
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's 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 assault 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:

- 6 (1) Vaginal penetration without the person's consent, by
7 compulsion or strong compulsion; or
8 (2) Sexual intercourse with someone who is mentally
9 incapacitated, as defined in section 707-700.

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

13 **§321-B Hospital standards for sexual assault victims.** (a)

14 Any hospital at which a sexual assault victim presents for
15 emergency services shall:

- 16 (1) Provide any female sexual assault victim with
17 medically and factually accurate and unbiased written
18 and oral information about emergency contraception;
19 provided that hospital staff members who do not
20 provide emergency medical care shall not provide
21 information about emergency contraception;



- 1 (2) Orally inform each female sexual assault victim of the
2 option to receive emergency contraception at the
3 hospital; provided that hospital staff members who do
4 not provide emergency medical care shall not provide
5 information about the option to receive emergency
6 contraception at the hospital;
- 7 (3) When medically indicated, offer emergency
8 contraception to each female sexual assault victim;
- 9 (4) Dispense a complete course of emergency contraception
10 to each female sexual assault victim who accepts or
11 requests it; and
- 12 (5) Ensure that each person at the hospital who may
13 provide emergency medical care shall be trained to
14 provide a sexual assault victim 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 victim
20 emergency contraception based on a refusal to undergo a forensic
21 examination or a refusal to report the alleged sexual assault to
22 law enforcement.



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

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

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

15 (b) The department shall:

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

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

21 (3) Provide written notice to any hospital that the
22 department determines is in violation of this part or



1 any rule adopted under this part, including notice of
2 an opportunity to take corrective action.

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

8 (d) All enforcement processes shall comply with section
9 321-20.

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

12 **§321-D Rules.** The department may adopt rules pursuant to
13 chapter 91 for the purposes of this part."

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

19 SECTION 4. This Act shall take effect on July 1, 2050.



Report Title:

Hospital Standards for Sexual Assault Victims; Emergency
Contraception

Description:

Adds a new part to chapter 321, HRS, 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 assault. Effective 07/01/2050. (SD2)

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

