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SB-963 Hospitals: self-identification procedure: human trafficking or domestic violence. (2023-2024)

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Senate Bill No. 963

CHAPTER 616

An act to add Section 1281.5 to the Health and Safety Code, relating to health facilities.

[Approved by Governor September 26, 2024. Filed with Secretary of State September 26, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 963, Ashby. Hospitals: self-identification procedure: human trafficking or domestic violence.

Existing law provides for the licensing, regulation, and inspection of various types of health facilities by the State Department of Public Health, including general acute care hospitals. Existing law imposes certain requirements on licensed general acute care hospitals, including, among others, maintaining a medical records system and complying with the standards for the examination and treatment of victims of sexual assault and attempted sexual assault, as specified. Existing law generally makes a violation of these provisions a misdemeanor.

Existing law makes it a crime of human trafficking for a person to deprive or violate the personal liberty of another with the intent to obtain forced labor or services, or with the intent to effect or maintain any violation of specified crimes. Existing law sets forth provisions for the prevention of domestic violence, including procedures for the issuance of protective orders.

This bill would require all general acute care hospitals with an emergency department to adopt and implement policies and procedures to facilitate the self-identification of an emergency department patient as a victim of human trafficking or domestic violence, as defined, to hospital personnel. The bill would require the policies and procedures to meet certain minimum requirements, including, among others, providing for patient confidentiality and facilitating a reasonably prompt, private, and voluntary interview of the patient by medical personnel, as defined, for the purpose of providing certain information to the patient relating to local services and resources for victims of human trafficking or domestic violence, if any. The bill would authorize general acute care hospitals subject to these provisions to track specified information related to the use of the self-identification procedure.

The bill would limit the liability of a general acute care hospital, including its directors, officers, employees, medical staff, contracted health care providers, agents, and specified licensed persons, acting in compliance with provisions described above for any injuries or damages arising from, or related to, a patient who is offered or receives the information described above or who self-identifies, as specified, so long as the hospital has acted in good faith.

By creating new requirements for certain health facilities, thereby expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1281.5 is added to the Health and Safety Code, to read:

1281.5. (a) All general acute care hospitals with an emergency department shall adopt and implement policies and procedures to facilitate the self-identification of an emergency department patient as a victim of human trafficking or domestic violence to hospital personnel.

(b) The policies and procedures adopted and implemented pursuant to subdivision (a) shall meet all of the following minimum requirements:

(1) Provide for patient confidentiality in accordance with the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code).

(2) Provide an emergency department patient with a safe and discreet means of informing hospital personnel that they are a victim of human trafficking or domestic violence.

(3) (A) Facilitate a reasonably prompt and private interview of the patient by medical personnel for purposes of providing information to the patient described in paragraph (4). This paragraph does not require a patient to participate in a private interview if the patient declines.

(B) For purposes of this paragraph, "medical personnel" includes any health care professional licensed under Article 1 (commencing with Section 500) of Chapter 1 of Division 2 of the Business and Professions Code.

(4) Provide patients with information to local services and resources for victims of human trafficking or domestic violence, if any.

(5) Incorporate principles of trauma-informed care.

(c) Every general acute care hospital subject to this section may track the use of the self-identification procedure, including the total number, ages, and racial demographics of patients who self-identify as a victim of human trafficking or domestic violence, to the extent that this information is provided by the patient.

(d) (1) A general acute care hospital subject to this section shall not be required to report the identities of any patients who self-identify as a victim of human trafficking or domestic violence to the department or to any law enforcement agency, except as may be required pursuant to Article 2 (commencing with Section 11160) or Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code.

(2) (A) A general acute care hospital, including its directors, officers, employees, medical staff, contracted health care providers, agents, and all persons licensed under Article 1 (commencing with Section 500) of Chapter 1 of Division 2 of the Business and Professions Code, acting in compliance with this section shall not be liable for any injuries or damages arising from, or related to, a patient who is offered or receives the information described in paragraph (4) of subdivision (b) or who self-identifies, including any injuries inflicted by a trafficker or abuser based on acts or omissions taken pursuant to the policies and procedures established under this section, so long as the hospital has acted in good faith.

(B) The liability limitations described in subparagraph (A) shall not be construed to limit a person's liability for any act or omission that constitutes gross negligence or willful or wanton misconduct.

(e) For purposes of this section, the following definitions shall apply:

(1) "Human trafficking" has the same meaning as that term is defined in Section 236.1 of the Penal Code.

(2) "Domestic violence" has the same meaning as that term is defined in Section 6211 of the Family Code or Section 13700 of the Penal Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.