

By: Gallego

H.B. No. 1976

A BILL TO BE ENTITLED

AN ACT

relating to the provision of intervention or counseling services to certain persons who have committed family violence.

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

SECTION 1. Section 14, Article 42.12, Code of Criminal Procedure, as amended by Chapter 165, Acts of the 73rd Legislature, Regular Session, 1993, and Chapter 910, Acts of the 76th Legislature, Regular Session, 1999, is amended by amending Subsection (c) and adding Subsections (c-1) and (c-2) to read as follows:

(c) If the court grants community supervision to a person convicted of an offense involving family violence, as defined by Section 71.004, Family Code, the court may require the defendant ~~[to attend]~~, at the direction of the community supervision and corrections department officer, to:

(1) attend a battering intervention and prevention program defined by Article 42.141;

(2) beginning on March 1, 2004, if the referral option under Subdivision (1) is not available, attend a program or counsel with a provider that has begun the accreditation process described by Subsection (c-1); or

(3) if the referral option under Subdivision (1) or, beginning on March 1, 2004, the referral option under Subdivision (2) is not available, attend counseling sessions for the

1 elimination of violent behavior with a licensed counselor, social  
2 worker, or other professional who has completed [~~been trained in~~  
3 family violence intervention training consisting of an initial 40  
4 hours of training followed by an annual 12 hours of continuing  
5 education [~~or to attend a battering intervention and prevention~~  
6 ~~program if available that meets guidelines adopted by the community~~  
7 ~~justice assistance division of the Texas Department of Criminal~~  
8 ~~Justice]~~.

9 (c-1) Beginning on September 1, 2005, a program or provider  
10 serving as a referral option for the courts under Subsection  
11 (c)(1), (2), or (3) must be accredited under Section 4, Article  
12 42.141, as conforming to program guidelines under that article.

13 (c-2) If the court requires the defendant to attend  
14 counseling or a program, the court shall require the defendant to  
15 begin attendance not later than the 60th day after the date the  
16 court grants community supervision, notify the community  
17 supervision and corrections department officer of the name,  
18 address, and phone number of the counselor or program, and report  
19 the defendant's attendance to the officer. The court shall require  
20 the defendant to pay all the reasonable costs of the counseling  
21 sessions or attendance in the program on a finding that the  
22 defendant is financially able to make payment. If the court finds  
23 the defendant is unable to make payment, the court shall make the  
24 counseling sessions or enrollment in the program available without  
25 cost to the defendant. The court may also require the defendant to  
26 pay all or a part of the reasonable costs incurred by the victim for  
27 counseling made necessary by the offense, on a finding that the

1 defendant is financially able to make payment. The court may order  
2 the defendant to make payments under this subsection for a period  
3 not to exceed one year after the date on which the order is entered.

4 SECTION 2. Section 1(7), Article 42.141, Code of Criminal  
5 Procedure, is amended to read as follows:

6 (7) "Program" means a battering intervention and  
7 prevention program [~~operated by a nonprofit organization~~] that:

8 (A) meets the guidelines that are adopted by the  
9 community justice assistance division of the Texas Department of  
10 Criminal Justice with the assistance of the statewide nonprofit  
11 organization described by Section 3(1) of this article, and any  
12 other eligibility requirements adopted by the Texas Department of  
13 Criminal Justice; and

14 (B) provides, on a local basis to batterers  
15 referred by the courts for intervention [~~treatment~~], [~~treatment~~  
16 ~~and~~] educational services and intervention designed to help the  
17 batterers stop their abusive behavior.

18 SECTION 3. Article 42.141, Code of Criminal Procedure, is  
19 amended by amending Sections 3 and 4 and adding Section 4A to read  
20 as follows:

21 Sec. 3. DUTIES OF THE DIVISION. The division shall:

22 (1) contract with a nonprofit organization that for  
23 the five-year period before the date on which a contract is to be  
24 signed has been involved in providing to shelter centers, law  
25 enforcement agencies, and the legal community statewide advocacy  
26 and technical assistance relating to family violence, with the  
27 contract requiring the nonprofit organization to perform the duties

1 described in Section (4) of this article;

2 (2) seek the input of the statewide nonprofit  
3 organization described in Subdivision (1) of this section in the  
4 development of standards for selection of programs for inclusion in  
5 the project and the review of proposals submitted by programs;

6 (3) issue requests for proposals for the programs and  
7 an educational campaign not later than January 1, 1990;

8 (4) award contracts for programs that take into  
9 consideration:

10 (A) a balanced geographical distribution of  
11 urban, rural, and suburban models; and

12 (B) the presence of a responsive law enforcement  
13 climate in the community;

14 (5) develop and monitor the project in cooperation  
15 with the nonprofit organization;

16 (6) monitor the development of a community educational  
17 campaign in cooperation with the nonprofit organization;

18 (7) assist the nonprofit organization in designing  
19 program evaluations and research activities; ~~and~~

20 (8) facilitate training of probation officers and  
21 other criminal justice professionals by the nonprofit organization  
22 and by programs; and

23 (9) seek the assistance of the nonprofit organization  
24 in developing program guidelines and in accrediting programs and  
25 providers providing battering intervention and prevention services  
26 as conforming to those guidelines.

27 Sec. 4. DUTIES OF THE NONPROFIT ORGANIZATION. The

1 nonprofit organization with which the division contracts shall:

2 (1) assist the division in developing and issuing  
3 requests for proposals for the programs and the educational  
4 campaign;

5 (2) assist the division in reviewing the submitted  
6 proposals and making recommendations for proposals to be selected  
7 for funding;

8 (3) develop and monitor the project in cooperation  
9 with the division;

10 (4) provide technical assistance to programs to:

11 (A) develop appropriate services for batterers;

12 (B) train staff;

13 (C) improve coordination with shelter centers,  
14 the criminal justice system, the judiciary, law enforcement  
15 agencies, prosecutors, and other appropriate officials and support  
16 services;

17 (D) implement the community educational  
18 campaign; and

19 (E) participate in project administered program  
20 evaluation and research activities;

21 (5) provide technical assistance to the division to:

22 (A) develop and implement standards for  
23 selection of programs for inclusion in the project; and

24 (B) develop standards for selection of the  
25 community educational campaign described in Section 6 of this  
26 article;

27 (6) submit an annual written report to the division

1 and to the legislature with recommendations for continuation,  
2 elimination, or changes in the project; ~~and~~

3 (7) evaluate the programs and the community  
4 educational campaign, including an analysis of the effectiveness of  
5 the project and the level of public awareness relating to family  
6 violence; and

7 (8) assist the division in developing program  
8 guidelines and in accrediting programs and providers providing  
9 battering intervention and prevention services as conforming to  
10 those guidelines.

11 Sec. 4A. ADOPTION OF PROGRAM GUIDELINES; ACCREDITATION  
12 PROCESS. With the assistance of the statewide nonprofit  
13 organization described by Section 3(1) of this article, the  
14 division shall adopt guidelines for programs and shall accredit  
15 programs and providers providing battering intervention and  
16 prevention services as conforming to those guidelines. The  
17 division shall collect a one-time application fee of \$500 from each  
18 program or provider that applies for accreditation under this  
19 section.

20 SECTION 4. Section 85.022, Family Code, is amended by  
21 amending Subsection (a) and by adding Subsection (a-1) to read as  
22 follows:

23 (a) In a protective order, the court may order the person  
24 found to have committed family violence to perform acts specified  
25 by the court that the court determines are necessary or appropriate  
26 to prevent or reduce the likelihood of family violence and may order  
27 that person to:

1           (1) complete a battering intervention and prevention  
2 program as defined [~~provided~~] by Article 42.141, Code of Criminal  
3 Procedure [~~, and that meets the guidelines adopted by the community~~  
4 ~~justice assistance division of the Texas Department of Criminal~~  
5 ~~Justice if a program is available~~];

6           (2) beginning on March 1, 2004, if the referral option  
7 under Subdivision (1) is not available, complete a program or  
8 counsel with a provider that has begun the accreditation process  
9 described by Subsection (a-1); or

10           (3) if the referral option under Subdivision (1) or,  
11 beginning on March 1, 2004, the referral option under Subdivision  
12 (2) is not available, counsel with a social worker, family service  
13 agency, physician, psychologist, licensed therapist, or licensed  
14 professional counselor who has completed family violence  
15 intervention training consisting of an initial 40 hours of training  
16 followed by an annual 12 hours of continuing education [~~if a program~~  
17 ~~under Subdivision (1) is not available, or~~

18           [~~(3) perform acts specified by the court that the~~  
19 ~~court determines are necessary or appropriate to prevent or reduce~~  
20 ~~the likelihood of family violence~~].

21           (a-1) Beginning on September 1, 2005, a program or provider  
22 -serving as a referral option for the courts under Subsection  
23 (a)(1), (2), or (3) must be accredited under Section 4, Article  
24 42.141, Code of Criminal Procedure, as conforming to program  
25 guidelines under that article.

26           SECTION 5. Section 85.024(a), Family Code, is amended to  
27 read as follows:

1           (a) A person found to have engaged in family violence who is  
2 ordered to attend a program or counseling under Section  
3 85.022(a)(1), ~~[or]~~ (2), or (3) shall file with the court an  
4 affidavit before the 60th day after the date the order was rendered  
5 stating either that the person has begun the program or counseling  
6 or that a program or counseling is not available within a reasonable  
7 distance from the person's residence. A person who files an  
8 affidavit that the person has begun the program or counseling shall  
9 file with the court before the date the protective order expires a  
10 statement that the person completed the program or counseling not  
11 later than the 30th day before the expiration date of the protective  
12 order. An affidavit under this subsection must be accompanied by a  
13 letter, notice, or certificate from the program or counselor that  
14 verifies the person's completion of the program or counseling. A  
15 person who fails to comply with this subsection may be punished for  
16 contempt of court under Section 21.002, Government Code.

17           SECTION 6. This Act takes effect September 1, 2003, and  
18 applies only to a court order granting community supervision or a  
19 protective order or a modification of the order that is rendered on  
20 or after that date. A court order granting community supervision or  
21 a protective order or a modification of the order that is rendered  
22 before the effective date of this Act is governed by the law in  
23 effect on the date the order or modification was rendered, and the  
24 former law is continued in effect for that purpose.