

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

# A Bill

SENATE BILL 798

5 By: Senators Elliott, Salmon  
6 By: Representative Gaskill  
7

## For An Act To Be Entitled

10 AN ACT TO CREATE THE EMERGENCY CONTRACEPTION FOR  
11 RAPE SURVIVORS ACT; AND FOR OTHER PURPOSES.  
12

### Subtitle

14 AN ACT TO CREATE THE EMERGENCY  
15 CONTRACEPTION FOR RAPE SURVIVORS ACT.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code Title 20, Chapter 82, is amended to add an  
21 additional subchapter to read as follows:

22 20-82-301. Title.

23 This subchapter shall be known and may be cited as the "Emergency  
24 Contraception for Rape Survivors Act".  
25

26 20-82-302. Findings.

27 The General Assembly finds that:

28 (1) One (1) of every six (6) women in the United States will be  
29 the victim of a sexual assault;

30 (2) Forty-four percent (44%) of the victims of a sexual assault  
31 are under eighteen (18) years of age, and eighty percent (80%) of the victims  
32 of a sexual assault are under thirty (30) years of age;

33 (3) It is estimated that sixty percent (60%) of all sexual  
34 assaults are not reported;

35 (4) A woman who is the survivor of a sexual assault may face the  
36 additional trauma of an unwanted pregnancy or the fear that pregnancy may



1 result;

2 (5) Each year, between twenty-five thousand (25,000) and thirty-  
3 two thousand (32,000) women in the United States become pregnant as a result  
4 of sexual assaults, and approximately twenty-two thousand (22,000) of these  
5 pregnancies could be prevented if these women used emergency contraception;

6 (6) Standards of emergency care established by the American  
7 College of Emergency Medicine and the American Medical Association require  
8 that sexual assault survivors be counseled about their risk of pregnancy and  
9 offered emergency contraception;

10 (7) The National Protocol for Sexual Assault Medical Forensic  
11 Examinations issued by the United States Department of Justice Office on  
12 Violence Against Women recognizes pregnancy as an often overwhelming and  
13 genuine fear among sexual assault survivors and recommends that health care  
14 providers discuss treatment options with patients, including reproductive  
15 health services;

16 (8) The Food and Drug Administration has declared emergency  
17 contraception to be safe and effective in preventing unintended pregnancy and  
18 has approved over-the-counter access to the medication for women over  
19 eighteen (18) years of age;

20 (9) Emergency contraception is designed to prevent pregnancy if  
21 taken within one hundred twenty (120) hours after unprotected sexual  
22 intercourse, but it is most effective if taken within twenty-four (24) hours  
23 after unprotected sexual intercourse;

24 (10) There are inconsistent policies and practices among  
25 Arkansas hospitals for dispensing emergency contraception and providing  
26 education to sexual assault survivors; and

27 (11) Because emergency contraception is time-sensitive and a  
28 sexual assault survivor may have delayed seeking hospital treatment, it is  
29 critical that she be informed of this option at the time of her treatment.

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31 20-82-303. Definitions.

32 As used in this subchapter:

33 (1) "Emergency care to rape survivors" means medical  
34 examinations, procedures, and services provided by a health care facility to  
35 a rape survivor following an alleged rape;

36 (2)(A) "Emergency contraception" means a drug approved by the

1 Food and Drug Administration that prevents pregnancy after sexual  
 2 intercourse, including without limitation oral contraceptive pills.

3 (B) "Emergency contraception" does not include RU-486,  
 4 mifepristone, or any other drug or device that induces a medical abortion;

5 (3) "Health care facility" means a hospital, emergency care  
 6 facility, or health clinic;

7 (4) "Rape" means sexual intercourse or deviate sexual activity  
 8 with a female:

9 (A) By forcible compulsion;

10 (B) Who is incapable of consent because she is physically  
 11 helpless, mentally defective, or mentally incapacitated; or

12 (C) Who is less than fourteen (14) years of age; and

13 (5) "Rape survivor" means a female who alleges or is alleged to  
 14 have been raped and presents as a patient.

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 16 20-82-304. Emergency care to rape survivors.

17 The standard of care for a health care facility that provides emergency  
 18 care to rape survivors is to:

19 (1) Provide each rape survivor with medically and factually  
 20 accurate and unbiased written and oral information about emergency  
 21 contraception;

22 (2) Orally inform each rape survivor of her option to be  
 23 provided or not provided emergency contraception at the health care facility;  
 24 and

25 (3)(A) Provide:

26 (i) Emergency contraception immediately at the  
 27 health care facility to each rape survivor who requests it; or

28 (ii) The rape survivor a medical referral to a site  
 29 where emergency contraception is available.

30 (B) If the emergency contraception is in the form of a  
 31 pill, the provision of emergency contraception shall include the initial dose  
 32 that the rape survivor may take at the health care facility as well as a  
 33 follow-up dose that the rape survivor may self-administer later.

34 (C) The cost of the emergency contraception is the  
 35 responsibility of the rape survivor unless there are other means of payment  
 36 at the rape survivor's disposal.

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2 20-82-305. Training.

3 (a) Each health care facility shall ensure that each person who  
4 provides care to rape survivors is provided with medically and factually  
5 accurate and unbiased information about emergency contraception.

6 (b) A licensed or registered pharmacy in the State of Arkansas shall  
7 distribute information concerning the availability and use of emergency  
8 contraception.

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10 20-82-306. Enforcement.

11 (a) In addition to any other remedies at law, the Department of Health  
12 shall respond to complaints and shall periodically determine whether health  
13 care facilities are complying with this subchapter.

14 (b) The department may use all methods available to verify compliance  
15 with this section.

16 (c) If the department determines that a health care facility is not in  
17 compliance with this subchapter, the department shall:

18 (1) Impose a fine of five thousand dollars (\$5,000) per rape  
19 survivor who is:

20 (A) Denied medically and factually accurate and unbiased  
21 information about emergency contraception; or

22 (B) Not offered or provided emergency contraception; and

23 (2)(A) Impose a fine of five thousand dollars (\$5,000) for  
24 failure to comply with this subchapter.

25 (B) For each thirty-day period that the health care  
26 facility continues in noncompliance with this subchapter, an additional fine  
27 of five thousand dollars (\$5,000) shall be imposed.

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