

## **BILL ANALYSIS**

C.S.H.B. 197  
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Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current law does not outline specific criteria for programs or providers eligible to receive referrals which provide battery intervention and prevention programs to persons who have committed offenses involving family violence.

C.S.H.B.197 would outline the criteria for providers to receive referrals conjunctively with the Texas Department of Criminal Justice's Community Justice Assistance Division and a nonprofit organization.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

**SECTION 1.** Amends Section 14 , Article 42.12 of the Code of Criminal Procedure as amended by Chapter 165, Acts of the 73rd Legislature, Regular Session, 1993, Chapter 910, Acts of the 76th Legislature, Regular Session, 1999, and Chapter 353, Acts of the 78th Legislature, Regular Session, 2003, is amended by amending Subsection (c) and adding Subsections (c-1) and (c-2) to require that a defendant convicted of a family violence offense, attend a battery intervention and prevention program, as defined in Article 42.141. Defendants unable to attend an accredited battery intervention and prevention program, may be referred to a program that is in the process of accreditation. If the referral option is unavailable, the defendant may attend sessions with a licensed counselor or provider who has completed 40 hours of training and attended annually 12 hours of continuing education courses, both must be approved by the division.

Subsection (c-1) sets the deadline for a battery intervention and prevention program, which serves as a referral option under Subsection (c)(1) or (2), to be accredited as conforming to the guidelines under Section 4A, Article 42.141 by September 1, 2009.

**SECTION 2.** Amends Section 1(7), Article 42.141 of the Code of Criminal Procedure by defining programs as those providing battery intervention and prevention program services and those that meet the guidelines of division with assistance provided by the statewide nonprofit organization, pursuant to Section 3(1) of this article.

**SECTION 3.** Amends Article 42.141 of the Code of Criminal Procedure by amending Sections 3 and 4 and adding Section 4A to require the division to seek the input of statewide nonprofit organizations in developing guidelines and in accrediting programs which provide battery intervention and prevention program services. Additionally, nonprofit organizations must also assist the division in developing program guidelines and in accrediting programs and providers providing battering intervention and prevention services as conforming to those guidelines. The division, with the assistance of the nonprofit organization shall also adopt guidelines for programs and

accredit programs and providers providing battering intervention and prevention services as conforming to those guidelines. The division shall collect from each program or provider that applies for accreditation, a one-time application fee.

**SECTION 4.** Amends Section 85.022 of the Family Code by amending Subsection (a) and by adding Subsection (a-1) to allow the court to require a person who has committed family violence, and has been issued a protective order, to perform certain acts to prevent or reduce the chance of family violence. Furthermore, the court can order a person to complete an accredited battery intervention and prevention program, pursuant to Article 42.141 of the Code of Criminal Procedure. If an accredited program or provider is unavailable, the court may require the defendant to attend a program or provider in the process of accreditation. In the instance the referral option is unavailable, the defendant may attend sessions with a licensed counselor or provider who has completed 40 hours of family violence intervention training and attended annually 12 hours of continuing education courses in family violence intervention training, both must be approved by the division. Subsection (a-1) requires a program or provider which serves as a referral option to be accredited and conforming to the guidelines of Article 42.141 of the Code of Criminal Procedure.

**SECTION 5.** Amends Section 85.024(a) of the Family Code to require a person to file an affidavit before the 60th day following an order to attend a program or counseling under Section 85.022 (a)(1), (2), or (3) was delivered. The affidavit must state the person has begun counseling or a program, or state a program or counseling is unavailable within a reasonable distance from the person's residence.

**SECTION 6.** States the changes to sections 1, 4, and 5 of this Act are applicable only to a court order which grants community supervision or a protective order or a modification of the order which is rendered on or after that date. A court order granting community supervision or a protective order or a modification of the order rendered before the effective date of this Act is governed by law at the date of occurrence. The division must adopt the guidelines as set forth by Section 4A, Article 42.141 of the Code of Criminal Procedure, as added by this Act, no later than April 1, 2008.

**SECTION 7.** This Act takes effect September 1, 2007.

#### **EFFECTIVE DATE**

September 1, 2007

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B.197 modifies the original H.B.197 by removing the requirement that a battery intervention and prevention program be operated by a nonprofit organization, thus a solo practitioner or for-profit organization who meets the standards may be included in the accreditation process. Furthermore, H.B.197 did not contain a provision which limited funding from the division to only nonprofit organizations. Additionally, C.S.H.B.197 requires the division to award contracts only to nonprofit organizations in order to maintain the status quo of who receives funding.