

# 26:2H-12.6b

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2005 **CHAPTER:** 50

**NJSA:** 26:2H-12.6b (Requires hospital to provide care to sexual assault victims)

**BILL NO:** S1668 (Substituted for A2698)

**SPONSOR(S):** Turner and others

**DATE INTRODUCED:** June 10, 2004

**COMMITTEE:** **ASSEMBLY:** Health and Human Services  
**SENATE:** Health, Human Services and Senior Citizens

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** December 13, 2004

**SENATE:** February 14, 2005

**DATE OF APPROVAL:** March 21, 2005

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) Senate Committee Substitute (1R) enacted

**S1668**

[SPONSOR'S STATEMENT:](#) (Begins on page 7 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** [Yes](#)

**SENATE:** [Yes](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**A2698**

[SPONSOR'S STATEMENT:](#) (Begins on page 7 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** [Yes](#)

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

[GOVERNOR'S PRESS RELEASE ON SIGNING:](#) [Yes](#)

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>

**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

Yes

"Rape victim aid bill becomes law," 3-22-2005 The Times, p.A6

"New law gives rape victims contraception facts and pills," 3-22-2005 Star-Ledger, p.23

"Sexual-assault victims to get contraceptives," 3-22-2005 Home News & Tribune, p.A3

§§1-5  
C.26:2H-12.6b  
to 26:2H-12.6f  
§7  
C.26:2H-12.6g  
§8  
Note to §§1-7

P.L. 2005, CHAPTER 50, *approved March 21, 2005*  
Senate Committee Substitute (*First Reprint*) for  
Senate, No. 1668

1 **AN ACT** concerning emergency contraception for sexual assault  
2 victims, supplementing Title 26 of the Revised Statutes and  
3 amending P.L.1985, c.404.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. (New section) As used in this act:

9 "Commissioner" means the Commissioner of Health and Senior  
10 Services.

11 "Division on Women" means the Division on Women in the  
12 Department of Community Affairs.

13 "Emergency care to sexual assault victims" means a medical  
14 examination, procedure or service provided by an emergency health  
15 care facility to a sexual assault victim following an alleged sexual  
16 offense.

17 "Emergency contraception" means one or more prescription drugs  
18 to prevent pregnancy, used separately or in combination, administered  
19 to or self-administered by a patient within a medically recommended  
20 time after sexual intercourse, dispensed for that purpose in accordance  
21 with professional standards of practice and determined to be safe by  
22 the United States Food and Drug Administration.

23 "Emergency health care facility" means a general hospital or  
24 satellite emergency department licensed pursuant to P.L.1971, c.136  
25 (C.26:2H-1 et seq.).

26 "Medically and factually accurate and objective" means verified or  
27 supported by the weight of research conducted in compliance with  
28 accepted scientific methods and standards, published in peer-reviewed  
29 journals and recognized as accurate and objective by leading  
30 professional organizations and agencies with relevant expertise in the  
31 field of obstetrics and gynecology.

32 "Sexual Assault Nurse Examiner program" means the Statewide  
33 Sexual Assault Nurse Examiner program in the Division of Criminal  
34 Justice in the Department of Law and Public Safety, established

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly AHH committee amendments adopted November 8, 2004.

1 pursuant to P.L.2001, c.81 (C.52:4B-50 et seq.).

2 "Sexual assault victim" means a female <sup>1</sup>[12 years of age or  
3 older]<sup>1</sup> who alleges or is alleged to have suffered a personal, physical  
4 or psychological injury as a result of a sexual offense.

5 "Sexual offense" means sexual assault and aggravated sexual  
6 assault as set forth in N.J.S.2C:14-2, criminal sexual contact and  
7 aggravated criminal sexual contact as set forth in N.J.S.2C:14-3,  
8 fourth degree lewdness as set forth in subsection b. of N.J.S.2C:14-4  
9 and endangering the welfare of a child by engaging in sexual conduct  
10 which would impair or debauch the morals of the child as set forth in  
11 N.J.S.2C:24-4.

12

13 2. (New section) An emergency health care facility shall provide  
14 emergency care to a sexual assault victim. It shall be the standard of  
15 care for an emergency health care facility to:

16 a. provide each sexual assault victim with medically and factually  
17 accurate and objective oral and written information about emergency  
18 contraception <sup>1</sup>and sexually transmitted diseases<sup>1</sup>, as provided for in  
19 section 4 of this act;

20 b. orally inform each sexual assault victim of her option to be  
21 provided emergency contraception at the health care facility; and

22 c. provide emergency contraception to the sexual assault victim,  
23 upon her request, unless contraindicated. If the emergency  
24 contraceptive is in the form of pills, the provision of the emergency  
25 contraception shall include the initial dose that the victim may take at  
26 the emergency health care facility, as well as the follow-up dose that  
27 the victim can self-administer later.

28 An emergency health care facility shall not be required to  
29 <sup>1</sup>[provided] provide<sup>1</sup> emergency contraception to a sexual assault  
30 victim who is pregnant.

31

32 3. (New section) An emergency health care facility shall have  
33 written policies and procedures to ensure that all personnel who  
34 provide care or information to a sexual assault victim:

35 a. are trained to provide medically and factually accurate and  
36 objective information about emergency contraception <sup>1</sup>and sexually  
37 transmitted diseases<sup>1</sup> to a sexual assault victim; and

38 b. provide that information to a sexual assault victim.

39

40 4. (New section) <sup>1</sup>a.<sup>1</sup> The commissioner, in collaboration with the  
41 Director of the Division on Women, the New Jersey Coalition Against  
42 Sexual Assault and the Sexual Assault Nurse Examiner program, shall  
43 develop, prepare and produce, in quantities sufficient to comply with  
44 the purposes of this act, written information relating to<sup>1</sup>:<sup>1</sup> emergency  
45 contraception for the prevention of pregnancy in sexual assault  
46 victims<sup>1</sup>; and sexually transmitted diseases<sup>1</sup>.

1       <sup>1</sup>b.<sup>1</sup> The information shall be clearly written and readily  
2 comprehensible in a culturally competent manner, as the commissioner,  
3 in collaboration with the Division on Women, the New Jersey  
4 Coalition Against Sexual Assault and the Sexual Assault Nurse  
5 Examiner program, deems necessary to inform a sexual assault victim.  
6 The information shall explain<sup>1</sup>:

7       (1)<sup>1</sup> the nature of emergency contraception, the effectiveness of  
8 emergency contraception in preventing pregnancy, where emergency  
9 contraception can be obtained, and treatment options<sup>1</sup>; and

10       (2) the symptoms and effects of sexually transmitted diseases, and  
11 treatment options<sup>1</sup>.

12       <sup>1</sup>c.<sup>1</sup> The information shall be distributed to all hospital and satellite  
13 emergency departments in the State for use in those facilities pursuant  
14 to this act.

15  
16       5. (New section) a. The commissioner shall:

17       (1) investigate every complaint of noncompliance with the  
18 provisions of this act by an emergency health care facility, including  
19 the failure of a facility to provide the services required by this act;

20       (2) determine whether the complaint is substantiated, and if so,  
21 what action shall be taken by the emergency health care facility or  
22 commissioner to address the complaint;

23       (3) notify the Sexual Assault Nurse Examiner program of all  
24 substantiated complaints;

25       (4) compile the substantiated complaints;

26       (5) analyze the substantiated complaints, at least annually, to  
27 determine if there is any pattern of failure to provide services pursuant  
28 to this act; and

29       (6) determine, at least annually, whether an emergency health care  
30 facility is complying with the provisions of this act. The commissioner  
31 may utilize all means within his regulatory authority concerning health  
32 care facilities to verify a facility's compliance with this act.

33       b. If the commissioner determines that an emergency health care  
34 facility is not in compliance with the provisions of this act, the  
35 commissioner may assess such penalties and take other actions against  
36 the facility, as provided in P.L.1971, c.136 (C.26:2H-1 et seq.). Any  
37 such penalties assessed for noncompliance shall be paid to the  
38 Department of the Treasury and allocated, on a quarterly basis, to the  
39 Division on Women for supplemental funding for designated rape crisis  
40 centers.

41       c. The commissioner shall prepare an annual report, which shall be  
42 available to the public, summarizing the substantiated complaints, the  
43 actions taken by an emergency health care facility or the commissioner  
44 to address the complaints, and the commissioner's findings concerning  
45 any pattern of failure to provide services under, or noncompliance  
46 with, the provisions of this act.

1       6. Section 6 of P.L.1985, c.404 (C.52:4B-44) is amended to read  
2 as follows:

3       6. a. The Attorney General shall, through the Office of  
4 Victim-Witness Advocacy in the Division of Criminal Justice in the  
5 Department of Law and Public Safety and in consultation with the  
6 county prosecutors, promulgate standards for law enforcement  
7 agencies to ensure that the rights of crime victims are enforced.

8       b. The standards shall require that the Office of Victim-Witness  
9 Advocacy in the Division of Criminal Justice and each county  
10 prosecutor's office provide the following services upon request for  
11 victims and witnesses involved in the prosecution of a case:

12       (1) Orientation information about the criminal justice system and  
13 the victim's and witness's role in the criminal justice process;

14       (2) Notification of any change in the case status and of final  
15 disposition;

16       (3) Information on crime prevention and on available responses to  
17 witness intimidation;

18       (4) Information about available services to meet needs resulting  
19 from the crime and referrals to service agencies, where appropriate;

20       (5) Advance notice of the date, time and place of the defendant's  
21 initial appearance before a judicial officer, submission to the court of  
22 any plea agreement, the trial and sentencing;

23       (6) Advance notice of when presence in court is not needed;

24       (7) Advice about available compensation, restitution and other  
25 forms of recovery and assistance in applying for government  
26 compensation;

27       (8) A waiting or reception area separate from the defendant for  
28 use during court proceedings;

29       (9) An escort or accompaniment for intimidated victims or  
30 witnesses during court appearances;

31       (10) Information about directions, parking, courthouse and  
32 courtroom locations, transportation services and witness fees, in  
33 advance of court appearances;

34       (11) Assistance for victims and witnesses in meeting special needs  
35 when required to make court appearances, such as transportation and  
36 child care arrangements;

37       (12) Assistance in making travel and lodging arrangements for  
38 out-of-State witnesses;

39       (13) Notification to employers of victims and witnesses, if  
40 cooperation in the investigation or prosecution causes absence from  
41 work;

42       (14) Notification of the case disposition, including the trial and  
43 sentencing;

44       (15) Assistance to victims in submitting a written statement to a  
45 representative of the county prosecutor's office about the impact of the  
46 crime prior to the prosecutor's final decision concerning whether

1 formal charges will be filed;

2 (16) Advice to victims about their right to make a statement about  
3 the impact of the crime for inclusion in the presentence report or at  
4 time of parole consideration, if applicable;

5 (17) Notification to victims of the right to make an in-person  
6 statement, prior to sentencing, directly to the sentencing court  
7 concerning the impact of the crime;

8 (18) Expediting the return of property when no longer needed as  
9 evidence;

10 (19) Advise and counsel, or refer for advice or counseling, victims  
11 of sexual assault, or other criminal acts involving a risk of transmission  
12 of disease, concerning available medical testing and assist such victims,  
13 or refer such victims for assistance, in obtaining appropriate testing,  
14 counseling and medical care and in making application to the Victims  
15 of Crime Compensation Board for compensation for the costs of such  
16 testing, counseling and care;

17 (20) Assistance to victims in submitting a written impact statement  
18 to a representative of the county prosecutor's office concerning the  
19 impact of the crime which shall be considered prior to the prosecutor's  
20 accepting a negotiated plea agreement containing recommendations as  
21 to sentence and assistance to victims in securing an explanation of the  
22 terms of any such agreement and the reasons for the agreement;

23 (21) Notification to the victim of the defendant's release from  
24 custody which shall include:

25 (a) notice of the defendant's escape from custody and return to  
26 custody following escape;

27 (b) notice of any other release from custody, including placement  
28 in an Intensive Supervision Program or other alternative disposition,  
29 and any associated conditions of release;

30 (c) notice of the filing by an inmate of an application for  
31 commutation of sentence pursuant to N.J.S.2A:167-4 and its  
32 disposition;

33 (d) notice of parole consideration pursuant to provisions of  
34 P.L.1979, c.441 (C.30:4-123.45 et seq.); and

35 (e) notice of the pending release of an inmate due to expiration of  
36 sentence; and

37 (22) Interpreting services for victims and witnesses when  
38 necessary to assist a victim or witness who is hearing impaired or  
39 developmentally disabled as defined in section 3 of P.L.1977, c.82  
40 (C.30:6D-3) to understand questions and frame answers.

41 c. In a case involving a victim of aggravated sexual assault or  
42 sexual assault as defined in subsection a. or c. of N.J.S.2C:14-2, the  
43 Office of Victim-Witness Advocacy or the county prosecutor's office  
44 involved in the case shall:

45 (1) Notify the victim of the victim's right to obtain an approved  
46 serological test for acquired immune deficiency syndrome (AIDS) or

1 infection with the human immunodeficiency virus (HIV) or any other  
2 related virus identified as a probable causative agent of AIDS, and  
3 assist the victim, or refer the victim for assistance, in obtaining a test  
4 and appropriate counseling and medical care;

5 (2) Notify the victim of the victim's right to obtain a court order  
6 pursuant to subsection a. of section 4 of P.L.1993, c.364  
7 (C.2C:43-2.2) requiring the offender to submit to an approved  
8 serological test for acquired immune deficiency syndrome (AIDS) or  
9 infection with the human immunodeficiency virus (HIV) or any other  
10 related virus identified as a probable causative agent of AIDS in the  
11 event that the offender is indicted, formally charged, convicted or  
12 adjudicated delinquent;

13 (3) Communicate the request of a victim who agrees to seek an  
14 order pursuant to subsection a. of section 4 of P.L.1993, c.364  
15 (C.2C:43-2.2) to the prosecutor handling the case and notify the  
16 victim or arrange for the victim to be notified of the test result; and

17 (4) Assist the victim in applying to the Victims of Crime  
18 Compensation Board for compensation for the costs of testing,  
19 counseling and medical care.

20 d. The Attorney General shall, through the Office of  
21 Victim-Witness Advocacy and in consultation with the Commissioner  
22 of [the Department of] Health and Senior Services, the [Director of  
23 the Division] Superintendent of State Police and representatives of  
24 providers of sexual assault services, to be designated by the Director  
25 of the Office of Victim-Witness Advocacy, coordinate the  
26 establishment of standard protocols for the provision of information  
27 and services to victims of sexual assault, and shall make such  
28 protocols available to victims upon request, except that the provision  
29 of information and services with regard to emergency contraception  
30 and sexually transmitted diseases<sup>1</sup> shall be in accordance with  
31 P.L. , c. (C. )(pending before the Legislature as this bill).  
32 (cf: P.L.1996, c.114, s.1)

33  
34 7. Pursuant to the "Administrative Procedure Act," P.L.1968,  
35 c.410 (C.52:14B-1 et seq.), the commissioner, in consultation with the  
36 Director of the Division on Women and the Sexual Assault Nurse  
37 Examiner program, shall adopt rules and regulations to effectuate the  
38 purposes of this act<sup>1</sup>; except that, notwithstanding any provision of  
39 P.L.1968, c.410 to the contrary, the commissioner may adopt,  
40 immediately upon filing with the Office of Administrative Law, such  
41 regulations as the commissioner deems necessary to implement the  
42 provisions of this act, which shall be effective for a period not to  
43 exceed six months and may thereafter be amended, adopted or  
44 readopted by the commissioner in accordance with the requirements  
45 of P.L.1968, c.410<sup>1</sup>.



1       8. This act shall take effect on the <sup>1</sup>[90th] 30th<sup>1</sup> day after  
2 enactment, but the commissioner, in consultation with the Director of  
3 the Division on Women and the Sexual Assault Nurse Examiner  
4 program, may take such anticipatory administrative action in advance  
5 as shall be necessary for the implementation of the act.

6

7

8

9

10       Requires hospital and satellite emergency departments to provide care  
11 to sexual assault victims and information about emergency  
12 contraception and the contraceptives upon request.

**SENATE, No. 1668**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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INTRODUCED JUNE 10, 2004

**Sponsored by:**

**Senator SHIRLEY K. TURNER**

**District 15 (Mercer)**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**SYNOPSIS**

Requires certain health care facilities providing care to sexual assault victims to provide information about emergency contraception and the contraceptives upon request.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning emergency contraception and sexual assault  
2 victims, amending P.L.1985, c.404 and supplementing Title 26 of  
3 the Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. (New section) As used in sections 1 through 4 of this act:

9 "Emergency care to sexual assault victim" means a medical  
10 examination, procedure or service provided by a general hospital or  
11 ambulatory care facility to a sexual assault victim following an alleged  
12 sexual offense.

13 "Emergency contraception" means the provision of a drug or device  
14 that prevents pregnancy when taken after intercourse and is approved  
15 by the federal Food and Drug Administration.

16 "Medically and factually accurate and objective" means verified or  
17 supported by the weight of research conducted in compliance with  
18 accepted scientific methods and standards, published in peer-reviewed  
19 journals and recognized as accurate and objective by leading  
20 professional organizations and agencies with relevant expertise in the  
21 field of obstetrics and gynecology.

22 "Sexual assault victim" means a person 12 years of age or older  
23 who alleges or is alleged to have suffered a personal, physical or  
24 psychological injury as a result of a sexual offense.

25 "Sexual offense" means sexual assault and aggravated sexual assault  
26 as set forth in N.J.S.2C:14-2, criminal sexual contact and aggravated  
27 criminal sexual contact as set forth in N.J.S.2C:14-3, fourth degree  
28 lewdness as set forth in subsection b. of N.J.S.2C:14-4 and  
29 endangering the welfare of a child by engaging in sexual conduct  
30 which would impair or debauch the morals of the child as set forth in  
31 N.J.S.2C:24-4.

32

33 2. (New section) a. It shall be the standard of care for a general  
34 hospital or ambulatory care facility licensed pursuant to P.L.1971,  
35 c.136 (C.26:2H-1 et seq.) that provides emergency care to sexual  
36 assault victims to:

37 (1) provide each sexual assault victim with medically and factually  
38 accurate and objective oral and written information, as provided for in  
39 subsection b. of this section, about emergency contraception;

40 (2) orally inform each sexual assault victim of her option to be  
41 provided an emergency contraceptive at the hospital or ambulatory  
42 care facility; and

43 (3) provide an emergency contraceptive immediately at the hospital

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 or ambulatory care facility to each sexual assault victim who requests  
2 it. If the emergency contraceptive is in the form of pills, the provision  
3 of the emergency contraceptive shall include the initial dose that the  
4 victim may take at the hospital or ambulatory care facility, as well as  
5 the follow-up dose that the victim can self-administer later.

6 b. The Commissioner of Health and Senior Services, in  
7 collaboration with the Director of the Division on Women in the  
8 Department of Community Affairs and the New Jersey Coalition  
9 Against Sexual Assault, shall develop, prepare and produce, in  
10 quantities sufficient to comply with the purposes of this act, written  
11 information relating to emergency contraception for the prevention of  
12 pregnancy in sexual assault victims for distribution to and use in all  
13 emergency rooms and ambulatory care facilities in the State. The  
14 information shall be clearly written and readily comprehensible in a  
15 culturally competent manner, as the commissioner, in collaboration  
16 with the Division on Women in the Department of Community Affairs  
17 and the New Jersey Coalition Against Sexual Assault, deems necessary  
18 to inform a sexual assault victim. The information shall explain the  
19 nature of the emergency contraception, the effectiveness of emergency  
20 contraception in preventing pregnancy, where emergency  
21 contraception can be obtained, and treatment options.

22

23 3. (New section) A general hospital or ambulatory care facility  
24 shall have written policies and procedures to ensure that all personnel  
25 who provide care or information to a sexual assault victim are trained  
26 to provide medically and factually accurate and objective information  
27 about emergency contraception to a sexual assault victim, and provide  
28 that information to a sexual assault victim.

29

30 4. (New section) a. The Department of Health and Senior Services  
31 shall:

32 (1) respond to every complaint of noncompliance of a general  
33 hospital or ambulatory care facility with the provisions of this act;

34 (2) immediately investigate every complaint it receives regarding  
35 the failure of a general hospital or ambulatory care facility to provide  
36 services required by this act and determine whether the complaint is  
37 substantiated;

38 (3) determine the action to be taken to satisfy a substantiated  
39 complaint;

40 (4) compile the substantiated complaints it receives regarding  
41 failure to provide services required by this act and retain the  
42 substantiated complaints for at least ten years;

43 (5) periodically analyze the substantiated complaints to determine  
44 a pattern of failure to provide services pursuant to this act; and

45 (6) periodically determine whether a general hospital or ambulatory  
46 care facility is complying with the provisions of this act and may utilize

1 all means within its regulatory authority concerning health care  
2 facilities to verify a general hospital's or ambulatory care facility's  
3 compliance with this act.

4 b. If the department determines that a general hospital or  
5 ambulatory care facility is not in compliance with the provisions of this  
6 act, the department may assess penalties and take other actions against  
7 the hospital or facility, in accordance with the provisions of P.L.1971,  
8 c.136 (C.26:2H-1 et seq.). Any penalties assessed for noncompliance  
9 with the provisions of this act shall be paid to the Department of the  
10 Treasury and allocated, on a quarterly basis, to the Division on  
11 Women in the Department of Community Affairs for supplemental  
12 funding for designated rape crisis centers.

13 c. The Commissioner of Health and Senior Services shall prepare  
14 an annual report of the substantiated complaints received by the  
15 department, the department's findings and any action taken. The  
16 report shall be made available to the public.

17

18 5. Section 6 of P.L.1985, c.404 (C.52:4B-44) is amended to read  
19 as follows:

20 6. a. The Attorney General shall, through the Office of  
21 Victim-Witness Advocacy in the Division of Criminal Justice in the  
22 Department of Law and Public Safety and in consultation with the  
23 county prosecutors, promulgate standards for law enforcement  
24 agencies to ensure that the rights of crime victims are enforced.

25 b. The standards shall require that the Office of Victim-Witness  
26 Advocacy in the Division of Criminal Justice and each county  
27 prosecutor's office provide the following services upon request for  
28 victims and witnesses involved in the prosecution of a case:

29 (1) Orientation information about the criminal justice system and  
30 the victim's and witness's role in the criminal justice process;

31 (2) Notification of any change in the case status and of final  
32 disposition;

33 (3) Information on crime prevention and on available responses to  
34 witness intimidation;

35 (4) Information about available services to meet needs resulting  
36 from the crime and referrals to service agencies, where appropriate;

37 (5) Advance notice of the date, time and place of the defendant's  
38 initial appearance before a judicial officer, submission to the court of  
39 any plea agreement, the trial and sentencing;

40 (6) Advance notice of when presence in court is not needed;

41 (7) Advice about available compensation, restitution and other  
42 forms of recovery and assistance in applying for government  
43 compensation;

44 (8) A waiting or reception area separate from the defendant for use  
45 during court proceedings;

46 (9) An escort or accompaniment for intimidated victims or

- 1 witnesses during court appearances;
- 2 (10) Information about directions, parking, courthouse and
- 3 courtroom locations, transportation services and witness fees, in
- 4 advance of court appearances;
- 5 (11) Assistance for victims and witnesses in meeting special needs
- 6 when required to make court appearances, such as transportation and
- 7 child care arrangements;
- 8 (12) Assistance in making travel and lodging arrangements for
- 9 out-of-State witnesses;
- 10 (13) Notification to employers of victims and witnesses, if
- 11 cooperation in the investigation or prosecution causes absence from
- 12 work;
- 13 (14) Notification of the case disposition, including the trial and
- 14 sentencing;
- 15 (15) Assistance to victims in submitting a written statement to a
- 16 representative of the county prosecutor's office about the impact of the
- 17 crime prior to the prosecutor's final decision concerning whether
- 18 formal charges will be filed;
- 19 (16) Advice to victims about their right to make a statement about
- 20 the impact of the crime for inclusion in the presentence report or at
- 21 time of parole consideration, if applicable;
- 22 (17) Notification to victims of the right to make an in-person
- 23 statement, prior to sentencing, directly to the sentencing court
- 24 concerning the impact of the crime;
- 25 (18) Expediting the return of property when no longer needed as
- 26 evidence;
- 27 (19) Advise and counsel, or refer for advice or counseling, victims
- 28 of sexual assault, or other criminal acts involving a risk of transmission
- 29 of disease, concerning available medical testing and assist such victims,
- 30 or refer such victims for assistance, in obtaining appropriate testing,
- 31 counseling and medical care and in making application to the Victims
- 32 of Crime Compensation Board for compensation for the costs of such
- 33 testing, counseling and care;
- 34 (20) Assistance to victims in submitting a written impact statement
- 35 to a representative of the county prosecutor's office concerning the
- 36 impact of the crime which shall be considered prior to the prosecutor's
- 37 accepting a negotiated plea agreement containing recommendations as
- 38 to sentence and assistance to victims in securing an explanation of the
- 39 terms of any such agreement and the reasons for the agreement;
- 40 (21) Notification to the victim of the defendant's release from
- 41 custody which shall include:
  - 42 (a) notice of the defendant's escape from custody and return to
  - 43 custody following escape;
  - 44 (b) notice of any other release from custody, including placement
  - 45 in an Intensive Supervision Program or other alternative disposition,
  - 46 and any associated conditions of release;

1 (c) notice of the filing by an inmate of an application for  
2 commutation of sentence pursuant to N.J.S.2A:167-4 and its  
3 disposition;

4 (d) notice of parole consideration pursuant to provisions of  
5 P.L.1979, c.441 (C.30:4-123.45 et seq.); and

6 (e) notice of the pending release of an inmate due to expiration of  
7 sentence; and

8 (22) Interpreting services for victims and witnesses when necessary  
9 to assist a victim or witness who is hearing impaired or  
10 developmentally disabled as defined in section 3 of P.L.1977, c.82  
11 (C.30:6D-3) to understand questions and frame answers.

12 c. In a case involving a victim of aggravated sexual assault or  
13 sexual assault as defined in subsection a. or c. of N.J.S.2C:14-2, the  
14 Office of Victim-Witness Advocacy or the county prosecutor's office  
15 involved in the case shall:

16 (1) Notify the victim of the victim's right to obtain an approved  
17 serological test for acquired immune deficiency syndrome (AIDS) or  
18 infection with the human immunodeficiency virus (HIV) or any other  
19 related virus identified as a probable causative agent of AIDS, and  
20 assist the victim, or refer the victim for assistance, in obtaining a test  
21 and appropriate counseling and medical care;

22 (2) Notify the victim of the victim's right to obtain a court order  
23 pursuant to subsection a. of section 4 of P.L.1993, c.364  
24 (C.2C:43-2.2) requiring the offender to submit to an approved  
25 serological test for acquired immune deficiency syndrome (AIDS) or  
26 infection with the human immunodeficiency virus (HIV) or any other  
27 related virus identified as a probable causative agent of AIDS in the  
28 event that the offender is indicted, formally charged, convicted or  
29 adjudicated delinquent;

30 (3) Communicate the request of a victim who agrees to seek an  
31 order pursuant to subsection a. of section 4 of P.L.1993, c.364  
32 (C.2C:43-2.2) to the prosecutor handling the case and notify the  
33 victim or arrange for the victim to be notified of the test result; and

34 (4) Assist the victim in applying to the Victims of Crime  
35 Compensation Board for compensation for the costs of testing,  
36 counseling and medical care.

37 d. The Attorney General shall, through the Office of  
38 Victim-Witness Advocacy and in consultation with the Commissioner  
39 of [the Department of] Health and Senior Services, the Director of  
40 the Division of State Police and representatives of providers of sexual  
41 assault services, to be designated by the Director of the Office of  
42 Victim-Witness Advocacy, coordinate the establishment of standard  
43 protocols for the provision of information and services to victims of  
44 sexual assault, and shall make such protocols available to victims upon  
45 request, except that the provision of information and services with  
46 regard to emergency contraception, as defined in section 1 of P.L. ,  
47 c. (C. )(pending before the Legislature as this bill), shall be in

1 accordance with sections 1 through 4 of P.L. , c. (C. )(pending  
2 before the Legislature as this bill).  
3 (cf: P.L.1996, c.114, s.1)

4  
5 6. Pursuant to the "Administrative Procedure Act," P.L.1968,  
6 c.410 (C.52:14B-1 et seq.), the Commissioner of Health and Senior  
7 Services, in consultation with the Director of the Division on Women  
8 in the Department of Community Affairs, shall adopt rules and  
9 regulations to effectuate the purposes of this act.

10  
11 7. This act shall take effect on the 90th day after enactment, but  
12 the Commissioner of Health and Senior Services, in consultation with  
13 the Director of the Division on Women in the Department of  
14 Community Affairs, may take such anticipatory administrative action  
15 in advance as shall be necessary for the implementation of the act.

16  
17  
18 STATEMENT

19  
20 This bill requires general hospitals and ambulatory care facilities  
21 licensed pursuant to N.J.S.A.26:2H-1 et seq. (the Health Care  
22 Facilities Planning Act), to provide written and oral information about  
23 emergency contraception to sexual assault victims receiving emergency  
24 care at their facilities, and requires the provision of emergency  
25 contraceptives upon request of the sexual assault victim.

26 Under the provisions of the bill, it would be the standard of care for  
27 a licensed general hospital or ambulatory care facility that provides  
28 emergency care to sexual assault victims to:

29 -- provide each sexual assault victim with medically and factually  
30 accurate and objective oral and written information about emergency  
31 contraception;

32 -- orally inform each sexual assault victim of her option to be  
33 provided an emergency contraceptive at the hospital or ambulatory  
34 care facility; and

35 -- upon request, provide an emergency contraceptive immediately  
36 at the hospital or ambulatory care facility to each sexual assault victim.

37 The bill provides that if the emergency contraceptive is in the form of  
38 pills, the provision of the emergency contraceptive shall include the  
39 initial dose that may be taken at the hospital or ambulatory care facility  
40 as well as the follow-up dose that the sexual assault victim can self-  
41 administer later.

42 In addition, the Commissioner of Health and Senior Services, in  
43 collaboration with the Director of the Division on Women in the  
44 Department of Community Affairs and the New Jersey Coalition  
45 Against Sexual Assault, would develop, prepare and produce, in  
46 quantities sufficient to comply with the bill's purposes, written



1 information relating to emergency contraception for the prevention of  
2 pregnancy in sexual assault victims for distribution to and use in all  
3 emergency rooms and ambulatory care facilities in the State. The  
4 information would be clearly written and readily comprehensible in a  
5 culturally competent manner, as the commissioner, in collaboration  
6 with the Division on Women in the Department of Community Affairs  
7 and the New Jersey Coalition Against Sexual Assault, deems necessary  
8 to inform sexual assault victims. The materials also would explain the  
9 nature of the emergency contraception, information about the  
10 effectiveness of emergency contraception in preventing pregnancy,  
11 where emergency contraception can be obtained, and treatment  
12 options.

13 The bill also requires a general hospital or ambulatory care facility  
14 to have written policies and procedures to ensure that all personnel,  
15 who provide care or information to a sexual assault victim, are trained  
16 to provide medically and factually accurate and objective information  
17 about emergency contraception, and provide that information to a  
18 sexual assault victim.

19 The bill requires the Department of Health and Senior Services to:

20 -- respond to every complaint of noncompliance of a general  
21 hospital or ambulatory care facility licensed with the bill's provisions;

22 -- immediately investigate every complaint it receives regarding the  
23 failure of a general hospital or ambulatory care facility to provide  
24 services required by the bill and determine whether a complaint is  
25 substantiated;

26 -- determine the action to be taken to satisfy a substantiated  
27 complaint;

28 -- compile the substantiated complaints it receives regarding failure  
29 to provide the required services and retain these complaints for at least  
30 10 years;

31 -- periodically analyze the substantiated complaints to determine  
32 a pattern of failure to provide services pursuant to the bill; and

33 -- periodically determine whether a general hospital or ambulatory  
34 care facility is complying with the bill's provisions and may utilize all  
35 means within its regulatory authority to verify the hospital or facility's  
36 compliance with the bill.

37 If the department determines that a general hospital or ambulatory  
38 care facility is not in compliance with the bill's provisions, the  
39 department may assess penalties and take other actions against the  
40 hospital or facility, in accordance with N.J.S.A.26:2H-1 et seq. Any  
41 penalties assessed for noncompliance shall be paid to the Department  
42 of the Treasury and allocated, on a quarterly basis, to the Division on  
43 Women in the Department of Community Affairs for supplemental  
44 funding for designated rape crisis centers.

45 The bill requires the Commissioner of Health and Senior Services  
46 to prepare an annual report of the substantiated complaints, the

1 department's findings and any action taken. The report would be made  
2 available to the public.

3 Lastly, the bill amends subsection d. of N.J.S.A.52:4B-44, which  
4 concerns the coordination of the establishment of standard protocols  
5 for the provision of information and services to sexual assault victims,  
6 to provide that the provision of information and services with regard  
7 to emergency contraception would be in accordance with the  
8 provisions of this bill.

# ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1668**

with committee amendments

## **STATE OF NEW JERSEY**

DATED: NOVEMBER 8, 2004

The Assembly Health and Human Services Committee reports favorably and with committee amendments the Senate Committee Substitute for Senate Bill No. 1668.

As amended by the committee, this committee substitute requires certain facilities to provide written and oral information about emergency contraception and sexually transmitted diseases to sexual assault victims receiving emergency care, as well as emergency contraceptives upon request of the sexual assault victim.

Specifically, the substitute provides as follows:

- C Emergency health care facilities (i.e., general hospitals and satellite emergency departments licensed pursuant to N.J.S.A.26:2H-1 et seq.) are required to provide written and oral information about emergency contraception and sexually transmitted diseases to sexual assault victims receiving emergency care, and to provide emergency contraceptives upon request of the sexual assault victim.
- C An emergency health care facility is required to provide emergency care to a sexual assault victim. It is to be the standard of care for the facility to:
  - provide each sexual assault victim with medically and factually accurate and objective oral and written information about emergency contraception and sexually transmitted diseases;
  - orally inform each sexual assault victim of her option to be provided emergency contraception at the emergency health care facility; and
  - provide emergency contraception to the sexual assault victim, upon her request, unless contraindicated.
- C If the emergency contraceptive is in the form of pills, the provision of the emergency contraception is to include the initial dose that the victim may take at the emergency health care facility, as well as the follow-up dose that the victim can self-administer later.
- C An emergency health care facility is not required to provide emergency contraception to a sexual assault victim who is

pregnant.

- C An emergency health care facility is to have written policies and procedures to ensure that all personnel who provide care or information to a sexual assault victim: are trained to provide medically and factually accurate and objective information about emergency contraception and sexually transmitted diseases to a sexual assault victim; and provide that information to a sexual assault victim.
- C The Commissioner of Health and Senior Services, in collaboration with the Director of the Division on Women in the Department of Community Affairs, the New Jersey Coalition Against Sexual Assault and the Statewide Sexual Assault Nurse Examiner program, is to develop, prepare and produce written information relating to: emergency contraception for the prevention of pregnancy in sexual assault victims; and sexually transmitted diseases. The information is to be:
  - clearly written and readily comprehensible in a culturally competent manner;
  - explain the nature of emergency contraception, the effectiveness of emergency contraception in preventing pregnancy, where emergency contraception can be obtained, and treatment options;
  - explain the symptoms and effects of sexually transmitted diseases, and treatment options; and
  - be distributed to all emergency health care facilities for use in those facilities.
- C The Commissioner of Health and Senior Services is directed to:
  - investigate every complaint of noncompliance with the provisions of this substitute by an emergency health care facility, including the failure of a facility to provide the required services;
  - determine whether the complaint is substantiated, and if so, what action is to be taken by the emergency health care facility or commissioner to address the complaint;
  - notify the Sexual Assault Nurse Examiner program of all substantiated complaints;
  - compile the substantiated complaints;
  - analyze the substantiated complaints, at least annually, to determine if there is any pattern of failure to provide required services; and
  - determine, at least annually, whether an emergency health care facility is in compliance with the provisions of the substitute. The commissioner may utilize all means within his regulatory authority concerning health care facilities to verify compliance.
- C If the commissioner determines that an emergency health care facility is not in compliance with the provisions of the substitute, he may assess penalties and take other actions against the facility pursuant to N.J.S.A.26:2H-1 et seq. Any such penalties are to be paid to the Department of the Treasury and allocated, on a quarterly basis, to the Division on Women for supplemental

funding for designated rape crisis centers.

- C The commissioner is further directed to prepare an annual report, which is to be available to the public, summarizing the substantiated complaints, the actions taken by an emergency health care facility or the commissioner to address the complaints, and the commissioner's findings concerning any pattern of failure to provide services under, or to comply with, the provisions of the substitute.
- C Subsection d. of N.J.S.A.52:4B-44, which concerns the establishment of standard protocols for the provision of information and services to sexual assault victims, is amended to require that information and services with regard to emergency contraception and sexually transmitted diseases are to be provided in accordance with the provisions of this substitute.

The substitute takes effect on the 30th day after enactment, but authorizes the Commissioner of Health and Senior Services, in consultation with the Director of the Division on Women and the Sexual Assault Nurse Examiner program, to take anticipatory administrative action in advance as necessary for its implementation.

As reported by the committee, this substitute is identical to the Assembly Committee Substitute for Assembly Bill No. 2698 (Gusciora/Cohen/McKeon/Wisniewski), which the committee also reported on this date.

#### COMMITTEE AMENDMENTS

The committee amendments to the bill provide as follows:

- C The age threshold in the definition of "sexual assault victim" (12 years) is deleted, so that emergency care may be provided to a victim of any age as appropriate to that person's needs.
- C An emergency health care facility is to provide information about sexually transmitted diseases (as well as about emergency contraception) to a sexual assault victim, and the Commissioner of Health and Senior Services is to develop and distribute information to emergency health care facilities for this purpose.
- C The bill takes effect on the 30th (rather than the 90th) day after enactment.
- C The Commissioner of Health and Senior Services may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the commissioner deems necessary to implement the provisions of the substitute, which are to be effective for a period not to exceed six months and may thereafter be amended, adopted or readopted by the commissioner in accordance with the requirements of the "Administrative Procedure Act."

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 1668**

**STATE OF NEW JERSEY**

DATED: OCTOBER 14, 2004

The Senate Health, Human Services and Senior Citizens Committee reports favorably a committee substitute for Senate Bill No. 1668.

This committee substitute requires general hospitals and satellite emergency departments (emergency health care facilities) licensed pursuant to N.J.S.A.26:2H-1 et seq. to provide written and oral information about emergency contraception to sexual assault victims receiving emergency care at their facilities, and requires the provision of emergency contraceptives upon request of the sexual assault victim.

Under the provisions of the substitute, an emergency health care facility shall provide emergency care to a sexual assault victim. The substitute provides that it shall be the standard of care for an emergency health care facility to:

- provide each sexual assault victim with medically and factually accurate and objective oral and written information about emergency contraception;

- orally inform each sexual assault victim of her option to be provided emergency contraception at the emergency health care facility; and

- provide emergency contraception to the sexual assault victim, upon her request, unless contraindicated. If the emergency contraceptive is in the form of pills, the provision of the emergency contraception shall include the initial dose that the victim may take at the emergency health care facility, as well as the follow-up dose that the victim can self-administer later. An emergency health care facility shall not be required to provide emergency contraception to a sexual assault victim who is pregnant.

The substitute also requires an emergency health care facility to have written policies and procedures to ensure that all personnel who provide care or information to a sexual assault victim: are trained to provide medically and factually accurate and objective information about emergency contraception to a sexual assault victim; and provide that information to a sexual assault victim.

The substitute directs the Commissioner of Health and Senior Services, in collaboration with the Director of the Division on Women in the Department of Community Affairs, the New Jersey Coalition Against Sexual Assault and the Statewide Sexual Assault Nurse Examiner program to develop, prepare and produce written information relating to emergency contraception for the prevention of pregnancy in sexual assault victims. The information shall be clearly written and readily comprehensible in a culturally competent manner, and shall explain the nature of emergency contraception, the effectiveness of emergency contraception in preventing pregnancy, where emergency contraception can be obtained, and treatment options. The information shall be distributed to all hospital and satellite emergency departments in the State for use in those facilities.

The substitute also requires the commissioner to:

- investigate every complaint of noncompliance with the provisions of the substitute by an emergency health care facility, including the failure of a facility to provide the required services;

- determine whether the complaint is substantiated, and if so, what action shall be taken by the emergency health care facility or commissioner to address the complaint;

- notify the Sexual Assault Nurse Examiner program of all substantiated complaints;

- compile the substantiated complaints;

- analyze the substantiated complaints, at least annually, to determine if there is any pattern of failure to provide required services; and

- determine, at least annually, whether an emergency health care facility is in compliance with the provisions of the substitute. The commissioner may utilize all means within his regulatory authority concerning health care facilities to verify a facility's compliance.

If the commissioner determines that an emergency health care facility is not in compliance with the provisions of the substitute, he may assess such penalties and take other actions against the facility, as provided in P.L.1971, c.136 (C.26:2H-1 et seq.). Any such penalties assessed for noncompliance shall be paid to the Department of the Treasury and allocated, on a quarterly basis, to the Division on Women for supplemental funding for designated rape crisis centers.

The substitute directs the commissioner to prepare an annual report, which shall be available to the public, summarizing the substantiated complaints, the actions taken by an emergency health care facility or the commissioner to address the complaints, and the commissioner's findings concerning any pattern of failure to provide services under, or to comply with, the provisions of the substitute.

Lastly, the substitute amends N.J.S.A.52:4B-44 (concerning the establishment of standard protocols for the provision of information and services to sexual assault victims) to require that information and services with regard to emergency contraception shall be provided in accordance with the provisions of this substitute.

# ASSEMBLY, No. 2698

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MAY 6, 2004

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Mercer)**

**Assemblyman NEIL M. COHEN**

**District 20 (Union)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman JOHN S. WISNIEWSKI**

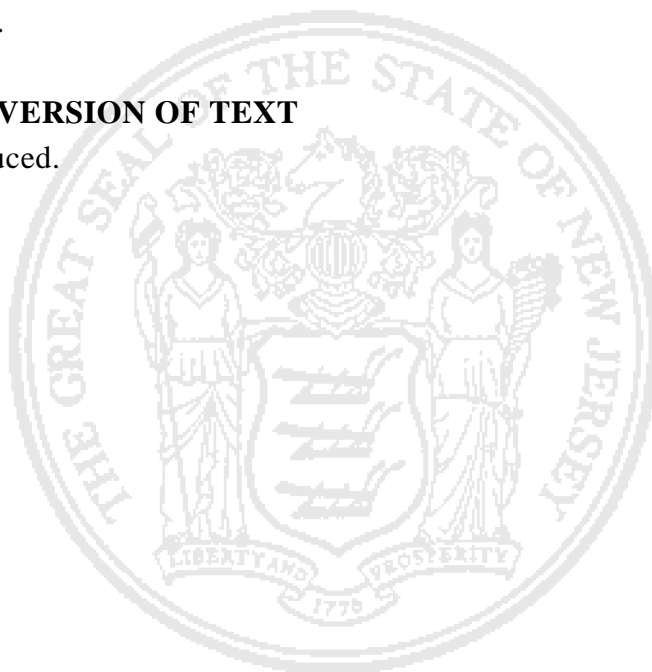
**District 19 (Middlesex)**

**SYNOPSIS**

Requires certain health care facilities providing care to sexual assault victims to provide information about emergency contraception and the contraceptives upon request.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/25/2004)**



1 AN ACT concerning emergency contraception and sexual assault  
2 victims, amending P.L.1985, c.404 and supplementing Title 26 of  
3 the Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. (New section) As used in sections 1 through 4 of this act:

9 "Emergency care to sexual assault victim" means a medical  
10 examination, procedure or service provided by a general hospital or  
11 ambulatory care facility to a sexual assault victim following an alleged  
12 sexual offense.

13 "Emergency contraception" means the provision of a drug or device  
14 that prevents pregnancy when taken after intercourse and is approved  
15 by the federal Food and Drug Administration.

16 "Medically and factually accurate and objective" means verified or  
17 supported by the weight of research conducted in compliance with  
18 accepted scientific methods and standards, published in peer-reviewed  
19 journals and recognized as accurate and objective by leading  
20 professional organizations and agencies with relevant expertise in the  
21 field of obstetrics and gynecology.

22 "Sexual assault victim" means a person 12 years of age or older  
23 who alleges or is alleged to have suffered a personal, physical or  
24 psychological injury as a result of a sexual offense.

25 "Sexual offense" means sexual assault and aggravated sexual assault  
26 as set forth in N.J.S.2C:14-2, criminal sexual contact and aggravated  
27 criminal sexual contact as set forth in N.J.S.2C:14-3, fourth degree  
28 lewdness as set forth in subsection b. of N.J.S.2C:14-4 and  
29 endangering the welfare of a child by engaging in sexual conduct  
30 which would impair or debauch the morals of the child as set forth in  
31 N.J.S.2C:24-4.

32

33 2. (New section) a. It shall be the standard of care for a general  
34 hospital or ambulatory care facility licensed pursuant to P.L.1971,  
35 c.136 (C.26:2H-1 et seq.) that provides emergency care to sexual  
36 assault victims to:

37 (1) provide each sexual assault victim with medically and factually  
38 accurate and objective oral and written information, as provided for in  
39 subsection b. of this section, about emergency contraception;

40 (2) orally inform each sexual assault victim of her option to be  
41 provided an emergency contraceptive at the hospital or ambulatory  
42 care facility; and

43 (3) provide an emergency contraceptive immediately at the hospital

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 or ambulatory care facility to each sexual assault victim who requests  
2 it. If the emergency contraceptive is in the form of pills, the provision  
3 of the emergency contraceptive shall include the initial dose that the  
4 victim may take at the hospital or ambulatory care facility, as well as  
5 the follow-up dose that the victim can self-administer later.

6 b. The Commissioner of Health and Senior Services, in  
7 collaboration with the Director of the Division on Women in the  
8 Department of Community Affairs and the New Jersey Coalition  
9 Against Sexual Assault, shall develop, prepare and produce, in  
10 quantities sufficient to comply with the purposes of this act, written  
11 information relating to emergency contraception for the prevention of  
12 pregnancy in sexual assault victims for distribution to and use in all  
13 emergency rooms and ambulatory care facilities in the State. The  
14 information shall be clearly written and readily comprehensible in a  
15 culturally competent manner, as the commissioner, in collaboration  
16 with the Division on Women in the Department of Community Affairs  
17 and the New Jersey Coalition Against Sexual Assault, deems necessary  
18 to inform a sexual assault victim. The information shall explain the  
19 nature of the emergency contraception, the effectiveness of emergency  
20 contraception in preventing pregnancy, where emergency  
21 contraception can be obtained, and treatment options.

22

23 3. (New section) A general hospital or ambulatory care facility  
24 shall have written policies and procedures to ensure that all personnel  
25 who provide care or information to a sexual assault victim are trained  
26 to provide medically and factually accurate and objective information  
27 about emergency contraception to a sexual assault victim, and provide  
28 that information to a sexual assault victim.

29

30 4. (New section) a. The Department of Health and Senior Services  
31 shall:

32 (1) respond to every complaint of noncompliance of a general  
33 hospital or ambulatory care facility with the provisions of this act;

34 (2) immediately investigate every complaint it receives regarding  
35 the failure of a general hospital or ambulatory care facility to provide  
36 services required by this act and determine whether the complaint is  
37 substantiated;

38 (3) determine the action to be taken to satisfy a substantiated  
39 complaint;

40 (4) compile the substantiated complaints it receives regarding  
41 failure to provide services required by this act and retain the  
42 substantiated complaints for at least ten years;

43 (5) periodically analyze the substantiated complaints to determine  
44 a pattern of failure to provide services pursuant to this act; and

45 (6) periodically determine whether a general hospital or ambulatory  
46 care facility is complying with the provisions of this act and may utilize

1 all means within its regulatory authority concerning health care  
2 facilities to verify a general hospital's or ambulatory care facility's  
3 compliance with this act.

4 b. If the department determines that a general hospital or  
5 ambulatory care facility is not in compliance with the provisions of this  
6 act, the department may assess penalties and take other actions against  
7 the hospital or facility, in accordance with the provisions of P.L.1971,  
8 c.136 (C.26:2H-1 et seq.). Any penalties assessed for noncompliance  
9 with the provisions of this act shall be paid to the Department of the  
10 Treasury and allocated, on a quarterly basis, to the Division on  
11 Women in the Department of Community Affairs for supplemental  
12 funding for designated rape crisis centers.

13 c. The Commissioner of Health and Senior Services shall prepare  
14 an annual report of the substantiated complaints received by the  
15 department, the department's findings and any action taken. The  
16 report shall be made available to the public.

17

18 5. Section 6 of P.L.1985, c.404 (C.52:4B-44) is amended to read  
19 as follows:

20 6. a. The Attorney General shall, through the Office of  
21 Victim-Witness Advocacy in the Division of Criminal Justice in the  
22 Department of Law and Public Safety and in consultation with the  
23 county prosecutors, promulgate standards for law enforcement  
24 agencies to ensure that the rights of crime victims are enforced.

25 b. The standards shall require that the Office of Victim-Witness  
26 Advocacy in the Division of Criminal Justice and each county  
27 prosecutor's office provide the following services upon request for  
28 victims and witnesses involved in the prosecution of a case:

29 (1) Orientation information about the criminal justice system and  
30 the victim's and witness's role in the criminal justice process;

31 (2) Notification of any change in the case status and of final  
32 disposition;

33 (3) Information on crime prevention and on available responses to  
34 witness intimidation;

35 (4) Information about available services to meet needs resulting  
36 from the crime and referrals to service agencies, where appropriate;

37 (5) Advance notice of the date, time and place of the defendant's  
38 initial appearance before a judicial officer, submission to the court of  
39 any plea agreement, the trial and sentencing;

40 (6) Advance notice of when presence in court is not needed;

41 (7) Advice about available compensation, restitution and other  
42 forms of recovery and assistance in applying for government  
43 compensation;

44 (8) A waiting or reception area separate from the defendant for use  
45 during court proceedings;

46 (9) An escort or accompaniment for intimidated victims or

- 1 witnesses during court appearances;
- 2 (10) Information about directions, parking, courthouse and  
3 courtroom locations, transportation services and witness fees, in  
4 advance of court appearances;
- 5 (11) Assistance for victims and witnesses in meeting special needs  
6 when required to make court appearances, such as transportation and  
7 child care arrangements;
- 8 (12) Assistance in making travel and lodging arrangements for  
9 out-of-State witnesses;
- 10 (13) Notification to employers of victims and witnesses, if  
11 cooperation in the investigation or prosecution causes absence from  
12 work;
- 13 (14) Notification of the case disposition, including the trial and  
14 sentencing;
- 15 (15) Assistance to victims in submitting a written statement to a  
16 representative of the county prosecutor's office about the impact of the  
17 crime prior to the prosecutor's final decision concerning whether  
18 formal charges will be filed;
- 19 (16) Advice to victims about their right to make a statement about  
20 the impact of the crime for inclusion in the presentence report or at  
21 time of parole consideration, if applicable;
- 22 (17) Notification to victims of the right to make an in-person  
23 statement, prior to sentencing, directly to the sentencing court  
24 concerning the impact of the crime;
- 25 (18) Expediting the return of property when no longer needed as  
26 evidence;
- 27 (19) Advise and counsel, or refer for advice or counseling, victims  
28 of sexual assault, or other criminal acts involving a risk of transmission  
29 of disease, concerning available medical testing and assist such victims,  
30 or refer such victims for assistance, in obtaining appropriate testing,  
31 counseling and medical care and in making application to the Victims  
32 of Crime Compensation Board for compensation for the costs of such  
33 testing, counseling and care;
- 34 (20) Assistance to victims in submitting a written impact statement  
35 to a representative of the county prosecutor's office concerning the  
36 impact of the crime which shall be considered prior to the prosecutor's  
37 accepting a negotiated plea agreement containing recommendations as  
38 to sentence and assistance to victims in securing an explanation of the  
39 terms of any such agreement and the reasons for the agreement;
- 40 (21) Notification to the victim of the defendant's release from  
41 custody which shall include:
  - 42 (a) notice of the defendant's escape from custody and return to  
43 custody following escape;
  - 44 (b) notice of any other release from custody, including placement  
45 in an Intensive Supervision Program or other alternative disposition,  
46 and any associated conditions of release;

1 (c) notice of the filing by an inmate of an application for  
2 commutation of sentence pursuant to N.J.S.2A:167-4 and its  
3 disposition;

4 (d) notice of parole consideration pursuant to provisions of  
5 P.L.1979, c.441 (C.30:4-123.45 et seq.); and

6 (e) notice of the pending release of an inmate due to expiration of  
7 sentence; and

8 (22) Interpreting services for victims and witnesses when necessary  
9 to assist a victim or witness who is hearing impaired or  
10 developmentally disabled as defined in section 3 of P.L.1977, c.82  
11 (C.30:6D-3) to understand questions and frame answers.

12 c. In a case involving a victim of aggravated sexual assault or  
13 sexual assault as defined in subsection a. or c. of N.J.S.2C:14-2, the  
14 Office of Victim-Witness Advocacy or the county prosecutor's office  
15 involved in the case shall:

16 (1) Notify the victim of the victim's right to obtain an approved  
17 serological test for acquired immune deficiency syndrome (AIDS) or  
18 infection with the human immunodeficiency virus (HIV) or any other  
19 related virus identified as a probable causative agent of AIDS, and  
20 assist the victim, or refer the victim for assistance, in obtaining a test  
21 and appropriate counseling and medical care;

22 (2) Notify the victim of the victim's right to obtain a court order  
23 pursuant to subsection a. of section 4 of P.L.1993, c.364  
24 (C.2C:43-2.2) requiring the offender to submit to an approved  
25 serological test for acquired immune deficiency syndrome (AIDS) or  
26 infection with the human immunodeficiency virus (HIV) or any other  
27 related virus identified as a probable causative agent of AIDS in the  
28 event that the offender is indicted, formally charged, convicted or  
29 adjudicated delinquent;

30 (3) Communicate the request of a victim who agrees to seek an  
31 order pursuant to subsection a. of section 4 of P.L.1993, c.364  
32 (C.2C:43-2.2) to the prosecutor handling the case and notify the  
33 victim or arrange for the victim to be notified of the test result; and

34 (4) Assist the victim in applying to the Victims of Crime  
35 Compensation Board for compensation for the costs of testing,  
36 counseling and medical care.

37 d. The Attorney General shall, through the Office of  
38 Victim-Witness Advocacy and in consultation with the Commissioner  
39 of [the Department of] Health and Senior Services, the Director of  
40 the Division of State Police and representatives of providers of sexual  
41 assault services, to be designated by the Director of the Office of  
42 Victim-Witness Advocacy, coordinate the establishment of standard  
43 protocols for the provision of information and services to victims of  
44 sexual assault, and shall make such protocols available to victims upon  
45 request, except that the provision of information and services with  
46 regard to emergency contraception, as defined in section 1 of P.L. .

1 c. (C. \_\_\_\_\_)(pending before the Legislature as this bill), shall be in  
2 accordance with sections 1 through 4 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_)(pending  
3 before the Legislature as this bill).

4 (cf: P.L.1996, c.114, s.1)

5  
6 6. Pursuant to the "Administrative Procedure Act," P.L.1968,  
7 c.410 (C.52:14B-1 et seq.), the Commissioner of Health and Senior  
8 Services, in consultation with the Director of the Division on Women  
9 in the Department of Community Affairs, shall adopt rules and  
10 regulations to effectuate the purposes of this act.

11  
12 7. This act shall take effect on the 90th day after enactment, but  
13 the Commissioner of Health and Senior Services, in consultation with  
14 the Director of the Division on Women in the Department of  
15 Community Affairs, may take such anticipatory administrative action  
16 in advance as shall be necessary for the implementation of the act.

17  
18  
19 STATEMENT

20  
21 This bill requires general hospitals and ambulatory care facilities  
22 licensed pursuant to N.J.S.A.26:2H-1 et seq. (the Health Care  
23 Facilities Planning Act), to provide written and oral information about  
24 emergency contraception to sexual assault victims receiving emergency  
25 care at their facilities, and requires the provision of emergency  
26 contraceptives upon request of the sexual assault victim.

27 Under the provisions of the bill, it would be the standard of care for  
28 a licensed general hospital or ambulatory care facility that provides  
29 emergency care to sexual assault victims to:

30 -- provide each sexual assault victim with medically and factually  
31 accurate and objective oral and written information about emergency  
32 contraception;

33 -- orally inform each sexual assault victim of her option to be  
34 provided an emergency contraceptive at the hospital or ambulatory  
35 care facility; and

36 -- upon request, provide an emergency contraceptive immediately  
37 at the hospital or ambulatory care facility to each sexual assault victim.

38 The bill provides that if the emergency contraceptive is in the form of  
39 pills, the provision of the emergency contraceptive shall include the  
40 initial dose that may be taken at the hospital or ambulatory care facility  
41 as well as the follow-up dose that the sexual assault victim can self-  
42 administer later.

43 In addition, the Commissioner of Health and Senior Services, in  
44 collaboration with the Director of the Division on Women in the  
45 Department of Community Affairs and the New Jersey Coalition  
46 Against Sexual Assault, would develop, prepare and produce, in

1 quantities sufficient to comply with the bill's purposes, written  
2 information relating to emergency contraception for the prevention of  
3 pregnancy in sexual assault victims for distribution to and use in all  
4 emergency rooms and ambulatory care facilities in the State. The  
5 information would be clearly written and readily comprehensible in a  
6 culturally competent manner, as the commissioner, in collaboration  
7 with the Division on Women in the Department of Community Affairs  
8 and the New Jersey Coalition Against Sexual Assault, deems necessary  
9 to inform sexual assault victims. The materials also would explain the  
10 nature of the emergency contraception, information about the  
11 effectiveness of emergency contraception in preventing pregnancy,  
12 where emergency contraception can be obtained, and treatment  
13 options.

14 The bill also requires a general hospital or ambulatory care facility  
15 to have written policies and procedures to ensure that all personnel,  
16 who provide care or information to a sexual assault victim, are trained  
17 to provide medically and factually accurate and objective information  
18 about emergency contraception, and provide that information to a  
19 sexual assault victim.

20 The bill requires the Department of Health and Senior Services to:

21 -- respond to every complaint of noncompliance of a general  
22 hospital or ambulatory care facility licensed with the bill's provisions;

23 -- immediately investigate every complaint it receives regarding the  
24 failure of a general hospital or ambulatory care facility to provide  
25 services required by the bill and determine whether a complaint is  
26 substantiated;

27 -- determine the action to be taken to satisfy a substantiated  
28 complaint;

29 -- compile the substantiated complaints it receives regarding failure  
30 to provide the required services and retain these complaints for at least  
31 10 years;

32 -- periodically analyze the substantiated complaints to determine  
33 a pattern of failure to provide services pursuant to the bill; and

34 -- periodically determine whether a general hospital or ambulatory  
35 care facility is complying with the bill's provisions and may utilize all  
36 means within its regulatory authority to verify the hospital or facility's  
37 compliance with the bill.

38 If the department determines that a general hospital or ambulatory  
39 care facility is not in compliance with the bill's provisions, the  
40 department may assess penalties and take other actions against the  
41 hospital or facility, in accordance with N.J.S.A.26:2H-1 et seq. Any  
42 penalties assessed for noncompliance shall be paid to the Department  
43 of the Treasury and allocated, on a quarterly basis, to the Division on  
44 Women in the Department of Community Affairs for supplemental  
45 funding for designated rape crisis centers.

46 The bill requires the Commissioner of Health and Senior Services

1 to prepare an annual report of the substantiated complaints, the  
2 department's findings and any action taken. The report would be made  
3 available to the public.

4 Lastly, the bill amends subsection d. of N.J.S.A.52:4B-44, which  
5 concerns the coordination of the establishment of standard protocols  
6 for the provision of information and services to sexual assault victims,  
7 to provide that the provision of information and services with regard  
8 to emergency contraception would be in accordance with the  
9 provisions of this bill.



# ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2698

# STATE OF NEW JERSEY

DATED: NOVEMBER 8, 2004

The Assembly Health and Human Services Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2698.

This committee substitute requires certain facilities to provide written and oral information about emergency contraception and sexually transmitted diseases to sexual assault victims receiving emergency care, as well as emergency contraceptives upon request of the sexual assault victim.

Specifically, the substitute provides as follows:

- C Emergency health care facilities (i.e., general hospitals and satellite emergency departments licensed pursuant to N.J.S.A.26:2H-1 et seq.) are required to provide written and oral information about emergency contraception and sexually transmitted diseases to sexual assault victims receiving emergency care, and to provide emergency contraceptives upon request of the sexual assault victim.
- C An emergency health care facility is required to provide emergency care to a sexual assault victim. It is to be the standard of care for the facility to:
  - provide each sexual assault victim with medically and factually accurate and objective oral and written information about emergency contraception and sexually transmitted diseases;
  - orally inform each sexual assault victim of her option to be provided emergency contraception at the emergency health care facility; and
  - provide emergency contraception to the sexual assault victim, upon her request, unless contraindicated.
- C If the emergency contraceptive is in the form of pills, the provision of the emergency contraception is to include the initial dose that the victim may take at the emergency health care facility, as well as the follow-up dose that the victim can self-administer later.
- C An emergency health care facility is not required to provide emergency contraception to a sexual assault victim who is pregnant.
- C An emergency health care facility is to have written policies and

procedures to ensure that all personnel who provide care or information to a sexual assault victim: are trained to provide medically and factually accurate and objective information about emergency contraception and sexually transmitted diseases to a sexual assault victim; and provide that information to a sexual assault victim.

C The Commissioner of Health and Senior Services, in collaboration with the Director of the Division on Women in the Department of Community Affairs, the New Jersey Coalition Against Sexual Assault and the Statewide Sexual Assault Nurse Examiner program, is to develop, prepare and produce written information relating to: emergency contraception for the prevention of pregnancy in sexual assault victims; and sexually transmitted diseases. The information is to be:

-- clearly written and readily comprehensible in a culturally competent manner;

-- explain the nature of emergency contraception, the effectiveness of emergency contraception in preventing pregnancy, where emergency contraception can be obtained, and treatment options;

-- explain the symptoms and effects of sexually transmitted diseases, and treatment options; and

-- be distributed to all emergency health care facilities for use in those facilities.

C The Commissioner of Health and Senior Services is directed to:

-- investigate every complaint of noncompliance with the provisions of this substitute by an emergency health care facility, including the failure of a facility to provide the required services;

-- determine whether the complaint is substantiated, and if so, what action is to be taken by the emergency health care facility or commissioner to address the complaint;

-- notify the Sexual Assault Nurse Examiner program of all substantiated complaints;

-- compile the substantiated complaints;

-- analyze the substantiated complaints, at least annually, to determine if there is any pattern of failure to provide required services; and

-- determine, at least annually, whether an emergency health care facility is in compliance with the provisions of the substitute. The commissioner may utilize all means within his regulatory authority concerning health care facilities to verify compliance.

C If the commissioner determines that an emergency health care facility is not in compliance with the provisions of the substitute, he may assess penalties and take other actions against the facility pursuant to N.J.S.A.26:2H-1 et seq. Any such penalties are to be paid to the Department of the Treasury and allocated, on a quarterly basis, to the Division on Women for supplemental funding for designated rape crisis centers.

C The commissioner is further directed to prepare an annual report,

which is to be available to the public, summarizing the substantiated complaints, the actions taken by an emergency health care facility or the commissioner to address the complaints, and the commissioner's findings concerning any pattern of failure to provide services under, or to comply with, the provisions of the substitute.

- C Subsection d. of N.J.S.A.52:4B-44, which concerns the establishment of standard protocols for the provision of information and services to sexual assault victims, is amended to require that information and services with regard to emergency contraception and sexually transmitted diseases are to be provided in accordance with the provisions of this substitute.

The substitute takes effect on the 30th day after enactment, but authorizes the Commissioner of Health and Senior Services, in consultation with the Director of the Division on Women and the Sexual Assault Nurse Examiner program, to take anticipatory administrative action in advance as necessary for its implementation.

This substitute is identical to the Senate Committee Substitute for Senate Bill No. 1668 Aca (Turner/Vitale), which the committee also reported on this date.

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Contact: Kelley Heck  
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RELEASE: March 21, 2005

## **Acting Governor Codey Signs Bill Allowing Sexual Assault Survivors the Option of Emergency Contraceptives**

(TRENTON) – Acting Governor Richard J. Codey today signed **S1668/A2698a** bill which requires hospitals to inform sexual assault survivors about emergency contraceptives and provide them upon request.

The new law was co-sponsored by Senators Shirley Turner and Joe Vitale and Assemblymen Neil Cohen, Reed Gusciora, John McKeon and John Wisniewski.

“Women who are victims of sexual assault can feel helpless and alone,” said Codey. “We need to do whatever we can to help these women physically as well as emotionally and this law provides us with an important tool.”

Under the new law, emergency departments and general hospitals are required to give female sexual assault victims a pregnancy test. If the test indicates that no pregnancy has occurred, the facility is required to provide the victim with information on emergency contraception, prescription drugs to prevent pregnancy, and inform her of the option of being provided that emergency contraception. Upon her request, the facility will now have to provide the contraception.

According to Planned Parenthood Federation of America, emergency contraceptives are most effective in preventing a pregnancy from occurring if taken within 120 hours (five days) of unprotected intercourse. Emergency contraceptive pills are not effective if the woman is already pregnant. The time-sensitive nature of emergency contraceptives makes it important for women to have access to the pills soon after a sexual assault has occurred.

Turner spearheaded the effort to get the legislation passed. “All women have the fundamental right to choose when and how and with whom they have a child,” said Turner. “Victims of sexual assault shouldn't have this choice taken away from them by the heinous acts of a criminal. When hospitals give these women the option to prevent an unwanted pregnancy, it is the first step in helping them feel empowered again.”

"Access to immediate emergency contraception and counseling is critical in helping sexual assault victims cope with their horrible ordeal," said Vitale, Chairman of the Senate Health, Human Services and Senior Citizens Committee. "Emergency contraception should and will now be available at all health facilities throughout New Jersey. The risk of an unplanned

pregnancy through an already traumatic experience is why this legislation is necessary, and the State has a moral obligation to ensure equal access to contraception for all sexual assault victims."

The law also requires written information be developed by the Commissioner of Health and Senior Services in collaboration with the Director of the Division on Women, the New Jersey Coalition Against Sexual Assault and a sexual assault Nurse examiner that would explain the nature of the emergency contraception, the effectiveness of emergency contraception in preventing pregnancy, where emergency contraception can be obtained, and treatment options. The information will now be distributed to all hospital emergency rooms and ambulatory care facilities in quantities sufficient to comply with the purposes of this act.

"I applaud the sponsors of this legislation for earning the support of such diverse groups which are often on opposing sides when it comes to reproductive issues," said Codey. "The New Jersey Catholic Conference and Catholic Health Care of New Jersey, Planned Parenthood and the New Jersey Coalition Against Sexual Assault have come together in an effort to help victims of sexual assault and they, along with the sponsors of this law, should be recognized for their work."

The law also provides that all covered health care facilities must develop written policies and procedures to ensure that all personnel who provide care or information to sexual assault victims are trained to provide medically and factually accurate and objective information about emergency contraception to a sexual assault victim and provide that information to a sexual assault victim.

Assemblyman Reed Gusciora was the main sponsor of this bill in the Assembly. "Hospitals should be required to provide victims with immediate information," said Gusciora. "They should also be providing access to emergency contraceptives to prevent the victim from suffering any unnecessary worry or concern."

"Childbirth should be a momentous occasion, not a reminder of a violent crime," said Cohen. "Regardless of personal or religious beliefs, no woman should be forced to endure the emotional distress of a rape-induced pregnancy."

"Health care facilities must be equipped and prepared to tend to both a rape victim's physical and emotional wounds," said McKeon. "Emergency contraceptives will provide victims with peace of mind, allowing them to move on and live life without a daily reminder of that horrible crime."

The Department of Health and Senior Services now must investigate complaints of noncompliance with this act. The Commissioner of Health and Senior Services would be empowered to assess penalties against facilities shown to have a pattern of noncompliance.