Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Health Care & Wellness Committee

ESSB 5557

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: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Krishnadasan, Dhingra, Kauffman, Slatter, Wilson, C., Saldaña, Orwall, Lovelett, Stanford, Cortes, Frame, Hasegawa, Liias, Nobles, Pedersen, Trudeau and Valdez).

Brief Summary of Engrossed 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 the applicable standard of care for such condition or, if authorized, to transfer the patient to another hospital capable of providing the treatment, with the patient's informed consent.

Hearing Date: 3/19/25

Staff: Emily Poole (786-7106).

Background:

Federal Emergency Medical Treatment and Labor Act.
The federal Emergency Medical Treatment and Labor Act (EMTALA) imposes specific obligations on Medicare-participating hospitals that offer emergency services. If an individual comes to the emergency department and a request is made 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 emergency department, to determine whether an emergency medical condition exists.

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.

If the hospital determines that the individual has an emergency medical condition, the hospital must provide either:

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

In addition to other requirements, if an individual at a hospital has an emergency medical condition that has not been stabilized, the hospital may not transfer the individual unless:

- the individual, or a legally responsible person acting on the individual's behalf, requests transfer to another medical facility;
- 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
- a qualified medical person has signed a certification, if a physician who is not physically present in the emergency department at the time the individual is transferred, has, in consultation with the person, made the determination described above and subsequently countersigns the certification.

State Requirements Regarding Emergency Care.
Under state law, a hospital may not adopt or maintain practices or policies that would deny access to emergency care based on ability to pay. A hospital that maintains an emergency department may not transfer a patient with an emergency medical condition or who is in active labor unless the transfer is performed at the request of the patient or is due to the limited medical resources of the transferring hospital.

Department of Health rules require hospitals, if providing emergency services, to comply with EMTALA and its implementing regulations. Regarding pregnant individuals, such rules require hospitals to provide treatment to a pregnant person who comes to the hospital with an emergency medical condition that is consistent with the applicable standard of care for such condition or, if authorized by law, to transfer the patient to another hospital capable of providing the treatment, in accordance with the patient's informed consent. If termination of the pregnancy is the treatment that is consistent with the applicable standard of care, the rules require the hospital to provide such treatment in accordance with and as promptly as dictated by the standard of care or, if authorized by law, to transfer the patient to another hospital capable of providing the treatment, in accordance with the patient's informed consent. The rules also establish that neither the continuation of the pregnancy nor the health of any embryo or fetus may be a basis for withholding care from the pregnant person, and neither the continuation of the pregnancy nor the health of any embryo or fetus may be prioritized over the health or safety of the pregnant person absent the pregnant person's informed consent.

Summary of Bill:

Provision of Emergency Services.
When providing emergency services, hospitals are required to provide treatment to a pregnant person who comes to the hospital with an emergency medical 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 termination of the pregnancy is the treatment that is 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 continuation of the pregnancy nor the health of any embryo or fetus may be a basis for withholding care from the pregnant person, and neither the continuation of the pregnancy nor the health of the embryo or fetus may be prioritized over the health or safety of the pregnant person absent the informed consent of the pregnant person.

Emergency Medical Condition.
"Emergency medical condition" is defined as a condition of such severity that the absence of immediate medical attention could result in:

- placing the health of an individual or, with respect to a pregnant person, the health of the pregnant person or their embryo or fetus in serious jeopardy;
- serious impairment to bodily functions; or
- serious dysfunction of a bodily organ or part.

"Emergency medical condition" also means, with respect to a pregnant person who is having contractions:

- that there is inadequate time to effect a safe transfer to another hospital before delivery; or
- that transfer may pose a threat to the health or safety of the pregnant person or their embryo or fetus.

"Emergency medical condition" also means any of the following conditions: ectopic pregnancy; emergent complications resulting from pregnancy or of pregnancy loss; previable preterm premature rupture of membranes; emergent placental abnormalities; or emergent hypertensive disorders, such as preeclampsia.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 14, 2025.

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