

By: Nelson, Shapiro

S.B. No. 44

A BILL TO BE ENTITLED

AN ACT

1
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, Chapter 910, Acts of the 76th Legislature,
9 Regular Session, 1999, and Chapter 353, Acts of the 78th
10 Legislature, Regular Session, 2003, is amended by amending
11 Subsection (c) and adding Subsections (c-1) and (c-2) to read as
12 follows:

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

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

20 (2) beginning on September 1, 2008, if the referral
21 option under Subdivision (1) is not available, attend a program or
22 counsel with a provider that has begun the accreditation process
23 described by Subsection (c-1); or

24 (3) if the referral option under Subdivision (1) or,

1 beginning on September 1, 2008, the referral option under
2 Subdivision (2) is not available, attend counseling sessions for
3 the elimination of violent behavior with a licensed counselor,
4 social worker, or other professional who has completed:

5 (A) [~~been trained in~~] family violence
6 intervention training that:

7 (i) is approved by the community justice
8 assistance division of the Texas Department of Criminal Justice;
9 and

10 (ii) consists of an initial 40 hours of
11 training; and

12 (B) an annual 12 hours of continuing education
13 approved by the community justice assistance division of the Texas
14 Department of Criminal Justice [~~or to attend a battering~~
15 ~~intervention and prevention program if available that meets~~
16 ~~guidelines adopted by the community justice assistance division of~~
17 ~~the Texas Department of Criminal Justice~~].

18 (c-1) Beginning on September 1, 2009, a program or provider
19 serving as a referral option for the courts under Subsection (c)(1)
20 or (2) must be accredited under Section 4A, Article 42.141, as
21 conforming to program guidelines under that article.

22 (c-2) If the court requires the defendant to attend
23 counseling or a program, the court shall require the defendant to
24 begin attendance not later than the 60th day after the date the
25 court grants community supervision, notify the community
26 supervision and corrections department officer of the name,
27 address, and phone number of the counselor or program, and report

1 the defendant's attendance to the officer. The court shall require
2 the defendant to pay all the reasonable costs of the counseling
3 sessions or attendance in the program on a finding that the
4 defendant is financially able to make payment. If the court finds
5 the defendant is unable to make payment, the court shall make the
6 counseling sessions or enrollment in the program available without
7 cost to the defendant. The court may also require the defendant to
8 pay all or a part of the reasonable costs incurred by the victim for
9 counseling made necessary by the offense, on a finding that the
10 defendant is financially able to make payment. The court may order
11 the defendant to make payments under this subsection for a period
12 not to exceed one year after the date on which the order is entered.

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

15 (7) "Program" means a battering intervention and
16 prevention program operated by a nonprofit organization that:

17 (A) meets:

18 (i) the guidelines adopted by the community
19 justice assistance division of the Texas Department of Criminal
20 Justice with the assistance of the statewide nonprofit organization
21 described by Section 3(1) of this article; and

22 (ii) any other eligibility requirements
23 adopted by the Texas Department of Criminal Justice; and

24 (B) provides, on a local basis to batterers
25 referred by the courts for intervention [~~treatment~~], [~~treatment~~
26 ~~and~~] educational services and intervention designed to help the
27 batterers stop their abusive behavior.

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

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

5 (1) contract with a nonprofit organization that for
6 the five-year period before the date on which a contract is to be
7 signed has been involved in providing to shelter centers, law
8 enforcement agencies, and the legal community statewide advocacy
9 and technical assistance relating to family violence, with the
10 contract requiring the nonprofit organization to perform the duties
11 described in Section (4) of this article;

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

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

18 (4) award contracts for programs that take into
19 consideration:

20 (A) a balanced geographical distribution of
21 urban, rural, and suburban models; and

22 (B) the presence of a responsive law enforcement
23 climate in the community;

24 (5) develop and monitor the project in cooperation
25 with the nonprofit organization;

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

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

3 (8) facilitate training of probation officers and
4 other criminal justice professionals by the nonprofit organization
5 and by programs; and

6 (9) seek the assistance of the nonprofit organization
7 in developing program guidelines and in accrediting programs and
8 providers providing battering intervention and prevention services
9 as conforming to those guidelines.

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

12 (1) assist the division in developing and issuing
13 requests for proposals for the programs and the educational
14 campaign;

15 (2) assist the division in reviewing the submitted
16 proposals and making recommendations for proposals to be selected
17 for funding;

18 (3) develop and monitor the project in cooperation
19 with the division;

20 (4) provide technical assistance to programs to:

21 (A) develop appropriate services for batterers;

22 (B) train staff;

23 (C) improve coordination with shelter centers,
24 the criminal justice system, the judiciary, law enforcement
25 agencies, prosecutors, and other appropriate officials and support
26 services;

27 (D) implement the community educational

1 campaign; and

2 (E) participate in project administered program
3 evaluation and research activities;

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

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

7 (B) develop standards for selection of the
8 community educational campaign described in Section 6 of this
9 article;

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

13 (7) evaluate the programs and the community
14 educational campaign, including an analysis of the effectiveness of
15 the project and the level of public awareness relating to family
16 violence; and

17 (8) assist the division in developing program
18 guidelines and in accrediting programs and providers providing
19 battering intervention and prevention services as conforming to
20 those guidelines.

21 Sec. 4A. ADOPTION OF PROGRAM GUIDELINES; ACCREDITATION
22 PROCESS. With the assistance of the statewide nonprofit
23 organization described by Section 3(1) of this article, the
24 division shall adopt guidelines for programs and shall accredit
25 programs and providers providing battering intervention and
26 prevention services as conforming to those guidelines. The
27 division shall collect from each program or provider that applies

1 for accreditation under this section a one-time application fee in
2 an amount set by the Texas Department of Criminal Justice.

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

6 (a) In a protective order, the court may order the person
7 found to have committed family violence to perform acts specified
8 by the court that the court determines are necessary or appropriate
9 to prevent or reduce the likelihood of family violence and may order
10 that person to:

11 (1) complete a battering intervention and prevention
12 program accredited under [~~as provided by~~] Article 42.141, Code of
13 Criminal Procedure[, ~~and that meets the guidelines adopted by the~~
14 ~~community justice assistance division of the Texas Department of~~
15 ~~Criminal Justice if a program is available~~];

16 (2) beginning on September 1, 2008, if the referral
17 option under Subdivision (1) is not available, complete a program
18 or counsel with a provider that has begun the accreditation process
19 described by Subsection (a-1); or

20 (3) if the referral option under Subdivision (1) or,
21 beginning on September 1, 2008, the referral option under
22 Subdivision (2) is not available, counsel with a social worker,
23 family service agency, physician, psychologist, licensed
24 therapist, or licensed professional counselor who has completed:

25 (A) family violence intervention training that:

26 (i) is approved by the community justice
27 assistance division of the Texas Department of Criminal Justice;

1 and

2 (ii) consists of an initial 40 hours of
3 training; and

4 (B) an annual 12 hours of continuing education
5 approved by the community justice assistance division of the Texas
6 Department of Criminal Justice [~~if a program under Subdivision (1)~~
7 ~~is not available; or~~

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

11 (a-1) Beginning on September 1, 2009, a program or provider
12 serving as a referral option for the courts under Subsection (a)(1)
13 or (2) must be accredited under Section 4A, Article 42.141, Code of
14 Criminal Procedure, as conforming to program guidelines under that
15 article.

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

18 (a) A person found to have engaged in family violence who is
19 ordered to attend a program or counseling under Section
20 85.022(a)(1), ~~(2)~~, or (3) shall file with the court an
21 affidavit before the 60th day after the date the order was rendered
22 stating either that the person has begun the program or counseling
23 or that a program or counseling is not available within a reasonable
24 distance from the person's residence. A person who files an
25 affidavit that the person has begun the program or counseling shall
26 file with the court before the date the protective order expires a
27 statement that the person completed the program or counseling not

1 later than the 30th day before the expiration date of the protective
2 order. An affidavit under this subsection must be accompanied by a
3 letter, notice, or certificate from the program or counselor that
4 verifies the person's completion of the program or counseling. A
5 person who fails to comply with this subsection may be punished for
6 contempt of court under Section 21.002, Government Code.

7 SECTION 6. (a) The changes in law made by Sections 1, 4, and
8 5 of this Act apply only to a court order granting community
9 supervision or a protective order or a modification of the order
10 that is rendered on or after that date. A court order granting
11 community supervision or a protective order or a modification of
12 the order that is rendered before the effective date of this Act is
13 governed by the law in effect on the date the order or modification
14 was rendered, and the former law is continued in effect for that
15 purpose.

16 (b) Not later than April 1, 2008, the community justice
17 assistance division of the Texas Department of Criminal Justice
18 shall adopt the guidelines required by Section 4A, Article 42.141,
19 Code of Criminal Procedure, as added by this Act.

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