
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. 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 each 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 sexual assault victims is the most
17 widely recognized and accepted standard of care for sexual



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

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

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

14 "PART . COMPASSIONATE CARE FOR SEXUAL ASSAULT VICTIMS

15 §321-A Definitions. As used in this part, unless the
 16 context otherwise requires:

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

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

- 21 (1) Used postcoitally within a recommended amount of time;
- 22 (2) Used for the purposes of preventing pregnancy; and

1 (3) Approved by the United States Food and Drug
2 Administration.

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

7 "Sexual assault" means vaginal penetration without the
8 person's consent, by compulsion or strong compulsion, or by
9 sexual intercourse with someone who is mentally incapacitated,
10 as defined in section 707-700.

11 "Sexual assault victim" 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 at which a
15 sexual assault victim presents for emergency services, the
16 hospital shall:

17 (1) Provide any sexual assault victim with medically and
18 factually accurate and unbiased written and oral
19 information about emergency contraception;

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



- 1 (3) When medically indicated, offer emergency
2 contraception to each female sexual assault victim;
- 3 (4) Dispense a complete course of emergency contraception
4 to each female sexual assault victim who accepts or
5 requests it; and
- 6 (5) Ensure that providers who may prescribe or administer
7 emergency contraception shall be trained to provide a
8 sexual assault victim with medically and factually
9 accurate and unbiased written and oral information
10 about emergency contraception and sexual assault
11 treatment options and access to emergency
12 contraception.

13 (b) No hospital shall deny a sexual assault victim
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 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) 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.



Report Title:

Hospital Emergency Compassionate Care; Emergency Contraception

Description:

Establishes a new part in chapter 321, Hawaii Revised Statutes, to ensure that sexual assault victims are provided with medically and factually unbiased information about and access to emergency contraception when receiving emergency medical care at Hawaii's hospitals. (HB411 HD1)

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

