

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 19
Ways and Means

(Delegate Cardin)

Higher Education - Sexual Assault Surveys and Sexual Assault Victim Advocates

This bill requires the Maryland Higher Education Commission (MHEC), in consultation with the Department of Health and Mental Hygiene (DHMH) and the Governor's Office of Crime Control and Prevention, to establish procedures for the administration of a sexual assault survey every three years by each institution of higher education in the State. By June 1, 2015, and every three years thereafter, each institution of higher education must administer the sexual assault survey in accordance with procedures developed by MHEC to students, faculty members, and employees. Institutions of higher education must report school-specific results to MHEC and include the results in their annual security report. By September 1, 2015, and every three years thereafter, MHEC must report the survey results and publish the results on its website and other appropriate locations. Each institution of higher education must appoint a sexual assault victim advocate to provide information and support regarding the institution's sexual assault policies and procedures to a victim of sexual assault on a free and confidential basis.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: Public four-year institutions of higher education and Baltimore City Community College (BCCC) can administer and report on the sexual assault survey and appoint a sexual assault victim's advocate using existing resources. MHEC can develop the survey and analyze the results using existing resources. DHMH and the Governor's Office of Crime Control and Prevention can consult with MHEC in developing the survey using existing resources.

Local Effect: Local community colleges can administer and report on the sexual assault survey and appoint a sexual assault victim's advocate using existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The procedures for the administration of the sexual assault survey must require each institution of higher education to *provide for* the completion of the survey online. MHEC may use the National Intimate Partner and Sexual Violence Survey developed by the National Center for Injury Prevention and Control of the Centers for Disease Control and Prevention as a model.

School-specific results of the sexual assault survey must be included in each institution's annual security report published in accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

By September 1, 2015, MHEC must report to the Governor; the Senate Education, Health, and Environmental Affairs Committee; and the House Appropriations Committee on the results of the sexual assault surveys administered by each institution of higher education.

Current Law: The governing board of each institution of higher education was required to adopt and submit to MHEC a written policy on sexual assault. The adopted policy must apply to each student, faculty member, and employee of the institution and inform the students, faculty members, and employees of their rights and duties under the policy. Each institution of higher education must post at appropriate locations on each campus and distribute to its students, faculty members, and employees a copy of the policy. Each institution of higher education was required to implement the policy adopted.

The sexual assault policy must conform to the appropriate provisions of the Higher Education Act of 1965 and the Higher Education Amendments of 1992 and must include procedures for reporting an incident of sexual assault and for taking disciplinary actions against a violator of the policy. Specifically the policy must include provisions for the following:

- informing a victim of a sexual assault of the right to file criminal charges with the appropriate law enforcement official;
- the prompt assistance of campus authorities, at the request of the victim, in notifying the appropriate law enforcement officials and disciplinary authorities of an incident of sexual assault;
- designation of the nearest hospitals equipped with the Department of State Police Sexual Assault Evidence Collection Kit;

- full and prompt cooperation from campus personnel in obtaining appropriate medical attention, including transporting the victim to the nearest designated hospital;
- offering counseling to a victim of sexual assault from mental health services provided by the institution, other victim service entities, or the nearest State-designated rape crisis program; and
- after a campus sexual assault has been reported, and upon the request of the alleged victim, the transfer of the alleged victim to alternative classes or housing, if such alternatives are available and feasible.

MHEC must coordinate the development of the sexual assault policies and periodically review and make recommendations for changes in these policies.

The federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act requires institutions of higher education across the United States to disclose information about crime on and around their campuses. The law is tied to an institution's participation in federal student financial aid programs, and it applies to most institutions of higher education, both public and private.

The law was amended in 1992 to add a requirement that schools afford the victims of campus sexual assault certain basic rights, and it was amended again in 1998 to expand the reporting requirements. The 1998 amendments also formally named the law in memory of Jeanne Clery. Subsequent amendments in 2000 and 2008 added provisions dealing with registered sex offender notification and campus emergency response. The 2008 amendments also added a provision to protect crime victims, "whistleblowers," and others from retaliation.

Under the Clery Act, institutions of higher education are required to publish an annual security report by October 1, documenting three calendar years of select campus crime statistics including security policies and procedures and information on the basic rights guaranteed victims of sexual assault.

Background: The U.S. Department of Justice has estimated that nearly 20% of women and 6% of men will be victims of sexual assault during their college years; however, a study by the National Crime Victims Research and Treatment Center estimated that as few as 12% of rape victims report their report their assault to the police.

The U.S. Department of Education (ED) issued a Dear Colleague Letter in 2011 reiterating that Title IX of the Education Amendments of 1972 protects students from sexual harassment in a school's education programs and activities. In 2013, students from a number of institutions of higher education filed complaints with ED over the institutions' alleged mishandling of sexual-misconduct cases. Some of the complaints

were filed under the federal Clery Act, which requires institutions of higher education to disclose information about crime on and around their campuses; others were filed under Title IX. These complaints and other reports of sexual assaults on campuses have received nationwide attention and have begun a nationwide dialogue about sexual assaults on college campuses.

State Effect: Public four-year institutions of higher education and BCCC can administer and report on the sexual assault survey and appoint a sexual assault victim's advocate using existing resources. Nevertheless, the University System of Maryland expresses concern about the potential validity or reliability of the survey data if the administration of the surveys varies between institutions. Existing staff can be appointed as sexual assault victim's advocates; however, additional training may be required. It is assumed that any additional training can be absorbed using existing resources.

Morgan State University (MSU) reports it is currently in the process of updating its policies and procedures concerning sexual assault victims. MSU also advises that it has a counseling center that manages this process and would adhere to the requirements as stated in the proposed legislation.

MHEC can develop the survey and analyze the results using existing resources. Even so, MHEC advises that, in the years the survey is being analyzed and MHEC must submit a report, staff must be redirected from other priorities. MHEC estimates the following amount of staff time will be required to complete the task: 20 hours by MHEC's Director of Research and Policy Analysis and 160 hours by an MHEC Research Analyst.

Local Effect: Local community colleges can administer and report on the sexual assault survey and appoint a sexual assault victim's advocate using existing resources.

Additional Comments: The Maryland Independent College and University Association (MICUA) reports that expenditures for its member institutions may increase to administer the sexual assault survey and to appoint sexual assault victim's advocates. MICUA advises that its institutions have expressed concern about survey fatigue and data confidentiality given the sensitive subject matter. MICUA also advises that not all campuses may have staff qualified to serve as sexual assault victim's advocates, which could result in the necessity to hire additional staff on either a full- or part-time basis or to pay for additional training for current staff.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Higher Education Commission, Department of Health and Mental Hygiene, Maryland Independent College and University Association, Morgan State University, University System of Maryland, U.S. Department of Justice, U.S. Department of Education, National Crime Victims Research and Treatment Center, Department of Legislative Services

Fiscal Note History: First Reader - January 28, 2014
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