

**HB0913/764762/1**

BY: Appropriations Committee

AMENDMENTS TO HOUSE BILL 913

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Simonaire” and substitute “Simonaire, Buckel, and Hornberger”; in line 2, strike the second “Policy” and substitute “Provisions”; in line 6, after “proceedings” insert “provisions”; in lines 6 and 8, in each instance, strike “policy” and substitute “provisions”; in line 11, after “allegations” insert “except under certain circumstances”; in line 12, strike the first comma; strike beginning with “to” in line 12 down through “circumstances,” in line 14; in line 14, strike “require” and substitute “permit”; in line 15, strike the first “and” and substitute “to authorize certain institutions to use mediation under certain circumstances,”; in the same line, after “fees” insert “except under certain circumstances, and to provide for the construction of this Act”; in the same line, after the semicolon insert “specifying that an institution may not discourage a student from retaining an attorney; specifying that the Commission is not required to pay a student’s attorney’s fees for representation in a criminal or civil matter;”; and in line 16, strike “policies” and substitute “provisions”.

AMENDMENT NO. 2

On page 3, in line 23, strike “A” and substitute “**PROVISIONS FOR**”; in lines 23 and 29, in each instance, strike “POLICY” and substitute “**PROVISIONS**”; and in line 27, strike the second “POLICY” and substitute “**PROVISIONS**”.

On page 4, in line 3, strike “TIMELY” and substitute “**FAIR AND IMPARTIAL**”; in line 4, after “PROCEEDINGS” insert “**AND RESOLUTIONS**”; in lines 4 and 5, strike “FAIR AND IMPARTIAL” and substitute “**PROMPT AND EQUITABLE**”; in line 5, strike “A MEANINGFUL” and substitute “**AN**”; strike beginning with “OF” in line 8 down through “POLICY” in line 9; in line 10, after “VIOLATION” insert “**, AND THE RANGE OF POTENTIAL SANCTIONS ASSOCIATED WITH THE ALLEGED VIOLATION**”; in line

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12, strike “APPLICABLE LAW” and substitute “INFORMATION REGARDING OTHER CIVIL AND CRIMINAL OPTIONS”; in line 16, strike “ANY” and substitute “A FINAL”; in line 24, after “EVIDENCE” insert “REGARDING THE INCIDENT”; in line 27, strike “IF REQUIRED BY LAW” and substitute “AS REQUIRED BY APPLICABLE LAW”; and in line 28, after “HEARING” insert “OR, IF THE INSTITUTION’S PROCESS DOES NOT INCLUDE A HEARING, TO THE ADJUDICATING OFFICIAL”.

On page 5, strike beginning with the second “AN” in line 10 down through “COALITION” in line 11 and substitute “A TRAINED ADVOCATE”; in line 20, strike “THE” and substitute “NOTWITHSTANDING THE CHOICE THAT A STUDENT MAKES UNDER PARAGRAPH (4)(V) OF THIS SUBSECTION, THE”; in the same line, after the first “OF” insert “NO MORE THAN TWO PEOPLE, INCLUDING”; in line 21, strike “IN ADDITION TO”; in the same line, after “ATTORNEY” insert a comma; in the same line, after “OR” insert “AN”; in line 23, strike “POLICY” and substitute “PROVISIONS”; in line 27, strike “AT LEAST 10 DAYS” and substitute “PRESENTED IN AN APPROPRIATE AND SENSITIVE FORMAT,”; and in line 29, after “OR” insert “AN”.

On page 6, in line 6, after “OF” insert “CODE OF CONDUCT VIOLATIONS INVOLVING”; in line 8, strike “PROHIBIT” and substitute “EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION, PROHIBIT”; in line 13, strike “AN ALLEGED VICTIM’S” and substitute “A STUDENT’S”; strike beginning with the first “THE” in line 14 down through “VIOLATION” in line 15 and substitute “A PARTY TO THE PROCEEDINGS”; in line 15, after “TO” insert “:”

A.”;

in the same line, strike “PROVE” and substitute “PROVE”; in the same line, after “INJURY” insert “:”

**B. PROVE PRIOR SEXUAL MISCONDUCT;**

C. SUPPORT A CLAIM THAT A STUDENT HAS AN ULTERIOR MOTIVE; OR

D. IMPEACH A STUDENT'S CREDIBILITY AFTER THAT STUDENT HAS PUT HIS OR HER OWN PRIOR SEXUAL CONDUCT AT ISSUE";

and in line 17, after "CONSENTS;" insert "AND".

On pages 6 and 7, strike in their entirety the lines beginning with line 18 on page 6 through line 5 on page 7, inclusive, and substitute:

"(V) PERMIT STUDENTS TO ACCESS COUNSEL PAID FOR BY THE COMMISSION, AS DESCRIBED UNDER PARAGRAPH (6) OF THIS SUBSECTION, FOR:

1. A CURRENT OR FORMER STUDENT WHO MAKES A COMPLAINT ON WHICH A FORMAL TITLE IX INVESTIGATION IS INITIATED AND WHO WAS ENROLLED AS A STUDENT AT THE INSTITUTION AT THE TIME OF THE INCIDENT THAT IS THE BASIS OF THE COMPLAINT, UNLESS THE STUDENT KNOWINGLY AND VOLUNTARILY CHOOSES NOT TO HAVE COUNSEL; AND

2. A CURRENT OR FORMER STUDENT WHO RESPONDS TO A COMPLAINT ON WHICH A FORMAL TITLE IX INVESTIGATION IS INITIATED AND WHO WAS ENROLLED AS A STUDENT AT THE INSTITUTION AT THE TIME OF THE INCIDENT THAT IS THE BASIS OF THE COMPLAINT, UNLESS THE STUDENT KNOWINGLY AND VOLUNTARILY CHOOSES NOT TO HAVE COUNSEL.

(5) THE DISCIPLINARY PROCEEDINGS PROVISIONS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL AUTHORIZE AN INSTITUTION

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TO USE MEDIATION OR OTHER INFORMAL MECHANISMS FOR RESOLVING A COMPLAINT RELATING TO THE INSTITUTION'S SEXUAL ASSAULT POLICY IF:

(I) THE COMPLAINING STUDENT REQUESTS AN INFORMAL MECHANISM;

(II) ALL PARTIES TO THE COMPLAINT, AND THE INSTITUTION, AGREE TO THE USE OF THE INFORMAL MECHANISM;

(III) THE INSTITUTION PARTICIPATES IN THE INFORMAL MECHANISM BY PROVIDING TRAINED STAFF;

(IV) ANY PARTY MAY END THE INFORMAL MECHANISM AT ANY TIME IN FAVOR OF A FORMAL RESOLUTION PROCEEDING; AND

(V) THE ALLEGED MISCONDUCT DOES NOT INVOLVE SEXUAL ASSAULT OR SEXUAL COERCION.

(6) (I) THE DISCIPLINARY PROCEEDINGS PROVISIONS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL, UNLESS A STUDENT WAIVES COUNSEL UNDER PARAGRAPH (4)(V) OF THIS SUBSECTION, REQUIRE THE COMMISSION TO PAY REASONABLE COSTS AND ATTORNEY'S FEES FOR STUDENTS PROVIDED COUNSEL UNDER PARAGRAPH (4)(V) OF THIS SUBSECTION, AS PROVIDED UNDER THIS PARAGRAPH.

(II) IN CONSULTATION WITH STATE AND LOCAL BAR ASSOCIATIONS AND LEGAL SERVICES PROVIDERS WITH EXPERTISE ABOUT SEXUAL MISCONDUCT, THE COMMISSION SHALL DEVELOP A LIST OF ATTORNEYS AND LEGAL SERVICES PROGRAMS WILLING TO REPRESENT STUDENTS ON A PRO

BONO BASIS OR AT FEES EQUIVALENT TO THOSE PAID TO ATTORNEYS UNDER CIVIL LEGAL SERVICES PROGRAMS ADMINISTERED BY THE MARYLAND LEGAL SERVICES CORPORATION, ESTABLISHED UNDER TITLE 11 OF THE HUMAN SERVICES ARTICLE.

(III) A STUDENT MAY SELECT AN ATTORNEY FROM THE LIST DEVELOPED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.

(IV) 1. A STUDENT MAY SELECT AND RETAIN AN ATTORNEY PRIOR TO THE CONCLUSION OF THE FORMAL TITLE IX PROCEEDINGS.

2. AN INSTITUTION MAY NOT DISCOURAGE A STUDENT FROM RETAINING AN ATTORNEY.

(V) IF A STUDENT SELECTS AND RETAINS AN ATTORNEY WHO IS NOT ON THE LIST DEVELOPED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COMMISSION SHALL PAY FEES TO THE ATTORNEY SELECTED BY THE STUDENT THAT ARE EQUIVALENT TO THOSE PAID TO ATTORNEYS UNDER CIVIL LEGAL SERVICES PROGRAMS ADMINISTERED BY THE MARYLAND LEGAL SERVICES CORPORATION.

(7) THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT AN INSTITUTION OF HIGHER EDUCATION FROM IMPOSING INTERIM SAFETY MEASURES.

(8) THE COMMISSION IS NOT REQUIRED TO PAY A STUDENT'S ATTORNEY'S FEES FOR REPRESENTATION IN A CRIMINAL OR CIVIL MATTER."