

SB0607/954632/1

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL 607

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, 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 15, strike the first “and” and substitute “to authorize certain institutions to use mediation under certain circumstances,”; in line 15, after “fees” insert “except under certain circumstances, and to provide for the construction of this Act”; 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 the same line, strike “POLICY” and substitute “**PROVISIONS**”; in line 27, strike the second “POLICY” and substitute “**PROVISIONS**”; and in line 29, strike “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**”; strike beginning with “FAIR” in line 4 down through “IMPARTIAL” in line 5 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 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

(Over)

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“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”**.

AMENDMENT NO. 3

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 A CULTURALLY APPROPRIATE AND SENSITIVE FORMAT,”**; and in line 29, after **“OR”** insert **“AN”**.

AMENDMENT NO. 4

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”**; in line 15, after **“INJURY”** insert **“OR PRIOR SEXUAL MISCONDUCT”**; in line 17, after **“CONSENTS;”** insert **“AND”**; and strike in their entirety lines 18 through 32, inclusive, and substitute:

“(v) REQUIRE THAT COUNSEL BE PROVIDED AND PAID FOR BY THE COMMISSION, AS DESCRIBED UNDER PARAGRAPH (6) OF THIS SUBSECTION, FOR:

1. A STUDENT WHO MAKES A COMPLAINT ON WHICH A FORMAL A TITLE IX INVESTIGATION IS INITIATED, UNLESS THE STUDENT KNOWINGLY AND VOLUNTARILY CHOOSES NOT TO HAVE COUNSEL; AND

2. A STUDENT WHO RESPONDS TO A COMPLAINT, UNLESS THE STUDENT KNOWINGLY AND VOLUNTARILY CHOOSES NOT TO HAVE COUNSEL.”.

AMENDMENT NO. 5

On page 7, strike in their entirety lines 1 through 5, inclusive, and substitute:

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

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(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. SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, A STUDENT SHALL SELECT AND RETAIN AN ATTORNEY WITHIN 30 DAYS OF THE NOTICE PROVIDED TO THE STUDENT OF THE STUDENT'S RIGHT TO COUNSEL.

2. IF A STUDENT DOES NOT SELECT AND RETAIN AN ATTORNEY WITHIN 30 DAYS, THE COMMISSION SHALL SELECT AND RETAIN AN ATTORNEY FOR THE STUDENT.

(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.”.