

By Senator Wasserman Schultz

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1 A bill to be entitled
2 An act relating to hospitals and health care
3 facilities; creating s. 395.1022, F.S.;
4 providing legislative intent; defining terms;
5 prescribing requirements for emergency
6 treatment for survivors of rape; providing for
7 counseling and for oral and written information
8 concerning pregnancy-prevention prophylaxis;
9 providing for immediate access to medically
10 appropriate pregnancy-prevention prophylaxis,
11 if requested; providing an effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Section 395.1022, Florida Statutes, is
16 created to read:

17 395.1022 Emergency treatment for survivors of rape.--

18 (1) LEGISLATIVE FINDINGS AND INTENT.--The Legislature
19 finds that the victimization of women through rape is
20 compounded by the possibility that the rape survivor may
21 suffer an unwanted pregnancy by the rapist. The Legislature
22 further finds that access to pregnancy-prevention prophylaxis
23 and timely counseling are simple, basic measures that can
24 prevent this additional victimization. The federal Food and
25 Drug Administration has approved the use of
26 pregnancy-prevention prophylaxis as safe and effective in the
27 prevention of pregnancy. Further, medical research strongly
28 indicates that the sooner pregnancy-prevention prophylaxis is
29 administered, the better the chance of preventing unintended
30 pregnancy. Therefore, the Legislature finds it essential that
31 hospitals or other health care facilities that provide

1 emergency medical treatment but do not provide
2 pregnancy-prevention prophylaxis as a treatment option to any
3 woman who seeks treatment as a result of an alleged rape
4 should provide timely counseling and have in place
5 arrangements to guarantee the immediate availability of this
6 treatment option.

7 (2) DEFINITIONS.--As used in this section, the term:

8 (a) "Emergency care to a rape survivor" means medical
9 examinations, procedures, and services provided to a rape
10 survivor by a hospital or other health care facility licensed
11 in this state.

12 (b) "Incest" means a sexual offense described in s.
13 826.04.

14 (c) "Pregnancy-prevention prophylaxis" means any drug
15 or device approved by the federal Food and Drug Administration
16 which prevents pregnancy after sexual intercourse.

17 (d) "Rape" means a sexual offense described in s.
18 794.011.

19 (e) "Rape survivor" means a female who alleges or is
20 alleged to have been raped or is the victim of alleged incest
21 and because of the alleged offense seeks treatment as a
22 patient.

23 (3) DUTIES OF FACILITIES PROVIDING EMERGENCY CARE.--If
24 a hospital or other health care facility licensed in this
25 state provides emergency care to a rape survivor, the hospital
26 or other health care facility shall:

27 (a) Provide each rape survivor with counseling and
28 medically and factually accurate, clear and concise, and
29 unbiased written and oral information about
30 pregnancy-prevention prophylaxis.

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1 (b) Inform each rape survivor of her option to receive
2 pregnancy-prevention prophylaxis.

3 (c) If pregnancy-prevention prophylaxis is requested,
4 immediately provide the rape survivor with medically
5 appropriate pregnancy-prevention prophylaxis, or immediately
6 make arrangements for such emergency treatment, as provided in
7 paragraph (d).

8 (d) If pregnancy-prevention prophylaxis is requested
9 and the hospital or other health care facility elects not to
10 directly provide such emergency treatment, immediately make
11 arrangements with another provider to provide the rape
12 survivor with medically appropriate pregnancy-prevention
13 prophylaxis. Such arrangements must ensure that the patient's
14 confidentiality is respected and that the patient is not
15 subjected to unnecessary examination or assessment resulting
16 in undue delay in obtaining pregnancy-prevention prophylaxis.
17 Such arrangements must also consider, and the facility must
18 document in the patient's medical record, the patient's
19 ability to secure the emergency treatment, including whether
20 the patient is physically and mentally able to pursue such
21 option, is suitably attired to present at an alternate site,
22 and has the necessary transportation and resources. Such
23 arrangements may include, but are not limited to:

24 1. Providing the patient with a prescription for
25 pregnancy-prevention prophylaxis when it can be confirmed that
26 there is a pharmacy open and able to meet this need on a
27 timely basis.

28 2. Providing the patient with an order for
29 pregnancy-prevention prophylaxis which can be honored on an
30 ambulatory basis at a facility available to the patient.

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1 3. Referring the patient to a physician or facility
2 where arrangements have been made for the patient to receive
3 pregnancy-prevention prophylaxis.

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5 If any of the requirements of this paragraph cannot be met,
6 the hospital or health care facility must provide the
7 emergency treatment directly.

8 (e) Document in the patient's record the emergency
9 care provided, including the direct provision of
10 pregnancy-prevention prophylaxis or any arrangements made for
11 the patient to obtain pregnancy-prevention prophylaxis from
12 another provider.

13 Section 2. This act shall take effect October 1, 2002.

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16 SENATE SUMMARY

17 Provides requirements for hospitals' and health care
18 facilities' emergency treatment for survivors of rape.
19 Provides legislative intent. Provides for counseling and
20 for oral and written information concerning
21 pregnancy-prevention prophylaxis. Provides for immediate
22 access to medically appropriate pregnancy-prevention
23 prophylaxis, if requested.