

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

As Engrossed: S4/2/09
A Bill

SENATE BILL 798

5 By: Senators Elliott, Salmon
6 By: Representative Gaskill
7
8

9 **For An Act To Be Entitled**

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

13 **Subtitle**

14 AN ACT TO CREATE THE EMERGENCY
15 CONTRACEPTION FOR RAPE SURVIVORS ACT.
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17

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.

30
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 or sites 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.

1
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 or provide
6 the rape survivor a medical referral to a site or sites where emergency
7 contraception is available.

8 (b) A licensed or registered pharmacist in the State of Arkansas shall
9 distribute medically and factually accurate and unbiased information
10 concerning the availability and use of emergency contraception.

11 (c) The Arkansas State Board of Pharmacy shall promulgate rules to
12 determine the distribution of the information required under this section.

13
14 20-82-306. Enforcement.

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

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

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

22 (1) Impose a fine of one thousand dollars (\$1,000) per rape
23 survivor who is:

24 (A) Denied medically and factually accurate and unbiased
25 information about emergency contraception; or

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

27 (2)(A) Impose a fine of one thousand dollars (\$1,000) for
28 failure to comply with this subchapter.

29 (B) For each thirty-day period that the health care
30 facility continues in noncompliance with this subchapter, an additional fine
31 of two thousand dollars (\$2,000) shall be imposed.

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33 /s/ Elliott
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