

SENATE No. 764

The Commonwealth of Massachusetts

PRESENTED BY:

Michael O. Moore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to sexual violence on higher education campuses.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	
<i>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Barry R. Finegold</i>	<i>Second Essex and Middlesex</i>	<i>1/17/2019</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>1/23/2019</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/23/2019</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>1/24/2019</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>1/25/2019</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>1/29/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/29/2019</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>1/29/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/29/2019</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>1/29/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/29/2019</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>1/30/2019</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>1/30/2019</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>1/30/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>1/30/2019</i>

<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	<i>1/30/2019</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>1/30/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/31/2019</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	<i>1/31/2019</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/31/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/31/2019</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>1/31/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/1/2019</i>
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	<i>2/1/2019</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>	<i>2/1/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/1/2019</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>	<i>2/1/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>2/1/2019</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>2/6/2019</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>2/6/2019</i>
<i>John J. Mahoney</i>	<i>13th Worcester</i>	<i>2/6/2019</i>
<i>Dean A. Tran</i>	<i>Worcester and Middlesex</i>	<i>2/8/2019</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>3/5/2019</i>
<i>James T. Welch</i>	<i>Hampden</i>	<i>3/13/2019</i>
<i>Edward J. Kennedy</i>	<i>First Middlesex</i>	<i>3/13/2019</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>4/10/2019</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>12/9/2019</i>

SENATE No. 764

By Mr. Moore, a petition (accompanied by bill, Senate, No. 764) of Michael O. Moore, Joan B. Lovely, Barry R. Finegold, William N. Brownsberger and other members of the General Court for legislation relative to sexual violence on higher education campuses. Higher Education.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2203 OF 2017-2018.]

The Commonwealth of Massachusetts

**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 section:-

3 Section 168D. As used in this section, the following words shall have the following
4 meanings unless the context clearly requires otherwise:

5 “Reporting party” a student or employee who reports an incident of dating violence,
6 domestic violence, sexual assault or stalking to the institution.

7 “Responding party” a student or employee who has been accused of an alleged incident
8 of dating violence, domestic violence, sexual assault or stalking.

9 Each public or private degree-granting post-secondary institution of higher education
10 shall adopt a policy on dating violence, domestic violence, sexual assault and stalking that shall
11 be made available, upon request, to an applicant, student or employee of the institution and shall
12 be publicly available on the website in an accessible format. The policy shall include, but not
13 limited to:

14 (i) procedures by which students and employees at the institution may report or disclose
15 incidents of dating violence, domestic violence, sexual assault or stalking regardless of where the
16 offense occurred;

17 (ii) information on where to receive immediate emergency assistance following an
18 incident of dating violence, domestic violence, sexual assault or stalking which shall include, but
19 not be limited to, contact information for seeking medical treatment on campus, if available, and
20 off campus and information related to preserving evidence;

21 (iii) descriptions of the types of counseling and health, safety, academic and other support
22 services available from the institution within the local community or region or through a local
23 community-based rape crisis center or domestic violence program, including contact
24 information;

25 (iv) the rights of students and employees to: (1) notify or decline to notify law
26 enforcement, including campus, local and state police, of an alleged incident of dating violence,
27 domestic violence, sexual assault or stalking; (2) receive assistance from campus authorities in
28 making any such notification; and (3) obtain a court- or institution-issued protective order
29 against a respondent of the assault, stalking or violence;

30 (v) supportive measures reasonably available from the institution which shall include, but
31 not be limited to, options for changing academic, living, campus transportation or working
32 arrangements in response to an alleged incident of dating violence, domestic violence, sexual
33 assault or stalking, how to request those changes and the process to have any such measures
34 reviewed;

35 (vi) procedures for students to notify the institution that a protective order has been issued
36 under state or federal law and the institution's responsibilities upon receipt of such notice;

37 (vii) a summary of the institution's procedures for resolving dating violence, domestic
38 violence, sexual assault or stalking complaints , including clear statements advising students that:
39 (1) notice shall be given to the reporting party and the respondent describing the date, time and
40 location, if known, and a summary of the factual allegations concerning the violation; (2) an
41 investigation, including any hearings and resulting disciplinary proceedings, shall be conducted
42 by an individual who receives not less than annual training on issues relating to dating violence,
43 domestic violence, sexual assault or stalking, investigatory procedures and hearing procedures to
44 protect the safety and rights of students and promote accountability and a trauma-informed
45 response; (3) the reporting party of an alleged incident of dating violence, domestic violence,
46 sexual assault or stalking and the responding party may be accompanied by an advisor or support
47 person of their choice, which may include an advocate or counsel, to meet with the institution's
48 investigator or other fact finder and may consult with an advisor or support person, which may
49 include an advocate or counsel, during any meetings and disciplinary proceedings; provided,
50 however, that the institution may establish rules regarding how the proceedings will be
51 conducted which may include guidelines on the extent to which the advisor or support person for
52 each party may participate in a meeting or disciplinary proceeding and any limitations on

53 participation which shall apply equally to both parties; and provided further, that the institution
54 shall adopt reasonable measures to provide for the involvement of the advisor or support person
55 for each party but the availability of the advisor or support person shall not significantly delay a
56 meeting or disciplinary proceeding; (4) the reporting party and the responding party shall be
57 provided with a copy of the institution's policies regarding the submission and consideration of
58 evidence that may be used during a disciplinary proceeding and shall have equal opportunity to
59 present evidence and witnesses on their behalf during a disciplinary proceeding; provided,
60 however, that each party shall be provided with timely and equal access to relevant evidence that
61 shall be used in the determination of a discipline; (5) there may be restrictions on evidence
62 considered by the fact finder including, but not limited to, the use of evidence of prior sexual
63 activity or character witnesses; (6) the reporting party and the responding party shall be informed
64 in writing of the results of a disciplinary proceeding not later than 7 business days after a final
65 determination of a complaint, not including any time for appeal, unless good cause for additional
66 time is shown, and they shall be informed of any process for appealing the decision; (7) if an
67 institution offers an appeal as a result of procedural errors, previously unavailable relevant
68 evidence that could significantly impact the outcome of a case or where the sanction is
69 disproportionate to the findings, the reporting party and the respondent shall be provided with an
70 equal opportunity to appeal decisions regarding responsibility or sanctions; and (8) the institution
71 shall not disclose the identity of the reporting party and the responding party, except as necessary
72 to carry out a disciplinary process or as permitted under state or federal law;

73 (viii) a summary of the institution's employee disciplinary process as it pertains to dating
74 violence, domestic violence, sexual assault and stalking; and

75 (ix) the range of sanctions or penalties the institution may impose on students and
76 employees found responsible for a violation of the applicable institutional policy prohibiting acts
77 of dating violence, domestic violence, sexual assault and stalking.

78 For the purposes of this section, “dating violence”, “domestic violence”, “sexual assault”
79 and “stalking” shall be defined by each institution of higher education in its applicable policies,
80 including its policy on affirmative action or code of conduct and shall be consistent with
81 applicable federal definitions.

82 SECTION 2. Said Chapter 6 is hereby amended by inserting after section 168C the
83 following section:-

84 Section 168E. (a) For the purposes of this section, the following terms shall have the
85 following meanings:-

86 “institution of higher education” is a public, non-profit or for-profit school chartered,
87 incorporated or otherwise organized in the commonwealth legally authorized to award a degree
88 at an associate level or above with an established physical presence in the commonwealth.

89 “sexual misconduct” is without limitation, an incident of sexual violence, dating violence,
90 domestic violence, gender-based violence, violence based on sexual orientation or gender
91 identity or expression, sexual harassment and stalking.

92 (b) Each institution of higher education shall biennially conduct a sexual misconduct
93 climate survey of all students at said institution of higher education. The commissioner of higher
94 education shall review and approve the model sexual misconduct climate survey recommended
95 by the task force on sexual misconduct climate surveys, as hereinafter described. The

96 commissioner of higher education shall provide a copy of the model sexual misconduct climate
97 survey to all institutions of higher education biennially. Upon receipt of written approval by the
98 commissioner, an institution of higher education may use its own campus-specific sexual
99 misconduct climate survey in lieu of the model sexual misconduct climate survey issued by the
100 commissioner, provided that the institution's campus-specific survey meets the standards for the
101 substance of the survey, as hereinafter described. Within 120 days after completion of a sexual
102 misconduct climate survey, each institution of higher education shall submit a summary of the
103 results to the department of higher education and shall also post a summary of the results on the
104 institution's website.

105 (c) There shall be a task force on sexual misconduct surveys serving the commissioner of
106 higher education. The task force shall consist of the following 21 members: the commissioner of
107 higher education, or a designee, who shall serve as co-chair; the commissioner of public health
108 or a designee, who shall serve as co-chair; the secretary of the executive office of public safety
109 and security, or a designee; the attorney general, or a designee; and 17 other members who shall
110 be appointed by the governor, 1 of whom shall be a student attending a public institution of
111 higher education in the commonwealth, 1 of whom shall be a student attending a private
112 institution of higher education in the commonwealth, 1 of whom shall be a representative of the
113 University of Massachusetts recommended by the president of the university, 1 of whom shall be
114 a representative of the state universities recommended by the council of presidents of the state
115 university system, 1 of whom shall be a representative of the community colleges recommended
116 by Massachusetts Community Colleges executive office, 2 of whom shall be representatives of
117 private colleges and universities recommended by the Association of Independent Colleges and
118 Universities in Massachusetts, Inc., 1 of whom shall be a representative recommended by Jane

119 Doe, Inc., 1 of whom shall be a representative recommended by the Victim Rights Law Center,
120 Inc., 2 of whom shall be representatives recommended by rape crisis and counseling centers
121 located in an urban and rural region of the commonwealth, 2 of whom shall be representatives
122 recommended by community-based sexual assault crisis service centers funded by the
123 department of public health, 1 of whom shall be a representative recommended by the
124 Massachusetts commission on lesbian, gay, bisexual, transgender, queer and questioning youth, 1
125 of whom shall be a representative recommended by Every Voice Coalition or any successor
126 organization of Every Voice Coalition, 1 of whom shall be a researcher with experience in the
127 development and design of sexual misconduct climate surveys, and 1 of whom shall be a
128 researcher of statistics, data analytics or econometrics with experience in higher education
129 survey analysis.

130 (d) The task force shall develop for the commissioner of higher education a model sexual
131 misconduct climate survey for distribution to institutions of higher education established under
132 section 168D of chapter 6 and provide the commissioner with any related recommendations
133 respecting the content, timing and application of the survey. The task force shall deliver its
134 model survey and related recommendations, including but not limited to recommendations on
135 achieving statistically valid response rates, to the commissioner of higher education no less often
136 than biennially and for the first time by March 31, 2020.

137 (e) In developing the model sexual misconduct climate survey, the task force shall: (i)
138 utilize best practices from peer-reviewed research and consult with individuals with expertise in
139 the development and use of sexual misconduct climate surveys by institutions of higher
140 education; (ii) review sexual misconduct climate surveys which have been developed and
141 previously utilized by institutions of higher education; (iii) provide opportunities for written

142 comment from organizations that work directly with victims and survivors of sexual assault to
143 ensure the adequacy and appropriateness of the proposed content; (iv) consult with institutions of
144 higher education on strategies for optimizing the effectiveness of the survey; and (v) account for
145 the diverse needs and differences of the commonwealth's institutions of higher education.

146 (f) The sexual misconduct climate surveys shall gather information on topics including,
147 but not limited to: (i) the number of reported incidents of sexual misconduct at the institution of
148 higher education; (ii) when and where incidents of sexual misconduct occurred; (iii) student
149 awareness of institutional policies and procedures related to campus sexual assault; (iv) whether
150 a victim reported the sexual misconduct, and if so, to which campus resource such report was
151 made; (iv) whether a victim was informed or referred to local, state, campus or other resources,
152 or victim support services, including appropriate medical care and legal services,(v) whether a
153 victim was provided the option of protection from retaliation, access to school-based
154 accommodations, and criminal justice remedies; (vi) contextual factors, such as the involvement
155 of force, incapacitation or coercion; (vii) demographic information that could be used to identify
156 at-risk groups; (viii) perceptions of campus safety among members of the campus community
157 and confidence in the institution of higher education's ability to protect against and respond to
158 incidents of sexual misconduct.

159 (g) The model sexual misconduct climate survey shall collect anonymous responses and
160 shall not require the disclosure of identifying information.

161 (h) There shall be established within the department of higher education a data repository
162 for all summaries of sexual misconduct climate surveys submitted by institutions to the
163 department of higher education in accordance with section 1. The commissioner of higher

164 education shall ensure access by the public to the sexual misconduct climate survey data
165 submitted by institutions on the department's website.

166 (i) The commissioner of higher education shall establish rules and procedures, including
167 deadlines for dissemination and collection of survey information, consistent with the purposes of
168 this statute, and shall promote the effective solicitation to achieve the highest practical response
169 rate, collection, and publication of statistical information gathered from the commonwealth's
170 institutions of higher education.

171 SECTION 3. Chapter 15A of the General Laws is hereby amended by adding the
172 following section:-

173 Section 45. (a) As used in this section, the following words shall have the following
174 meanings unless the context clearly requires otherwise:

175 "Awareness programming", institution wide or audience-specific programs, initiatives,
176 and strategies that increase audience knowledge, promote safety and share resources to prevent
177 and reduce the occurrence of dating violence, domestic violence, sexual assault and stalking.

178 "Bystander intervention", bystander intervention as defined in 34 CFR 668.46.

179 "Clery Act", the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime
180 Statistics Act or Clery Act, 20 U.S.C. § 1092(f).

181 "Institution for higher education", a profit or nonprofit degree-granting educational
182 institution, whether public or private, which is authorized by law to provide a program of
183 education beyond the secondary school level.

184 "Primary prevention programming", initiatives and strategies informed by research or
185 assessed for value, effectiveness or outcome that are intended to stop dating violence, domestic
186 violence, sexual assault and stalking through the promotion of positive and healthy behaviors.

187 "Reporting party" a student or employee who reports an incident of dating violence,
188 domestic violence, sexual assault or stalking to the institution

189 "Responding party" a student or employee who has been accused of an alleged incident
190 of dating violence, domestic violence, sexual assault or stalking.

191 "Trauma-informed response", a response involving an understanding of the complexities
192 of dating violence, domestic violence, sexual assault and stalking through training centered on
193 the neurobiological impact of trauma, the influence of societal myths and stereotypes
194 surrounding the causes and impacts of trauma, understanding the behavior of perpetrators and
195 conducting an effective investigation.

196 (b) Each institution of higher education shall: (i) adopt detailed and trauma-informed
197 policies regarding dating violence, domestic violence, sexual assault and stalking involving
198 students or employees of the institution that comport with the best practices and current
199 professional standards as determined by the campus safety advisor and shall establish procedures
200 for regularly reviewing and updating the policies; and (ii) apply the same policies, as applicable,
201 relating to claims of dating violence, domestic violence, sexual assault and stalking to all
202 students and employees in a culturally competent way.

203 The policies shall be developed in coordination with the institution's Title IX coordinator
204 and may consider input from various internal and external entities including, but not limited to
205 institutional administrators, personnel affiliated with on-campus and off-campus health care

206 centers, personnel affiliated with on-campus, when available, and local, community-based rape
207 crisis centers and domestic violence programs, confidential resources advisors, residence life
208 staff, students, the department of state police and the police department and the district attorney
209 having jurisdiction in the city or town wherein the institution's primary campus is located. Once
210 an institution has adopted the policies required by this section, the opportunity for review and
211 comment by internal and external entities shall only apply to substantive changes in those
212 policies. Institutions shall provide draft policies and substantive changes by electronic or regular
213 mail to internal and external entities, with instructions on how to comment and a reasonable
214 length of time in which comments will be accepted.

215 (c) Each institution of higher education shall adopt policies and procedures with local law
216 enforcement agencies to establish the respective roles and responsibilities of each party related to
217 the prevention of and response to on-campus and off-campus sexual assault. Institutions of
218 higher education and local law enforcement agencies shall develop policies and procedures that
219 comply with all applicable confidentiality and privacy laws and: (i) set out the jurisdiction of the
220 local law enforcement agencies based on criteria such as location and type of incident and
221 provide for cross-jurisdictional or multi-jurisdictional response and investigation, as appropriate;
222 (ii) establish the methods for sharing the Clery Act reporting requirements and for facilitating the
223 issuance of timely warnings and emergency notifications required by the Clery Act relative to
224 crimes that may pose a serious threat to the campus or near campus communities; and (iii)
225 establish protocols, as permitted by federal and state law, for cases where a student consents to
226 the release of relevant documentation and information generated or acquired during local law
227 enforcement or campus police investigations; and (iv) methods for notifying the appropriate
228 district attorney's office.

229 (d) The commissioner shall appoint within the department of higher education a campus
230 safety advisor to facilitate and advance statewide campus safety at public and private institutions
231 of higher education. Such person shall have relevant public safety policy experience that may
232 include campus public safety policy experience. The advisor shall coordinate, aggregate and
233 disseminate best practices, training opportunities and other resources to enhance campus safety
234 at institutions of higher education. The board of higher education shall promulgate regulations to
235 establish and implement the role and responsibilities of the advisor including, but not limited to,
236 establishing minimum standards for campus security and safety issues.

237 (e) An institution of higher education shall make publicly available on its website: (i) all
238 annual Clery Act disclosures relating to dating violence, domestic violence, sexual assault and
239 stalking and all information contained in an institution's annual report as required in subsection
240 (r); (ii) the telephone number and website for a local, state or national 24-hour hotline that
241 provides information on dating violence, domestic violence, sexual assault and stalking; (iii) the
242 name and contact information for the institution's Title IX coordinator; (iv) the name and contact
243 information for a confidential resources advisor and a description of the role of and services
244 provided by the confidential resources advisor, which shall be updated on a timely basis; and (v)
245 the name and location of the nearest medical facility where an individual may request that a
246 sexual assault evidence collection kit be administered by a trained sexual violence forensic
247 health care provider, including information on transportation options and reimbursement for
248 travel costs, if any; and (vi) in an accessible format, the policy on dating violence, domestic
249 violence, sexual assault and stalking.

250 (f) Annually, not later than October 1, institutions of higher education shall transmit to
251 students by electronic mail its policies and procedures concerning the reporting and investigation

252 of an allegation of dating violence, domestic violence, sexual assault or stalking made by a
253 student or employee of the institution against another student or employee of the institution in
254 accordance with section 168D of chapter 6.

255 (g) Upon receiving a report of dating violence, domestic violence, sexual assault or
256 stalking, an institution of higher education shall provide an objectively clear and easily
257 understood notification of the student's or employee's rights and options under the institution's
258 dating violence, domestic violence, sexual assault or stalking policies to the reporting party and
259 the responding party, when feasible.

260 (h) An institution of higher education shall enter into and maintain a memorandum of
261 understanding with a community-based sexual assault crisis service center funded by the
262 department of public health and a community-based domestic violence agency funded by the
263 department of public health to: (i) provide an off-campus alternative for students to receive
264 sexual assault crisis services, including access to a sexual assault nurse examiner if available, or
265 domestic violence crisis services in response to dating violence, domestic violence, sexual
266 assault or stalking; (ii) ensure that a student or employee of the institution may access free and
267 confidential counseling and advocacy services either on campus or off campus; and (iii)
268 encourage cooperation and trainings between the institution and the service center or agency to
269 ensure an understanding the roles that the institution, service center and agency should play in
270 responding to reports and disclosures of dating violence, domestic violence, sexual assault or
271 stalking against students and employees of the institution and the institution's protocols for
272 providing support and services to such students and employees.

273 The memorandum of understanding may include an agreement, including a fee structure,
274 for the sexual assault crisis service center or domestic violence agency to provide confidential
275 victim services. Confidential victim services may include: case consultation and training fees for
276 confidential resource advisors; consultation fees for the development and implementation of
277 student education and prevention programs; the development of staff training and prevention
278 curriculum; and confidential on-site office space for an advocate from a sexual assault crisis
279 service center or domestic violence agency to meet with students.

280 The department of higher education may grant a waiver of the memorandum of
281 understanding requirement to an institution that demonstrates that the institution acted in good
282 faith but was unable to obtain a signed memorandum.

283 (i) An institution of higher education shall provide a method for anonymously reporting
284 an incident of dating violence, domestic violence, sexual assault or stalking that involves a
285 student or employee of the institution. An institution shall notify its students and employees of
286 the institution's obligations under state and federal law to: (i) investigate or address the alleged
287 dating violence, domestic violence, sexual assault or stalking, including when the alleged act was
288 reported anonymously; (ii) assess whether the report triggers the need for a timely warning or
289 emergency notification under 34 CFR 668.46(e), the obligations of which may, in limited
290 circumstances, result in the release of the reporting party's identity; and (iii) disclose the identity
291 of a reporting and responding party to another student, an employee or a third party.

292 (j) A reporting party or a witness that causes an investigation of dating violence, domestic
293 violence, sexual assault or stalking shall not be subject to a disciplinary sanction for a violation
294 of the institution's student conduct policy related to the incident unless the institution determines

295 that the report was not made in good faith or that the violation was egregious. An egregious
296 violation shall include, but not be limited to, taking an action that places the health and safety of
297 another person at risk.

298 (k) Each institution of higher education shall establish a campus security policy that
299 includes the designation of at least 1 confidential resource advisor. The confidential resource
300 advisor may have another role at the institution; provided, however, that the confidential
301 resource advisor shall not be a student or a Title IX coordinator.

302 The institution shall designate existing categories of employees that may serve as
303 confidential resource advisors. The designation of an existing category of employees shall not
304 preclude the institution from designating a new or existing employee or partnering with a local,
305 state or national victim services organization to serve as a confidential resource advisor or to
306 serve in another confidential role. An institution may partner with an outside victim advocacy
307 organization to provide a confidential resource advisor under this section. An institution that
308 enrolls less than 1,000 students may partner with another institution in the region or within the
309 commonwealth to provide the services under this subsection.

310 If requested by a student , the confidential resource advisor shall provide information on:

311 (i) reporting options and the effects of each option; (ii) counseling services available on campus
312 and through a local, community-based rape crisis center or domestic violence program; (iii)
313 medical and health services available on campus and off campus; (iv) available academic and
314 residence life accommodations; (v) the disciplinary process of the institution; and (vi) the legal
315 process carried out through local law enforcement agencies. The confidential resource advisor
316 shall receive training in the awareness and prevention of dating violence, domestic violence,

317 sexual assault and stalking and in trauma-informed response and coordinate with on-campus and
318 off-campus sexual assault crisis service centers and, if directed by the reporting party, campus or
319 local law enforcement agencies may, as appropriate, assist the student in contacting or reporting
320 to campus or local law enforcement agencies. Confidential resource advisors shall not provide
321 services to more than 1 student in an incident and shall ensure confidentiality is maintained.

322 The confidential resource advisor shall also notify the reporting and responding party of
323 their rights and the institution's responsibilities regarding a protection order, no contact order and
324 any other lawful orders issued by the institution or by a criminal, civil or tribal court. The
325 confidential resource advisor shall not be required to report an incident to the institution or a law
326 enforcement agency unless otherwise required to do so by state or federal law and shall provide
327 confidential services to students and employees.

328 The website of an institution of higher education shall list: (i) reporting options for
329 students; (ii) the process of investigation and adjudication by the institution; and (iii) the process
330 for requesting a possible supportive measure, when reasonable and available, to change an
331 academic, living, campus transportation or working situation in response to alleged dating
332 violence, domestic violence, sexual assault or stalking.

333 If a conflict of interest arises for an institution in which a confidential resource advisor is
334 advocating for a student's need for sexual assault crisis services or campus or law enforcement
335 services, the institution shall not discipline, penalize or otherwise retaliate against the
336 confidential resource advisor for representing the interest of the student.

337 A confidential resource advisor may attend an administrative or institution-based
338 adjudication proceeding as the advisor or support person of the student's choice.

339 Unless otherwise required by state or federal law, a confidential resource advisor shall
340 not disclose confidential information without the prior written consent of the student who shared
341 the information; provided, however, that nothing in this section shall be construed to limit a
342 defendant's right of cross examination of the advisor in a civil or criminal proceeding if the
343 advisor testifies after written consent has been given. A confidential communication shall not be
344 subject to discovery and shall be inadmissible in a criminal or civil proceeding without the prior
345 written consent of the student who shared the information. Information provided to the
346 confidential resource advisor shall not be released to a campus official or law enforcement
347 officer or agency unless written consent has been given by the student . A confidential resource
348 advisor shall not act as a counselor or therapist unless the confidential resource advisor holds a
349 valid license under chapter 112 and the reporting party engages the confidential resource advisor
350 in that capacity. The privileges available under chapter 233 shall apply to all information
351 received by a confidential resource advisor.

352 (l) An institution of higher education shall provide: (i) mandatory annual dating violence,
353 domestic violence, sexual assault and stalking primary prevention and awareness programming
354 for newly-enrolled students and newly-hired employees of the institution that shall include: (1)
355 an explanation of consent as it applies to sexual activity and sexual relationships; (2) the role
356 drugs and alcohol play in an individual's ability to consent; (3) information on options relating to
357 the reporting of an incident of dating violence, domestic violence, sexual assault or stalking, the
358 effects of each option and the methods to report an incident of dating violence, domestic
359 violence, sexual assault or stalking, including confidential and anonymous disclosure; (4)
360 information on the institution's procedures for resolving dating violence, domestic violence,
361 sexual assault or stalking complaints and the range of sanctions or penalties the institution may

362 impose on students and employees found responsible for a violation; (5) the name, contact
363 information and role of the confidential resource advisor; and (6) strategies for bystander
364 intervention and risk reduction; and (ii) opportunities for ongoing dating violence, domestic
365 violence, sexual assault and stalking prevention and awareness campaigns and programming.

366 (m) Notice to a confidential resource advisor of an alleged act of sexual assault, domestic
367 violence, dating violence or stalking or a confidential resource advisor's performance of a
368 service under this section shall not be considered actual or constructive notice of such an alleged
369 act to the institution of higher education at which the confidential resource advisor is employed
370 or provides contracted services.

371 (n) An individual who participates in the implementation of an institution of higher
372 education's disciplinary process, including an individual responsible for resolving complaints of
373 reported incidents, shall have training or experience in handling dating violence, domestic
374 violence, sexual assault and stalking complaints and the operations of the institution's
375 disciplinary process. The training shall include, but not be limited to: (i) information on working
376 with and interviewing persons subjected to dating violence, domestic violence, sexual assault or
377 stalking; (ii) information on particular types of conduct that constitute dating violence, domestic
378 violence, sexual assault and stalking, including same-sex dating violence, domestic violence,
379 sexual assault and stalking; (iii) information on consent and the role drugs and alcohol may play
380 in an individual's ability to consent; (iv) the effects of trauma, including any neurobiological
381 impact on a person; (v) cultural competence training regarding how dating violence, sexual
382 assault and stalking may impact students differently depending on factors that contribute to a
383 student's cultural background, including but not limited to: national origin, sex, ethnicity,
384 religion, gender identity, gender expression, and sexual orientation; (vi) ways to communicate

385 sensitively and compassionately with a reporting party of dating violence, domestic violence,
386 sexual assault or stalking including, but not limited to, an awareness of responding to a reporting
387 party with consideration of that party's cultural background and providing services to or assisting
388 in locating services for the reporting party; and (vii) training and information regarding how
389 dating violence, domestic violence, sexual assault and stalking may impact students with
390 developmental or intellectual disabilities.

391 (o) Each institution of higher education shall ensure that its Title IX coordinator and
392 members of its special or campus police force or the campus safety personnel employed by the
393 institution are educated in the awareness and prevention of dating violence, domestic violence,
394 sexual assault and stalking and in trauma-informed response.

395 (p) Notwithstanding any general or special law to the contrary, a member of the
396 department of state police or a local police department who acts as a first responder to a report of
397 dating violence, domestic violence, sexual assault or stalking at an institution of higher education
398 shall receive training in the awareness and prevention of dating violence, domestic violence,
399 sexual assault and stalking and in trauma-informed response, subject to appropriation.

400 (q) Annually, not later than October 1, an institution of higher education shall prepare and
401 submit to the department of higher education, the department of public health, the clerks of the
402 senate and house of representatives and the senate and house chairs of the joint committee on
403 higher education a report that includes: (i) the total number of allegations of dating violence,
404 domestic violence, sexual assault and stalking reported to the institution's Title IX coordinator
405 by a student or employee of the institution against another student or employee of the institution;
406 (ii) the number of cases made by a student or employee of the institution against another student

407 or employee of the institution investigated by local or state law enforcement agency, if known;
408 (iii) the number of students found responsible for violating an institution's policies prohibiting
409 dating violence, domestic violence, sexual assault and stalking; (iv) the number of students found
410 not responsible for violating an institution's policies prohibiting sexual assault; and (v) the
411 number of disciplinary actions imposed by the institution as a result of a finding of responsibility
412 for violating an institution's policies prohibiting sexual assault. The report shall provide
413 information in a de-identified manner that complies with state and federal privacy laws.

414 SECTION 3. Section 2 shall take effect on August 1, 2020.