

By: Wentworth

S.B. No. 1393

A BILL TO BE ENTITLED

AN ACT

relating to hospital emergency services for sexual assault survivors.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 241, Health and Safety Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. EMERGENCY SERVICES FOR SURVIVORS OF SEXUAL ASSAULT

Sec. 241.181. DEFINITIONS. In this subchapter:

(1) "Sexual assault" means any act as described by Section 22.011 or 22.021, Penal Code.

(2) "Sexual assault survivor" means an individual who is a victim of a sexual assault, regardless of whether a report is made or a conviction is obtained in the incident.

Sec. 241.182. FURNISHING OF EMERGENCY SERVICES. A hospital required to be licensed under this chapter shall provide emergency services to a sexual assault survivor in accordance with this subchapter.

Sec. 241.183. INITIAL ASSESSMENT. (a) When a survivor of an alleged sexual assault arrives at a hospital, the appropriate medical personnel and staff person as soon as practicable shall:

(1) assess and treat any immediate life-threatening injuries;

(2) contact a sexual assault crisis center, if available in the geographical area served by the hospital, to

1 inform the on-call advocate that a person who has allegedly been
2 sexually assaulted has arrived at the hospital for an examination;
3 and

4 (3) once the survivor is determined to be medically
5 stable, provide the survivor with a private room to speak with
6 medical or law enforcement personnel or with a staff person or
7 volunteer of any available sexual assault crisis center.

8 (b) The hospital must maintain documentation of the duties
9 and functions performed by hospital staff and medical personnel
10 under this section.

11 Sec. 241.184. CONSULTATION BEFORE EXAMINATION. During a
12 consultation with a sexual assault survivor before an examination
13 is conducted, the appropriate staff person shall:

14 (1) ask whether the survivor would prefer to have an
15 available sexual assault crisis center advocate present for the
16 examination;

17 (2) inform the survivor that any statement made to a
18 physician, nurse, other hospital personnel, law enforcement
19 personnel, or sexual assault crisis center advocate during the
20 interview and evidence collection process is not privileged and may
21 be disclosed;

22 (3) inform the survivor of the necessity for a
23 physical examination without regard to whether the survivor chooses
24 to have the evidence collected for use in a criminal investigation;

25 (4) provide a detailed explanation of the purpose and
26 procedure of a forensic medical examination and evidence collection
27 protocol under Subchapter B, Chapter 420, Government Code,

1 including:

2 (A) the likelihood of being interviewed by law
3 enforcement personnel; and

4 (B) the effect on a criminal prosecution if a
5 forensic medical examination is not performed;

6 (5) advise the survivor that a forensic medical
7 examination shall be conducted free of charge, but costs related to
8 medical treatment may be incurred for which the survivor may be
9 responsible;

10 (6) inform the survivor that the survivor may withdraw
11 consent for the forensic medical examination and evidence
12 collection protocol at any time during the examination;

13 (7) obtain written consent from the survivor for a
14 physical examination, treatment, forensic medical examination, and
15 collection of evidence, including photographs of injuries; and

16 (8) provide appropriate oral and written information
17 on all hospital policies and procedures, including treatment by
18 physicians and the prescribing of medication with regard to
19 treatment.

20 Sec. 241.185. MEDICAL EXAMINATION AND TESTS. With the
21 informed consent of the sexual assault survivor, the attending
22 physician may perform a medical examination or test including:

23 (1) a forensic medical examination performed in
24 accordance with evidence collection protocol under Subchapter B,
25 Chapter 420, Government Code, which may include a photograph of any
26 injury, including an injury to the genitalia, that may be used as
27 evidence in a criminal proceeding against a person accused of the

1 alleged sexual assault;

2 (2) a physical examination as required to ensure the
3 health, safety, and welfare of the survivor; or

4 (3) proper testing for sexually transmitted diseases
5 and pregnancy, if necessary.

6 Sec. 241.186. TREATMENT FOLLOWING MEDICAL EXAMINATION AND
7 TESTS. After the medical examination or tests are completed, the
8 attending physician or other appropriate medical personnel shall,
9 if necessary:

10 (1) treat any physical injuries suffered by the
11 survivor;

12 (2) supply prophylactic antibiotics for treatment of
13 any sexually transmitted disease and possible contraindications of
14 that medication; and

15 (3) provide postcoital contraception for pregnancy
16 prevention.

17 Sec. 241.187. REFERRAL FOR FOLLOW-UP CARE. At the
18 conclusion of all examinations, necessary diagnostic testing, and
19 treatment, the appropriate staff person shall provide the sexual
20 assault survivor with an oral and written referral to a local sexual
21 assault crisis center, if available, and any other appropriate
22 referral for follow-up care concerning the medical and
23 psychological well-being of the survivor.

24 SECTION 2. This Act takes effect September 1, 2003.