

FIRST REGULAR SESSION

SENATE BILL NO. 260

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WRIGHT-JONES.

Read 1st time January 27, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1369S.011

AN ACT

To amend chapter 191, RSMo, by adding thereto two new sections relating to emergency care for sexual assault victims, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 191, RSMo, is amended by adding thereto two new sections, to be known as sections 191.717 and 191.718, to read as follows:

191.717. 1. Sections 191.717 and 191.718 may be cited as the "Compassionate Assistance for Rape Emergencies (CARE) Act".

2. As used in sections 191.717 to 191.718, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Emergency care to sexual assault victims", medical examinations, procedures, or services provided at a hospital to a sexual assault victim following an alleged rape;

(2) "Emergency contraception", any drug or device approved by the Food and Drug Administration that prevents pregnancy after sexual intercourse;

(3) "Health care facility", any urgent care center or facility that offers treatment for patients during normal business, after-business, or weekend hours and that is affiliated with a licensed hospital;

(4) "Medically and factually accurate and objective", verified or supported by the weight of research conducted in compliance with accepted scientific methods and is published in peer-reviewed journals where applicable; or comprising information that leading professional organizations and agencies with relevant expertise in the field, such as the American College of Obstetricians and Gynecologists, recognize as accurate and objective;

(5) "Sexual assault", as defined in section 566.040, RSMo;

22 (6) "Sexual assault victim", a female who is alleged to have been
23 raped and is presented as a patient.

 191.718. 1. It shall be the standard of care for any hospital and
2 any health care facility that provides emergency care to sexual assault
3 victims to:

4 (1) Provide each sexual assault victim with medically and
5 factually accurate and objective written and oral information about
6 emergency contraception;

7 (2) Orally inform each sexual assault victim of her option to be
8 provided emergency contraception at the hospital;

9 (3) Provide the complete regimen of emergency contraception
10 immediately at the hospital or health care facility to each sexual
11 assault victim who requests it; and

12 (4) Follow the Department of Justice protocols on HIV/STI
13 screening and prophylactic treatment as referenced in 19 CSR 40-10.010
14 and the sexual assault forensic exam checklist promulgated by the
15 department of health and senior services.

16 2. Hospitals and health care facilities shall ensure that each
17 person who provides care to sexual assault victims is provided with
18 medically and factually accurate and objective information about
19 emergency contraception.

20 3. The department of health and senior services shall develop,
21 prepare, and produce informational materials relating to emergency
22 contraception for the prevention of pregnancy for distribution in any
23 hospital or health care facility in the state in quantities sufficient to
24 comply with the requirements of this section. The director, in
25 collaboration with community sexual assault programs, may also
26 approve informational materials from other sources.

27 4. The information materials shall:

28 (1) Be medically and factually accurate and objective;

29 (2) Be clearly written and readily comprehensible in a culturally
30 competent manner, as the department deems necessary to inform
31 victims of sexual assault; and

32 (3) Explain the nature of emergency contraception, including its
33 use, safety, efficacy, and availability, and that it does not cause
34 abortion.

35 5. The department of health and senior services shall respond to

36 complaints and shall periodically determine whether hospitals and
37 health care facilities are complying with the provisions of this
38 section. The department may use all investigative tools available to
39 verify compliance. If the department determines that a hospital or
40 health care facility is not in compliance, the department shall:

41 (1) Impose an administrative penalty of five thousand dollars per
42 woman who is denied medically and factually accurate and objective
43 information about emergency contraception or who is not offered or
44 provided emergency contraception; and

45 (2) Impose an administrative penalty of five thousand dollars for
46 failure to comply with the provisions of this section and for every
47 thirty days that a hospital or health care facility is not in compliance,
48 an additional penalty of five thousand dollars shall be imposed.

49 6. The department shall promulgate rules to implement the
50 provisions of sections 191.717 to 191.718.

51 7. Any rule or portion of a rule, as that term is defined in section
52 536.010, RSMo, that is created under the authority delegated in this
53 section shall become effective only if it complies with and is subject to
54 all of the provisions of chapter 536, RSMo, and, if applicable, section
55 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
56 and if any of the powers vested with the general assembly pursuant to
57 chapter 536, RSMo, to review, to delay the effective date, or to
58 disapprove and annul a rule are subsequently held unconstitutional,
59 then the grant of rulemaking authority and any rule proposed or
60 adopted after August 28, 2009, shall be invalid and void.

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