|  |
| --- |
| BILL ANALYSIS |

|  |
| --- |
| S.B. 52 |
| By: Zaffirini |
| Public Health |
| Committee Report (Unamended) |

|  |
| --- |
| **BACKGROUND AND PURPOSE** In 2021, the legislature enacted S.B. 25 by Senator Kolkhorst to provide essential caregivers of persons in nursing homes and assisted living facilities with visitation rights. Caregivers whose loved ones are in state hospitals should be granted similar rights. Accordingly, S.B. 52 seeks to require the Health and Human Services Commission to assist state hospitals in establishing essential caregiver visitation policies and procedures. This change would provide certainty for caregivers and consistency among state hospitals regarding in-person visitation policies. The bill additionally provides for the designation of both of a patient's parents as essential caregivers if the patient is a minor, which ensures that hospital visitation rights for a patient's parents match the court-approved visitation rights if the patient's parents are divorced.  |
| **CRIMINAL JUSTICE IMPACT**It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **RULEMAKING AUTHORITY** It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill. |
| **ANALYSIS** S.B. 52 amends the Health and Safety Code to establish that a patient, the patient's guardian, or the patient's legally authorized representative has the right to designate an essential caregiver with whom a state hospital may not prohibit in-person visitation and, if the patient is a minor, that the patient's parent, guardian, or managing conservator may designate both of the minor patient's parents as essential caregivers. The bill defines "essential caregiver" as a family member, friend, guardian, or other individual a patient, patient's guardian, or patient's legally authorized representative selects for in-person visits.S.B. 52 requires the executive commissioner of the Health and Human Services Commission (HHSC) to develop by rule guidelines to assist state hospitals in establishing essential caregiver visitation policies and procedures. The guidelines must require the hospitals to do the following:* allow a patient, patient's guardian, or patient's legally authorized representative or, for a minor patient, the patient's parent, guardian, or managing conservator, to designate for in-person visitation an essential caregiver;
* establish a visitation schedule allowing the essential caregiver to visit the patient for at least two hours each day;
* establish procedures to enable physical contact between the patient and essential caregiver; and
* obtain the signature of the essential caregiver certifying the caregiver will follow the hospital's safety protocols and any other policies, procedures, or rules established under the bill.

The bill prohibits a state hospital from establishing safety protocols that are more stringent than the safety protocols the hospital establishes for hospital staff.S.B. 52 authorizes a state hospital to revoke an individual's designation as an essential caregiver if the individual violates the hospital's essential caregiver policies, procedures, or safety protocols established under the bill. If a state hospital revokes an individual's designation as an essential caregiver, the patient, patient's guardian, or patient's legally authorized representative or, for a minor patient, the patient's parent, guardian, or managing conservator, has the right to immediately designate another individual as the patient's essential caregiver. The bill requires HHSC by rule to establish an appeals process to evaluate the revocation of an individual's designation as an essential caregiver.S.B. 52 authorizes a state hospital to petition HHSC to suspend in-person essential caregiver visits for not more than seven days if in-person visitation poses a serious community health risk. The bill authorizes HHSC to deny the hospital's request to suspend in-person essential caregiver visitation if HHSC determines that in-person visitation does not pose a serious community health risk. The bill authorizes a state hospital to request an extension from HHSC to suspend in-person essential caregiver visitation for more than seven days, prohibits HHSC from approving an extension for a period that exceeds seven days, and requires the hospital to separately request each extension. The bill prohibits a state hospital from suspending in-person essential caregiver visitation in any year for more than 14 consecutive days or 45 days total. S.B. 52 may not be construed as requiring an essential caregiver to provide necessary care to a patient. The bill prohibits a state hospital from requiring an essential caregiver to provide the necessary care and requires the executive commissioner to prescribe the guidelines and adopt the rules required by the bill as soon as practicable after the bill's effective date. |
| **EFFECTIVE DATE** September 1, 2023. |