

JAN 18 2013

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

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



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

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

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

15 **"PART . COMPASSIONATE CARE**

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

18 "Department" means the department of health unless
19 otherwise specified in this part.

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

22 (1) Used postcoitally within a recommended amount of time;



- 1 (2) Used for the purposes of preventing pregnancy; and
- 2 (3) Approved by the United States Food and Drug
- 3 Administration.

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

8 "Sexual assault" means vaginal penetration without the
9 person's consent, by compulsion or strong compulsion, or by
10 sexual intercourse with someone who lacks the capacity to
11 consent, as defined in section 707-732.

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

15 **§321-B Compassionate care.** (a) Any hospital at which a
16 sexual assault survivor presents for emergency services shall:

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



1 (3) When medically indicated, provide emergency
2 contraception to each female sexual assault survivor
3 who requests it, including the initial dose that can
4 be taken at the hospital, and any further dosage as
5 necessary; and

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

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

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



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

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

10 (b) The department shall:

11 (1) Establish a policy and procedures to monitor
12 compliance with this part, including a complaint
13 process;

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

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

21 (c) Any hospital that violates this part or any rule
22 adopted under this part after receiving written notice and an



1 opportunity to take corrective action pursuant to subsection
2 (b) (3) shall be fined not more than \$1,000 for each separate
3 offense.

4 (d) All enforcement processes shall comply with section
5 321-20.

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

8 §321-D Rules. The department may adopt rules under
9 chapter 91 for the purposes of this part."

10 SECTION 3. In codifying the new sections added by section
11 2 of this Act, the revisor of statutes shall substitute
12 appropriate section numbers for the letters used in designating
13 the new sections in this Act.

14 SECTION 4. This Act shall take effect upon its approval.
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S.B. NO. 526

Report Title:

Hospital Emergency Compassionate Care; Emergency Contraception

Description:

Establishes a new part in chapter 321 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.

