
A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that one woman out of
2 every five women in the United States has reported being either
3 raped or physically or sexually assaulted in her lifetime, and
4 According to Federal Bureau of Investigation (FBI) statistics,
5 there were over ninety-five thousand forcible rapes of females
6 in 2002 in the United States, which represented a 4.7 per cent
7 increase from the previous year. Much more disturbing is the
8 information provided by the United States Department of Justice
9 National Crime Victimization Surveys which indicate that over
10 half of all rapes are not reported to the police.

11 According to the FBI's Uniform Crime Reports, there were
12 three hundred and four forcible rapes reported in Hawaii in
13 2002. Adding to the trauma is that after a woman is sexually
14 assaulted, she may face the reality of an unwanted pregnancy by
15 the rapist. Each year, over thirty-two thousand women are
16 forcibly placed in this situation and become pregnant as a
17 result of a sexual assault, with approximately fifty per cent of
18 these pregnancies ending in abortion.



1 Emergency contraceptives have been approved for use by the
2 United States Food and Drug Administration to prevent pregnancy
3 after unprotected sexual intercourse.

4 Standards of emergency care, established by the American
5 Medical Association, require that female victims of sexual
6 assault be counseled about the risk of pregnancy and offered
7 emergency contraception. One statewide study found inconsistent
8 treatment protocols of sex assault patients in Hawaii's
9 emergency rooms and a lack of written policies. According to a
10 1997 Kaiser Family Foundation report, most women of reproductive
11 age do not know enough about emergency contraception to ask for
12 it. Only eleven per cent of those studied had heard of it, are
13 aware of its availability, or know that treatment must be
14 initiated within seventy-two hours after sexual intercourse.

15 The purpose of this Act is to:

- 16 (1) Require that all hospitals provide emergency care to
17 sexual assault survivors; and
- 18 (2) Provide information on emergency contraceptives to
19 sexual assault victims to enable these women to make
20 an informed choice regarding whether or not to obtain
21 emergency contraception.



1 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . EMERGENCY CONTRACEPTIVES FOR SEXUAL ASSAULT SURVIVORS**

5 **§321- Definitions.** As used in this part, unless the
6 context otherwise requires:

7 "Department" means the department of health.

8 "Emergency care" means medical examinations, procedures,
9 and services provided by a hospital to a sexual assault
10 survivor.

11 "Emergency contraception" means any drug or device approved
12 by the United States Food and Drug Administration that prevents
13 pregnancy after sexual intercourse.

14 "Sexual assault" means any act of sexual penetration
15 prohibited in chapter 707.

16 "Sexual assault survivor" means a female who alleges or is
17 alleged to have been sexually assaulted and who presents herself
18 as a patient at a hospital for treatment related to the assault.

19 **§321- Emergency care for sexual assault survivors.**

20 All hospitals that provide emergency care to sexual assault
21 survivors shall:



- 1 (1) Provide each sexual assault survivor with medically
2 and factually accurate written and oral information
3 about emergency contraception;
- 4 (2) Orally inform each sexual assault survivor of her
5 option to receive emergency contraception at the
6 hospital; and
- 7 (3) Immediately provide emergency contraception at the
8 hospital to each sexual assault survivor who requests
9 it. Emergency contraception includes the initial dose
10 that the sexual assault survivor can take at the
11 hospital, as well as any appropriate subsequent dosage
12 as medically prescribed, necessary, or required.

13 The cost of the emergency contraception dispensed shall be paid
14 by the department as provided in section 321-1.3.

15 **§321- Training.** Hospitals that provide emergency care
16 to sexual assault survivors shall ensure that each person who
17 provides care to sexual assault survivors is provided with
18 medically and factually accurate information about emergency
19 contraception and sexual assault treatment.

20 **§321- Enforcement.** (a) Complaints of failure to
21 provide services required by this part may be filed with the
22 department. In addition to any remedies at common law, the



1 department shall have the power to accept, investigate,
2 prosecute, and hear complaints regarding any hospital that is
3 not providing the services required by this part.

4 (b) The department shall periodically determine hospital
5 compliance with this part. Hospitals determined not to be in
6 compliance shall be provided with written notice of the
7 department's determination of noncompliance and an opportunity
8 for corrective action. If the department determines that
9 noncompliance continues after the offending hospital receives
10 written notice of the department's determination of
11 noncompliance and an opportunity for correction, the department
12 shall:

13 (1) Impose fines of up to \$1,000 per sexual assault
14 survivor who is denied medically and factually
15 accurate information about emergency contraception or
16 who is not offered or provided emergency
17 contraception; and

18 (2) After two consecutive violations, provide only
19 statistical information relating to times and dates of
20 the violations by the facility to the body or agency
21 that determines issuance of state funding to the



1 facility for the termination of all state funds to
2 that facility.

3 (c) In any proceeding under this section, the hospital
4 subject to the proceeding shall be given notice and the
5 opportunity for a hearing in conformity with chapter 91.

6 (d) The director of health may adopt rules pursuant to
7 chapter 91 necessary to carry out the purposes of this part."

8 SECTION 3. This Act shall take effect on July 1, 2006.

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Report Title:

Sexual Assault; Emergency Contraceptives; Training; Enforcement

Description:

Requires hospitals to provide information on emergency contraception to sexual assault victims and provide emergency contraception when requested; requires training on sexual assault and emergency contraceptives to those who treat survivors; provides for enforcement and penalties.

