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# A BILL FOR AN ACT

RELATING TO EMERGENCY CONTRACEPTIVES FOR SEXUAL ASSAULT  
SURVIVORS.

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

1           SECTION 1. In 2007, there were three hundred and twenty-  
2 six forcible rapes reported in Hawaii. A woman who is sexually  
3 assaulted may face the additional trauma of an unwanted  
4 pregnancy by the rapist. Of the ninety thousand rape victims in  
5 the United States in 2006, many women became pregnant as a  
6 result and a number of the pregnancies ended in abortion.

7           Standards of emergency care established by the American  
8 Medical Association require that female victims of sexual  
9 assault be counseled about the risk of pregnancy and offered  
10 emergency contraception. One statewide study found that nearly  
11 one in three hospitals fail to offer emergency contraception to  
12 sexual assault victims in Hawaii. An additional twenty-three  
13 per cent have no clear policy on the issue.

14           Most women of reproductive age do not know enough about  
15 emergency contraception to ask for it--only eleven per cent have  
16 heard of it, are aware of its availability, and know how soon  
17 after sexual intercourse it must be taken to be effective.



1 The purpose of this Act is to ensure that victims of sexual  
2 assault are provided information about emergency contraception  
3 when receiving medical care at hospitals for sexual assaults and  
4 that emergency contraception is provided to women who request  
5 it.

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

9 **"PART . EMERGENCY CONTRACEPTIVES**

10 **FOR SEXUAL ASSAULT SURVIVORS**

11 **§321-A Definitions.** As used in this part, unless the  
12 context otherwise requires:

13 "Emergency contraception" means a drug that:

- 14 (1) Is used postcoitally;
- 15 (2) Prevents pregnancy by delaying ovulation, preventing  
16 fertilization of an egg, or preventing implantation of  
17 an egg in a uterus; and
- 18 (3) Is approved by the United States Food and Drug  
19 Administration.

20 "Hospital" includes:

21



1 (1) An institution with an organized medical staff,  
 2 regulated under section 321-11(10), that admits  
 3 patients for inpatient care, diagnosis, observation,  
 4 and treatment; and

5 (2) A health facility under chapter 323F.

6 "Medical care" means every type of care, treatment,  
 7 surgery, hospitalization, attendance, service, and supplies as  
 8 the nature of the injury or condition requires.

9 "Sexual assault" means sexual penetration as defined in  
 10 section 707-700.

11 "Sexual assault survivor" means a female who alleges or is  
 12 alleged to have been sexually assaulted as defined in this part.

13 **§321-B Emergency contraception.** (a) Except as provided  
 14 by 321-D, any hospital that provides medical care to a sexual  
 15 assault survivor shall:

16 (1) Provide the sexual assault survivor with medically and  
 17 factually accurate written and oral information about  
 18 emergency contraception;

19 (2) Orally inform each sexual assault survivor of the  
 20 option to receive emergency contraception at the  
 21 hospital;



1 (3) Immediately provide emergency contraception to each  
2 sexual assault survivor who requests it, including the  
3 initial dose that the sexual assault survivor can take  
4 at the hospital, and any further dosage as necessary;  
5 and

6 (4) Ensure that each person at the hospital who may  
7 provide medical care to a sexual assault survivor is  
8 trained in sexual assault treatment and emergency  
9 contraception and that the training uses medically and  
10 factually accurate written and oral information.

11 (b) The cost of any emergency contraception dispensed  
12 pursuant to this part shall be paid by the department using  
13 moneys from the domestic violence and sexual assault special  
14 fund under section 321-1.3.

15 (c) The department shall adopt rules in accordance with  
16 chapter 91.

17 **§321-C Enforcement; administrative penalties.** (a) The  
18 department may set, charge, and collect administrative fines and  
19 recover administrative fees and costs, including attorney's fees  
20 and costs, resulting from a violation of this part or any rule  
21 adopted under this part.

22 (b) The department shall:



1 (1) Establish a policy and procedure to monitor compliance  
2 with this part, including a complaint process; and

3 (2) Provide written notice to any hospital that the  
4 department determines is in violation of this part or  
5 any rule adopted under this part, including an  
6 opportunity to take corrective action.

7 (c) Any hospital that violates this part or any rule  
8 adopted under this part after receiving written notice and an  
9 opportunity to take corrective action pursuant to subsection  
10 (b) (2) shall be fined not more than \$1,000 for each separate  
11 offense.

12 **§321-D Exemptions.** (a) A religiously affiliated hospital  
13 with religious objection to participation in the requirements of  
14 this part shall be exempt therefrom but shall provide emergency  
15 care to a victim of sexual assault by providing immediate  
16 medically appropriate transportation to another appropriate  
17 health care facility or provider. A hospital provided an  
18 exemption under this section shall be responsible for all costs  
19 associated with transporting a victim of sexual assault to  
20 another health care facility or provider and shall inform the  
21 person being transported that the person will not be responsible  
22 for any costs associated with the transportation.



1 (b) Hospitals exempt pursuant to this section shall  
2 provide a patient being refused care covered under this part  
3 with information regarding all options of care a patient may  
4 request at a health care facility to which the hospital is  
5 transporting the patient.

6 (c) Hospitals exempt pursuant to this section shall  
7 clearly display and provide written information to patients  
8 refused care covered under this part that explains the denial of  
9 care is not the fault of the patient, but due solely to the  
10 hospital's religious affiliation."

11 SECTION 3. This Act shall take effect upon its approval.



**Report Title:**

Sexual Assault; Emergency Contraception

**Description:**

Requires hospitals to provide information about emergency contraception to women who are sexually assaulted and to provide emergency contraception when requested. Provides for administrative penalties for noncompliance. (HB423 HD1)

