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# 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



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.

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

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

22 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. (a)**

13 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 provided that hospital staff members that do not  
19 provide emergency medical care shall not provide  
20 information about emergency contraception;

21 (2) Orally inform each female sexual assault victim of the  
22 option to receive emergency contraception at the



1 hospital; provided that hospital staff members that do  
2 not provide emergency medical care shall not provide  
3 information about the option to receive emergency  
4 contraception at the hospital;

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

7 (4) Dispense a complete course of emergency contraception  
8 to each female sexual assault victim who accepts or  
9 requests it; and

10 (5) Ensure that each person at the hospital who may  
11 provide emergency medical care shall be trained to  
12 provide a sexual assault victim with medically and  
13 factually accurate and unbiased written and oral  
14 information about emergency contraception and sexual  
15 assault treatment options and access to emergency  
16 contraception.

17 (b) No hospital shall deny a sexual assault victim  
18 emergency contraception based on a refusal to undergo a forensic  
19 examination or a refusal to report the alleged sexual assault to  
20 law enforcement.

21 (c) No hospital shall be required to dispense emergency  
22 contraception to a sexual assault victim who has been determined



1 to be pregnant through the administration by the hospital staff  
2 of a pregnancy test approved by the United States Food and Drug  
3 Administration.

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

8 **§321-C Enforcement; administrative penalties.** (a) The  
9 department may set by rule, charge, and collect administrative  
10 fines and recover administrative fees and costs, including  
11 attorney's fees and costs, resulting from a violation of this  
12 part or any rule adopted under this part.

13 (b) The department shall:

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

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

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



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

6           (d) All enforcement processes shall comply with section  
7 321-20.

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

10           **§321-D Rules.** The department may adopt rules under  
11 chapter 91 for the purposes of this part."

12           SECTION 3. In codifying the new sections added to chapter  
13 321, Hawaii Revised Statutes, by section 2 of this Act, the  
14 revisor of statutes shall substitute appropriate section numbers  
15 for the letters used in designating, and referring to, the new  
16 sections in this Act.

17           SECTION 4. This Act shall take effect upon its approval.  
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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 female 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. (SD1)

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

