

110TH CONGRESS  
1ST SESSION

# S. 1240

To provide for the provision by hospitals receiving Federal funds through the Medicare program or Medicaid program of emergency contraceptives to women who are survivors of sexual assault.

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IN THE SENATE OF THE UNITED STATES

APRIL 26, 2007

Mrs. CLINTON (for herself, Mr. MENENDEZ, Mrs. BOXER, Ms. CANTWELL, Mr. KERRY, Mrs. MURRAY, and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide for the provision by hospitals receiving Federal funds through the Medicare program or Medicaid program of emergency contraceptives to women 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 of 2007”.

**6 SEC. 2. FINDINGS.**

7       The Congress finds as follows:

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

20 (5) The Food and Drug Administration has de-  
21 clared emergency contraception to be safe and effec-  
22 tive in preventing unintended pregnancy if taken in  
23 the first 72 hours of sex.

24 (6) Medical research strongly indicates that the  
25 sooner emergency contraception is administered, the

1 greater the likelihood of preventing unintended preg-  
2 nancy.

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

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

14 (9) Approximately one-third of women of repro-  
15 ductive age remain unaware of emergency contracep-  
16 tion. Therefore, women who have been sexually as-  
17 saulted are unlikely to ask for emergency contracep-  
18 tion.

19 (10) It is essential that all hospitals that pro-  
20 vide emergency medical treatment provide emergency  
21 contraception as a treatment option to any woman  
22 who has been sexually assaulted, so that she may  
23 prevent an unintended pregnancy.

24 (11) Victims of sexual assault are at increased  
25 risk of contracting sexually transmitted diseases.

(12) Some sexually transmitted infections cannot be reliably cured if treatment is delayed, and may result in high morbidity and mortality. HIV has killed over 520,000 individuals in the United States, and the Centers for Disease Control and Prevention currently estimates that over 1,000,000 individuals in the United States are infected with the virus. Even modern drug treatment has failed to cure infected individuals. Nearly 60,000 individuals in the United States are infected with hepatitis B each year, with some individuals unable to fully recover. An estimated 1,250,000 individuals in the United States remain chronically infected with the hepatitis B virus and at present, 1 in 4 of those infected individuals may expect to die of liver failure.

16 (13) It is possible to prevent some sexually  
17 transmitted diseases by treating an exposed indi-  
18 vidual promptly. The use of post-exposure proph-  
19 laxis using antiretroviral drugs has been dem-  
20 onstrated to effectively prevent the establishment of  
21 HIV infection. Hepatitis B infection may also be  
22 eliminated if an exposed individual receives prompt  
23 treatment.

24 (14) The Centers for Disease Control and Pre-  
25 vention has recommended risk evaluation and appro-

1       priate application of post-exposure treatment for vic-  
2       tims of sexual assault. For such individuals, imme-  
3       diate treatment is the only means to prevent a life-  
4       threatening infection.

5           (15) It is essential that all hospitals that pro-  
6       vide emergency medical treatment provide assess-  
7       ment and treatment of sexually transmitted infec-  
8       tions to minimize the harm to victims of sexual as-  
9       sault.

10      **SEC. 3. SURVIVORS OF SEXUAL ASSAULT; PROVISION BY**  
11                   **HOSPITALS OF EMERGENCY CONTRACEP-**  
12                   **TIVES WITHOUT CHARGE.**

13        (a) **IN GENERAL.**—Federal funds may not be pro-  
14       vided to a hospital under title XVIII of the Social Security  
15       Act or to a State, with respect to services of a hospital,  
16       under title XIX of such Act, unless the hospital meets the  
17       conditions specified in subsection (b) in the case of—

18           (1) any woman who arrives at the hospital and  
19       states that she is a victim of sexual assault, or is ac-  
20       companied by someone who states she is a victim of  
21       sexual assault; and

22           (2) any woman who arrives at the hospital  
23       whom hospital personnel have reason to believe is a  
24       victim of sexual assault.

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

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

8                       (A) emergency contraception has been ap-  
9 proved by the Food and Drug Administration  
10 as an over-the-counter medication for women  
11 ages 18 and over and is a safe and effective  
12 way to prevent pregnancy after unprotected  
13 intercourse or contraceptive failure if taken in  
14 a timely manner;

15                       (B) emergency contraception is more effec-  
16 tive the sooner it is taken; and

17                       (C) 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 or her family to pay for the services.

7               (c) DEFINITIONS.—For purposes of this section:

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

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

13                       (B) is used postcoitally.

14                       (2) HOSPITAL.—The term “hospital” has the  
15      meaning given such term in section 1861(e) of the  
16      Social Security Act (42 U.S.C. 1395x(e)), and in-  
17      cludes critical access hospitals, as defined in section  
18      1861(mm)(1) of such Act (42 U.S.C.  
19      1395x(mm)(1)).

20                       (3) SECRETARY.—The term “Secretary” means  
21      the Secretary of Health and Human Services.

22                       (4) SEXUAL ASSAULT.—

23                       (A) IN GENERAL.—The term “sexual as-  
24      sault” means a sexual act (as defined in sub-  
25      paragraphs (A) through (C) of section 2246(2)

1 of title 18, United States Code) where the vic-  
2 tim involved does not consent or lacks the ca-  
3 pacity to consent.

4 (B) APPLICATION OF PROVISIONS.—The  
5 definition in subparagraph (A) shall apply to all  
6 individuals.

7 (d) EFFECTIVE DATE; AGENCY CRITERIA.—This sec-  
8 tion takes effect upon the expiration of the 180-day period  
9 beginning on the date of the enactment of this Act. Not  
10 later than 30 days prior to the expiration of such period,  
11 the Secretary shall publish in the Federal Register criteria  
12 for carrying out this section.

## 13 SEC. 4. PREVENTION OF SEXUALLY TRANSMITTED DIS- 14 EASE.

15 (a) DEFINITIONS.—In this section:

16 (1) HOSPITAL.—The term “hospital” has the  
17 meaning given such term in section 1861(e) of the  
18 Social Security Act (42 U.S.C. 1395x(e)), and in-  
19 cludes critical access hospitals, as defined in section  
20 1861(mm)(1) of such Act (42 U.S.C.  
21 1395x(mm)(1)).

1 sional determined to be appropriate by the Sec-  
2 retary.

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

5 (4) SEXUAL ASSAULT.—

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

12 (B) APPLICATION OF PROVISIONS.—The  
13 definition in subparagraph (A) shall apply to all  
14 individuals.

15 (b) GENERAL REQUIREMENT.—Federal funds may  
16 not be provided to a hospital under title XVIII of the So-  
17 cial Security Act (42 U.S.C. 1395 et seq.) or to a State,  
18 with respect to services of a hospital, under title XIX of  
19 such Act (42 U.S.C. 1396 et seq.), unless the hospital pro-  
20 vides risk assessment, counseling, and treatment as re-  
21 quired under this section to a survivor of sexual assault  
22 described in subsection (c).

23 (c) SURVIVORS OF SEXUAL ASSAULT.—An individual  
24 is a survivor of a sexual assault described in this sub-  
25 section if the individual—

1 (1) arrives at the hospital and states that the  
2 individual is a victim of sexual assault, or is accom-  
3 panied to the hospital by another individual who  
4 states that the first individual is a victim of sexual  
5 assault; or

6 (2) arrives at the hospital and hospital per-  
7 sonnel have reason to believe the individual is a vic-  
8 tim of sexual assault.

19 (A) available information regarding the as-  
20 sault as well as the subsequent findings from  
21 medical examination and any tests that may be  
22 conducted; and

23 (B) established standards of risk assess-  
24 ment, which shall include consideration of any  
25 recommendations established by the Centers for

1 Disease Control and Prevention, and may also  
2 incorporate consideration of findings of peer-re-  
3 viewed clinical studies and appropriate research  
4 utilizing in vitro and non-human primate mod-  
5 els of infection.

9 (A) significantly prevalent sexually trans-  
10 mitted infections for which effective post-expo-  
11 sure prophylaxis exists, and for which the defer-  
12 ral of treatment would either significantly re-  
13 duce treatment efficacy or pose substantial risk  
14 to the individual's health; and

15 (B) the requirement that prophylactic  
16 treatment for infections described in subpara-  
17 graph (A) shall be provided to the individual  
18 upon request, regardless of the ability of the in-  
19 dividual or the individual's family to pay for  
20 such treatment.

11 (e) RULE OF CONSTRUCTION.—Nothing in this sec-  
12 tion shall be construed to—

23 (3) establish a requirement that any victim of  
24 sexual assault submit to diagnostic testing for the  
25 presence of any infectious disease.

1        (f) EFFECTIVE DATE; AGENCY CRITERIA.—This sec-  
2    tion takes effect upon the expiration of the 180-day period  
3    beginning on the date of the enactment of this Act. Not  
4    later than 30 days prior to the expiration of such period,  
5    the Secretary shall publish in the Federal Register criteria  
6    for carrying out this section.

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