

SENATE No. 2978

The Commonwealth of Massachusetts

—————
In the One Hundred and Ninety-First General Court
(2019-2020)
—————

SENATE, December 16, 2020.

The committee on Senate Ways and Means to whom was referred the Senate Bill relative to sexual violence on higher education campuses (Senate, No. 2580), - reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2978).

For the committee,
Michael J. Rodrigues

SENATE No. 2978

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

An Act relative to sexual violence on higher education campuses.

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 2 sections:-

3 Section 168D. (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 of higher education; (ii) when and where incidents of sexual misconduct occurred;
15 (iii) student awareness of institutional policies and procedures related to campus sexual assault;
16 (iv) whether a student reported the sexual misconduct and, if so, to which campus resource the
17 report was made; (v) whether a student was informed of or referred to local, state, campus or
18 other resources or victim support services, including appropriate medical care and legal services;
19 (vi) whether a student was provided with information about resources for protection from
20 retaliation, access to school-based supportive measures and civil justice and criminal justice
21 remedies; (vii) contextual factors, such as whether the incident of sexual misconduct involved
22 force, incapacitation or coercion; (viii) demographic information that could be used to identify
23 at-risk groups; and (ix) perceptions of campus safety among members of the campus community
24 and confidence in the institution of higher education’s ability to protect against and respond to
25 incidents of sexual 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 or a designee; the attorney general or a designee; 1 person to be appointed by the speaker
30 of the house of representatives; 1 person to be appointed by the senate president; and 21 persons
31 to be appointed by the governor, 2 of whom shall be students attending a public institution of
32 higher education, 1 of whom shall be a student attending a public community college and 1 of
33 whom shall be a student attending a public university, 2 of whom shall be students attending an
34 independent institution of higher education in the commonwealth, 1 of whom shall be a

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

53 (d)(1) The task force shall develop model questions for use by institutions in sexual
54 misconduct climate surveys. The task force shall provide the model questions to the
55 commissioner of higher education with related recommendations respecting the content, timing
56 and application of the surveys. The recommendations shall include, but not be limited to,

57 recommendations on achieving statistically valid response rates and that address non-response
58 bias.

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

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

79 (4) The commissioner of higher education shall review and approve the sexual
80 misconduct climate survey model questions provided by the task force and shall periodically
81 review and make recommendations for changes to the model questions and to the content and
82 timing of the sexual misconduct climate surveys. The commissioner shall provide a copy of the
83 model questions to all institutions; provided, however, that an institution may develop and use its
84 own campus-specific survey if the survey: (i) is designed to provide the institution with data to
85 inform policies to prevent and respond to sexual misconduct; (ii) meets quality standards
86 determined by the commissioner; and (iii) includes the subset of model questions described in
87 paragraph (2).

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

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

93 (g) The department of higher education shall promulgate regulations necessary to
94 implement this section.

95 Section 168E. (a) For the purposes of this section, the following terms shall have the
96 following meanings unless the context clearly requires otherwise:

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

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

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

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

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

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

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

121 institution's primary campus is located. The policies shall include, but not be limited to: (i)
122 procedures by which students and employees at the institution may report or disclose incidents of
123 sexual misconduct regardless of where the offense occurred; (ii) information on where to receive
124 immediate emergency assistance following an incident of sexual misconduct, which shall
125 include, but not be limited to, information related to preserving evidence and contact information
126 for seeking medical treatment on campus, if available, and off campus; (iii) descriptions of the
127 types of counseling and health, safety, academic and other support services available from the
128 institution within the local community or region or through a local community-based rape crisis
129 center or domestic violence program, including contact information; (iv) information on the
130 rights of students and employees to: (A) notify or decline to notify law enforcement, including
131 campus, local and state police, of an alleged incident of sexual misconduct; (B) receive
132 assistance from campus authorities in making any such notification; (C) obtain a court-issued
133 protective order or an institution-issued no-contact order against an alleged perpetrator of the
134 sexual misconduct; and (D) concurrently utilize the institution's process for investigating sexual
135 misconduct complaints and any external civil or criminal processes available to the student or
136 employee; (v) school-based supportive or protective measures reasonably available from the
137 institution, which shall include, but not be limited to, options for changing academic, living,
138 campus transportation or working arrangements in response to an alleged incident of sexual
139 misconduct, regardless of where the conduct occurred or whether such conduct occurred outside
140 of an institution's programs or activities, and regardless of whether a complaint is filed in
141 accordance with the institution's policy for resolving complaints, how to request such measures
142 and the process to have any such measures reviewed; (vi) procedures for students or employees
143 to notify the institution that a protective order has been issued under state or federal law and the

144 institution's responsibilities upon receipt of such notice; (vii) a summary of the institution's
145 procedures for resolving complaints of sexual misconduct promptly and equitably, including
146 clear statements advising students and employees: (A) that notice shall be given to the
147 responding party and shall include, but not be limited to, the date, time and location, if known, of
148 the alleged incident of sexual misconduct and a specific statement of which policies were
149 allegedly violated and by what actions; (B) that an impartial investigation, including any
150 hearings and resulting disciplinary proceedings, shall be conducted by an individual who
151 receives not less than annual training on issues relating to sexual misconduct, investigatory
152 procedures and hearing procedures to protect the safety and rights of students and employees and
153 promote accountability; (C) that there is a presumption that the responding party is not
154 responsible for the alleged conduct until a determination regarding responsibility is made by the
155 institution at the conclusion of the relevant process; (D) that both parties shall be provided equal
156 opportunities to inspect and review evidence obtained as part of the investigation that is directly
157 related to the allegations; (E) that the reporting party of an alleged incident of sexual misconduct
158 and the responding party may be accompanied by and represented by an advisor or support
159 person of their choice, which may include an advocate or counsel, to meet with the institution's
160 investigator or other fact finder and may consult with an advisor or support person, which may
161 include an advocate or counsel, during any meetings, hearings and disciplinary proceedings;
162 provided, however, that the institution may establish rules regarding how the meetings, hearings
163 and disciplinary proceedings will be conducted, which may include guidelines on the extent to
164 which the advisor or support person for each party may participate in a meeting, hearing or
165 disciplinary proceeding and any limitations on participation; provided further, that the rules,
166 including guidelines on participation and limits of participation, shall apply equally to both

167 parties; and provided further, that the institution shall adopt reasonable measures to provide for
168 the involvement of the advisor or support person for each party but the availability of the advisor
169 or support person shall not significantly delay a meeting or disciplinary proceeding; (F) of the
170 standard of evidence used to resolve complaints; (G) that the reporting party and the responding
171 party shall be provided with a copy of the institution's policies regarding the submission and
172 consideration of evidence that may be used during a hearing or disciplinary proceeding and shall
173 have equal opportunity to present evidence and witnesses on their behalf during a hearing or
174 disciplinary proceeding; provided, however, that each party shall be provided with timely and
175 equal access to relevant evidence that shall be used in the determination of a disciplinary action;
176 (H) that there may be restrictions on evidence considered by the fact finder including, but not
177 limited to, the use of evidence of prior sexual activity or character witnesses; (I) that the
178 reporting party and the responding party shall not be allowed to directly question each other
179 during a hearing or disciplinary proceedings; (J) that the reporting party and the responding party
180 shall be informed in writing of the results of a hearing or disciplinary proceeding not later than 7
181 business days after a final determination of a complaint, not including any time for appeal, unless
182 good cause for additional time is shown, and they shall be informed of any process for appealing
183 the decision; (K) that if an institution offers an appeal as a result of procedural errors, previously
184 unavailable relevant evidence that could significantly impact the outcome of a case or where the
185 sanction is disproportionate to the findings, the reporting party and the responding party shall be
186 provided with an equal opportunity to appeal decisions regarding responsibility or sanctions; and
187 (L) that the institution shall not disclose the identity of the reporting party and the responding
188 party, except as necessary to carry out a disciplinary process or as permitted under state or
189 federal law; (viii) a summary of the institution's employee disciplinary process as it pertains to

190 sexual misconduct; (ix) the range of sanctions or penalties the institution may impose on students
191 and employees found responsible for a violation of the applicable institutional policy prohibiting
192 acts of sexual misconduct; and (x) a summary of the institution's policy on retaliation, noting
193 that the institution prohibits retaliation against anyone who reports sexual misconduct, who
194 assists another in making a report or who participates in an investigation of a report.

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

209 (d) The commissioner shall appoint within the department of higher education a campus
210 safety advisor to facilitate and advance statewide campus safety at public and private institutions
211 of higher education. Such person shall have relevant public safety policy experience that may
212 include campus public safety policy experience. The advisor shall coordinate, aggregate and

213 disseminate best practices, training opportunities and other resources to enhance campus safety
214 at institutions of higher education.

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

235 federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
236 relative to crimes that may pose a serious threat to the campus or near campus communities.

237 (f) Annually, not later than October 15, institutions of higher education shall transmit to
238 students and employees by electronic mail their policies and procedures concerning the reporting
239 and investigation of an allegation of sexual misconduct made by a student or employee of the
240 institution against another student or employee of the institution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

384 (q) Annually, not later than December 1, each institution of higher education shall
385 prepare and submit to the department of higher education a report that includes: (i) the total
386 number of allegations of sexual misconduct reported to the institution's Title IX coordinator by a
387 responsible employee, student or employee of the institution against another student or employee
388 of the institution; (ii) the number of allegations made by a student or employee of the institution
389 against another student or employee of the institution investigated by local or state law

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

401 (r) The department of higher education shall promulgate regulations necessary to
402 implement this section

403 SECTION 2. The department of higher education shall promulgate regulations to
404 implement subsection (c) of section 168E of chapter 6 of the General Laws not later than August
405 1, 2021.

406 SECTION 3. The task force on sexual misconduct surveys established in section 168D of
407 the General Laws shall provide the model questions and related recommendations required under
408 said section 168D to the commissioner of higher education not later than January 1, 2022.

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