

**As Introduced**

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**H. B. No. 419**

**Representatives Antonio, Garland**

**Cosponsors: Representatives Foley, Ramos, Pillich, Hagan, R., Goyal,  
Celeste, Fedor, Boyd, Ashford, Letson, Heard, Slesnick, Weddington, Yuko,  
Reece**

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**A B I L L**

To amend section 2907.29 and to enact sections 1  
3727.60, 3727.601, and 3727.602 of the Revised 2  
Code to establish the Compassionate Assistance for 3  
Rape Emergencies Act regarding hospital services 4  
provided to victims of sexual assault. 5

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

**Section 1.** That section 2907.29 be amended and sections 6  
3727.60, 3727.601, and 3727.602 of the Revised Code be enacted to 7  
read as follows: 8

**Sec. 2907.29.** Every hospital of this state that offers 9  
organized emergency services shall provide that a physician, a 10  
physician assistant, a clinical nurse specialist, a certified 11  
nurse practitioner, or a certified nurse-midwife is available on 12  
call twenty-four hours each day for the examination of persons 13  
reported to any law enforcement agency to be victims of sexual 14  
offenses cognizable as violations of any provision of sections 15  
2907.02 to 2907.06 of the Revised Code. The physician, physician 16  
assistant, clinical nurse specialist, certified nurse 17

practitioner, or certified nurse-midwife, upon the request of any 18  
peace officer or prosecuting attorney and with the consent of the 19  
reported victim or upon the request of the reported victim, shall 20  
examine the person for the purposes of gathering physical evidence 21  
and shall complete any written documentation of the physical 22  
examination. The public health council shall establish procedures 23  
for gathering evidence under this section. 24

Each reported victim shall be informed of available ~~venereal~~ 25  
disease sexually transmitted infection, pregnancy, medical, and 26  
psychiatric services in accordance with section 3727.601 of the 27  
Revised Code. 28

Notwithstanding any other provision of law, a minor may 29  
consent to examination under this section. The consent is not 30  
subject to disaffirmance because of minority, and consent of the 31  
parent, parents, or guardian of the minor is not required for an 32  
examination under this section. However, the hospital shall give 33  
written notice to the parent, parents, or guardian of a minor that 34  
an examination under this section has taken place. The parent, 35  
parents, or guardian of a minor giving consent under this section 36  
are not liable for payment for any services provided under this 37  
section without their consent. 38

Sec. 3727.60. As used in this section and sections 3727.601 39  
and 3727.602 of the Revised Code: 40

(A) "Drug" has the same meaning as in the "Federal Food, 41  
Drug, and Cosmetic Act," 52 Stat. 1040, 1041 (1938), 21 U.S.C. 42  
321(g)(1), as amended. 43

(B) "Device" has the same meaning as in the "Federal Food, 44  
Drug, and Cosmetic Act," 52 Stat. 1040, 1041 (1938), 21 U.S.C. 45  
321(h), as amended. 46

(C) "Emergency contraception" means any drug, drug regimen, 47

or device intended to prevent pregnancy after unprotected sexual intercourse or contraceptive failure. 48  
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(D) "Sexual assault" means a violation of sections 2907.02 to 2907.06 of the Revised Code. 50  
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**Sec. 3727.601.** (A) It shall be the standard of care in this state for hospitals that offer organized emergency services to provide the services specified in divisions (B) and (C) of this section to victims of sexual assault. The services shall be provided without regard to the ability of the victim to pay for the services. 52  
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(B) Except as provided in division (E) of this section, the services specified in divisions (B)(1) and (2) of this section shall be provided by the hospital to a victim of sexual assault who is female and, as determined by the hospital, is of child-bearing age. 58  
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(1) The hospital shall provide the victim with information about emergency contraception. The information shall be medically and factually accurate and unbiased. It shall be provided in clear and concise language in both written and oral formats. The information shall explain all of the following: 63  
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(a) That emergency contraception has been approved by the United States food and drug administration for use by women of all ages with a prescription and as an over-the-counter product for women seventeen years of age or older as a safe and effective means to prevent pregnancy after unprotected sexual intercourse or contraceptive failure if used in a timely manner; 68  
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(b) That emergency contraception is more effective the sooner it is used following unprotected sexual intercourse or contraceptive failure; 74  
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(c) That emergency contraception does not cause an abortion 77

and studies have shown that it does not interrupt an established pregnancy. 78  
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(2) The hospital shall promptly offer emergency contraception to the victim. The hospital shall promptly provide the emergency contraception if the victim accepts the offer. 80  
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(C) The services specified in divisions (C)(1) to (4) of this section shall be provided by the hospital to a victim of sexual assault who is female, regardless of whether the victim is of child-bearing age, and to a victim of sexual assault who is male. 83  
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(1) The hospital shall promptly provide the victim with an assessment of the victim's risk of contracting sexually transmitted infections, including gonorrhea, chlamydia, syphilis, and hepatitis. The assessment shall be conducted by a physician, physician assistant, clinical nurse specialist, certified nurse practitioner, certified nurse-midwife, or registered nurse. The assessment shall be based on both of the following: 87  
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(a) The available information regarding the sexual assault; 94

(b) The established standards of risk assessment, including consideration of any recommendations established by the United States centers for disease control and prevention, peer-reviewed clinical studies, and appropriate research using in vitro and nonhuman primate models of infection. 95  
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(2) After conducting the assessment, the hospital shall provide the victim with counseling concerning the significantly prevalent sexually transmitted infections for which effective postexposure treatment exists and for which deferral of treatment would either significantly reduce treatment efficacy or pose substantial risk to the victim's health, including the infections for which prophylactic treatment is recommended based on guidelines from the centers for disease control and prevention. The counseling shall be provided by a physician, physician 100  
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assistant, clinical nurse specialist, certified nurse 109  
practitioner, certified nurse-midwife, or registered nurse. The 110  
counseling shall be provided in clear and concise language. 111

(3) After providing the counseling, the hospital shall offer 112  
treatment for sexually transmitted infections to the victim. The 113  
hospital shall provide the treatment if the victim accepts the 114  
offer. 115

(4) Before the victim leaves the hospital, the hospital shall 116  
provide the victim with counseling on the physical and mental 117  
health benefits of seeking follow-up care from the victim's 118  
primary care physician or from another medical care provider 119  
capable of providing follow-up care to victims of sexual assault. 120  
The counseling shall include information on local organizations 121  
and relevant health providers capable of providing either 122  
follow-up medical care or other health services to victims of 123  
sexual assault. The counseling shall be provided by a physician, 124  
physician assistant, clinical nurse specialist, certified nurse 125  
practitioner, certified nurse-midwife, or registered nurse. The 126  
counseling shall be provided in clear and concise language. 127

(D) In the case of minors, the services specified in this 128  
section shall be provided at the discretion of the treating 129  
physician and in accordance with the guidelines of the centers for 130  
disease control and prevention. 131

Notwithstanding any other provision of law, a minor may 132  
consent to the services specified in this section. The consent is 133  
not subject to disaffirmance because of minority, and consent of 134  
the parent, parents, or guardian of the minor is not required for 135  
the services to be provided. The parent, parents, or guardian of a 136  
minor giving consent under this section are not liable for payment 137  
for any services provided under this section without their 138  
consent. 139

(E) In either of the following cases, a hospital is not required to provide information about emergency contraception, to offer emergency contraception, or to provide emergency contraception to a victim of sexual assault who is female and, as determined by the hospital, is of child-bearing age: 140  
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(1) The hospital is aware that the victim is incapable of becoming pregnant. 145  
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(2) The hospital is aware that the victim is pregnant. 147

If the hospital has a pregnancy test performed to confirm whether the victim is pregnant, the hospital shall have the test performed in such a manner that the results of the test are made available to the victim during the initial visit to the hospital regarding the sexual assault. 148  
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(F) Nothing in this section shall be construed as meaning any of the following: 153  
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(1) That a hospital is required to provide treatment to a victim of sexual assault if the treatment goes against recommendations established by the centers for disease control and prevention; 155  
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(2) That a victim of sexual assault is required to submit to any testing or treatment; 159  
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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 from medicaid, if applicable, and to the extent permitted by section 2907.28 of the Revised Code. 161  
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**Sec. 3727.602.** 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 3727.601 of the Revised Code. The department shall investigate the complaint in a timely manner. 165  
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If the department determines that a hospital has failed to provide the services required by section 3727.601 of the Revised Code to a victim of sexual assault, the department shall, pursuant to an adjudication under Chapter 119. of the Revised Code, impose a civil penalty of not less than ten thousand dollars for each violation. 170  
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If the hospital has previously violated section 3727.601 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 services, the court shall grant a temporary or permanent injunction enjoining the hospital's operation. 176  
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**Section 2.** That existing section 2907.29 of the Revised Code is hereby repealed. 184  
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**Section 3.** This act shall be known as the "Compassionate Assistance for Rape Emergencies Act." 186  
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