
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.
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, a 4.7 per cent increase from the
7 previous year. Much more disturbing is the information provided
8 by the United States Department of Justice National Crime
9 Victimization Surveys which indicate that over half of all rapes
10 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, thousands of women are forcibly placed
16 in this situation and become pregnant as a result of a sexual
17 assault. Many of these pregnancies end 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 protocols for the treatment 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 require that all hospitals
16 providing emergency care to sexual assault victims:

- 17 (1) Provide information on emergency contraceptives to
18 sexual assault victims to enable these women to make
19 an informed choice regarding whether or not to obtain
20 emergency contraception;
- 21 (2) Inform sexual assault victims that they may receive
22 emergency contraception at the hospital; and



1 (3) Provide emergency contraceptives to each sexual
2 assault victim who requests it.

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

6 **"PART . EMERGENCY CONTRACEPTION FOR SEXUAL ASSAULT SURVIVORS**

7 **§321- Definitions.** As used in this part, unless the
8 context otherwise requires:

9 "Department" means the department of health.

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

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

16 "Sexual assault" means any act of sexual penetration
17 prohibited by chapter 707.

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

21 **§321- Emergency care for sexual assault survivors.**



1 (a) All hospitals, that provide emergency care to sexual
2 assault survivors shall:

3 (1) Provide each sexual assault survivor with medically
4 and factually accurate written and oral information
5 about emergency contraception;

6 (2) Orally inform each sexual assault survivor of her
7 option to receive emergency contraception at the
8 hospital; and

9 (3) Immediately provide emergency contraception at the
10 hospital to each sexual assault survivor who requests
11 it.

12 The emergency contraception provided shall include the initial
13 dose that the sexual assault survivor takes at the hospital, as
14 well as any appropriate subsequent dosage as medically
15 prescribed, necessary, or required. The cost of the emergency
16 contraception dispensed shall be paid by the department as
17 provided in section 321-1.3.

18 (b) A religiously affiliated hospital with a religious
19 objection to participation in the requirements of subsection (a)
20 shall be exempt therefrom but shall provide the sexual assault
21 survivor with medically appropriate transportation in a timely
22 manner to another health care facility or provider of the



1 survivor's choice. The religiously affiliated hospital shall be
2 responsible for the costs associated with transportation to the
3 health care facility or provider of the survivor's choice. A
4 hospital that is exempt under this subsection shall inform the
5 sexual assault survivor that she will not be held responsible
6 for the costs associated with transportation to the health care
7 facility or provider of the survivor's choice.

8 **§321- Training.** Hospitals shall ensure that each
9 employee who provides emergency care to sexual assault survivors
10 is provided with medically and factually accurate information
11 about emergency contraception and sexual assault treatment.

12 **§321- Enforcement.** (a) Complaints of failure to
13 provide services required by this part may be filed with the
14 department. In addition to any remedies at common law, the
15 department shall have the power to accept, investigate,
16 prosecute, and hear complaints regarding any hospital that is
17 not providing the services required by this part.

18 (b) The department shall periodically determine hospital
19 compliance with this part. Hospitals determined not to be in
20 compliance shall be provided with written notice of the
21 department's determination of noncompliance and an opportunity
22 for corrective action. If the department determines that



1 noncompliance continues after the offending hospital receives
2 written notice of the department's determination of
3 noncompliance and is given an opportunity for correction, the
4 department shall:

5 (1) Impose fines of up to \$1,000 per sexual assault
6 survivor who is denied medically and factually
7 accurate information about emergency contraception or
8 who is not offered or provided emergency
9 contraception; and

10 (2) After two consecutive violations, provide only
11 statistical information relating to times and dates of
12 the violations by the facility to the body or agency
13 that determines issuance of state funding to the
14 facility for the termination of all state funds to
15 that facility.

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

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

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



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 information on sexual assault and emergency contraceptives be provided for those who treat survivors; provides for enforcement and penalties.

(HB2059 HD1)

