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## FISCAL IMPACT REPORT

SPONSOR: SPAC DATE TYPED: 2/27/03 HB \_\_\_\_\_

SHORT TITLE: Sexual Assault Survivor's Emergency Care SB 314/SPACS

ANALYST: Wilson

### APPROPRIATION

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

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

Responses Received From  
Department of Health (DOH)

### SUMMARY

#### Synopsis of Bill

The Senate Public Affairs Committee Substitute for Senate Bill 314 requires New Mexico hospitals to provide counseling regarding risk of pregnancy and emergency contraception medication to sexual assault victims. The bill contains an emergency clause.

SB 314 includes 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.
- Hospitals shall ensure that all personnel who provide care to sexual assault survivors are trained no later than September 30, 2003 to provide medically and factually accurate and objective information about emergency contraception.
- Complaints of failure to provide services required by the Sexual Assault Survivors Emergency Care Act may be filed with the DOH. They shall immediately investigate every complaint received.
- DOH shall compile all complaints it receives regarding failure to provide services re-

quired by the Sexual Assault Survivors Emergency Care Act and shall retain the complaints for at least ten years so that they can be analyzed for patterns of failure to provide services pursuant to that act.

If DOH determines that a hospital has failed to provide the required services, they must do the following:

- issue a written warning to the hospital,
- require the hospital to correct the deficiency leading to the complaint,
- impose on the hospital a fine of \$1,000 for a second through fifth complaint if after investigation the hospital is found to be in violation of SB 314/SPACS,
- impose the fine per month from the date of the complaint alleging noncompliance until the hospital provides the required training, and
- impose an intermediate sanction, suspend or revoke the license of the hospital for the sixth and subsequent complaint against the same hospital.

### Significant Issues

Among women who become pregnant from sexual assault (32,000 per year nationally), 50% end their pregnancies in abortion. 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 SB 314 including, investigation, prosecution, and defense of appeals, will be substantial and require additional staff or contract resources.

### **ADMINISTRATIVE IMPLICATIONS**

DOH shall adopt rules no later than September 30, 2003 regulating the training to be provided by hospitals pursuant to the Sexual Assault Survivors Emergency Care Act to personnel who provide emergency care for sexual assault survivors.

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

created.

### **TECHNICAL ISSUES**

SB 314/SPAC requires hospitals to ensure that all personnel who provide care to sexual assault survivors are trained no later than September 30, 2003 to provide medically and factually accurate and objective information about emergency contraception. However, DOH is not required to adopt rules regulating the training to be provided by hospitals pursuant to the Sexual Assault Survivors Emergency Care Act to personnel who provide emergency care for sexual assault survivors before September 30, 2003. Therefore, the hospitals may not have the DOH training rules in advance of the time they are required to abide by them.

### **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.

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/yr**