

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1264

To provide for the provision by hospitals of emergency contraceptives to women, and post-exposure prophylaxis for sexually transmitted disease to individuals, who are survivors of sexual assault.

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## IN THE SENATE OF THE UNITED STATES

JUNE 16, 2005

Mr. CORZINE (for himself, Mrs. CLINTON, Mrs. MURRAY, Mr. LAUTENBERG, Mrs. BOXER, Ms. CANTWELL, Mr. KENNEDY, Mr. INOUE, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To provide for the provision by hospitals of emergency contraceptives to women, and post-exposure prophylaxis for sexually transmitted disease to individuals, who are survivors of sexual assault.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Compassionate Assist-  
5       ance for Rape Emergencies Act”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds as follows:

1           (1) It is estimated that 25,000 to 32,000  
2 women become pregnant each year as a result of  
3 rape or incest. An estimated 22,000 of these preg-  
4 nancies could be prevented if rape survivors had  
5 timely access to emergency contraception.

6           (2) A 1996 study of rape-related pregnancies  
7 (published in the American Journal of Obstetrics  
8 and Gynecology) found that 50 percent of the preg-  
9 nancies described in paragraph (1) ended in abor-  
10 tion.

11           (3) Surveys have shown that many hospitals do  
12 not routinely provide emergency contraception to  
13 women seeking treatment after being sexually as-  
14 sailed.

15           (4) The risk of pregnancy after sexual assault  
16 has been estimated to be 4.7 percent in survivors  
17 who were not protected by some form of contracep-  
18 tion at the time of the attack.

19           (5) The Food and Drug Administration has de-  
20 clared emergency contraception to be safe and effec-  
21 tive in preventing unintended pregnancy, reducing  
22 the risk by as much as 89 percent if taken within  
23 days of unprotected intercourse and up to 95 per-  
24 cent if taken in the first 24 hours.

1           (6) Medical research strongly indicates that the  
2           sooner emergency contraception is administered, the  
3           greater the likelihood of preventing unintended preg-  
4           nancy.

5           (7) In light of the safety and effectiveness of  
6           emergency contraceptive pills, both the American  
7           Medical Association and the American College of  
8           Obstetricians and Gynecologists have endorsed more  
9           widespread availability of such pills.

10          (8) The American College of Emergency Physi-  
11          cians and the American College of Obstetricians and  
12          Gynecologists agree that offering emergency contra-  
13          ception to female patients after a sexual assault  
14          should be considered the standard of care.

15          (9) Approximately 30 percent of American  
16          women of reproductive age are unaware of the avail-  
17          ability of emergency contraception.

18          (10) New data from a survey of women having  
19          abortions estimates that 51,000 abortions were pre-  
20          vented by use of emergency contraception in 2000  
21          and that increased use of emergency contraception  
22          accounted for 43 percent of the decrease in total  
23          abortions between 1994 and 2000.

24          (11) It is essential that all hospitals that pro-  
25          vide emergency medical treatment provide emergency

1       contraception as a treatment option to any woman  
2       who has been sexually assaulted, so that she may  
3       prevent an unintended pregnancy.

4               (12) Victims of sexual assault are at increased  
5       risk of contracting sexually transmitted diseases.

6               (13) Some sexually-transmitted infections can-  
7       not be reliably cured if treatment is delayed, and  
8       may result in high morbidity and mortality. HIV has  
9       killed over 520,000 Americans, and the Centers for  
10      Disease Control and Prevention currently estimates  
11      that over 1,000,000 Americans are infected with the  
12      virus. Even modern drug treatment has failed to  
13      cure infected individuals. Nearly 80,000 Americans  
14      are infected with hepatitis B each year, with some  
15      individuals unable to fully recover. An estimated  
16      1,250,000 Americans remain chronically infected  
17      with the hepatitis B virus and at present, one in five  
18      of these may expect to die of liver failure.

19              (14) It is possible to prevent some sexually  
20      transmitted diseases by treating an exposed indi-  
21      vidual promptly. The use of post-exposure prophylaxis  
22      using antiretroviral drugs has been demonstrated to  
23      effectively prevent the establishment of  
24      HIV infection. Hepatitis B infection may also be

1 eliminated if an exposed individual receives prompt  
2 treatment.

3 (15) The Centers for Disease Control and Pre-  
4 vention has recommended risk evaluation and appro-  
5 priate application of post-exposure treatment for vic-  
6 tims of sexual assault. For such individuals, imme-  
7 diate treatment is the only means to prevent a life  
8 threatening infection.

9 (16) It is essential that all hospitals that pro-  
10 vide emergency medical treatment provide assess-  
11 ment and treatment of sexually-transmitted infec-  
12 tions to minimize the harm to victims of sexual as-  
13 sault.

14 **SEC. 3. SURVIVORS OF SEXUAL ASSAULT; PROVISION BY**  
15 **HOSPITALS OF EMERGENCY CONTRACEP-**  
16 **TIVES WITHOUT CHARGE.**

17 (a) IN GENERAL.—Federal funds may not be pro-  
18 vided to a hospital under any health-related program, un-  
19 less the hospital meets the conditions specified in sub-  
20 section (b) in the case of—

21 (1) any woman who presents at the hospital  
22 and states that she is a victim of sexual assault, or  
23 is accompanied by someone who states she is a vic-  
24 tim of sexual assault; and

1           (2) any woman who presents at the hospital  
2           whom hospital personnel have reason to believe is a  
3           victim of sexual assault.

4           (b) ASSISTANCE FOR VICTIMS.—The conditions spec-  
5           ified in this subsection regarding a hospital and a woman  
6           described in subsection (a) are as follows:

7           (1) The hospital promptly provides the woman  
8           with medically and factually accurate and unbiased  
9           written and oral information about emergency con-  
10          traception, including information explaining that—

11           (A) emergency contraception has been ap-  
12          proved by the Food and Drug Administration  
13          as a safe and effective way to prevent preg-  
14          nancy after unprotected intercourse or contra-  
15          ceptive failure if taken in a timely manner, and  
16          is more effective the sooner it is taken; and

17           (B) emergency contraception does not  
18          cause an abortion and cannot interrupt an es-  
19          tablished pregnancy.

20          (2) The hospital promptly offers emergency  
21          contraception to the woman, and promptly provides  
22          such contraception to her at the hospital on her re-  
23          quest.

24          (3) The information provided pursuant to para-  
25          graph (1) is in clear and concise language, is readily

1       comprehensible, and meets such conditions regarding  
2       the provision of the information in languages other  
3       than English as the Secretary may establish.

4             (4) The services described in paragraphs (1)  
5       through (3) are not denied because of the inability  
6       of the woman to pay for the services.

7       **SEC. 4. PREVENTION OF TRANSMISSIBLE DISEASE.**

8             (a) **IN GENERAL.**—No hospital shall receive Federal  
9       funds unless such hospital provides risk assessment, coun-  
10      seling, and treatment as required under this section to a  
11      survivor of sexual assault described in subsection (b).

12            (b) **SURVIVORS OF SEXUAL ASSAULT.**—An individual  
13      is a survivor of a sexual assault as described in this sub-  
14      section if the individual—

15               (1) presents at the hospital and declares that  
16      the individual is a victim of sexual assault, or the in-  
17      dividual is accompanied to the hospital by another  
18      individual who declares that the first individual is a  
19      victim of a sexual assault; or

20               (2) presents at the hospital and hospital per-  
21      sonnel have reason to believe the individual is a vic-  
22      tim of sexual assault.

23            (c) **REQUIREMENT FOR RISK ASSESSMENT, COUN-**  
24      **SELING, AND TREATMENT.**—The following shall apply  
25      with respect to a hospital described in subsection (a):

1           (1) RISK ASSESSMENT.—A hospital shall  
2 promptly provide a survivor of a sexual assault with  
3 an assessment of the individual’s risk for contracting  
4 sexually transmitted infections as described in para-  
5 graph (2)(A), which shall be conducted by a licensed  
6 medical professional and be based upon—

7           (A) available information regarding the as-  
8 sault as well as the subsequent findings from  
9 medical examination and any tests that may be  
10 conducted; and

11           (B) established standards of risk assess-  
12 ment which shall include consideration of any  
13 recommendations established by the Centers for  
14 Disease Control and Prevention, and may also  
15 incorporate findings of peer-reviewed clinical  
16 studies and appropriate research utilizing in  
17 vitro and non-human primate models of infec-  
18 tion.

19           (2) COUNSELING.—A hospital shall provide a  
20 survivor of a sexual assault with advice, provided by  
21 a licensed medical professional, concerning—

22           (A) significantly prevalent sexually trans-  
23 missible infections for which effective post-expo-  
24 sure prophylaxis exists, and for which the defer-  
25 ral of treatment would either significantly re-

1           duce treatment efficacy or would pose substan-  
2           tial risk to the individual's health; and

3                   (B) the requirement that prophylactic  
4           treatment for infections as described in sub-  
5           paragraph (A) shall be provided to the indi-  
6           vidual upon request, regardless of the ability of  
7           the individual to pay for such treatment.

8           (3) TREATMENT.—A hospital shall provide a  
9           survivor of a sexual assault, upon request, with pro-  
10          phylactic treatment for infections described in para-  
11          graph (2)(A).

12           (4) ABILITY TO PAY.—The services described in  
13          paragraphs (1) through (3) shall not be denied be-  
14          cause of the inability of the individual involved to  
15          pay for the services.

16           (5) LANGUAGE.—Any information provided  
17          pursuant to this subsection shall be clear and con-  
18          cise, readily comprehensible, and meet such condi-  
19          tions regarding the provision of the information in  
20          languages other than English as the Secretary may  
21          establish.

22          (d) RULE OF CONSTRUCTION.—Nothing in this sec-  
23          tion shall be construed to—

24                   (1) require that a hospital provide prophylactic  
25          treatment for a victim of sexual assault when risk

1 evaluation according to criteria adopted by the Cen-  
2 ters for Disease Control and Prevention clearly rec-  
3 ommend against the application of post-exposure  
4 prophylaxis;

5 (2) prohibit a hospital from seeking reimburse-  
6 ment for the cost of services provided under this sec-  
7 tion to the extent that health insurance may reim-  
8 burse for such services; and

9 (3) establish a requirement that any victim of  
10 sexual assault submit to diagnostic testing for the  
11 presence of any infectious disease.

12 (e) LIMITATION.—Federal funds may not be provided  
13 to a hospital under any health-related program unless the  
14 hospital complies with the requirements of this section.

15 **SEC. 5. DEFINITIONS.**

16 In this Act:

17 (1) EMERGENCY CONTRACEPTION.—The term  
18 “emergency contraception” means a drug, drug regi-  
19 men, or device that is—

20 (A) approved by the Food and Drug Ad-  
21 ministration to prevent pregnancy; and

22 (B) is used postcoitally.

23 (2) HOSPITAL.—The term “hospital” has the  
24 meaning given such term in title XVIII of the Social  
25 Security Act, including the meaning applicable in

1 such title for purposes of making payments for  
 2 emergency services to hospitals that do not have  
 3 agreements in effect under such title. Such term in-  
 4 cludes a health care facility that is located within, or  
 5 contracted to, a correctional institution or a post-  
 6 secondary educational institution.

7 (3) LICENSED MEDICAL PROFESSIONAL.—The  
 8 term “licensed medical professional” means a doctor  
 9 of medicine, doctor of osteopathy, registered nurse,  
 10 physician assistant, or any other healthcare profes-  
 11 sional determined appropriate by the Secretary.

12 (4) SECRETARY.—The term “Secretary” means  
 13 the Secretary of Health and Human Services.

14 (5) SEXUAL ASSAULT.—

15 (A) IN GENERAL.—The term “sexual as-  
 16 sault” means a sexual act (as defined in sub-  
 17 paragraphs (A) through (C) of section 2246(2)  
 18 of title 18, United States Code) where the vic-  
 19 tim involved does not consent or lacks the ca-  
 20 pacity to consent.

21 (B) APPLICATION OF PROVISIONS.—The  
 22 definition under subparagraph (A) shall—

23 (i) in the case of section 2, apply to  
 24 males and females, as appropriate;

1 (ii) in the case of section 3, apply only  
2 to females; and

3 (iii) in the case of section 4, apply to  
4 all individuals.

5 **SEC. 6. EFFECTIVE DATE; AGENCY CRITERIA.**

6 This Act shall take effect upon the expiration of the  
7 180-day period beginning on the date of the enactment  
8 of this Act. Not later than 30 days prior to the expiration  
9 of such period, the Secretary of Health and Human Serv-  
10 ices shall publish in the Federal Register criteria for car-  
11 rying out this Act.

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