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# A BILL FOR AN ACT

RELATING TO HEALTHCARE.

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

1           SECTION 1. In the aftermath of rape, victims find  
2 themselves dealing with a host of reproductive and sexual health  
3 issues. The physical and emotional trauma suffered by victims  
4 is compounded by the possibility of an unwanted pregnancy as a  
5 result of the rape. The average rate of pregnancy resulting  
6 from rape is between five and eight per cent with an estimated  
7 thirty-two thousand rape-related pregnancies occurring every  
8 year in the United States.

9           Emergency contraception is a safe and effective means of  
10 preventing pregnancy after a sexual assault. In fact, the  
11 provision of emergency contraception to victims of sexual  
12 assault is the most widely recognized and accepted standard of  
13 care for sexual assault patients. The American Medical  
14 Association and the American College of Obstetricians and  
15 Gynecologists have stated that sexual assault victims should be  
16 informed about and provided emergency contraception. However, a  
17 recent survey of emergency facilities in Hawaii revealed a lack  
18 of clear policy on the issue.



1           The purpose of this Act is to ensure that victims of sexual  
2 assault are provided information about and access to emergency  
3 contraception when receiving emergency medical care at Hawaii's  
4 hospitals for sexual assaults.

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

8                                   **"PART . COMPASSIONATE CARE**

9           **§321-A Definitions.** As used in this part, unless the  
10 context clearly requires otherwise:

11           "Department" means the department of health.

12           "Emergency contraception" means one or more prescription  
13 drugs used separately or in combination that are:

- 14           (1) Used postcoitally within a recommended amount of time;
- 15           (2) Used for the purpose of preventing pregnancy; and
- 16           (3) Approved by the United States Food and Drug  
17           Administration.

18           "Emergency medical care" includes any medical examination  
19 or treatment provided by a hospital or provider to a sexual  
20 assault survivor following an alleged sexual assault.

21           "Hospital" includes:



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;

5 (2) A provider as defined in this part; and

6 (3) A health facility as defined in section 323F-1.

7 "Medical care" means every type of care, treatment,  
8 surgery, hospitalization, attendance, service, and supplies as  
9 the nature of an injury or condition requires. Medical care  
10 shall include outside consultation and referrals.

11 "Provider" means any entity that provides sexual assault  
12 survivor services in a non-hospital setting, including a mobile  
13 medical van.

14 "Sexual assault" means vaginal penetration by compulsion or  
15 strong compulsion.

16 "Sexual assault survivor" means a person who alleges or is  
17 alleged to have been sexually assaulted and as a result of the  
18 sexual assault presents as a patient at a hospital.

19 **§321-B Compassionate care.** (a) Any hospital that  
20 provides emergency medical care to a sexual assault survivor  
21 shall:



- 1 (1) Provide any female sexual assault survivor with  
2 medically and factually accurate and unbiased written  
3 and oral information about emergency contraception;
- 4 (2) Orally inform each female sexual assault survivor of  
5 the option to receive emergency contraception at the  
6 hospital;
- 7 (3) When medically indicated, provide emergency  
8 contraception to each female sexual assault survivor  
9 who requests it, including the initial dose that can  
10 be taken at the hospital, and any further dosage as  
11 necessary; and
- 12 (4) Ensure that each person at the hospital who may  
13 provide emergency medical care shall be trained to  
14 provide a sexual assault survivor with medically and  
15 factually accurate and unbiased written and oral  
16 information about emergency contraception and sexual  
17 assault treatment options and access to emergency  
18 contraception.
- 19 (b) No hospital shall deny a sexual assault survivor  
20 emergency contraception based on a refusal to undergo a forensic  
21 or other medical examination or a refusal to report the alleged  
22 sexual assault to law enforcement.



1 (c) No hospital shall be required to provide emergency  
2 contraception to a sexual assault survivor who has been  
3 determined to be pregnant through the administration by the  
4 hospital staff of a pregnancy test approved by the United States  
5 Food and Drug Administration.

6 (d) The cost of any emergency contraception dispensed  
7 pursuant to this part shall be paid by the department using  
8 moneys from the domestic violence and sexual assault special  
9 fund established by section 321-1.3.

10 (e) The department shall adopt rules under chapter 91 for  
11 the purposes of this part.

12 **§321-C Enforcement; administrative penalties.** (a) The  
13 department may set, charge, and collect administrative fines and  
14 recover administrative fees and costs, including attorney's fees  
15 and costs, resulting from a violation of this part or any rule  
16 adopted under this part.

17 (b) The department shall:

18 (1) Establish policy and procedures to monitor compliance  
19 with this part, including a complaint process;

20 (2) Respond to any complaint received by the department  
21 concerning noncompliance by a hospital with the  
22 requirements of section 321-B; and



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

5           (c) Any hospital that violates this part or any rule  
6           adopted under this part after receiving written notice and an  
7           opportunity to take corrective action pursuant to subsection  
8           (b) (3) shall be fined not more than \$1,000 for each separate  
9           offense.

10          (d) Sanctions under this section shall not be issued for  
11          violations occurring before July 1, 2013."

12          SECTION 3. In codifying the new sections added by section  
13          2 of this Act, the revisor of statutes shall substitute  
14          appropriate section numbers for the letters used in designating  
15          the new sections in this Act.

16          SECTION 4. This Act shall take effect on July 1, 2012.



**Report Title:**

Compassionate Care; Emergency Contraception

**Description:**

Requires hospitals to provide survivors of sexual assault with medically and factually accurate and unbiased information regarding emergency contraception, as well as access to emergency contraception. Effective July 1, 2012. (HB127 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

