

The following report will summarize some of the important legislative developments relating to family violence from the most recent Texas legislative session. It is worth noting that almost 1,500 bills were passed by the Legislature, and TCFV is unable to review and analyze them all. We are reporting on the legislation with the most significant impact on family violence issues, but there certainly may be other legislation that is of interest to individual victims, their families or family violence service providers.

The 1,500 bills that were passed are only a small fraction of the more than 6,000 bills that were filed this session. In light of those statistics and the fact that the legislative process is designed to make it difficult for new legislation to pass, we are very pleased with the fact that five of TCFV's six legislative priority items did indeed pass AND that funding for family violence and BIPP services has been maintained or increased.

No matter what the results of any legislative session, the process requires considerable efforts by many people. TCFV is very, very grateful to the efforts of its Board of Directors, its Public Policy Committee and to the many family violence advocates and survivors who took time out of their lives to participate in the legislative process. We could not do our work without you. Thank you!

TCFV Legislative Priorities

Funding for family violence services adopted at \$48 million for the biennium, a \$2 million increase over last biennium.

Thanks to the considerable efforts of family violence advocates all over the state who sent in Purple Postcards, came to Capitol Day, and made phone calls to their legislators, we were able to secure an additional \$2 million for family violence services. This appropriation maintains the funding for core services (\$46 million for the biennium) and adds \$2 million for prevention programs and transitional support services, such as housing and legal representation. Senators Jane Nelson (R-Lewisville) and Judith Zaffirini (D-Laredo) and Representatives John Davis (R-Houston) and Dan Gattis (R-Georgetown) were instrumental in supporting this increase in funding.

Funding for Battering Intervention and Prevention Programs maintained at \$2.5 million for the biennium.

We continue to be grateful that funding for battering intervention and prevention programs (BIPPs) has been maintained at Texas Department of Criminal Justice J. Senator John Whitmire (D-Houston) and Representative Sylvester Turner (D-Houston) were champions for the BIPP funding.

Require accreditation of BIPPs.

SB 44. Authors: Senators Jane Nelson (R-Lewisville) and Florence Shapiro (R-Plano); Sponsor: Rep. Yvonne Gonzalez-Tourelles (D-Alice)

Under this new law, judges who refer batterers to an intervention or treatment program as a condition of probation or a protective order will be required, starting September 1, 2009, to refer those batterers only to a program that has been accredited by the Texas Department of Criminal Justice (TDCJ) or, if an accredited program is unavailable, to a professional who has received training approved by TDCJ. The intention is to ensure that all programs and professionals working with batterers meet consistent standards across the State relating to victim safety and batterer accountability. TDCJ is required to adopt guidelines for the accreditation process by April 1, 2008. Though the Legislature did not make an appropriation to TDCJ specifically to fund the accreditation process, the law prohibits TDCJ from using the standard \$2.5 million BIPP appropriation (see above) for accreditation, meaning that that funding will continue to be used for contracts with BIPP providers.

Amends Articles 42.12, 42.141 of the Texas Code of Criminal Procedure and Section 85.022 of the Texas Family Code. Effective September 1, 2007.

Require school districts to adopt teen dating violence policies.

HB 121. Author, Rep. Dawanna Dukes (D-Austin); Sponsor, Sen. Juan Hinojosa (D-McAllen)

This legislation expands existing laws regarding public school safety so that schools may have effective policies and tools to better address the needs of students experiencing violence and abuse within teen dating relationships. This legislation will require school districts to address teen dating violence as part of the district improvement plans that they are already required to develop and would require that those policies address safety planning, enforcement of protective orders, school based alternatives to protective orders, training for teachers and administrators, counseling for affected students and awareness education for students and parents.

Adds Section 37.0831 to Subchapter C, Chapter 37, of the Texas Education Code. Effective May 18, 2007.

Expand unemployment compensation to better benefit victims of family violence.

HB 550. Author, Rep. Dawanna Dukes (D-Austin); Sponsor, Sen. Judith Zaffirini (D-Laredo)

This legislation amends the current eligibility requirements for unemployment compensation so as to better meet the Legislature's intent to afford victims of family violence and stalking this option when they have no choice but to leave their jobs. Previously victims of family violence who were forced to leave their jobs as a result of the violence had to prove they were in fact victims by providing a medical report, police report AND a protective order. This legislation simply changes the AND to an OR thereby expanding the eligibility requirements and thus allowing more victims to qualify. Under this legislation, only one of the above three documents would be required for a victim to take advantage of this opportunity.

Amends Section 204.022 of the Texas Labor Code. Effective June, 15 2007.

Create a state-run address confidentiality program (ACP) for victims of domestic violence.

SB 74. Author, Sen. Eddie Lucio, Jr. (D-Brownsville); Sponsors, Rep. Ryan Guillen (D-San Diego) and Rep. Veronica Gonzales (D-McAllen)

Safety planning with victims of family violence often involves keeping one's address and whereabouts confidential. Increasingly, abusers have access to technology that enables them to track their victims and continue to threaten their safety. As a result, the mail has become one of the main methods that abusers utilize to stalk and otherwise continue abusing victims. The address confidentiality program (ACP) will create a legal avenue for victims of family violence to keep their residential, business, and/or school address out of public record through a mail forwarding system operated by the Office of the Attorney General.

Additionally, HB 172 by Rep. Raymond (D-Laredo) was amended onto SB 74 and creates the option for victims of family violence to keep their personally identifying information confidential by using a pseudonym when interacting with law enforcement as the result of an assault against them. The pseudonym would be incorporated into all public files and records concerning the offence including police reports, press releases and records of judicial proceedings.

This bill adds the following new statutes to the Texas Code of Criminal Procedure: Chapter 56, Subchapter C and Chapter 57B. Also amends the Election Code. Effective June, 15 2007.

Give notice given to certain offenders of prohibitions under federal and state law.

SB 1470. Author: Sen. Kel Seliger (R-Amarillo); Sponsor: Rep. Dawanna Dukes (D-Austin)

This legislation will require the court to notify family violence offenders of the firearms and ammunition prohibition. Texas had to clarify this in order for the State to continue to receive VAWA funds and to meet the new VAWA requirements about firearms prohibition notice. This legislation allows for this critical certification to be made before the January 5, 2008 deadline enacted through VAWA. As a result of SB 1470, Texas will continue to receive approximately \$7 million in federal funding for programs addressing family violence and other violence against women.

Amends Article 26.13 of the Texas Code of Criminal Procedure and adds article 42.0131 to the Texas Code of Criminal Procedure. Becomes effective September 1, 2007.

Add strangulation to the definition of "serious bodily injury". DID NOT PASS

SB 45. Author: Sen. Jane Nelson (R-Lewisville)

In domestic violence cases, strangulation is highly correlated with an increased risk of lethality. However, in many parts of the State the penalties associated with strangulation do not reflect the seriousness of the crime. TCFV worked very closely with Sen. Nelson to amend the statute in order to give prosecutors more direction in seeking higher penalties for those offenses. Although SB 45 was left pending in the Senate Criminal Justice Committee we feel the introduction of this bill has paved the way for ongoing discussions with the Texas District and County Attorneys' Association and law enforcement groups to emphasize the lethality of strangulation within the context of domestic violence and we are hopeful that improved trainings and prosecutions will be the result of this dialogue.

In addition to TCFV's legislative priorities approved by TCFV's Board of Directors, there were additional bills of interest to victims of family violence and the programs that serve them. Again, while there certainly may be other legislation that is of interest to individual victims, their families or family violence service providers, we are reporting on the legislation with the most significant impact on family violence issues.

Other Items Of Interest

Denial of bail to a person who violates an EPO, TEXPO (if it has been served), a 2-year PO or a condition of bond.

HB 3692 and HJR 6. Author: Rep. Joe Straus (R-San Antonio); Sponsor: Sen. Jeff Wentworth (R-San Antonio)

Current law provides for detention without bond in felony cases under certain circumstances, but not in circumstances involving misdemeanors. This legislation allows for denial of bail to a person who violates an emergency protective order issued by a judge or magistrate after an arrest for an offense involving family violence or who violates an active protective order, including a temporary ex parte order, which has been served on the person. Because it relates to bail, this legislation requires an amendment to the Texas Constitution in order to take effect.

Amends Section 25.07, Penal Code and Chapter 17, Code of Criminal Procedure. Becomes effective January 1, 2008, contingent upon passage by Texas voters of the constitutional amendment.

Provide free police reports to victims family violence.

HB 2210. Author: Rep. Valinda Bolton (D-Austin); Sponsor: Sen. Rodney Ellis (D-Houston)

This legislation allows a victim of an incident of family violence to request a free police report from the law enforcement agency responsible for investigating the incident.

Amends Chapter 2 of the Texas Code of Criminal Procedure by adding Article 2.30 and also amends Article 5.05 of the Code of Criminal Procedure. Becomes effective September 1, 2007.

Repealing the unconstitutional portion of the family protection fee.

HB 764. Author: Rep. Harold Dutton (D-Houston); Sponsor: Sen. Royce West (D-Dallas)

Also known informally as the "divorce filing fee", the family protection fee was enacted in 2003, enabling counties to require a filing fee of up to \$15 on each divorce petition and to use the proceeds for certain types of services provided in that county, including but not limited to, family violence services. In 2005, that fee was amended in ways that the Office of the Attorney General later deemed to be unconstitutional. In this session, the Legislature repealed the unconstitutional portion, such that the \$15 fee has now gone back to its original purposes.

Amends Section 51.961 of the Texas Government Code. Effective June, 15 2007.

Make crime victim's identifying information confidential and not subject to disclosure under the Public Information Act.

HB 1042. Authors: Rep. Aaron Pena (D-Edinburg) and Rep. David Leibowitz (D-San Antonio); Sponsor: Sen. Glenn Hegar (R-Katy)

Under current law, a crime victim must elect to have the victim's identifying information made confidential, and no provision exists for a crime victim's claimant to make such a choice. H.B. 1042 makes identifying information of crime victims or claimants confidential and not subject to disclosure under the Public Information Act which could be advantageous to victims of family violence who are also applying for and receiving crime victim's compensation.

Amends Section 552.132, of the Texas Government Code. Becomes effective September 1, 2007.

Authorize school districts to issue high school diplomas posthumously to students who attended high school in the district and were victims of criminal homicide during the school year.

HB 1563. Author: Rep. Valinda Bolton (D-Austin); Sponsor: Sen. Eliot Shapleigh (D-El Paso)

This bill was inspired by the death of Jennifer Crecente who was killed by her boyfriend in South Austin on February 15, 2006. Three months after her death, with her graduation day approaching, the Crecente family received a certificate for Jennifer's 12 years of work and dedication in furthering her education. Unfortunately, students who have died before completing all required courses are not eligible to be awarded a high school diploma. This bill requires a school district, on request of the student's parent, to issue a high school diploma posthumously to each student who attended high school at grade level 12 and who was the victim of criminal homicide during that school year.

Amends Subchapter B, Chapter 28, of the Texas Education Code, by adding Section 28.0254. Becomes effective September 1, 2007.

Require school districts to incorporate a parenting and paternity awareness program, developed by the State Board of Education in conjunction with the Office of the Attorney General, into the high school health curriculum.

HB 2176. Author: Rep. Joseph Deshotel (D-Beaumont); Sponsor: Sen. Royce West (D-Dallas)

This bill requires use the Parenting and Paternity Awareness Program (P.A.P.A.) in the high school health curriculums. The program will be required to address parenting skills and relationship skills. Additionally, the program must address skills relating to the prevention of family violence if that district high school does not have a family violence prevention program.

Amends Section 28.002, of the Texas Education Code, by adding Subsection (p). Becomes effective September 1, 2007.

Require offenders who are court ordered to attend a BIPP to complete the BIPP no later than the 30th day before the first anniversary of the date the protective order was issued.

HB 3593. Author: Rep. Richard Raymond (D-Laredo); Sponsor: Sen. Judith Zaffirini (D-Laredo)

A person who is found to have committed family violence and who is a respondent in a protective order is required to file an affidavit indicating commencement of a counseling program (BIPP) and must also file an affidavit to certify program completion due within 30 days of the expiration date of the protective order. This bill requires an offender to file a completion affidavit with the court within 30 days of the expiration of the protective order or not later than the 30th day before the first anniversary of its issuance, whichever date is earlier. This will limit the time during which an offender could complete court-ordered counseling to one year from the time a protective order is issued.

Amends Section 85.024(a) of the Texas Family Code. Becomes effective September 1, 2007.

Enables judges to issue an official verification, or judicial finding, that a victim is truly a victim of a severe form of trafficking, as defined by federal law.

HB 1121. Author: Rep. Rafael Anchia (D-Dallas); Sponsor: Sen. Leticia Van de Putte (D-San Antonio)

This will benefit those victims who are apprehensive in aiding in the prosecution of their perpetrators, by making it easier to prove they are a victim of a severe form of trafficking--e.g., minors or sex slave trade victims.

Amends Chapter 42, Code of the Texas Criminal Procedure, by adding Article 42.0191. Effective June, 15 2007.

Require judicial training for certain judges by the court of criminal appeals to include at least four hours of training dedicated to issues related to child abuse and neglect.

HB 3505. Author: Rep. Will Hartnett (R-Dallas); Sponsor: Sen. Royce West (D-Dallas)

This bill adds four hours to judges' training in their first four years of service and requires that the new hours be dedicated to issues of child abuse and neglect. Additionally, this bill increases the required judges' training for each additional four years of service from three hours to five hours and requires that the extra two hours be dedicated to child abuse and neglect. This bill does not change the fact that judges are required to have six hours of dedicated training in the dynamics of family violence, available counseling resources for victims and offenders and gender bias in the judicial process.

Amends Section 22.110 of the Texas Government Code. Becomes effective September 1, 2007.

Provide minimum qualifications for persons who conduct social studies and guidelines for the evaluation of those persons.

HB 772. Author: Rep. Harold Dutton (D-Houston); Sponsor: Sen. Chris Harris (R-Arlington)

This bill establishes a definition of Social Study and Social Study Evaluator and establishes minimum qualifications for the Evaluator which include a Bachelor's degree plus license as a social worker, professional counselor, marriage & family therapist or psychologist and 2 years of full time experience under supervision or that the evaluator be employed by a domestic relations office. Additionally, the evaluator must complete 8 hours of family violence dynamics training provided by a family violence service provider comparable to the training required of parenting coordinators.

Amends Subchapter D, Chapter 107 of the Texas Family Code, by adding Section 107.0501. Becomes effective September 1, 2007.

Authorizes a victim of a sexual or aggravated sexual assault offense to obtain a lifetime protective order against the offender who victimized the individual.

HB 1998. Author: Rep. Armando Martinez (D-Weslaco); Sponsor: Sen. Juan Hinojosa (D-McAllen)

This bill authorizes a person who is the victim of indecency with a child or a parent or guardian acting on behalf of a person younger than 17 years of age who is the victim of such an offense, to file an application for a lifetime protective order without regard to the relationship between the applicant and the alleged offender.

Amends Article 7A.03 of the Texas Code of Criminal Procedure. Becomes effective September 1, 2007.

Authorize a magistrate to issue an emergency protective order for a victim of sexual assault.

SB 584. Author: Sen. John Carona (R-Dallas) Sponsor: Rep. Aaron Peña (D-Edinburg)

This bill authorizes magistrates to issue emergency orders of protection (MOEPs) following an arrest for the offense of sexual assault. Current law authorizes a magistrate to issue an order for emergency protection for a victim of family violence or stalking. This bill will provide critical and immediate protection for the victim while the victim seeks to obtain a more formal temporary ex parte or standard protective order.

Amends Article 17.292(a), Code of Criminal Procedure. Effective May 11, 2007.

Require the Texas School Safety Center to develop a program that all Texas school districts can use on a permissive basis to inform students and their parents about online safety.

SB 136. Author: Sen. Jane Nelson (R-Lewisville) Sponsor: Rep. Dan Branch (R-Dallas)

This bill requires the Texas School Safety Center, in cooperation with the Office of the Attorney General, to develop a program that provides instruction concerning Internet safety. The program will also include instruction on the potential dangers of disclosing personal information online, how to report an inappropriate online solicitation, and certain actions to take in relation to online bullying or threats occurring over the Internet.

Amends Subchapter G, Chapter 37, Education Code, by adding Section 37.217. Effective June, 15 2007.

Sexual Assault Legislation

The Texas Association Against Sexual Assault had a very successful session. TAASA worked to ensure passage of legislation that:

- makes emergency protective orders available to victims of sexual assault (see above);
- requires law enforcement to collect and report specific information about sexual assault for statewide data collection, analysis and reporting; and
- establishes an adult entertainment fee to finance sexual assault-related services.

In addition, another of TAASA's agenda items — elimination of the statute of limitations for child sexual abuse — was passed into law as a part of House Bill 8, "Jessica's Law."

Because so many advocates serve both survivors of family violence and survivors of sexual assault, we urge you to contact TAASA for more information on legislation of unique importance to sexual assault survivors.

Thank You!

The Texas Council on Family Violence thanks all members of the Senate Finance Committee and the House Appropriations Committee, as well as all members of the TCFV Public Policy Committee and everyone who attended the TCFV/TAASA Lobby Day on February 14. Finally, there are many of you, far too many to name, who have assisted by making phone calls to legislators and otherwise assisting in TCFV's legislative efforts. It is an honor to represent family violence advocates and survivors at the Capitol and our efforts are only successful because of your commitment and support!

TCFV Thanks Legislators and Capitol Staff:

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The Texas Council on Family Violence promotes safe and healthy relationships by supporting service providers, facilitating strategic prevention efforts, and creating opportunities for freedom from domestic violence.