S. 834

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 SENATE OF THE UNITED STATES

APRIL 14, 2011

Mr. CASEY (for himself and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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.

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

SECTION 1. SHORT TITLE.

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

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

SEC. 2. FINDINGS.

Congress finds the following:

(1) Between 20 and 25 percent of female stu-

dents will experience some form of sexual assault
during their years at an institution of higher edu-
cation, and nearly 3 percent of all such women be-
come victims of either attempted or completed rape
in each 9-month academic year.

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

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

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

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

(6) Only 1⁄3 of the institutions of higher education in the United States report their crime statistics correctly, resulting in statistics in which instances of sexual assault have been misclassified and underrepresented. Less than half of all institutions of higher education in the United States offer any sexual assault training, and such training is often provided only for resident advisers and security officers.

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

(8) Less than 20 percent of institutions of higher education educate students about acquaintance rape, and less than half of 4-year public institutions do so.

(9) According to campus administrators, the reporting of sexual assaults would be facilitated if institutions of higher education provided services for
victims, written law enforcement response proce-
dures, new student orientation, and campus-wide
publicity about past crimes.

SEC. 3. CAMPUS SEXUAL VIOLENCE, DOMESTIC VIOLENCE,

DATING VIOLENCE, AND STALKING EDUCATION AND PREVENTION.

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

(1) in paragraph (1)—

(A) in the matter preceding subparagraph

(A)—

(i) by striking “on August 1, 1991,

begin to”; and

(ii) by striking “beginning September

1, 1992, and each year thereafter,” and in-
serting “, by October 1 of each year,”;

(B) by striking subparagraph (A) and in-
serting the following:

“(A) A statement of current campus policies re-
garding procedures and facilities for students, em-
ployees, and others in the campus community to re-
port criminal actions or other emergencies occurring
on campus, on public property, and in or on non-
campus buildings or property, and policies con-
cerning the institution’s response to such reports.”;
(C) in subparagraph (C)(iii), by striking the period at the end and adding at the end “, when the victim of such crime elects to make such a report.”;

(D) in subparagraph (F)—

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

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

(iii) by adding at the end the following:

“(iii) of domestic violence, dating violence, and stalking incidents that were reported to campus security authorities or local police agencies.”; and

(E) in subparagraph (I), by striking “section 170101(j)” through the end, and inserting “the Jacob Wetterling, Megan Nicole Kanka, and Pam Lychnner Sex Offender Registration and Notification Program established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.) concerning registered sex offenders enrolled or working at the institution may be obtained, such as the law enforcement office of the institution, a local law
enforcement agency with jurisdiction for the
campus, or a Web site.”;

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

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

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

“(6)(A) In this subsection:

“(i) The term ‘awareness program’ means any
program designed to alert students at an institution
of higher education to the prevalence of domestic vi-
olence, dating violence, sexual assault, or stalking,
including—

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

“(II) statistics on the outcomes of discipli-
nary proceedings for such cases at such institu-
tion; and
“(III) risk factors associated with such
cases, including physically, sexually, and psy-
chologically controlling behavior.

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

“(iii) The term ‘campus’ means—

“(I) any building or property owned or
controlled by an institution of higher education
within the same reasonably contiguous geo-
graphic area of the institution and used by the
institution in direct support of, or in a manner
related to, the institution’s educational pur-
poses, including residence halls; and

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

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

“(v) The term ‘domestic violence’ has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).

“(vi) The term ‘noncampus building or property’ means—

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

“(II) any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution’s educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.

“(vii) The term ‘primary prevention’ means programming and strategies intended to stop domestic violence, dating violence, sexual assault, or stalking before it occurs through the changing of social norms and other approaches.

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

“(ix) The term ‘results’ means a decision or determination, made by an honor court or council, committee, commission, or other entity authorized to resolve disciplinary matters within an institution of higher education.

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

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

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

(5) in paragraph (7)—
(A) by striking “paragraph (1)(F)” and inserting “clauses (i) and (ii) of paragraph (1)(F)”; and

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

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

“(8)(A) Each institution of higher education participating in any program under this title, other than a foreign institution of higher education, shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

“(i) such institution’s programs to prevent domestic violence, dating violence, sexual assault, or stalking; and

“(ii) the procedures that such institution will follow once an incident of domestic violence, dating violence, sexual assault, or stalking has been reported, which shall include—
“(I) providing, in writing, to each student or employee who reports to the institution that he or she has been a victim of domestic violence, dating violence, sexual assault, or stalking—

“(aa) an explanation of—

“(AA) the right of victims of such offenses to notify proper law enforcement authorities, including on-campus and local police;

“(BB) the option to be assisted by campus authorities in notifying such authorities if the student or employee so chooses; and

“(CC) the right of victims of such offenses to not notify such authorities;

“(bb) an explanation of the right of victims of such offenses, when relevant, to seek an order of protection, no contact order, restraining order, or similar lawful order issued by a criminal, civil, or tribal court or enforce an order already in existence;
“(ee) contact information for victim advocacy, counseling, health, mental health, legal assistance, and other services available to victims both on-campus and in the local community;

“(dd) an explanation of the availability of a victims’ rights advocate to assist in reporting an incident and in locating and utilizing victim services;

“(ee) an explanation of the institution’s disciplinary process; and

“(ff) suggested safety planning (including a change in residence, class schedule, and travel) and individuals at the institution and in the local community who can assist the victim in implementing safety planning;

“(II) a description of how such institution shall help to enforce any order of protection, no contact order, restraining order, or similar lawful order issued by any criminal, civil, or tribal court, if the victim has informed such institution of such order; and

“(III) information about how the institution will protect the confidentiality of victims,
including how publicly available recordkeeping
will be accomplished without the inclusion of
identifying information about the victim, to the
extent permissible by law.

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

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

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

“(aa) a statement that the institution
of higher education prohibits the offenses
of domestic violence, dating violence, sexual
assault, and stalking;

“(bb) the definition of domestic vio-
ence, dating violence, sexual assault, and
stalking;

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

“(dd) information about reporting
such offenses, including such offenses that
occur on and off campus;
“(ee) the elements of healthy relationships and the right of individuals to live without the fear of becoming a victim of domestic violence, dating violence, sexual assault, or stalking;

“(ff) bystander intervention; and

“(gg) risk reduction; and

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

“(ii) Possible sanctions or protective measures that such institution may impose following the final determination of an institutional disciplinary procedure regarding domestic violence, dating violence, sexual assault, or stalking.

“(iii) Procedures victims should follow if domestic violence, dating violence, sexual assault, or stalking occurs, including information about the importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order.
“(iv) Information about to whom the alleged domestic violence, dating violence, sexual assault, or stalking should be reported.

“(v) Procedures for institutional disciplinary action in cases of an alleged incident of domestic violence, dating violence, sexual assault, or stalking, which shall include a clear statement that—

“(I) such proceedings shall—

“(aa) provide a prompt and equitable resolution;

“(bb) be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability; and

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

“(II) the accuser and the accused are entitled to the same opportunities to have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice;
“(III) both the accuser and the accused shall be simultaneously informed, in writing—

“(aa) of the results of any institutional disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault, or stalking;

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

“(cc) of any change to such results that occurs prior to the time that such results become final; and

“(dd) when such results become final; and

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

“(aa) shall include only the name of the accused, the violation alleged, and whether any institutional rules or code sections were violated, essential findings supporting such result, and any sanction imposed by the institution against the accused (including a description of any disciplinary action taken by the institution, the date of the imposition of such action, and the duration of such action);
“(bb) shall include a notice of whether an appeal will be permitted, a notice of the grounds for appeal, and a clear statement that if an appeal is permitted, both the accuser and the accused shall be entitled to appeal; and

“(cc) shall not include identifying information about the victim.

“(vi) Policies and procedures to ensure that a student or employee who reports to the institution that he or she has been the victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the victim chooses to report the crime to campus police or local law enforcement, shall receive information about options for, and available assistance in, changing academic, living, transportation, and working situations, if such assistance is requested by the student or employee and if such accommodations are reasonably available.”;

(7) in paragraph (9), by striking “The Secretary” and inserting “The Secretary, in consultation with the Attorney General of the United States (through the Director of the Office on Violence Against Women),”;

(8) by striking paragraph (14);
(9) by redesignating paragraphs (15) through (18) as paragraphs (14) through (17), respectively;

(10) by striking paragraph (15), as redesignated by paragraph (9), and inserting the following:

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

“(B) The Secretary shall seek the advice and counsel of the Attorney General of the United States (through the Director of the Office on Violence Against Women) and the Secretary of Health and Human Services (through the Director of the Family Violence Prevention and Services Office) concerning the development, and dissemination to institutions of higher education, of best practices information about preventing and responding to incidents of domestic violence, dating violence, sexual assault, and stalking, including elements of institutional policies that have proven successful based on evidence-based outcome measurements.”; and

(11) by striking paragraph (16), as redesignated by paragraph (9), and inserting the following:

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

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect
with respect to the annual security report under section
1092(f)(1)) prepared by an institution of higher education
1 calendar year after the date of enactment of this Act,
and each subsequent calendar year.

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