

113TH CONGRESS  
2D SESSION

# S. 2876

To establish a public education and awareness and access program relating to emergency contraception.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 2014

Mrs. MURRAY (for herself, Mrs. BOXER, Ms. WARREN, Mr. BLUMENTHAL, and Mr. BOOKER) 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 establish a public education and awareness and access program relating to emergency contraception.

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 “Emergency Contracep-  
5       tion Access and Education Act of 2014”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

8               (1) Each year 3,400,000 pregnancies, or one-  
9       half of all pregnancies, in the United States are un-

1 intended, and 4 in 10 of these unintended preg-  
2 nancies end in abortion.

3 (2) The Food and Drug Administration has de-  
4 clared emergency contraception to be safe and effec-  
5 tive in preventing unintended pregnancy for women  
6 of reproductive potential and has approved certain  
7 forms of emergency contraceptive for unrestricted  
8 sale on pharmacy shelves to women of all ages.

9 (3) Research indicates that emergency contra-  
10 ception reduces the risk of pregnancy by up to 95  
11 percent and emergency IUD insertion reduces the  
12 risk by 99 percent. Although more effective the  
13 sooner it is taken, medical evidence indicates that  
14 emergency contraception can be effective up to 5  
15 days after unprotected intercourse or contraceptive  
16 failure.

17 (4) Emergency contraception is a responsible  
18 means of preventing pregnancy that works like other  
19 hormonal contraceptives by suppressing or delaying  
20 ovulation, which makes fertilization from unpro-  
21 tected intercourse unlikely if the medication is taken  
22 within 120 hours. Emergency contraception does not  
23 terminate an established pregnancy.

1           (5) Most brands of emergency contraception  
2 consist of the same hormones found in other hor-  
3 monal birth control.

4           (6) The percentage of sexually experienced  
5 women aged 15 to 44 in the United States who have  
6 ever used emergency contraception increased from  
7 4.2 percent in 2002 to 11 percent in years 2006  
8 through 2010.

9           (7) A recent study by the Guttmacher Institute  
10 demonstrates that the rate of teen pregnancy in the  
11 United States has reached a historic low, declining  
12 51 percent since its peak in 1990. From 2008 to  
13 2010, increasing proportions of women aged 18 and  
14 19 reported becoming sexually active, yet fewer of  
15 them got pregnant during this time period than in  
16 previous studies. Research suggests that increasing  
17 rates of contraceptive use may be associated with  
18 the decline in teen pregnancy.

19           (8) Despite an increase in use, significant dis-  
20 parities exist for young, urban, minority women who  
21 lack general knowledge about emergency contracep-  
22 tion. In fact, 1 in 4 teens remain completely un-  
23 aware of the method and its use.

24           (9) Although the American College of Obstetri-  
25 cians and Gynecologists (ACOG) recommends that

1 doctors routinely discuss emergency contraception  
2 with women of reproductive age during their clinical  
3 visits only half of obstetricians/gynecologists offer  
4 emergency contraception to all of their patients in  
5 need suggesting that greater provider and patient  
6 awareness and education is needed.

7 (10) Nearly 1 out of 5 American women is a  
8 victim of rape. It is estimated that 25,000 to 32,000  
9 women become pregnant each year as a result of  
10 rape, half of whom choose to terminate their preg-  
11 nancy. The risk of pregnancy after sexual assault  
12 has been estimated to be 4.7 percent in adult sur-  
13 vivors who were not protected by some form of con-  
14 traception at the time of the attack. If used cor-  
15 rectly, emergency contraception could help many of  
16 these rape survivors avoid the additional trauma of  
17 facing an unintended pregnancy.

18 (11) Only 18 States and the District of Colum-  
19 bia require hospital emergency rooms to provide  
20 emergency contraception-related services to survivors  
21 of sexual assault. Of those, only 13 States and the  
22 District of Columbia require hospital emergency  
23 rooms to provide emergency contraception upon re-  
24 quest to survivors of sexual assault. Nine States  
25 have adopted restrictions on emergency contracep-

tion, and six States explicitly allow pharmacists to refuse to dispense emergency contraception.

(12) In light of their safety and efficacy, the American Medical Association, American Academy of Pediatrics, American Women’s Medical Association, Society for Adolescent Medicine, and the American College of Obstetricians and Gynecologists have endorsed more widespread availability of emergency contraceptives.

(13) Healthy People 2020, published by the Office of Disease Prevention and Health Promotion (ODPHP), establishes a 10-year national public health goal of increasing the proportion of publicly funded health care providers who provide emergency contraception to their patients, and reducing the number of unintended pregnancies by 10 percent.

(14) Public awareness campaigns targeting women and health care providers will help remove many of the barriers to emergency contraception and will help bring this important means of pregnancy prevention to women in the United States.

### **SEC. 3. DEFINITIONS.**

In this Act:

(1) **EMERGENCY CONTRACEPTION.**—The term “emergency contraception” means a drug or device

(as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)), or drug regimen that—

(A) is used postcoitally;

(B) prevents pregnancy primarily by preventing or delaying ovulation, and does not terminate an established pregnancy; and

(C) is approved by the Food and Drug Administration.

(2) HEALTH CARE PROVIDER.—The term “health care provider” means an individual who is licensed or certified under State law to provide health care services and who is operating within the scope of such license. Such term shall include a pharmacist.

(3) HOSPITAL.—The term “hospital” means—

(A) a hospital as defined in section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e)); and

(B) a critical access hospital as defined in section 1861(mm)(1) of such Act (42 U.S.C. 1395x(mm)(1)).

(4) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the

1 meaning given such term in section 101(a) of the  
 2 Higher Education Act of 1965 (20 U.S.C. 1001(a)).

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

5 (6) 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 **SEC. 4. SURVIVORS OF SEXUAL ASSAULT; PROVISION BY**  
 16 **HOSPITALS OF EMERGENCY CONTRACEP-**  
 17 **TION WITHOUT CHARGE.**

18 (a) IN GENERAL.—Federal funds may not be pro-  
 19 vided to a hospital under title XVIII of the Social Security  
 20 Act (42 U.S.C. 1395 et seq.) or to a State, with respect  
 21 to services of a hospital, under title XIX of such Act (42  
 22 U.S.C. 1396 et seq.), unless such hospital complies with  
 23 the conditions specified in subsection (b) in the case of—

24 (1) any woman who arrives at the hospital and  
 25 states that she is a victim of sexual assault, or is ac-

1        accompanied by someone who states she is a victim of  
2        sexual assault; and

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

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

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

13            (A) emergency contraception has been ap-  
14        proved by the Food and Drug Administration  
15        as an over-the-counter medication for all women  
16        without age restrictions and is a safe and effec-  
17        tive way to prevent pregnancy after unprotected  
18        intercourse or contraceptive failure if taken in  
19        a timely manner;

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

22            (C) emergency contraception does not  
23        cause an abortion and cannot interrupt an es-  
24        tablished pregnancy.



(3) The information provided pursuant to paragraph (1) is in clear and concise language, is readily comprehensible, and meets such conditions regarding the provision of the information in languages other than English as the Secretary may establish.

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

(c) EFFECTIVE DATE; AGENCY CRITERIA.—This section shall take effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act. Not later than 30 days prior to the expiration of such period, the Secretary shall publish in the Federal Register criteria for carrying out this section.

19 SEC. 5. EMERGENCY CONTRACEPTION EDUCATION AND IN-  
20 FORMATION PROGRAMS.

21 (a) EMERGENCY CONTRACEPTION PUBLIC EDU-  
22 CATION PROGRAM.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop and disseminate

1       nate to the public information on emergency contra-  
2       ception.

3           (2) DISSEMINATION.—The Secretary may dis-  
4       seminate information on emergency contraception  
5       under paragraph (1) directly or through arrange-  
6       ments with health agencies, professional and non-  
7       profit organizations, consumer groups, institutions  
8       of higher education, clinics, the media, and Federal,  
9       State, and local agencies.

10          (3) INFORMATION.—The information on emer-  
11       gency contraception disseminated under paragraph  
12       (1) shall include, at a minimum, the most current  
13       evidence-based and evidence-informed standards of  
14       care with respect to emergency contraception and an  
15       explanation of the proper, use, safety, efficacy, coun-  
16       seling and availability of such contraception.

17       (b) EMERGENCY CONTRACEPTION INFORMATION  
18       PROGRAM FOR HEALTH CARE PROVIDERS.—

19           (1) IN GENERAL.—The Secretary, acting  
20       through the Administrator of the Health Resources  
21       and Services Administration and in consultation  
22       with major medical and public health organizations,  
23       shall develop and disseminate to health care pro-  
24       viders information on emergency contraception.

1           (2) INFORMATION.—The information dissemi-  
2       nated under paragraph (1) shall include, at a min-  
3       imum—

4           (A) information describing the most cur-  
5       rent evidence-based and evidence-informed  
6       standards of care, proper use, safety, efficacy,  
7       counseling and availability of emergency contra-  
8       ception;

9           (B) a recommendation regarding the use of  
10      such contraception in appropriate cases;

11          (C) recommendation for health care pro-  
12      viders working in emergency rooms to consult  
13      with survivors of sexual assault once clinically  
14      stable regarding options for emergency contra-  
15      ception and to provide any necessary follow-up  
16      care and referral services; and

17          (D) information explaining how to obtain  
18      copies of the information developed under sub-  
19      section (a) for distribution to the patients of  
20      the providers.

21      (c) AUTHORIZATION OF APPROPRIATIONS.—There  
22      are authorized to be appropriated to carry out this section,  
23      such sums as may be necessary for each of the fiscal years  
24      2014 through 2018.

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