

HOUSE BILL 571

F2

(5lr2070)

ENROLLED BILL

— Appropriations/Education, Health, and Environmental Affairs —

Introduced by **Delegates Hettleman, Barron, McIntosh, Jones, and Morales**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Institutions of Higher Education – Sexual Assault – Policy and Survey**

3 FOR the purpose of requiring a certain sexual assault policy adopted by the governing
4 ~~board~~ body of each institution of higher education to conform with the requirements
5 of a certain federal law; requiring a certain sexual assault policy to include a
6 prohibition ~~of~~ against the imposition of certain ~~sanctions~~ campus conduct actions,
7 except for a certain type of mandatory intervention, for a certain violation of the
8 institution of higher education's ~~student conduct policy~~ alcohol and drug use policies
9 for certain students ~~except if a certain determination is made~~ under certain
10 circumstances, a prohibition on retaliation by the institution of higher education
11 against a student, and a provision regarding the entering pursuing of a
12 ~~memorandum of understanding~~ certain formalized agreements with certain entities;
13 requiring the Maryland Higher Education Commission, in consultation with ~~the~~
14 ~~Department of Health and Mental Hygiene and the Governor's Office of Crime~~
15 ~~Control and Prevention~~ institutions of higher education, to establish certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 procedures for the administration of certain sexual assault campus climate surveys
 2 by certain institutions of higher education, on or before certain dates, beginning in a
 3 certain year; requiring certain institutions of higher education to ~~use a certain~~
 4 ~~survey as a model or~~ develop a certain survey; ~~requiring certain institutions of higher~~
 5 ~~education and to administer a certain sexual assault~~ the survey every year to certain
 6 students in accordance with certain procedures; requiring certain institutions of
 7 higher education, on or before a certain date every other year, to report
 8 ~~school-specific results of a certain sexual assault survey~~ submit to the Commission
 9 ~~a certain report that includes~~ certain reports that include certain information;
 10 requiring institutions of higher education to make certain efforts to protect student
 11 privacy in reporting certain data; requiring institutions of higher education to report
 12 certain data together with other reporting requirements under a certain federal law;
 13 ~~requiring certain institutions of higher education to include~~
 14 ~~school-specific survey results in a certain annual security report~~; requiring the
 15 Commission to report certain ~~sexual assault campus climate survey results~~ reports
 16 to the Governor and certain committees of the General Assembly on or before certain
 17 dates, beginning in a certain year; requiring the Commission to publish certain
 18 ~~sexual assault campus climate survey results~~ reports in a certain manner; and
 19 generally relating to a policy and survey relating to sexual assault and institutions
 20 of higher education.

21 BY repealing and reenacting, with amendments,
 22 Article – Education
 23 Section 11–601
 24 Annotated Code of Maryland
 25 (2014 Replacement Volume and 2014 Supplement)

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

28 Article – Education

29 11–601.

30 (a) (1) By August 1, 1993, the governing ~~board~~ **BODY** of each institution of
 31 higher education shall adopt and submit to the Commission a written policy on sexual
 32 assault.

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

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

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

3 (c) The sexual assault policy required under subsection (a) of this section shall
4 conform with § 485(f) of the Higher Education Act of 1965 as amended [by § 486(c)(2) of the
5 Higher Education Amendments of 1992] **AND TITLE IX OF THE EDUCATION**
6 **AMENDMENTS OF 1972** and shall include procedures for reporting an incident of sexual
7 assault and for taking disciplinary actions against a violator of the policy, including
8 provisions for:

9 (1) Informing a victim of a sexual assault of the right to file criminal
10 charges with the appropriate law enforcement official;

11 (2) The prompt assistance of campus authorities, at the request of the
12 victim, in notifying the appropriate law enforcement officials and disciplinary authorities
13 of an incident of sexual assault;

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

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

19 (5) Offering counseling to a victim of sexual assault from mental health
20 services provided by the institution, other victim service entities, or the nearest State
21 designated rape crisis program; [and]

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

25 **(7) PROHIBITING THE IMPOSITION OF ~~DISCIPLINARY SANCTIONS A~~**
26 **CAMPUS CONDUCT ACTION, EXCEPT FOR A MANDATORY INTERVENTION FOR**
27 **SUBSTANCE ABUSE, FOR A VIOLATION OF THE ~~STUDENT CONDUCT POLICY~~ ALCOHOL**
28 **OR DRUG USE POLICIES OF THE INSTITUTION OF HIGHER EDUCATION FOR A**
29 **STUDENT WHO ~~FILES A COMPLAINT FOR~~ REPORTS TO THE INSTITUTION OR A LAW**
30 **ENFORCEMENT OFFICER AN INCIDENT OF SEXUAL ASSAULT OR WHO**
31 **PARTICIPATES IN AN INVESTIGATION OF A SEXUAL ASSAULT AS A WITNESS IF:**

32 **(I) ~~IF THE~~ THE INSTITUTION OF HIGHER EDUCATION**
33 **DETERMINES THE VIOLATION OCCURRED ~~AT~~ DURING OR NEAR THE TIME OF THE**
34 **ALLEGED SEXUAL ASSAULT; ~~UNLESS~~**

1 (II) THE STUDENT IS DETERMINED TO HAVE MADE THE REPORT
 2 OF SEXUAL ASSAULT OR IS PARTICIPATING IN AN INVESTIGATION AS A WITNESS IN
 3 GOOD FAITH; AND

4 ~~(H)~~ (III) THE INSTITUTION OF HIGHER EDUCATION
 5 DETERMINES THAT THE VIOLATION WAS NOT AN ACT THAT WAS REASONABLY
 6 LIKELY TO PLACE THE HEALTH OR SAFETY OF ANOTHER INDIVIDUAL AT RISK; AND

7 (8) PROHIBITING THE INSTITUTION OF HIGHER EDUCATION FROM
 8 RETALIATING AGAINST A STUDENT WHO FILES A COMPLAINT FOR SEXUAL ASSAULT
 9 OR WHO PARTICIPATES AS A WITNESS IN AN INVESTIGATION OF A SEXUAL ASSAULT;
 10 AND

11 ~~(8)~~ (9) ENTERING INTO PURSUING A MEMORANDUM OF
 12 UNDERSTANDING FORMALIZED AGREEMENTS WITH:

13 (I) THE LOCAL LAW ENFORCEMENT AGENCY THAT COMPLIES
 14 WITH THE RELEVANT PROVISIONS OF TITLE IX OF THE EDUCATION AMENDMENTS
 15 OF 1972 AND CLEARLY STATES WHEN A SCHOOL WILL REFER A MATTER TO LOCAL
 16 LAW ENFORCEMENT; AND

17 (II) A STATE DESIGNATED RAPE CRISIS PROGRAM, FEDERALLY
 18 RECOGNIZED SEXUAL ASSAULT COALITION, OR ~~BOTH ANY OTHER VICTIM SERVICES~~
 19 ~~ORGANIZATION~~ BOTH THAT FORMALIZES A COMMITMENT TO PROVIDE
 20 TRAUMA-INFORMED SERVICES TO VICTIMS OF SEXUAL ASSAULT AND IMPROVE THE
 21 OVERALL RESPONSE TO SEXUAL ASSAULT BY THE INSTITUTION OF HIGHER
 22 EDUCATION.

23 (d) The Commission shall:

24 (1) Coordinate the development of the sexual assault policies; and

25 (2) Periodically review and make recommendations for changes in these
 26 policies.

27 (E) (1) ~~THE COMMISSION, IN CONSULTATION WITH THE DEPARTMENT OF~~
 28 ~~HEALTH AND MENTAL HYGIENE AND THE GOVERNOR'S OFFICE OF CRIME~~
 29 ~~CONTROL AND PREVENTION~~ INSTITUTIONS OF HIGHER EDUCATION, SHALL
 30 ESTABLISH PROCEDURES FOR THE ADMINISTRATION OF A SEXUAL ASSAULT
 31 CAMPUS CLIMATE SURVEY EVERY YEAR ~~EVERY YEAR~~ BY EACH INSTITUTION OF HIGHER
 32 EDUCATION.

1 (2) THE PROCEDURES SHALL REQUIRE EACH INSTITUTION OF
 2 HIGHER EDUCATION TO PROVIDE FOR THE COMPLETION OF THE SURVEY BY
 3 VARIOUS METHODS, INCLUDING ONLINE.

4 (F) ~~EACH ON OR BEFORE OCTOBER~~ MARCH 1, 2016, AND AT LEAST EVERY
 5 2 YEARS THEREAFTER, EACH INSTITUTION OF HIGHER EDUCATION SHALL:

6 (1) ~~USE THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE~~
 7 ~~SURVEY DEVELOPED BY THE NATIONAL CENTER FOR INJURY PREVENTION AND~~
 8 ~~CONTROL OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION AS A MODEL~~
 9 ~~SURVEY; OR~~

10 ~~(2)~~ DEVELOP AN APPROPRIATE SEXUAL ASSAULT CAMPUS CLIMATE
 11 SURVEY; USING NATIONALLY RECOGNIZED BEST PRACTICES FOR RESEARCH AND
 12 CLIMATE SURVEYS; AND

13 ~~(G) ON OR BEFORE JUNE 1, 2016, AND EACH YEAR THEREAFTER, EACH~~
 14 ~~INSTITUTION OF HIGHER EDUCATION SHALL:~~

15 ~~(1)~~ (2) ADMINISTER THE SEXUAL ASSAULT CAMPUS CLIMATE
 16 SURVEY TO STUDENTS IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED
 17 UNDER SUBSECTION (E) OF THIS SECTION;

18 ~~(2) REPORT SCHOOL SPECIFIC RESULTS OF THE SEXUAL ASSAULT~~
 19 ~~SURVEY TO THE COMMISSION; AND~~

20 ~~(3) INCLUDE SCHOOL SPECIFIC RESULTS OF THE SEXUAL ASSAULT~~
 21 ~~SURVEY IN ITS ANNUAL SECURITY REPORT PUBLISHED IN ACCORDANCE WITH THE~~
 22 ~~JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICE AND CAMPUS CRIME~~
 23 ~~STATISTICS ACT.~~

24 (G) (1) ON OR BEFORE JUNE 1, 2016, AND EVERY 2 YEARS THEREAFTER,
 25 EACH INSTITUTION OF HIGHER EDUCATION SHALL SUBMIT TO THE COMMISSION:

26 (I) A REPORT ON SCHOOL SPECIFIC RESULTS OF THE SEXUAL
 27 ASSAULT SURVEY; AND

28 (II) ~~A~~ A REPORT SUMMARIZING AGGREGATING THE DATA
 29 COLLECTED BY THE INSTITUTION REGARDING SEXUAL ASSAULT COMPLAINTS MADE
 30 TO THE INSTITUTION, INCLUDING THE:

31 ~~(H)~~ 1. TYPES OF MISCONDUCT;

32 ~~(H)~~ 2. OUTCOME OF EACH COMPLAINT;

~~(III)~~ 3. DISCIPLINARY ACTIONS TAKEN BY THE INSTITUTION;

~~(IV)~~ 4. ACCOMMODATIONS MADE TO STUDENTS IN ACCORDANCE WITH THE SEXUAL ASSAULT POLICY ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION; AND

~~(V)~~ 5. NUMBER OF REPORTS INVOLVING ALLEGED NONSTUDENT PERPETRATORS.

(2) IN REPORTING THE DATA UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE INSTITUTION OF HIGHER EDUCATION SHALL MAKE REASONABLE EFFORTS TO PROTECT STUDENT PRIVACY.

(3) AN INSTITUTION OF HIGHER EDUCATION SHALL SUBMIT THE DATA REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TOGETHER WITH THE REPORTING REQUIREMENTS OF THE FEDERAL JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICY AND CRIME STATISTICS ACT, AS AMENDED BY THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013.

(H) ON OR BEFORE ~~SEPTEMBER~~ OCTOBER 1, 2016, AND ~~EACH YEAR~~ EVERY 2 YEARS THEREAFTER, THE COMMISSION SHALL:

(1) REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE HOUSE APPROPRIATIONS COMMITTEE ON THE ~~RESULTS OF THE SEXUAL ASSAULT CAMPUS CLIMATE SURVEYS ADMINISTERED BY EACH INSTITUTION OF HIGHER EDUCATION~~ REPORTS REQUIRED UNDER SUBSECTION (G) OF THIS SECTION; AND

(2) PUBLISH THE ~~RESULTS OF THE SURVEY~~ REPORTS REQUIRED UNDER SUBSECTION (G) OF THIS SECTION ON THE COMMISSION'S WEB SITE AND IN ANY OTHER LOCATION OR VENUE THE COMMISSION DETERMINES IS NECESSARY OR APPROPRIATE.

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

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