

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 117

Senator Maharath

A BILL

To amend section 2907.29 and to enact sections 1
3727.61, 3727.611, and 3727.612 of the Revised 2
Code to require hospitals to provide specified 3
services to victims of sexual assault. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2907.29 be amended and sections 5
3727.61, 3727.611, and 3727.612 of the Revised Code be enacted 6
to read as follows: 7

Sec. 2907.29. Every hospital of this state that offers 8
organized emergency services shall provide that a physician, a 9
physician assistant, a clinical nurse specialist, a certified 10
nurse practitioner, or a certified nurse-midwife is available on 11
call twenty-four hours each day for the examination of persons 12
reported to any law enforcement agency to be victims of sexual 13
offenses cognizable as violations of any provision of sections 14
2907.02 to 2907.06 of the Revised Code. The physician, physician 15
assistant, clinical nurse specialist, certified nurse 16
practitioner, or certified nurse-midwife, upon the request of 17
any peace officer or prosecuting attorney and with the consent 18
of the reported victim or upon the request of the reported 19

victim, shall examine the person for the purposes of gathering 20
physical evidence and shall complete any written documentation 21
of the physical examination. The director of health shall 22
establish procedures for gathering evidence under this section. 23

Each reported victim shall be informed of ~~available~~ 24
~~venereal disease~~ the sexually transmitted infection, pregnancy, 25
medical, and psychiatric services made available in accordance 26
with section 3727.611 of the Revised Code. 27

Notwithstanding any other provision of law, a minor may 28
consent to examination under this section. The consent is not 29
subject to disaffirmance because of minority, and consent of the 30
parent, parents, or guardian of the minor is not required for an 31
examination under this section. However, the hospital shall give 32
written notice to the parent, parents, or guardian of a minor 33
that an examination under this section has taken place. The 34
parent, parents, or guardian of a minor giving consent under 35
this section are not liable for payment for any services 36
provided under this section without their consent. 37

Sec. 3727.61. As used in this section and in sections 38
3727.611 and 3727.612 of the Revised Code: 39

(A) "Drug" has the same meaning as in the "Federal Food, 40
Drug, and Cosmetic Act," 21 U.S.C. 321(g)(1), as amended. 41

(B) "Device" has the same meaning as in the "Federal Food, 42
Drug, and Cosmetic Act," 21 U.S.C. 321(h), as amended. 43

(C) "Emergency contraception" means any drug, drug 44
regimen, or device intended to prevent pregnancy after 45
unprotected sexual intercourse or contraceptive failure. 46

(D) "Sexual assault" means a violation of sections 2907.02 47
to 2907.06 of the Revised Code. 48

Sec. 3727.611. (A) It shall be the standard of care in 49
this state for hospitals that offer organized emergency services 50
to provide the services specified in divisions (B) and (C) of 51
this section to victims of sexual assault and individuals 52
reported to be victims of sexual assault. The services shall be 53
provided without regard to the ability of the victim or 54
individual reported to be a victim to pay for the services. 55

(B) Except as provided in division (E) of this section, 56
the services specified in divisions (B)(1) and (2) of this 57
section shall be provided by a hospital to each victim of sexual 58
assault or individual reported to be a victim of sexual assault 59
who is female and, as determined by the hospital, is of child- 60
bearing age. 61

(1) The hospital shall provide the victim or individual 62
reported to be a victim with information about emergency 63
contraception. The information shall be medically and factually 64
accurate and unbiased. It shall be provided in clear and concise 65
language in both written and oral formats. The information shall 66
explain all of the following: 67

(a) That emergency contraception has been approved by the 68
United States food and drug administration for use by women of 69
all ages with or without a prescription as a safe and effective 70
means to prevent pregnancy after unprotected sexual intercourse 71
or contraceptive failure if used in a timely manner; 72

(b) That emergency contraception is more effective the 73
sooner it is used following unprotected sexual intercourse or 74
contraceptive failure; 75

(c) That emergency contraception does not cause an 76
abortion and studies have shown that it does not interrupt an 77

established pregnancy. 78

(2) The hospital shall promptly offer emergency 79
contraception to the victim or individual reported to be a 80
victim and provide the emergency contraception if the victim or 81
individual accepts the offer. 82

(C) The services specified in divisions (C)(1) to (4) of 83
this section shall be provided by a hospital to each victim of 84
sexual assault or individual reported to be a victim of sexual 85
assault, regardless of the victim's or individual's age or sex. 86

(1) The hospital shall promptly provide the victim or 87
individual reported to be a victim with an assessment of the 88
victim's or individual's risk of contracting sexually 89
transmitted infections, including gonorrhea, chlamydia, 90
syphilis, and hepatitis. The assessment shall be conducted by a 91
physician, physician assistant, clinical nurse specialist, 92
certified nurse practitioner, certified nurse-midwife, or 93
registered nurse. The assessment shall be based on the 94
following: 95

(a) The available information regarding the sexual 96
assault; 97

(b) The established standards of risk assessment, 98
including consideration of any recommendations established by 99
the United States centers for disease control and prevention, 100
peer-reviewed clinical studies, and appropriate research using 101
in vitro and nonhuman primate models of infection. 102

(2) After conducting the assessment, the hospital shall 103
provide the victim or individual reported to be a victim with 104
counseling concerning the significantly prevalent sexually 105
transmitted infections for which effective postexposure 106

treatment exists and for which deferral of treatment would 107
either significantly reduce treatment efficacy or pose 108
substantial risk to the victim's or individual's health, 109
including the infections for which prophylactic treatment is 110
recommended based on guidelines from the United States centers 111
for disease control and prevention. The counseling shall be 112
provided by a physician, physician assistant, clinical nurse 113
specialist, certified nurse practitioner, certified nurse- 114
midwife, or registered nurse. The counseling shall be provided 115
in clear and concise language. 116

(3) After providing the counseling, the hospital shall 117
offer treatment for sexually transmitted infections to the 118
victim or individual reported to be a victim. The hospital shall 119
provide the treatment if the victim or individual consents to 120
the treatment. 121

(4) Before the victim or individual reported to be a 122
victim leaves the hospital, the hospital shall provide the 123
victim or individual with counseling on the physical and mental 124
health benefits of receiving follow-up care from the victim's or 125
individual's primary care physician or from another medical care 126
provider capable of providing follow-up care to victims of 127
sexual assault. The counseling shall include information on 128
local organizations and relevant health providers capable of 129
providing either follow-up medical care or other health services 130
to victims of sexual assault. The counseling shall be provided 131
by a physician, physician assistant, clinical nurse specialist, 132
certified nurse practitioner, certified nurse-midwife, or 133
registered nurse. The counseling shall be provided in clear and 134
concise language. 135

(D) In the case of minors, the services specified in this 136

section shall be provided at the discretion of the treating 137
physician and in accordance with the guidelines of the United 138
States centers for disease control and prevention. 139

Notwithstanding any other provision of law, a minor may 140
consent to the services specified in this section. The consent 141
is not subject to disaffirmance because of minority, and consent 142
of the parent, parents, or guardian of the minor is not required 143
for the services to be provided. 144

(E) In either of the following cases, a hospital is not 145
required to provide information about emergency contraception, 146
to offer emergency contraception, or to provide emergency 147
contraception to a victim of sexual assault or individual 148
reported to be a victim of sexual assault who is female and, as 149
determined by the hospital, is of child-bearing age: 150

(1) The hospital is aware that the victim or individual is 151
incapable of becoming pregnant. 152

(2) The hospital is aware that the victim or individual is 153
pregnant. 154

If the hospital has a pregnancy test performed to confirm 155
whether the victim or individual is pregnant, the hospital shall 156
have the test performed in such a manner that the results of the 157
test are made available to the victim or individual during the 158
initial visit to the hospital regarding the sexual assault. 159

(F) Nothing in this section shall be construed as meaning 160
any of the following: 161

(1) That a hospital is required to provide treatment to a 162
victim of sexual assault or individual reported to be a victim 163
of sexual assault if the treatment is contrary to 164
recommendations established by the United States centers for 165

disease control and prevention; 166

(2) That a victim of sexual assault or individual reported 167
to be a victim of sexual assault is required to submit to any 168
testing or treatment; 169

(3) That a hospital is prohibited from seeking 170
reimbursement for the costs of services provided under this 171
section from the victim's or individual's health insurance or 172
from medicaid, if applicable, and to the extent permitted by 173
section 2907.28 of the Revised Code. 174

Sec. 3727.612. In addition to other remedies under common 175
law, an individual may file a complaint with the department of 176
health if the individual believes that a hospital has failed to 177
comply with the requirements of section 3727.611 of the Revised 178
Code. The department shall investigate the complaint in a timely 179
manner. 180

If the department determines that a hospital has failed to 181
provide the services required by section 3727.611 of the Revised 182
Code to a victim of sexual assault or individual reported to be 183
a victim of sexual assault, the department shall impose a civil 184
penalty of not less than ten thousand dollars for each 185
violation. The department's actions shall be taken pursuant to 186
adjudication under Chapter 119. of the Revised Code. 187

If the hospital has previously violated section 3727.611 188
of the Revised Code, the department may ask the attorney general 189
to bring an action for injunctive relief in any court of 190
competent jurisdiction. On the filing of an appropriate petition 191
in the court, the court may conduct a hearing on the petition. 192
If it is demonstrated in the proceedings that the hospital has 193
failed to provide the services, the court shall grant a 194

<u>temporary or permanent injunction enjoining the hospital's</u>	195
<u>operation.</u>	196
Section 2. That existing section 2907.29 of the Revised	197
Code is hereby repealed.	198