

EXECUTIVE CHAMBERS

HONOLULU

June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 658

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 658, entitled "A Bill for an Act Relating to Emergency Contraceptives for Sex Assault Survivors in Emergency Rooms."

The purpose of this bill is to require hospitals that provide emergency care to sexual assault survivors, to provide information on emergency contraceptives, and to offer and provide emergency contraceptives to sexual assault survivors.

This bill is objectionable because it would not withstand a legal challenge. According to the Department of the Attorney General, this bill violates the constitutional right to the free exercise of religion.

Individuals and religious institutions, such as St. Francis Hospital (St. Francis), have a constitutional right to the free exercise of religion. Citing religious beliefs, St. Francis does not allow its medical personnel to dispense emergency contraception drugs while carrying out their duties at St. Francis.

This bill directly interferes with the constitutional right to the free exercise of religion by requiring hospital personnel to administer emergency contraception drugs even if such an act is in contravention of religious beliefs and hospital policies which reflect those beliefs, as is the case at St. Francis.

When the State interferes with an individual's or an institution's right to the free exercise of religion, the State must show not only that the limitation in question furthers a

compelling state interest, but also that the desired result is accomplished in a reasonable and least-restrictive manner.

The penalty provisions of this bill are unusually severe. After the first two violations, this bill would require the Department of Health to suspend or revoke the license of a hospital violating the bill.

This bill would not have been objectionable if the Legislature had included an "opt-out" provision for religious hospitals. During the legislative session, I indicated that I would sign an emergency contraception bill only if it included an "opt out" provision for religious hospitals. For whatever reason, the Legislature chose not to include such a provision.

Another possible alternative would be the approach taken by the State of Illinois. In 2001, Illinois enacted a bill that requires all hospitals to provide emergency contraception information to sexual assault victims. This law does not require the hospital to actually administer the drug if requested, but only requires that the hospital provide the victim with "a description of how and when victims may be provided emergency contraception upon the written order of a physician." Like an "opt out" provision, such a requirement would not force the religious hospital to administer emergency contraception drugs in contravention of its religious beliefs.

The current practice at St. Francis is to do what the Illinois law requires, and also to arrange for transportation of the victim to another hospital that does not have an objection to providing emergency contraception drugs.

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For the foregoing reasons, I am returning Senate Bill  
No. 658 without my approval.

Respectfully,

LINDA LINGLE  
Governor of Hawaii

P R O C L A M A T I O N

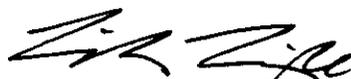
WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 658, entitled "A Bill for an Act Relating to Emergency Contraceptives for Sex Assault Survivors in Emergency Rooms," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 658 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 658 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,  
State of Hawaii, this 20th day  
of June, 2003.



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LINDA LINGLE  
Governor of Hawaii