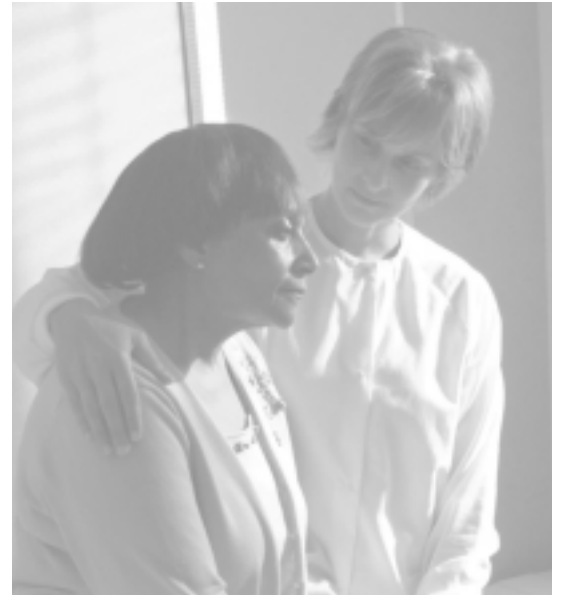
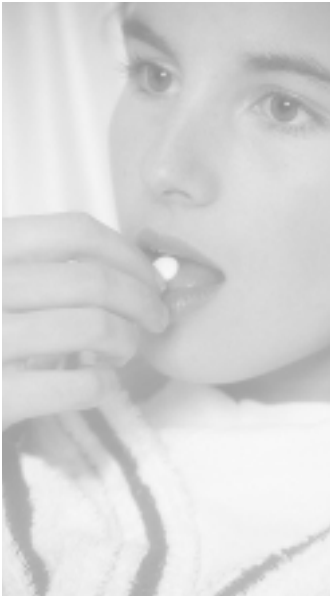


Appendix 2

Sample Legislation



Mainstreaming Access to Emergency Contraception for Rape Victims

*A collaborative project of Family Planning Advocates, Duvall Project
and National Sexual Violence Resource Center*

State-by-State Analysis of EC in ER Legislation

State/Bill Number	Date introduced	Bill Status	Required Provision	Referral Option	Information Only	Enforcement	Hospital Training
Arizona SB 1480 HB 2250	1/05	Pending	NO	YES	NO	NO	NO
Arkansas HB 2782	3/05	Pending	NO	YES	NO	YES	YES
California A 1860	1/31/02	Enacted	YES	NO	NO	NO	NO
Colorado* HB 1042	1/05	Governor vetoed 4/05	NO	YES	NO	NO	YES
Hawaii HB 1240 SB 1305	1/05	Pending	YES	NO	NO	YES	YES
Illinois* S 114	2/1/01	Enacted	NO	NO	YES	NO	NO
Massachusetts HB 1643 SB 1319	3/05	Pending	YES	NO	NO	NO	YES
Minnesota HB 1022 SB 989	2/14/05 2/16/05	Pending	YES	NO	NO	YES	NO
Missouri SB 379	2/17/05	Pending	YES	NO	NO	YES	YES
New Jersey A 2698 S 1688	5/6/04 6/10/04	Enacted	YES	NO	NO	YES	YES
New Mexico H 119	1/03	Enacted	YES	NO	NO	YES	YES
New York A 15 S 202	1/8/03	Enacted	YES	NO	NO	NO	NO
North Carolina	See below						
Pennsylvania	See below						
South Dakota* SB 168	1/05	Pending	NO	YES	NO	NO	NO
Tennessee HB 865 SB 1670	2/05	Pending	YES	NO	NO	YES	YES
Texas* HB 676 SB 389	1/05	Pending	NO	NO	NO	NO	NO
Washington S 6537	1/21/02	Enacted	YES	NO	NO	YES	NO
West Virginia H 2203	2/11/05	Pending	YES	NO	NO	YES	YES
Wisconsin	3/9/05	Pending	YES	NO	NO	YES	YES

*Colorado - Dispenses EC but allows for referral option based on religious tenets; “encourages” facilities to train ER personnel about EC

*Illinois - Mandates referral of patient to another provider, since bill does not mandate on site provision of EC

*South Dakota – Provide upon request, or a prescription, or a referral is given; bill did not pass Senate on 2/15/05

*Texas – Mandates providing information and if requested a prescription for EC

Note:

- **North Carolina** and **Pennsylvania** are currently working on introducing legislation.
- In 2003, **Oregon** signed a bill establishing the “Sexual Assault Victims’ Emergency Medical Response Fund” that pays for the costs of complete medical assessments for sexual assault victims, including offering and providing EC.
- A 1997 **South Carolina** sexual assault treatment law requires that medicolegal exams “...must included medication for pregnancy prevention if indicated and if desired.”

Year Introduced: The date in which the bill was introduced.

Bill Status: The position of the bill within the legislature.

Required Provision: Mandated hospital provision that includes the following:

- 1) Provide each sexual assault victim with medically & factually accurate & unbiased written & oral information about EC.
- 2) Orally inform each sexual assault victim of her option to receive emergency contraception at the hospital.
- 3) Provide emergency contraception immediately at the hospital to each sexual assault victim who requests it.

Referral Option: Bill provides hospitals the option to refer a patient to another provider if the hospital does not dispense EC.

Information Only: The hospital must inform patient about EC and present the patient her options, but is not obligated to provide emergency contraceptives.

Enforcement: The state shall oversee hospitals and impose any fines if victim is denied care.

Hospital Training: Hospitals shall ensure that employees providing care to rape victims have been trained to provide medically and factually accurate and unbiased information about emergency contraception.

The above criteria are based on information written specifically in the legislation. Updated April 2005.

Questions? Contact: Jessica Fisher, jessica@fpaofnys.org



MODEL LEGISLATION TO GUARANTEE SEXUAL ASSAULT VICTIMS ACCESS TO EMERGENCY CONTRACEPTION IN HOSPITAL EMERGENCY DEPARTMENTS ⁱ

A BILL

To ensure appropriate emergency health care for sexual assault victims.ⁱⁱ

Be it enacted by [state]:

SECTION 1: SHORT TITLE

This Act may be cited as the “Emergency Care for Sexual Assault Victims Act of [year].”

SECTION 2: FINDINGS

The [state] legislature finds that:

- A. Each year, over 600,000 women are raped in the U.S.
- B. In [most recent year with data], [number] women were [raped] in [state].ⁱⁱⁱ
- C. After a woman is raped, she may face or anxiously fear the additional trauma of an unwanted pregnancy.
- D. Each year, approximately 25,000 women in the United States become pregnant as a result of rape. An estimated 22,000 of these pregnancies — or 88 percent — could be prevented if sexual assault victims had timely access to emergency contraception. [Insert state-specific date if available]
- E. Emergency contraception is a safe, responsible, and effective back-up method of birth control that prevents pregnancy after sexual intercourse.
- F. Medical research indicates that the sooner emergency contraception is administered, the better the chance of preventing unintended pregnancy.
- G. Emergency contraception does not cause abortion and does not work if a woman is already pregnant.
- H. Emergency contraception is an integral part of comprehensive and compassionate emergency care for sexual assault victims.
- I. The American College of Emergency Physicians (ACEP) and the American College of Obstetricians

and Gynecologists (ACOG) agree that emergency contraception should be offered to all victims of sexual assault if they are at risk of pregnancy.

- J. A nationwide study found that fewer than half of all sexual assault victims eligible for emergency contraception actually received the treatment during a visit to a hospital emergency department. [Or insert state specific information about availability of emergency contraception in emergency departments.]
- K. Most women do not know about emergency contraception: nearly three-quarters of women surveyed have not heard of emergency contraception pills, the most commonly used form of emergency contraception, and only two percent of women have ever used them. Therefore, women who have been raped are unlikely to ask for emergency contraception.
- L. It is essential for all hospitals that provide emergency medical treatment to offer emergency contraception as a treatment option to any woman who seeks medical care as a result of an alleged sexual assault.

SECTION 3: DEFINITIONS

The following words and phrases when used in this Act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

- A. “Emergency contraception” means any drug or device approved by the Food and Drug Administration that prevents pregnancy after sexual intercourse.
- B. “Emergency care to sexual assault victims” means medical examinations, procedures, or services provided at a hospital [health care facility] to a sexual assault victim following an alleged rape.
- C. “Sexual assault” [“Rape”] iv means [as defined by state statute].
- D. “Sexual assault victim” means a female who alleges or is alleged to have been raped and presents as a patient.
- E. “Medically and factually accurate and objective” means verified or supported by the weight of research conducted in compliance with accepted scientific methods and:
 - (1) published in peer-reviewed journals where applicable; or (2) comprising information that leading professional organizations and agencies with relevant expertise in the field, such as the American College of Obstetricians and Gynecologists (ACOG), recognize as accurate and objective.

SECTION 4: EMERGENCY CARE TO SEXUAL ASSAULT [RAPE] VICTIMS

It shall be the standard of care for hospitals [health care facilities] v that provide emergency care to sexual assault victims to:

- A. Provide each sexual assault victim with medically and factually accurate and objective written and oral information about emergency contraception, prepared pursuant to Section 6 of this section;
- B. Orally inform each sexual assault victim of her option to be provided emergency contraception at the hospital [health care facility]; and

- C. Provide the complete regimen of emergency contraception immediately [promptly] at the hospital [health care facility] to each sexual assault victim who requests it.

SECTION 5: TRAINING OF PROVIDERS

Each hospital [health care facility] shall ensure that each person who provides care to sexual assault victims is provided with medically and factually accurate and objective information about emergency contraception.

SECTION 6: PATIENT INFORMATION MATERIALS

The [state department of health] or contracted designee shall develop, prepare, and produce informational materials relating to emergency contraception for the prevention of pregnancy for distribution to and use in all emergency departments in the state, in quantities sufficient to comply with the requirements of this section. The [Secretary], in collaboration with community sexual assault programs and other relevant stakeholders, may also approve informational materials from other sources for the purposes of this section.

The informational materials must:

1. Be medically and factually accurate and objective;
2. Be clearly written and readily comprehensible in a culturally competent manner, as the [state department of health], in collaboration with community sexual assault programs and other relevant stakeholders, deems necessary to inform victims of sexual assault;
3. Explain the nature of emergency contraception, including its use, safety, efficacy, and availability, and that it does not cause abortion.

SECTION 7: ENFORCEMENT^{vi}

In addition to any remedies at common law, the [state department of health] shall respond to complaints and shall periodically determine whether hospitals [health care facilities] are complying with this Act. The [state department of health] may use all investigative tools available to it to verify compliance with this Act. If the [state department of health] determines that a hospital is not in compliance with this Act, the [department] shall:

- A. Impose a fine of [\$5,000] per woman who is denied medically and factually accurate and objective information about emergency contraception or who is not offered or provided emergency contraception;
- B. Impose a fine of [\$5,000] for failure to comply with Section 5 of this Act. For every 30 days that a hospital [health care facility] is not in compliance with Section 5, an additional fine of [\$5,000] shall be imposed; and
- C. After two violations, suspend or revoke the certificate of authority or deny the hospital's [health care facility's] application for certificate of authority.

SECTION 8: SEVERABILITY

If any provision, word, phrase or clause of this Act, or the application thereof, to any person,

entity or circumstance should be held invalid, such invalidity shall not affect the remaining provisions, words, phrases or clauses of this Act which can be given effect without the invalid provision, word, phrase, clause or application, and to this end, the provisions, words, phrases or clauses of this Act are declared severable.

SECTION 9: CONFLICT

All laws and parts of laws in conflict with this Act are repealed.

SECTION 10: EFFECTIVE DATE

This Act shall be effective [date].

ⁱBefore moving forward with a proactive legislative campaign to guarantee sexual assault victims' access to emergency contraception in hospital emergency departments, consult with the sexual assault community in your state to ensure that such a requirement is consistent with existing sexual assault treatment protocols.

ⁱⁱThe term "victim" is used to underscore the fact that sexual assault survivors are victims of violent crime and to highlight this legislation as an important victims' rights initiative. Sexual assault advocates in your state may use of the term "survivor" as well as "victim" to underscore the resiliency of women who survive the violent crime of rape.

ⁱⁱⁱState-level data may be limited to the number of reported rather than actual rapes. Consult with the sexual assault coalition in your state to determine whether data exists on the number of actual rapes in your state. If not, consider including in the bill the number of rape victims in your state that are discharged from emergency departments without having received emergency contraception.

^{iv}Because the legal definitions of sexual assault and rape may vary from state to state, check with the sexual assault coalition in your state to identify the appropriate term for your legislation.

^vIn some states, sexual assault victims who present at hospitals may be referred to specialized health care facilities for treatment. Consult with the sexual assault community in your state to determine whether the term "hospital" is broad enough to encompass all facilities where sexual assault victims receive emergency medical care.

^{vi}Because the issue of enforcement may be a source of conflict with your state hospital association, choosing an appropriate enforcement mechanism is important to the success of the bill. To avoid unnecessary opposition, consult with your legislative sponsor to identify an enforcement provision that is consistent with applicable state laws and regulations.

August 2003

State of Washington
CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 6537
Chapter 116, Laws of 2002
57th Legislature
2002 Regular Session

SEXUAL ASSAULT VICTIMS—EMERGENCY CARE
EFFECTIVE DATE: 6/13/02
Passed by the Senate February 16, 2002
YEAS 36 NAYS 13

BRAD OWEN
President of the Senate

Passed by the House March 6, 2002
YEAS 75 NAYS 19

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is
SUBSTITUTE SENATE BILL 6537 as passed by the Senate and the House of Representatives on the dates hereon set forth.

FRANK CHOPP, **Speaker of the House of Representatives**
TONY M. COOK **Secretary**

Approved March 26, 2002 FILED
March 26, 2002 - 8:50 a.m.
GARY LOCKE
Governor of the State of Washington
Secretary of State
State of Washington

SUBSTITUTE SENATE BILL 6537

Passed Legislature - 2002 Regular Session
State of Washington 57th Legislature 2002 Regular Session
By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Costa, Winsley, Kohl-Welles, Thibaudeau, Fairley, Kline, Jacobsen, Prentice, B. Sheldon and Keiser)
READ FIRST TIME 02/08/2002.

AN ACT Relating to emergency care for victims of sexual assault; 1) amending RCW 70.41.020; adding new sections to chapter 70.41 RCW; and 2) creating a new section. 3)
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON: 4
NEW SECTION. **Sec. 1.** (1) The legislature finds that:
(a) Each year, over three hundred thousand women are sexually assaulted in the United States;
(b) Nationally, over thirty-two thousand women become pregnant each year as a result of sexual assault. Approximately fifty percent of these pregnancies end in abortion; (c) Approximately thirty-eight percent of women in Washington are sexually assaulted over the course of their

lifetime. This is twenty percent more than the national average; (d) Only fifteen percent of sexual assaults in Washington are reported; however, even the numbers of reported attacks are staggering. For example, last year, two thousand six hundred fifty-nine rapes were reported in Washington, this is more than seven rapes per day.

- (2) The legislature deems it essential that all hospital emergency rooms provide emergency contraception as a treatment option to any woman who seeks treatment as a result of a sexual assault.

Sec. 2. RCW 70.41.020 and 1991 c 3 s 334 are each amended to read as follows:

Unless the context clearly indicates otherwise, the following terms, whenever used in this chapter, shall be deemed to have the following meanings:

- (1) "Department" means the Washington state department of health.
- (2) "Emergency care to victims of sexual assault" means medical examinations, procedures, and services provided by a hospital emergency room to a victim of sexual assault following an alleged sexual assault.
- (3) "Emergency contraception" means any health care treatment approved by the food and drug administration that prevents pregnancy, including but not limited to administering two increased doses of certain oral contraceptive pills within seventy-two hours of sexual contact.
- (4) "Hospital" means any institution, place, building, or agency which provides accommodations, facilities and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care, of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this chapter does not include hotels, or similar places furnishing only food and lodging, or simply domiciliary care; nor does it include clinics, or physician's offices where patients are not regularly kept as bed patients for twenty-four hours or more; nor does it include nursing homes, as defined and which come within the scope of chapter 18.51 RCW; nor does it include ((maternity homes)) birthing centers, which come within the scope of chapter 18.46 RCW; nor does it include psychiatric hospitals, which come within the scope of chapter 71.12 RCW; nor any other hospital, or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental condition. Furthermore, nothing in this chapter or the rules adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denominations.
- (5) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.
- (6) "Secretary" means the secretary of health.
- (7) "Sexual assault" has the same meaning as in RCW 70.125.030.
- (8) "Victim of sexual assault" means a person who alleges or is alleged to have been sexually assaulted and who presents as a patient.

Sec. 3. A new section is added to chapter 70.41 RCW 13 to read as follows:

- (1) Every hospital providing emergency care to a victim of sexual assault shall:
 - (a) Provide the victim with medically and factually accurate and unbiased written and oral information about emergency contraception;
 - (b) Orally inform each victim of sexual assault of her option to be provided emergency contraception at the hospital; and
 - (c) If not medically contraindicated, provide emergency contraception immediately at the hospital to each victim of sexual assault who requests it.
- (2) The secretary, in collaboration with community sexual assault programs and other relevant

stakeholders, shall develop, prepare, and produce informational materials relating to emergency contraception for the prevention of pregnancy in rape victims for distribution to and use in all emergency rooms in the state, in quantities sufficient to comply with the requirements of this section. The secretary, in collaboration with community sexual assault programs and other relevant stakeholders, may also approve informational materials from other sources for the purposes of this section. The informational materials must be clearly written and readily comprehensible in a culturally competent manner, as the secretary, in collaboration with community sexual assault programs and other relevant stakeholders, deems necessary to inform victims of sexual assault. The materials must explain the nature of emergency contraception, including that it is effective in preventing pregnancy, treatment options, and where they can be obtained.

(3) The secretary shall adopt rules necessary to implement this section. 2

Sec. 4. A new section is added to chapter 70.41 RCW 3 to read as follows:

The department must respond to complaints of violations of section 3 of this act. The department shall convene a task force, composed of representatives from community sexual assault programs and other relevant stakeholders including advocacy agencies, medical agencies, and hospital associations, to provide input into the development and evaluation of the education materials and rule development. The task force shall expire on January 1, 2004.

Passed the Senate February 16, 2002.

Passed the House March 6, 2002.

Approved by the Governor March 26, 2002.

State of California

Filed in Office of Secretary of State March 26, 2002.

BILL NUMBER: AB 1860 CHAPTERED
BILL TEXT

CHAPTER 382

FILED WITH SECRETARY OF STATE SEPTEMBER 6, 2002

APPROVED BY GOVERNOR SEPTEMBER 5, 2002

PASSED THE ASSEMBLY AUGUST 12, 2002

PASSED THE SENATE AUGUST 8, 2002

AMENDED IN SENATE JUNE 17, 2002

AMENDED IN SENATE MAY 28, 2002

AMENDED IN ASSEMBLY APRIL 11, 2002

INTRODUCED BY Assembly Member Migden

(Coauthors: Assembly Members Alquist, Frommer, Jackson, and Koretz)

JANUARY 31, 2002

An act to amend Section 13823.11 of the Penal Code, relating to sexual assault victims.

LEGISLATIVE COUNSEL'S DIGEST

AB 1860, Migden. Sexual assault victim: pregnancy counseling:
emergency contraception.

Existing law sets forth minimum standards for the examination and treatment of victims of sexual assault, including the taking of a baseline gonorrhea culture, a syphilis serology, and specimens for a pregnancy test, if indicated by the history of contact.

This bill would provide, in addition, that where indicated by the history of contact, a female victim of sexual assault shall be provided with the option of postcoital contraception by a physician or other health care provider, and postcoital contraception shall be dispensed by a physician or other health care provider upon the request of the victim.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 13823.11 of the Penal Code is amended to read:

13823.11. The minimum standards for the examination and treatment of victims of sexual assault or attempted sexual assault, including child molestation and the collection and preservation of evidence therefrom include all of the following:

- (a) Law enforcement authorities shall be notified.
- (b) In conducting the physical examination, the outline indicated in the form adopted pursuant to subdivision (c) of Section 13823.5 shall be followed.
- (c) Consent for a physical examination, treatment, and collection of evidence shall be obtained.
 - (1) Consent to an examination for evidence of sexual assault shall be obtained prior to the examination of a victim of sexual assault and shall include separate written documentation of consent to each of the following:

- (A) Examination for the presence of injuries sustained as a result of the assault.
- (B) Examination for evidence of sexual assault and collection of physical evidence.
- (C) Photographs of injuries.
- (2) Consent to treatment shall be obtained in accordance with usual hospital policy.
- (3) A victim of sexual assault shall be informed that he or she may refuse to consent to an examination for evidence of sexual assault, including the collection of physical evidence, but that a refusal is not a ground for denial of treatment of injuries and for possible pregnancy and sexually transmitted diseases, if the person wishes to obtain treatment and consents thereto.
- (4) Pursuant to Chapter 3 (commencing with Section 6920) of Part 4 of Division 11 of the Family Code, a minor may consent to hospital, medical, and surgical care related to a sexual assault without the consent of a parent or guardian.
- (5) In cases of known or suspected child abuse, the consent of the parents or legal guardian is not required. In the case of suspected child abuse and nonconsenting parents, the consent of the local agency providing child protective services or the local law enforcement agency shall be obtained. Local procedures regarding obtaining consent for the examination and treatment of, and the collection of evidence from, children from child protective authorities shall be followed.
- (d) A history of sexual assault shall be taken.
The history obtained in conjunction with the examination for evidence of sexual assault shall follow the outline of the form established pursuant to subdivision (c) of Section 13823.5 and shall include all of the following:
 - (1) A history of the circumstances of the assault.
 - (2) For a child, any previous history of child sexual abuse and an explanation of injuries, if different from that given by parent or person accompanying the child.
 - (3) Physical injuries reported.
 - (4) Sexual acts reported, whether or not ejaculation is suspected, and whether or not a condom or lubricant was used.
 - (5) Record of relevant medical history.
- (e) (1) If indicated by the history of contact, a female victim of sexual assault shall be provided with the option of postcoital contraception by a physician or other health care provider.
(2) Postcoital contraception shall be dispensed by a physician or other health care provider upon the request of the victim.
- (f) Each adult and minor victim of sexual assault who consents to a medical examination for collection of evidentiary material shall have a physical examination which includes, but is not limited to, all of the following:
 - (1) Inspection of the clothing, body, and external genitalia for injuries and foreign materials.
 - (2) Examination of the mouth, vagina, cervix, penis, anus, and rectum, as indicated.
 - (3) Documentation of injuries and evidence collected.
Prepubertal children shall not have internal vaginal or anal examinations unless absolutely necessary (this does not preclude careful collection of evidence using a swab).
- (g) The collection of physical evidence shall conform to the following procedures:
 - (1) Each victim of sexual assault who consents to an examination for collection of evidence shall have the following items of evidence collected, except where he or she specifically objects:
 - (A) Clothing worn during assault.
 - (B) Foreign materials revealed by an examination of the clothing, body, external genitalia, and pubic hair combings.
 - (C) Swabs and slides from the mouth, vagina, rectum, and penis, as indicated, to determine the presence or absence of sperm and sperm motility, and for genetic marker typing.
 - (2) Each victim of sexual assault who consents to an examination for the collection of evidence shall have reference specimens taken, except when he or she specifically objects thereto. A reference specimen is a standard from which to obtain baseline information (for example: pubic and head

hair, blood, and saliva for genetic marker typing). These specimens shall be taken in accordance with the standards of the local criminalistics laboratory.

- (3) A baseline gonorrhea culture, and syphilis serology, shall be taken, if indicated by the history of contact. Specimens for a pregnancy test shall be taken, if indicated by the history of contact.
- (4) (A) If indicated by the history of contact, a female victim of sexual assault shall be provided with the option of postcoital contraception by a physician or other health care provider.
- (B) Postcoital contraception shall be dispensed by a physician or other health care provider upon the request of the victim.
- (h) Preservation and disposition of physical evidence shall conform to the following procedures:
 - (1) All swabs and slides shall be air-dried prior to packaging.
 - (2) All items of evidence including laboratory specimens shall be clearly labeled as to the identity of the source and the identity of the person collecting them.
 - (3) The evidence shall have a form attached which documents its chain of custody and shall be properly sealed.
 - (4) The evidence shall be turned over to the proper law enforcement agency.

AN ACT RELATING TO HEALTH CARE; ENACTING THE SEXUAL ASSAULT SURVIVORS EMERGENCY CARE ACT; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. **SHORT TITLE.**—This act may be cited as the “Sexual Assault Survivors Emergency Care Act”.

Section 2. **DEFINITIONS.**—As used in the Sexual Assault Survivors Emergency Care Act:

- A. “department” means the department of health;
- B. “emergency care for sexual assault survivors” means medical examinations, procedures and services provided by a hospital to a sexual assault survivor following an alleged sexual assault;
- C. “emergency contraception” means a drug approved by the federal food and drug administration that prevents pregnancy after sexual intercourse;
- D. “hospital” means a facility providing emergency or urgent health care;
- E. “medically and factually accurate and objective” means verified or supported by the weight of research conducted in compliance with accepted scientific methods and standards; published in peer-reviewed journals; and recognized as accurate and objective by leading professional organizations and agencies with relevant expertise in the field of obstetrics and gynecology, such as the American college of obstetricians and gynecologists;
- F. “sexual assault” means the crime of criminal sexual penetration; and
- G. “sexual assault survivor” means a female who alleges or is alleged to have been sexually assaulted and who presents as a patient to a hospital.

Section 3. **EMERGENCY CARE FOR SEXUAL ASSAULT SURVIVORS—STANDARD OF CARE.**—

- A. A hospital that provides emergency care for sexual assault survivors shall:
 - (1) provide each sexual assault survivor with medically and factually accurate and objective written and oral information about emergency contraception;
 - (2) orally and in writing inform each sexual assault survivor of her option to be provided emergency contraception at the hospital; and
 - (3) provide emergency contraception at the hospital to each sexual assault survivor who requests it.
- B. The provision of emergency contraception pills shall include the initial dose that the sexual assault survivor can take at the hospital as well as the subsequent dose that the sexual assault survivor may self-administer twelve hours following the initial dose.

Section 4. **TRAINING.**—No later than September 30, 2003:

- A. a hospital shall ensure that all personnel who provide care to sexual assault survivors are trained to provide medically and factually accurate and objective information about emergency contraception; and
- B. the department shall adopt rules regulating the training to be provided by hospitals pursuant to the Sexual Assault Survivors Emergency Care Act to personnel who provide emergency care for sexual assault survivors.

Section 5. **ENFORCEMENT—ADMINISTRATIVE FINES.**—

- A. Complaints of failure to provide services required by the Sexual Assault Survivors Emergency Care Act may be filed with the department.
- B. The department shall immediately investigate every complaint it receives regarding failure of a hospital to provide services required by the Sexual Assault Survivors Emergency Care Act to determine the action to be taken to satisfy the complaint.
- C. The department shall compile all complaints it receives regarding failure to provide services required by the Sexual Assault Survivors Emergency Care Act and shall retain the complaints for at least ten years so that they can be analyzed for patterns of failure to provide services pursuant to that act.

- D. If the department determines that a hospital has failed to provide the services required in the Sexual Assault Survivors Emergency Care Act, the department shall:
- (1) issue a written warning to the hospital upon receipt of a complaint that the hospital is not providing the services required by the Sexual Assault Survivors Emergency Care Act; and
 - (2) based on the department's investigation of the first complaint, require the hospital to correct the deficiency leading to the complaint.
- E. If after the issuance of a written warning to the hospital pursuant to Subsection D of this section, the department finds that the hospital has failed to provide services required by the Sexual Assault Survivors Emergency Care Act, the department shall, for a second through fifth complaint, impose on the hospital a fine of one thousand dollars (\$1,000):
- (1) per sexual assault survivor who is found by the department to have been denied medically and factually accurate and objective information about emergency contraception or who is not offered or provided emergency contraception; or
 - (2) per month from the date of the complaint alleging noncompliance until the hospital provides training pursuant to the rules of the department.
- F. For the sixth and subsequent complaint against the same hospital if the department finds the hospital has failed to provide services required by the Sexual Assault Survivors Emergency Care Act, the department shall impose an intermediate sanction pursuant to Section 24-1-5.2 NMSA 1978 or suspend or revoke the license of the hospital issued pursuant to the Public Health Act.
- Section 6. SEVERABILITY.—If any part or application of the Sexual Assault Survivors Emergency Care Act is held invalid, the remainder of its application to other situations or persons shall not be affected.

HJC/HB 119

H. R. 2527

To provide for the provision by hospitals of emergency contraceptives to women who are survivors of sexual assault.

IN THE HOUSE OF REPRESENTATIVES

June 19, 2003

Mr. GREENWOOD (for himself, Mr. ROTHMAN, Mrs. JOHNSON of Connecticut, Ms. DEGETTE, Ms. SLAUGHTER, Mr. PALLONE, Mr. OLVER, Mrs. DAVIS of California, Mr. ABERCROMBIE, Mr. EVANS, Mr. GEORGE MILLER of California, Ms. CORRINE BROWN of Florida, Ms. LEE, Mr. INSLEE, Mr. CASE, Mr. WAXMAN, Mr. TIERNEY, Mr. BACA, Mrs. JONES of Ohio, Mr. BLUMENAUER, Mr. LARSON of Connecticut, Mr. NADLER, Mr. DINGELL, Mr. MCDERMOTT, Mr. BROWN of Ohio, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. HARMAN, Ms. LOFGREN, Mr. MATSUI, Mr. BRADY of Pennsylvania, Ms. DELAURO, Mr. STARK, Mr. FALEOMAVAEGA, Mr. GRIJALVA, Ms. BERKLEY, Ms. CARSON of Indiana, Mr. FARR, Mr. JACKSON of Illinois, Mr. OWENS, Mrs. MALONEY, Mr. SANDERS, Mr. WU, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the provision by hospitals of emergency contraceptives to women who are survivors of sexual assault.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Compassionate Assistance for Rape Emergencies Act'.

SEC. 2. FINDINGS.

The Congress finds as follows:

- (1) It is estimated that 25,000 to 32,000 women become pregnant each year as a result of rape or incest. An estimated 22,000 of these pregnancies could be prevented if rape survivors had timely access to emergency contraception.
- (2) A 1996 study of rape-related pregnancies (published in the American Journal of Obstetrics and Gynecology) found that 50 percent of the pregnancies described in paragraph (1) ended in abortion.
- (3) Surveys have shown that many hospitals do not routinely provide emergency contraception to women seeking treatment after being sexually assaulted.
- (4) The risk of pregnancy after sexual assault has been estimated to be 4.7 percent in survivors who were not protected by some form of contraception at the time of the attack.
- (5) The Food and Drug Administration has declared emergency contraception to be safe and effective in preventing unintended pregnancy, reducing the risk by as much as 89 percent.
- (6) Medical research strongly indicates that the sooner emergency contraception is administered, the greater the likelihood of preventing unintended pregnancy.
- (7) In light of the safety and effectiveness of emergency contraceptive pills, both the American Medical Association and the American College of Obstetricians and Gynecologists have endorsed more widespread availability of such pills.

- (8) The American College of Emergency Physicians and the American College of Obstetricians and Gynecologists agree that offering emergency contraception to female patients after a sexual assault should be considered the standard of care.
- (9) Nine out of ten women of reproductive age remain unaware of emergency contraception. Therefore, women who have been sexually assaulted are unlikely to ask for emergency contraception.
- (10) New data from a survey of women having abortions estimates that 51,000 abortions were prevented by use of emergency contraception in 2000 and that increased use of emergency contraception accounted for 43 percent of the decrease in total abortions between 1994 and 2000.
- (11) It is essential that all hospitals that provide emergency medical treatment provide emergency contraception as a treatment option to any woman who has been sexually assaulted, so that she may prevent an unintended pregnancy.

SEC. 3. SURVIVORS OF SEXUAL ASSAULT; PROVISION BY HOSPITALS OF EMERGENCY CONTRACEPTIVES WITHOUT CHARGE.

(a) IN GENERAL- Federal funds may not be provided to a hospital under any health-related program, unless the hospital meets the conditions specified in subsection (b) in the case of--

- (1) any woman who presents at the hospital and states that she is a victim of sexual assault, or is accompanied by someone who states she is a victim of sexual assault; and
- (2) any woman who presents at the hospital whom hospital personnel have reason to believe is a victim of sexual assault.

(b) ASSISTANCE FOR VICTIMS- The conditions specified in this subsection regarding a hospital and a woman described in subsection (a) are as follows:

- (1) The hospital promptly provides the woman with medically and factually accurate and unbiased written and oral information about emergency contraception, including information explaining that--
 - (A) emergency contraception does not cause an abortion; and
 - (B) emergency contraception is effective in most cases in preventing pregnancy after unprotected sex.
- (2) The hospital promptly offers emergency contraception to the woman, and promptly provides such contraception to her on her request.
- (3) The information provided pursuant to paragraph (1) is in clear and concise language, is readily comprehensible, and meets such conditions regarding the provision of the information in languages other than English as the Secretary may establish.
- (4) The services described in paragraphs (1) through (3) are not denied because of the inability of the woman or her family to pay for the services.

(c) DEFINITIONS- For purposes of this section:

- (1) The term 'emergency contraception' means a drug, drug regimen, or device that is--
 - (A) used postcoitally;
 - (B) prevents pregnancy by delaying ovulation, preventing fertilization of an egg, or preventing implantation of an egg in a uterus; and
 - (C) is approved by the Food and Drug Administration.
- (2) The term 'hospital' has the meanings given such term in title XVIII of the Social Security Act, including the meaning applicable in such title for purposes of making payments for emergency services to hospitals that do not have agreements in effect under such title.
- (3) The term 'Secretary' means the Secretary of Health and Human Services.
- (4) The term 'sexual assault' means coitus in which the woman involved does not consent or lacks the legal capacity to consent.

(d) EFFECTIVE DATE; AGENCY CRITERIA - This section takes effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act. Not later than 30 days prior to the expiration of such period, the Secretary shall publish in the Federal Register criteria for carrying out this section.