

SUBJECT: Judicial training for judges who hear certain complaints against children

COMMITTEE: Corrections — committee substitute recommended

VOTE: 10 ayes — McReynolds, Madden, Dutton, England, Hodge, Marquez, Martinez, S. Miller, Ortiz, Sheffield

0 nays

1 absent — Kolkhorst

WITNESSES: For — Dustin Rynders, Advocacy, Inc.; John Vasquez; (*Registered, but did not testify*: Isela Gutierrez, Texas Criminal Justice Coalition; Rebecca Lightsey, Texas Appleseed; Justin Marlin, Texans Care For Children; Laura Parker, 386th District Court; Matthew Simpson, The ACLU of Texas)

Against — None

BACKGROUND: Under Government Code, sec. 22.110 the Court of Criminal Appeals must adopt rules providing judicial training related to the problems of family violence, sexual assault, and child abuse and neglect. These rules must require each district judge, judge of a statutory county court, associate judge appointed under Government Code, ch. 54 or Family Code, ch. 201, master, referee, and magistrate to complete at least 12 hours of 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 that training. The Texas Center for the Judiciary is the primary provider of specialized judicial education and training for Texas appellate, district, and county court at law judges.

The Court of Criminal Appeals promulgates rules establishing training requirements for municipal judges and justices of the peace. Rule 3 of the Rules of Judicial Education requires justice of the peace to annually complete a 20-hour course of instruction approved by a Justice Court Education Committee. Rule 5 requires municipal judges to annually complete a minimum of 12 hours of instruction from the Texas Municipal Courts Education Center.

The state appropriates funds for judicial education through the Judicial and Court Personnel Training Fund No. 540 at the Court of Criminal Appeals.

DIGEST:

CSHB 1793 would require a judge with jurisdiction to hear a complaint against a child alleging a violation of a misdemeanor offense punishable by fine only — excluding a traffic offense or public intoxication or a violation of a penal ordinance of a political subdivision other than a traffic offense — to annually complete two hours of judicial training related to child welfare issues and the Individuals with Disabilities Education Act (IDEA). A judge would complete the two hours of training as part of the training the judge must complete under rules adopted by the Court of Criminal Appeals or other law.

The bill would require the Court of Criminal Appeals to adopt rules by December 1, 2009, to provide for the additional training. The Court of Criminal Appeals could consult with the Supreme Court of Texas and with professional groups and associations in Texas that have expertise in the training subject matter.

CSHB 1793 would not require a judge currently in office to complete the judicial training before January 1, 2010.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

CSHB 1793 would provide municipal judges and justices of the peace with the necessary judicial training for handling juveniles with disabilities and special education needs. Currently, judges in juvenile courts receive required training in juvenile law and related issues in juvenile justice, such as cognitive and behavioral problems. There is no similar juvenile training requirement for municipal judges and justices of the peace, even though these judges often see juveniles charged with class C misdemeanors under the Family Code. Frequently, these judges do not have the background or judicial training necessary to effectively adjudicate juvenile welfare issues. Effective adjudication can reduce the rate of juvenile recidivism and keep children out of juvenile court or the adult criminal justice system. CSHB 1793 would provide a cumulative benefit to the entire criminal justice system by establishing a minimum standard of judicial training for all Texas judges who heard certain types of juvenile cases.

The inclusion of IDEA-related training in CSHB 1793 would especially help children who had mental disabilities or received special education services. IDEA governs how states and public agencies provide early intervention, special education and related services to eligible infants, toddlers, children and youth with disabilities. These youths are disproportionately represented in state and school disciplinary proceedings and would benefit from receiving effective guidance from judges who understood the needs of children who were disabled or received special education.

By requiring merely two hours of specialized training, CSHB 1793 would not impose an onerous administrative or financial burden on municipal judges and justices of the peace. The bill's training requirement would not necessarily increase the total number of hours spent on training for these judges because the requirement could be incorporated within the judges' existing annual hourly training requirements. As for the bill's potential costs, the Legislative Budget Board's (LBB) fiscal note reflects only the monetary costs of implementation and does not recognize the savings that would be achieved by reducing the number of juveniles before juvenile courts or before the adult criminal justice system.

At-risk juveniles with disabilities or special education needs cannot afford to wait for municipal judges and justices of the peace to implement specialized training programs voluntarily. CSHB 1793 would ensure that these children received as quickly as possible badly needed guidance from judges with the necessary training and background to responsibly adjudicate juvenile cases.

**OPPONENTS
SAY:**

CSHB 1793 would add yet another mandated judicial training requirement for municipal judges and justices of the peace without providing additional funding for the training's implementation. Municipal judges and justices of the peace already are required to receive 12 and 20 hours, respectively, of mandated annual training. No matter how well-intentioned it is, mandated training invariably requires additional resources and reduces the time available for a judge to hear cases and otherwise serve the needs of the judge's jurisdiction. The LBB's fiscal note indicates that implementing CSHB 1793 would cost the state an additional \$919,263 in all funds over the next five years, including costs for training the current 1,414 municipal court judges and 821 justices of the peace, hiring additional staff, and a one-time software modification expenditure.

In addition, the bill would not effectively address the specialized training needs of individual judges because it would impose the same training burden on judges who hear only a few juvenile misdemeanor cases as it would on judges who hear many such cases. A judge who must receive training in one area has less time to receive specialized training in another area that might be more relevant to the types of cases the judge normally handles. CSHB 1793 should provide more narrowly tailored training requirements that recognize the different judicial education needs of individual judges.

OTHER
OPPONENTS
SAY:

CSHB 1793 would continue a disconcerting trend by the Legislature to dictate training requirements to the judicial branch. The principle of separation of powers requires that the three co-equal branches of government respect the limitations upon their powers to impose certain obligations on the other branches. Although well-intentioned, the Legislature's directives infringe upon the prerogatives of the judiciary, whose own members know best which training programs should be required.

NOTES:

The committee substitute differs from the bill as filed by requiring a judge to complete two hours of required judicial training related to child welfare issues and IDEA, rather than two to four hours of required judicial training as in the original bill. The committee substitute also added a provision not in the original bill stipulating that the required training was part of the training the judge is already required to complete by rule of the Court of Criminal Appeals or under other law.

According to LBB, the bill would result in additional costs to the state of \$919,263 in all funds over the next five years. These costs would include additional training for the current 1,414 municipal court judges and 821 justices of the peace, hiring additional staff, and a one-time software modification expenditure by the Texas Municipal Courts Education Center.

A similar bill, SB 55 by Zaffirini, was reported favorably, as substituted, by the Senate Jurisprudence Committee on April 20.