2007 SENATE BILL 129

April 3, 2007 – Introduced by Senators ROBSON, TAYLOR, MILLER, PLALE, RISSER, ERPENBACH, LEHMAN, Wirch, HANSEN, JAUCH, CARPENTER, KREITLOW, COGGS, LASSA and SULLIVAN, cosponsored by Representatives POCAN, BENEDICT, BERCEAU, BLACK, BOYLE, GRIGSBY, HRAYCHUCK, KESSLER, PARISI, POPE-ROBERTS, SEIDEL, SHERIDAN, SHERMAN, SHILLING, SINICKI, SMITH, TRAVIS, TURNER, VRUWINK, YOUNG and ZEPNICK. Referred to Committee on Health and Human Services.

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

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: 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, her option to report the sexual assault to a law enforcement agency, and any available options for her to receive an examination to gather evidence regarding the sexual assault; and 3) immediately provide emergency contraception to her upon her request. If the medication is taken in more than one dosage, the hospital shall provide all subsequent dosages to the victim for later self administration. “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.

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.

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

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

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

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

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

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

(2) A hospital that provides emergency services to a victim shall do all of the following:
(a) Provide to the victim medically and factually accurate and unbiased written and oral information about emergency contraception and its use and efficacy.

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

1. Her option to receive emergency contraception at the hospital.
2. Her option to report the sexual assault to a law enforcement agency.
3. Any available options for her to receive an examination to gather evidence regarding the sexual assault.

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

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

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

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

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

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

50.38 (1) (b) Whoever violates a requirement under s. 50.375 (2) or (3) may be required to forfeit not less than $2,500 nor more than $5,000 for each violation.
SECTION 4. 50.38 (2) of the statutes is amended to read:

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