

1-1 By: Davis S.B. No. 1191  
 1-2 (In the Senate - Filed March 6, 2013; March 12, 2013, read  
 1-3 first time and referred to Committee on Criminal Justice;  
 1-4 April 29, 2013, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 5, Nays 0; April 29, 2013,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

|      | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-8  |     |     |        |     |
| 1-9  | X   |     |        |     |
| 1-10 | X   |     |        |     |
| 1-11 |     |     | X      |     |
| 1-12 |     |     | X      |     |
| 1-13 | X   |     |        |     |
| 1-14 | X   |     |        |     |
| 1-15 | X   |     |        |     |

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1191 By: Schwertner

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the duties of health care facilities, health care  
 1-20 providers, and the Department of State Health Services with respect  
 1-21 to care provided to a sexual assault survivor in an emergency  
 1-22 department of a health care facility.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subsection (a), Section 323.002, Health and  
 1-25 Safety Code, is amended to read as follows:

1-26 (a) Each health care facility that has an emergency  
 1-27 department shall comply with Section 323.004. At the request of the  
 1-28 department, a health care facility that has an emergency department  
 1-29 shall submit to the department for approval a plan for providing the  
 1-30 services required by Section 323.004 to sexual assault survivors  
 1-31 who arrive for treatment at the emergency department of the health  
 1-32 care facility.

1-33 SECTION 2. Section 323.004, Health and Safety Code, is  
 1-34 amended by amending Subsections (a) and (b) and adding Subsections  
 1-35 (a-1), (a-2), (b-1), and (d) to read as follows:

1-36 (a) Except as otherwise provided by Subsection (a-2), after  
 1-37 [After] a sexual assault survivor arrives at a health care facility  
 1-38 following an alleged sexual assault, the facility shall~~+~~  
 1-39 [(-)] provide care to the survivor in accordance with  
 1-40 Subsection (b).

1-41 (a-1) A facility that is not a health care facility  
 1-42 designated in a community-wide plan as the primary health care  
 1-43 facility in the community for treating sexual assault survivors  
 1-44 shall inform the survivor that:

1-45 (1) the facility is not the designated facility and  
 1-46 provide to the survivor the name and location of the designated  
 1-47 facility; and

1-48 (2) the survivor is entitled, at the survivor's  
 1-49 option:

1-50 (A) to receive the care described by Subsection  
 1-51 (b) at that facility, subject to Subsection (b-1); or

1-52 (B) to be stabilized and to be transferred to and  
 1-53 receive the care described by Subsection (b) at a health care  
 1-54 facility designated in a community-wide plan as the primary health  
 1-55 care facility in the community for treating sexual assault  
 1-56 survivors.

1-57 (a-2) If a sexual assault survivor chooses to be transferred  
 1-58 under Subsection (a-1)(2)(B), after obtaining the survivor's  
 1-59 written, signed consent to the transfer, the facility shall~~+~~  
 1-60 [(-)] stabilize and transfer the survivor to a health

2-1 care facility in the community designated in a community-wide plan  
2-2 as the primary health care facility in the community for treating  
2-3 sexual assault survivors, which shall provide care to the survivor  
2-4 in accordance with Subsection (b).

2-5 (b) A health care facility providing care to a sexual  
2-6 assault survivor shall provide the survivor with:

2-7 (1) subject to Subsection (b-1), a forensic medical  
2-8 examination in accordance with Subchapter B, Chapter 420,  
2-9 Government Code, if the examination has been requested by a law  
2-10 enforcement agency under Article 56.06, Code of Criminal Procedure,  
2-11 or is conducted under Article 56.065, Code of Criminal Procedure;

2-12 (2) a private area, if available, to wait or speak with  
2-13 the appropriate medical, legal, or sexual assault crisis center  
2-14 staff or volunteer until a physician, nurse, or physician assistant  
2-15 is able to treat the survivor;

2-16 (3) access to a sexual assault program advocate, if  
2-17 available, as provided by Article 56.045, Code of Criminal  
2-18 Procedure;

2-19 (4) the information form required by Section 323.005;

2-20 (5) a private treatment room, if available;

2-21 (6) if indicated by the history of contact, access to  
2-22 appropriate prophylaxis for exposure to sexually transmitted  
2-23 infections; and

2-24 (7) the name and telephone number of the nearest  
2-25 sexual assault crisis center.

2-26 (b-1) A person may not perform a forensic examination on a  
2-27 sexual assault survivor unless the person has the basic training  
2-28 described by Section 323.0045 or the equivalent education and  
2-29 training.

2-30 (d) This section does not affect the duty of a health care  
2-31 facility to comply with the requirements of the federal Emergency  
2-32 Medical Treatment and Active Labor Act of 1986 (42 U.S.C. Section  
2-33 1395dd) that are applicable to the facility.

2-34 SECTION 3. Chapter 323, Health and Safety Code, is amended  
2-35 by adding Section 323.0045 to read as follows:

2-36 Sec. 323.0045. BASIC SEXUAL ASSAULT FORENSIC EVIDENCE  
2-37 COLLECTION TRAINING. (a) A person who performs a forensic  
2-38 examination on a sexual assault survivor must have at least basic  
2-39 forensic evidence collection training or the equivalent education.

2-40 (b) A person who completes a continuing medical education  
2-41 course in forensic evidence collection that is approved by the  
2-42 appropriate licensing board is considered to have basic sexual  
2-43 assault forensic evidence training for purposes of this chapter.

2-44 (c) The department may approve training programs under this  
2-45 section, including programs developed and implemented by hospitals  
2-46 for hospital staff.

2-47 (d) Each health care facility that has an emergency  
2-48 department and that is not a health care facility designated in a  
2-49 community-wide plan as the primary health care facility in the  
2-50 community for treating sexual assault survivors shall develop a  
2-51 plan to train personnel on sexual assault forensic evidence  
2-52 collection.

2-53 SECTION 4. Chapter 323, Health and Safety Code, is amended  
2-54 by adding Sections 323.007 and 323.008 to read as follows:

2-55 Sec. 323.007. SEXUAL ASSAULT SURVIVORS WHO ARE MINORS.  
2-56 This chapter does not affect the working protocols set forth by  
2-57 multidisciplinary teams under Subchapter E, Chapter 264, Family  
2-58 Code, to ensure access to specialized medical assessments for  
2-59 sexual assault survivors who are minors. To the extent of a  
2-60 conflict with Subchapter E, Chapter 264, Family Code, that  
2-61 subchapter controls.

2-62 Sec. 323.008. DATA PUBLICATION. The department shall post  
2-63 on the department's Internet website a list of all hospitals that  
2-64 are designated in a community-wide plan as the primary health care  
2-65 facility in the community for treating sexual assault survivors.

2-66 SECTION 5. This Act takes effect September 1, 2013.

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