

**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
<b>Section 2.</b> That existing section 2907.29 of the Revised	197
Code is hereby repealed.	198