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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

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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.

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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

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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.

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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

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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

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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.