

HOUSE No. 4810

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 25, 2018.

The committee on Ways and Means, to whom was referred the Resolve creating a task force on sexual misconduct climate surveys for colleges and universities in Massachusetts (House, No. 4159), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4810).

For the committee,

JEFFREY SÁNCHEZ.

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**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act requiring sexual misconduct climate surveys at institutions of higher education.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to measure campus climates regarding sexual misconduct at institutions of higher education, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section
2 168C the following section:-

3 Section 168D. Each institution of higher education shall biennially conduct a sexual
4 misconduct climate survey of all students at said institution of higher education. For purposes of
5 this section, the term “sexual misconduct” shall include, without limitation, incidents of sexual
6 violence, dating violence, domestic violence, gender-based violence, violence based on sexual
7 orientation or gender identity, sexual harassment and stalking; provided further, the term
8 “institution of higher education” shall mean a public, non-profit or for-profit school chartered,
9 incorporated or otherwise organized in the commonwealth legally authorized to award a degree
10 at an associate level or above with an established physical presence in the commonwealth. The
11 commissioner of higher education shall biennially design and provide a copy of a model sexual

12 misconduct climate survey to all institutions of higher education; provided, the commissioner
13 shall take into account the recommendations of the task force on sexual misconduct climate
14 surveys. An institution of higher education may develop and submit to the commissioner its own
15 campus-specific sexual misconduct climate survey. Upon receipt of approval by the
16 commissioner, an institution of higher education may utilize its own campus-specific sexual
17 misconduct climate survey in lieu of the model sexual misconduct climate survey provided by
18 the commissioner. Upon completion of a sexual misconduct climate survey, each institution of
19 higher education shall post a summary of the results on its website within 120 days after
20 completion.

21 SECTION 2. (a) There shall be a task force on sexual misconduct climate surveys for all
22 institutions of higher education. For the purposes of this section, the term “sexual misconduct”
23 shall include, without limitation, incidents of sexual violence, dating violence, domestic
24 violence, gender-based violence, violence based on sexual orientation or gender identity, sexual
25 harassment and stalking; provided further, the term “institution of higher education” shall mean a
26 public, non-profit or for-profit school chartered, incorporated or otherwise organized in the
27 commonwealth legally authorized to award a degree at an associate level or above with an
28 established physical presence in the commonwealth. The task force shall consist of the following
29 21 members: the commissioner of higher education, or a designee, who shall serve as co-chair;
30 the commissioner of public health or a designee, who shall serve as co-chair; the secretary of the
31 executive office of public safety and security, or a designee; the attorney general, or a designee;
32 and 17 of whom shall be appointed by the governor, 1 of whom shall be a representative
33 recommended by Jane Doe, Inc., 1 of whom shall be a student attending a public institution of
34 higher education in the commonwealth, 1 of whom shall be a student attending a private

35 institution of higher education in the commonwealth, 1 of whom shall be a representative
36 recommended by the Victim Rights Law Center, Inc., 2 of whom shall be representatives of rape
37 crisis and counseling centers located in an urban and rural region of the commonwealth, 2 of
38 whom shall be representatives of community-based sexual assault crisis service centers funded
39 by the department of public health, 1 of whom shall be a representative of the Massachusetts
40 commission on lesbian, gay, bisexual, transgender, queer and questioning youth, 1 of whom shall
41 be a researcher with experience in the development and design of sexual misconduct climate
42 surveys, 1 of whom shall be a researcher of statistics, data analytics or econometrics with
43 experience in higher education survey analysis, 1 of whom shall be a representative of the
44 University of Massachusetts recommended by the president of the university, 1 of whom shall be
45 a representative of the state universities recommended by the council of presidents of the state
46 university system, 1 of whom shall be a representative of the community colleges recommended
47 by Massachusetts Community Colleges executive office and 3 of whom shall be representatives
48 of private colleges and universities recommended by the Association of Independent Colleges
49 and Universities in Massachusetts, Inc.

50 (b) The task force shall develop a model sexual misconduct climate survey for
51 distribution to institutions of higher education pursuant to section 6A of chapter 15A of the
52 General Laws.

53 (c) In developing the model sexual misconduct climate survey, the task force shall: (i)
54 utilize best practices from peer-reviewed research and consult with individuals with expertise in
55 the development and utilization of sexual misconduct climate surveys within institutions of
56 higher education; (ii) review sexual misconduct climate surveys which have been developed and
57 previously utilized by institutions of higher education; (iii) provide opportunities for input from

58 organizations that work directly with victims and survivors of sexual assault to ensure the
59 adequacy and appropriateness of the proposed content items; (iv) consult with institutions of
60 higher education on how to optimize the effectiveness of the survey; and (v) account for the
61 diverse needs and differences of the commonwealth's institutions of higher education.

62 (d) The model sexual misconduct climate survey shall be designed to optimize
63 completion of the full survey and to help campuses gather information on topics including, but
64 not limited to: (i) the number of reported incidents of sexual misconduct at the institution of
65 higher education; (ii) student's awareness of institutional policies and procedures related to
66 campus sexual assault; (iii) if a victim reported the sexual misconduct, and if so, to which
67 campus resource; (iv) if a victim was informed or referred to local, state, on campus or other
68 resources and victims' access to support services including appropriate medical care, legal
69 support, protection from retaliation, school-based accommodations, and criminal justice
70 remedies; (v) contextual factors, such as the involvement of force, incapacitation or coercion;
71 (vi) demographic factors that could be used to identify at-risk groups; (vii) perceptions of
72 campus safety among members of the campus community and confidence in the institution of
73 higher education's ability to appropriately address sexual misconduct.

74 (e) The model sexual misconduct climate survey shall ensure that the survey responses
75 are anonymous and no identifying information shall be collected.

76 (f) The task force shall report its findings and recommendations, including its
77 recommendation for the model sexual misconduct climate survey, together with legislation, if
78 any, to the joint committee on higher education and the commissioner of higher education not
79 later than March 31, 2019.

SECTION 3. Section 1 of this act shall take effect on August 1, 2019.