



GOV. MSG. NO. 1127

EXECUTIVE CHAMBERS
HONOLULU

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NEIL ABERCROMBIE
GOVERNOR

April 22, 2013

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813


The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on April 22, 2013, the following bill was signed into law:

HB411 HD2

RELATING TO HOSPITAL EMERGENCY
COMPASSIONATE CARE FOR SEXUAL
ASSAULT VICTIMS
ACT 027 (13)

Aloha
Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

APR 22 2013

on _____

HOUSE OF REPRESENTATIVES
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

ORIGINAL

ACT 027

H.B. NO. 411
H.D. 2

A BILL FOR AN ACT

RELATING TO HOSPITAL EMERGENCY COMPASSIONATE CARE FOR SEXUAL
ASSAULT VICTIMS.

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

1 SECTION 1. Rape is the most under-reported violent crime.
2 In the aftermath of rape, victims find themselves dealing with a
3 host of reproductive and sexual health issues. The physical and
4 emotional trauma suffered by victims is compounded by the
5 possibility of an unwanted pregnancy as a result of the rape.
6 The average rate of pregnancy resulting from rape is between
7 five and eight per cent with an estimated thirty-two thousand
8 rape-related pregnancies occurring each year in the United
9 States. However, the Department of Justice National Crime
10 Victimization Surveys indicate that over half of all rapes are
11 not reported to the police.

12 Emergency contraception is not an abortion pill, nor does
13 it cause any abortive process to take place. Emergency
14 contraception is a safe and effective means of preventing
15 pregnancy after a sexual assault. In fact, the provision of
16 emergency contraception to sexual assault victims is the most
17 widely recognized and accepted standard of care for sexual

HB411 HD2 HMS 2013-2487



1 assault victims. The American Medical Association and the
2 American College of Obstetricians and Gynecologists have stated
3 that sexual assault victims should be informed about and
4 provided emergency contraception. However, a 2010 survey of
5 emergency facilities in Hawaii revealed a lack of clear policy
6 on the issue.

7 The purpose of this Act is to ensure that sexual assault
8 victims are provided information about and access to emergency
9 contraception when receiving emergency medical care at Hawaii's
10 hospitals.

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

14 **"PART . COMPASSIONATE CARE FOR SEXUAL ASSAULT VICTIMS**

15 **§321-A Definitions.** As used in this part, unless the
16 context otherwise requires:

17 "Compulsion" means absence of consent, or a threat, express
18 or implied, that places a person in fear of public humiliation,
19 property damage, or financial loss.

20 "Department" means the department of health unless
21 otherwise specified in this part.



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

- 3 (1) Used postcoitally within a recommended amount of time;
4 (2) Used for the purposes of preventing pregnancy; and
5 (3) Approved by the United States Food and Drug
6 Administration.

7 "Hospital" means any institution with an organized medical
8 staff, regulated under sections 321-11(10) and 321-14.5, that
9 admits patients for inpatient care, diagnosis, observation, and
10 treatment.

11 "Sexual assault" means vaginal penetration without the
12 person's consent, by compulsion or strong compulsion.

13 "Sexual assault victim" means a person who alleges or is
14 alleged to have been sexually assaulted and as a result of the
15 sexual assault presents as a patient at a hospital.

16 "Strong compulsion" means the use of or attempt to use one
17 or more of the following to overcome a person:

- 18 (1) A threat, express or implied, that places a person in
19 fear of bodily injury to the person or another person,
20 or in fear that the person or another person will be
21 kidnapped;

- 22 (2) A dangerous instrument; or



1 (3) Physical force.

2 §321-B Compassionate care. (a) Any hospital at which a
3 female sexual assault victim presents for emergency services
4 shall:

5 (1) Provide any female sexual assault victim with
6 medically and factually accurate and unbiased written
7 and oral information about emergency contraception;

8 (2) Orally inform each female sexual assault victim of the
9 option to receive emergency contraception at the
10 hospital;

11 (3) When medically indicated, offer emergency
12 contraception to each female sexual assault victim;

13 (4) Dispense a complete course of emergency contraception
14 to each female sexual assault victim who accepts or
15 requests it; and

16 (5) Ensure that providers who may prescribe or administer
17 emergency contraception shall be trained to provide a
18 female sexual assault victim with medically and
19 factually accurate and unbiased written and oral
20 information about emergency contraception and sexual
21 assault treatment options and access to emergency
22 contraception.



1 (b) No hospital shall deny a female sexual assault victim
2 emergency contraception based on a refusal to undergo a forensic
3 examination or a refusal to report the alleged sexual assault to
4 law enforcement.

5 (c) No hospital shall be required to dispense emergency
6 contraception to a female sexual assault victim who has been
7 determined to be pregnant through the administration by the
8 hospital staff of a pregnancy test approved by the United States
9 Food and Drug Administration.

10 (d) If private insurance is not or cannot be utilized for
11 payment, the cost of any emergency contraception dispensed
12 pursuant to this part shall be paid by the department of human
13 services.

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

19 (b) The department shall:

20 (1) Establish a policy and procedures to monitor
21 compliance with this part, including a complaint
22 process;



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

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

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

13 (d) All enforcement processes shall comply with section
14 321-20.

15 (e) Sanctions under this section shall not be issued for
16 violations occurring before July 1, 2014.

17 **§321-D Rules.** The department may adopt rules under
18 chapter 91 for the purposes of this part."

19 SECTION 3. In codifying the new sections added by section
20 2 of this Act, the revisor of statutes shall substitute
21 appropriate section numbers for the letters used in designating
22 the new sections in this Act.



1 SECTION 4. This Act shall take effect upon its approval.

APPROVED this 22 day of APR, 2013

Neil Abernethy

GOVERNOR OF THE STATE OF HAWAII

