

HOUSE BILL 571

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5lr2070

By: **Delegates Hettleman, Barron, McIntosh, Jones, and Morales**

Introduced and read first time: February 12, 2015

Assigned to: Appropriations

A BILL ENTITLED

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 of each institution of higher education to conform with the requirements of a
5 certain federal law; requiring a certain sexual assault policy to include a prohibition
6 of the imposition of certain sanctions for a certain violation of the institution of
7 higher education's student conduct policy for certain students except if a certain
8 determination is made and the entering of a memorandum of understanding with
9 certain entities; requiring the Maryland Higher Education Commission, in
10 consultation with the Department of Health and Mental Hygiene and the Governor's
11 Office of Crime Control and Prevention, to establish certain procedures for the
12 administration of certain sexual assault surveys by certain institutions of higher
13 education; requiring certain institutions of higher education to use a certain survey
14 as a model or develop a certain survey; requiring certain institutions of higher
15 education to administer a certain sexual assault survey every year to certain
16 students in accordance with certain procedures; requiring certain institutions of
17 higher education to report school-specific results of a certain sexual assault survey
18 to the Commission; requiring certain institutions of higher education to include
19 school-specific survey results in a certain annual security report; requiring the
20 Commission to report certain sexual assault survey results to the Governor and
21 certain committees of the General Assembly on or before certain dates, beginning in
22 a certain year; requiring the Commission to publish certain sexual assault survey
23 results in a certain manner; and generally relating to a policy and survey relating to
24 sexual assault and institutions of higher education.

25 BY repealing and reenacting, with amendments,
26 Article – Education
27 Section 11–601
28 Annotated Code of Maryland
29 (2014 Replacement Volume and 2014 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Education**

4 11–601.

5 (a) (1) By August 1, 1993, the governing board of each institution of higher
6 education shall adopt and submit to the Commission a written policy on sexual assault.

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

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

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

15 (c) The sexual assault policy required under subsection (a) of this section shall
16 conform with § 485(f) of the Higher Education Act of 1965 as amended [by § 486(c)(2) of the
17 Higher Education Amendments of 1992] **AND TITLE IX OF THE EDUCATION**
18 **AMENDMENTS OF 1972** and shall include procedures for reporting an incident of sexual
19 assault and for taking disciplinary actions against a violator of the policy, including
20 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;

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

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

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

31 (5) Offering counseling to a victim of sexual assault from mental health
32 services provided by the institution, other victim service entities, or the nearest State
33 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) PROHIBITING THE IMPOSITION OF DISCIPLINARY SANCTIONS FOR**
5 **A VIOLATION OF THE STUDENT CONDUCT POLICY OF THE INSTITUTION OF HIGHER**
6 **EDUCATION FOR A STUDENT WHO FILES A COMPLAINT FOR SEXUAL ASSAULT OR**
7 **WHO PARTICIPATES IN AN INVESTIGATION OF A SEXUAL ASSAULT AS A WITNESS:**

8 **(I) IF THE INSTITUTION OF HIGHER EDUCATION DETERMINES**
9 **THE VIOLATION OCCURRED AT OR NEAR THE TIME OF THE ALLEGED SEXUAL**
10 **ASSAULT; UNLESS**

11 **(II) THE INSTITUTION OF HIGHER EDUCATION DETERMINES**
12 **THAT THE VIOLATION WAS AN ACT THAT WAS REASONABLY LIKELY TO PLACE THE**
13 **HEALTH OR SAFETY OF ANOTHER INDIVIDUAL AT RISK; AND**

14 **(8) ENTERING INTO A MEMORANDUM OF UNDERSTANDING WITH:**

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

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

24 (d) The Commission shall:

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

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

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

1 **(2) THE PROCEDURES SHALL REQUIRE EACH INSTITUTION OF**
2 **HIGHER EDUCATION TO PROVIDE FOR THE COMPLETION OF THE SURVEY ONLINE.**

3 **(F) EACH INSTITUTION OF HIGHER EDUCATION SHALL:**

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

8 **(2) DEVELOP AN APPROPRIATE SURVEY.**

9 **(G) ON OR BEFORE JUNE 1, 2016, AND EACH YEAR THEREAFTER, EACH**
10 **INSTITUTION OF HIGHER EDUCATION SHALL:**

11 **(1) ADMINISTER THE SEXUAL ASSAULT SURVEY TO STUDENTS IN**
12 **ACCORDANCE WITH THE PROCEDURES ESTABLISHED UNDER SUBSECTION (E) OF**
13 **THIS SECTION;**

14 **(2) REPORT SCHOOL-SPECIFIC RESULTS OF THE SEXUAL ASSAULT**
15 **SURVEY TO THE COMMISSION; AND**

16 **(3) INCLUDE SCHOOL-SPECIFIC RESULTS OF THE SEXUAL ASSAULT**
17 **SURVEY IN ITS ANNUAL SECURITY REPORT PUBLISHED IN ACCORDANCE WITH THE**
18 **JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICE AND CAMPUS CRIME**
19 **STATISTICS ACT.**

20 **(H) ON OR BEFORE SEPTEMBER 1, 2016, AND EACH YEAR THEREAFTER, THE**
21 **COMMISSION SHALL:**

22 **(1) REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246**
23 **OF THE STATE GOVERNMENT ARTICLE, THE SENATE EDUCATION, HEALTH, AND**
24 **ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE APPROPRIATIONS**
25 **COMMITTEE ON THE RESULTS OF THE SEXUAL ASSAULT SURVEYS ADMINISTERED**
26 **BY EACH INSTITUTION OF HIGHER EDUCATION; AND**

27 **(2) PUBLISH THE RESULTS OF THE SURVEY ON THE COMMISSION'S**
28 **WEB SITE AND IN ANY OTHER LOCATION OR VENUE THE COMMISSION DETERMINES**
29 **IS NECESSARY OR APPROPRIATE.**

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

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