

By: Wentworth

S.B. No. 388

A BILL TO BE ENTITLED

AN ACT

relating to emergency services for sexual assault survivors.

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

SECTION 1. Subtitle G, Title 4, Health and Safety Code, is amended by adding Chapter 322 to read as follows:

CHAPTER 322. EMERGENCY SERVICES FOR SURVIVORS
OF SEXUAL ASSAULT

Sec. 322.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of State Health Services.

(2) "Health care facility" means:

(A) a general or special hospital as defined by Section 241.003;

(B) an ambulatory surgical center as defined by Section 243.002; and

(C) a facility designated as a trauma facility under Chapter 773.

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

(4) "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. 322.002. PLAN FOR EMERGENCY SERVICES. (a) A health care facility shall submit to the department for approval a plan for

1 providing, at minimum, the services required by Section 322.005.

2 (b) The department shall adopt procedures for submission,
3 approval, and modification of a plan required under this section.

4 (c) A health care facility shall submit the plan required by
5 this section not later than the 60th day after the date the
6 department requests the plan.

7 (d) The department shall approve or reject the plan not
8 later than the 120th day after the date the plan is submitted.

9 Sec. 322.003. REJECTION OF PLAN. (a) If a plan required
10 under Section 322.002 is not approved, the department shall:

11 (1) return the plan to the health care facility; and

12 (2) identify the specific provisions under Section
13 322.005 with which the plan conflicts or does not comply.

14 (b) Not later than the 90th day after the date the
15 department returns a plan to a health care facility under
16 Subsection (a), the facility shall correct and resubmit the plan to
17 the department for approval.

18 Sec. 322.004. COMMUNITY OR AREA-WIDE PLANS. (a) In
19 addition to submitting a plan as required under Section 322.002, a
20 health care facility may participate with another health care
21 facility, an entity administering a sexual assault program, a
22 district attorney's office, or a law enforcement agency, in a
23 community or area-wide plan to furnish emergency services to sexual
24 assault survivors on a community or area-wide basis.

25 (b) A health care facility participating in a community or
26 area-wide plan shall furnish the department with any written
27 agreements establishing the community or area-wide plan and

1 designating a primary health care facility for treating sexual
2 assault survivors.

3 Sec. 322.005. MINIMUM STANDARDS FOR EMERGENCY SERVICES.

4 (a) After a sexual assault survivor arrives at a health care
5 facility following an alleged sexual assault, the facility shall:

6 (1) conduct a forensic medical examination, subject to
7 Subsection (b); or

8 (2) transfer the survivor to the health care facility
9 designated as the primary health care facility for treating sexual
10 assault survivors, which shall conduct a forensic medical
11 examination, subject to Subsection (b), if the health care facility
12 at which the survivor arrives is not the primary health care
13 facility for sexual assault survivors as designated in a plan under
14 Section 322.004.

15 (b) A health care facility conducting a forensic medical
16 examination shall provide the sexual assault survivor with:

17 (1) a private area to wait or speak with the
18 appropriate medical, legal, or sexual assault crisis center staff
19 or volunteer, if available, until a physician, nurse, or physician
20 assistant is able to conduct the forensic medical examination;

21 (2) access to a sexual assault program advocate as
22 provided by Article 56.045, Code of Criminal Procedure;

23 (3) the information form required by Section 322.006;

24 (4) a private treatment room, if available, for the
25 forensic medical examination;

26 (5) appropriate forensic medical examinations and
27 laboratory tests, including the collection of biological specimens

1 and photographs of injuries, necessary to ensure the health,
2 safety, and welfare of the sexual assault survivor, in accordance
3 with evidence collection protocol under Subchapter B, Chapter 420,
4 Government Code;

5 (6) if indicated by the history of contact, access to
6 appropriate prophylaxis for exposure to sexually transmitted
7 infections; and

8 (7) the name and telephone number of the nearest
9 sexual assault crisis center.

10 (c) A health care facility must obtain documented consent
11 before providing forensic medical examinations and treatment.

12 Sec. 322.006. INFORMATION FORM. (a) The department shall
13 develop a standard information form for sexual assault survivors
14 that must include:

15 (1) a detailed explanation of the forensic medical
16 examination required to be provided by law, including a statement
17 that photographs may be taken of the genitalia and an explanation of
18 the types of photographs of injuries that may be taken;

19 (2) information regarding treatment of sexually
20 transmitted infections and pregnancy, including:

21 (A) generally accepted medical procedures;

22 (B) appropriate medications; and

23 (C) any contraindications of the medications
24 prescribed for treating sexually transmitted infections and
25 preventing pregnancy;

26 (3) information regarding drug-facilitated sexual
27 assault, including the necessity for an immediate urine test for

1 sexual assault survivors who may have been involuntarily drugged;

2 (4) information regarding crime victims compensation,
3 including:

4 (A) a statement that a law enforcement agency
5 will pay for the forensic portion of the examination; and

6 (B) reimbursement information for the medical
7 portion of the examination;

8 (5) an explanation that consent for the forensic
9 medical examination may be withdrawn at any time during the
10 examination; and

11 (6) the name and telephone number of sexual assault
12 crisis centers statewide.

13 (b) A health care facility shall use the standard form
14 developed under this section.

15 Sec. 322.007. INSPECTION. The department may conduct an
16 inspection of a health care facility to ensure compliance with this
17 chapter.

18 SECTION 2. This Act takes effect September 1, 2005.