

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 ASSEMBLY BILL 377**

1 **AN ACT** *to create* 50.375 and 50.389 of the statutes; **relating to:** requiring a
2 hospital to provide to a sexual assault victim information and, upon her
3 request, emergency contraception and providing a penalty.

Analysis by the Legislative Reference Bureau

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

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

5 **50.375 Emergency contraception for sexual assault victims. (1)** In this
6 section:

7 (a) “Emergency contraception” means a drug, medicine, oral hormonal
8 compound, mixture, preparation, instrument, article, or device that is approved by
9 the federal food and drug administration and that prevents a pregnancy after sexual

1 intercourse. “Emergency contraception” does not include a drug, medicine, oral
2 hormonal compound, mixture, preparation, instrument, article, or device of any
3 nature that is prescribed to terminate the pregnancy of a female.

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

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

8 **(2)** A hospital that provides emergency services to a victim shall do all of the
9 following:

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

12 (b) Orally inform the victim of all of the following:

13 1. Her option to receive emergency contraception at the hospital.

14 2. Her option to report the sexual assault to a law enforcement agency.

15 3. Any available options for her to receive an examination to gather evidence
16 regarding the sexual assault.

17 (c) Except as specified in sub. (4), immediately provide to the victim upon her
18 request emergency contraception, in accordance with instructions approved by the
19 federal food and drug administration. If the medication is taken in more than one
20 dosage, the hospital shall provide all subsequent dosages to the victim for later self
21 administration.

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

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

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

7 **SECTION 2.** 50.389 of the statutes is created to read:

8 **50.389 Forfeiture. (1)** Whoever violates a requirement under s. 50.375 (2)
9 or (3) may be required to forfeit not less than \$2,500 nor more than \$5,000 for each
10 violation.

11 **(2)** The department may directly assess forfeitures provided for under sub. (1).
12 If the department determines that a forfeiture should be assessed for a particular
13 violation, the department shall send a notice of assessment to the hospital. The
14 notice shall specify the amount of the forfeiture assessed, the violation and the
15 statute or rule alleged to have been violated, and shall inform the hospital of the right
16 to a hearing under sub. (3).

17 **(3)** A hospital may contest an assessment of a forfeiture by sending, within 10
18 days after receipt of notice under sub. (2), a written request for a hearing under s.
19 227.44 to the division of hearings and appeals created under s. 15.103 (1). The
20 administrator of the division may designate a hearing examiner to preside over the
21 case and recommend a decision to the administrator under s. 227.46. The decision
22 of the administrator of the division shall be the final administrative decision. The
23 division shall commence the hearing within 30 days after receipt of the request for
24 a hearing and shall issue a final decision within 15 days after the close of the hearing.
25 Proceedings before the division are governed by ch. 227. In any petition for judicial

1 review of a decision by the division, the party, other than the petitioner, who was in
2 the proceeding before the division shall be the named respondent.

3 **(4)** All forfeitures shall be paid to the department within 10 days after receipt
4 of notice of assessment or, if the forfeiture is contested under sub. (3), within 10 days
5 after receipt of the final decision after exhaustion of administrative review, unless
6 the final decision is appealed and the order is stayed by court order. The department
7 shall remit all forfeitures paid to the secretary of administration for deposit in the
8 school fund.

9 **(5)** The attorney general may bring an action in the name of the state to collect
10 any forfeiture imposed under this section if the forfeiture has not been paid following
11 the exhaustion of all administrative and judicial reviews. The only issue to be
12 contested in any such action shall be whether the forfeiture has been paid.

13 **(END)**