

# **HOUSE . . . . . No. 5241**

---

---

## The Commonwealth of Massachusetts

---

HOUSE OF REPRESENTATIVES, January 5, 2021.

The committee on Ways and Means to whom was referred the Senate Bill relative to sexual violence on higher education campuses (Senate, No. 2979), reports recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of House document numbered 5241.

For the committee,

AARON MICHLEWITZ.

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninety-First General Court**  
**(2019-2020)**  
\_\_\_\_\_

By striking out all after the enacting clause and inserting in place thereof the following:—

1           SECTION 1. Chapter 15A of the General Laws is hereby amended by adding the  
2 following 2 sections:-

3           Section 45. (a) For the purposes of this section, the following terms shall have the  
4 following meanings unless the context clearly requires otherwise:

5           “Institution”, a public or independent institution of higher education located in the  
6 commonwealth and authorized to grant degrees pursuant to any general or special law.

7           “Sexual misconduct”, an incident of sexual violence, dating violence, domestic violence,  
8 gender-based violence, violence based on sexual orientation or gender identity or expression,  
9 sexual assault, sexual harassment or stalking.

10           (b)(1) Each institution shall conduct a sexual misconduct climate survey of all students at  
11 the institution not less than once every 4 years.

12           (2) The sexual misconduct climate surveys shall gather information on topics including,  
13 but not limited to: (i) the number of reported and unreported incidents of sexual misconduct at  
14 the institution; (ii) when and where incidents of sexual misconduct occurred; (iii) student

15 awareness of institutional policies and procedures related to campus sexual misconduct; (iv)  
16 whether a student reported the sexual misconduct and, if so, to which campus resource the report  
17 was made; (v) whether a student was informed of or referred to local, state, campus or other  
18 resources or victim support services, including appropriate medical care and legal services; (vi)  
19 whether a student was provided with information about resources for protection from retaliation,  
20 access to school-based supportive measures and civil justice and criminal justice remedies; (vii)  
21 contextual factors, such as whether the incident of sexual misconduct involved force,  
22 incapacitation or coercion; (viii) demographic information that could be used to identify at-risk  
23 groups; and (ix) perceptions of campus safety among members of the campus community and  
24 confidence in the institution's ability to protect against and respond to incidents of sexual  
25 misconduct.

26 (c) There shall be a task force on sexual misconduct surveys. The task force shall consist  
27 of: the commissioner of higher education or a designee, who shall serve as co-chair; the  
28 commissioner of public health or a designee, who shall serve as co-chair; the secretary of public  
29 safety and security or a designee; the attorney general or a designee; 1 member of the house of  
30 representatives to be appointed by the speaker of the house of representatives; 1 member of the  
31 senate to be appointed by the senate president; and 21 persons to be appointed by the governor, 1  
32 of whom shall be a student attending a community college, 1 of whom shall be a student  
33 attending a public university, 2 of whom shall be students attending an independent institution of  
34 higher education in the commonwealth, 1 of whom shall be a representative of the University of  
35 Massachusetts recommended by the president of the university, 1 of whom shall be a  
36 representative of the state universities recommended by the Massachusetts State Colleges  
37 Council of Presidents, 1 of whom shall be a representative of community colleges recommended

38 by the Massachusetts Association of Community Colleges, 2 of whom shall be representatives of  
39 private colleges and universities recommended by the Association of Independent Colleges and  
40 Universities in Massachusetts, Inc., 1 of whom shall be a representative recommended by Jane  
41 Doe, Inc.: the Massachusetts Coalition Against Sexual Assault And Domestic Violence, 1 of  
42 whom shall be a representative recommended by the Victim Rights Law Center, Inc., 2 of whom  
43 shall be representatives recommended by sexual assault crisis service centers and counseling  
44 centers located in an urban and rural region of the commonwealth, 2 of whom shall be  
45 representatives recommended by community-based sexual assault crisis service centers funded  
46 by the department of public health, 1 of whom shall be a representative recommended by the  
47 Massachusetts commission on lesbian, gay, bisexual, transgender, queer and questioning youth, 1  
48 of whom shall be a representative recommended by the Every Voice Coalition or any successor  
49 organization, 2 of whom shall be researchers with experience in the development and design of  
50 sexual misconduct climate surveys and 2 of whom who shall have experience in higher education  
51 survey analysis and be researchers of: (i) statistics; (ii) data analytics; or (iii) econometrics.  
52 Membership on the task shall be reflective of the gender, racial and geographic diversity of the  
53 commonwealth and preference shall be given to those with background, education and  
54 experience in the fields of public health, survey design or Title IX.

55 (d)(1) The task force shall develop model questions for use by institutions in sexual  
56 misconduct climate surveys. The task force shall provide the model questions to the  
57 commissioner of higher education with related recommendations respecting the content, timing  
58 and application of the surveys. The recommendations shall include, but not be limited to,  
59 recommendations on achieving statistically valid response rates and on addressing non-response  
60 bias.

61           (2) The sexual misconduct climate survey model questions shall include a subset of  
62 questions taken from or consistent with questions in the Administrator-Researcher Campus  
63 Climate Collaborative survey or another sexual misconduct climate survey that is currently in  
64 use by institutions and that the task force deems high-quality. The subset of model questions  
65 shall generate responses related to topics including, but not limited to: (i) the prevalence of  
66 sexual misconduct on campus; (ii) student knowledge of and familiarity with campus practices  
67 for reporting and addressing sexual misconduct; and (iii) services available to victims of sexual  
68 misconduct.

69           (3) In developing the sexual misconduct climate survey model questions, the task force  
70 shall: (i) utilize best practices from peer-reviewed research and consult with individuals with  
71 expertise in the development and use of sexual misconduct climate surveys by institutions of  
72 higher education; (ii) review sexual misconduct climate surveys that have been developed and  
73 previously utilized by institutions of higher education; (iii) provide opportunities for written  
74 comment from organizations that work directly with survivors of sexual misconduct to align  
75 questions with a trauma-informed approach and to ensure the adequacy and appropriateness of  
76 the proposed content; (iv) consult with institutions of higher education on strategies for  
77 optimizing the effectiveness of the survey; (v) provide opportunities for written comment from  
78 advocates to ensure that the survey impartially addresses campus sexual misconduct; and (vi)  
79 account for the diverse needs of and differences between the commonwealth's institutions of  
80 higher education.

81           (4) The commissioner of higher education shall review and approve the sexual  
82 misconduct climate survey model questions provided by the task force and shall periodically  
83 review and make recommendations for changes to the model questions and to the content and

84 timing of the sexual misconduct climate surveys. In addition, the task force may be revived at  
85 any time by the commissioner. The commissioner shall provide a copy of the model questions to  
86 all institutions; provided, however, that an institution may develop and use its own campus-  
87 specific survey if the survey: (i) is designed to provide the institution with data to inform policies  
88 to prevent and respond to sexual misconduct; (ii) meets quality standards determined by the  
89 commissioner; and (iii) includes the subset of model questions described in paragraph (2).

90 (e) Within 120 days after completion and analysis of a sexual misconduct climate survey,  
91 each institution shall post a summary of the results on the institution's website.

92 (f) A sexual misconduct climate survey, including any campus-specific surveys  
93 developed and implemented by an institution, shall collect anonymous responses and shall  
94 prohibit the disclosure of identifying information.

95 (g) The department shall promulgate regulations necessary to implement this section.

96 Section 46. (a) For the purposes of this section, the following terms shall have the  
97 following meanings unless the context clearly requires otherwise:

98 "Institution", a public or independent institution of higher education located in the  
99 commonwealth and authorized to grant degrees pursuant to any general or special law.

100 "Reporting party", a student or employee of an institution who reports being subject to an  
101 incident of sexual misconduct to the institution.

102 "Responding party", a student or employee of an institution who has been accused of an  
103 alleged incident of sexual misconduct.

104 “Sexual misconduct”, an incident of sexual violence, dating violence, domestic violence,  
105 gender-based violence, violence based on sexual orientation or gender identity or expression,  
106 sexual assault, sexual harassment or stalking.

107 “Title IX”, Title IX of the federal Education Amendments of 1972.

108 “Title IX coordinator”, the employee of an institution responsible for the institution’s  
109 compliance with Title IX.

110 (b) Consistent with applicable state and federal law and regulation, each institution shall  
111 adopt policies on sexual misconduct involving students or employees of the institution that  
112 comport with best practices and current professional standards and shall establish procedures for  
113 regularly reviewing and updating the policies. The policies shall be publicly available on the  
114 institution’s website in an accessible format and shall be made available in writing to an  
115 applicant, student or employee of the institution upon request. The policies shall be developed in  
116 coordination with the institution’s Title IX coordinator and may consider input from internal and  
117 external entities including, but not limited to, institutional administrators, personnel affiliated  
118 with on-campus or off-campus health care centers, personnel affiliated with on-campus, when  
119 available, or local, community-based rape crisis centers or domestic violence programs,  
120 confidential resource providers, residence life staff, students, the department of state police and  
121 the police department or district attorney having jurisdiction in the city or town in which the  
122 institution’s primary campus is located. The policies shall include, but not be limited to: (i)  
123 procedures by which students and employees at the institution may report incidents of sexual  
124 misconduct regardless of where the offense occurred; (ii) information on where to receive  
125 immediate emergency assistance following an incident of sexual misconduct, which shall

126 include, but not be limited to, information related to preserving evidence and contact information  
127 for seeking medical treatment on campus, if available, and off campus; (iii) descriptions of the  
128 types of counseling and health, safety, academic and other support services available from the  
129 institution within the local community or region or through a local community-based rape crisis  
130 center or domestic violence program, including contact information; (iv) information on the  
131 rights of students and employees to: (A) notify or decline to notify law enforcement, including  
132 campus, local and state police, of an alleged incident of sexual misconduct; (B) receive  
133 assistance from campus authorities in making any such notification; (C) obtain a court-issued  
134 protective order or an institution-issued no-contact order against an alleged perpetrator of the  
135 sexual misconduct; and (D) concurrently utilize the institution's process for investigating sexual  
136 misconduct complaints and any external civil or criminal processes available to the student or  
137 employee; (v) school-based supportive measures reasonably available from the institution, which  
138 shall include, but not be limited to, options for changing academic, living, campus transportation  
139 or working arrangements in response to an alleged incident of sexual misconduct, regardless of  
140 where the conduct occurred or whether such conduct occurred outside of an institution's  
141 programs or activities, and regardless of whether a complaint is filed in accordance with the  
142 institution's policy for resolving complaints, how to request such measures and the process to  
143 have any such measures reviewed; (vi) procedures for students or employees to notify the  
144 institution that a protective order has been issued under state or federal law and the institution's  
145 responsibilities upon receipt of such notice; (vii) a summary of the institution's procedures for  
146 resolving complaints of sexual misconduct promptly and equitably, including clear statements  
147 advising students and employees: (A) that notice shall be given to the responding party and shall  
148 include, but not be limited to, the date, time and location, if known, of the alleged incident of



149 sexual misconduct and a specific statement of which policies were allegedly violated and by  
150 what actions; (B) that an impartial investigation, including any hearings and resulting  
151 disciplinary proceedings, shall be conducted by an individual who receives not less than annual  
152 training on issues relating to sexual misconduct, investigatory procedures and hearing procedures  
153 to protect the safety and rights of students and employees and promote accountability; (C) that  
154 there is a presumption that the responding party is not responsible for the alleged conduct until a  
155 determination regarding responsibility is made by the institution at the conclusion of the relevant  
156 process; (D) that both parties shall be provided equal opportunities to inspect and review  
157 evidence obtained as part of the investigation that is directly related to the allegations; (E) that  
158 the reporting party of an alleged incident of sexual misconduct and the responding party may be  
159 accompanied by and represented by an advisor or support person of their choice, which may  
160 include an advocate or counsel, to meet with the institution's investigator or other fact finder and  
161 may consult with an advisor or support person, which may include an advocate, confidential  
162 resource provider or counsel, during any meetings, hearings and disciplinary proceedings;  
163 provided, however, that the institution may establish rules regarding how the meetings, hearings  
164 and disciplinary proceedings will be conducted, which may include guidelines on the extent to  
165 which the advisor, confidential resource provider or support person for each party may  
166 participate in a meeting, hearing or disciplinary proceeding and any limitations on participation;  
167 provided further, that the rules, including guidelines on participation and limits of participation,  
168 shall apply equally to both parties; and provided further, that the institution shall adopt  
169 reasonable measures to provide for the involvement of the advisor, confidential resource  
170 provider or support person for each party but the availability of the advisor, confidential resource  
171 provider or support person shall not significantly delay a meeting or disciplinary proceeding; (F)

172 of the standard of evidence used to resolve complaints; (G) that the reporting party and the  
173 responding party shall be provided with a copy of the institution's policies regarding the  
174 submission and consideration of evidence that may be used during a hearing or disciplinary  
175 proceeding and shall have equal opportunity to present evidence and witnesses on their behalf  
176 during a hearing or disciplinary proceeding; provided, however, that each party shall be provided  
177 with timely and equal access to relevant evidence that shall be used in the determination of a  
178 disciplinary action; (H) that there may be restrictions on evidence considered by the fact finder  
179 including, but not limited to, the use of evidence of prior sexual activity or character witnesses;  
180 (I) that the reporting party and the responding party shall not be personally allowed to directly  
181 question each other during a hearing or disciplinary proceeding; (J) that the reporting party and  
182 the responding party shall be informed in writing of the results of a hearing or disciplinary  
183 proceeding not later than 7 business days after a final determination of a complaint, not including  
184 any time for appeal, unless good cause for additional time is shown, and that they shall be  
185 informed of any process for appealing the decision; (K) that if an institution offers an appeal as a  
186 result of procedural errors, previously unavailable relevant evidence that could significantly  
187 impact the outcome of a case or where the sanction is disproportionate to the findings, the  
188 reporting party and the responding party shall be provided with an equal opportunity to appeal  
189 decisions regarding responsibility or sanctions; and (L) that the institution shall not disclose the  
190 identity of the reporting party and the responding party, except as necessary to carry out a  
191 disciplinary process or as permitted under state or federal law; (viii) a summary of the  
192 institution's employee disciplinary process as it pertains to sexual misconduct; (ix) the range of  
193 sanctions or penalties the institution may impose on students and employees found responsible  
194 for a violation of the applicable institutional policy prohibiting acts of sexual misconduct; and (x)

195 a summary of the institution’s policy on retaliation, noting that the institution prohibits retaliation  
196 against anyone who reports sexual misconduct, assists another in making a report or participates  
197 in an investigation of a report.

198 (c) Each institution shall, to the extent feasible, adopt a memorandum of understanding  
199 with local law enforcement agencies to establish the respective roles and responsibilities of each  
200 party related to the prevention of and response to on-campus and off-campus sexual misconduct.  
201 In adopting the memorandum of understanding, institutions and local law enforcement agencies  
202 shall develop policies and procedures that comply with all applicable confidentiality and privacy  
203 laws and that: (i) set out the jurisdiction of the local law enforcement agencies based on criteria  
204 such as location and type of incident and provide for cross-jurisdictional or multi-jurisdictional  
205 response and investigation, as appropriate; (ii) establish protocols, as permitted by federal and  
206 state law, for cases where a student or employee consents to the release of relevant  
207 documentation and information generated or acquired during local law enforcement or campus  
208 police investigations; and (iii) include methods for notifying the appropriate district attorney’s  
209 office. If an institution is subject to the jurisdiction of more than 1 local law enforcement agency,  
210 1 memorandum of understanding among the institution and the local law enforcement agencies  
211 shall comply with this subsection.

212 (d) The commissioner shall appoint within the department of higher education a campus  
213 safety advisor to facilitate and advance statewide campus safety at public and private institutions  
214 of higher education. Such person shall have relevant public safety policy experience that may  
215 include campus public safety policy experience. The advisor shall coordinate, aggregate and  
216 disseminate best practices, training opportunities and other resources to enhance campus safety  
217 at institutions.

218 (e) An institution shall make publicly available on its website, in an accessible format: (i)  
219 the Annual Security Report required under the federal Jeanne Clery Disclosure of Campus  
220 Security Policy and Campus Crime Statistics Act, codified as subsection (f) of 20 U.S.C. section  
221 1092, relating to sexual misconduct and all information contained in an institution's annual  
222 report as required in subsection (q); (ii) the telephone number and website for a local, state or  
223 national 24-hour hotline that provides information on sexual misconduct; (iii) the name and  
224 contact information for the institution's Title IX coordinator; (iv) the name and contact  
225 information for a confidential resource provider, appointed pursuant to subsection (l), and a  
226 description of the role of and services provided by a confidential resource provider, which shall  
227 be updated on a timely basis; (v) the name and location of the nearest medical facility where an  
228 individual may request that a sexual assault evidence collection kit be administered by a trained  
229 sexual violence forensic health care provider, including, but not limited to, information on  
230 transportation options and reimbursement for travel costs, if any; (vi) its policies on sexual  
231 misconduct; (vii) sexual misconduct reporting options for students and employees; (viii) the  
232 process of investigation and adjudication by the institution; and (ix) the process for requesting a  
233 possible interim school-based supportive measure, when reasonable and available, to change an  
234 academic, living, campus transportation or working situation in response to alleged sexual  
235 misconduct. The institution shall also establish the methods for sharing reports with local law  
236 enforcement authorities pursuant to the federal Jeanne Clery Disclosure of Campus Security  
237 Policy and Campus Crime Statistics Act, codified as subsection (f) of 20 U.S.C. section 1092,  
238 and for facilitating the issuance of timely warnings and emergency notifications required by the  
239 federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act,

240 codified as subsection (f) of 20 U.S.C. section 1092, relative to crimes that may pose a serious  
241 threat to the campus or near campus communities.

242 (f) Annually, not later than August 20, institutions shall transmit to students and  
243 employees by electronic mail their policies and procedures concerning the reporting and  
244 investigation of an allegation of sexual misconduct made by a student or employee of the  
245 institution against another student or employee of the institution.

246 (g) Upon receiving a report of sexual misconduct, an institution shall provide a notice of  
247 the student's or the employee's rights and options under the institution's sexual misconduct  
248 policies to the reporting party.

249 (h) An institution that does not provide its own sexual assault crisis service center shall  
250 enter into and maintain a memorandum of understanding with a community-based sexual assault  
251 crisis service center funded by the department of public health and a community-based domestic  
252 violence program funded by the department of public health to: (i) provide an off-campus  
253 alternative for students and employees to receive sexual assault crisis services, including access  
254 to a sexual assault nurse examiner if available, or domestic violence crisis services in response to  
255 sexual misconduct; (ii) ensure that a student or employee of the institution is able to access free  
256 and confidential counseling and advocacy services either on campus or off campus; and (iii)  
257 encourage cooperation and trainings between the institution and the service center or program to  
258 ensure an understanding of the roles that the institution, service center and program should play  
259 in responding to reports and disclosures of sexual misconduct against students and employees of  
260 the institution and the institution's protocols for providing support and services to the students  
261 and employees.

262           The memorandum of understanding may include an agreement, including a fee structure,  
263 for the sexual assault crisis service center or domestic violence program to provide confidential  
264 victim services. Confidential victim services may include: (i) case consultation and training fees  
265 for confidential resource employees; (ii) consultation fees for the development and  
266 implementation of student education and prevention programs; (iii) the development of staff  
267 training and prevention curricula; and (iv) confidential on-site office space for an advocate from  
268 a sexual assault crisis service center or domestic violence program to meet with students and  
269 employees.

270           The department of higher education may waive the memorandum of understanding  
271 requirement to an institution that demonstrates that the institution acted in good faith but was  
272 unable to obtain a signed memorandum.

273           (i) An institution shall provide a method for anonymously reporting an incident of sexual  
274 misconduct that involves a student or employee of the institution.

275           (j) An institution shall notify its students and employees of the institution's obligations  
276 under state and federal law to: (i) investigate or address the alleged sexual misconduct, including  
277 when the alleged act was reported anonymously; (ii) assess whether the report triggers the need  
278 for a timely warning or emergency notification under state or federal regulations, the obligations  
279 of which may, in limited circumstances, result in the release of the reporting party's identity; and  
280 (iii) disclose the identity of a reporting party to another student, an employee or a third party.

281           (k) A reporting party or a witness who causes an investigation of sexual misconduct shall  
282 not be subject to a disciplinary sanction for a violation of the institution's student conduct policy  
283 related to the incident unless the institution determines that the report was not made in good faith

284 or that the violation was egregious. An egregious violation shall include, but not be limited to,  
285 taking an action that places the health and safety of another person at risk.

286 (l) Each institution shall establish a campus security policy that includes the designation  
287 of at least 1 confidential resource provider. The confidential resource provider may have another  
288 role at the institution; provided, however, that the confidential resource provider shall not be a  
289 student, a Title IX coordinator or an employee who is required by Title IX to report to the Title  
290 IX coordinator. The institution shall designate new or existing categories of employees that may  
291 serve as confidential resource providers. The designation of an existing category of employees  
292 shall not preclude the institution from designating a new or existing employee or partnering with  
293 a local, state or national victim services organization to serve as a confidential resource provider  
294 or to serve in another confidential role. An institution may partner with an outside victim support  
295 services organization to provide a confidential resource provider under this section. An  
296 institution that enrolls less than 1,000 students may partner with another institution in the region  
297 or within the commonwealth to establish a campus security policy and provide a confidential  
298 resource provider.

299 Upon the request of the reporting party or responding party, the confidential resource  
300 provider shall provide information on: (i) reporting options and the effects of each option; (ii)  
301 counseling services available on campus and through a local, community-based rape crisis center  
302 or domestic violence program; (iii) medical and health services available on campus and off  
303 campus; (iv) available school-based supportive measures related to academic and residence life;  
304 (v) the disciplinary process of the institution; and (vi) the legal process carried out through local  
305 law enforcement agencies.

306           The confidential resource provider shall receive training in the awareness and prevention  
307 of sexual misconduct and in trauma-informed response and coordinate with any on-campus or  
308 off-campus sexual assault crisis service center or domestic violence program and, if directed by  
309 the reporting party, campus or local law enforcement agencies may, as appropriate, assist the  
310 student or employee in contacting or reporting to campus or local law enforcement agencies. If  
311 requested by the reporting party, the confidential resource provider, using only the reporting  
312 party's identifying information, shall coordinate with the appropriate institutional personnel to  
313 arrange possible interim school-based supportive measures to allow the reporting party to change  
314 academic, living, campus transportation or working arrangements in response to the alleged  
315 sexual misconduct. A confidential resource provider shall not provide services to adverse parties  
316 in an incident of sexual misconduct and shall ensure confidentiality is maintained.

317           The confidential resource provider shall notify the reporting party of their rights and the  
318 institution's responsibilities regarding a protection order, no contact order and any other lawful  
319 orders issued by the institution or by a criminal, civil or tribal court. The confidential resource  
320 provider shall not be required to report an incident to the institution or a law enforcement agency  
321 unless otherwise required to do so by state or federal law and shall provide confidential services  
322 to students and employees. A request for a possible interim school-based supportive measure  
323 made by a confidential resource provider on behalf of a reporting party to change an academic,  
324 living, campus transportation or working situation in response to alleged sexual misconduct shall  
325 not require the reporting party to file a formal complaint for Title IX purposes. A confidential  
326 resource provider may attend an administrative or institution-based adjudication proceeding as  
327 the advisor or support person of the student's or employee's choice.



328 Unless otherwise required by state or federal law, a confidential resource provider shall  
329 not disclose confidential information without the prior written consent of the reporting party who  
330 shared the information; provided, however, that nothing in this section shall limit a responding  
331 party's right of cross examination of the confidential resource provider in a civil or criminal  
332 proceeding if the confidential resource provider testifies after being given written consent to do  
333 so by the party. A confidential communication shall not be subject to discovery and shall be  
334 inadmissible in a criminal or civil proceeding without the prior written consent of the party who  
335 shared the information. Information provided to the confidential resource provider shall not be  
336 released to a campus official or law enforcement officer or agency unless written consent has  
337 been given by the reporting party. A confidential resource provider shall not act as a counselor or  
338 therapist unless the confidential resource provider holds a valid and applicable license under  
339 chapter 112 and the reporting party engages the confidential resource provider in that capacity.  
340 The privileges available under chapter 233 shall apply to all information received by a  
341 confidential resource provider.

342 If a conflict of interest arises for an institution in which a confidential resource provider  
343 is advocating for the reporting party's need for sexual assault crisis services or campus or law  
344 enforcement services, the institution shall not discipline, penalize or otherwise retaliate against  
345 the confidential resource provider for representing the interest of the reporting party.

346 Notice to a confidential resource provider of an alleged act of sexual misconduct or a  
347 confidential resource provider's performance of a service under this section shall not be  
348 considered actual or constructive notice of such an alleged act to the institution at which the  
349 confidential resource provider is employed or provides contracted services.

350 (m) Within 45 days of their matriculation or employment, an institution of higher  
351 education shall provide to newly-enrolled students and newly-hired employees: (i) mandatory  
352 sexual misconduct primary prevention and awareness programming for newly-enrolled students  
353 and newly-hired employees of the institution that shall include, but not be limited to: (A) an  
354 explanation of civil rights laws, their meaning, purpose, definition and applicability to all forms  
355 of sex-based and gender-based harm; (B) the role drugs and alcohol play in changing behavior  
356 and affecting an individual's ability to consent; (C) information on options relating to the  
357 reporting of an incident of sexual misconduct, the effects of each option and the methods to  
358 report an incident of sexual misconduct, including confidential and anonymous disclosure; (D)  
359 information on the institution's policies and procedures for resolving sexual misconduct  
360 complaints and the range of sanctions or penalties the institution may impose on students and  
361 employees found responsible for a violation; (E) the name, contact information and role of the  
362 confidential resource provider; and (F) strategies for bystander intervention and risk reduction;  
363 and (ii) information on opportunities for ongoing sexual misconduct prevention and awareness  
364 campaigns and programming.

365 (n) An individual who participates in the implementation of an institution's disciplinary  
366 process for addressing complaints of sexual misconduct, including an individual responsible for  
367 resolving complaints of reported incidents, shall have training or experience in handling sexual  
368 misconduct complaints and the operation of the institution's applicable disciplinary process. The  
369 training shall include, but not be limited to: (i) information on working with and interviewing  
370 persons subjected to sexual misconduct; (ii) information on particular types of conduct that  
371 constitute sexual misconduct; (iii) information on consent and the role drugs and alcohol may  
372 play in an individual's ability to consent; (iv) the effects of trauma, including any

373 neurobiological impact on an individual; (v) cultural competence training regarding how sexual  
374 misconduct may impact individuals differently depending on factors that contribute to an  
375 individual's cultural background, including, but not limited to, national origin, sex, ethnicity,  
376 religion, gender identity, gender expression and sexual orientation; (vi) ways to communicate  
377 sensitively and compassionately with a reporting party of sexual misconduct including, but not  
378 limited to, an awareness of responding to a reporting party with consideration of that party's  
379 cultural background and providing services to or assisting in locating services for the reporting  
380 party; (vii) training and information regarding how sexual misconduct may impact individuals  
381 with developmental or intellectual disabilities; and (viii) training on the principles of due process  
382 necessary to ensure that proceedings are conducted impartially in a manner that is fundamentally  
383 fair to all parties.

384 (o) Each institution shall ensure that its Title IX coordinator and members of its special or  
385 campus police force or the campus safety personnel employed by the institution are educated and  
386 trained in the awareness and prevention of sexual misconduct.

387 (p) Nothing in this section shall prevent any other civil rights remedies available through  
388 any other provision of state or federal law.

389 (q) Annually, not later than December 1, each institution shall prepare and submit to the  
390 department of higher education a report that includes: (i) the total number of reports of sexual  
391 misconduct reported to the institution's Title IX coordinator by a student or employee of the  
392 institution against another student or employee of the institution; (ii) the number of reports made  
393 by a student or employee of the institution against another student or employee of the institution  
394 investigated by a local or state law enforcement agency, if known; (iii) the number of students

395 and employees found responsible for violating an institution's policies prohibiting sexual  
396 misconduct; (iv) the number of students and employees found not responsible for violating an  
397 institution's policies prohibiting sexual misconduct; and (v) the number of disciplinary actions  
398 imposed by the institution as a result of a finding of responsibility for violating an institution's  
399 policies prohibiting sexual misconduct. Such incident data shall be reported in the form and  
400 manner established by the department, in consultation with the attorney general, and in a manner  
401 that complies with state and federal privacy laws. The department shall analyze the incident data  
402 and shall publish an annual report containing aggregate statewide information on the frequency  
403 and nature of sexual misconduct at institutions. The department shall file the annual report with  
404 the attorney general, the clerks of the senate and the house of representatives and the joint  
405 committee on higher education.

406 (r) The department of higher education shall promulgate regulations necessary to  
407 implement this section.

408 SECTION 2. The department of higher education shall promulgate regulations to  
409 implement subsection (c) of section 46 of chapter 15A of the General Laws not later than August  
410 1, 2021.

411 SECTION 3. The task force on sexual misconduct surveys established in subsection (c)  
412 of section 45 of chapter 15A of the General Laws shall provide the model questions and related  
413 recommendations required pursuant to subsection (d) of said section 45 of said chapter 15A to  
414 the commissioner of higher education not later than January 1, 2022.

415 SECTION 4. Section 1 shall take effect on August 1, 2021.