

HOUSE BILL 571

F2

51r2070

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

Introduced and read first time: February 12, 2015

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2015

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 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 against~~ the imposition of certain ~~sanctions~~ campus conduct actions, except for a
7 certain type of mandatory intervention, for a certain violation of the institution of
8 higher education's ~~student conduct policy~~ alcohol and drug use policies for certain
9 students ~~except if a certain determination is made~~ under certain circumstances, a
10 prohibition on retaliation by the institution of higher education against a student,
11 and a provision regarding the entering of a ~~memorandum of understanding~~ certain
12 formalized agreements with certain entities; requiring the Maryland Higher
13 Education Commission, in consultation with ~~the Department of Health and Mental~~
14 ~~Hygiene and the Governor's Office of Crime Control and Prevention~~ institutions of
15 higher education, to establish certain procedures for the administration of certain
16 sexual assault ~~campus climate~~ surveys by certain institutions of higher education,
17 on or before certain dates, beginning in a certain year; requiring certain institutions
18 of higher education to ~~use a certain survey as a model or~~ develop a certain survey;
19 ~~requiring certain institutions of higher education and to administer a certain sexual~~
20 ~~assault~~ the survey every year to certain students in accordance with certain
21 procedures; requiring certain institutions of higher education, on or before a certain
22 date every other year, to ~~report school-specific results of a certain sexual assault~~
23 ~~survey~~ submit to the Commission a certain report that includes certain information;
24 requiring institutions of higher education to make certain efforts to protect student
25 privacy in reporting certain data; requiring institutions of higher education to report

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.



1 ~~certain data together with other reporting requirements under a certain federal law;~~
 2 ~~requiring certain institutions of higher education to include~~
 3 ~~school-specific survey results in a certain annual security report;~~ requiring the
 4 Commission to report certain sexual assault campus climate survey results to the
 5 Governor and certain committees of the General Assembly on or before certain dates,
 6 beginning in a certain year; requiring the Commission to publish certain sexual
 7 assault campus climate survey results in a certain manner; and generally relating
 8 to a policy and survey relating to sexual assault and institutions of higher education.

9 BY repealing and reenacting, with amendments,
 10 Article – Education
 11 Section 11–601
 12 Annotated Code of Maryland
 13 (2014 Replacement Volume and 2014 Supplement)

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

16 **Article – Education**

17 11–601.

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

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

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

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

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

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

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

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

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

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

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

15 (7) **PROHIBITING THE IMPOSITION OF ~~DISCIPLINARY SANCTIONS A~~**
16 **CAMPUS CONDUCT ACTION, EXCEPT FOR A MANDATORY INTERVENTION FOR**
17 **SUBSTANCE ABUSE, FOR A VIOLATION OF THE ~~STUDENT CONDUCT POLICY~~ ALCOHOL**
18 **OR DRUG USE POLICIES OF THE INSTITUTION OF HIGHER EDUCATION FOR A**
19 **STUDENT WHO ~~FILES A COMPLAINT FOR~~ REPORTS TO THE INSTITUTION OR A LAW**
20 **ENFORCEMENT OFFICER AN INCIDENCE OF SEXUAL ASSAULT OR WHO**
21 **PARTICIPATES IN AN INVESTIGATION OF A SEXUAL ASSAULT AS A WITNESS IF:**

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

25 (II) **THE STUDENT IS DETERMINED TO HAVE MADE THE REPORT**
26 **OF SEXUAL ASSAULT OR IS PARTICIPATING IN AN INVESTIGATION AS A WITNESS IN**
27 **GOOD FAITH; AND**

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

31 (8) **PROHIBITING THE INSTITUTION OF HIGHER EDUCATION FROM**
32 **RETALIATING AGAINST A STUDENT WHO FILES A COMPLAINT FOR SEXUAL ASSAULT**
33 **OR WHO PARTICIPATES AS A WITNESS IN AN INVESTIGATION OF A SEXUAL ASSAULT;**
34 **AND**

1 ~~(8)~~ **(9) ENTERING INTO A MEMORANDUM OF UNDERSTANDING**
 2 **FORMALIZED AGREEMENTS WITH:**

3 **(I) THE LOCAL LAW ENFORCEMENT AGENCY THAT COMPLIES**
 4 **WITH THE RELEVANT PROVISIONS OF TITLE IX OF THE EDUCATION AMENDMENTS**
 5 **OF 1972 AND CLEARLY STATES WHEN A SCHOOL WILL REFER A MATTER TO LOCAL**
 6 **LAW ENFORCEMENT; AND**

7 **(II) A STATE DESIGNATED RAPE CRISIS PROGRAM, FEDERALLY**
 8 **RECOGNIZED SEXUAL ASSAULT COALITION, OR ~~BOTH~~ ANY OTHER VICTIM SERVICES**
 9 **ORGANIZATION THAT FORMALIZES A COMMITMENT TO PROVIDE**
 10 **TRAUMA-INFORMED SERVICES TO VICTIMS OF SEXUAL ASSAULT AND IMPROVE THE**
 11 **OVERALL RESPONSE TO SEXUAL ASSAULT BY THE INSTITUTION OF HIGHER**
 12 **EDUCATION.**

13 (d) The Commission shall:

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

15 (2) Periodically review and make recommendations for changes in these
 16 policies.

17 **(E) (1) THE COMMISSION, IN CONSULTATION WITH ~~THE DEPARTMENT OF~~**
 18 **~~HEALTH AND MENTAL HYGIENE AND THE GOVERNOR'S OFFICE OF CRIME~~**
 19 **~~CONTROL AND PREVENTION~~ INSTITUTIONS OF HIGHER EDUCATION, SHALL**
 20 **ESTABLISH PROCEDURES FOR THE ADMINISTRATION OF A SEXUAL ASSAULT**
 21 **CAMPUS CLIMATE SURVEY ~~EVERY YEAR~~ BY EACH INSTITUTION OF HIGHER**
 22 **EDUCATION.**

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

26 **(F) EACH ON OR BEFORE OCTOBER 1, 2016, AND AT LEAST EVERY 2 YEARS**
 27 **THEREAFTER, EACH INSTITUTION OF HIGHER EDUCATION SHALL:**

28 **(1) ~~USE THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE~~**
 29 **~~SURVEY DEVELOPED BY THE NATIONAL CENTER FOR INJURY PREVENTION AND~~**
 30 **~~CONTROL OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION AS A MODEL~~**
 31 **~~SURVEY; OR~~**

32 **~~(2)~~ DEVELOP AN APPROPRIATE SEXUAL ASSAULT CAMPUS CLIMATE**
 33 **SURVEY; USING NATIONALLY RECOGNIZED BEST PRACTICES FOR RESEARCH AND**
 34 **CLIMATE SURVEYS; AND**

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

3 ~~(1) (2) ADMINISTER THE SEXUAL ASSAULT CAMPUS CLIMATE~~
4 ~~SURVEY TO STUDENTS IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED~~
5 ~~UNDER SUBSECTION (E) OF THIS SECTION;~~

6 ~~(2) REPORT SCHOOL-SPECIFIC RESULTS OF THE SEXUAL ASSAULT~~
7 ~~SURVEY TO THE COMMISSION; AND~~

8 ~~(3) INCLUDE SCHOOL-SPECIFIC RESULTS OF THE SEXUAL ASSAULT~~
9 ~~SURVEY IN ITS ANNUAL SECURITY REPORT PUBLISHED IN ACCORDANCE WITH THE~~
10 ~~JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICE AND CAMPUS CRIME~~
11 ~~STATISTICS ACT.~~

12 (G) (1) ON OR BEFORE JUNE 1, 2016, AND EVERY 2 YEARS THEREAFTER,
13 EACH INSTITUTION OF HIGHER EDUCATION SHALL SUBMIT TO THE COMMISSION A
14 REPORT SUMMARIZING THE DATA COLLECTED BY THE INSTITUTION REGARDING
15 SEXUAL ASSAULT COMPLAINTS MADE TO THE INSTITUTION, INCLUDING THE:

16 (I) TYPES OF MISCONDUCT;

17 (II) OUTCOME OF EACH COMPLAINT;

18 (III) DISCIPLINARY ACTIONS TAKEN BY THE INSTITUTION;

19 (IV) ACCOMMODATIONS MADE TO STUDENTS IN ACCORDANCE
20 WITH THE SEXUAL ASSAULT POLICY ESTABLISHED UNDER SUBSECTION (C) OF THIS
21 SECTION; AND

22 (V) NUMBER OF REPORTS INVOLVING ALLEGED NONSTUDENT
23 PERPETRATORS.

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

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

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

3 (1) REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246
4 OF THE STATE GOVERNMENT ARTICLE, THE SENATE EDUCATION, HEALTH, AND
5 ENVIRONMENTAL AFFAIRS COMMITTEE, THE SENATE BUDGET AND TAXATION
6 COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE,
7 AND THE HOUSE APPROPRIATIONS COMMITTEE ON THE RESULTS OF THE SEXUAL
8 ASSAULT CAMPUS CLIMATE SURVEYS ADMINISTERED BY EACH INSTITUTION OF
9 HIGHER EDUCATION; AND

10 (2) PUBLISH THE RESULTS OF THE SURVEY ON THE COMMISSION’S
11 WEB SITE AND IN ANY OTHER LOCATION OR VENUE THE COMMISSION DETERMINES
12 IS NECESSARY OR APPROPRIATE.

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

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
16 1, 2015.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.