

## **BILL ANALYSIS**

C.S.H.B. 2560  
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Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

According to a federal agency, the vast majority of rapes and other sexual assaults go unreported. While this is due to a variety of factors, one potential barrier is limited access to health care facilities that are capable of collecting evidence from and treating sexual assault survivors. C.S.H.B. 2560 seeks to address this issue.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2560 amends the Health and Safety Code to require a health care facility that is not a health care facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors to inform a sexual assault survivor that the facility is not the community's designated facility, to provide to the survivor the name and location of the designated facility, and to inform the survivor that the survivor is entitled, at the survivor's option, to receive the care required to be provided to the survivor at the current facility or to be stabilized and transferred to and receive such care at the community's designated facility. The bill requires a facility to stabilize and transfer a survivor to the community's designated facility only if the survivor chooses to be transferred and provides written signed consent to be transferred.

C.S.H.B. 2560 prohibits a person from performing a forensic examination on a sexual assault survivor unless the person has the basic sexual assault forensic evidence collection training under the bill's provisions or the equivalent education and training. The bill specifies that provisions regarding the minimum standards for emergency services provided to survivors of sexual assault do not affect the duty of a health care facility to comply with the requirements of the federal Emergency Medical Treatment and Active Labor Act of 1986 that are applicable to the facility.

C.S.H.B. 2560 requires each health care facility that has an emergency department to comply with statutory provisions relating to minimum standards for emergency services provided to survivors of sexual assault and makes a requirement that a health care facility submit a plan for providing those services to the Department of State Health Services (DSHS) for approval applicable only to a health care facility that has an emergency department.

C.S.H.B. 2560 requires a person who performs a forensic examination on a sexual assault survivor to have at least basic forensic evidence collection training or equivalent education and specifies that a person who completes a continuing medical education course in forensic evidence collection that is approved by the appropriate licensing board is considered to have basic sexual assault forensic training for the purposes of the bill's provisions. The bill authorizes DSHS to approve such training programs, including programs developed and implemented by hospitals for hospital staff. The bill requires each health care facility that has an emergency

department and that is not a health care facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors to develop a plan to train personnel on sexual assault forensic evidence collection.

C.S.H.B. 2560 establishes that statutory provisions relating to emergency services for survivors of sexual assault do not affect the working protocols set forth by multidisciplinary teams under statutory provisions relating to children's advocacy centers to ensure access to specialized medical assessments for sexual assault survivors who are minors and that those provisions control to the extent of a conflict with statutory provisions relating to emergency services for sexual assault survivors. The bill requires DSHS to post on its Internet website a list of all hospitals that are designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors.

### **EFFECTIVE DATE**

September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2560 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

**No equivalent provision.**

SECTION 1. Section 323.004, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (d) to read as follows:

(a) Except as otherwise provided by Subsection (a-2), after ~~After~~ a sexual assault survivor arrives at a health care facility following an alleged sexual assault, the facility shall:

~~[(1)]~~ provide care to the survivor in accordance with Subsection (b).

(a-1) A facility that is not a health care facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 323.002(a), Health and Safety Code, is amended to read as follows:

(a) Each health care facility that has an emergency department shall comply with Section 323.004. At the request of the department, a health care facility that has an emergency department shall submit to the department for approval a plan for providing the services required by Section 323.004 to sexual assault survivors who arrive for treatment at the emergency department of the health care facility.

SECTION 2. Section 323.004, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1), (a-2), (b-1), and (d) to read as follows:

(a) Except as otherwise provided by Subsection (a-2), after ~~After~~ a sexual assault survivor arrives at a health care facility following an alleged sexual assault, the facility shall:

~~[(1)]~~ provide care to the survivor in accordance with Subsection (b).

(a-1) A facility that is not a health care facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault

survivors shall inform the survivor that:  
(1) the facility is not the designated facility; and

(2) the survivor is entitled, at the survivor's option:

(A) to receive the care described by Subsection (b) at that facility; or

(B) to be stabilized and to be transferred to and receive the care described by Subsection (b) at a health care facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors.

(a-2) If a survivor chooses to be transferred under Subsection (a-1)(2)(B), after obtaining the survivor's written, signed consent to the transfer, the facility shall [;  
~~or~~

[2)] stabilize and transfer the survivor to a health care facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors, which shall provide care to the survivor in accordance with Subsection (b).

survivors shall inform the survivor that:

(1) the facility is not the designated facility and provide to the survivor the name and location of the designated facility; and

(2) the survivor is entitled, at the survivor's option:

(A) to receive the care described by Subsection (b) at that facility, ~~subject to Subsection (b-1); or~~

(B) to be stabilized and to be transferred to and receive the care described by Subsection (b) at a health care facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors.

(a-2) If a survivor chooses to be transferred under Subsection (a-1)(2)(B), after obtaining the survivor's written, signed consent to the transfer, the facility shall [;~~or~~

[2)] stabilize and transfer the survivor to a health care facility ~~in the community~~ designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors, which shall provide care to the survivor in accordance with Subsection (b).

(b) A health care facility providing care to a sexual assault survivor shall provide the survivor with:

(1) ~~subject to Subsection (b-1),~~ a forensic medical examination in accordance with Subchapter B, Chapter 420, Government Code, if the examination has been requested by a law enforcement agency under Article 56.06, Code of Criminal Procedure, or is conducted under Article 56.065, Code of Criminal Procedure;

(2) a private area, if available, to wait or speak with the appropriate medical, legal, or sexual assault crisis center staff or volunteer until a physician, nurse, or physician assistant is able to treat the survivor;

(3) access to a sexual assault program advocate, if available, as provided by Article 56.045, Code of Criminal Procedure;

(4) the information form required by Section 323.005;

(5) a private treatment room, if available;

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

(7) the name and telephone number of the

(d) If telemedicine is used in the treatment described by Subsection (b) provided to a sexual assault survivor, the facility shall comply with Section 531.02161, Government Code, and any rules adopted under that section.

No equivalent provision.

No equivalent provision.

nearest sexual assault crisis center.

(b-1) A person may not perform a forensic examination on a sexual assault survivor unless the person has the basic training described by Section 323.0045 or the equivalent education and training.

(d) This section does not affect the duty of a health care facility to comply with the requirements of the federal Emergency Medical Treatment and Active Labor Act of 1986 (42 U.S.C. Section 1395dd) that are applicable to the facility.

SECTION 3. Chapter 323, Health and Safety Code, is amended by adding Section 323.0045 to read as follows:

Sec. 323.0045. BASIC SEXUAL ASSAULT FORENSIC EVIDENCE COLLECTION TRAINING. (a) A person who performs a forensic examination on a sexual assault survivor must have at least basic forensic evidence collection training or the equivalent education.

(b) A person who completes a continuing medical education course in forensic evidence collection that is approved by the appropriate licensing board is considered to have basic sexual assault forensic evidence training for purposes of this chapter.

(c) The department may approve training programs under this section, including programs developed and implemented by hospitals for hospital staff.

(d) Each health care facility that has an emergency department and that is not a health care facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors shall develop a plan to train personnel on sexual assault forensic evidence collection.

SECTION 4. Chapter 323, Health and Safety Code, is amended by adding Sections 323.007 and 323.008 to read as follows:

Sec. 323.007. SEXUAL ASSAULT SURVIVORS WHO ARE MINORS. This

chapter does not affect the working protocols set forth by multidisciplinary teams under Subchapter E, Chapter 264, Family Code, to ensure access to specialized medical assessments for sexual assault survivors who are minors. To the extent of a conflict with Subchapter E, Chapter 264, Family Code, that subchapter controls.

Sec. 323.008. DATA PUBLICATION. The department shall post on the department's Internet website a list of all hospitals that are designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors.

SECTION 2. This Act takes effect September 1, 2013.

SECTION 5. Same as introduced version.