

Chapter 436

(House Bill 571)

AN ACT concerning

Institutions of Higher Education – Sexual Assault – Policy and Survey

FOR the purpose of requiring a certain sexual assault policy adopted by the governing ~~board~~ body of each institution of higher education to conform with the requirements of a certain federal law; requiring a certain sexual assault policy to include a prohibition ~~of~~ against the imposition of certain ~~sanctions~~ campus conduct actions, except for a certain type of mandatory intervention, for a certain violation of the institution of higher education's ~~student conduct policy~~ alcohol and drug use policies for certain students ~~except if a certain determination is made~~ under certain circumstances, a prohibition on retaliation by the institution of higher education against a student, and a provision regarding the ~~entering~~ pursuing of a ~~memorandum of understanding~~ certain formalized agreements with certain entities; requiring the Maryland Higher Education Commission, in consultation with ~~the Department of Health and Mental Hygiene and the Governor's Office of Crime Control and Prevention~~ institutions of higher education, to establish certain procedures for the administration of certain sexual assault campus climate surveys by certain institutions of higher education, on or before certain dates, beginning in a certain year; requiring certain institutions of higher education to ~~use a certain survey as a model or~~ develop a certain survey; ~~requiring certain institutions of higher education and to administer a certain sexual assault~~ the survey every year to certain students in accordance with certain procedures; requiring certain institutions of higher education, on or before a certain date every other year, to ~~report school-specific results of a certain sexual assault survey~~ submit to the Commission ~~a certain report that includes~~ certain reports that include certain information; requiring institutions of higher education to make certain efforts to protect student privacy in reporting certain data; requiring institutions of higher education to report certain data together with other reporting requirements under a certain federal law; ~~requiring certain institutions of higher education to include school-specific survey results in a certain annual security report~~; requiring the Commission to report certain ~~sexual assault campus climate survey results~~ reports to the Governor and certain committees of the General Assembly on or before certain dates, beginning in a certain year; requiring the Commission to publish certain ~~sexual assault campus climate survey results~~ reports in a certain manner; and generally relating to a policy and survey relating to sexual assault and institutions of higher education.

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

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

Article – Education

11–601.

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

(2) The policy adopted under paragraph (1) of this subsection shall 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.

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

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

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

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

(2) 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;

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

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

(5) 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]

(6) 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;

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

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

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

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

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

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

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

(II) A STATE DESIGNATED RAPE CRISIS PROGRAM, FEDERALLY RECOGNIZED SEXUAL ASSAULT COALITION, OR ~~BOTH ANY OTHER VICTIM SERVICES ORGANIZATION~~ BOTH THAT FORMALIZES A COMMITMENT TO PROVIDE

TRAUMA-INFORMED SERVICES TO VICTIMS OF SEXUAL ASSAULT AND IMPROVE THE OVERALL RESPONSE TO SEXUAL ASSAULT BY THE INSTITUTION OF HIGHER EDUCATION.

(d) The Commission shall:

- (1) Coordinate the development of the sexual assault policies; and
- (2) Periodically review and make recommendations for changes in these policies.

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

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

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

(1) ~~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 SURVEY; OR~~

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

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

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

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

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

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

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

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

~~(I)~~ 1. TYPES OF MISCONDUCT;

~~(II)~~ 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.

Approved by the Governor, May 12, 2015.