

By: Watson

S.B. No. 488

A BILL TO BE ENTITLED

AN ACT

1
2 relating to required training regarding childhood trauma for judges
3 who hear cases involving certain children and requirements for a
4 juvenile's appearance in a judicial proceeding.

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

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

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

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

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

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

22 (c) A mechanical or physical restraint used on a child
23 during a judicial proceeding must be the least restrictive
24 restraint available that is effective to prevent physical injury to

1 the child or another or to prevent the child's flight from the
2 courtroom.

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

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

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

14 SECTION 2. Section [22.011](#), Government Code, is amended to
15 read as follows:

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

22 (d) The instruction content must include information about:

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

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

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

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

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

9 (6) gender bias in the judicial process;

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

13 (8) issues concerning sex offender characteristics;
14 and

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

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

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

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

26 (a) The court of criminal appeals shall assure that judicial
27 training related to the problems of family violence, sexual

1 assault, trafficking of persons, childhood trauma, and child abuse
2 and neglect is provided.

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

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

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

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

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

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

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

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

8 (3) [~~. The rules must]~~ exempt from the training

9 requirement of this subsection each judge or judicial officer who
10 files an affidavit stating that the judge or judicial officer does
11 not hear any cases involving family violence, sexual assault,
12 trafficking of persons, childhood trauma, or child abuse and
13 neglect.

14 (d) The instruction content must include information about:

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

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

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

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

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

1 (6) gender bias in the judicial process;

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

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

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

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

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

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

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

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

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

26 (c) Notwithstanding Section 22.110, Government Code, as
27 amended by this Act, a judge, master, referee, and magistrate who is

1 in office on the effective date of this Act must complete the
2 training required by Section [22.110](#), Government Code, as amended by
3 this Act, as applicable, not later than December 1, 2021.

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