

As Introduced

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H. B. No. 560

Representative Stewart, D.

**Cosponsors: Representatives Skindell, Foley, Hagan, R., Strahorn, Boyd,
Brady, Letson, Yuko, Slesnick, Sykes, Celeste**

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A B I L L

To enact sections 2907.12, 3727.50, 3727.501, and 1
3727.502, of the Revised Code to establish the 2
Compassionate Assistance for Rape Emergencies Act 3
regarding emergency services provided to victims 4
of sexual assault. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2907.12, 3727.50, 3727.501, and 6
3727.502, of the Revised Code be enacted to read as follows: 7

Sec. 2907.12. No law enforcement officer, state or local 8
government official, or agent of a law enforcement officer or 9
state or local government official shall ask or require a victim 10
of an alleged violation of any provision of sections 2907.02 to 11
2907.09 of the Revised Code to submit to a polygraph examination 12
or other truth telling device as a condition for proceeding with 13
the investigation and prosecution of the alleged violation. No law 14
enforcement officer, state or local government official, or agent 15
of a law enforcement officer or state or local government official 16
shall fail or refuse to investigate or prosecute the alleged 17
violation because the victim refused to submit to a polygraph or 18

other truth telling device examination. The failure of the victim 19
to submit to a polygraph or other truth telling device examination 20
shall not be commented on at trial or in any court proceeding. 21

Sec. 3727.50. (A) As used in sections 3727.501 and 3727.502 22
of the Revised Code: 23

(1) "Drug" has the same meaning as in the "Federal Food, 24
Drug, and Cosmetic Act," 52 Stat. 1040, 1041 (1938), 21 U.S.C. 25
321(g)(1), as amended. 26

(2) "Device" has the same meaning as in the "Federal Food, 27
Drug, and Cosmetic Act," 52 Stat. 1040, 1041 (1938), 21 U.S.C. 28
321(h), as amended. 29

(3) "Emergency contraception" means any drug or device 30
intended to prevent pregnancy after unprotected sexual intercourse 31
or contraceptive failure. 32

(4) "Sexual assault" means a violation of sections 2907.02 to 33
2907.06 of the Revised Code. 34

Sec. 3727.501. (A) It shall be the standard of care in this 35
state for hospitals that offer organized emergency services to 36
provide the following care to victims of sexual assault or 37
individuals believed to be victims of sexual assault without 38
regard to the victim's ability to pay for the care: 39

(1) The hospital shall provide the victim medically and 40
factually accurate, unbiased, and clear and concise written and 41
oral information about emergency contraception that explains the 42
following: 43

(a) That emergency contraception has been approved by the 44
United States food and drug administration for use by women of all 45
ages with a prescription and as an over-the-counter medication for 46
women eighteen years of age or older as a safe and effective means 47

to prevent pregnancy after unprotected sexual intercourse or 48
contraceptive failure if taken in a timely manner; 49

(b) That emergency contraception is more effective the sooner 50
it is taken following unprotected sexual intercourse or 51
contraceptive failure; 52

(c) That emergency contraception does not cause an abortion 53
and studies have shown that it does not interrupt an established 54
pregnancy. 55

(2) The hospital shall promptly offer the victim emergency 56
contraception and provide the emergency contraception if the 57
victim accepts the offer. 58

(3) The hospital shall promptly provide a victim with an 59
assessment of the victim's risk of contracting sexually 60
transmitted disease, conducted by a physician, physician 61
assistant, clinical nurse specialist, certified nurse 62
practitioner, or a certified nurse-midwife and based on the 63
following: 64

(a) The available information regarding the sexual assault. 65

(b) The established standards of risk assessment, including 66
consideration of any recommendations established by the United 67
States centers for disease control and prevention, peer-reviewed 68
clinical studies, and appropriate research using invitro and 69
nonhuman primate model of infection. 70

(4) The hospital shall provide the victim with counseling, in 71
clear and concise language, conducted by a physician, physician 72
assistant, clinical nurse specialist, certified nurse 73
practitioner, or a certified nurse-midwife concerning the 74
following: 75

(a) The significantly prevalent sexually transmitted diseases 76
for which effective post-exposure treatment exists and for which 77

deferral of treatment would either significantly reduce treatment efficacy or pose substantial risk to the victim's health, including for adults, the diseases for which prophylactic treatment is recommended based on guidelines from the centers for disease control and prevention; 78
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(b) The requirement that treatment for diseases described in this section be provided to the victim on request, regardless of the victim's ability to pay for the treatment; 83
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(c) The physical and mental health benefits of seeking follow-up care from the victim's primary care physician or from another medical care provider capable of providing follow-up care to victims of sexual assault; 86
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(d) Local organizations and relevant health providers capable of providing either follow-up medical care or other health services to victims of sexual assault. 90
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(B) For minors, the hospital shall discuss and offer prophylactic treatment for sexually transmitted diseases, including gonorrhea, chlamydia, syphilis, and hepatitis. Treatment and testing of minors shall be at the discretion of the treating physician and in accordance with the guidelines of the centers for disease control and prevention. 93
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(C) Notwithstanding any other provision of law, a minor may consent to examination under this section. The consent is not subject to disaffirmance because of minority, and consent of the parent, parents, or guardian of the minor is not required for an examination under this section. The parent, parents, or guardian of a minor giving consent under this section are not liable for payment for any services provided under this section without their consent. 99
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(D) Nothing in this section shall be construed to mean the following: 107
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(1) That a hospital shall be required to provide treatment to a victim of sexual assault if the treatment goes against recommendations established by the United States centers for disease control and prevention; 109
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(2) That a victim shall be required to submit to any testing or treatment; 113
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(3) That a hospital is prohibited from seeking reimbursement for the costs of services provided under this section from the victim's health insurance or medicaid, if applicable, and to the extent permitted by section 2907.28 of the Revised Code. 115
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Sec. 3727.502. In addition to other remedies under common law, an individual may file a complaint with the department of health if the individual believes a hospital has failed to comply with the requirements of section 3727.501 of the Revised Code. The department shall investigate the complaint in a timely manner. If the department determines a violation has occurred, the department shall, pursuant to a hearing under Chapter 119. of the Revised Code, do the following: 119
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(A) If the hospital fails to provide the care or services required in section 3727.501 of the Revised Code to a sexual assault victim, impose a civil penalty of not less than ten thousand dollars for each violation; 127
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(B) If the hospital has previously violated section 3727.501 of the Revised Code, the department may ask the attorney general to bring an action for injunctive relief in any court of competent jurisdiction. On the filing of an appropriate petition in the court, the court shall conduct a hearing on the petition. If it is demonstrated in the proceedings that the hospital has failed to provide the care or services, the court shall grant a temporary or permanent injunction enjoining the hospital's operation. 131
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Section 2. This act shall be known as the "Compassionate	139
Assistance for Rape Emergencies Act."	140