

JAN 21 2011

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## A BILL FOR AN ACT

RELATING TO HEALTHCARE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. In the aftermath of rape, victims find  
2 themselves dealing with a host of reproductive and sexual health  
3 issues. The physical and emotional trauma suffered by victims  
4 is compounded by the possibility of unwanted pregnancy as a  
5 result of the rape. The average rate of pregnancy resulting  
6 from rape is between five and eight per cent, with an estimated  
7 thirty-two thousand rape related pregnancies occurring every  
8 year in the United States.

9           Emergency contraception is a safe and effective means of  
10 preventing pregnancy after a sexual assault. In fact, the  
11 provision of emergency contraception to victims of sexual  
12 assault is the most widely recognized and accepted standard of  
13 care for sexual assault patients. The American Medical  
14 Association and the American College of Obstetricians and  
15 Gynecologists have stated that sexual assault victims should be  
16 informed about and provided emergency contraception. However, a  
17 recent survey of emergency facilities in Hawaii revealed a lack  
18 of clear policy on the issue.



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

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

8                           **"PART . COMPASSIONATE CARE**

9           **§321-A Definition.** As used in this part, unless the  
10 context clearly requires otherwise:

11           "Department" means the department of health.

12           "Emergency contraception" means one or more prescription  
13 drugs used separately or in combination that is:

- 14           (1) Used postcoitally within a recommended amount of time;  
15           (2) Used for the purpose of preventing pregnancy; and  
16           (3) Approved by the United States Food and Drug  
17           Administration.

18           "Emergency medical care" includes any medical examination  
19 or treatment provided by a hospital to a sexual assault survivor  
20 following an alleged sexual assault.

21           "Hospital" includes:



1 (1) An institution with an organized medical staff,  
2 regulated under section 321-11(10), that admits  
3 patients for inpatient care, diagnosis, observation,  
4 and treatment; and

5 (2) A health facility as defined in section 323F-1.

6 "Medical care" means every type of care, treatment,  
7 surgery, hospitalization, attendance, service, and supplies as  
8 the nature of an injury or condition requires.

9 "Sexual assault" means sexual penetration as defined in  
10 section 707-700.

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

14 **§321-B Compassionate care.** (a) Any hospital that  
15 provides emergency medical care based upon an alleged sexual  
16 assault to a sexual assault survivor 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          or other medical examination or a refusal to report the alleged  
16          sexual assault to law enforcement.

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



1 (d) The cost of any emergency contraception dispensed  
2 pursuant to this part shall be paid by the department using  
3 moneys from the domestic violence and sexual assault special  
4 fund under section 321-1.3.

5 (e) The department shall adopt rules under chapter 91 for  
6 the purposes of this part.

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

12 (b) The department shall:

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

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

18 (3) Provide written notice to any hospital that the  
19 department determines is in violation of this part or  
20 any rule adopted under this part, including an  
21 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) Sanctions under this section shall not be issued for  
 7 violations occurring before July 1, 2012."

8 SECTION 3. In codifying the new sections added by section  
 9 2 of this Act, the revisor of statutes shall substitute  
 10 appropriate section numbers for the letters used in designating  
 11 the new sections in this Act.

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

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**Report Title:**

Compassionate Care

**Description:**

Requires hospitals to provide survivors of sexual assault with medically and factually accurate and unbiased information regarding emergency contraception.

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