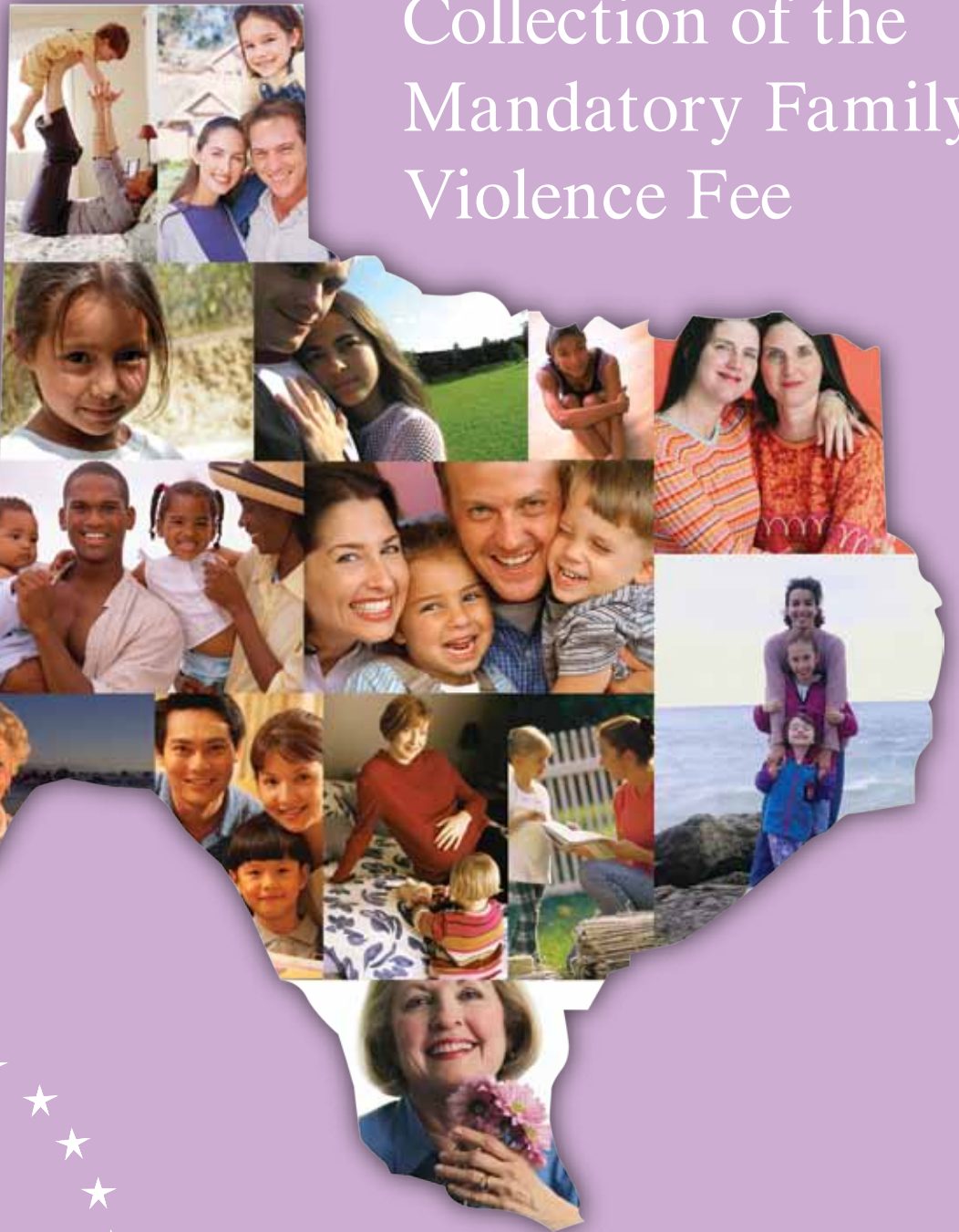


Mandatory Fees Tool Kit:

Resources for
Collection of the
Mandatory Family
Violence Fee



Over Thirty Years of Building a Safer Texas



Senate Bill 82: History, Implementation, and How It Affects Your Community

Who We Are:

The Texas Council on Family Violence (TCFV) is a not-for-profit member organization committed to ending family violence. As one of the largest family violence coalitions in the nation, TCFV represents more than 100 staff and over 700 members. TCFV's mission is to promote safe and healthy relationships by supporting service providers, facilitating strategic prevention efforts, and creating opportunities for freedom from family violence. Effecting legislative change and incorporating best practices statewide through our policy efforts also strongly informs and directs TCFV's mission.

TCFV membership is composed of family violence service providers, supportive organizations, survivors of family violence, businesses and professionals, communities of faith and other concerned individuals. TCFV supports over 80 family violence programs across Texas through training, funder advocacy, and technical assistance.

Our Legislative Efforts:

Each Legislative Session, TCFV puts forth a legislative agenda that will support the efforts of family violence stakeholders in Texas and provide legal remedies for survivors of family violence. Full funding for family violence programs across Texas ranks as our number one goal. After all, securing funding for programs is essential to providing critical life-saving services, resources, and shelter.

The Texas Department of Public Safety tabulates over 186,000¹ incidents of family violence each year, and the Health and Human Services Commission estimates that 1,130,164 women were battered in 2008. Last year, Texas programs provided services to 78,495 victims of family violence. In addition, 8,006 victims needing shelter were turned away due to lack of space.

Mandatory Fees

During the 81st Legislative Session, TCFV championed several successful bills as a part of our Legislative Agenda, including Senate Bill 82. SB 82, authored by Senator Nelson and sponsored by Representative Moody, will provide an increase in funding to family violence programs. This important change to the Code of Criminal Procedure comes at a critical time of need; due to the economic downturn, the need for family violence services has increased as the availability to obtain private funding has decreased.

By making this fee mandatory, Senate Bill 82 will significantly increase this funding source for centers, increasing access to safety for victims of family violence while at the same time holding abusers accountable for violent behaviors.

¹ Texas Department of Public Safety Uniform Crime Statistics

What is a Family Violence Center?

A Family Violence Center, as enumerated in the Code of Criminal Procedure (per Senate Bill 82), has the meaning set forth in Section 51.002, Chapter 51 of the Human Resources Code. Chapter 51 describes a Family Violence Center as a program that is operated by a public or private non-profit organization and that provides comprehensive residential and/or nonresidential services to victims of family violence. Please see the definition of a family violence center for further clarity on what comprises comprehensive services.

How You Can Help:

Implementation of SB 82 requires system-wide diligence in holding batterers accountable by assessing and collecting the required fee. Your agency can assist in the following ways:

- Consider the fee a high priority for collection within your agency.
- Communicate with your local family violence center(s) regarding a community plan for collection and distribution of the fee.
- Create a line item in your collection system for this fee and add eligible family violence center(s) in your county to the list of payees in your system.
- Communicate the importance of paying the fee to the offender.
- Share information with other colleagues within the criminal justice system about the importance of assessing and collecting this fee.

**The Policy Department of the Texas Council on Family Violence stands ready to assist with your community's implementation effort on Senate Bill 82.
Please contact us at 1-800-525-1978 for assistance.**



Frequently Asked Questions on SB 82 Eligibility: Definition of Family Violence Center



Who will receive the mandatory fees?

According to Texas Code of Criminal Procedure Article 42.12, Section 11(h), only a “family violence center” may receive the fees collected. Recipient programs must be a family violence center to be eligible.

What is the definition of Family Violence Center?

A Family Violence Center, as enumerated in the Code of Criminal Procedure (as a result of SB 82), has the meaning set forth in Chapter 51 of the Human Resource Code, Section 51.002. Chapter 51 describes a Family Violence Center as a program that is operated by a public or private non-profit organization and that provides comprehensive residential and/or nonresidential services to victims of family violence.

What are comprehensive services?

Chapter 51 of the Human Resource Code, Section 51.004 (b)(3) states that comprehensive services must include “...the services described by Section 51.005(b)(3)...” Section 51.005 (b)(3) delineates that comprehensive services includes, but is not limited to, the following:

- (3) provide, as its primary purpose, services to victims of family violence that include:
- (A) 24-hour-a-day shelter, except that a family violence nonresidential center may provide access to a 24-hour-a-day shelter;
 - (B) a 24-hour-a-day crisis hotline, except that a family violence nonresidential center may provide access to a 24-hour-a-day crisis hotline operated by another organization located in the nonresidential center’s service area;
 - (C) access to emergency medical care;
 - (D) intervention services, including safety planning, understanding and support, information, education, referrals, and other resource assistance;
 - (E) access to emergency transportation;

- (F) legal assistance in the civil and criminal justice systems, including:
 - (i) identifying individual needs, legal rights, and legal options; and
 - (ii) providing support and accompaniment in pursuing those options;
- (G) information about educational arrangements for children;
- (H) information about training for and seeking employment;
- (I) cooperation with criminal justice officials;
- (J) community education;
- (K) a referral system to existing community services; and
- (L) a volunteer recruitment and training program.

In addition to this, Section 51.010 of Chapter 51 establishes the Health and Human Services Commission’s rule making authority in order to implement the overall chapter. In those rules (Title One; Part 15; Chapter 379; Subchapter A; Rule §379.1), there is further insight into what comprises comprehensive services. It delineates that a:

(15) Nonresidential center--A Commission-funded program that:

- (A) is operated by a public or private nonprofit organization; and
- (B) provides comprehensive nonresidential services to victims of family violence as described in the Service Delivery section of the Commission Family Violence Program Nonresidential Center Provider Manual.

(20) Shelter center--A Commission-funded program that:

- (A) is operated by a public or private nonprofit organization; and
- (B) provides comprehensive residential and nonresidential services to victims of family violence as described in the Service Delivery section of the Commission Family Violence Program Shelter Center Provider Manual.

The Service Delivery section of the HHSC Family Violence Program Shelter Center and Nonresidential Center Manual includes numerous services that must be offered such as intervention services and legal assistance among others. Access the complete list via the links below.

Shelter Center Service Delivery Rules:

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=5&ti=1&pt=15&ch=379&sch=B&div=7&rl=Y](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=5&ti=1&pt=15&ch=379&sch=B&div=7&rl=Y)

Nonresidential Service Delivery Rules:

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=5&ti=1&pt=15&ch=379&sch=D&div=7&rl=Y](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=5&ti=1&pt=15&ch=379&sch=D&div=7&rl=Y)

**The Policy Department of the Texas Council on Family Violence stands ready to assist with
your community’s implementation effort on Senate Bill 82.
Please contact us at 1-800-525-1978 for assistance.**



Frequently Asked Questions: Implementation of SB 82

The text of the statute with changes reflected:

(h) If a judge grants community supervision to a person convicted of an offense under Title 5, Penal Code, that the court determines involves family violence, the judge [shall](#) [[may](#)] require the person to [pay](#) [~~make one payment in an amount not to exceed~~] \$100 to a family violence [[shelter](#)] center that receives state or federal funds and that serves the county in which the court is located. In this subsection, “family violence” has the meaning assigned by Section 71.004, Family Code, and “family violence [[shelter](#)] center” has the meaning assigned by Section 51.002, Human Resources Code.

FAQ's

What is the subject matter of Senate Bill 82?

Formerly, a judge had the discretion to order up to \$100 be paid to a local family violence shelter program by an adult family violence defendant as a condition of probation. The statute did not apply to juvenile family violence defendants, and SB 82 does not change this. SB 82 did change two aspects of the already existing statute:

1. The fee is now mandatory in all probation cases in which the judge makes a finding of family violence; and
2. The possible recipients now include “family violence centers” (rather than “family violence shelter centers” only).

When does SB 82 go into effect?

The change affects offenses that occur after September 1, 2009. If a crime occurs August 31, 2009 and the case is either filed (for misdemeanors) or indicted (for felonies) any time thereafter, the judge does NOT have to order the defendant to pay the fee.

Who can receive these funds?

The statute lists several requirements. Recipient programs must be either state or federally funded. The recipient must serve the county in which the court is located. Programs must meet the definition of “family violence center” enumerated by Section 51.002 of the Human Resources Code, which would include state funding from the Health and Human Service Commission (HHSC). HHSC stringently monitors and regulates family violence centers that receive funding. Linking recipients of these mandatory probation fees to this definition allows for regulation regarding eligibility to receive these important funds.

How are these funds collected and distributed?

As you can see from the statute, there is no system dictated by the legislature for collection and distribution at the local level. Although there may be benefits to creating a state-wide distribution system, the Texas Council on Family Violence and its Public Policy Committee worked to make the methodology for distribution a local matter. This avoids the potential for the creation of a bureaucracy at the state level that might then use some of the funds for administration rather than every penny of the funds being distributed to programs. Moreover, what works as a system for collection and disbursement in some areas may not work for other parts of the state. Factors such as population, number of family violence cases, and differences in the criminal justice system across localities supported the idea that communities should come up with a system that works in their area.

As such, the statute leaves the methodology for collection and distribution to each community.

What if there is more than one potential recipient of these funds in my community?

TCFV sees Health and Human Service Commission (HHSC) service days as an excellent method for determining distribution. Linking these funds to service days, which are collected and tabulated by family violence centers as defined by HHSC, is an easily applied and transparent standard for fee collection. Contact your local area family violence centers to discuss how to distribute these fees according to service days.

Which crimes will the court find “involve family violence”?

Certainly the Class A misdemeanor of Assault Family Violence (AFV) would qualify, because the judgment must reflect that the offense was indeed a family violence crime. AFVs often represent a significant portion of the overall number of misdemeanors filed in courts across the state. AFV Enhanced cases (which are Third Degree Felonies) require a finding of family violence.

Other possible crimes that would come under Article 42.12 Section 11(h) would be the new Family Violence Strangulation / Suffocation Third Degree Felony offense (Section 22.01(b) of the Texas Penal Code) and Continuous Violence Against the Family which is also a Third Degree Felony (Section 25.11 of the Texas Penal Code).

Aggravated Assault with a Deadly Weapon or Causing Serious Bodily Injury (both Second Degree Felonies) may involve family violence, but it is not typical practice for judges to make a specific finding of family violence. A Violation of Protective Order (a Class A misdemeanor or a Third Degree Felony depending on the facts) most likely involves family violence, but again it is not the usual practice of judges to make this finding.



**The Policy Department of the Texas Council on Family Violence
stands ready to assist with your community's implementation effort on Senate Bill 82.
Please contact us at 1-800-525-1978 for assistance.**