

- SUBJECT:** Mandatory \$100 fee on probationed acts of domestic violence
- COMMITTEE:** Criminal Jurisprudence — Reported favorably without amendments
- VOTE:** 9 ayes — Gallego, Christian, Fletcher, Kent, Miklos, Moody, Pierson, Riddle, Vaught
0 nays
2 absent — Hodge, Vo
- SENATE VOTE:** On final passage, April 2 — 31-0
- WITNESSES:** For — Jennifer Morrison, New Beginning Center; Courtney Sanchez, Aaron Setliff, Texas Council on Family Violence; (*Registered, but did not testify*: Marc Chavez, Lubbock County District Attorney's Office; Katrina Daniels, Bexar County District Attorney's Office; Jim Grace, Houston Area Women's Council; Kevin Petroff, Harris County District Attorney's Office; Ballard Shapleigh, 34th Judicial District Attorney's Office)
Against — None
- BACKGROUND:** Under Art. 42.12, Code of Criminal Procedure, if a judge grants probation to a person convicted of an offense against the person under Penal Code, title 5 (homicide, kidnapping, human trafficking, sexual offenses, assault), which the court determined involved family violence, the judge may require the person to 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.
- DIGEST:** SB 82 would amend Code of Criminal Procedure, art. 42.12, to require that a person convicted of an offense against the person that involved family violence and was granted probation pay \$100 to a family violence center that received state or federal funds and that served the county in which the court was located.

The bill also would make conforming changes to Government Code, sec. 103.021, to add fines and fees, created by the 80th Legislature and that

exist in current law, to the comprehensive list of fines and fees that exists in the Government Code.

The bill would take effect on September 1, 2009.

**SUPPORTERS
SAY:**

SB 84 would provide much-needed funding to family violence centers in Texas. In fiscal 2008, Texas received over \$4 million less in funding through the federal Victims of Crime Act compared to fiscal 2007. Even as federal funds decline, Texas continues to experience high numbers of incidents of domestic abuse. In Texas, almost 12,000 adults and 16,000 children receive services from a family violence shelter or center each year. Over 35,000 adults and 15,000 children received non-residential services each year. Over 20 percent of adults were denied shelter in 2007 and 2008 due to lack of available space. The Texas Council on Family Violence estimates that SB 84 would generate an additional \$2 million to \$5 million in funding for family violence centers and shelters in Texas.

SB 84's mandatory fee would be appropriate because offenders would participate directly in funding services for victims. The \$100 fee would pay for roughly a day's worth of services at a residential shelter. Payment of the fee also would force offenders to take responsibility for their crimes, as the fee would go directly to remediating damage that domestic-violence perpetrators inflict on individuals and society.

While current law allows a judge the discretion to impose these fees, many do not do so or the fee often is not the full amount. SB 84 would require a judge to issue the entire \$100 fee, which would ensure increased funding for family violence shelters. Judges do not revoke probation automatically for non-payment. Exceptions are made for the indigent, and those who cannot pay are treated differently than those who will not pay.

SB 84 also would change eligible recipients from family violence shelter centers simply to family violence centers. This would allow those locations that are not shelters to receive funding. This flexibility also would be important for those counties that have family violence centers but not a shelter.

**OPPONENTS
SAY:**

With every new mandatory fee the Legislature imposes, probationers become less and less able to complete successfully court-ordered community supervision. As the Legislature continues to create new fees or raise old ones, it becomes increasingly unrealistic to expect probationers to

pay. Many probationers do not qualify for high-paying jobs, because their criminal records and their status as felons prevents them for entering many professions. Probationers already owe fines, court costs, probation department fees, restitution and can be required to pay for their own drug or alcohol treatment and testing. When probationers do not pay these mounting fees, fines, and court costs, their parole can be revoked which further increases the cost of the criminal justice system to the taxpayers.

Instead of relying on increasing fees to fund these critical family violence centers, the Legislature instead should adequately fund them through the budget process. This would allow a predictable revenue stream that would allow these centers to focus on providing critical services rather than fundraising.