

BILL ANALYSIS

C.S.H.B. 3152
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties observe that sexual assault survivors who request to have a forensic medical exam performed must go to certain designated health care facilities that are equipped to provide such exams. Concerns have been raised regarding the methods by which a sexual assault survivor is informed of the survivor's options with regard to receiving such an exam. C.S.H.B 3152 seeks to address this concern by requiring a health care facility that is not designated as a sexual assault forensic exam-ready facility to provide certain information to sexual assault survivors.

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

ANALYSIS

C.S.H.B. 3152 amends the Health and Safety Code to require the Department of State Health Services (DSHS) to designate a health care facility as a sexual assault forensic exam-ready facility, or SAFE-ready facility, if the facility notifies DSHS that the facility employs or contracts with a sexual assault forensic examiner or uses a telemedicine system of sexual assault forensic examiners to provide consultation to a licensed nurse or physician when conducting a sexual assault forensic medical examination. The bill includes a licensed freestanding emergency medical care facility among the facilities considered a health care facility for purposes of statutory provisions relating to emergency services for sexual assault survivors. The bill replaces references to a facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors with references to a SAFE-ready facility in statutory provisions relating to minimum standards for emergency services for survivors of sexual assault, basic sexual assault forensic evidence collection training, and the posting and annual update of a list of hospitals designated as such a facility on the DSHS website. The bill requires a facility that is not a SAFE-ready facility to inform a sexual assault survivor that arrives at the facility following an alleged sexual assault that the facility is not a SAFE-ready facility and to provide to the survivor the name and location of the closest SAFE-ready facility. The bill requires a health care facility that is not a SAFE-ready facility, before transferring a sexual assault survivor, to contact the SAFE-ready facility to which the survivor will be transferred to confirm a sexual assault forensic examiner is available at that facility.

C.S.H.B. 3152 requires DSHS to develop a standard information form for sexual assault survivors who arrive at a health care facility that is not a SAFE-ready facility and prescribes the

information required to be included on the information form. The bill requires a health care facility that is not a SAFE-ready facility to provide the standard information form to each sexual assault survivor who arrives at the facility. The bill requires DSHS to post on the DSHS website the physical addresses of all hospitals that are designated as SAFE-ready facilities to annually update the list posted on the DSHS website of all such hospitals and the facilities' addresses. The bill requires DSHS, to the extent possible, to collect that information as part of a survey required by DSHS under other law.

C.S.H.B. 3152 repeals Section 323.001(1), Health and Safety Code, which defines "community-wide plan" for purposes of statutory provisions relating to emergency services for sexual assault survivors.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3152 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 323.001, Health and Safety Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) "SAFE-ready facility" means a health care facility designated as a sexual assault forensic exam-ready facility under Section 323.0015.

SECTION 2. Chapter 323, Health and Safety Code, is amended by adding Section 323.0015 to read as follows:

Sec. 323.0015. SAFE-READY FACILITIES. The department shall designate a health care facility as a sexual assault forensic exam-ready facility, or SAFE-ready facility, if the facility employs or contracts with a certified sexual assault nurse examiner or specially trained physician to be available to perform a

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 323.001, Health and Safety Code, is amended by amending Subdivision (3) and adding Subdivisions (3-a) and (4-a) to read as follows:

(3) "Health care facility" means a general or special hospital licensed under Chapter 241, [ø] a general or special hospital owned by this state, or a freestanding emergency medical care facility licensed under Chapter 254.

(3-a) "SAFE-ready facility" means a health care facility designated as a sexual assault forensic exam-ready facility under Section 323.0015.

(4-a) "Sexual assault forensic examiner" means a certified sexual assault nurse examiner or a physician with specialized training on conducting a forensic medical examination.

SECTION 2. Chapter 323, Health and Safety Code, is amended by adding Section 323.0015 to read as follows:

Sec. 323.0015. SAFE-READY FACILITIES. The department shall designate a health care facility as a sexual assault forensic exam-ready facility, or SAFE-ready facility, if the facility notifies the department that the facility employs or contracts with a sexual assault forensic examiner or uses a telemedicine system of

forensic medical examination on a sexual assault survivor 24 hours a day, seven days a week.

SECTION 3. Section 323.004, Health and Safety Code, is amended by amending Subsections (a-1) and (a-2) and adding Subsection (a-3) to read as follows:

(a-1) A facility that is not a SAFE-ready [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 sexual assault survivor that:

(1) the facility is not a SAFE-ready [the designated] facility and provide to the survivor the name and location of the closest SAFE-ready [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 SAFE-ready [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 SAFE-ready [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).

(a-3) A health care facility that is not a SAFE-ready facility shall develop and submit to the department a transportation plan for a sexual assault survivor who chooses to be transferred to a SAFE-ready facility under Subsection (a-1)(2)(B). The transportation plan must include procedures for:

(1) transporting the survivor, including a survivor with a disability, to a SAFE-ready facility regardless of the survivor's ability to

sexual assault forensic examiners to provide consultation to a licensed nurse or physician when conducting a sexual assault forensic medical examination.

SECTION 3. Section 323.004, Health and Safety Code, is amended by amending Subsections (a-1) and (a-2) and adding Subsection (a-3) to read as follows:

(a-1) A facility that is not a SAFE-ready [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 sexual assault survivor that:

(1) the facility is not a SAFE-ready [the designated] facility and provide to the survivor the name and location of the closest SAFE-ready [designated] facility and the information form required by Section 323.0051; 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 SAFE-ready [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 SAFE-ready [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).

(a-3) Before transferring a sexual assault survivor, a health care facility that is not a SAFE-ready facility shall contact the SAFE-ready facility to which the survivor will be transferred to confirm a sexual assault forensic examiner is available at that facility.

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- (2) maintaining survivor confidentiality;
- (3) returning the survivor to the survivor's residence or a safe place agreed to by the survivor after the forensic medical examination;
- (4) obtaining confirmation before the survivor is transferred that the SAFE-ready facility is able to provide a forensic medical examination to the survivor;
- (5) providing the name of a liaison at the receiving SAFE-ready facility who will be available to the survivor should the survivor seek help;
- (6) minimizing the survivor's travel and waiting times; and
- (7) to the extent possible, minimizing additional trauma to the survivor.

SECTION 4. Section 323.0045(c), Health and Safety Code, is amended.

No equivalent provision.

SECTION 4. Same as introduced version.

SECTION 5. Chapter 323, Health and Safety Code, is amended by adding Section 323.0051 to read as follows:

Sec. 323.0051. INFORMATION FORM FOR SEXUAL ASSAULT SURVIVORS AT CERTAIN FACILITIES.

(a) The department shall develop a standard information form for sexual assault survivors who arrive at a health care facility that is not a SAFE-ready facility. The information form must include:

(1) information regarding the benefits of a forensic medical examination conducted by a sexual assault forensic examiner;

(2) the Internet website address to the department's list of SAFE-ready facilities that includes the facilities' physical addresses as required by Section 323.008;

(3) the following statements:

(A) "As a survivor of sexual assault, you have the right to receive a forensic medical examination at this hospital emergency room if you are requesting the examination not later than 96 hours after the assault.";

(B) "A report to law enforcement is not required, but if you make a report, law enforcement must first authorize the examination."; and

(C) "Call 1-800-656-HOPE to be connected to a rape crisis center for free and confidential assistance."; and

(4) information on the procedure for

submitting a complaint against the health care facility.

(b) A health care facility that is not a SAFE-ready facility shall provide the standard information form developed under this section to each sexual assault survivor who arrives at the facility.

SECTION 5. Section 323.008, Health and Safety Code, is amended to read as follows:
Sec. 323.008. DATA PUBLICATION. The department shall post on the department's Internet website a list of all hospitals that are designated as SAFE-ready facilities ~~[in a community wide plan as the primary health care facility in the community for treating sexual assault survivors].~~ The department shall update the list annually.

SECTION 6. Section 323.008, Health and Safety Code, is amended to read as follows:
Sec. 323.008. DATA PUBLICATION. The department shall post on the department's Internet website a list of all hospitals that are designated as SAFE-ready facilities and the facilities' physical addresses ~~[in a community wide plan as the primary health care facility in the community for treating sexual assault survivors].~~ The department shall update the list annually. To the extent possible, the department shall collect the data required by this section as part of a survey required by the department under other law.

SECTION 6. Section 323.001(1), Health and Safety Code, is repealed.

SECTION 7. Same as introduced version.

No equivalent provision.

SECTION 8. (a) Not later than January 1, 2018, the Department of State Health Services shall develop the information form required by Section 323.0051, Health and Safety Code, as added by this Act.

(b) Notwithstanding Section 323.0051, Health and Safety Code, as added by this Act, a health care facility is not required to comply with that section until January 1, 2018.

SECTION 7. This Act takes effect September 1, 2017.

SECTION 9. Same as introduced version.