

By: Gutierrez

H.B. No. 2712

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the provision of intervention or counseling services to  
3 certain persons who have committed family violence and to a process  
4 for accrediting those services.

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

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

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

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

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

23 (3) if the referral option under Subdivision (1) or,  
24 beginning on March 1, 2004, the referral option under Subdivision

1 (2) is not available, attend counseling sessions for the  
2 elimination of violent behavior with a licensed counselor, social  
3 worker, or other professional who has completed ~~[been trained in]~~  
4 family violence intervention training consisting of an initial 40  
5 hours of training followed by an annual 12 hours of continuing  
6 education ~~[or to attend a battering intervention and prevention~~  
7 ~~program if available that meets guidelines adopted by the community~~  
8 ~~justice assistance division of the Texas Department of Criminal~~  
9 ~~Justice].~~

10 (c-1) Beginning on September 1, 2005, a program or provider  
11 serving as a referral option for the courts under Subsection  
12 (c)(1), (2), or (3) must be accredited under Section 4, Article  
13 42.141, as conforming to program guidelines under that article.

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

1 counseling made necessary by the offense, on a finding that the  
2 defendant is financially able to make payment. The court may order  
3 the defendant to make payments under this subsection for a period  
4 not to exceed one year after the date on which the order is entered.

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

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

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

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

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

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

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

1 contract requiring the nonprofit organization to perform the duties  
2 described in Section (4) of this article;

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

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

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

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

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

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

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

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

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

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

1           Sec. 4. DUTIES OF THE NONPROFIT ORGANIZATION.       The  
2 nonprofit organization with which the division contracts shall:

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

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

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

11           (4) provide technical assistance to programs to:

12                   (A) develop appropriate services for batterers;

13                   (B) train staff;

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

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

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

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

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

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

1 (6) submit an annual written report to the division  
2 and to the legislature with recommendations for continuation,  
3 elimination, or changes in the project; ~~and~~

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

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

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

21 SECTION 4. Subchapter D, Chapter 51, Government Code, is  
22 amended by adding Section 51.321 to read as follows:

23 Sec. 51.321. FAMILY VIOLENCE INTERVENTION AND PREVENTION  
24 FEE. (a) The commissioners court of a county may adopt a family  
25 violence intervention and prevention fee in an amount of not less  
26 than \$3 or more than \$15.

27 (b) Except as provided by Subsection (c), the district clerk

1 shall collect the family violence intervention and prevention fee  
2 at the time a suit for dissolution of a marriage under Chapter 6,  
3 Family Code, is filed. The fee is in addition to any other fee  
4 collected by the district clerk.

5 (c) The clerk may not collect a fee under this section from a  
6 person who is protected by an order issued under:

7 (1) Subtitle B, Title 4, Family Code; or

8 (2) Article 17.292, Code of Criminal Procedure.

9 (d) The district clerk shall remit \$3 of each fee collected  
10 under this section to the comptroller for deposit to the credit of  
11 the battering intervention and prevention account in the general  
12 revenue fund. The account may be used only for the accreditation of  
13 programs and providers under Article 42.141, Code of Criminal  
14 Procedure.

15 (e) The district clerk shall pay any remaining portion of  
16 the fee collected under this section to the appropriate officer of  
17 the county in which the suit is filed for deposit in the county  
18 treasury to the credit of the family violence prevention account.  
19 The account may be used by the commissioners court of the county  
20 only to fund public or private nonprofit organizations providing  
21 shelter or services, including civil legal services, to victims of  
22 family violence. In this subsection, "family violence" has the  
23 meaning assigned by Section 71.004, Family Code.

24 SECTION 5. Section 85.022, Family Code, is amended by  
25 amending Subsection (a) and by adding Subsection (a-1) to read as  
26 follows:

27 (a) In a protective order, the court may order the person

1 found to have committed family violence to perform acts specified  
2 by the court that the court determines are necessary or appropriate  
3 to prevent or reduce the likelihood of family violence and may order  
4 that person to:

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

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

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

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

25 (a-1) Beginning on September 1, 2005, a program or provider  
26 serving as a referral option for the courts under Subsection  
27 (a)(1), (2), or (3) must be accredited under Section 4, Article



1 42.141, Code of Criminal Procedure, as conforming to program  
2 guidelines under that article.

3 SECTION 6. Section 85.024(a), Family Code, is amended to  
4 read as follows:

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

21 SECTION 7. (a) This Act takes effect September 1, 2003.

22 (b) The change in law made by Sections 1, 5, and 6 of this  
23 Act applies only to a court order granting community supervision or  
24 a protective order or a modification of the order that is rendered  
25 on or after that date. A court order granting community supervision  
26 or a protective order or a modification of the order that is  
27 rendered before the effective date of this Act is governed by the

1 law in effect on the date the order or modification was rendered,  
2 and the former law is continued in effect for that purpose.

3 (c) The change in law made by Section 4 of this Act applies  
4 only to a filing fee collected for a suit for the dissolution of a  
5 marriage under Chapter 6, Family Code, on or after the effective  
6 date of this Act. A filing fee collected for a suit for the  
7 dissolution of a marriage under Chapter 6, Family Code, before the  
8 effective date of this Act is governed by the law as it existed  
9 immediately before the effective date of this Act, and that law is  
10 continued in effect for that purpose.