

JAN 23 2009

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, more than thirty thousand women
6 became pregnant as a result of sexual assault and approximately
7 fifty per cent of the pregnancies ended in abortion.

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

15 Most women of reproductive age do not know enough about
16 emergency contraception to ask for it - only eleven per cent



1 have heard of it, are aware of its availability, and know how
2 soon after sexual intercourse it must be taken to be effective.

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

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

11 "PART . EMERGENCY CONTRACEPTIVES
12 FOR SEXUAL ASSAULT SURVIVORS

13 §321-A Definitions. In this part, unless a different
14 meaning is plainly required:

15 "Emergency contraception" means a drug that:

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

22 "Hospital" includes:



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

(2) A health facility under chapter 323F, Hawaii Revised Statutes.

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

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

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

§321-B Emergency contraception. (a) Any hospital that provides medical care to a sexual assault survivor shall:

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

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

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

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

16 **§321-C Enforcement; administrative penalties.** (a) The
17 department may set, charge, and collect administrative fines and
18 recover administrative fees and costs, including attorney's fees
19 and costs, resulting from a violation of this part or any rule
20 adopted under this part.

21 (b) The department shall:



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

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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.

