

# Legislative Analysis

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## EMERGENCY CONTRACEPTIVES

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### House Bill 5155

Sponsor: Rep. Rebekah Warren

### House Bill 5165

Sponsor: Rep. Marie Donigan

Committee: Judiciary

Complete to 9-9-09

## A REVISED SUMMARY OF HOUSE BILLS 5155 AND 5165 AS INTRODUCED 6-25-09

Together, the bills would do the following:

- Create the Emergency Contraceptive Education Act.
- Require the Department of Community Health to develop informational material on emergency contraception for public distribution.
- Require certain health facilities to distribute information to, and, upon request, prescribe emergency contraception for, victims of sexual assault.
- Prohibit a pharmacist from refusing to fill any prescription based on ethical, moral, or religious beliefs; and subject a pharmacist so refusing to administrative sanctions.

A more detailed description of each bill follows.

### House Bill 5165

The bill would amend the Public Health Code by adding Part 98, entitled "Emergency Contraceptives" (MCL 333.9801 et al.). The bill would also create the Emergency Contraceptive Education Act. The bill would list numerous legislative findings, including the following:

- That about one-half of all pregnancies in the U.S. each year are unintended (about 3 million), with about half of those unintended pregnancies ending in abortion.
- That the federal Food and Drug Administration has found emergency contraception (generally, regimens of birth control pills taken within 72 hours of unprotected sex or contraceptive failure) to be safe and effective in preventing unintended pregnancies, with an effective rate of about 89 percent.
- That emergency contraception does not cause abortion or affect an established pregnancy (it delays ovulation, prevents fertilization, and prevents implantation).
- That the use of emergency contraception could reduce the number of unintended pregnancies, thereby reducing the need for abortions.

- That few gynecologists routinely discuss or offer prescriptions for emergency contraceptives, despite recommendations from the American College of Obstetricians and Gynecologists, thus suggesting a need for more professional and patient education.
- That the federal "Healthy People 2010" initiative establishes a ten-year goal of increasing the proportion of health care providers providing emergency contraception to patients.
- That public awareness campaigns would help remove many barriers to emergency contraception.

Under the bill, the Department of Community Health would have to develop and disseminate information on emergency contraceptives for the public and also for the medical community. The public information would have to include, at a minimum, a description of emergency contraceptives, along with an explanation of the use, safety, efficacy, and availability of the drugs. The information provided to health care professionals (individuals licensed or registered under Article 15 of the code) would have to include information on the use, safety, efficacy, and availability of emergency contraceptives, as well as a recommendation regarding the use of them in specific appropriate cases and information explaining how to obtain additional copies of the public information for distribution to patients.

Commonly referred to as the "morning after pill," the term "emergency contraceptive" would mean a prescription drug that was used after sexual relations and that prevented pregnancy by preventing ovulation, fertilization of an egg, or implantation of an egg in a uterus.

#### House Bill 5155

The bill would add a new section to the Public Health Code (333.20190) to require the Department of Community Health to prepare and distribute medically and factually accurate written information about emergency contraception to health facilities and agencies that provide emergency or urgent care; this would have to be done within 30 days of the bill's effective date.

For purposes of Section 20190, "emergency contraception" would mean a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device approved by the federal Food and Drug Administration and that prevented a pregnancy after sexual intercourse. The term would not include a drug, medicine, oral hormone compound, mixture, preparation, instrument, article or device of any nature prescribed to terminate the pregnancy of a female.

Beginning on the 30th day after the bill took effect, the affected health care facilities and agencies would have to provide the written information to persons who provide care to victims of criminal sexual assault. The information would then have to be provided to any female victim of criminal sexual assault who was of childbearing age, along with an

offer of emergency contraception. If requested by the victim, the facility or agency would have to administer emergency contraception to her.

An annual report of the number of times emergency contraception was administered to sexual assault victims would have to be made to the department by those facilities and agencies. The report could not identify any individual patient, it would be confidential, and would not be subject to public disclosure under the Freedom of Information Act. The department would have rule-making authority to implement the bill's provisions.

#### **BACKGROUND INFORMATION:**

Both bills are reintroductions of legislation introduced during the 2007-2008 legislative session. House Bill 5155 is identical to House Bill 6048 as passed by the House, and House Bill 5165 is identical to House Bill 6050 as introduced and reported by committee.

#### **FISCAL IMPACT:**

House Bill 5165 as introduced will have fiscal implications for the Department of Community Health. The Department's program of family planning and pregnancy prevention may already have the information on emergency contraception and the collaborative relationships with major medical and public health organizations established, but probably will have additional costs to satisfy the requirements of the bill to disseminate the information to the public, health care professionals, and health facilities. There are over 1,700 health care facilities licensed in Michigan and over 400,000 licensees and registrants for 37 health occupations per DCH.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.