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## FISCAL IMPACT REPORT

SPONSOR: HJC DATE TYPED: 2/11/03 HB 119/HJCS

SHORT TITLE: Sexual Assault Survivors Emergency Care SB \_\_\_\_\_

ANALYST: Wilson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative		

Relates to House Bill 315

### **SOURCES OF INFORMATION**

#### Responses Received From

Department of Health (DOH)

### **SUMMARY**

#### Synopsis of Bill

The House Judiciary Committee Substitute for House Bill 119 requires New Mexico hospitals to provide counseling regarding risk of pregnancy and emergency contraception medication to sexual assault victims. This bill contains an emergency clause.

HB 119/HJCS defines “emergency contraception” as a drug approved by the federal food and drug administration that prevents pregnancy after sexual intercourse.

HB 119/HJCS also requires the following:

New Mexico sexual assault victims presenting at hospital emergency rooms must be counseled regarding risk of pregnancy and objectively offered emergency contraception medication.

All hospital personnel providing care to sexual assault victims will be trained to provide factual information about emergency contraception.

Upon complaint, hospitals would be investigated for compliance by the DOH.

Hospitals found noncompliant will be subject to fines of \$5,000 per noncompliant sexual assault survivor incident and \$5,000 per month if staff training is not found adequate.

### Significant Issues

Among women who become pregnant from sexual assault (32,000 per year nationally), 50% end their pregnancies in abortion. Provision of emergency contraception may decrease the number of pregnancies, and thus abortions, that result from sexual assault. Emergency contraception refers to emergency contraceptive pills. These pills are NOT abortion pills; they act primarily by interfering with ovulation and have been proven to be eighty-nine percent (89%) effective in reducing the risk of pregnancy following unprotected intercourse. Time is of the essence in providing emergency contraceptive pills; delaying the first dose by twelve (12) hours increases the odds of pregnancy by almost fifty percent (50%). Survivors of sexual assault may be unaware of emergency contraception: nationally, one out of four women of childbearing age are unaware of emergency contraceptive pills. In other states, hospitals have been sued for failure to offer emergency contraceptive pills.

Most New Mexico hospitals do not have a clear policy on offering emergency contraception to survivors of sexual assault. However, agencies other than hospitals, such as Public Health County Health Offices, Planned Parenthoods and Sexual Assault Nurse Examiners Units offer the emergency contraception pills.

### **FISCAL IMPLICATIONS**

DOH notes that the cost of enforcing HB 119/HJCS including, investigation, prosecution, and defense of appeals, will be substantial and require additional staff or contract resources.

### **ADMINISTRATIVE IMPLICATIONS**

The responsibility for investigating complaints and enforcing regulations lies under the jurisdiction of the Division of Health Improvement of DOH. The mechanisms for enforcing HB119/HJCS including investigation, prosecution, and defense of appeals, do not exist and would have to be created.

### **RELATIONSHIP**

HB 119/HJCS relates to HB 315, Emergency Contraception Act.

### **OTHER SUBSTANTIVE ISSUES**

In 2001, there were 2,646 sex crimes reported to the New Mexico Interpersonal Violence Data Central Repository. Of these sex crimes, 41% were cases of criminal sexual penetration. The emergency contraceptive pill should be offered to these sexual assault survivors who seek medical services. According to sexual assault advocates and services providers in New Mexico, sexual assault survivors who seek medical care at hospitals are already receiving information and treatment with emergency contraception. Hospitals that have a SANE (Sexual Assault Nurse examiner) program already provide this service as part of their overall care of the rape victim. Rape kits include emergency contraceptive pills and information about their mechanism and use.

DOH notes that certain federal and state funding streams may not permit offering contraception advice or contraception, further complicating compliance or enforcement with this Act. Problems may also be anticipated with the lack of an age limitation on women who may be offered this advice and contraceptive medication. Also, the lack of definition as to what constitutes sexual assault makes potential enforcement activity difficult.

Education for emergency health care providers and other appropriate hospital personnel could accomplish the desired goal proposed in HB 119. The fine imposed on hospitals for not providing information or services required in the act could be detrimental. A legislative mandate that includes a fine for hospitals that do not offer information or distribute emergency contraception to sexual assault survivors is not necessary. However, hospital personnel should be educated about the benefits of emergency contraception and required to offer this information and treatment to sexual assault survivors.

Hospitals with religious objections to providing emergency contraceptive pills should be required to educate survivors of sexual assault about emergency contraceptive pills and refer them to a source where the pills may be obtained within 72 hours.

DW/njw