

Mental Health Legislation Update 2023

Disclaimer



S.B. 2479
Procedures for Persons with a
Mental Illness or Intellectual
Disability

“The JCMH Omnibus Bill”
in Five Parts

S.B. 2479 – JCMH Omnibus Bill (Part 1 of 5)

**Section 573.012, HSC
Electronic Application for
Emergency Detention
Warrants by Qualified
Professionals at
Hospitals and Mental
Health Facilities**



S.B. 2479 – JCMH Omnibus Bill (Part 2 of 5)

Article 16.22, CCP and Early Identification in Class C Misdemeanor Defendants



★ from 2017

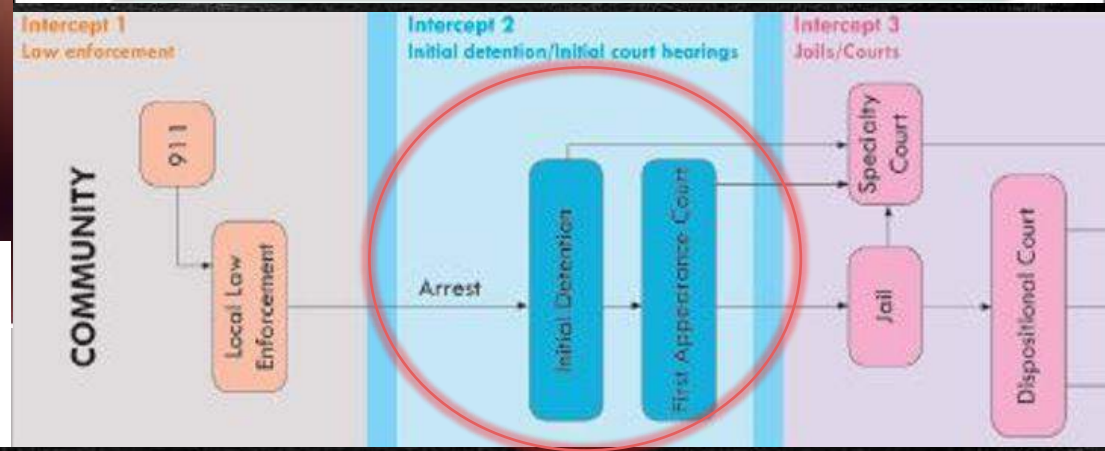


Municipal Courts:
An Effective Tool for Diverting People with Mental and Substance Use Disorders from the Criminal Justice System

U.S. Department of Health and Human Services
Substance Abuse and Mental Health Services Administration

Texas Gov. Abbott signs "Sandra Bland Act" into law

The measure mandates county jails divert people with mental health and substance abuse issues toward treatment and requires that independent law enforcement agencies investigate jail deaths.



CCP Article 17.03 (b-2) (part 3 of 5)

- **Corrects inconsistency with article 17.032**
- **May not be released on personal bond**
 - **For offense involving violence**
 - **Commits an offense while on bond for a crime of violence**
 - **Any felony**
 - **Assault**
 - **Deadly conduct**
 - **Terroristic Threat**
 - **Disorderly Conduct involving a firearm**



CCP Article 17.03 (b-2)

- Exceptions that allow mental health bonds for non-violent offenders
- Article 17.032 –
 - non-violent offense
 - mental illness (examination and report)
 - community-based treatment will work
 - risk assessment
 - outpatient treatment bond condition



CCP Article 17.03 (b-2)

- Other exceptions
- Art. 15.21 – out-of-county warrants
- Art. 17.033 – arrests without a warrant and no probable cause determination
- Art. 17.151 – state not ready for trial

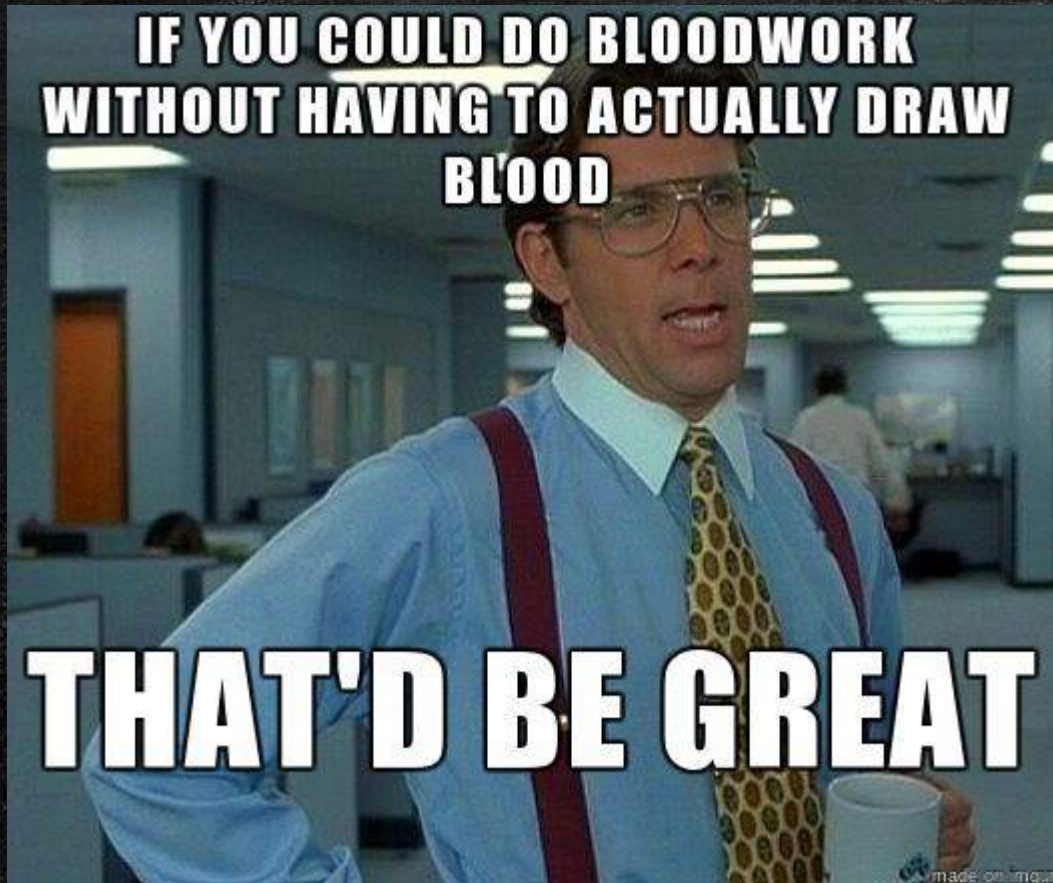


HSC Sec. 573.012 (part 4 of 5)

- Tweaks transporting and applying for emergency mental health services
- Sec. 573.012(d-1) – peace officer can hand apprehended person off to mental health facility and leave
- Sec. 573.013(h) allows licensed mental health professional submit application for services



. . . and HSC Sec. 574.106(m)
(part 5 of 5)



Authorizes a blood draw for medically necessary evaluations and lab tests to safely administer psychoactive medication when a patient is already subject to an order for involuntary psychoactive medications

Proposals That Didn't Make It

- Authorize police to secure firearms in emergency detention under a warrant
- Limit inpatient competency restoration for non-violent misdemeanors
- Procedures for deterioration after competency restoration
- Credit for participation in outpatient competency restoration
- Dismissal of Class C when Defendant isn't competent
- Deferral of arrest for nonviolent offenses





SB 30 – Supplemental Appropriations for Mental Health Grants

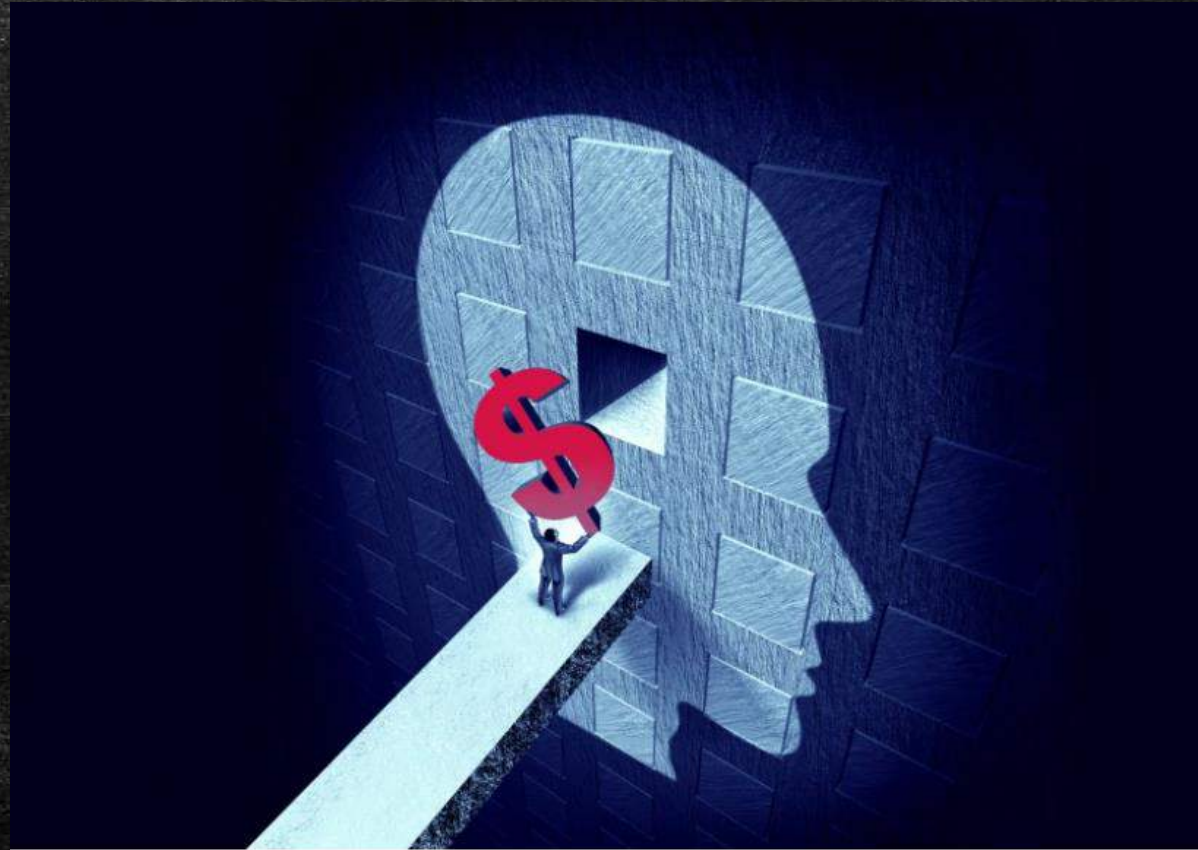
S.B. 30 – Supplemental Appropriations for Mental Health Grants

\$100 Million for One Time Mental Health Programs for County-Based Collaboratives

Related:

S.B. 26 – Innovation Match Grants for Mental Health Early Intervention

S.B. 1677 -HHSC Rural Grants Programs for Regional Behavioral Health Centers and Jail Diversion Centers



Best of the Rest



Some other bills to consider

- **HB 446**
 - Amends statutes to replace “mental retardation” with “intellectual disability”
- **HB 2059**
 - Provides grants for training for Mental Health First Aid (MHFA) and expands eligibility of individuals who can participate in the program (including youth, first responders, judges, military service members and veterans)
- **SB 63**
 - Health and Human Services and Texas Veterans Commission must produce instruction guide for family members and caregivers of veterans who have mental health issues





SB 1585 – Children With Mental Illness or Intellectual Disability in Juvenile Court

Fixed Chapter 55

- Updates terminology/adds definitions
- “Court-ordered inpatient and outpatient treatment”
- Provide guidance for evaluators to identify minors with MH issues



Structure

- Subchapter A – Definitions
- Subchapter B – Addresses court-ordered mental health services
- Subchapter C – children unfit to proceed because of mental illness
- Subchapter D – Evaluation for lack of responsibility
- Subchapter E – Residential treatment



Updated Terminology

K.

(adv.) Ok but with anger.

- Intellectual disability not mental retardation
- “Court-ordered Mental Health Services” not “Commitment”
 - Commitment has another meaning in Title 3 of the Family Code

Definitions

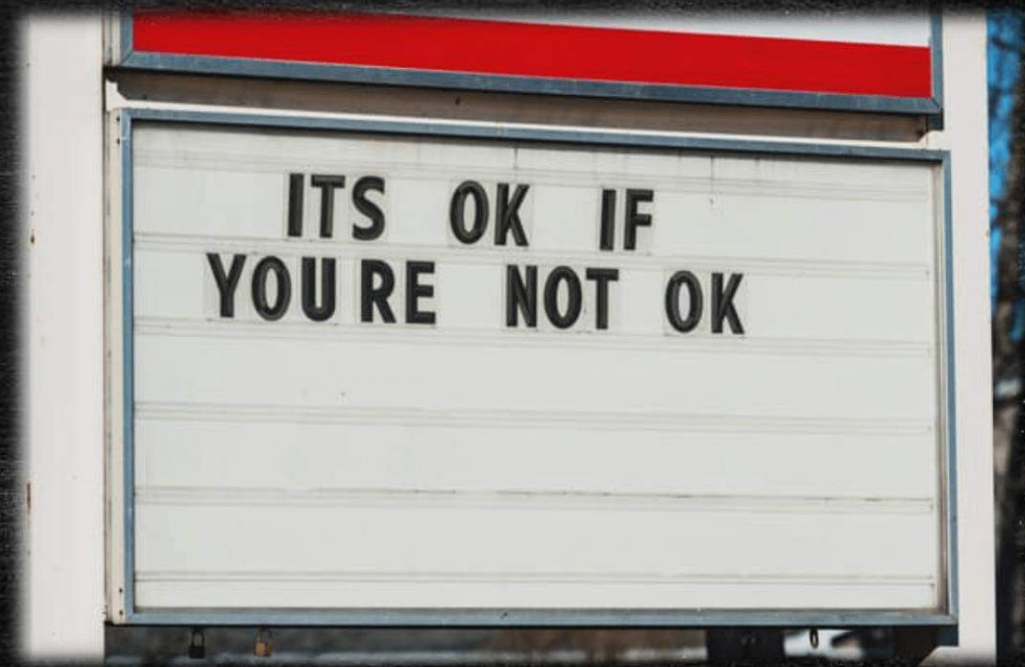
- Chp. 55, Subchapter A is General Provisions
 - Section 55.01 is Definitions
- Adopts relevant definitions from the Texas Health and Safety Code and other sections

Textpectation

(*n.*) The anticipation felt when waiting for a response to a text.

Court-Ordered Inpatient & Outpatient Treatment

- Probable cause to believe child has mental illness – court shall temporarily stay proceedings and order examination



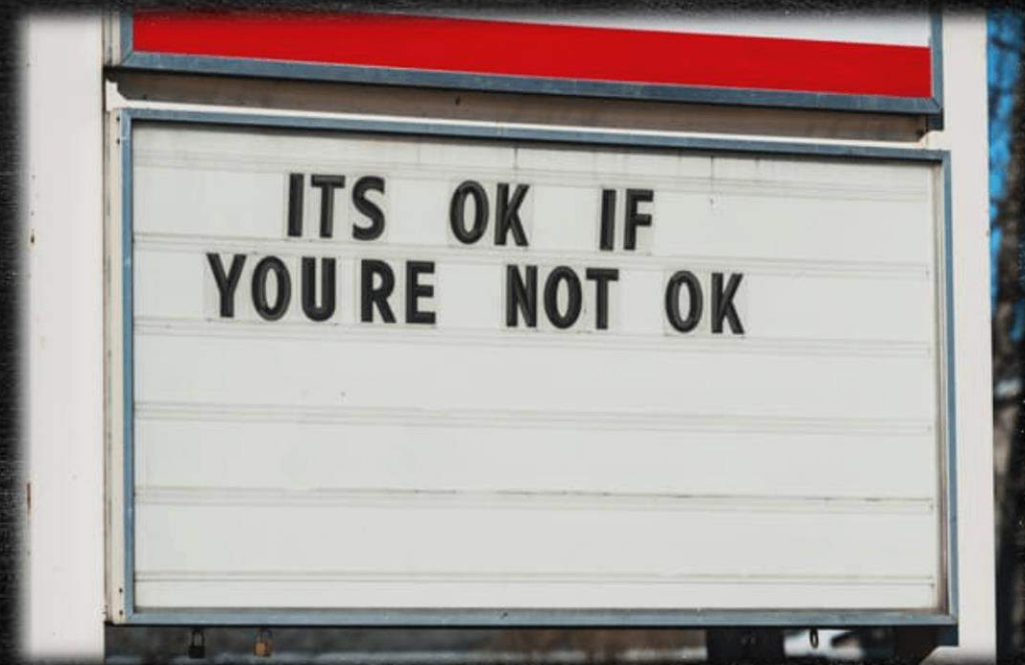
Standards of Care



- Sec. 55.15 "Treatment ordered under this subchapter for a child with mental illness must focus on the stabilization of the child's mental illness and on meeting the child's psychiatric needs in the least restrictive appropriate setting."

Court-Ordered Inpatient & Outpatient Treatment

- Probable cause to believe child has mental illness – court shall temporarily stay proceedings and order examination
- Sec. 55.04 – “Forensic Mental Examination”
 - “Probable cause” – unfit to proceed due to MI or ID
 - Sets qualifications for experts



Temporary Inpatient & Outpatient Treatment



**POLITICIANS ARE
TEMPORARY**

**WU-TANG IS
FOREVER!**

- **Sec. 55.05 – Criteria for Court ordered Mental Health Services for Child**
- **Clear and Convincing Evidence**
- **Temp. In-patient - Likely to cause harm, suffering severe distress, deteriorating**
- **Temp. Out-patient – services are available, severe MI, likely to deteriorate**

Extended Inpatient & Outpatient Treatment



- **Extended In-patient**
 - condition will continue for more than 90 days
 - Has received inpatient treatment for 60 consecutive days during the preceding 12 months
- **Extended out-patient**
 - Condition will continue for more than 90 days
 - Has received in- or out-patient treatment for 60 days

Residential Treatment



- Sec. 55.06 – Residential Intellectual Disability Services (Can't Order Unless)
 - Substantial Risk of Harm
 - Unable to Care for Self
 - Can't be adequately treated in less restrictive setting
 - Residential provides the services
 - Interdisciplinary team recommends it

Residential Treatment

- **Sec. 55.06 – Residential Intellectual Disability Services (Can't Order Unless)**
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**HEY, THIS IS
A PRIVATE
RESIDENCE MAN**

Guidance for Evaluators

- Adds Sec. 55.31(d) – expert shall consider capacity to
 - appreciate allegations
 - appreciate range and nature of allowable dispositions
 - understand roles of participants
 - display appropriate courtroom behavior
 - testify relevantly
 - engage with counsel in reasonable and rational manner

REMOTE WORK ✓ CHECKLIST

- MOVE MOUSE EVERY 5 MINUTES
- MUTE NETFLIX DURING MEETINGS
- WEAR PANTS DURING VIDEO CONFERENCING

Guidance for Evaluators

- **Report must give opinion on child's fitness to proceed or explain why the expert can't**
 - Include child's history
 - Include child's functional abilities related to standing trial
 - Assess likelihood child can be remediated or restored
 - Assess if the child be treated in an alternative setting
 - Recommend interventions

"Report writing is fun", said no one ever.



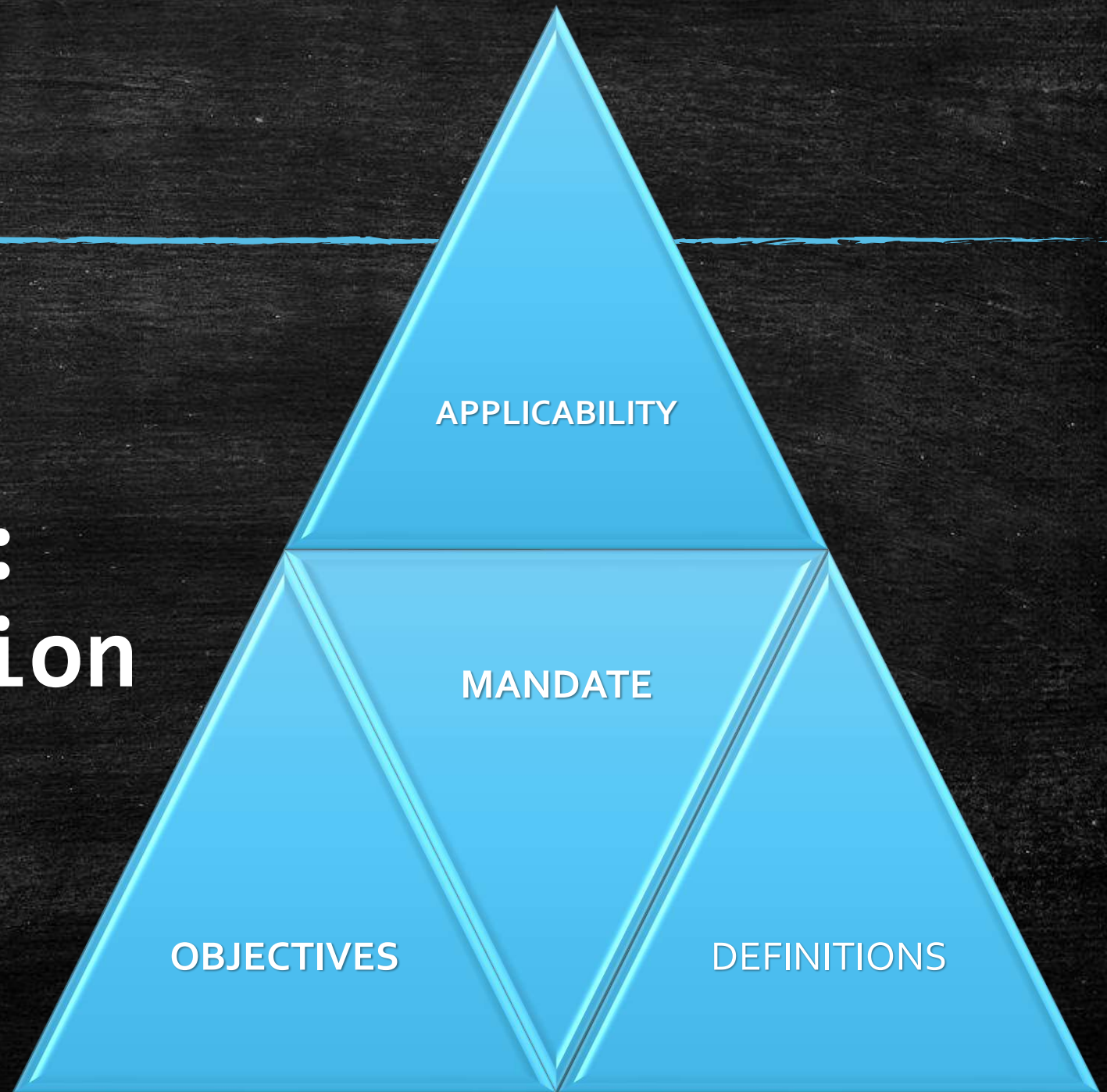
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H.B. 3186

The Texas Youth Intervention & Diversion Act



**Ch. 45, CCP
Subchapter E:
Youth Diversion**



Subchapter E: Ten New Concepts

1. Transfer

2. Eligibility

**3. Diversion
Strategies**

**4. Diversion
Plan**

**5. Diversion
Coordinator**

**6. Diversion
Agreement**

**7. Intermediate
Diversion
Vs.
Diversion by
Judge**

**8. Referral
to Court**

9. LYDAF

**10. Records
Diversion**

H.B. 3186: New & Amended Funding Sources

- Local Youth Diversion Administrative Fee (LYDAF) & Local Youth Diversion Fund
- Reimbursement from the Criminal Justice Division of the Governor's Office
- Shared Resources
- Local Truancy Prevention & Diversion Fund (Renamed Local Youth Diversion Fund)
- Child Safety Fund
- Juvenile Delinquency Prevention Funds



Youth Diversion & Early Youth Intervention

**At-Risk Youth
Chapter 264,
Family Code**

**Judicial Education
Section 22.1105,
Government Code**

