children, and pregnant or parenting youth in foster care. The plan must also identify methods to leverage federal resources available under the Act, apply for other funds, reduce duplication of services by state agencies, and streamline procedures for determining eligibility.

S.B. 362

Relating to court-ordered mental health services.

Effective September 1, 2019

Re-organization of Sections for Clarity

S.B. 362 adds Sections 574.0345 and 574.0355 of the Health and Safety Code. Current law delineates temporary inpatient and outpatient commitment procedures in Section 574.034 and extended inpatient and outpatient commitment procedures in Section 574.035. The bill splits up the inpatient and outpatient procedures so that there is one section for each type of procedure:

- Section 574.034: Order for Temporary Inpatient Mental Health Services
- Section 574.0345: Order for Temporary Outpatient Mental Health Services
- Section 574.035: Order for Extended Inpatient Mental Health Services
- Section 574.0355: Order for Extended Outpatient Mental Health Services

Amendments also make conforming changes to the Health and Safety Code and other codes referencing Sections 574.034 and 574.035 to include the new sections. The bill removes subsections in 574.034 and 574.035 regarding admitting the certificate of medical examination as evidence and consolidates the language into Subsections 574.031(d-1) and (d-2).

Roadmap for Diversion from the Criminal Justice System to Court-Ordered Outpatient Treatment

Since 1995, Subsections 574.034(h) and 574.035(i) allowed for diversion from the criminal justice system to civil commitment if the individual with mental illness or IDD was not charged with a criminal offense that involves an act, attempt, or threat of serious bodily injury to another. However, this alternative was rarely utilized. (Note that per S.B. 362, these provisions are now located in Subsections 574.034(h), 574.0345(d), 574.035(i), and 574.0355(e).)

This bill adds a roadmap in the Code of Criminal Procedure for prosecutors and trial court judges, once an Article 16.22 report is received, to release the defendant with mental illness or IDD on bail and *transfer* the defendant by court order to the *appropriate court* for court-ordered outpatient mental health services under Chapter 574 of the Health and Safety Code. The judge may only do this “if the offense charged does not involve an act, attempt, or threat of serious bodily injury to another person.”

If the court enters an order transferring the defendant for court-ordered outpatient services, a prosecutor is required to file the application for such services under Chapter 574 of the Health and Safety Code. On the motion of the prosecutor, if the court determines the defendant has complied with the court-ordered treatment, the court may dismiss the charges; if the court determines the defendant failed to comply, the court must proceed under Chapter 16 of the Code of Criminal Procedure or with trial.

Standard for Outpatient Commitment

By repealing Subsections 574.034(b) and 574.035(b), S.B. 362 removes the requirement that a court must find the patient “will continue to suffer severe and abnormal mental, emotional, or physical distress” and replaces it with the requirement in new Sections 574.0345 and 574.0355 that the court find “outpatient mental health services are needed to prevent a relapse that would likely result in serious harm to the proposed patient or others.”

New Sections 574.0345 and 574.0355 change the requirement for a court to order outpatient treatment; previously the court had to find that the patient’s clinical condition “makes impossible” the ability to make rational and informed decisions. As amended, a court must find that the patient’s condition “significantly impairs” that ability.

Courts May Designate the Person Responsible for Services from the County Where Patient Previously Received Services

S.B. 362 amends Section 574.037 permitting a patient to receive outpatient services not only in the region in which the committing court is located, but also “in a county where a patient has previously received mental health services.” The bill moves the authority for a court to set a status conference into its own new statute, Section 574.0665.

Modification of Inpatient Treatment to Outpatient Treatment

Amended Section 574.061 (Modification of Order for Inpatient Treatment) requires an inpatient facility administrator to assess whether it is appropriate to transfer the patient to outpatient services within 30 days of commitment. Based on that assessment, the facility administrator may make a recommendation (a “request” under current law) that the committing court modify the order to require outpatient mental health services.

If a patient or other interested person requests a hearing on that recommendation, the court, in addition to appointing an attorney to represent the patient at the hearing, must consult with the LMHA before issuing a decision. If a hearing is not requested, the court may make a decision regarding a facility administrator’s recommendation based on the recommendation itself, the supporting certificate of medical examination, and consultation with the LMHA concerning available resources to treat the patient before making a decision on the administrator’s request.

Additionally, a modified order may extend beyond the term of the original order but not by more than 60 days.

Cross-Examination of Witnesses

The bill amends §574.031 to add subsections (d-1) and (d-2). These provisions are about the right to waive cross-examination of witnesses and were originally in §574.034 and §574.035. They have been pulled out and put into their own section. Additionally, the original statute stated that a patient AND a patient’s attorney may, by written document, waive the right to cross-examine witnesses. The amended statute replaces AND with OR and reads:

- in temporary civil commitment hearings, the patient or the patient’s attorney may file a written waiver with the court waiving the right to cross-examine witnesses, thereby allowing the court to admit the certificates of medical examination for mental illness as competent medical or psychiatric and to make findings solely from the certificates.
- In extended commitment hearings, the judge may not make findings solely on certificates, there must be testimony and the findings must be supported by this testimony.

Medication upon Discharge by Publicly-Funded Private Providers

Currently, LMHAs/LBHAs are required by contract to participate in discharge planning for patients in a publicly-funded, private inpatient treatment. This bill codifies that obligation.

The bill adds Subsection 574.081(c-1) making a private mental health facility responsible, unless otherwise specified in the plan, for providing and paying for certain medication until the patient can see a physician, but HHSC cannot require the private facility to do this for more than seven days after discharge. This is subject to available funding from HHSC paid to the private facilities.

Implementation

The bill adds Section 22.1106 to the Government Code requiring the Court of Criminal Appeals to ensure that judicial training related to court-ordered outpatient mental health services is provided at least once every year. This instruction may be provided at the annual Judicial Education Conference.

S.B. 362 also requires the Supreme Court to (1) adopt rules to streamline and promote the efficiency of court proceedings under Chapter 573 of the Health and Safety Code and (2) adopt rules or implement other measures to create consistency and increase access to the judicial branch for mental health issues.

S.B. 435

Relating to recommendations by local school health advisory councils regarding opioid addiction and abuse education in public schools.

Effective May 31, 2019

S.B. 435 directs each local school health advisory council to recommend appropriate opioid addiction and abuse curriculum for the district including methods of administering an opioid antagonist.

S.B. 436

Relating to statewide initiatives to improve maternal and newborn health for women with opioid use disorder.

Effective June 7, 2019

Drug overdose is a leading cause of maternal deaths in Texas; most of these deaths are attributed to opioid abuse. S.B. 436 directs DSHS to work with the Maternal Mortality and Morbidity Task Force to develop tools and best practices necessary to assess and treat opioid use disorders among pregnant women and to prevent opioid-related overdose among pregnant and post-partum women.

S.B. 500

Relating to making supplemental appropriations and reductions in appropriations and giving direction, including direction regarding reimbursement, and adjustment authority regarding appropriations.

Effective June 6, 2019

Each legislative session, state agencies project the costs of fulfilling their functions and providing important services for the following two-year budget period. This information, combined with the biennial estimate of revenues submitted to the Governor and the Legislature before the convening of each regular session, is a key component in the construction of the General Appropriations Act. S.B. 500 makes supplemental appropriations. Relevant to mental health, the bill appropriates \$90,054,363 for construction of a 100-bed non-maximum security unit at Rusk State Hospital; \$165,000,000 to begin construction of a 240-bed replacement campus of Austin State Hospital;

and \$190,300,000 to begin construction of a 300-bed replacement campus of San Antonio State Hospital.

S.B. 562

Relating to criminal or juvenile procedures regarding persons who are or may be persons with a mental illness or intellectual disability and the operation and effects of successful completion of a mental health court program.

Effective June 14, 2019

Manifest Dangerousness and Facility Designation

Prior to the effective date, when persons with a mental illness were charged with a violent or sexual crime and found incompetent to stand trial or not guilty by reason of insanity (NGRI), state law required judges to send them to a maximum security unit (MSU), usually at Vernon State Hospital, even when that placement may have not been appropriate. Once the defendant was at Vernon, the HHSC Dangerousness Review Board conducted a dangerousness assessment of the defendant to determine whether an MSU was the appropriate setting for competency restoration. Because of the lack of MSU beds available statewide, a person with a mental illness could be left waiting in jail without adequate treatment and without his or her case moving forward for an average of 179 days until a maximum security bed opens at Vernon, according to the Senate Research Center.

Many defendants do not meet the clinical standard for dangerousness despite the seriousness of the alleged offense and end up being transported somewhere else, most often Kerrville, which is a non-maximum security facility. S.B. 562 addresses the inefficiency of having a person deteriorate in jail for months waiting to occupy a maximum-security bed when he or she may not have needed maximum security.

S.B. 562 amends Articles 46B.073 (Commitment for Restoration to Competency) and 46B.104 (Civil Commitment Placement; Finding of Violence) of the Code of Criminal Procedure requiring courts to commit defendants charged with an offense in Article 17.032(a) or whose indictment includes an affirmative finding under Article 42A.054(c) or (d) to a facility designated by HHSC. Former law required commitment to the MSU of any facility designated by DSHS, to an agency of the U.S. operating a mental hospital, or to a Department of Veterans Affairs hospital (the last two options were only listed in Article 46B.073). Note that the bill also removes the exception for defendants charged with an offense under Section 22.01(a)(1) of the Penal Code (assault involving family violence). The articles, as amended, apply to defendants charged with that offense.

The bill adds Article 46B.0831 (Determination Whether Defendant is Manifestly Dangerous) providing that a defendant committed to a MSU may be assessed, at any time before the defendant is restored to competency, by the review board established under Article 46B.105 to determine whether the defendant is manifestly dangerous. If the review board determines the defendant is not manifestly dangerous, HHSC must transfer the defendant to a non-maximum security facility designated by HHSC.

Coordinating amendments to Chapter 46C (Insanity Defense) include removing the requirement in Article 46C.260 to commit a defendant to a MSU, instead requiring commitment to a facility

designated by HHSC. Persons committed to a MSU by HHSC, unless determined to be manifestly dangerous by a review board, must be transferred to a non-maximum security unit not later than the 60th day following the date of the person's arrival at the MSU.

S.B. 562 amends Article 46C.251 requiring a court to order the acquitted person to be committed for evaluation of the person's present mental condition and for treatment to the facility designated by HHSC (former law required commitment to a MSU).

Continuing with the theme of facility designation, new Articles 46B.0021 and 46C.0011 authorize HHSC to designate for the commitment of a defendant under Chapter 46B or 46C only a facility operated by HHSC or under a contract with HHSC for that purpose. Other amended articles replace references to other entities with references to HHSC.

Prior to the effective date, it was discretionary for a court to hold a hearing, on motion of the prosecutor or on its own motion, after receiving notice pursuant to Subsection 46B.107(b) from the head of the facility or outpatient treatment provider regarding intent to release a defendant with a charge pending after civil commitment. S.B. 562 requires a hearing after receiving such notice to determine whether release is appropriate under the relevant criteria. If the court does not receive notice of intent to release, a hearing is still permitted, but discretionary.

Mental Health Court Program

S.B. 562 amends Article 55.01 of the Code of Criminal Procedure creating a right to expunction of arrest records for persons successfully completing a mental health court program created under Chapter 125 of the Government Code or former law. A person is eligible if he or she has not previously received an expunction of arrest records based on successful completion of a mental health court program and submits to the court an affidavit attesting to that fact.

Section 1a of Article 55.02, as amended, authorizes a district court dismissing a case following a person's successful completion of a mental health court program or a district court in the county in which the trial court is located to enter an order of expunction for a person eligible because of successful completion of a mental health court program. The order may not be entered later than the 30th day after the date the court dismisses the case or receives the information regarding that dismissal, as applicable.

A court that enters an order for expunction based on successful completion of a mental health court program may not charge a fee or assess any cost for the expunction. Likewise, the fees under Article 102.006 of the Code of Criminal Procedure related to expunctions must be waived if the person is entitled to expunction after successful completion of a veterans treatment court program (under Chapter 124 of the Government Code, or former law) or mental health court program (under Chapter 125 of the Government Code, or former law).

S.B. 562 amends Section 125.001 of the Government Code adding procedures following successful completion of a mental health court program. After notice to the prosecutor and a hearing in the mental health court determining that a dismissal is in the best interest of justice, the mental health court must provide the court in which the criminal case is pending (trial court)

information about the dismissal, including all the information required under Section 2(b) of Article 55.02 for a petition for expunction. The trial court must dismiss the case. If the trial court is a district court, that court may enter an order of expunction, with the consent of the prosecutor. If the trial court is not a district court, that court may, with consent of the prosecutor, forward the appropriate dismissal and expunction information to enable a district court with jurisdiction to enter an order of expunction.

New Section 125.0025 authorizes the commissioners courts of two or more counties to establish a regional mental health court program for the participating counties. New Section 125.005 requires the commissioners court of a county with a population of more than 200,000 to establish a mental health court program under Section 125.002 and direct the judge, magistrate, or coordinator to comply with Section 121.002(c)(1) of the Government Code (requirements for operating a specialty court program).

A county required to establish a mental health court program must apply for federal and state funds available to pay the costs of the program. The criminal justice division of the Governor's Office may assist a county in applying for federal funds as required. However, if the county does not receive federal or state funding specifically for that purpose in an amount sufficient to pay the fund costs of the mental health court program; or if the judge, magistrate, or coordinator does not receive the verification described by Section 121.002(c)(2) of the Government Code, the county is not required to establish a mental health court program.

A county that is required to establish a mental health court program and fails to establish or to maintain that program is ineligible to receive grant funding from this state or any state agency.

Definitions

New definitions in Article 46B.001 include "adaptive behavior," "developmental period," "mental illness," and "subaverage general intellectual functioning." The definition of mental illness differs from the previously referenced definition in Section 571.003 of the Health and Safety Code only in the use of "grossly impairs" instead of "substantially impairs" in reference to a person's thought, perception of reality, emotional process, or judgment.

S.B. 562 amends the definition of "forensic patient" in Section 532.013 of the Health and Safety Code to include a person with an intellectual disability and a person with a mental illness or intellectual disability who is examined on the issue of fitness to proceed with juvenile court proceedings by an expert appointed under Chapter 51 of the Family Code or found unfit to proceed under Subchapter C, Chapter 55 of the Family Code. The definition of "forensic services" likewise includes intellectual disability services.

Pen Packets

Among the documents required for all offenders transferred to the Texas Department of Criminal Justice, S.B. 562 adds a copy of any mental health records, mental health screening reports, or similar information regarding the mental health of the inmate.

S.B. 632

Relating to the composition of the governing bodies and the consultation policies of local mental health authorities with respect to sheriffs, their representatives, and local law enforcement agencies.

Effective September 1, 2019

The intent of S.B. 632 is to promote greater collaboration between local law enforcement and LMHAs in order to increase the effectiveness of the services they provide, especially in rural areas.

The bill adds Section 533.0351 of the Health and Safety Code requiring the composition of LMHA governing bodies (if the LMHA has a governing body) to include sheriffs. For LMHAs that serve only one county, the governing body must include the sheriff of the county as an ex officio nonvoting member. LMHAs that serve two or more counties must take the median population size of each of those counties and choose one sheriff of a county with a population above the median population size and one sheriff of a county with a population below the median population size to serve as an ex officio nonvoting member of the governing body. A LMHA may rotate positions of ex officio nonvoting members among the sheriffs of the counties served by the authority, in consultation with each sheriff of the counties served. A sheriff may designate a representative to serve in the sheriff's place.

The bill prohibits a LMHA from barring or restricting a sheriff or representative who serves as an ex officio nonvoting member from speaking or providing input at a meeting of the LMHA governing body.

If a LMHA does not have a governing body, the authority must consult with the sheriff regarding the use of funds from DSHS under Section 533.035(b) of the Health and Safety Code. A LMHA that serves only one county must consult with the sheriff of that county. If the LMHA serves two or more counties, it must consult with the sheriff or representative of a county with a population above and below the median population size of each of the counties it serves.

The bill does not preclude a sheriff or representative from being included in the governing body of a LMHA as a voting member.

S.B. 632 amends Section 533.0352 of the Health and Safety Code requiring a LMHA to solicit information regarding community needs from local law enforcement agencies in developing the local service plan.

As amended Sections 534.002 and 534.003 of the Health and Safety Code address including an appointed sheriff or representative of a sheriff of a county in the region served by a community center on the board of trustees of a community center established by one local agency.

Sheriffs and representatives of sheriffs already serving as voting members of the governing body or board of trustees may continue to serve as voting members after September 1, 2019.

S.B. 633

Relating to an initiative to increase the capacity of local mental health authorities to provide access to mental health services in certain counties.

Effective June 14, 2019

Public mental health services are primarily provided through the HHSC's contracts with LMHAs. LMHAs are required to plan, develop, and coordinate local policy, resources, and services for mental health care. S.B. 633 addresses the challenges the 39 LMHAs have building capacity and establishing successful contracts for services, especially in rural regions.

S.B. 633 adds Section 531.0221 of the Government Code (Initiative to Increase Mental Health Services Capacity in Rural Areas) requiring HHSC to identify each LMHA located in a county with a population of 250,000 or less (or provides services predominantly in a county with a population of 250,000 or less and assign those authorities to regional groups of at least two authorities.

The bill also tasks HHSC with developing a mental health services development plan for each LMHA group that will increase capacity of the authorities to provide access to needed services. In doing so, HHSC must focus on reducing the cost to local governments of providing services to persons experiencing a mental health crisis, the transportation of persons served by an authority in the group to mental health facilities, the incarceration of persons with mental illness in county jails located in an area served by an authority in the group and the number of hospital visits by persons with mental illness at hospitals located in an area served by an authority in the group.

A report by HHSC is due December 1, 2020 that must include an evaluation of each plan and a comprehensive statewide analysis of mental health services in counties with a population of 250,000 or less, including recommendations to the Legislature for implementing the plans developed. HHSC and the LMHA groups may implement a plan evaluated by HHSC if they find funding.

S.B. 670

Relating to telemedicine and telehealth services.

Effective September 1, 2019

S.B. 670 amends Section 531.0216 of the Government Code requiring HHSC to ensure a Medicaid managed care organization does not deny reimbursement for a covered health care service or procedure delivered as a telemedicine medical service or a telehealth service solely because the covered service or procedure is not provided through an in-person consultation. Neither should it limit, deny, or reduce reimbursement for a covered health care service or procedure delivered as a telemedicine medical service or a telehealth service based on the health care provider's choice of platform for providing the health care service or procedure.

A managed care organization must also ensure that the use of telemedicine medical services or telehealth services promotes and supports patient-centered medical homes by allowing a Medicaid

recipient to receive a telemedicine medical service or telehealth service from a provider other than the recipient's primary care physician or provider (with exceptions).

HHSC must develop, document, and implement a monitoring process to ensure that a Medicaid managed care organization ensures that the use of telemedicine medical services or telehealth services promotes and supports patient-centered medical homes and care coordination.

The HHSC executive commissioner by rule must ensure that a federally qualified health center as defined by 42 U.S.C. Section 1396d(1)(2)(B) may be reimbursed for the originating site facility fee or the distant site practitioner fee or both, as appropriate, for a covered telemedicine medical service or telehealth service delivered by a health care provider to a Medicaid recipient.

Section 531.0217, as amended, prohibits HHSC from limiting a physician's choice of platform for providing a telemedicine medical service or telehealth service by requiring that the physician use a particular platform to receive reimbursement for the service.

S.B. 670 defines "direct primary care" in Section 162.251 of the Occupations Code to include telemedicine medical services and telehealth services, as those terms are defined by Section 111.001, provided using a technology platform.

S.B. 781

Relating to the regulation of child-care facilities.

Effective September 1, 2019

Residential treatment centers (RTCs) are a type of congregate care facility that provides around-the-clock supervision and treatment services exclusively to children with emotional disorders. These operations are regulated by both HHSC and DFPS. S.B. 781, among other things, adds Section 40.080 of the Human Resources Code requiring DFPS to develop a strategic plan regarding the placement of children in settings eligible for federal financial participation under the requirements of the federal Family First Prevention Services Act to ensure Texas' RTCs are ready to meet the higher standards of this federal law.

S.B. 821

Relating to children's advocacy centers.

Effective September 1, 2019

As it relates to mental health, S.B. 821 adds Section 264.4031 of the Family Code requiring a Child Advocacy Center to adopt multidisciplinary team working protocol, which must include processes and general procedures for mental health evaluations and treatment.

The bill also adds to the duties of a center in Section 264.405 evidence-based, trauma-focused mental health services for children and nonoffending members of the child's family.

According to the Senate Research Center, S.B. 821 updates the Family Code to reflect current practices, standards, services, and operations of Texas Children's Advocacy Centers.

S.B. 822

Relating to the administration of a grant program to support community mental health programs for veterans and their families.

Effective May 31, 2019

The 84th Legislature created the Texas Veterans + Family Alliance (TV+FA) Grant Program. TV+FA supports community mental health programs providing mental health services and treatment for Texas veterans and their families.

S.B. 822 amends Section 531.0992 of the Government Code, repealing the requirement that HHSC use a nonprofit or private entity to administer TV+FA. The bill also adds grant conditions to align with similar community grant programs, including lowering the match requirement for programs located in a county with a population of less than 250,000.

Note that H.B. 1 appropriated \$20 million for the TV+FA Grant Program, as well as \$60 million for the Mental Health Grant Program for Justice-Involved Individuals and \$40 million for the Community Mental Health Grant Program.

S.B. 891

Relating to the operation and administration of and practice in and grants provided by courts in the judicial branch of state government; increasing and imposing fees; creating a criminal offense.

Effective September 1, 2019, except Section 2.06 takes effect October 1, 2019; Article 10 takes effect June 1, 2020, excluding Section 10.11, which takes effect September 1, 2019; Section 1.04 takes effect October 1, 2020; and Sections 1.05, 1.07, 1.08, 2.02, 2.05, 6.03(b)-(d), and 6.06 take effect January 1, 2021

S.B. 891 creates new judicial districts and statutory county courts, allows certain counties to appoint magistrates, and revises the jurisdiction (including jurisdiction in mental health matters) and procedures for certain courts, boards, and judicial officers.

The bill also amends Section 22.017 of the Government Code authorizes the Judicial Commission on Mental Health to develop and administer a program to provide grants that will improve the administration of justice for individuals with mental health needs or IDD.

S.B. 976

Relating to the notification of a peace officer through an indication associated with vehicle registration that a person has a health condition or disability that may impede effective communication.

Effective September 1, 2019

S.B. 976 amends Chapter 502 of the Transportation Code requiring the Department of Motor Vehicles (DMV) to include a space on a vehicle registration application for an applicant to voluntarily indicate that the applicant has a health condition or disability, including mental illness or IDD, that may impede effective communication with a police officer.

The DMV may ask for verification of the condition from a physician, psychologist, or non-physician mental health professional as defined by Section 571.003 of the Health and Safety Code. When the DMV receives such information from an applicant, it must inform the Department of Public Safety (DPS) that the applicant has a health condition or disability that may impede effective communication, but it may not provide to DPS information that shows the specific type of condition or disability that a person has.

DPS will then take the information received from the DMV and include it in the Texas Law Enforcement Telecommunications System (TLETS) so that a peace officer who makes a traffic stop will be alerted to the condition of the driver. DPS will also ensure that contract employees will not have access to this information in TLETS unless the employment contract prohibits the person from disclosing that information. Additionally, the DMV may not issue a license plate that has a visible marking indicating that the applicant has voluntarily disclosed the presence of a health condition or disability.

S.B. 982

Relating to the provision of disaster and emergency services, including health care services, to certain populations.

Effective September 1, 2019

New Section 418.054 of the Government Code tasks the Texas Division of Emergency Management, in consultation with DSHS and local governmental entities that have established emergency management plans, to develop a plan to increase the capabilities of local emergency shelters in the provision of shelter and care for specialty care populations, including persons with mental disabilities, during a disaster.

The bill adds Section 418.132 establishing a task force on disaster issues affecting persons who are elderly and persons with disabilities during a disaster or emergency evacuation and accommodation of such persons in emergency shelters.

S.B. 1017

Relating to the creation of the advisory council on postsecondary education for persons with intellectual and developmental disabilities.

Effective June 10, 2019

S.B. 1017 tasks the Texas Higher Education Coordinating Board with establishing an advisory council on postsecondary education for persons with IDD. The board and the advisory council must periodically review the policies and practices that increase access to higher education opportunities for persons with IDD; and distribute educational outreach materials developed by the advisory council to increase awareness regarding postsecondary opportunities for persons with IDD.

In addition, the bill requires the advisory council to study the accessibility of higher education for persons with IDD, provide advice regarding resolving barriers to such access, and develop

recommendations to address barriers to accessing higher education for persons with IDD who are or have been in the foster care system, including data collection in relation to those persons.

S.B. 1096

Relating to the Medicaid managed care program, including the provision of pharmacy benefits.
Effective September 1, 2019

According to the Senate Research Center, the Medically Dependent Children Program (MDCP) serves approximately 5,600 children and young adults under the age of 21. The program offers community-based services for children with disabilities who require a nursing facility level of care. MDCP allows children with disabilities and complex medical needs to access Medicaid services on a medical-needs-based criteria, allowing the child to remain at home with family while still accessing and receiving life-sustaining, medically necessary services which keep them alive, stable, and in the community.

S.B. 1096 addresses an issue with some drugs on the formulary requiring prior authorization, the process resulting in additional requirements or barriers that cause denials and delays resulting in child decompensation or other complications.

The bill amends Section 533.00253 of the Government Code requiring the STAR Kids Managed Care Advisory Committee or a successor committee to explore the feasibility of adopting a private duty nursing assessment for use in the STAR Kids managed care program and provide recommendations to HHSC on adopting a private duty nursing assessment tool that would streamline the documentation for prior authorization of private duty nursing. This amendment tasks HHSC with conducting a utilization review at least once every two years.

Under new Section 533.002821, a contract between HHSC and a managed care organization must require that the organization review and issue determinations on prior authorization requests with respect to a recipient who is hospitalized at the time of the request within one business day (within 72 hours if submitted by a provider of acute care inpatient services for services or equipment necessary for discharge or within one hour if the request is related to poststabilization care or a life-threatening condition).

S.B. 1096 amends Section 533.0035 by adding Subsection (a)(23)(L) requiring the managed care organization or pharmacy benefit manager to provide continued access to a drug prescribed to a child enrolled in the STAR Kids managed care program, regardless whether the drug is on the vendor drug program formulary (or, if applicable, on the managed care organization's formulary). The organization or manager may not require a prior authorization for or impose any other barriers to a drug prescribed to a child enrolled in the STAR Kids managed care program for a particular disease or treatment that was on the vendor drug program formulary. Nor can it require additional prior authorization for a drug included in the preferred drug list adopted by HHSC. Using a protocol that requires a child enrolled in the STAR Kids managed care program to use a prescription drug or sequence of prescription drugs other than as recommended by the child's physician before the managed care organization provided coverage for the recommended drug is also prohibited.

The organization or manager must pay liquidated damages to HHSC for each failure to comply with the subsection.

HHSC must provide guidance and additional education to managed care organizations with which the commission enters into contracts to provide health care services regarding requirements under federal law to continue to provide services during an internal appeal, a Medicaid fair hearing, or any other review.

The bill also requires incorporation of the national core indicators adult consumer survey and the national core indicators child family survey for persons with IDD, as applicable, into the required monitoring program for measuring the quality of the health care services provided by the organization's provider network.

S.B. 1177

Relating to offering certain evidence-based services in lieu of other mental health or substance use disorder services by a Medicaid managed care organization.

Effective September 1, 2019

S.B. 1177 amends Section 533.005 of the Government Code requiring a contract between a Medicaid managed care organization and HHSC to contain language permitting the managed care organization to offer services to clients other than only those services specified in the state Medicaid plan. The purpose of this amendment is to fill in gaps in the availability of mental health services for children enrolled in Medicaid with serious mental health issues. By requiring a substitute list of available services in these contracts, S.B. 1177 gives managed care organizations increased flexibility when they determine what kinds of cost-effective and evidence-based services to offer these clients.

S.B. 1238

Relating to the admission, examination, and discharge of a person for mental health services.

Effective September 1, 2019

Chapter 35 of the Family Code sets out the procedures for a person to seek temporary authorization to consent to medical treatment for a minor child. S.B. 1238 amends this chapter by adding Chapter 35A, which sets out the procedures for a person to seek temporary authorization to consent to voluntary inpatient mental health services for a minor child, when that minor child's parent, conservator, or guardian is unable to consent.

The bill also amends Section 572.001 of the Health and Safety Code, which addresses requesting voluntary mental health treatment from an inpatient mental health facility or for outpatient mental health services. S.B. 1238 adds that a person eligible to consent to treatment for a minor child, and who has petitioned for temporary authorization under the new Chapter 35A of the Family Code may request admission to an inpatient mental health facility or for outpatient mental health services when the minor child's parent, conservator, or guardian is unable to request such treatment.

S.B. 1238 also changes the time period in which a voluntary patient must have a physical and psychiatric examination conducted by a physician. Current law states that this examination must be conducted within 72 hours of the admission. S.B. 1238 changes this time period to either 72 hours before or 24 hours after admission. Additionally, the bill states that if an examination is conducted within 24 hours after admission, and the physician determined that the patient did not meet clinical standards for admission, the facility cannot bill the patient or the patient's third-party payor for the temporary admission.

Finally, S.B. 1238 amends Section 573.001(a) of the Health and Safety Code to allow an officer to take a person into custody without a warrant "regardless of the age of the person," if the officer (1) has reason to believe and does believe that the person is a person with mental illness, and because of that mental illness there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained; and (2) believes that there is not sufficient time to obtain a warrant before taking the person into custody.

S.B. 1564

Relating to access to certain medication-assisted treatment.

Effective June 10, 2019

In the U.S., over 900,000 physicians can write prescriptions for opioids, but only 32,000 can write prescriptions for opioid antagonists (used to treat opioid overdoses), such as buprenorphine, according to the Senate Research Center.

The SUPPORT Act was signed into federal law in October 2018. It directs funding to federal agencies and states to increase access to addiction treatment and supports interventions to help mitigate the opioid crisis. Under federal law, nurse practitioners, physician assistants, clinical nurse specialists, certified registered nurse anesthetists, and certified nurse midwives all have the authority to prescribe buprenorphine.

S.B. 1564 aligns Texas Medicaid policy with federal law by using the federal definition of "qualifying practitioner," which includes physicians, physician assistants, nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, and certified nurse midwives.

It also directs HHSC to amend policies and manuals that would allow for Medicaid reimbursement to these qualifying practitioners who prescribe buprenorphine.

The bill also adds Section 32.03115 of the Human Resources Code requiring HHSC to provide medical assistance reimbursement for medication-assisted opioid or substance use disorder treatment without requiring a recipient of medical assistance of health care provider to obtain prior authorization or precertification for the treatment. HHSC may provide medical assistance reimbursement for medication-assisted opioid or substance use disorder treatment only if the treatment is prescribed to a recipient of medical assistance by a licensed health care provider who is authorized to prescribe methadone, buprenorphine, oral buprenorphine/naloxone, or naltrexone.

S.B. 1636

Relating to an annual report prepared by the Health Professions Council.

Effective June 10, 2019

Section 101.151 of the Occupations Code requires the Health Professions Council to prepare an annual report and send it to the Governor, Lieutenant Governor, and House Speaker each February. The report currently includes a compilation of enforcement actions taken by regulatory agencies, recommendations for statutory changes to improve the regulation of health care professions, and any other information or recommendations deemed necessary by the council.

Under S.B. 1636, the council must now also include strategies to expand the health care workforce in their report. These strategies include:

- 1) methods for reducing the time required to process license applications for health care professions;
- 2) methods for increasing the number of health care practitioners providing mental and behavioral health care services; and
- 3) statutory and legislative appropriation recommendations for expanding the health care workforce, specifically in medically underserved areas.

Finally, the bill adds the chairs of the standing committees of the Senate and House of Representatives having primary jurisdiction over public health and state finance or appropriations to the list of recipients of the council's report.

S.B. 1700

Relating to the discharge of a prisoner from a county jail.

Effective September 1, 2019

S.B. 1700 addresses release of inmates from a county jail in the middle of the night, which may create a safety risk for those being released. As amended, Article 43.13 of the Code of Criminal Procedure generally requires a sheriff or other county jail administrator to release a defendant at any time beginning at 6:00 a.m. and ending at 5:00 p.m. on the day the defendant discharges the defendant's sentence. Among the exceptions provided by the bill, a defendant may be released after 5:00 p.m. and before 6:00 a.m. if the defendant is being admitted to an inpatient mental health facility or a state supported living center for court-ordered mental health or intellectual disability services.

S.B. 2038

Relating to a report by the Texas Workforce Commission regarding occupational skills training for individuals with intellectual and developmental disabilities.

Effective September 1, 2019

Individuals with IDD face many barriers to employment, sometimes lacking training or credentials, or other times having to overcome the biases of would-be employers. Individuals with IDD, their family members, and their advocates are often not certain about potential career options.

The 85th Legislature, Regular Session, 2017, passed S.B. 2027, directing the Texas Workforce Commission and HHSC to conduct a joint study of occupational skills training programs for adults IDD. That study, released in December of 2018, highlighted some additional areas the Texas Workforce Commission should explore further.

S.B. 2038 adds Section 352.060 of the Labor Code requiring the Texas Workforce Commission to prepare a report that identifies specific occupations in high-demand industries in this state for which a postsecondary certification, occupational license, or other workforce credential is required and that may be appropriate for individuals with IDD as well as potential funding sources for occupational skills training programs for individuals with IDD.

S.B. 2111

Relating to the Health and Human Services Commission developing a plan to contract with a public institution of higher education to operate a certain state hospital.

Effective September 1, 2019

This bill requires HHSC to establish a plan under which HHSC would transfer the operations of Austin State Hospital to a public institution of higher education. To develop this plan, HHSC must consult with local public institutions of higher education, establish procedures and policies to ensure the Austin State Hospital is operated on a quality level that is equal to or higher than its current quality level, and establish procedures and policies to monitor the care of affected state hospital patients.

HHSC must also ensure that it be able to monitor and maintain information on activities carried out by the contracting public institution of higher education in a way which does not violate privacy or confidentiality rules. The information HHSC must obtain and maintain includes:

- 1) client outcomes;
- 2) individual and average lengths of stay;
- 3) the number of incidents in which patients were restrained or secluded;
- 4) the number of serious assaults at the hospital; and
- 5) the number of law enforcement contacts at the hospital.

HHSC must deliver a report no later than September 1, 2020 to the Governor, Lieutenant Governor, the Speaker of the House of Representatives, and the Legislature, containing the plan and any recommendations for legislation or other actions necessary.