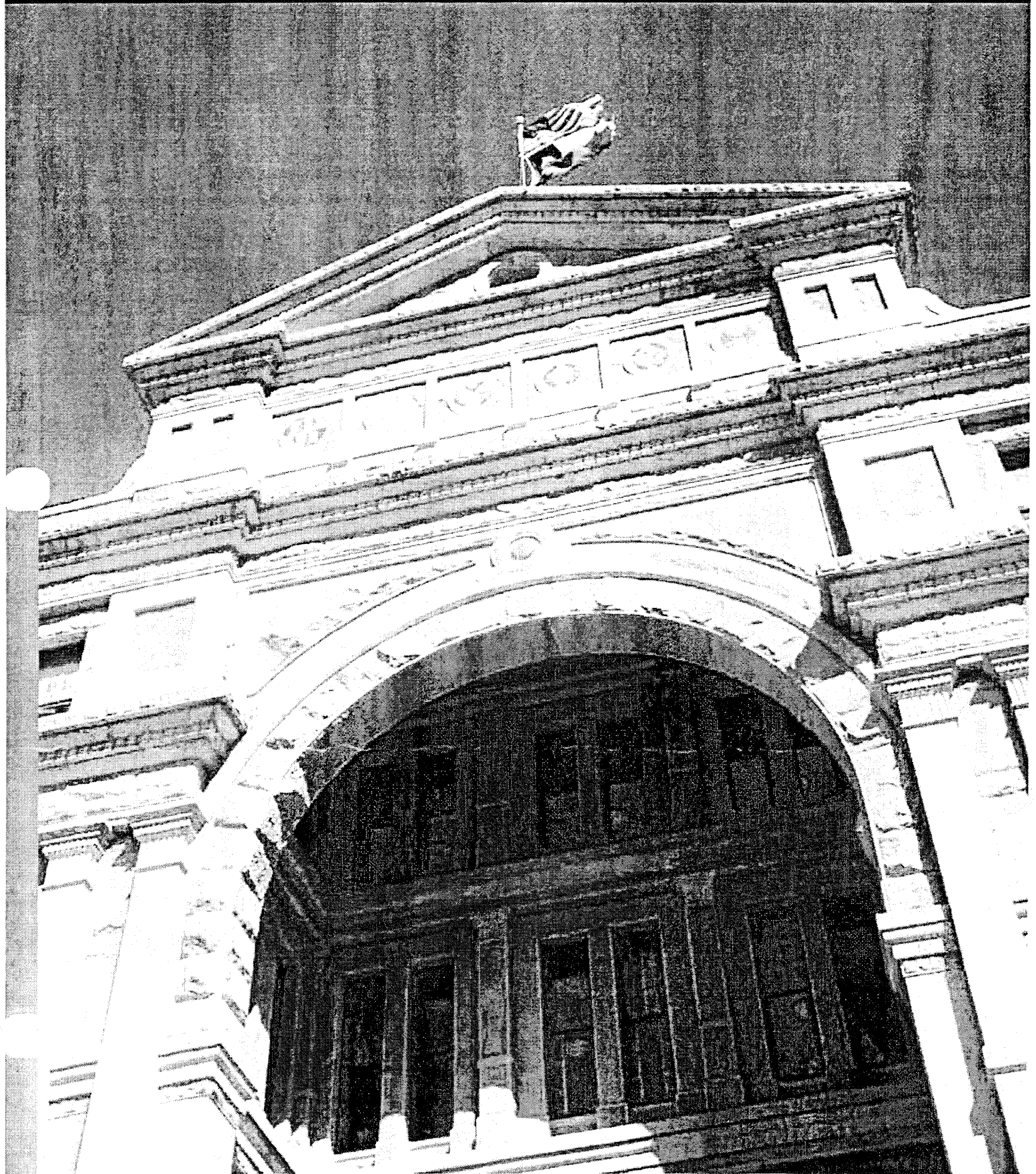


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2009 | Texas Council on Family Violence 81st Legislative Update



TEXAS COUNCIL ON FAMILY VIOLENCE

81st Session Legislative Update

This update summarizes several of the important legislative developments relating to family violence from the 81st Texas Legislative Session. As you will see from this update, Texas demonstrated strong support for family violence services. From full funding to family law to key changes in the criminal justice system, the legislature made family violence a top priority.


The journey from idea to bill filing to passage can be a long and difficult road. During this session, legislators filed 7,443 bills but only 19.6 percent or 1,461 bills made it to final passage. Frankly, Texas' legislative process purposely makes the passage of bills difficult. That said, thanks to the strong commitment of the legislature, the guidance and wisdom of survivors, and the contributions of allies and partners from across the spectrum of victim services including law enforcement, prosecutors, judges, state officials and others, the legislature fully funded and to an extent increased funding for family violence services. Moreover, ALL of TCFV's legislative priorities passed into law.

No matter what the results of any legislative session, the process requires considerable effort by many people. TCFV thanks its Board of Directors, its Public Policy Committee and the many family violence advocates and survivors who took time out of their lives to participate in the legislative process.

Our victories are your victories.



Gloria A. Terry
TCFV President



Aaron Setliff
TCFV Director of Policy

TCFV LEGISLATIVE PRIORITIES

Increasing the penalty for strangulation and suffocation to a felony

HB 2066: Author, Representative Pete Gallego (D-Alpine); Sponsor, Senator Jane Nelson (R-Lewisville)

This legislation adds intimate partner strangulation and suffocation as specific forms of assault. The first offense in a family violence case is a third degree felony, punishable by two to 10 years in prison. A subsequent conviction for a family or dating violence offense may be charged as a second degree felony, punishable by two to 20 years in prison. The offense is defined as causing pain by "intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth."

Amends Penal Code Section 22.01(b) and (f) and adds subsections (b-1) and (g). Effective September 1, 2009.

Require family violence offenders to pay a mandatory fee to a family violence center

SB 82: Author, Senator Jane Nelson (R-Lewisville); Sponsor, Representative Moody (D-El Paso)

This legislation requires a defendant found guilty of a family violence offense and who is granted community supervision, to pay a \$100 fee to a local family violence center that receives state or federal funds and serves the county in which the court is located.

Amends Article 42.12 Section 11(h) of the Texas Code of Criminal Procedure. Effective September 1, 2009.



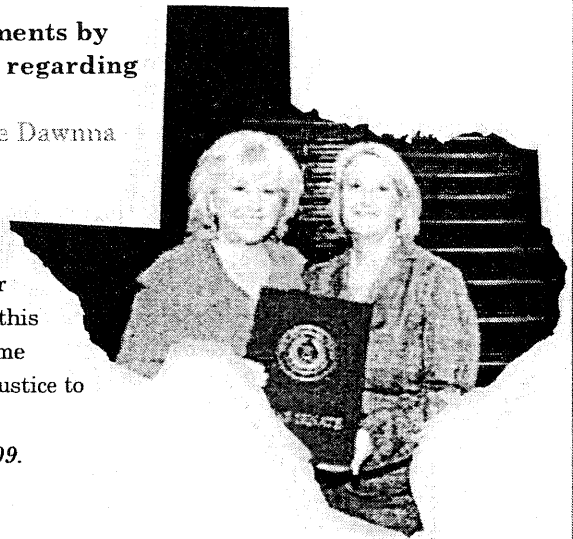
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Meet Violence Against Women Act (VAWA) compliance requirements by providing family violence misdemeanor defendants with notice regarding firearm possession

SB 1236: Author, Senator Seliger (R-Amarillo); Sponsor, Representative Dawnna Dukes (D-Austin)

This legislation will sustain funding for Texas VAWA recipients. Current VAWA applications require certification that judges provide notice to misdemeanor family violence defendants that if they plead or are found guilty, they forfeit their rights to possess firearms under federal law. Class A defendants already receive this notice in court. However, there is no written notice on the citation received by some Class C offenders. This bill adds language approved by the U.S. Department of Justice to all citations in Texas.

Amends Code of Criminal Procedure Article 14.06(b). Effective September 1, 2009.



Include a consideration of safety planning in international parental child abduction provisions

HB 1012: Author, Representative Yvonne Gonzalez-Tourelles (D-Alice); Sponsor, Senator Chris Harris (R-Arlington); Special thanks to Senator Royce West, Author of SB 491

When determining whether a risk of international abduction of a child by a parent exists, this legislation requires a court to consider evidence that a parent took actions necessary to protect herself from imminent harm. The measure also requires consideration by the court of whether a parent engaged in certain activities as part of a safety plan to flee family violence. These provisions address the valid concern that an abuser could use the justice system to limit the victim's access to children based on the assumption that the victim is a flight risk. Sen. Royce West (D-Dallas) originally filed SB 491 to address this concern, and later amended SB 491 to HB 1012, which covers a variety of other topics.

Amends Section 153.502 of the Texas Family Code. Effective September 1, 2009.

Increase confidentiality for participants in Domestic Violence Fatality Reviews

HB 3303: Author, Representative Carol Kent (D-Dallas); Sponsor, Senator Judith Zaffirini (D-Laredo)

Domestic Violence Fatality Reviews provide for a concentrated and system-level review of domestic violence fatalities in a given community. Community partners come together to look at these deaths to determine what could have been done differently – and what might have been done right. Only a handful of Texas communities have domestic violence fatality reviews partly because of the potential for criminal and civil subpoenas to be issued to participants for the information generated in reviews. This provision makes the Domestic Violence Fatality statute mirror the language already used in the Child Fatality Review statute. The Child Fatality Review statute disallows subpoena service on the work product of fatality review participants and disallows their being required to testify about the review.

Amends the Section 672.009 of the Health and Safety Code. Effective September 1, 2009.

OTHER BILLS OF NOTE

Eliminate the 60-day waiting period in dissolution of marriage suits for victims of family violence

HB 72: Author, Representative Ryan Guillen (D-Rio Grande City); Sponsor, Senator Judith Zaffirini (D-Laredo)

This legislation waives the 60-day waiting period before a court may grant a divorce if the court finds that the respondent has been convicted of or received deferred adjudication for an offense involving family violence, or if the petitioner has an active temporary ex parte order, final protective order or magistrate's order for emergency protection based on a finding of family violence committed during the marriage. Note that, even though this legislation allows courts to waive the waiting period prior to granting the divorce, it does not truncate any of the required time lines set forth by the Texas Rules of Civil Procedure. Therefore, these provisions will most likely assist those victims whose abusers do not contest the provisions in the petition or who default by not responding within the statutorily provided time frame.

Amends Section 6.702 of the Texas Family Code. Effective September 1, 2009.

Expand lease termination option to victims of family violence not living with their abusers and extend protections to victims of sexual assault.

SB 83: Author, Senator Jane Nelson (R-Lewisville); Sponsor, Representative Ryan Guillen (D-Rio Grande City)
This legislation expands current statute to allow a victim of family violence whose abuser is not a co-tenant or co-occupant of the residence to terminate her lease once she provides a temporary ex parte order, final protective order, or temporary injunction listed under Subchapter F, Chapter 6 of the Texas Family Code, as well as a 30-day notice of termination of the lease to the landlord. The legislation also allows for victims of sexual assault that can demonstrate certain types of documentation to terminate their leases provided they give the 30-day notice. Note that the 30-day notice requirement does not apply to a victim of family violence previously covered by the law whose abuser is a co-tenant or co-occupant.

Amends Section 92.016 and adds a Section 92.0161 of the Texas Property Code. Effective January 1, 2010.

Allowing courts to monitor family violence offenders with GPS technology

HB 1506: Author, Representative Abel Herrero (D-Nueces); Sponsor, Senator Juan "Chuy" Hinojosa (D-McAllen)

This legislation allows judges to add participation in a Global Positioning Monitoring System (GPS) as a condition of bond in family violence cases. A non-mandatory measure, courts may order GPS monitoring after consideration of deterrence and ensuring safety of the victim. If ordered, the court must provide the victim with information including: the right to participate/refuse to participate; the basic functioning and limitations and risks of the GPS; what locations from which defendant is prohibited; sanctions for defendant for violation of bond; procedure for the victim to follow if defendant violates this condition; community services available to the victim; that communications with the court regarding violations are not confidential; and a law enforcement contact name.

Amends Code of Criminal Procedure Article 17.292 by adding subsection (c-1). Effective September 1, 2009.

Creates an offense for serial domestic violence

HB 2240: Author Representative Tyron Lewis (R-Odessa); Sponsor,0 Senator Jane Nelson (R-Lewisville)

This bill establishes the offense of "continuous violence against the family" for offenders who commit two or more family violence Class A misdemeanor assault charges within a 12 month period. The actions DO NOT have to be convictions. This offense is a third degree felony, punishable by two to 10 years in prison.

Amends Penal Code Chapter 25 by adding Section 25.11. Effective September 1, 2009.

Requires promulgation of rules governing facilities offering some child care

SB 68: Author Senator Jane Nelson (R-Lewisville); Sponsor, Representative Drew Darby (R-San Angelo)

This measure addresses a change made necessary by a recent Texas Attorney General opinion, which requires greater legislative direction in the regulation of facilities that provide at least some level of child care. In specific relation to family violence programs, the measure requires the promulgation of rules and minimum standards for child care facilities operating within a temporary family violence shelter. The law further requires the rule-making authority consider the realities and needs of emergency family violence programs and to distinguish between those services and more permanent day care facilities.

Amends Section 6, Section 42.042 (g-2) of the Human Resources Code. Effective not later than September 1, 2010.

THANK YOU!

The Texas Council on Family Violence proudly acknowledges all members of the Senate and the House, the TCFV Public Policy Committee and every individual who participated in the TCFV/TAASA Capitol Day on February 11. We also thank each person that helped attain full funding for family violence services and passage of the TCFV Legislative Agenda. If you are on this list, you helped survivors and made monumental steps in keeping Texas families safe. You made phone calls to legislators. You wrote emails. You talked to partners and allies in your community. You voted. You cared. TCFV marks and honors your efforts.

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