

JAN 24 2013

A BILL FOR AN ACT

RELATING TO HOSPITAL STANDARDS 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 every 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 victims of sexual assault is the most
17 widely recognized and accepted standard of care for sexual
18 assault patients. The American Medical Association and the

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

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

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

13 **"PART . HOSPITAL STANDARDS FOR SEXUAL ASSAULT VICTIMS**

14 **§321-A Definitions.** As used in this part, unless the
15 context clearly requires otherwise:

16 "Department" means the department of health unless
17 otherwise specified in this part.

18 "Emergency contraception" means one or more medications
19 used separately or in combination that are:

- 20 (1) Used postcoitally within a recommended amount of time;
21 (2) Used for the purpose of preventing pregnancy; and
22 (3) Approved by the United States Food and Drug
23 Administration.

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

5 "Sexual assault" means vaginal penetration without the
6 person's consent, by compulsion or strong compulsion, or by
7 sexual intercourse with someone who is mentally incapacitated as
8 defined in section 707-700.

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

12 **§321-B Hospital standards for sexual assault victims.**

13 (a) Any hospital at which a sexual assault victim presents for
14 emergency services shall:

- 15 (1) Provide any female sexual assault victim with
16 medically and factually accurate and unbiased written
17 and oral information about emergency contraception;
18 (2) Orally inform each female sexual assault victim of the
19 option to receive emergency contraception at the
20 hospital;
21 (3) When medically indicated, offer emergency
22 contraception to each female sexual assault victim,

1 (4) Dispense a complete course of emergency contraception
2 to each female sexual assault victim who accepts or
3 requests it; and

4 (5) Ensure that each person at the hospital who may
5 provide emergency medical care shall be trained to
6 provide a sexual assault victim with medically and
7 factually accurate and unbiased written and oral
8 information about emergency contraception and sexual
9 assault treatment options and access to emergency
10 contraception.

11 (b) No hospital shall deny a sexual assault victim
12 emergency contraception based on a refusal to undergo a forensic
13 examination or a refusal to report the alleged sexual assault to
14 law enforcement.

15 (c) No hospital shall be required to dispense emergency
16 contraception to a sexual assault victim who has been determined
17 to be pregnant through the administration by the hospital staff
18 of a pregnancy test approved by the United States Food and Drug
19 Administration.

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

1 **§321-C Enforcement; administrative penalties.** (a) The
2 department may set by rule, charge, and collect administrative
3 fines and recover administrative fees and costs, including
4 attorney's fees and costs, resulting from a violation of this
5 part or any rule adopted under this part.

6 (b) The department shall:

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

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

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

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

21 (d) All enforcement processes shall comply with section
22 321-20.

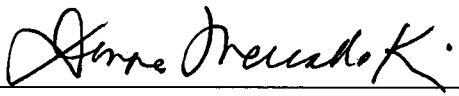
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1 (e) Sanctions under this section shall not be issued for
2 violations occurring before July 1, 2014.

3 **§321-D Rules.** The department may adopt rules under
4 chapter 91 for the purposes of this part."

5 SECTION 3. In codifying the new sections added to chapter
6 321, Hawaii Revised Statutes, by section 2 of this Act, the
7 revisor of statutes shall substitute appropriate section numbers
8 for the letters used in designating, and referring to, the new
9 sections in this Act.

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

11
12 INTRODUCED BY: 

13 BY REQUEST

14

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Report Title:

Hospital Standards for Sexual Assault Victims; Emergency Contraception

Description:

Adds a new part to chapter 321, Hawaii Revised Statutes, to ensure that victims of sexual assault are provided with medically and factually unbiased information about and access to emergency contraception when receiving emergency medical care at Hawaii's hospitals for sexual assaults.

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

JUSTIFICATION SHEET

DEPARTMENT: Human Services/Hawaii Commission on the Status of Women

TITLE: A BILL FOR AN ACT RELATING TO HOSPITAL STANDARDS FOR SEXUAL ASSAULT VICTIMS.

PURPOSE: To ensure that victims of sexual assault are provided information about and access to emergency contraception when receiving emergency medical care at Hawaii's hospitals for sexual assaults.

MEANS: Add a new part to chapter 321, Hawaii Revised Statutes.

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

Emergency contraception is not an abortion pill, nor does it cause any abortive process to take place. Emergency contraception is a safe and effective means of preventing pregnancy after a sexual assault. In fact, the provision of emergency contraception to victims of sexual assault is the most widely recognized and accepted standard of care for sexual assault patients. The American Medical Association and the American College of Obstetricians and Gynecologists have stated that sexual assault victims should be informed about and provided emergency contraception. However, a recent survey of emergency facilities in Hawaii revealed a lack of clear policy on the issue.

Impact on the public: This proposed legislation, if enacted, would impact women who have been sexually assaulted by ensuring that they are provided with medically accurate information regarding emergency contraception following a sexual assault. Additionally, victims would be provided with the emergency contraception should they desire to take it.

Impact on the department and other agencies: The Department of Human Services will pay for the necessary emergency contraception medications on a fee-for-service basis. It is estimated that the cost would be negligible, less than \$10,000.

The Department of Health will be responsible to determine violations of this new part or rules adopted under this new part. The Department of Health may set by rule, charge, and collect administrative fines and recover administrative fees and costs, resulting from a violation of this part or any rules adopted under this new part.

GENERAL FUND:	\$10,000.
OTHER FUNDS:	N/A
PPBS PROGRAM DESIGNATION:	HMS 401.
OTHER AFFECTED AGENCIES:	Department of Health.
EFFECTIVE DATE:	Upon approval.