



MAKING EMERGENCY CONTRACEPTION AVAILABLE IN EMERGENCY ROOMS

Surveys show that women have difficulty learning about and obtaining emergency contraception (EC). Mandating that emergency rooms inform women about EC and dispense EC upon request is an important step towards addressing this need.

Several states have enacted legislation requiring that emergency rooms inform sexual assault survivors about EC and dispense EC upon request. This is an important step in improving access. However, emergency rooms should provide EC as a standard of care to *all* women, not just sexual assault survivors. In drafting legislation, consider language that would mandate provision of information and EC to all women who wish to prevent unwanted pregnancy.

Packet Contents Include:

- 1) New Mexico bill (H 119), enacted 2003*
- 2) Washington bill (S 6537), enacted 2002*
- 3) California bill (A 1860), enacted 2002*
- 4) Model legislation*

* Note: These bills focus on the provision of EC for sexual assault survivors, not all women.

Strategy Points:

- 1) No exemptions: Do not include a refusal clause (or so-called “conscience clause”) in your introduced bill, and do not allow one to be added during the legislative process.
- 2) Framing issue: If your bill focuses on sexual assault survivors only, consider framing the bill as a criminal justice issue/victim’s rights issue rather than as a reproductive rights issue, as this may enable you to form broader coalitions and reduce opposition from anti-choice groups or the Catholic church.
- 3) Possible coalition partners: women’s rights organizations, civil liberties groups, health care groups, church organizations (and law enforcement and sexual assault organizations, if the bill focuses on sexual assault survivors only).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 119

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Mimi Stewart

AN ACT

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

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. LEGISLATIVE FINDINGS.--

**A. One out of every five women in the United States
has been sexually assaulted.**

**B. Each year over three hundred thousand women are
sexually assaulted in the United States.**

**C. A woman is sexually assaulted every six minutes
in the United States.**

D. New Mexico ranks high when compared with other

1 states in the number of sexual assaults reported each year.

2 E. After a woman is sexually assaulted, she may
3 face the additional trauma of an unwanted pregnancy by the
4 rapist.

5 F. Each year over thirty-two thousand women become
6 pregnant as a result of sexual assault and approximately fifty
7 percent of those pregnancies end in abortion.

8 G. Emergency contraception, approved for use by the
9 federal drug administration, prevents pregnancy after
10 unprotected intercourse.

11 H. Emergency contraception cannot and does not
12 cause abortion.

13 I. Emergency contraception pills are the most
14 commonly used method of emergency contraception and are similar
15 to ordinary birth control pills.

16 J. Emergency contraception pills are as much as
17 eighty-nine percent effective in reducing the risk of pregnancy
18 following unprotected intercourse.

19 K. Delaying the first dose of emergency
20 contraception pills by twelve hours increases the odds of
21 pregnancy by almost fifty percent.

22 L. Standards of emergency care established by the
23 American medical association require that sexual assault
24 survivors be counseled about their risk of pregnancy and
25 offered emergency contraception.

underscored material = new
[bracketed material] = del etc

1 M Most New Mexico hospitals do not have a clear
2 policy on offering emergency contraception to sexual assault
3 survivors and, therefore, few hospitals require staff to inform
4 sexual assault survivors of the availability of emergency
5 contraception pills.

6 N. Most women of reproductive age do not know about
7 emergency contraception and, therefore, cannot ask for it.
8 Surveys show that only eleven percent of women of reproductive
9 age in the United States have heard of emergency contraception,
10 and fewer still are aware that treatment must begin within
11 seventy-two hours of a sexual assault.

12 Section 3. DEFINITIONS.--As used in the Sexual Assault
13 Survivors Emergency Care Act:

14 A. "department" means the department of health;

15 B. "emergency care for sexual assault survivors"
16 means medical examinations, procedures and services provided by
17 a hospital to a sexual assault survivor following an alleged
18 sexual assault;

19 C. "emergency contraception" means a drug or device
20 approved by the federal drug administration that prevents
21 pregnancy after sexual intercourse;

22 D. "hospital" means a facility providing emergency
23 or urgent health care;

24 E. "medically and factually accurate and objective"
25 means verified or supported by the weight of research conducted

underscored material = new
[bracketed material] = delete

1 in compliance with accepted scientific methods and standards;
2 published in peer-reviewed journals; and recognized as accurate
3 and objective by leading professional organizations and
4 agencies with relevant expertise in the field of obstetrics and
5 gynecology, such as the American college of obstetricians and
6 gynecologists;

7 F. "sexual assault" means the crime of criminal
8 sexual penetration; and

9 G. "sexual assault survivor" means a female who
10 alleges or is alleged to have been sexually assaulted and who
11 presents as a patient to a hospital.

12 Section 4. EMERGENCY CARE FOR SEXUAL ASSAULT SURVIVORS--
13 STANDARD OF CARE. --

14 A. The standard of care for a hospital that
15 provides emergency care for sexual assault survivors shall be
16 to:

17 (1) provide each sexual assault survivor with
18 medically and factually accurate and objective written and oral
19 information about emergency contraception;

20 (2) orally inform each sexual assault survivor
21 of her option to be provided emergency contraception at the
22 hospital; and

23 (3) provide emergency contraception
24 immediately at the hospital to each sexual assault survivor who
25 requests it.

underscored material = new
[bracketed material] = del etc

1 B. The provision of emergency contraception shall
2 include the initial dose that the sexual assault survivor can
3 take at the hospital as well as the subsequent dose that the
4 sexual assault survivor may self-administer twelve hours
5 following the initial dose.

6 Section 5. TRAINING.--A hospital shall ensure that all
7 personnel who provide care to sexual assault survivors are
8 trained to provide medically and factually accurate and
9 objective information about emergency contraception.

10 Section 6. ENFORCEMENT-- ADMINISTRATIVE FINES. --

11 A. Complaints of failure to provide services
12 required by the Sexual Assault Survivors Emergency Care Act may
13 be filed with the department.

14 B. The department shall immediately investigate
15 every complaint it receives regarding failure of a hospital to
16 provide services required by the Sexual Assault Survivors
17 Emergency Care Act to determine the action to be taken to
18 satisfy the complaint.

19 C. The department shall compile all complaints it
20 receives regarding failure to provide services required by the
21 Sexual Assault Survivors Emergency Care Act and shall retain
22 the complaints for at least ten years so that they can be
23 analyzed for patterns of failure to provide services pursuant
24 to that act.

25 D. If the department determines that a hospital is

underscored material = new
[bracketed material] = delete

1 not providing the services required in the Sexual Assault
2 Survivors Emergency Care Act, the department shall:

3 (1) impose on the hospital a fine of five
4 thousand dollars (\$5,000) per sexual assault survivor who is
5 denied medically and factually accurate and objective
6 information about emergency contraception or who is not offered
7 or provided emergency contraception;

8 (2) impose on the hospital a fine of five
9 thousand dollars (\$5,000) for each month that the hospital
10 provides emergency services following the effective date of the
11 Sexual Assault Survivors Emergency Care Act if the department,
12 after investigating a complaint, determines that the hospital
13 has failed to train hospital personnel to provide medically and
14 factually accurate and objective information regarding the
15 availability and effectiveness of emergency contraception; and

16 (3) after a fine has been imposed for a second
17 time pursuant to either Paragraph (1) or (2) of this
18 subsection, suspend or revoke the license issued by the
19 department pursuant to the Public Health Act or impose an
20 intermediate sanction after providing notice to the hospital
21 and affording the hospital an opportunity for a hearing to be
22 held pursuant to the provisions of the Public Health Act and
23 rules of the department.

24 Section 7. SEVERABILITY.--If any part or application of
25 the Sexual Assault Survivors Emergency Care Act is held

. 142217. 2

1 invalid, the remainder of its application to other situations
2 or persons shall not be affected.

3 Section 8. EMERGENCY.--It is necessary for the public
4 peace, health and safety that this act take effect immediately.

5 - 7 -
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6537

57th Legislature
2002 Regular Session

Passed by the Senate February 16, 2002
YEAS 36 NAYS 13

President of the Senate

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

**Speaker of the
House of Representatives**

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.

Secretary

Approved

FILED

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.

1 AN ACT Relating to emergency care for victims of sexual assault;
2 amending RCW 70.41.020; adding new sections to chapter 70.41 RCW; and
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Each year, over three hundred thousand women are sexually
7 assaulted in the United States;

8 (b) Nationally, over thirty-two thousand women become pregnant each
9 year as a result of sexual assault. Approximately fifty percent of
10 these pregnancies end in abortion;

11 (c) Approximately thirty-eight percent of women in Washington are
12 sexually assaulted over the course of their lifetime. This is twenty
13 percent more than the national average;

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

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

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

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

9 (1) "Department" means the Washington state department of
10 health((~~+~~)).

11 (2) "Emergency care to victims of sexual assault" means medical
12 examinations, procedures, and services provided by a hospital emergency
13 room to a victim of sexual assault following an alleged sexual assault.

14 (3) "Emergency contraception" means any health care treatment
15 approved by the food and drug administration that prevents pregnancy,
16 including but not limited to administering two increased doses of
17 certain oral contraceptive pills within seventy-two hours of sexual
18 contact.

19 (4) "Hospital" means any institution, place, building, or agency
20 which provides accommodations, facilities and services over a
21 continuous period of twenty-four hours or more, for observation,
22 diagnosis, or care, of two or more individuals not related to the
23 operator who are suffering from illness, injury, deformity, or
24 abnormality, or from any other condition for which obstetrical,
25 medical, or surgical services would be appropriate for care or
26 diagnosis. "Hospital" as used in this chapter does not include hotels,
27 or similar places furnishing only food and lodging, or simply
28 domiciliary care; nor does it include clinics, or physician's offices
29 where patients are not regularly kept as bed patients for twenty-four
30 hours or more; nor does it include nursing homes, as defined and which
31 come within the scope of chapter 18.51 RCW; nor does it include
32 ((~~maternity homes~~)) birthing centers, which come within the scope of
33 chapter 18.46 RCW; nor does it include psychiatric hospitals, which
34 come within the scope of chapter 71.12 RCW; nor any other hospital, or
35 institution specifically intended for use in the diagnosis and care of
36 those suffering from mental illness, mental retardation, convulsive
37 disorders, or other abnormal mental condition. Furthermore, nothing in
38 this chapter or the rules adopted pursuant thereto shall be construed

1 as authorizing the supervision, regulation, or control of the remedial
2 care or treatment of residents or patients in any hospital conducted
3 for those who rely primarily upon treatment by prayer or spiritual
4 means in accordance with the creed or tenets of any well recognized
5 church or religious denominations((+)).

6 ((+3+)) (5) "Person" means any individual, firm, partnership,
7 corporation, company, association, or joint stock association, and the
8 legal successor thereof.

9 (6) "Secretary" means the secretary of health.

10 (7) "Sexual assault" has the same meaning as in RCW 70.125.030.

11 (8) "Victim of sexual assault" means a person who alleges or is
12 alleged to have been sexually assaulted and who presents as a patient.

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

15 (1) Every hospital providing emergency care to a victim of sexual
16 assault shall:

17 (a) Provide the victim with medically and factually accurate and
18 unbiased written and oral information about emergency contraception;

19 (b) Orally inform each victim of sexual assault of her option to be
20 provided emergency contraception at the hospital; and

21 (c) If not medically contraindicated, provide emergency
22 contraception immediately at the hospital to each victim of sexual
23 assault who requests it.

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

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

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

5 The department must respond to complaints of violations of section
6 3 of this act. The department shall convene a task force, composed of
7 representatives from community sexual assault programs and other
8 relevant stakeholders including advocacy agencies, medical agencies,
9 and hospital associations, to provide input into the development and
10 evaluation of the education materials and rule development. The task
11 force shall expire on January 1, 2004.

--- END ---

Assembly Bill No. 1860

CHAPTER 382

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

[Approved by Governor September 5, 2002. Filed with Secretary of State September 6, 2002.]

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.





NARAL
Pro-Choice America Foundation

**MODEL LEGISLATION* TO GUARANTEE SEXUAL ASSAULT VICTIMS
ACCESS TO EMERGENCY CONTRACEPTION IN HOSPITAL
EMERGENCY DEPARTMENTSⁱ**

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 sex.
- 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

- A. 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.
- B. 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; and
 - 3. Explain the nature of emergency contraception, including its use, safety, efficacy, and availability, and that it does not cause abortion.

SECTION 7: ENFORCEMENT

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].

ⁱ *Before 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.*

ⁱⁱ *The 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.*

ⁱⁱⁱ *State-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.*

^v *In 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.*

April 2003

* Drafted with the assistance of a pro-choice coalition, including the Center for Reproductive Rights