

SENATE BILL REPORT

SB 5557

As Reported by Senate Committee On:
Health & Long-Term Care, February 21, 2025

Title: An act relating to codifying emergency rules to protect the right of a pregnant person to access treatment for emergency medical conditions in hospital emergency departments.

Brief Description: Codifying emergency rules to protect the right of a pregnant person to access treatment for emergency medical conditions in hospital emergency departments.

Sponsors: Senators Krishnadasan, Dhingra, Kauffman, Slatter, Wilson, C., Saldaña, Orwall, Lovelett, Stanford, Cortes, Frame, Hasegawa, Lias, Nobles, Pedersen, Trudeau and Valdez.

Brief History:

Committee Activity: Health & Long-Term Care: 2/07/25, 2/21/25 [DPS, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Requires hospitals, when providing emergency services, to provide treatment to a pregnant person who comes to the hospital with an emergency medical condition that is consistent with applicable standard of care for such condition or, if authorized, transfer the patient to another hospital capable of providing the treatment, with the patient's informed consent.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5557 be substituted therefor, and the substitute bill do pass.

Signed by Senators Cleveland, Chair; Orwall, Vice Chair; Muzzall, Ranking Member; Bateman, Chapman, Riccelli, Robinson and Slatter.

Minority Report: Do not pass.

Signed by Senators Christian and Holy.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: That it be referred without recommendation.

Signed by Senator Harris.

Staff: Julie Tran (786-7283)

Background: Federal Regulations. The Examination and Treatment for Emergency Medical Conditions and Women is a federal law that requires hospital to provide for an appropriate medical screening examination within the capability of the hospital's emergency department. Those federal regulations include the following: medical screening requirement; necessary stabilizing treatment for emergency medical conditions and labor; restricting transfers until individual is stabilized; nondiscrimination; and no delay in examination or treatment.

Medical Screening Requirement. In the case of a hospital that has a hospital emergency department (ED), if any individual comes to the ED and a request is made on the individual's behalf for examination or treatment for a medical condition, the hospital must provide for an appropriate medical screening examination within the capability of the hospital's ED, including ancillary services routinely available to the ED, to determine whether or not an emergency medical condition exists.

Necessary Stabilizing Treatment for Emergency Medical Conditions and Labor. If any individual comes to a hospital and the hospital determines that the individual has an emergency medical condition, the hospital must provide either:

- within the staff and facilities available at the hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition; or
- transfer of the individual to another medical facility in accordance with the transfer requirements.

A hospital is deemed to meet the requirement for providing further medical examination and such treatment to stabilize the medical condition with respect to an individual if the hospital offers the individual the further medical examination and treatment and informs the individual, or a person acting on the individual's behalf, refuses to consent to the examination and treatment. The hospital must take all reasonable steps to secure the individual's, or person acting on the individual's behalf, written informed consent to refuse such examination and treatment.

A hospital is deemed to meet the requirement of necessary stabilizing treatment for emergency medical conditions and labor with respect to an individual if the hospital offers to transfer the individual to another medical facility in accordance with the transfer requirements and informs the individual, or a person acting on the individual's behalf, of the risks and benefits to the individual of such transfer, but the individual, or a person acting on the individual's behalf, refuses to consent to the transfer. The hospital shall take all reasonable steps to secure the individual's, or person acting on the individual's behalf,

written informed consent to refuse such transfer.

Restricting Transfers Until Individual Stabilized. If an individual at a hospital has an emergency medical condition which has not been stabilized, as defined below, the hospital may not transfer the individual unless the transfer is an appropriate transfer to that facility and one of the three following clauses are met:

- clause one—the individual, or a legally responsible person acting on the individual's behalf, after being informed of the hospital's obligations under this section and of the risk of transfer, in writing requests transfer to another medical facility;
- clause two—a physician has signed a certification that based upon the information available at the time of transfer, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual and, in the case of labor, to the unborn child from effecting the transfer; or
- clause three—if a physician is not physically present in the ED at the time an individual is transferred, a qualified medical person has signed a certification described in clause two after a physician, in consultation with the person, has made the determination described in such clause, and subsequently countersigns the certification.

A certification described in clause two or three shall include a summary of the risks and benefits upon which the certification is based.

An appropriate transfer to a medical facility is a transfer:

- in which the transferring hospital provides the medical treatment within its capacity which minimizes the risks to the individual's health and, in the case of a woman in labor, the health of the unborn child;
- in which the receiving facility: has available space and qualified personnel for the treatment of the individual, and has agreed to accept transfer of the individual and to provide appropriate medical treatment;
- in which the transferring hospital sends to the receiving facility all medical records, or copies thereof, related to the emergency condition for which the individual has presented, available at the time of the transfer, including records related to the individual's emergency medical condition, observations of signs or symptoms, preliminary diagnosis, treatment provided, results of any tests and the informed written consent or certification, or copy thereof, and the name and address of any on-call physician who has refused or failed to appear within a reasonable time to provide necessary stabilizing treatment;
- in which the transfer is effected through qualified personnel and transportation equipment, as required including the use of necessary and medically appropriate life support measures during the transfer; and
- which meets such other requirements as the secretary of Health and Human Services (HHS) may find necessary in the interest of the health and safety of individuals transferred.

Nondiscrimination. A participating hospital that has specialized capabilities or facilities—such as burn units, shock-trauma units, neonatal intensive care units, or with respect to rural areas regional referral centers as identified by the HHS secretary in regulation—shall not refuse to accept an appropriate transfer of an individual who requires such specialized capabilities or facilities if the hospital has the capacity to treat the individual.

No Delay in Examination or Treatment. A participating hospital may not delay provision of an appropriate medical screening examination or further medical examination and treatment in order to inquire about the individual's method of payment or insurance status.

Summary of Bill (First Substitute): When providing emergency services, hospitals must provide treatment to a pregnant person who comes to the hospital with an emergency condition that is consistent with the applicable standard of care for such condition or, if authorized by law, transfer the patient to another hospital capable of providing the treatment, with the patient's informed consent.

If the pregnancy's termination is the treatment consistent with the applicable standard of care, the hospital must provide such treatment following and as promptly as dictated by the standard of care or, if authorized by law, transfer the patient to another hospital capable of providing the treatment, with the patient's informed consent.

Neither the pregnancy's continuation nor any embryo or fetus' health must be a basis for withholding care from the pregnant person, and neither the pregnancy's continuation nor any embryo or fetus' health must be prioritized over the pregnant person's health or safety absent the pregnant person's informed consent

Hospitals must make transfers to other hospitals in such circumstances and as promptly as dictated by the standard of care and follow reasonable procedures in making transfers to other hospitals including confirmation of acceptance of the transfer by the receiving hospital.

EFFECT OF CHANGES MADE BY HEALTH & LONG-TERM CARE COMMITTEE (First Substitute):

- Adds a severability clause and an intent section.
- Removes the definition for emergency medical condition.
- Removes the requirements that hospitals, when providing emergency services, must comply with the federal Emergency Medical Treatment and Labor Act and any related enacting regulations as existed on January 1, 2025, and any requirement that provides greater access to care or are otherwise more favorable to patients than the federal requirements and its implementing regulations as they existed on January 1, 2025.

- Requires hospitals to make transfers to other hospitals in such circumstances and as promptly as dictated by the standard of care.
- Reverts to current law that no hospital that maintains an emergency department shall transfer a patient with an emergency medical condition or who is in active labor unless under certain circumstances.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Current law allows pregnant patients to seek medical care without interference. Hospitals in the state do currently comply with the federal Emergency Medical Treatment & Labor Act and emergency care requirements. The federal safeguards are under threat nationwide and it is putting people's lives and rights at risk. This bill codifies long-standing federal standards into state law and is a common sense piece of legislation. It guarantees that everyone will have the best and appropriate care when in Washington State and that the health choice of the patient is made not by the hospital but by the patient in consultation with her provider. This legislation provides the state with clear and comprehensive standards guiding emergency medical care for pregnant patients. There are some suggested amendments.

CON: The bill is designed to force hospitals to perform abortions regardless of their religious or moral opposition to the procedure. Hospitals should not be required to perform abortion when a woman's life is not at stake. This bill promotes abortion in all cases and strips all other institutions and individuals of their own rights of choice and conscience.

Persons Testifying: PRO: Senator Deborah Krishnadasan, Prime Sponsor; Nicole Kern, Planned Parenthood Alliance Advocates; Zosia Stanley, Washington State Hospital Association; Sarah Goh; Molly Voris, Washington State Women's Commission; Dr. Stephanie Sola; Dr. Shannon Bailey, American College of Obstetricians and Gynecologists (ACOG); Lacy Fehrenbach, Washington State Department of Health; Nancy Sapiro, American College of Obstetricians and Gynecologists.

CON: Richard Grunewald; Theresa Schrempp; Beth Daranciang.

Persons Signed In To Testify But Not Testifying: No one.