

Legislation Details (With Text)

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| File #: | ROGC 22-516 | Version: | 1 |
| Type: | Rules Committee Reviews, Recommendations and Approvals | Status: | Agenda Ready |
| File created: | 12/1/2022 | In control: | Joint Meeting for the Rules and Open Government Committee and Committee of the Whole |
| On agenda: | 12/7/2022 | Final action: | |
| Title: | Protecting the Public from Sexual Assaults Associated With Uber, Lyft, and Taxi's. (Mayor) | | |
| Sponsors: | | | |
| Indexes: | | | |
| Code sections: | | | |

Attachments: 1. Memorandum from Mayor, 2. Early Consideration Response Form - 12/6/2022, 3. Letters from the Public

| Date | Ver. | Action By | Action | Result |
|-----------|------|--|--------|--------|
| 12/7/2022 | 1 | Joint Meeting for the Rules and Open Government Committee and Committee of the Whole | | |

Protecting the Public from Sexual Assaults Associated With Uber, Lyft, and Taxi's. (Mayor)

Direct the City Attorney and City Manager to:

1. After consultation and outreach with local survivor support organizations and law enforcement agencies, return to Council for consideration of a proposed ordinance that would require all taxi companies and ride-share companies (aka, "transportation network companies," or TNC's) made aware of the occurrence of a sexual assault associated with their operations, to immediately:

- a. Inform survivors in clear, simple language, of
 - (1) contact information for survivor support organizations in their area;
 - (2) the phone number, email, and any other information that will expedite reporting of the incident to the sexual assault investigations unit (SAIU) of the San Jose Police Department;
 - (3) a description of their rights as survivors, including their right to choose whether or not to respond to questions from police investigators;
 - (4) the fact that there cannot be any criminal investigation, arrest, adjudication, restraining order, or sanction of the assailant without the survivor's independent communication with law enforcement;
 - (5) their eligibility for a free SART medical examination of their injuries; and
 - (6) an explanation that the timing of the SART exam is critical to preserve evidence of assault, and to protect their health.

b. Notify law enforcement of the assault allegation, and of contact information of the survivor, alleged assailant, and non-victim witnesses.

2. Determine whether state law wholly or partly preempts the enactment of an ordinance consistent with the requirements of Paragraph 1, *supra*, to generally apply to all transportation carriers, including taxis, transit agencies, and TNC's.

a. Specifically, determine whether the City could impose such requirements pursuant to its existing police powers to regulate TNC's and other transportation carriers to protect public safety, as it does routinely in regulating airport operations and access, parking, traffic violations, or vehicular assaults. For example, in 2017, [a Superior Court upheld the San Francisco Tax Collector's right to subpoena information from TNC's to assess compliance with the City's registration requirement.](#)

b. Further explore whether any specific legislative enactment or court decision makes explicit whether a TNC's reporting obligations of sexual assaults to law enforcement would constitute, under Article XII of the California Constitution, "matters over which the Legislature grant regulatory power to the Commission," particularly in light of the fact that [CPUC's regulatory authority emerged merely through a settlement of an enforcement action with TNC's in 2013](#), rather than through legislative action.

3. If an undue risk of preemption exists, then:

a. Evaluate and return to Council to determine whether the City should formally seek the California Public Utilities Commission (CPUC) to issue regulations, (within 3.1(D) of the [Third Amended Phase III](#), or in an additional phase of Rulemaking 12-12-011), to require all ridesharing companies, aka transportation network companies (TNC's), when notified of a sexual assault, to immediately report to local law enforcement.

b. Collaborate with District Attorney Jeff Rosen, the City Council, the Santa Clara County Chiefs of Police, and the County Board of Supervisors to determine whether other cities or counties may wish to join San Jose in a CPUC action.