

112TH CONGRESS
1ST SESSION

H. R. 2016

To amend the Higher Education Act of 1965 to improve education and prevention related to campus sexual violence, domestic violence, dating violence, and stalking.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2011

Mrs. MALONEY (for herself, Mr. DUNCAN of Tennessee, Mr. COSTA, Mr. MCGOVERN, Mr. GRIJALVA, and Mrs. MCCARTHY of New York) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Higher Education Act of 1965 to improve education and prevention related to campus sexual violence, domestic violence, dating violence, and stalking.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Campus Sexual Vio-

5 lence Elimination Act” or the “Campus SaVE Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Between 20 and 25 percent of female stu-
2 dents will experience some form of sexual assault
3 during their years at an institution of higher edu-
4 cation, and nearly 3 percent of all such women be-
5 come victims of either attempted or completed rape
6 in each 9-month academic year.

7 (2) Multiple studies indicate that lesbian, gay,
8 bisexual, and transgender (LGBT) students are
9 more likely to experience violence and threats of vio-
10 lence, including sexual violence, than their non-
11 LGBT peers.

12 (3) Between 85 and 90 percent of reported sex-
13 ual assaults against female students at institutions
14 of higher education are perpetrated by someone
15 known to the victim, and nearly half of such sexual
16 assaults occur on a date.

17 (4) Less than 5 percent of rapes or attempted
18 rapes of female students at institutions of higher
19 education are reported to campus authorities or law
20 enforcement. In 2009, only 2,578 forcible sex of-
21 fenses and 68 non-forcible sex offenses that occurred
22 on the campus of a 2-year or 4-year institution of
23 higher education were reported, among 8,476 2-year
24 and 4-year public and private institutions of higher
25 education.

1 (5) Students are more likely to report a sexual
2 assault when they know how to report a sexual as-
3 sault and how a school will respond if such a report
4 is made, yet fewer than half of the institutions of
5 higher education in the United States have written
6 policies for filing criminal charges and campus re-
7 ports related to sexual assault.

8 (6) Only $\frac{1}{3}$ of the institutions of higher edu-
9 cation in the United States report their crime statis-
10 tics correctly, resulting in statistics in which in-
11 stances of sexual assault have been misclassified and
12 underrepresented. Less than half of all institutions
13 of higher education in the United States offer any
14 sexual assault training, and such training is often
15 provided only for resident advisers and security offi-
16 cers.

17 (7) Thirty-six percent of institutions of higher
18 education offer safety training that includes teaching
19 students how to prevent and defend against sexual
20 assault.

21 (8) Less than 20 percent of institutions of high-
22 er education educate students about acquaintance
23 rape, and less than half of 4-year public institutions
24 do so.

1 (9) According to campus administrators, the re-
2 porting of sexual assaults would be facilitated if in-
3 stitutions of higher education provided services for
4 victims, written law enforcement response proce-
5 dures, new student orientation, and campus-wide
6 publicity about past crimes.

7 (10) While dating, domestic, and sexual violence
8 affect women regardless of their age, teens and
9 young women are especially vulnerable.

10 (11) Women of all ages are at risk for domestic
11 and sexual violence, and women ages 20 to 24 are
12 at the greatest risk of experiencing nonfatal intimate
13 partner violence.

14 (12) Individuals ages 18 and 19 experience the
15 highest rates of stalking.

16 **SEC. 3. CAMPUS SEXUAL VIOLENCE, DOMESTIC VIOLENCE,**
17 **DATING VIOLENCE, AND STALKING EDU-**
18 **CATION AND PREVENTION.**

19 Section 485(f) of the Higher Education Act of 1965
20 (20 U.S.C. 1092(f)) is amended—

21 (1) in paragraph (1)—

22 (A) in the matter preceding subparagraph

23 (A)—

24 (i) by striking “on August 1, 1991,

25 begin to”; and

1 (ii) by striking “beginning September
2 1, 1992, and each year thereafter,” and in-
3 sserting “, by October 1 of each year,”;

4 (B) by striking subparagraph (A) and in-
5 sserting the following:

6 “(A) A statement of current campus policies re-
7 garding procedures and facilities for students, em-
8 ployees, and others in the campus community to re-
9 port criminal actions or other emergencies occurring
10 on campus, on public property, and in or on non-
11 campus buildings or property, and policies con-
12 cerning the institution’s response to such reports.”;

13 (C) in subparagraph (C)(iii), by striking
14 the period at the end and adding at the end “,
15 when the victim of such crime elects to make
16 such a report.”;

17 (D) in subparagraph (F)—

18 (i) by striking “and” at the end of
19 clause (i)(IX);

20 (ii) by striking the period at the end
21 of clause (ii) and inserting “; and”; and

22 (iii) by adding at the end the fol-
23 lowing:

24 “(iii) of domestic violence, dating violence,
25 and stalking incidents that were reported to

1 campus security authorities or local police agen-
2 cies.”; and

3 (E) in subparagraph (I), by striking “sec-
4 tion 170101(j)” through the end, and inserting
5 “the Jacob Wetterling, Megan Nicole Kanka,
6 and Pam Lychner Sex Offender Registration
7 and Notification Program established under the
8 Adam Walsh Child Protection and Safety Act of
9 2006 (42 U.S.C. 16901 et seq.) concerning reg-
10 istered sex offenders enrolled or working at the
11 institution may be obtained, such as the law en-
12 forcement office of the institution, a local law
13 enforcement agency with jurisdiction for the
14 campus, or a Web site.”;

15 (2) in paragraph (3), by inserting “, that with-
16 holds the names of victims as confidential,” after
17 “that is timely”;

18 (3) in paragraph (5)(A), by striking “Sep-
19 tember 1, 2000” and inserting “December 31,
20 2012”;

21 (4) by striking paragraph (6)(A) and inserting
22 the following:

23 “(6)(A) In this subsection:

24 “(i) The term ‘awareness program’ means any
25 program designed to alert students at an institution

1 of higher education to the prevalence of domestic vi-
2 olence, dating violence, sexual assault, or stalking,
3 including—

4 “(I) discussions of the nature and number
5 of cases of domestic violence, dating violence,
6 sexual assault, and stalking at such institution
7 in the 3 preceding calendar years;

8 “(II) statistics on the outcomes of discipli-
9 nary proceedings for such cases at such institu-
10 tion; and

11 “(III) risk factors associated with such
12 cases, including physically, sexually, and psy-
13 chologically controlling behavior.

14 “(ii) The term ‘bystander intervention’ means
15 safe and positive options that may be carried out by
16 an individual to prevent harm or intervene when
17 there is a risk of domestic violence, dating violence,
18 sexual assault, or stalking against a person other
19 than such individual.

20 “(iii) The term ‘campus’ means—

21 “(I) any building or property owned or
22 controlled by an institution of higher education
23 within the same reasonably contiguous geo-
24 graphic area of the institution and used by the
25 institution in direct support of, or in a manner

1 related to, the institution’s educational pur-
2 poses, including residence halls; and

3 “(II) property within the same reasonably
4 contiguous geographic area of the institution
5 that is owned by the institution but controlled
6 by another person, is used by students, and
7 supports institutional purposes (such as a food
8 or other retail vendor).

9 “(iv) The term ‘dating violence’ has the mean-
10 ing given the term in section 40002(a) of the Vio-
11 lence Against Women Act of 1994 (42 U.S.C.
12 13925(a)).

13 “(v) The term ‘domestic violence’ has the mean-
14 ing given the term in section 40002(a) of the Vio-
15 lence Against Women Act of 1994 (42 U.S.C.
16 13925(a)).

17 “(vi) The term ‘noncampus building or prop-
18 erty’ means—

19 “(I) any building or property owned or
20 controlled by a student organization recognized
21 by the institution; and

22 “(II) any building or property (other than
23 a branch campus) owned or controlled by an in-
24 stitution of higher education that is used in di-
25 rect support of, or in relation to, the institu-

1 tion’s educational purposes, is used by students,
2 and is not within the same reasonably contig-
3 uous geographic area of the institution.

4 “(vii) The term ‘primary prevention’ means
5 programming and strategies intended to stop domes-
6 tic violence, dating violence, sexual assault, or stalk-
7 ing before it occurs through the changing of social
8 norms and other approaches.

9 “(viii) The term ‘public property’ means all
10 public property that is within the same reasonably
11 contiguous geographic area of the institution, such
12 as a sidewalk, a street, other thoroughfare, or park-
13 ing facility, and is adjacent to a facility owned or
14 controlled by the institution if the facility is used by
15 the institution in direct support of, or in a manner
16 related to the institution’s educational purposes.

17 “(ix) The term ‘results’ means a decision or de-
18 termination, made by an honor court or council,
19 committee, commission, or other entity authorized to
20 resolve disciplinary matters within an institution of
21 higher education.

22 “(x) The term ‘risk reduction’ means options
23 for recognizing warning signs of abusive behavior,
24 and how to avoid potential attacks.

1 “(xi) The term ‘sexual assault’ means an of-
2 fense classified as a forcible or nonforcible sex of-
3 fense under the uniform crime reporting system of
4 the Federal Bureau of Investigation.

5 “(xii) The term ‘stalking’ has the meaning
6 given the term in section 40002(a) of the Violence
7 Against Women Act of 1994 (42 U.S.C.
8 13925(a)).”;

9 (5) in paragraph (7)—

10 (A) by striking “paragraph (1)(F)” and in-
11 serting “clauses (i) and (ii) of paragraph
12 (1)(F)”;

13 (B) by inserting after “Hate Crime Statis-
14 tics Act.” the following: “For the offenses of
15 domestic violence, dating violence, and stalking,
16 such statistics shall be compiled in accordance
17 with the definitions used in section 40002(a) of
18 the Violence Against Women Act of 1994 (42
19 U.S.C. 13925(a)).”;

20 (6) by striking paragraph (8) and inserting the
21 following:

22 “(8)(A) Each institution of higher education partici-
23 pating in any program under this title, other than a for-
24 eign institution of higher education, shall develop and dis-

1 tribute as part of the report described in paragraph (1)
2 a statement of policy regarding—

3 “(i) such institution’s programs to prevent do-
4 mestic violence, dating violence, sexual assault, or
5 stalking; and

6 “(ii) the procedures that such institution will
7 follow once an incident of domestic violence, dating
8 violence, sexual assault, or stalking has been re-
9 ported, which shall include—

10 “(I) providing, in writing, to each student
11 or employee who reports to the institution that
12 he or she has been a victim of domestic vio-
13 lence, dating violence, sexual assault, or stalk-
14 ing—

15 “(aa) an explanation of—

16 “(AA) the right of victims of
17 such offenses to notify proper law en-
18 forcement authorities, including on-
19 campus and local police;

20 “(BB) the option to be assisted
21 by campus authorities in notifying
22 such authorities if the student or em-
23 ployee so chooses; and

1 “(CC) the right of victims of
2 such offenses to not notify such au-
3 thorities;

4 “(bb) an explanation of the right of
5 victims of such offenses, when relevant, to
6 seek an order of protection, no contact
7 order, restraining order, or similar lawful
8 order issued by a criminal, civil, or tribal
9 court or enforce an order already in exist-
10 ence;

11 “(cc) contact information for victim
12 advocacy, counseling, health, mental
13 health, legal assistance, and other services
14 available to victims both on-campus and in
15 the local community;

16 “(dd) an explanation of the avail-
17 ability of a victims’ rights advocate to as-
18 sist in reporting an incident and in locat-
19 ing and utilizing victim services;

20 “(ee) an explanation of the institu-
21 tion’s disciplinary process; and

22 “(ff) suggested safety planning (in-
23 cluding a change in residence, class sched-
24 ule, and travel) and individuals at the in-
25 stitution and in the local community who

1 can assist the victim in implementing safe-
2 ty planning;

3 “(II) a description of how such institution
4 shall help to enforce any order of protection, no
5 contact order, restraining order, or similar law-
6 ful order issued by any criminal, civil, or tribal
7 court, if the victim has informed such institu-
8 tion of such order; and

9 “(III) information about how the institu-
10 tion will protect the confidentiality of victims,
11 including how publicly available recordkeeping
12 will be accomplished without the inclusion of
13 identifying information about the victim, to the
14 extent permissible by law.

15 “(B) The policy described in subparagraph (A) shall
16 address the following areas:

17 “(i) Education programs to promote the aware-
18 ness of the offenses of domestic violence, dating vio-
19 lence, sexual assault, and stalking, which shall in-
20 clude—

21 “(I) primary prevention and awareness
22 programs for all incoming students and new
23 employees, which shall include—

24 “(aa) a statement that the institution
25 of higher education prohibits the offenses

1 of domestic violence, dating violence, sex-
2 ual assault, and stalking;

3 “(bb) the definition of domestic vio-
4 lence, dating violence, sexual assault, and
5 stalking;

6 “(cc) the definition of consent in ref-
7 erence to sexual activity;

8 “(dd) information about reporting
9 such offenses, including such offenses that
10 occur on and off campus;

11 “(ee) the elements of healthy relation-
12 ships and the right of individuals to live
13 without the fear of becoming a victim of
14 domestic violence, dating violence, sexual
15 assault, or stalking;

16 “(ff) bystander intervention; and

17 “(gg) risk reduction; and

18 “(II) ongoing prevention and awareness
19 campaigns for students and faculty, including
20 information described in items (aa) through
21 (gg) of subclause (I).

22 “(ii) Possible sanctions or protective measures
23 that such institution may impose following the final
24 determination of an institutional disciplinary proce-

1 dure regarding domestic violence, dating violence,
2 sexual assault, or stalking.

3 “(iii) Procedures’ victims should follow if do-
4 mestic violence, dating violence, sexual assault, or
5 stalking occurs, including information about the im-
6 portance of preserving evidence as may be necessary
7 to the proof of criminal domestic violence, dating vi-
8 olence, sexual assault, or stalking, or in obtaining a
9 protection order.

10 “(iv) Information about to whom the alleged
11 domestic violence, dating violence, sexual assault, or
12 stalking should be reported.

13 “(v) Procedures for institutional disciplinary ac-
14 tion in cases of an alleged incident of domestic vio-
15 lence, dating violence, sexual assault, or stalking,
16 which shall include a clear statement that—

17 “(I) such proceedings shall—

18 “(aa) provide a prompt and equitable
19 resolution;

20 “(bb) be conducted by officials who
21 receive annual training on the issues re-
22 lated to domestic violence, dating violence,
23 sexual assault, and stalking and how to
24 conduct an investigation and hearing proc-

1 ess that protects the safety of victims and
2 promotes accountability; and

3 “(cc) use the preponderance of the
4 evidence standard;

5 “(II) the accuser and the accused are enti-
6 tled to the same opportunities to have others
7 present during an institutional disciplinary pro-
8 ceeding, including the opportunity to be accom-
9 panied to any related meeting or proceeding by
10 an advisor of their choice;

11 “(III) both the accuser and the accused
12 shall be simultaneously informed, in writing—

13 “(aa) of the results of any institu-
14 tional disciplinary proceeding that arises
15 from an allegation of domestic violence,
16 dating violence, sexual assault, or stalking;

17 “(bb) when the institution accepts an
18 appeal of such results;

19 “(cc) of any change to such results
20 that occurs prior to the time that such re-
21 sults become final; and

22 “(dd) when such results become final;
23 and

24 “(IV) any disclosure of results under sub-
25 clause (III)—

1 “(aa) shall include only the name of
2 the accused, the violation alleged, and
3 whether any institutional rules or code sec-
4 tions were violated, essential findings sup-
5 porting such result, and any sanction im-
6 posed by the institution against the ac-
7 cused (including a description of any dis-
8 ciplinary action taken by the institution,
9 the date of the imposition of such action,
10 and the duration of such action);

11 “(bb) shall include a notice of whether
12 an appeal will be permitted, a notice of the
13 grounds for appeal, and a clear statement
14 that if an appeal is permitted, both the ac-
15 cuser and the accused shall be entitled to
16 appeal; and

17 “(cc) shall not include identifying in-
18 formation about the victim.

19 “(vi) Policies and procedures to ensure that a
20 student or employee who reports to the institution
21 that he or she has been the victim of domestic vio-
22 lence, dating violence, sexual assault, or stalking, re-
23 gardless of whether the victim chooses to report the
24 crime to campus police or local law enforcement,
25 shall receive information about options for, and

1 available assistance in, changing academic, living,
2 transportation, and working situations, if such as-
3 sistance is requested by the student or employee and
4 if such accommodations are reasonably available.”;

5 (7) in paragraph (9), by striking “The Sec-
6 retary” and inserting “The Secretary, in consulta-
7 tion with the Attorney General of the United States
8 (through the Director of the Office on Violence
9 Against Women),”;

10 (8) by striking paragraph (14);

11 (9) by redesignating paragraphs (15) through
12 (18) as paragraphs (14) through (17), respectively;

13 (10) by striking paragraph (15), as redesign-
14 nated by paragraph (9), and inserting the following:

15 “(15)(A) The Secretary shall seek the advice and
16 counsel of the Attorney General of the United States con-
17 cerning the development, and dissemination to institutions
18 of higher education, of best practices information about
19 campus safety and emergencies.

20 “(B) The Secretary shall seek the advice and counsel
21 of the Attorney General of the United States (through the
22 Director of the Office on Violence Against Women) and
23 the Secretary of Health and Human Services (through the
24 Director of the Family Violence Prevention and Services
25 Office) concerning the development, and dissemination to

1 institutions of higher education, of best practices informa-
2 tion about preventing and responding to incidents of do-
3 mestic violence, dating violence, sexual assault, and stalk-
4 ing, including elements of institutional policies that have
5 proven successful based on evidence-based outcome meas-
6 urements.”; and

7 (11) by striking paragraph (16), as redesignig-
8 nated by paragraph (9), and inserting the following:

9 “(16) No officer, employee, or agent of an institution
10 participating in any program under this title shall retali-
11 ate, intimidate, threaten, coerce, or otherwise discriminate
12 against any individual for exercising their rights or re-
13 sponsibilities under any provision of this subsection.”.

14 **SEC. 4. EFFECTIVE DATE.**

15 The amendments made by this Act shall take effect
16 with respect to the annual security report under section
17 485(f)(1) of the Higher Education Act of 1965 (20 U.S.C.
18 1092(f)(1)) prepared by an institution of higher education
19 1 calendar year after the date of enactment of this Act,
20 and each subsequent calendar year.

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