AN ACT
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.

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

SECTION 1. Subsection (a), Section 323.002, 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 a sexual assault survivor arrives at a health care facility following an alleged sexual assault, the facility shall:

[+] 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 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 sexual assault 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 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 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 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 purposes of this chapter.

(c) 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 participating entities of children's advocacy centers under Subchapter E, Chapter 264, 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. 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 5. This Act takes effect September 1, 2013.

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President of the SenateAAAAAAAAAAAAASpeaker of the House
I hereby certify that S.B. ANo.A1191 passed the Senate on May 1, 2013, by the following vote:  Yeas 31, Nays 0.

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Secretary of the Senate
I hereby certify that S.B. ANo.A1191 passed the House on May 8, 2013, by the following vote:  Yeas 147, Nays 0, two present not voting.

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Chief Clerk of the House
Approved:

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Date

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Governor