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STATE OF NEW JERSEY
211th LEGISLATURE

ADOPTED OCTOBER 14, 2004

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SYNOPSIS

Requires hospital and satellite emergency departments to provide care to sexual assault victims and information about emergency contraception and the contraceptives upon request.

CURRENT VERSION OF TEXT

As reported by the Assembly Health and Human Services Committee on November 8, 2004, with amendments.

(Sponsorship Updated As Of: 2/15/2005)

1 **AN ACT** concerning emergency contraception for sexual assault
2 victims, supplementing Title 26 of the Revised Statutes and
3 amending P.L.1985, c.404.

4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7

8 1. (New section) As used in this act:

9 "Commissioner" means the Commissioner of Health and Senior
10 Services.

11 "Division on Women" means the Division on Women in the
12 Department of Community Affairs.

13 "Emergency care to sexual assault victims" means a medical
14 examination, procedure or service provided by an emergency health
15 care facility to a sexual assault victim following an alleged sexual
16 offense.

17 "Emergency contraception" means one or more prescription drugs
18 to prevent pregnancy, used separately or in combination, administered
19 to or self-administered by a patient within a medically recommended
20 time after sexual intercourse, dispensed for that purpose in accordance
21 with professional standards of practice and determined to be safe by
22 the United States Food and Drug Administration.

23 "Emergency health care facility" means a general hospital or
24 satellite emergency department licensed pursuant to P.L.1971, c.136
25 (C.26:2H-1 et seq.).

26 "Medically and factually accurate and objective" means verified or
27 supported by the weight of research conducted in compliance with
28 accepted scientific methods and standards, published in peer-reviewed
29 journals and recognized as accurate and objective by leading
30 professional organizations and agencies with relevant expertise in the
31 field of obstetrics and gynecology.

32 "Sexual Assault Nurse Examiner program" means the Statewide
33 Sexual Assault Nurse Examiner program in the Division of Criminal
34 Justice in the Department of Law and Public Safety, established
35 pursuant to P.L.2001, c.81 (C.52:4B-50 et seq.).

36 "Sexual assault victim" means a female ¹[12 years of age or
37 older]¹ who alleges or is alleged to have suffered a personal, physical
38 or psychological injury as a result of a sexual offense.

39 "Sexual offense" means sexual assault and aggravated sexual
40 assault as set forth in N.J.S.2C:14-2, criminal sexual contact and
41 aggravated criminal sexual contact as set forth in N.J.S.2C:14-3,

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AHH committee amendments adopted November 8, 2004.

1 fourth degree lewdness as set forth in subsection b. of N.J.S.2C:14-4
2 and endangering the welfare of a child by engaging in sexual conduct
3 which would impair or debauch the morals of the child as set forth in
4 N.J.S.2C:24-4.

5
6 2. (New section) An emergency health care facility shall provide
7 emergency care to a sexual assault victim. It shall be the standard of
8 care for an emergency health care facility to:

9 a. provide each sexual assault victim with medically and factually
10 accurate and objective oral and written information about emergency
11 contraception ¹and sexually transmitted diseases¹, as provided for in
12 section 4 of this act;

13 b. orally inform each sexual assault victim of her option to be
14 provided emergency contraception at the health care facility; and

15 c. provide emergency contraception to the sexual assault victim,
16 upon her request, unless contraindicated. If the emergency
17 contraceptive is in the form of pills, the provision of the emergency
18 contraception shall include the initial dose that the victim may take at
19 the emergency health care facility, as well as the follow-up dose that
20 the victim can self-administer later.

21 An emergency health care facility shall not be required to
22 ¹[provided] provide¹ emergency contraception to a sexual assault
23 victim who is pregnant.

24
25 3. (New section) An emergency health care facility shall have
26 written policies and procedures to ensure that all personnel who
27 provide care or information to a sexual assault victim:

28 a. are trained to provide medically and factually accurate and
29 objective information about emergency contraception ¹and sexually
30 transmitted diseases¹ to a sexual assault victim; and

31 b. provide that information to a sexual assault victim.

32
33 4. (New section) ¹a.¹ The commissioner, in collaboration with the
34 Director of the Division on Women, the New Jersey Coalition Against
35 Sexual Assault and the Sexual Assault Nurse Examiner program, shall
36 develop, prepare and produce, in quantities sufficient to comply with
37 the purposes of this act, written information relating to¹; ¹ emergency
38 contraception for the prevention of pregnancy in sexual assault
39 victims¹; and sexually transmitted diseases¹.

40 ¹b.¹ The information shall be clearly written and readily
41 comprehensible in a culturally competent manner, as the commissioner,
42 in collaboration with the Division on Women, the New Jersey
43 Coalition Against Sexual Assault and the Sexual Assault Nurse
44 Examiner program, deems necessary to inform a sexual assault victim.
45 The information shall explain¹:

46 (1)¹ the nature of emergency contraception, the effectiveness of

1 emergency contraception in preventing pregnancy, where emergency
2 contraception can be obtained, and treatment options¹; and

3 (2) the symptoms and effects of sexually transmitted diseases, and
4 treatment options¹.

5 ¹c. ¹ The information shall be distributed to all hospital and satellite
6 emergency departments in the State for use in those facilities pursuant
7 to this act.

8
9 5. (New section) a. The commissioner shall:

10 (1) investigate every complaint of noncompliance with the
11 provisions of this act by an emergency health care facility, including
12 the failure of a facility to provide the services required by this act;

13 (2) determine whether the complaint is substantiated, and if so,
14 what action shall be taken by the emergency health care facility or
15 commissioner to address the complaint;

16 (3) notify the Sexual Assault Nurse Examiner program of all
17 substantiated complaints;

18 (4) compile the substantiated complaints;

19 (5) analyze the substantiated complaints, at least annually, to
20 determine if there is any pattern of failure to provide services pursuant
21 to this act; and

22 (6) determine, at least annually, whether an emergency health care
23 facility is complying with the provisions of this act. The commissioner
24 may utilize all means within his regulatory authority concerning health
25 care facilities to verify a facility's compliance with this act.

26 b. If the commissioner determines that an emergency health care
27 facility is not in compliance with the provisions of this act, the
28 commissioner may assess such penalties and take other actions against
29 the facility, as provided in P.L.1971, c.136 (C.26:2H-1 et seq.). Any
30 such penalties assessed for noncompliance shall be paid to the
31 Department of the Treasury and allocated, on a quarterly basis, to the
32 Division on Women for supplemental funding for designated rape crisis
33 centers.

34 c. The commissioner shall prepare an annual report, which shall be
35 available to the public, summarizing the substantiated complaints, the
36 actions taken by an emergency health care facility or the commissioner
37 to address the complaints, and the commissioner's findings concerning
38 any pattern of failure to provide services under, or noncompliance
39 with, the provisions of this act.

40
41 6. Section 6 of P.L.1985, c.404 (C.52:4B-44) is amended to read
42 as follows:

43 6. a. The Attorney General shall, through the Office of
44 Victim-Witness Advocacy in the Division of Criminal Justice in the
45 Department of Law and Public Safety and in consultation with the
46 county prosecutors, promulgate standards for law enforcement

1 agencies to ensure that the rights of crime victims are enforced.

2 b. The standards shall require that the Office of Victim-Witness
3 Advocacy in the Division of Criminal Justice and each county
4 prosecutor's office provide the following services upon request for
5 victims and witnesses involved in the prosecution of a case:

6 (1) Orientation information about the criminal justice system and
7 the victim's and witness's role in the criminal justice process;

8 (2) Notification of any change in the case status and of final
9 disposition;

10 (3) Information on crime prevention and on available responses to
11 witness intimidation;

12 (4) Information about available services to meet needs resulting
13 from the crime and referrals to service agencies, where appropriate;

14 (5) Advance notice of the date, time and place of the defendant's
15 initial appearance before a judicial officer, submission to the court of
16 any plea agreement, the trial and sentencing;

17 (6) Advance notice of when presence in court is not needed;

18 (7) Advice about available compensation, restitution and other
19 forms of recovery and assistance in applying for government
20 compensation;

21 (8) A waiting or reception area separate from the defendant for
22 use during court proceedings;

23 (9) An escort or accompaniment for intimidated victims or
24 witnesses during court appearances;

25 (10) Information about directions, parking, courthouse and
26 courtroom locations, transportation services and witness fees, in
27 advance of court appearances;

28 (11) Assistance for victims and witnesses in meeting special needs
29 when required to make court appearances, such as transportation and
30 child care arrangements;

31 (12) Assistance in making travel and lodging arrangements for
32 out-of-State witnesses;

33 (13) Notification to employers of victims and witnesses, if
34 cooperation in the investigation or prosecution causes absence from
35 work;

36 (14) Notification of the case disposition, including the trial and
37 sentencing;

38 (15) Assistance to victims in submitting a written statement to a
39 representative of the county prosecutor's office about the impact of the
40 crime prior to the prosecutor's final decision concerning whether
41 formal charges will be filed;

42 (16) Advice to victims about their right to make a statement about
43 the impact of the crime for inclusion in the presentence report or at
44 time of parole consideration, if applicable;

45 (17) Notification to victims of the right to make an in-person
46 statement, prior to sentencing, directly to the sentencing court

1 concerning the impact of the crime;

2 (18) Expediting the return of property when no longer needed as
3 evidence;

4 (19) Advise and counsel, or refer for advice or counseling, victims
5 of sexual assault, or other criminal acts involving a risk of transmission
6 of disease, concerning available medical testing and assist such victims,
7 or refer such victims for assistance, in obtaining appropriate testing,
8 counseling and medical care and in making application to the Victims
9 of Crime Compensation Board for compensation for the costs of such
10 testing, counseling and care;

11 (20) Assistance to victims in submitting a written impact statement
12 to a representative of the county prosecutor's office concerning the
13 impact of the crime which shall be considered prior to the prosecutor's
14 accepting a negotiated plea agreement containing recommendations as
15 to sentence and assistance to victims in securing an explanation of the
16 terms of any such agreement and the reasons for the agreement;

17 (21) Notification to the victim of the defendant's release from
18 custody which shall include:

19 (a) notice of the defendant's escape from custody and return to
20 custody following escape;

21 (b) notice of any other release from custody, including placement
22 in an Intensive Supervision Program or other alternative disposition,
23 and any associated conditions of release;

24 (c) notice of the filing by an inmate of an application for
25 commutation of sentence pursuant to N.J.S.2A:167-4 and its
26 disposition;

27 (d) notice of parole consideration pursuant to provisions of
28 P.L.1979, c.441 (C.30:4-123.45 et seq.); and

29 (e) notice of the pending release of an inmate due to expiration of
30 sentence; and

31 (22) Interpreting services for victims and witnesses when
32 necessary to assist a victim or witness who is hearing impaired or
33 developmentally disabled as defined in section 3 of P.L.1977, c.82
34 (C.30:6D-3) to understand questions and frame answers.

35 c. In a case involving a victim of aggravated sexual assault or
36 sexual assault as defined in subsection a. or c. of N.J.S.2C:14-2, the
37 Office of Victim-Witness Advocacy or the county prosecutor's office
38 involved in the case shall:

39 (1) Notify the victim of the victim's right to obtain an approved
40 serological test for acquired immune deficiency syndrome (AIDS) or
41 infection with the human immunodeficiency virus (HIV) or any other
42 related virus identified as a probable causative agent of AIDS, and
43 assist the victim, or refer the victim for assistance, in obtaining a test
44 and appropriate counseling and medical care;

45 (2) Notify the victim of the victim's right to obtain a court order
46 pursuant to subsection a. of section 4 of P.L.1993, c.364

1 (C.2C:43-2.2) requiring the offender to submit to an approved
2 serological test for acquired immune deficiency syndrome (AIDS) or
3 infection with the human immunodeficiency virus (HIV) or any other
4 related virus identified as a probable causative agent of AIDS in the
5 event that the offender is indicted, formally charged, convicted or
6 adjudicated delinquent;

7 (3) Communicate the request of a victim who agrees to seek an
8 order pursuant to subsection a. of section 4 of P.L.1993, c.364
9 (C.2C:43-2.2) to the prosecutor handling the case and notify the
10 victim or arrange for the victim to be notified of the test result; and

11 (4) Assist the victim in applying to the Victims of Crime
12 Compensation Board for compensation for the costs of testing,
13 counseling and medical care.

14 d. The Attorney General shall, through the Office of
15 Victim-Witness Advocacy and in consultation with the Commissioner
16 of [the Department of] Health and Senior Services, the [Director of
17 the Division] Superintendent of State Police and representatives of
18 providers of sexual assault services, to be designated by the Director
19 of the Office of Victim-Witness Advocacy, coordinate the
20 establishment of standard protocols for the provision of information
21 and services to victims of sexual assault, and shall make such
22 protocols available to victims upon request, except that the provision
23 of information and services with regard to emergency contraception
24 ¹and sexually transmitted diseases¹ shall be in accordance with
25 P.L. , c. (C.)(pending before the Legislature as this bill).

26 (cf: P.L.1996, c.114, s.1)

27

28 7. Pursuant to the "Administrative Procedure Act," P.L.1968,
29 c.410 (C.52:14B-1 et seq.), the commissioner, in consultation with the
30 Director of the Division on Women and the Sexual Assault Nurse
31 Examiner program, shall adopt rules and regulations to effectuate the
32 purposes of this act¹; except that, notwithstanding any provision of
33 P.L.1968, c.410 to the contrary, the commissioner may adopt,
34 immediately upon filing with the Office of Administrative Law, such
35 regulations as the commissioner deems necessary to implement the
36 provisions of this act, which shall be effective for a period not to
37 exceed six months and may thereafter be amended, adopted or
38 readopted by the commissioner in accordance with the requirements
39 of P.L.1968, c.410¹.

40

41 8. This act shall take effect on the ¹[90th] 30th¹ day after
42 enactment, but the commissioner, in consultation with the Director of
43 the Division on Women and the Sexual Assault Nurse Examiner
44 program, may take such anticipatory administrative action in advance
45 as shall be necessary for the implementation of the act.