

JAN 19 2007

---

---

# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. The legislature finds that each year in the  
2 United States, one out of every five women is forcibly raped.  
3 Based on law enforcement reports, it is estimated that every six  
4 minutes, a woman is sexually assaulted. According to the  
5 Federal Bureau Uniform Crime Reports, there were three hundred  
6 four forcible rapes reported in Hawaii in 2002. However, the  
7 Department of Justice National Crime Victimization Surveys  
8 indicates that over fifty per cent of all rapes are not reported  
9 to law enforcement.

10           After a woman is sexually assaulted, she faces the  
11 additional trauma of the possibility of an unwanted pregnancy by  
12 the rapist. Each year, over thirty-two thousand women become  
13 pregnant as a result of a sexual assault. It is estimated that  
14 fifty per cent of these pregnancies end in abortion.

15           Standards of emergency medical care established by the  
16 American Medical Association require female victims of sexual  
17 assault to be counseled regarding the risk of pregnancy and be



1 offered emergency contraception. The United States Food and  
2 Drug Administration approved emergency contraception to prevent  
3 pregnancy after unprotected sexual intercourse. However,  
4 according to a 1997 Kaiser Family Foundation report, most women  
5 of reproductive age do not know enough about emergency  
6 contraception to ask for it. Only eleven per cent of the women  
7 were aware of the availability of emergency contraception and  
8 that the treatment must be initiated within seventy-two hours of  
9 sexual intercourse. One statewide study revealed inconsistent  
10 protocols and a lack of written policies regarding the treatment  
11 of victims of sexual assault in Hawaii's emergency rooms.

12 The purpose of this Act is to ensure that victims of sexual  
13 assaults are given information about emergency contraception  
14 when they receive medical care at a hospital for sexual assault,  
15 and that they have immediate access to emergency contraception  
16 if they request it.

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

20 **"PART . EMERGENCY CONTRACEPTION**

21 **§321- Definitions.** For the purpose of this part:

22 "Emergency contraception" means a drug that:



- 1 (1) Is used postcoitally;
- 2 (2) Prevents pregnancy by delaying ovulation, preventing
- 3 fertilization of an egg, or preventing implantation of
- 4 an egg in a uterus; and
- 5 (3) Is approved by the United States Food and Drug
- 6 Administration.

7 "Hospital" includes:

- 8 (1) An institution with an organized medical staff,
- 9 regulated under section 321-11(10), that admits
- 10 patients for inpatient care, diagnosis, observation,
- 11 and treatment; and
- 12 (2) A health facility under chapter 323F.

13 "Medical care" means every type of care, treatment,

14 surgery, hospitalization, attendance, service, and supplies as

15 the nature of the injury requires.

16 "Sexual assault" means any act of sexual penetration

17 prohibited in chapter 707.

18 "Sexual assault survivor" means a female who alleges or is

19 alleged to have been sexually assaulted.

20 **§321- Emergency contraception.** (a) Any hospital that

21 provides medical care to a sexual assault survivor shall:



- 1           (1) Provide the sexual assault survivor with medically and  
2           factually accurate written and oral information about  
3           emergency contraception;
- 4           (2) Orally inform the sexual assault survivor that the  
5           sexual assault survivor has the option to receive  
6           emergency contraception at the hospital;
- 7           (3) Provide emergency contraception immediately, at the  
8           hospital, to each sexual assault survivor who requests  
9           it, including the initial dose that the sexual assault  
10          survivor may take at the hospital, and any further  
11          dosage as may be necessary; and
- 12          (4) Ensure that each person at the hospital who may  
13          provide medical care to a sexual assault survivor is  
14          trained, using medically and factually accurate  
15          written and oral information, regarding emergency  
16          contraception and sexual assault treatment.
- 17          (b) The cost of any emergency contraception dispensed  
18          pursuant to this part shall be paid by the department using  
19          moneys from the domestic violence and sexual assault special  
20          fund under section 321-1.3.
- 21          (c) The department shall adopt rules in accordance with  
22          chapter 91.



1           **§321- Enforcement; administrative penalties.** (a) The  
 2 department may set, charge, and collect administrative fines and  
 3 recover administrative fees and costs, including attorney's fees  
 4 and costs, resulting from a violation of this part or any rule  
 5 adopted under this part.

6           (b) The department shall:

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

9           (2) Provide written notice to any hospital that the  
 10 department determines is in violation of this part or  
 11 any rule adopted under this part, including an  
 12 opportunity to take corrective action.

13           (c) Any hospital that violates this part or any rule  
 14 adopted under this part after receiving written notice and an  
 15 opportunity to take corrective action pursuant to subsection  
 16 (b)(2) shall be fined not more than \$1,000 for each separate  
 17 offense."

18           SECTION 3. This Act shall take effect on January 1, 2008.

19

INTRODUCED BY:

*Jamaine R. Brown*  
*Anzanne Chur Adalund*  
*Rosey St. Belu*  
*Raymond L. Hoan*  
*William J. ...*  
*Clemente ...*  
*R. J. ...*  
*Bussell S. Kohl*



**Report Title:**

Health; Emergency Contraception

**Description:**

Requires a hospital, including a public health facility, to provide information and emergency contraception to a sexual assault victim; requires training; includes penalties.

