

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 961*

Short Title: Compassionate Care/Victims of Sexual Assault. (Public)

Sponsors: Representatives Faison, Earle, Howard, Harrison (Primary Sponsors); Adams, Alexander, Allen, Allred, Barnhart, Bell, Bordsen, Braxton, Brisson, Bryant, Carney, Coates, Cole, Coleman, Cunningham, Dickson, England, Farmer-Butterfield, Fisher, Glazier, Goforth, Goodwin, Haire, Hall, T. Harrell, J. Harrell, Hill, Holliman, Insko, Jeffus, Love, Luebke, Martin, McAllister, McLawhorn, Owens, Parmon, Ross, Saunders, Sutton, Tucker, Underhill, Wainwright, E. Warren, Weiss, Williams, Womble, and Wray.

Referred to: Health, if favorable, Judiciary III.

March 22, 2007

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE HOSPITALS AND URGENT CARE FACILITIES THAT
2 PROVIDE EMERGENCY CARE TO VICTIMS OF SEXUAL ASSAULT TO
3 OFFER EMERGENCY CONTRACEPTION PILLS TO THOSE VICTIMS.
4

5 Whereas, it is estimated that from 25,000 to 32,000 women become pregnant
6 each year as a result of rape or incest; and

7 Whereas, surveys have shown that many hospitals do not routinely offer
8 emergency contraception to women seeking treatment after being sexually assaulted;
9 and

10 Whereas, the risk of pregnancy after sexual assault has been estimated to be
11 4.7% in victims who were not protected by some form of contraception at the time of
12 the attack; and

13 Whereas, the United States Food and Drug Administration has declared
14 emergency contraception to be safe and effective in preventing unintended pregnancy
15 and has approved over-the-counter access to the emergency contraceptive Plan B for
16 women ages 18 and over; and

17 Whereas, emergency contraception can reduce the risk of pregnancy by as
18 much as 89% if taken within 72 hours of unprotected sex or primary contraceptive
19 failure; and

20 Whereas, medical research strongly indicates that the sooner emergency
21 contraception is administered, the greater the likelihood of preventing unintended

1 pregnancy, and it is most effective if administered in the first 12 hours after unprotected
2 intercourse; and

3 Whereas, in light of the safety and effectiveness of emergency contraceptive
4 pills, both the American Medical Association and the American College of
5 Obstetricians and Gynecologists have endorsed more widespread availability of
6 emergency contraceptives; and

7 Whereas, it is essential that all hospitals and urgent care facilities that provide
8 emergency medical treatment also offer emergency contraception as a treatment option
9 to any woman who has been sexually assaulted so that she may prevent an unintended
10 pregnancy; Now, therefore,

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** Part 3A of Article 11 of Chapter 143B of the General Statutes
13 is amended by adding a new section to read:

14 **"§ 143B-480.4. Emergency care for victims of sexual assault; definitions.**

15 (a) Every hospital and urgent care facility in this State that provides emergency
16 care for victims of sexual assault shall as the standard of care do the following:

17 (1) Provide the sexual assault victim with medically and factually accurate
18 and objective written and oral information about emergency
19 contraception, including information explaining that:

20 a. Emergency contraception does not cause abortion, and

21 b. Emergency contraception is effective in most cases in
22 preventing pregnancy after unprotected sexual intercourse.

23 (2) Provide the sexual assault victim with oral and written information
24 about her option to be provided emergency contraception at the
25 hospital or urgent care facility.

26 (3) Provide emergency contraception at the hospital or urgent care facility
27 to each sexual assault victim who requests it, unless in the opinion of
28 the attending physician or other health care provider, the emergency
29 contraception is contraindicated for the patient.

30 A hospital or urgent care facility may not refuse to provide emergency contraception
31 on the basis of the sexual assault victim's inability to pay for the emergency
32 contraception.

33 (b) The provision of emergency contraceptive pills shall include the initial dose
34 that the sexual assault victim can take at the hospital or urgent care facility as well as
35 the additional or follow-up dose that the sexual assault victim may self-administer.

36 (c) Hospitals and urgent care facilities shall ensure that all personnel providing
37 care to sexual assault victims are trained to provide medically and factually accurate and
38 objective information about emergency contraception.

39 (d) The Department of Health and Human Services, in collaboration with the
40 Director of the Office of Women's Health, the North Carolina Coalition Against Sexual
41 Assault, and the Sexual Assault Nurse Examiner program, shall develop and produce, in
42 quantities sufficient to comply with the purposes of this act, written information relating
43 to emergency contraception for the prevention of pregnancy in sexual assault victims.

1 The information shall be clearly written and readily comprehensible in a culturally
2 competent manner, as the Department of Health and Human Services, in collaboration
3 with the Director of the Office of Women's Health, the North Carolina Coalition
4 Against Sexual Assault, and the Sexual Assault Nurse Examiner program, deems
5 necessary to inform a sexual assault victim about emergency contraception. The
6 information shall explain the nature of emergency contraception, the effectiveness of
7 emergency contraception in preventing pregnancy, where emergency contraception can
8 be obtained, and treatment options.

9 (e) As provided in G.S. 143B-480.2(d), the hospital may be reimbursed in full for
10 the cost of providing emergency contraception.

11 (f) With the exception of assistance authorized under subsection (g) of this
12 section, assistance for expenses authorized under this section is to be paid directly to
13 any hospital, ambulance service, attending physicians, or mental health professionals
14 providing counseling, upon the filing of proper forms. Payment for the full
15 out-of-pocket cost of the forensic medical examination shall be paid to the provider no
16 later than 90 days after receiving the required written notification of the victim's
17 expense.

18 (g) An individual may file a complaint with the Department alleging failure on
19 the part of the hospital or urgent care facility to provide services required by this
20 section. The Department shall immediately investigate the complaint to determine the
21 action to be taken. If the Department finds that a hospital failed to provide the services
22 required under this section, the Department shall:

23 (1) Issue a written warning to the hospital or urgent care facility that a
24 complaint has been filed alleging that the hospital or urgent care
25 facility is not providing the services required by this section.

26 (2) Based on the Department's findings, require the hospital to correct the
27 deficiency leading to the complaint.

28 If after issuance of the written warning required by this section, the Department
29 finds that the hospital or urgent care facility has failed to provide services, the
30 Department shall, for the second and subsequent substantiated complaints, impose a
31 penalty on the hospital or urgent care facility in the amount of one thousand dollars
32 (\$1,000) per sexual assault victim who was denied services under this section. Penalties
33 imposed under this section shall be paid to the Department and used by the Department
34 only to defray a part of the costs for providing the information required by subsection
35 (d) of this section.

36 The Department shall adopt rules for the investigation of complaints and imposition
37 of penalties under this section. A hospital or urgent care facility may appeal the
38 Department's finding pursuant to Chapter 150B of the General Statutes.

39 (h) As used in this section, unless the context clearly requires otherwise:

40 (1) "Emergency care" means medical examinations, procedures, and
41 services provided by a hospital or urgent care facility to a sexual
42 assault victim following an alleged sexual assault.

43 (2) "Emergency contraception" means a drug, drug regimen, or device that
44 is:

- 1 a. Approved by the United States Food and Drug Administration
2 to prevent pregnancy; and
3 b. Used postcoitally.
4 (3) "Medically and factually accurate and objective" means verified or
5 supported by the weight of research conducted in compliance with
6 accepted scientific methods and standards; published in peer-reviewed
7 journals; and recognized as accurate and objective by leading
8 professional organizations and agencies with relevant expertise in the
9 field of obstetrics and gynecology, such as the American College of
10 Obstetricians and Gynecologists.
11 (4) "Sexual assault" means the crime of rape or any sexual offense that
12 involves vaginal intercourse.
13 (5) "Sexual assault victim" means:
14 a. Any woman who arrives at the hospital or urgent care facility
15 and alleges that she is the victim of sexual assault, or is
16 accompanied by someone who alleges that she is the victim of
17 sexual assault; and
18 b. Any woman who arrives at a hospital or urgent care facility
19 who the agents of the hospital or urgent care facility personnel
20 have reason to believe is a victim of sexual assault."

21 **SECTION 2.** This act becomes effective October 1, 2007.