

1-1 By: Nelson, Shapiro, Shapleigh S.B. No. 44
1-2 (In the Senate - Filed November 13, 2006; January 23, 2007,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 26, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 4, Nays 0; March 26, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 44 By: Whitmire

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the provision of intervention or counseling services to
1-11 certain persons who have committed family violence and to a process
1-12 for accrediting those services.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 14, Article 42.12, Code of Criminal
1-15 Procedure, as amended by Chapter 165, Acts of the 73rd Legislature,
1-16 Regular Session, 1993, Chapter 910, Acts of the 76th Legislature,
1-17 Regular Session, 1999, and Chapter 353, Acts of the 78th
1-18 Legislature, Regular Session, 2003, is amended by amending
1-19 Subsection (c) and adding Subsections (c-1) and (c-2) to read as
1-20 follows:

1-21 (c) If the court grants community supervision to a person
1-22 convicted of an offense involving family violence, as defined by
1-23 Section 71.004, Family Code, the court may require the defendant
1-24 ~~[to attend]~~, at the direction of the community supervision and
1-25 corrections department officer, to:

1-26 (1) attend a battering intervention and prevention
1-27 program as defined by Article 42.141;

1-28 (2) beginning on September 1, 2008, if the referral
1-29 option under Subdivision (1) is not available, attend a program or
1-30 counsel with a provider that has begun the accreditation process
1-31 described by Subsection (c-1); or

1-32 (3) if the referral option under Subdivision (1) or,
1-33 beginning on September 1, 2008, the referral option under
1-34 Subdivision (2) is not available, attend counseling sessions for
1-35 the elimination of violent behavior with a licensed counselor,
1-36 social worker, or other professional who has completed:

1-37 (A) ~~been trained in~~ family violence
1-38 intervention training that:

1-39 (i) is approved by the community justice
1-40 assistance division of the Texas Department of Criminal Justice;
1-41 and

1-42 (ii) consists of an initial 40 hours of
1-43 training; and

1-44 (B) an annual 12 hours of continuing education
1-45 approved ~~[or to attend a battering intervention and prevention~~
1-46 ~~program if available that meets guidelines adopted]~~ by the
1-47 community justice assistance division of the Texas Department of
1-48 Criminal Justice.

1-49 (c-1) Beginning on September 1, 2009, a program or provider
1-50 serving as a referral option for the courts under Subsection (c)(1)
1-51 or (2) must be accredited under Section 4A, Article 42.141, as
1-52 conforming to program guidelines under that article.

1-53 (c-2) If the court requires the defendant to attend
1-54 counseling or a program, the court shall require the defendant to
1-55 begin attendance not later than the 60th day after the date the
1-56 court grants community supervision, notify the community
1-57 supervision and corrections department officer of the name,
1-58 address, and phone number of the counselor or program, and report
1-59 the defendant's attendance to the officer. The court shall require
1-60 the defendant to pay all the reasonable costs of the counseling
1-61 sessions or attendance in the program on a finding that the
1-62 defendant is financially able to make payment. If the court finds
1-63 the defendant is unable to make payment, the court shall make the

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

2-8 SECTION 2. Subdivision (7), Section 1, Article 42.141, Code
2-9 of Criminal Procedure, is amended to read as follows:

2-10 (7) "Program" means a battering intervention and
2-11 prevention program ~~operated by a nonprofit organization~~ that:

2-12 (A) meets:

2-13 (i) the guidelines adopted by the community
2-14 justice assistance division of the Texas Department of Criminal
2-15 Justice with the assistance of the statewide nonprofit organization
2-16 described by Section 3(1); and

2-17 (ii) any other eligibility requirements
2-18 adopted by the Texas Department of Criminal Justice; and

2-19 (B) provides, on a local basis to batterers
2-20 referred by the courts for intervention ~~[treatment]~~, ~~[treatment~~
2-21 ~~and]~~ educational services and intervention designed to help the
2-22 batterers stop their abusive behavior.

2-23 SECTION 3. Article 42.141, Code of Criminal Procedure, is
2-24 amended by amending Sections 3 and 4 and adding Section 4A to read
2-25 as follows:

2-26 Sec. 3. DUTIES OF THE DIVISION. The division shall:

2-27 (1) contract with a nonprofit organization that for
2-28 the five-year period before the date on which a contract is to be
2-29 signed has been involved in providing to shelter centers, law
2-30 enforcement agencies, and the legal community statewide advocacy
2-31 and technical assistance relating to family violence, with the
2-32 contract requiring the nonprofit organization to perform the duties
2-33 described in Section (4) of this article;

2-34 (2) seek the input of the statewide nonprofit
2-35 organization described in Subdivision (1) ~~[of this section]~~ in the
2-36 development of standards for selection of programs for inclusion in
2-37 the project and the review of proposals submitted by programs;

2-38 (3) issue requests for proposals for the programs and
2-39 an educational campaign not later than January 1, 1990;

2-40 (4) award contracts for programs that are operated by
2-41 nonprofit organizations and that take into consideration:

2-42 (A) a balanced geographical distribution of
2-43 urban, rural, and suburban models; and

2-44 (B) the presence of a responsive law enforcement
2-45 climate in the community;

2-46 (5) develop and monitor the project in cooperation
2-47 with the nonprofit organization described by Subdivision (1);

2-48 (6) monitor the development of a community educational
2-49 campaign in cooperation with the nonprofit organization described
2-50 by Subdivision (1);

2-51 (7) assist the nonprofit organization described by
2-52 Subdivision (1) in designing program evaluations and research
2-53 activities; ~~[and]~~

2-54 (8) facilitate training of probation officers and
2-55 other criminal justice professionals by the nonprofit organization
2-56 described by Subdivision (1) and by programs; and

2-57 (9) seek the assistance of the nonprofit organization
2-58 described by Subdivision (1) in developing program guidelines and
2-59 in accrediting programs and providers providing battering
2-60 intervention and prevention services as conforming to those
2-61 guidelines.

2-62 Sec. 4. DUTIES OF THE NONPROFIT ORGANIZATION. The
2-63 nonprofit organization with which the division contracts under
2-64 Section 3(1) shall:

2-65 (1) assist the division in developing and issuing
2-66 requests for proposals for the programs and the educational
2-67 campaign;

2-68 (2) assist the division in reviewing the submitted
2-69 proposals and making recommendations for proposals to be selected

3-1 for funding;

3-2 (3) develop and monitor the project in cooperation

3-3 with the division;

3-4 (4) provide technical assistance to programs to:

3-5 (A) develop appropriate services for batterers;

3-6 (B) train staff;

3-7 (C) improve coordination with shelter centers,

3-8 the criminal justice system, the judiciary, law enforcement

3-9 agencies, prosecutors, and other appropriate officials and support

3-10 services;

3-11 (D) implement the community educational

3-12 campaign; and

3-13 (E) participate in project administered program

3-14 evaluation and research activities;

3-15 (5) provide technical assistance to the division to:

3-16 (A) develop and implement standards for

3-17 selection of programs for inclusion in the project; and

3-18 (B) develop standards for selection of the

3-19 community educational campaign described in Section 6 of this

3-20 article;

3-21 (6) submit an annual written report to the division

3-22 and to the legislature with recommendations for continuation,

3-23 elimination, or changes in the project; ~~and~~

3-24 (7) evaluate the programs and the community

3-25 educational campaign, including an analysis of the effectiveness of

3-26 the project and the level of public awareness relating to family

3-27 violence; and

3-28 (8) assist the division in developing program

3-29 guidelines and in accrediting programs and providers providing

3-30 battering intervention and prevention services as conforming to

3-31 those guidelines.

3-32 Sec. 4A. ADOPTION OF PROGRAM GUIDELINES; ACCREDITATION

3-33 PROCESS. With the assistance of the statewide nonprofit

3-34 organization described by Section 3(1), the division shall adopt

3-35 guidelines for programs and shall accredit programs and providers

3-36 providing battering intervention and prevention services as

3-37 conforming to those guidelines. The division shall collect from

3-38 each program or provider that applies for accreditation under this

3-39 section a one-time application fee in an amount set by the Texas

3-40 Department of Criminal Justice.

3-41 SECTION 4. Section 85.022, Family Code, is amended by

3-42 amending Subsection (a) and by adding Subsection (a-1) to read as

3-43 follows:

3-44 (a) In a protective order, the court may order the person

3-45 found to have committed family violence to perform acts specified

3-46 by the court that the court determines are necessary or appropriate

3-47 to prevent or reduce the likelihood of family violence and may order

3-48 that person to:

3-49 (1) complete a battering intervention and prevention

3-50 program accredited under ~~as provided by~~ Article 42.141, Code of

3-51 Criminal Procedure~~, and that meets the guidelines adopted by the~~

3-52 community justice assistance division of the Texas Department of

3-53 Criminal Justice if a program is available];

3-54 (2) beginning on September 1, 2008, if the referral

3-55 option under Subdivision (1) is not available, complete a program

3-56 or counsel with a provider that has begun the accreditation process

3-57 described by Subsection (a-1); or

3-58 (3) if the referral option under Subdivision (1) or,

3-59 beginning on September 1, 2008, the referral option under

3-60 Subdivision (2) is not available, counsel with a social worker,

3-61 family service agency, physician, psychologist, licensed

3-62 therapist, or licensed professional counselor who has completed:

3-63 (A) family violence intervention training that:

3-64 (i) is approved by the community justice

3-65 assistance division of the Texas Department of Criminal Justice;

3-66 and

3-67 (ii) consists of an initial 40 hours of

3-68 training; and

3-69 (B) an annual 12 hours of continuing education

4-1 approved by the community justice assistance division of the Texas
4-2 Department of Criminal Justice [~~if a program under Subdivision (1)~~
4-3 ~~is not available, or~~

4-4 [~~(3) perform acts specified by the court that the~~
4-5 ~~court determines are necessary or appropriate to prevent or reduce~~
4-6 ~~the likelihood of family violence].~~

4-7 (a-1) Beginning on September 1, 2009, a program or provider
4-8 serving as a referral option for the courts under Subsection (a)(1)
4-9 or (2) must be accredited under Section 4A, Article 42.141, Code of
4-10 Criminal Procedure, as conforming to program guidelines under that
4-11 article.

4-12 SECTION 5. Subsection (a), Section 85.024, Family Code, is
4-13 amended to read as follows:

4-14 (a) A person found to have engaged in family violence who is
4-15 ordered to attend a program or counseling under Section
4-16 85.022(a)(1), [~~or~~] (2), or (3) shall file with the court an
4-17 affidavit before the 60th day after the date the order was rendered
4-18 stating either that the person has begun the program or counseling
4-19 or that a program or counseling is not available within a reasonable
4-20 distance from the person's residence. A person who files an
4-21 affidavit that the person has begun the program or counseling shall
4-22 file with the court before the date the protective order expires a
4-23 statement that the person completed the program or counseling not
4-24 later than the 30th day before the expiration date of the protective
4-25 order. An affidavit under this subsection must be accompanied by a
4-26 letter, notice, or certificate from the program or counselor that
4-27 verifies the person's completion of the program or counseling. A
4-28 person who fails to comply with this subsection may be punished for
4-29 contempt of court under Section 21.002, Government Code.

4-30 SECTION 6. (a) The changes in law made by Sections 1, 4,
4-31 and 5 of this Act apply only to a court order granting community
4-32 supervision or a protective order or a modification of the order
4-33 that is rendered on or after the effective date of this Act. A court
4-34 order granting community supervision or a protective order or a
4-35 modification of the order that is rendered before the effective
4-36 date of this Act is governed by the law in effect on the date the
4-37 order or modification was rendered, and the former law is continued
4-38 in effect for that purpose.

4-39 (b) Not later than April 1, 2008, the community justice
4-40 assistance division of the Texas Department of Criminal Justice
4-41 shall adopt the guidelines required by Section 4A, Article 42.141,
4-42 Code of Criminal Procedure, as added by this Act.

4-43 SECTION 7. In implementing this Act, the Texas Department
4-44 of Criminal Justice may not use any funds specifically appropriated
4-45 by the legislature for a statewide allocation of grants to local
4-46 nonprofit organizations for battering intervention and prevention
4-47 programs.

4-48 SECTION 8. This Act takes effect September 1, 2007.

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