



## 2005 SENATE BILL 166

April 12, 2005 - Introduced by Senators ROBSON, RISSER, CARPENTER, COGGS, ERPENBACH, HANSEN, LASSA, MILLER, PLALE and WIRCH, cosponsored by Representatives POCAN, BENEDICT, BERCEAU, BLACK, BOYLE, GRIGSBY, KESSLER, LEHMAN, PARISI, POPE-ROBERTS, RICHARDS, SEIDEL, SHERIDAN, SHERMAN, SHILLING, SINICKI, TOLES, TURNER, VRUWINK, WASSERMAN and ZEPNICK. Referred to Health, Children, Families, Aging and Long Term Care.

1     **AN ACT** *to renumber* 50.38 (1); *to amend* 50.38 (2); and *to create* 50.375 and  
2           50.38 (1) (b) of the statutes; **relating to:** requiring a hospital to provide to a  
3           sexual assault victim, with consent, information and emergency contraception  
4           and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the Department of Health and Family Services (DHFS) issues certificates of approval to hospitals that meet DHFS requirements and otherwise regulates approved hospitals.

This bill requires a hospital to do all of the following if it provides emergency services to a victim, as defined in the bill, of sexual assault and has obtained the victim's consent: 1) provide her with medically and factually accurate and unbiased written and oral information about emergency contraception and its use and efficacy; 2) orally inform her of her option to receive emergency contraception; and 3) provide emergency contraception to her immediately if she requests it. "Emergency contraception" is defined in the bill to be a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device that is approved by the federal Food and Drug Administration and that prevents a pregnancy after sexual intercourse. The definition of "emergency contraception" specifically excludes a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device of any nature that is prescribed to terminate the pregnancy of a woman. No hospital must provide emergency contraception to a victim who is pregnant, as indicated by a test for pregnancy.

**SENATE BILL 166**

The bill also requires a hospital that provides emergency care to ensure that each hospital employee who provides care to a victim of sexual assault has available medically and factually accurate and unbiased information about emergency contraception. DHFS must respond to complaints about violations of these requirements and must periodically review procedures of hospitals to determine whether they are in compliance. Violators of the requirements are subject to forfeitures.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 50.375 of the statutes is created to read:

2           **50.375 Emergency contraception for sexual assault victims.** (1) In this  
3 section:

4           (a) “Emergency contraception” means a drug, medicine, oral hormonal  
5 compound, mixture, preparation, instrument, article, or device that is approved by  
6 the federal food and drug administration and that prevents a pregnancy after sexual  
7 intercourse. “Emergency contraception” does not include a drug, medicine, oral  
8 hormonal compound, mixture, preparation, instrument, article, or device of any  
9 nature that is prescribed to terminate the pregnancy of a female.

10           (b) “Sexual assault” means a violation of s. 940.225 (1), (2), or (3).

11           (c) “Victim” means a female who alleges or for whom it is alleged that she  
12 suffered sexual assault and who, as a result of the sexual assault, presents as a  
13 patient at a hospital that provides emergency services.

14           **(2)** A hospital that provides emergency services to a victim shall, after  
15 obtaining the consent of the victim, do all of the following:

16           (a) Provide to the victim medically and factually accurate and unbiased written  
17 and oral information about emergency contraception and its use and efficacy.

**SENATE BILL 166**

1 (b) Orally inform the victim of her option to receive emergency contraception  
2 at the hospital.

3 (c) Except as specified in sub. (4), provide emergency contraception, in  
4 accordance with instructions approved by the federal food and drug administration,  
5 immediately at the hospital to the victim if she requests it.

6 **(3)** A hospital that provides emergency care shall ensure that each hospital  
7 employee who provides care to a victim has available medically and factually  
8 accurate and unbiased information about emergency contraception.

9 **(4)** No hospital may be required to provide emergency contraception to a victim  
10 who is pregnant, as indicated by a test for pregnancy.

11 **(5)** The department shall respond to any complaint received by the department  
12 concerning noncompliance by a hospital with the requirements of subs. (2) and (3)  
13 and shall periodically review hospital procedures to determine whether a hospital  
14 is in compliance with the requirements.

15 **SECTION 2.** 50.38 (1) of the statutes is renumbered 50.38 (1) (a).

16 **SECTION 3.** 50.38 (1) (b) of the statutes is created to read:

17 50.38 **(1)** (b) Whoever violates a requirement under s. 50.375 (2) or (3) may be  
18 required to forfeit not less than \$2,500 nor more than \$5,000 for each violation.

19 **SECTION 4.** 50.38 (2) of the statutes is amended to read:

20 50.38 **(2)** The department may directly assess forfeitures provided for under  
21 sub. (1) (a) or (b). If the department determines that a forfeiture should be assessed  
22 for a particular violation, the department shall send a notice of assessment to the  
23 hospital. The notice shall specify the amount of the forfeiture assessed, the violation

**SENATE BILL 166**

**SECTION 4**

1 and the statute or rule alleged to have been violated, and shall inform the hospital  
2 of the right to a hearing under sub. (3).

3 (END)