86R7243 TSS-D

By:  Watson S.B. No. 488

A BILL TO BE ENTITLED

AN ACT

relating to required training regarding childhood trauma for judges who hear cases involving certain children and requirements for a juvenile's appearance in a judicial proceeding.

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

SECTION 1.  Chapter 54, Family Code, is amended by adding Sections 54.12 and 54.13 to read as follows:

Sec. 54.12.  USE OF RESTRAINTS. (a) A mechanical or physical restraint may not be used on a child during a judicial proceeding and any restraint must be removed before the child's appearance before the court unless the court finds that the use of a mechanical or physical restraint is necessary:

(1)  to prevent physical injury to the child or another; or

(2)  because the child presents a substantial risk of flight from the courtroom.

(b)  The court shall provide the child's attorney an opportunity to be heard before the court may order the use of a mechanical or physical restraint. If the use of a restraint is ordered, the court shall make findings of fact in support of the order.

(c)  A mechanical or physical restraint used on a child during a judicial proceeding must be the least restrictive restraint available that is effective to prevent physical injury to the child or another or to prevent the child's flight from the courtroom.

(d)  The court shall expedite any judicial proceeding during which a child is restrained and give preference to the proceeding over other matters.

Sec. 54.13.  CLOTHING DURING JUDICIAL PROCEEDING. (a) During a judicial proceeding, a court shall permit a child to wear clothing other than a uniform provided by a detention or correctional facility.

(b)  If at the time of the judicial proceeding the child does not have access to any clothing other than a uniform provided by a detention or correctional facility, the court shall provide the child with appropriate clothing.

SECTION 2.  Section 22.011, Government Code, is amended to read as follows:

Sec. 22.011.  JUDICIAL TRAINING [~~INSTRUCTION~~] RELATED TO FAMILY VIOLENCE, SEXUAL ASSAULT, TRAFFICKING OF PERSONS, CHILDHOOD TRAUMA, AND CHILD ABUSE. (a) The supreme court shall provide judicial training related to the problems of family violence, sexual assault, trafficking of persons, childhood trauma, and child abuse and to issues concerning sex offender characteristics.

(d)  The instruction content must include information about:

(1)  statutory and case law relating to videotaping a child's testimony and relating to competency of children to testify;

(2)  methods for eliminating the trauma to the child caused by the court process;

(3)  case law, statutory law, and procedural rules relating to family violence, sexual assault, trafficking of persons, and child abuse;

(4)  methods for providing protection for victims of family violence, sexual assault, trafficking of persons, or child abuse;

(5)  available community and state resources for counseling and other aid to victims and to offenders;

(6)  gender bias in the judicial process;

(7)  dynamics and effects of being a victim of family violence, sexual assault, trafficking of persons, or child abuse; [~~and~~]

(8)  issues concerning sex offender characteristics; and

(9)  if the judge hears cases involving children in the conservatorship of the Department of Family and Protective Services or the juvenile justice system, issues related to childhood trauma and adverse childhood experiences.

SECTION 3.  The heading to Section 22.110, Government Code, is amended to read as follows:

Sec. 22.110.  JUDICIAL TRAINING [~~INSTRUCTION~~] RELATED TO FAMILY VIOLENCE, SEXUAL ASSAULT, TRAFFICKING OF PERSONS, CHILDHOOD TRAUMA, AND CHILD ABUSE AND NEGLECT.

SECTION 4.  Sections 22.110(a), (b), and (d), Government Code, are amended to read as follows:

(a)  The court of criminal appeals shall assure that judicial training related to the problems of family violence, sexual assault, trafficking of persons, childhood trauma, and child abuse and neglect is provided.

(b)  The court of criminal appeals shall adopt the rules necessary to accomplish the purposes of this section. The rules must:

(1)  require each district judge, judge of a statutory county court, associate judge appointed under Chapter 54A of this code or Chapter 201, Family Code, master, referee, and magistrate to complete [~~at least 12 hours of the training~~] within the judge's first term of office or the judicial officer's first four years of service and provide [~~a method for~~] certification of completion of at least 12 hours of [~~that~~] training that includes:

(A)  at [~~. At~~] least four hours [~~of the training must be~~] dedicated to issues related to trafficking of persons and child abuse and neglect and covers [~~must cover~~] at least two of the topics described in Subsections (d)(8)-(12);

(B)  at [~~. At~~] least six hours [~~of the training must be~~] dedicated to the training described by Subsections (d)(5), (6), and (7); and

(C)  if the judge hears cases involving children in the conservatorship of the Department of Family and Protective Services or the juvenile justice system, at least three hours dedicated to the training described by Subsection (d)(13);

(2)  [~~. The rules must~~] require each judge and judicial officer to complete [~~an additional five hours of training~~] during each additional term in office or four years of service an additional five hours of training that includes:

(A)  at [~~. At~~] least two hours [~~of the additional training must be~~] dedicated to issues related to trafficking of persons and child abuse and neglect; and

(B)  if the judge hears cases involving children in the conservatorship of the Department of Family and Protective Services or the juvenile justice system, at least one hour dedicated to the training described by Subsection (d)(13); and

(3)  [~~. The rules must~~] exempt from the training requirement of this subsection each judge or judicial officer who files an affidavit stating that the judge or judicial officer does not hear any cases involving family violence, sexual assault, trafficking of persons, childhood trauma, or child abuse and neglect.

(d)  The instruction content must include information about:

(1)  statutory and case law relating to videotaping a child's testimony and relating to competency of children to testify;

(2)  methods for eliminating the trauma to the child caused by the court process;

(3)  case law, statutory law, and procedural rules relating to family violence, sexual assault, trafficking of persons, and child abuse and neglect;

(4)  methods for providing protection for victims of family violence, sexual assault, trafficking of persons, and child abuse and neglect;

(5)  available community and state resources for counseling and other aid to victims and to offenders;

(6)  gender bias in the judicial process;

(7)  dynamics and effects of being a victim of family violence, sexual assault, trafficking of persons, or child abuse and neglect;

(8)  dynamics of sexual abuse of children, including child abuse accommodation syndrome and grooming;

(9)  impact of substance abuse on an unborn child and on a person's ability to care for a child;

(10)  issues of attachment and bonding between children and caregivers;

(11)  issues of child development that pertain to trafficking of persons and child abuse and neglect; [~~and~~]

(12)  medical findings regarding physical abuse, sexual abuse, trafficking of persons, and child abuse and neglect; and

(13)  issues related to childhood trauma and adverse childhood experiences.

SECTION 5.  (a) Not later than December 1, 2019, the Supreme Court of Texas shall adopt the rules necessary to provide the training required under Section 22.011, Government Code, as amended by this Act.

(b)  Not later than December 1, 2019, the Texas Court of Criminal Appeals shall adopt the rules necessary to provide the training required under Section 22.110, Government Code, as amended by this Act.

(c)  Notwithstanding Section 22.110, Government Code, as amended by this Act, a judge, master, referee, and magistrate who is in office on the effective date of this Act must complete the training required by Section 22.110, Government Code, as amended by this Act, as applicable, not later than December 1, 2021.

SECTION 6.  This Act takes effect September 1, 2019.