

By: Carona

S.B. No. 823

A BILL TO BE ENTITLED

AN ACT

relating to required instruction regarding mental illness and substance abuse for certain judges and attorneys.

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

SECTION 1. Subchapter B, Chapter 22, Government Code, is amended by adding Section 22.1101 to read as follows:

Sec. 22.1101. JUDICIAL INSTRUCTION RELATED TO MENTAL ILLNESS AND SUBSTANCE ABUSE. (a) In this section:

(1) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(2) "Juvenile proceeding" means a proceeding under Title 3, Family Code, or a proceeding under Chapter 45, Code of Criminal Procedure, in which a juvenile is the respondent or defendant, as applicable.

(b) The court of criminal appeals shall assure that training related to the issue of mental illness and substance abuse is provided to:

(1) subject to Subsection (f)(1), each member of the judiciary specified under Subsection (c); and

(2) each attorney who:

(A) represents the state in criminal or juvenile proceedings; or

(B) in at least 50 percent of the attorney's practice, represents defendants or respondents in criminal or

1 juvenile proceedings.

2 (c) The court of criminal appeals shall adopt rules
3 necessary to accomplish the purposes of this section. The rules
4 must require:

5 (1) subject to Subsection (d), each district judge,
6 judge of a statutory county court, associate judge appointed under
7 Chapter 54 of this code or Chapter 201, Family Code, and master,
8 referee, and magistrate appointed under Chapter 54 to complete:

9 (A) at least 12 hours of the training within the
10 judge's first term of office or the judicial officer's first four
11 years of service; and

12 (B) an additional six hours of the training
13 during each additional term in office or four years of service; and

14 (2) subject to Subsection (e), each attorney subject
15 to this section to complete at least six hours of the training not
16 later than two years after the date:

17 (A) the attorney is first elected, appointed, or
18 otherwise employed as a state prosecutor; or

19 (B) on which at least 50 percent of the
20 attorney's practice involves the representation of defendants or
21 respondents in criminal or juvenile proceedings.

22 (d) At least four hours of the training required under
23 Subsection (c)(1)(A) must be dedicated to issues related to
24 substance abuse and cover at least three of the topics described in
25 Subsections (h)(1)-(6). At least six hours of the training
26 required under Subsection (c)(1)(A) must be dedicated to mental
27 illness and cover at least four of the topics described by

1 Subsections (i)(1)-(6). At least two hours of the additional
2 training required under Subsection (c)(1)(B) must be dedicated to
3 issues related to mental illness, and at least two hours of the
4 additional training must be dedicated to issues related to
5 substance abuse.

6 (e) Three hours of the training required under Subsection
7 (c)(2) must be dedicated to issues related to substance abuse and
8 cover at least three of the topics described in Subsections
9 (h)(1)-(6). Three hours of the training required under Subsection
10 (c)(2) must be dedicated to mental illness and cover at least four
11 of the topics described by Subsections (i)(1)-(6).

12 (f) The rules adopted under this section must:

13 (1) exempt from the training requirement each judge or
14 judicial officer who files an affidavit stating that the judge or
15 judicial officer does not hear any criminal cases or cases under
16 Title 3, Family Code; and

17 (2) provide a method for certification of completion
18 of the training.

19 (g) In adopting the rules under this section, the court of
20 criminal appeals may consult with the supreme court and shall
21 consult with professional groups and associations in the state that
22 have expertise in the subject matter to obtain the recommendations
23 of those groups or associations for the purpose of developing
24 instruction content.

25 (h) The instruction relating to substance abuse must
26 include information about:

27 (1) the medical model of addiction, including the

1 diagnosis and treatment of substance abuse;

2 (2) medical findings regarding the psychological and
3 physical effects of substance abuse;

4 (3) the effects that controlled substances and alcohol
5 have on an individual;

6 (4) the effects of substance abuse on the family,
7 household members, and personal relationships of an individual;

8 (5) the concept of relapse and relapse prevention; and

9 (6) available community and state resources for
10 substance abuse counseling and treatment of individuals.

11 (i) The instruction regarding mental illness must include
12 information about:

13 (1) the difference between mental retardation and
14 mental illness;

15 (2) the types of mental illnesses that are prevalent
16 among persons convicted of criminal offenses;

17 (3) treatment or counseling options for dealing with
18 mental illnesses;

19 (4) the need for conducting a psychological evaluation
20 to determine a defendant's mental health status;

21 (5) post-traumatic stress disorder and traumatic
22 brain injuries; and

23 (6) available community and state resources for mental
24 health counseling and treatment of offenders.

25 (j) The sponsoring organization for any training on issues
26 related to substance abuse or mental illness must have experience
27 in training professionals on substance abuse or mental illness

1 issues or have personnel or planning committee members who have at
2 least two years' experience in working directly in the field of
3 substance abuse or mental illness.

4 (k) The court of criminal appeals or the court's designee
5 shall report the name of:

6 (1) a judge or judicial officer who does not comply
7 with the requirements of this section to the State Commission on
8 Judicial Conduct; and

9 (2) an attorney who does not comply with the
10 requirements of this section to the State Bar of Texas.

11 SECTION 2. (a) Not later than December 1, 2011, the Texas
12 Court of Criminal Appeals shall adopt the rules necessary to
13 provide the training required under Section 22.1101, Government
14 Code, as added by this Act.

15 (b) Notwithstanding Section 22.1101, Government Code, as
16 added by this Act, a judge who is in office on the effective date of
17 this Act or an attorney described by Section 22.1101(b)(2),
18 Government Code, as added by this Act, on the effective date of this
19 Act must complete the training required by Sections
20 22.1101(c)(1)(A) and 22.1101(c)(2), Government Code, as added by
21 this Act, as applicable, not later than December 1, 2013.

22 SECTION 3. This Act takes effect September 1, 2011.