

## **BILL ANALYSIS**

Senate Research Center

S.B. 1191  
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Criminal Justice  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

According to the United States Department of Justice, two out of three rapes and sexual assaults go unreported. This is due to a variety of factors, but one potential barrier is access to health care facilities that are capable of treating and collecting evidence from sexual assault survivors.

S.B. 1191 provides a survivor of sexual assault the option of receiving care at a hospital that is not the designated facility in a community-wide plan. Before administering treatment, the non-designated hospital is required to inform the survivor that it is not the community-wide designated facility, and that survivor has the choice to receive care at that facility or be transferred to the hospital designated in the community-wide plan. If the survivor chooses to be transferred, the hospital will stabilize and transfer the person to the primary health care facility, after obtaining written consent from the survivor.

S.B. 1191 amends current law relating to the duties of health care facilities, health care providers, and the Department of State Health Services with respect to care provided to a sexual assault survivor in an emergency department of a health care facility.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 323.002(a), Health and Safety Code, as follows:

(a) Requires that each health care facility that has an emergency department comply with Section 323.004. Requires a health care facility that has an emergency department, at the request of the Department of State Health Services (DSHS), to submit to DSHS 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. Amends Section 323.004, Health and Safety Code, by amending Subsections (a) and (b) and adding Subsections (a-1), (a-2), (b-1), and (d), as follows:

(a) Requires a health care facility, except as otherwise provided by Subsection (a-2), after a sexual assault survivor arrives at a facility following an alleged sexual assault, to provide care to the survivor in accordance with Subsection (b) (relating to requiring a facility providing care to a sexual assault survivor to provide the survivor with certain care). Deletes existing Subdivision (1) designation, and makes nonsubstantive changes.

(a-1) Requires that 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 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 facility designated in a community-wide plan as the primary facility in the community for treating sexual assault survivors.

(a-2) Requires the facility, if a sexual assault survivor chooses to be transferred under Subsection (a-1)(2)(B), after obtaining the survivor's written, signed consent to the transfer, to stabilize and transfer the survivor to a 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 is required to provide care to the survivor in accordance with Subsection (b). Deletes existing Subdivision (2) designation, and makes nonsubstantive changes.

(b) Requires a health care facility providing health care to a sexual assault survivor to provide the survivor with access to certain facilities and resources, including, subject to Subsection (b-1), a forensic medical examination in accordance with Subchapter B (Collection and Preservation of Evidence of Sex Offense), Chapter 420 (Sexual Assault Prevention and Crisis Services), Government Code, if the examination has been requested by a law enforcement agency under Article 56.06 (Medical Examination for Sexual Assault Victim Who Has Reported Assault; Costs), Code of Criminal Procedure, or is conducted under Article 56.065 (Medical Examination for Sexual Assault Victim Who Has Not Reported Assault; Costs), Code of Criminal Procedure.

(b-1) Prohibits a person from performing 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) Provides that 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. Amends Chapter 323, Health and Safety Code, by adding Section 323.0045, as follows:

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

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

(c) 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.

SECTION 4. Amends Chapter 323, Health and Safety Code, by adding Sections 323.007 and 323.008, as follows:

Sec. 323.007. SEXUAL ASSAULT SURVIVORS WHO ARE MINORS. Provides that this chapter does not affect participating entities of children's advocacy centers under Subchapter E (Children's Advocacy Centers), Chapter 264 (Child Welfare Services),

Family Code, or the working protocols set forth by their multidisciplinary teams to ensure access to specialized medical assessments for sexual assault survivors who are minors. Provides that, to the extent of a conflict with Subchapter E, Chapter 264, Family Code, that subchapter controls.

Sec. 323.008. DATA PUBLICATION. Requires DSHS to post on DSHS'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 5. Effective date: September 1, 2013.