

HOUSE BILL 749

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5lr2030
CF 5lr0378

By: **Delegates Morales, Afzali, Clippinger, Gaines, Gutierrez, Haynes, Hettleman, Hornberger, Jackson, Jones, Kelly, Korman, Krimm, Lisanti, Patterson, Pena–Melnyk, B. Robinson, S. Robinson, Vogt, Walker, and C. Wilson**

Introduced and read first time: February 13, 2015

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education – Sexual Assault Policies – Reporting**

3 FOR the purpose of requiring the governing boards of certain institutions of higher
4 education to update and submit to the Maryland Higher Education Commission a
5 certain written policy on sexual assault; requiring the sexual assault policy to
6 include certain procedures; requiring a certain institution of higher education to
7 include a certain notation on a certain student’s academic transcript regarding a
8 certain violation in certain circumstances; requiring the institution to adopt certain
9 procedures; requiring the policy to require an institution of higher education to enter
10 into and update certain memoranda of understanding; requiring the Commission to
11 provide the General Assembly with a certain report annually on or before a certain
12 date; and generally relating to institutions of higher education.

13 BY repealing and reenacting, with amendments,
14 Article – Education
15 Section 11–601
16 Annotated Code of Maryland
17 (2014 Replacement Volume and 2014 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That the Laws of Maryland read as follows:

20 **Article – Education**

21 11–601.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) **(I)** By August 1, 1993, the governing board of each institution of
2 higher education shall adopt and submit to the **MARYLAND HIGHER EDUCATION**
3 Commission a written policy on sexual assault.

4 **(II) BY AUGUST 1, 2016, THE GOVERNING BOARD OF EACH**
5 **INSTITUTION OF HIGHER EDUCATION SHALL UPDATE AND SUBMIT TO THE**
6 **MARYLAND HIGHER EDUCATION COMMISSION THE INSTITUTION'S WRITTEN**
7 **POLICY ON SEXUAL ASSAULT.**

8 (2) The policy adopted under paragraph (1) of this subsection shall apply
9 to each student, faculty member, and employee of the institution and inform the students,
10 faculty members, and employees of their rights and duties under the policy.

11 (b) (1) Each institution of higher education shall post **ONLINE AND** at
12 appropriate locations on each campus and distribute to its students, faculty members, and
13 employees a copy of the policy adopted under subsection (a) of this section.

14 (2) Each institution of higher education shall implement the policy adopted
15 under subsection (a) of this section.

16 (c) The sexual assault policy required under subsection (a) of this section shall
17 conform with § 485(f) of the Higher Education Act of 1965 as amended by § 486(c)(2) of the
18 Higher Education Amendments of 1992 and shall include procedures for reporting an
19 incident of sexual assault and for taking disciplinary actions against a violator of the policy,
20 including provisions for:

21 (1) Informing a victim of a sexual assault of the right to file criminal
22 charges with the appropriate law enforcement official **AND PROCEDURES FOR**
23 **CONFIDENTIAL REPORTING BY VICTIMS AND THIRD PARTIES;**

24 (2) The prompt assistance of campus authorities, at the request of the
25 victim, in notifying **AND COORDINATING WITH** the appropriate law enforcement officials
26 and disciplinary authorities of an incident of sexual assault;

27 (3) Designation of the nearest hospitals equipped with the Department of
28 State Police Sexual Assault Evidence Collection Kit;

29 (4) Full and prompt cooperation from campus personnel in obtaining
30 appropriate medical attention, including transporting the victim to the nearest designated
31 hospital;

32 (5) Offering **AVAILABLE ON-CAMPUS AND OFF-CAMPUS** counseling,
33 **HEALTH, MENTAL HEALTH, VICTIM ADVOCACY, AND LEGAL SERVICES** to a victim of
34 sexual assault from mental health services provided by the institution, other victim service
35 entities, or the nearest State designated rape crisis program; **[and]**

1 (6) After a campus sexual assault has been reported, and upon the request
2 of the alleged victim, the transfer of the alleged victim to alternative classes or housing, if
3 such alternatives are available and feasible;

4 **(7) PROTECTING THE PRIVACY AND CONFIDENTIALITY OF THE**
5 **INDIVIDUALS INVOLVED;**

6 **(8) DEVELOPING A VICTIM-CENTERED, TRAUMA-INFORMED, AND**
7 **FAIR RESPONSE BY THE INSTITUTION'S PERSONNEL TO THE REPORT OF AN**
8 **INCIDENT OF SEXUAL ASSAULT, PRELIMINARY AND FOLLOW-UP INTERVIEWS,**
9 **INVESTIGATION, AND ADJUDICATION OF ANY DISCIPLINARY MATTERS;**

10 **(9) PROVIDING THAT AN INDIVIDUAL WHO PARTICIPATES AS A**
11 **COMPLAINANT OR WITNESS IN AN INVESTIGATION OF SEXUAL ASSAULT WILL NOT BE**
12 **SUBJECT TO DISCIPLINARY SANCTIONS FOR A VIOLATION OF THE INSTITUTION'S**
13 **STUDENT CONDUCT POLICY AT OR NEAR THE TIME OF THE INCIDENT, UNLESS THE**
14 **INSTITUTION DETERMINES THAT THE VIOLATION WAS AN ACTION THAT WAS**
15 **SUBSTANTIALLY LIKELY TO PLACE THE HEALTH OR SAFETY OF ANOTHER PERSON**
16 **AT RISK; AND**

17 **(10) A COMPREHENSIVE, TRAUMA-INFORMED TRAINING PROGRAM**
18 **FOR CAMPUS OFFICIALS INVOLVED IN INVESTIGATING AND ADJUDICATING SEXUAL**
19 **ASSAULT CASES.**

20 **(D) THE SEXUAL ASSAULT POLICY REQUIRED UNDER SUBSECTION (A) OF**
21 **THIS SECTION SHALL REQUIRE THAT THE INSTITUTION ENTER INTO AND UPDATE**
22 **EVERY 2 YEARS MEMORANDA OF UNDERSTANDING WITH:**

23 **(1) EXISTING ON-CAMPUS AND COMMUNITY-BASED ORGANIZATIONS,**
24 **INCLUDING RAPE CRISIS CENTERS:**

25 **(i) TO REFER STUDENTS FOR ASSISTANCE OR MAKE SERVICES**
26 **AVAILABLE TO STUDENTS WHO HAVE BEEN SEXUALLY ASSAULTED, INCLUDING**
27 **COUNSELING, HEALTH, MENTAL HEALTH, VICTIM ADVOCACY, AND LEGAL SERVICES;**

28 **(ii) TO PROVIDE A COMPREHENSIVE, TRAUMA-INFORMED**
29 **TRAINING PROGRAM FOR CAMPUS OFFICIALS INVOLVED IN INVESTIGATING,**
30 **ADJUDICATING, AND RESPONDING TO SEXUAL ASSAULT CASES; AND**

31 **(iii) TO PROVIDE FOR REASONABLE COMPENSATION FOR**
32 **SERVICES AND TRAINING PROVIDED UNDER THIS SUBSECTION; AND**

33 **(2) ALL APPLICABLE LOCAL LAW ENFORCEMENT AGENCIES,**
34 **INCLUDING:**

1 (I) DELINEATION OF INVESTIGATIVE RESPONSIBILITIES OF
2 CAMPUS LAW ENFORCEMENT AND LOCAL LAW ENFORCEMENT WHEN SEXUAL
3 ASSAULT IS ALLEGED;

4 (II) STANDARDS FOR NOTIFICATION AND COMMUNICATION TO
5 PROMOTE EVIDENCE PRESERVATION; AND

6 (III) COMMITMENT TO ENSURING ALL PERSONNEL RESPONDING
7 TO SEXUAL ASSAULT VICTIMS ON CAMPUS RECEIVE COMPREHENSIVE,
8 TRAUMA-INFORMED TRAINING REGARDING APPROPRIATE RESPONSES IN SEXUAL
9 ASSAULT CASES.

10 (E) (1) AN INSTITUTION OF HIGHER EDUCATION THAT IS SUBJECT TO
11 THIS SECTION SHALL INCLUDE A PROMINENT NOTATION ON THE ACADEMIC
12 TRANSCRIPT OF A STUDENT WHO HAS BEEN SUSPENDED FOR, HAS BEEN
13 PERMANENTLY DISMISSED FOR, OR WITHDRAWS FROM THE INSTITUTION WHILE
14 UNDER INVESTIGATION FOR ANY SEX OFFENSE THAT THE INSTITUTION IS REQUIRED
15 TO REPORT UNDER THE FEDERAL JEANNE CLERY DISCLOSURE OF CAMPUS
16 SECURITY POLICY AND CAMPUS CRIME STATISTICS ACT.

17 (2) THE NOTATION REQUIRED BY PARAGRAPH (1) OF THIS
18 SUBSECTION SHALL STATE:

19 (I) THE SPECIFIC VIOLATION OF THE INSTITUTION'S CODE,
20 RULES, OR SET OF STANDARDS THAT THE STUDENT COMMITTED OR, IF THE
21 STUDENT WITHDREW WHILE UNDER INVESTIGATION, WAS ALLEGED TO HAVE
22 COMMITTED; AND

23 (II) WHETHER THE STUDENT WAS EITHER SUSPENDED OR
24 PERMANENTLY DISMISSED FOR THE VIOLATION OR WHETHER THE STUDENT
25 WITHDREW FROM THE INSTITUTION WHILE UNDER INVESTIGATION FOR THE
26 VIOLATION.

27 (3) THE INSTITUTION SHALL:

28 (I) MAKE A REASONABLE EFFORT TO NOTIFY AND RECEIVE
29 CONFIRMATION FROM A STUDENT SUBJECT TO THIS SECTION THAT THE STUDENT
30 UNDERSTANDS THAT A SUSPENSION, DISMISSAL, OR WITHDRAWAL WILL BE
31 DOCUMENTED ON THE STUDENT'S ACADEMIC TRANSCRIPT; AND

32 (II) ADOPT A PROCEDURE FOR REMOVING A NOTATION MADE
33 UNDER THIS SECTION FROM THE ACADEMIC TRANSCRIPT OF A STUDENT WHO IS

1 SUBSEQUENTLY FOUND NOT TO HAVE VIOLATED THE INSTITUTION'S CODE, RULES,
2 OR SET OF STANDARDS GOVERNING STUDENT SEXUAL MISCONDUCT.

3 [(d)] (F) The Commission shall:

4 (1) Coordinate the development of the sexual assault policies; [and]

5 (2) Periodically review and make recommendations for changes in these
6 policies; AND

7 (3) ANNUALLY REPORT TO THE GENERAL ASSEMBLY, IN
8 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE
9 AUGUST 1 OF EACH YEAR, REGARDING:

10 (I) THE POLICIES ADOPTED UNDER THIS SECTION;

11 (II) THE NUMBER OF CASES ADJUDICATED AND THE OUTCOMES
12 OF THE CASES; AND

13 (III) THE NUMBER OF CASES REPORTED TO LAW ENFORCEMENT
14 AND THE OUTCOMES OF THE CASES.

15 [(e)] (G) Nothing in this subtitle shall be construed to confer a private cause of
16 action upon any person to enforce the provisions of this subtitle.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2015.