



H.B. 587

126th General Assembly
(As Introduced)

Reps. D. Stewart, Skindell, Woodard, Yuko, Redfern, Yates

BILL SUMMARY

- States that it is the standard of care for Ohio hospitals that offer organized emergency services to sexual assault victims to provide each sexual assault victim with information about emergency contraception, orally inform each sexual assault victim of her option to be provided emergency contraception at the hospital, and provide the complete regimen of emergency contraception promptly at the hospital to each sexual assault victim who requests it.
- Requires each Ohio hospital that offers organized emergency services to sexual assault victims to provide medically and factually accurate and objective information regarding emergency contraception to each person who provides care to sexual assault victims at the hospital, under the authority of the hospital, or while affiliated with the hospital.
- Requires the Department of Health to develop, prepare, and produce informational materials relating to emergency contraception for the prevention of pregnancy for distribution to and use in all Ohio hospitals that offer organized emergency services.
- Directs the Department of Health to compile and update a list of drugs and devices approved by the FDA that prevent pregnancy after sexual intercourse.
- Requires the Department of Health to respond to complaints and periodically determine whether hospitals are complying with the bill's provisions regarding emergency contraceptives and requires the Department to impose administrative fines on hospitals that are not in compliance.

CONTENT AND OPERATION

Access to emergency contraception for victims of certain sex offenses

The bill states that it is the standard of care in Ohio for Ohio hospitals that offer organized emergency services to sexual assault victims to do all of the following (R.C. 2907.291(B)):

(1) Provide each sexual assault victim with medically and factually accurate and objective written and oral information about emergency contraception that is prepared by the Department of Health, as described below in "*Duties of the Department of Health*";

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

(3) Provide the complete regimen of emergency contraception promptly at the hospital to each sexual assault victim who requests it.

The bill also requires each Ohio hospital that offers organized emergency services to sexual assault victims to ensure that all of the following persons are provided with medically and factually accurate and objective information about emergency contraception (R.C. 2907.291(C)):

(1) Each person who, at the hospital, provides care to sexual assault victims;

(2) Each person who, under the authority of the hospital, provides care to sexual assault victims at the hospital;

(3) Each person who, while affiliated in any way with the hospital, provides care to sexual assault victims.

Duties of the Department of Health

The bill requires the Department of Health or a contracted designee of the Department to develop, prepare, and produce informational materials relating to emergency contraception for the prevention of pregnancy for distribution to and use in all Ohio hospitals that offer organized emergency services. The Department or designee must produce those informational materials in quantities sufficient to comply with the bill's requirements. It must distribute the materials to all Ohio hospitals that offer organized emergency services. The Director of Health, in collaboration with community sexual assault programs and other relevant stakeholders, also may approve informational materials from other sources for the

bill's purposes. These informational materials must comply with all of the following (R.C. 2907.291(D)):

(1) They must be medically and factually accurate and objective.

(2) They must be clearly written and readily comprehensible in a culturally competent manner, as the Department, in collaboration with community sexual assault programs and other relevant stakeholders, considers necessary to inform victims of sexual assault.

(3) They must explain the nature of emergency contraception, including its use, safety, efficacy, and availability, and that it does not cause abortion.

The bill also requires the Department to compile a list of drugs and devices approved by the FDA that prevent pregnancy after sexual intercourse. The drugs and devices on the list qualify as "emergency contraception" for purposes of the bill. The Department must distribute copies of the list to all Ohio hospitals that offer organized emergency services. The Department also must update the list as often as necessary to add or remove any drugs or devices subsequently approved or disapproved by the FDA.

In addition to any remedies at common law, the Department must respond to complaints and periodically must determine whether hospitals are complying with the bill's requirements discussed above. The Department may use all available investigative tools to verify compliance. If the Department determines that a hospital is not in compliance, the Department must do all of the following that are applicable (R.C. 2907.291(E)):

(1) Impose an administrative fine of \$5,000 on the hospital per woman who is not provided medically and factually accurate and objective information about emergency contraception, who is not informed of her option to be provided emergency contraception at the hospital, or who is not provided emergency contraception at the hospital;

(2) Impose an administrative fine of \$5,000 on the hospital for failure to provide information regarding emergency contraception to persons who provide care to sexual assault victims at the hospital, under its authority, or while affiliated with it. For every 30 days that a hospital is not in compliance with this information dissemination requirement, the Department must impose on the hospital an additional administrative fine of \$5,000.

(3) Notwithstanding any other provision of law, impose an administrative fine that is five times the amount of the fine identified in paragraph (1) or (2), above, whichever is applicable, and apply to the court of common pleas of the

county in which the hospital is located for a temporary or permanent injunction restraining the hospital from failing to comply with the bill's requirements if the Department previously has determined that the hospital was not in compliance two or more times with any provision of the bill.

Definitions

As used in the bill, unless the context clearly indicates otherwise (R.C. 2907.291(A)):

(1) "Emergency contraception" means any drug or device approved by the United States Food and Drug Administration that prevents pregnancy after sexual intercourse and that is set forth on the current version of the list prepared by the Department of Health, described above in "**Duties of the Department of Health.**"

(2) "Emergency care to sexual assault victims" means medical examinations, procedures, or services provided at an Ohio hospital that offers organized emergency services to victims of alleged violations of the offenses of rape, sexual battery, and unlawful sexual conduct with a minor.

(3) "Sexual assault victim" means a female who alleges or is alleged to have been a victim of a violation of the offense of rape, sexual battery, or unlawful sexual conduct with a minor and who presents herself or is presented as a patient.

(4) Information or informational materials are "medically and factually accurate and objective" if the information or materials are verified or supported by the weight of research conducted in compliance with accepted scientific methods and if the information or materials either are published in peer-reviewed journals, where applicable or comprise information or materials that leading professional organizations and agencies with relevant expertise in the field, such as the American College of Obstetricians and Gynecologists, recognize as accurate and objective.

Findings of the General Assembly

The bill contains a list of findings by the General Assembly. Section 2 of the bill states that the General Assembly hereby declares that it finds and recognizes all of the following:

(1) That, each year, over 600,000 women are raped in the United States;

(2) That, according to the FBI's Uniform Crime Reports for 2002, 4,809 forcible rapes were reported in Ohio in 2002 (but the General Assembly recognizes that many serious crimes, including rapes, are not reported, that not all rapes involve the use of force, and that, thus, this Uniform Crime Reports figure

likely does not indicate the actual number of rapes and similar offenses that occurred in Ohio in 2002);

(3) That, after a woman is raped, she may face or anxiously fear the additional trauma of an unwanted pregnancy;

(4) That, each year, approximately 25,000 women in the United States become pregnant as a result of rape, and that an estimated 22,000 of those pregnancies--or 88%--could be prevented if the victims had timely access to emergency contraception;

(5) That emergency contraception is a safe, responsible, and effective back-up method of birth control that prevents pregnancy after sexual intercourse;

(6) That medical research indicates that the sooner emergency contraception is administered, the better the chance of preventing unintended pregnancy;

(7) That emergency contraception does not cause abortion and does not work if a woman is already pregnant;

(8) That emergency contraception is an integral part of comprehensive and compassionate emergency care for victims of a sexual assault;

(9) That 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 a sexual assault if they are at risk of pregnancy;

(10) That a nationwide study found that fewer than half of all victims of a sexual assault who are eligible for emergency contraception actually received the treatment during a visit to a hospital emergency department;

(11) That 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) and, therefore, women who have been raped are unlikely to ask for emergency contraception;

(12) That it is essential for all hospitals that offer organized emergency services or 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.

Severability clause

Section 3 of the bill provides that if any provision, word, phrase, or clause of the bill, or the application of any provision, word, phrase, or clause of the bill, to any person, entity or circumstance is held invalid, the invalidity does not affect the remaining provisions, words, phrases, or clauses of the bill that can be given effect without the invalid provision, word, phrase, clause, or application, and, to this end, the provisions, words, phrases, or clauses of the bill are declared severable.

HISTORY

ACTION	DATE
Introduced	05-11-06

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