

SUBJECT: Judicial training in ethnic, cultural, and racial awareness

COMMITTEE: Judicial Affairs — committee substitute recommended

VOTE: 7 ayes — Thompson, Capelo, Deshotel, Garcia, Hinojosa, Solis, Uresti
1 nay — Talton
1 present, not voting — Hartnett

WITNESSES: For — Al Kauffman, MALDEF; Frumencio Reyes and Joel Salazar, Mexican American Bar Association
Against — James Hernandez and Rene Rodriguez, Young Conservatives of Texas
On — Mari Kay Bickett, Texas Center for the Judiciary; Judge Lamar McCorkle; *Registered but did not testify:* Margaret Reaves, State Commission on Judicial Conduct

BACKGROUND: The Code of Judicial Conduct requires judges to perform their duties impartially and diligently. Section B specifically states that:

- ! a judge shall perform judicial duties without bias or prejudice, and
- ! a judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not knowingly permit staff, court officials, and others subject to the judge’s direction and control to do so.

DIGEST: CSHB 546 would require the Court of Criminal Appeals to adopt rules requiring training of judges in issues related to racial, cultural, and ethnic awareness, including training in the relevant sections of the Code of Judicial Conduct. The rules would have to require each judge subject to the Rules of Judicial Education to complete the training within the judge’s first four years of service and to complete additional training during each additional four

years of service. The court could consult with other professional groups and associations in adopting the rules. The instruction would have to include information on issues related to race fairness and ethnic and cultural awareness. The Court of Criminal Appeals would have to report the name of a judge who did not comply with these requirements to the State Commission on Judicial Conduct.

This bill would take effect August 31, 2001. Each judge who was in office on that date would have to complete the required training before completing another year in office.

**SUPPORTERS
SAY:**

CSHB 546 would help reduce the number of incidents of racial slurs and bias occurring in courtrooms.

- ! In April 1999, a Houston judge ordered a mother to speak only English to her daughter and then extended the order to apply to the father and grandparents.
- ! In March 1995, an Amarillo judge made the same type of order so that the mother would not “make [the daughter] a maid for the rest of her life.”
- ! In 1993, a Montgomery County judge rejected a defendant’s plea bargain for driving with a suspended license, stating: “I’m not going to accept the plea bargain. It’s about time you learn to speak English.” The judge also increased the fine substantially. The judge accepted the exact same plea bargain for the exact same offense from a white man who came before the bench immediately after.
- ! In 1991, a Fort Bend County judge repeatedly used an offensive racial epithet to refer a Richmond resident during a March 8 hearing.

It would not be unreasonable to require judges to take training on ethnic, cultural, and racial awareness. The cultural training could be worked into the continuing education requirements for judges. Judges can assign people to attend anger-management classes, so they should understand the value of cultural sensitivity training. Judges now are required to attend training to deal with family violence cases.

CSHB 546 would reduce insensitivity on the part of judges. For example, it is common in misdemeanor cases for the judge to apply high bonds for non-

citizens. Judges often assign non-Spanish-speaking lawyers to Spanish-speaking defendants. Judges often do not distinguish between the different Hispanic nationalities. To them, anyone who speaks Spanish is a “Mexican.” This is offensive to some Hispanics who are proud of their nationality.

Cultural training for judges could help prevent such incidents of disrespect, rather than requiring a judge to be disciplined after such incidents occurred.

OPPONENTS
SAY:

CSHB 546 is unnecessary. Review committees weed out bad judges. The commission ensures that the judges act within their boundaries. Judges already are required to take ethics courses. Requiring cultural sensitivity courses would occupy valuable time that the judges could spend performing their duties.

Cultural training should not be required of all judges because of a few bad judges. Complaints can be filed with the Commission on Judicial Conduct. Judges can be sanctioned, suspended, or reprimanded to prevent them from further culturally insensitive practices. Requiring such training would devalue judges in the eyes of the public and would make it appear as if the Legislature had no faith in the judiciary.

NOTES:

The committee substitute added cultural awareness, relevant sections of the Code of Judicial Conduct, and issues related to race fairness to the required topics of training. It removed requirements for certain amounts of training and the requirement that the rules provide a method for certifying completion of training.