

By: Davis, Zaffirini

S.B. No. 1191

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the duties of health care facilities, health care
3 providers, and the Department of State Health Services with respect
4 to care provided to a sexual assault survivor in an emergency
5 department of a health care facility.

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

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

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

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

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

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

24 (a-1) A facility that is not a health care facility

1 designated in a community-wide plan as the primary health care
2 facility in the community for treating sexual assault survivors
3 shall inform the survivor that:

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

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

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

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

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

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

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

26 (1) subject to Subsection (b-1), a forensic medical
27 examination in accordance with Subchapter B, Chapter 420,

1 Government Code, if the examination has been requested by a law
2 enforcement agency under Article 56.06, Code of Criminal Procedure,
3 or is conducted under Article 56.065, Code of Criminal Procedure;

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

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

11 (4) the information form required by Section 323.005;

12 (5) a private treatment room, if available;

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

16 (7) the name and telephone number of the nearest
17 sexual assault crisis center.

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

22 (d) This section does not affect the duty of a health care
23 facility to comply with the requirements of the federal Emergency
24 Medical Treatment and Active Labor Act of 1986 (42 U.S.C. Section
25 1395dd) that are applicable to the facility.

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

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

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

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

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

18 Sec. 323.007. SEXUAL ASSAULT SURVIVORS WHO ARE MINORS.
19 This chapter does not affect participating entities of children's
20 advocacy centers under Subchapter E, Chapter 264, Family Code, or
21 the working protocols set forth by their multidisciplinary teams to
22 ensure access to specialized medical assessments for sexual assault
23 survivors who are minors. To the extent of a conflict with
24 Subchapter E, Chapter 264, Family Code, that subchapter controls.

25 Sec. 323.008. DATA PUBLICATION. The department shall post
26 on the department's Internet website a list of all hospitals that
27 are designated in a community-wide plan as the primary health care

1 facility in the community for treating sexual assault survivors.

2 SECTION 5. This Act takes effect September 1, 2013.