

Amendment to SB 679-FN

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT requiring institutions of higher education to adopt policies on sexual misconduct.

4
5 Amend the bill by replacing all after the enacting clause with the following:

6
7 1 New Chapter; Sexual Misconduct at Institutions of Higher Education. Amend RSA by
8 inserting after chapter 188-G the following new chapter:

9 CHAPTER 188-H

10 SEXUAL MISCONDUCT AT INSTITUTIONS OF HIGHER EDUCATION

11 Adoption of Policies

12 188-H:1 Definitions. In this subdivision:

13 I. "Commission" means the higher education commission established in RSA 21-N:8-a.

14 II. "Director" means the director of the department of education, division of educator support
15 and higher education.

16 III. "Division" means the department of education, division of educator support and higher
17 education.

18 IV. "Institution of higher education" means a public, private, non-profit, or for-profit school
19 chartered, incorporated, or otherwise organized in this state legally authorized to award a degree at
20 an associate level or above with an established physical presence in this state.

21 V. "Reporting party" means a student or employee who reports having experienced an
22 incident of sexual misconduct to the institution.

23 VI. "Responding party" means a student or employee who has been accused of an alleged
24 incident of sexual misconduct.

25 VII. "Student" means an individual who is enrolled at least half-time in a credit-bearing
26 program through a public or private degree-granting postsecondary institution of higher education
27 whether part-time, full-time, or as an extension student, or who has taken a leave of absence or who
28 has withdrawn due to being a victim of sexual misconduct.

29 VIII. "Sexual misconduct" means an incident of sexual violence, dating violence, domestic
30 violence, gender-based violence, violence based on sexual orientation or gender identity or
31 expression, sexual assault or harassment, and stalking.

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1 188-H:2 Adoption of Policies Required.

2 I. Each institution of higher education shall adopt a policy on sexual misconduct that shall
3 be made available, upon request, to an applicant, student, or employee of the institution and shall be
4 publicly available on the institution's website in an accessible format not later than the first week of
5 classes in each academic year. The institution shall update the website annually. The policy shall
6 include, but not be limited to:

7 (a) Procedures by which students and employees at the institution may report or disclose
8 incidents of sexual misconduct regardless of where the offense occurred.

9 (b) Information on where to receive immediate emergency assistance following an
10 incident of sexual misconduct which shall include, but shall not be limited to:

11 (1) The name and location of the nearest medical facility where an individual may
12 request that a medical forensic exam be administered by a trained sexual violence forensic health
13 care provider, including information on transportation options and information on reimbursement
14 for travel costs, if any.

15 (2) The contact information for a rape crisis center and a domestic violence center
16 and a description of the services provided by such centers.

17 (3) The telephone number and website for a national 24-hour hotline, as well as any
18 state or local resources, that provides information on sexual misconduct.

19 (4) Information on any programs that may financially assist a student with the cost
20 of emergency medical assistance.

21 (c) Descriptions of and contact information for the types of counseling and health, safety,
22 academic, and other support services available within the local community or region or through a
23 rape crisis center or domestic violence center, which shall include but not be limited to the name and
24 contact information for a confidential resources advisor and a description of the role of and services
25 provided by the confidential resources advisor and the name and contact information for the
26 institution's Title IX coordinator.

27 (d) The rights of students and employees to:

28 (1) Notify or decline to notify law enforcement, including campus, local and state
29 police, of an alleged incident of sexual misconduct.

30 (2) Receive assistance from campus authorities in making any such notification.

31 (3) Obtain a court- or institution-issued protective order against a responding party
32 of the incident of sexual misconduct.

33 (e) The process for requesting supportive measures reasonably available from the
34 institution which shall include, but not be limited to, options for changing academic, living, campus
35 transportation, or working arrangements or taking a leave of absence in response to an alleged
36 incident of sexual misconduct, how to request those changes, and the process to have any such
37 measures reviewed.

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1 (f) The contact information for the closest local, state, and federal law enforcement
2 agencies with jurisdiction over matters involving sexual misconduct and procedures for students to
3 notify the institution that a protective order has been issued under state or federal law and the
4 institution's responsibilities upon receipt of such notice.

5 (g) A summary of the institution's procedures for investigating, adjudicating, and
6 resolving sexual misconduct complaints, including clear statements advising students that:

7 (1) The process shall be uniformly applied for all disciplinary proceedings relating to
8 any claims of sexual misconduct.

9 (2) Notice shall be given, upon such time as the institution decides to proceed with
10 an institutional disciplinary process, to the reporting party and the responding party describing the
11 date, time, and location, if known, and a summary of the factual allegations concerning the violation.

12 (3) An investigation, including any hearings and resulting disciplinary proceedings,
13 shall be conducted by an individual who receives not less than annual training on issues relating to
14 sexual misconduct, investigatory procedures and hearing procedures to protect the safety and rights
15 of students and promote accountability and a trauma-informed response.

16 (4) The reporting party of an alleged incident of sexual misconduct and the
17 responding party may be accompanied by an advisor or support person of their choice, which may
18 include an advocate or counsel, to meet with the institution's investigator or other fact finder and
19 may consult with an advisor or support person, which may include an advocate or counsel, during
20 any meetings and disciplinary proceedings; provided, however, that the institution may establish
21 rules regarding how the proceedings will be conducted which may include guidelines on the extent to
22 which the advisor or support person for each party may participate in a meeting or disciplinary
23 proceeding and any limitations on participation which shall apply equally to both parties; and
24 provided further, that the institution shall adopt reasonable measures to provide for the involvement
25 of the advisor or support person for each party but the availability of the advisor or support person
26 shall not significantly delay a meeting or disciplinary proceeding.

27 (5) The reporting party and the responding party shall be provided with a copy of the
28 institution's policies regarding the submission and consideration of evidence that may be used
29 during a disciplinary proceeding and shall have equal opportunity to present evidence and witnesses
30 on their behalf during a disciplinary proceeding; provided, however, that each party shall be
31 provided with timely and equal access to relevant evidence that shall be used in the determination of
32 a discipline.

33 (6) There shall be restrictions on evidence considered by the fact finder including,
34 but not limited to, the use of evidence of prior sexual activity or character witnesses.

35 (7) The reporting party and the responding party shall be informed in writing of the
36 results of a disciplinary proceeding not later than 7 business days after a final determination of a

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1 complaint, not including any time for appeal, unless good cause for additional time is shown, and
2 they shall be informed of any process for appealing the decision.

3 (8) If an institution offers an appeal as a result of procedural errors, previously
4 unavailable relevant evidence that could significantly impact the outcome of a case or where the
5 sanction is disproportionate to the findings, the reporting party and the responding party shall be
6 provided with an equal opportunity to appeal decisions regarding responsibility or sanctions.

7 (9) The institution shall not publicly disclose the identity of the reporting party and
8 the responding party, except as necessary to carry out a disciplinary process or as permitted under
9 state or federal law.

10 (h) A summary of the institution's employee disciplinary process as it pertains to sexual
11 misconduct.

12 (i) The range of sanctions or penalties the institution may impose on students and
13 employees found responsible for a violation of the applicable institutional policy prohibiting acts of
14 sexual misconduct.

15 Sexual Misconduct Climate Surveys and Task Force

16 188-H:3 Sexual Misconduct Climate Surveys. Each institution of higher education shall
17 biennially conduct a sexual misconduct climate survey of all students at said institution. Each
18 institution's sexual misconduct climate survey shall include a base set of common questions
19 recommended by the task force on sexual misconduct and approved by the director, hereinafter
20 described as the "base survey." The director shall provide a copy of the base sexual misconduct
21 climate survey to all institutions biennially. Each institution shall also be permitted to append their
22 own campus-specific questions to the base survey, provided that these questions do not require the
23 disclosure of any personally-identifying information and are not unnecessarily traumatizing for
24 victims of sexual violence. Within 120 days after completion of a sexual misconduct climate survey,
25 each institution shall submit a summary of the results to the director and shall also post a summary
26 of the results on the institution's website in an easily accessible manner.

27 188-H:4 Task Force on Sexual Misconduct.

28 I. There shall be a task force on sexual misconduct at institutions of higher education. The
29 task force shall consist of the following members:

30 (a) The chancellor of the university system of New Hampshire, or designee.

31 (b) The chancellor of the community college system of New Hampshire, or designee.

32 (c) The director of higher education, division of educator support and higher education,
33 department of education, or designee.

34 (d) Two representatives of the private 4-year colleges in New Hampshire, with not more
35 than one representative from any such college, appointed by the governor and council on
36 recommendation by the New Hampshire College and University Council.

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1 (e) One member to be appointed by the governor and council as a representative from a
2 for-profit college or university not a member of the New Hampshire College and University Council.

3 (f) The commissioner of the department of health and human services, or designee.

4 (g) The attorney general, or designee.

5 (h) The following members, who shall be appointed by the governor, one of whom shall
6 be a student attending a public institution of higher education in this state; one of whom shall be a
7 student attending a private institution of higher education in this state; one of whom shall be a
8 student attending an institution in the community college system of New Hampshire; one of whom
9 shall be a representative of the university of New Hampshire recommended by the president of the
10 university; 4 of whom shall be representatives recommended by the New Hampshire Coalition
11 Against Domestic and Sexual Violence; 2 of whom shall be representatives recommended by the New
12 Hampshire Campus Consortium Against Sexual and Interpersonal Violence; one of whom shall be a
13 researcher with experience in the development and design of sexual misconduct climate surveys; one
14 of whom shall be a researcher of statistics, data analytics, or econometrics with experience in higher
15 education survey analysis; one of whom shall be a representative of the Prevention Innovations
16 Research Center at the University of New Hampshire; and one of whom shall represent Every Voice
17 New Hampshire.

18 II. The task force shall develop a base sexual misconduct climate survey for distribution to
19 institutions of higher education and provide such institutions with any related recommendations
20 respecting the content, timing, and application of the survey. The task force shall deliver its base
21 survey and related recommendations, including but not limited to, recommendations on achieving
22 statistically valid response rates, to each institution of higher education no less often than biennially
23 and for the first time by March 31, 2021.

24 III. In developing the base sexual misconduct climate survey, the task force shall:

25 (a) Utilize best practices from peer-reviewed research and consult with individuals with
26 expertise in the development and use of sexual misconduct climate surveys by institutions of higher
27 education.

28 (b) Review sexual misconduct climate surveys which have been developed and previously
29 utilized by institutions.

30 (c) Provide opportunities for written comment from organizations that work directly
31 with victims and survivors of sexual misconduct to ensure the adequacy and appropriateness of the
32 proposed content.

33 (d) Consult with institutions on strategies for optimizing the effectiveness of the survey.

34 (e) Account for the diverse needs and differences of the state's institutions of higher
35 education.

36 IV. The base sexual misconduct climate surveys shall gather information on topics that may
37 include, but shall not be limited to:

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1 (a) The number of incidents, both reported and unreported, of sexual misconduct at the
2 institution of higher education.

3 (b) When and where incidents of sexual misconduct occurred.

4 (c) Student awareness of institutional policies and procedures related to campus sexual
5 misconduct.

6 (d) Whether a student reported the sexual misconduct, and if so, to which campus
7 resource or law enforcement agency such report was made, and, if not, the reason for the student's
8 decision not to report.

9 (e) Whether a student was informed of or referred to local, state, campus or other
10 resources, or victim support services, including appropriate medical care and legal services.

11 (f) Whether a student was provided the option of protection from retaliation, access to
12 school-based accommodations, and criminal justice remedies.

13 (g) Contextual factors, such as the involvement of force, incapacitation, or coercion.

14 (h) Demographic information that could be used to identify at-risk groups including but
15 not limited to gender.

16 (i) Perceptions of campus safety among members of the campus community and
17 confidence in the institution's ability to protect against and respond to incidents of sexual
18 misconduct.

19 (j) Whether the student has chosen to withdraw or taken a leave of absence from the
20 institution or transferred to another institution.

21 (k) Whether the student has withdrawn from any classes or been placed on academic
22 probation as a result of the incident.

23 (l) Other questions as determined by the task force.

24 V. The base sexual misconduct climate survey shall collect anonymous responses and shall
25 not provide the disclosure of any identifying information.

26 VI. There shall be established within the division a data repository for all summaries of
27 sexual misconduct climate surveys submitted by institutions of higher education to the division in
28 accordance with this section. An institution of higher education shall submit its sexual misconduct
29 climate survey, accompanied by the anonymized raw data supporting such survey, to the director.
30 The director shall ensure that the sexual misconduct climate survey data submitted by all
31 institutions will be available to the public in an easily accessible manner on the division's website.

32 VII. Each institution of higher education shall publish on the institution's website in an
33 easily accessible manner:

34 (a) The results of the survey.

35 (b) The annual security report required under 20 U.S.C. section 1092, otherwise known
36 as the Clery Act.

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1 (c) A link to the division's statewide data on sexual misconduct climate survey data as
2 set forth in paragraph VIII.

3 VIII. The director shall adopt rules, pursuant to RSA 541-A, including deadlines for
4 dissemination and collection of survey information, consistent with the purposes of this statute, and
5 shall promote the effective solicitation to achieve the highest practical response rate, collection, and
6 publication of statistical information gathered from the state's institutions of higher education.

7 Trauma-Informed Policies

8 188-H:5 Trauma-Informed Policy. Each institution of higher education shall:

9 I. Develop a trauma-informed policy in coordination with the institution's Title IX
10 coordinator, and the local rape crisis center or domestic violence center. In addition, the institution
11 may consider input from various internal and external entities including, but not limited to
12 institutional administrators, personnel affiliated with on-campus and off-campus health care
13 centers, personnel affiliated with on-campus, when available, and local, confidential resources
14 advisors, residence life staff, students, the department of state police, and the police department and
15 the county attorney having jurisdiction in the city or town wherein the institution's primary campus
16 is located.

17 II. Provide draft policies and substantive changes by electronic or regular mail to internal
18 and external entities, with instructions on how to comment and a reasonable length of time in which
19 comments will be accepted. However, once an institution has adopted such policies as required by
20 this section, the opportunity for review and comment by internal and external entities shall only
21 apply to substantive changes in those policies.

22 III. Apply such policies, as applicable, relating to claims of sexual misconduct to all students
23 and employees in a culturally competent way.

24 Collaboration With Law Enforcement

25 188-H:6 Collaboration With Law Enforcement.

26 I. Each institution of higher education shall adopt policies and procedures with local law
27 enforcement agencies to establish the respective roles and responsibilities of each party related to
28 the prevention of and response to on-campus and off-campus sexual misconduct. Institutions of
29 higher education and local law enforcement agencies shall develop policies and procedures that
30 comply with all applicable state and federal confidentiality and privacy laws and:

31 (a) Delineate sharing protocols for investigative responsibilities.

32 (b) Provide protocols for investigations, including standards for notification and
33 communication and measures to promote evidence preservation.

34 (c) Coordinate training, programing, and requirements on issues related to sexual
35 misconduct.

36 (d) Ensure that reporting parties are able to move safely and comfortably between
37 classes, extracurriculars, sports, and campus jobs.

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(e) Develop a protocol for sharing information about specific crimes, which may include a mechanism for sharing information anonymously, that:

(1) Requires that the reporting party authorized or requested that such information be shared and is fully and accurately informed about what procedures shall occur if the information is shared; and

(2) Is carried out in a manner that is consistent with the General Education Provisions Act, 20 U.S.C. section 1221, and any other applicable provisions under state law.

(f) Establish the methods for sharing the Clery Act reporting requirements and for facilitating the issuance of timely warnings and emergency notifications required by the Clery Act relative to crimes that may pose a serious threat to the campus or near campus communities.

(g) Develop methods for notifying the appropriate county attorney's office.

(h) Update such policies and procedures biennially.

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

Confidential Resource Advisors

188-H:7 Confidential Resource Advisors.

I. Each institution of higher education shall establish a campus security policy that includes the designation of at least one confidential resource advisor. The confidential resource advisor:

(a) May have another role at the institution;

(b) Shall not be a student or a Title IX coordinator; and

(c) Shall be appointed based on experience and a demonstrated ability of the individual to effectively provide victim services related to sexual misconduct.

II. The institution shall designate existing categories of employees that may serve as confidential resource advisors. The designation of an existing category of employees shall not preclude the institution from designating a new or existing employee as a confidential resource advisor or in another confidential role. An institution may partner with a local, state, or national victim advocacy organization to provide a confidential resource advisor under this section. An institution that enrolls fewer than 1,000 residential students may partner with another institution or rape crisis center within the state to provide the services under this section. An institution shall ensure that any partnership entered into under this paragraph shall result in a confidential resource advisor being available to students within a reasonable distance to the student's institution.

III. The confidential resource advisor shall receive training in the awareness and prevention of sexual misconduct and in trauma-informed response and coordinate with on-campus and off-

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1 campus rape crisis centers and domestic violence centers within a reasonable time after being
2 designated as a confidential resource advisor.

3 IV. The confidential resource advisor shall inform the student or employee, including in
4 written format:

5 (a) Reporting options and the effects of each option.

6 (b) Counseling services available on campus and through a local rape crisis center or
7 domestic violence center.

8 (c) Medical and health services available on campus and off campus.

9 (d) Campus escort services for security.

10 (e) Available academic and residence life accommodations.

11 (f) Student loan counseling for students considering temporary permanent withdrawal
12 or half time enrollment regarding loan deferment, forbearance, or other student loan programs.

13 (g) The investigative and disciplinary process of the institution.

14 (h) The legal process carried out through local, state, and federal law enforcement
15 agencies.

16 (i) That the institution's disciplinary process is not to be considered a substitute for the
17 criminal justice process.

18 (j) Any limits on the ability of the confidential resource advisor to provide privacy or
19 confidentiality to the student.

20 V. The confidential resource advisor:

21 (a) May, if appropriate and if directed by the reporting party, assist the reporting party
22 in contacting or reporting to campus or local law enforcement agencies.

23 (b) Shall notify the reporting and responding party of their rights and the institution's
24 responsibilities regarding a protection order, no contact order, and any other lawful orders issued by
25 the institution or by a criminal, civil, or tribal court.

26 (c) Shall not be required to report an incident to the institution or a law enforcement
27 agency unless otherwise required to do so by state or federal law and shall provide confidential
28 services to students and employees.

29 (d) May attend an administrative or institution-based adjudication proceeding as the
30 advisor or support person of the student's or employee's choice.

31 (e) Shall not disclose confidential information without the prior written consent of the
32 student or employee who shared the information.

33 (f) Shall not provide services to more than one party in an incident and shall ensure
34 confidentiality is maintained.

35 VI. Nothing in this section shall be construed to limit either party's right of cross
36 examination of the advisor in a civil or criminal proceeding if the advisor testifies after written
37 consent has been given. A confidential communication shall not be subject to discovery and shall be

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1 inadmissible in a criminal or civil proceeding without the prior written consent of the party who
2 shared the information. Information provided to the confidential resource advisor shall not be
3 released to a campus official or law enforcement officer or agency unless written consent has been
4 given by the party. A confidential resource advisor shall not act as a counselor or therapist unless
5 the confidential resource advisor is licensed as a counselor in this state and the reporting party
6 engages the confidential resource advisor in that capacity.

7 VII. Notice to a confidential resource advisor of an alleged act of sexual misconduct or a
8 confidential resource advisor's performance of a service under this section shall not be considered
9 actual or constructive notice of such an alleged act to the institution of higher education at which the
10 confidential resource advisor is employed or provides contracted services.

11 VIII. If a conflict of interest arises for an institution in which a confidential resource advisor
12 is advocating for a reporting party's need for sexual assault crisis services or campus or law
13 enforcement services, the institution shall not discipline, penalize, or otherwise retaliate against the
14 confidential resource advisor for representing the interest of the reporting party.

Awareness Programming

15 188-H:8 Awareness Programming. An institution of higher education, with guidance from its
16 Title IX coordinator, local law enforcement, and the rape crisis center or the domestic violence
17 center, shall provide mandatory annual sexual misconduct primary prevention and awareness
18 programming for all students and all employees of the institution that shall include:

19 I. An explanation of consent as it applies to sexual activity and sexual relationships.

20 II. The role drugs and alcohol play in an individual's ability to consent.

21 III. Information on options relating to the reporting of an incident of sexual misconduct, the
22 effects of each option, and the methods to report an incident of sexual misconduct, including
23 confidential and anonymous disclosure.

24 IV. Information on the institution's procedures for resolving sexual misconduct complaints
25 and the range of sanctions or penalties the institution may impose on students and employees found
26 responsible for a violation.

27 V. The name, contact information, and role of the confidential resource advisor.

28 VI. Strategies for bystander intervention and risk reduction.

29 VII. Opportunities for ongoing sexual misconduct prevention and awareness campaigns and
30 programming.

Training for Individuals and Institutions

Involved in the Disciplinary Process

31 188-H:9 Training for Individuals Involved in the Disciplinary Process. An individual who
32 participates in the implementation of an institution of higher education's disciplinary process,
33 including an individual responsible for resolving complaints of reported incidents, shall have
34

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1 training or experience in handling sexual misconduct complaints and the operations of the
2 institution's disciplinary process. The training shall include, but not be limited to:

3 I. Information on working with and interviewing persons subjected to sexual misconduct.

4 II. Information on particular types of conduct that constitute sexual misconduct, including
5 same-sex dating violence, domestic violence, sexual assault, and stalking.

6 III. Information on consent and the role drugs and alcohol may play in an individual's ability
7 to consent.

8 IV. The effects of trauma, including any neurobiological impact on a person.

9 V. Cultural competence training regarding how sexual misconduct may impact students
10 differently depending on factors that contribute to a student's cultural background, including but not
11 limited to national origin, sex, ethnicity, religion, gender identity, gender expression, and sexual
12 orientation.

13 VI. Ways to communicate sensitively and compassionately with a reporting party of sexual
14 misconduct including, but not limited to, an awareness of responding to a reporting party with
15 consideration of that party's cultural background and providing services to or assisting in locating
16 services for the reporting party.

17 VII. Training and information regarding how dating violence, domestic violence, sexual
18 assault, and stalking may impact students with developmental or intellectual disabilities.

19 188-H:10 Institutional Training. Each institution of higher education shall ensure that its Title
20 IX coordinator and members of its special or campus police force or the campus safety personnel
21 employed by the institution are educated in the awareness of sexual misconduct and in trauma-
22 informed response.

23 188-H:11 Notice of Rights. The institution of higher education shall provide both the accuser
24 and the responding party with written notice of the institution's decision to proceed with an
25 institutional disciplinary process regarding an allegation of sexual misconduct within 24 hours of
26 such decision, and sufficiently in advance of a disciplinary hearing to provide both the reporting and
27 responding parties with the opportunity to meaningfully exercise their rights to a proceeding that is
28 prompt, fair, and impartial; which shall include the opportunity to both parties to present witnesses
29 and other evidence; and any other due process rights afforded to them under institutional policy.
30 The written notice shall include the information required to be posted on the institution's website
31 pursuant to this chapter.

32 Reporting Requirements

33 188-H:12 Data Reporting Requirements. Annually, not later than October 1, an institution of
34 higher education shall prepare and submit to the director, the commissioner of the department of
35 health and human services, the clerks of the senate and house of representatives, and the
36 chairpersons of the senate and house committees with jurisdiction over education a report that
37 includes:

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I. The total number of allegations of dating violence, domestic violence, sexual assault, and stalking reported to the institution's Title IX coordinator by a student or employee of the institution against another student or employee of the institution.

II. The number of cases made by a student or employee of the institution against another student or employee of the institution investigated by local or state law enforcement agency, if known.

III. The number of students found responsible for violating an institution's policies prohibiting sexual misconduct.

IV. The number of students found not responsible for violating an institution's policies prohibiting sexual misconduct.

V. The number of disciplinary actions imposed by the institution as a result of a finding of responsibility for violating an institution's policies prohibiting sexual misconduct. The report shall provide information in an anonymous manner that complies with state and federal privacy laws.

188-H:13 Amnesty. A reporting party or a witness that causes an investigation of sexual misconduct, or drug or alcohol use, shall not be subject to a disciplinary proceeding or sanction for a violation of the institution of higher education's student conduct policy related to the incident unless the institution determine that the report was not made in good faith or that the violation was egregious. An egregious violation shall include, but not be limited to, taking an action that places the health and safety of another person at risk.

Enforcement and Penalty

188-H:14 Enforcement and Penalty. Upon determination, after reasonable notice and opportunity for a hearing, that an institution of higher education has violated or failed to carry out any provision of this chapter or any rule adopted under this chapter, the director may impose a civil penalty upon such institution for each violation not to exceed \$150,000, which shall be adjusted for inflation annually, or one percent of an institution's annual operating budget, whichever is lower. The director shall use any such civil penalty funds to provide oversight of this chapter.

188-H:15 Memoranda of Understanding With Rape Crisis Centers or Domestic Violence Centers.

I. An institution of higher education shall enter into and maintain a memorandum of understanding with a rape crisis center or domestic violence center to:

(a) Assist in developing the institution's policies, programing, and training regarding sexual misconduct involving students or employees.

(b) Provide an off-campus alternative for students and employees of the institution to receive free and confidential sexual assault crisis services, including access to a sexual assault nurse examiner if available, or free and confidential domestic violence crisis services in response to sexual misconduct.

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1 (c) Ensure that a student or employee of the institution may access free and confidential
2 counseling and advocacy services either on campus or off campus.

3 (d) Ensure cooperation and training between the institution and the crisis center or
4 agency to ensure an understanding of the roles that the institution, crisis center, and agency should
5 play in responding to reports and disclosures of sexual misconduct against students and employees
6 of the institution and the institution's protocols for providing support and services to such students
7 and employees.

8 II. A memorandum of understanding may include an agreement, including a fee structure,
9 between the rape crisis center or domestic violence center and the institution of higher education to
10 provide confidential victim services. Confidential victim services may include case consultation and
11 training fees for confidential resource advisors, consultation fees for the development and
12 implementation of student education and prevention programs, the development of staff training
13 and prevention curriculum, and confidential on-site office space for an advocate from a rape crisis
14 center or domestic violence center to meet with students.

15 III. The commission may waive the requirements of this section in the case of an institution
16 that demonstrates that it acted in good faith but was unable to obtain a signed memorandum.

17 2 Effective Date. This act shall take effect 180 days after its passage.

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2020-1046s

AMENDED ANALYSIS

This bill requires institutions of higher education to adopt and make available to students policies on sexual misconduct; to develop a task force and survey on sexual misconduct and report its findings; to appoint a campus safety advisor; to collaborate with law enforcement on the investigation and prosecution of sexual misconduct incidents; to establish confidential resource advisors; to develop awareness programming; and to undertake institutional training in the awareness and prevention of sexual misconduct on campus.