

112TH CONGRESS
1ST SESSION

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.

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:

8 (1) Between 20 and 25 percent of female stu-
9 dents will experience some form of sexual assault

1 during their years at an institution of higher edu-
2 cation, and nearly 3 percent of all such women be-
3 come victims of either attempted or completed rape
4 in each 9-month academic year.

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

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

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

24 (5) Students are more likely to report a sexual
25 assault when they know how to report a sexual as-

1 sault and how a school will respond if such a report
2 is made, yet fewer than half of the institutions of
3 higher education in the United States have written
4 policies for filing criminal charges and campus re-
5 ports related to sexual assault.

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

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

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

23 (9) According to campus administrators, the re-
24 porting of sexual assaults would be facilitated if in-
25 stitutions of higher education provided services for

1 victims, written law enforcement response proce-
 2 dures, new student orientation, and campus-wide
 3 publicity about past crimes.

4 **SEC. 3. CAMPUS SEXUAL VIOLENCE, DOMESTIC VIOLENCE,**
 5 **DATING VIOLENCE, AND STALKING EDU-**
 6 **CATION AND PREVENTION.**

7 Section 485(f) of the Higher Education Act of 1965
 8 (20 U.S.C. 1092(f)) is amended—

9 (1) in paragraph (1)—

10 (A) in the matter preceding subparagraph

11 (A)—

12 (i) by striking “on August 1, 1991,
 13 begin to”; and

14 (ii) by striking “beginning September
 15 1, 1992, and each year thereafter,” and in-
 16 sserting “, by October 1 of each year,”;

17 (B) by striking subparagraph (A) and in-
 18 sserting the following:

19 “(A) A statement of current campus policies re-
 20 garding procedures and facilities for students, em-
 21 ployees, and others in the campus community to re-
 22 port criminal actions or other emergencies occurring
 23 on campus, on public property, and in or on non-
 24 campus buildings or property, and policies con-
 25 cerning the institution’s response to such reports.”;

1 (C) in subparagraph (C)(iii), by striking
2 the period at the end and adding at the end “,
3 when the victim of such crime elects to make
4 such a report.”;

5 (D) in subparagraph (F)—

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

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

10 (iii) by adding at the end the fol-
11 lowing:

12 “(iii) of domestic violence, dating violence,
13 and stalking incidents that were reported to
14 campus security authorities or local police agen-
15 cies.”; and

16 (E) in subparagraph (I), by striking “sec-
17 tion 170101(j)” through the end, and inserting
18 “the Jacob Wetterling, Megan Nicole Kanka,
19 and Pam Lychner Sex Offender Registration
20 and Notification Program established under the
21 Adam Walsh Child Protection and Safety Act of
22 2006 (42 U.S.C. 16901 et seq.) concerning reg-
23 istered sex offenders enrolled or working at the
24 institution may be obtained, such as the law en-
25 forcement office of the institution, a local law

1 enforcement agency with jurisdiction for the
2 campus, or a Web site.”;

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

6 (3) in paragraph (5)(A), by striking “Sep-
7 tember 1, 2000” and inserting “December 31,
8 2012”;

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

11 “(6)(A) In this subsection:

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

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

21 “(II) statistics on the outcomes of discipli-
22 nary proceedings for such cases at such institu-
23 tion; and

1 “(III) risk factors associated with such
2 cases, including physically, sexually, and psy-
3 chologically controlling behavior.

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

10 “(iii) The term ‘campus’ means—

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

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

24 “(iv) The term ‘dating violence’ has the mean-
25 ing given the term in section 40002(a) of the Vio-

1 lence Against Women Act of 1994 (42 U.S.C.
2 13925(a)).

3 “(v) The term ‘domestic violence’ has the mean-
4 ing given the term in section 40002(a) of the Vio-
5 lence Against Women Act of 1994 (42 U.S.C.
6 13925(a)).

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

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

12 “(II) any building or property (other than
13 a branch campus) owned or controlled by an in-
14 stitution of higher education that is used in di-
15 rect support of, or in relation to, the institu-
16 tion’s educational purposes, is used by students,
17 and is not within the same reasonably contig-
18 uous geographic area of the institution.

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

24 “(viii) The term ‘public property’ means all
25 public property that is within the same reasonably

1 contiguous geographic area of the institution, such
2 as a sidewalk, a street, other thoroughfare, or park-
3 ing facility, and is adjacent to a facility owned or
4 controlled by the institution if the facility is used by
5 the institution in direct support of, or in a manner
6 related to the institution’s educational purposes.

7 “(ix) The term ‘results’ means a decision or de-
8 termination, made by an honor court or council,
9 committee, commission, or other entity authorized to
10 resolve disciplinary matters within an institution of
11 higher education.

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

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

19 “(xii) The term ‘stalking’ has the meaning
20 given the term in section 40002(a) of the Violence
21 Against Women Act of 1994 (42 U.S.C.
22 13925(a)).”;

23 (5) in paragraph (7)—

1 (A) by striking “paragraph (1)(F)” and in-
2 serting “clauses (i) and (ii) of paragraph
3 (1)(F)”;

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

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

13 “(8)(A) Each institution of higher education partici-
14 pating in any program under this title, other than a for-
15 eign institution of higher education, shall develop and dis-
16 tribute as part of the report described in paragraph (1)
17 a statement of policy regarding—

18 “(i) such institution’s programs to prevent do-
19 mestic violence, dating violence, sexual assault, or
20 stalking; and

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

1 “(I) providing, in writing, to each student
2 or employee who reports to the institution that
3 he or she has been a victim of domestic vio-
4 lence, dating violence, sexual assault, or stalk-
5 ing—

6 “(aa) an explanation of—

7 “(AA) the right of victims of
8 such offenses to notify proper law en-
9 forcement authorities, including on-
10 campus and local police;

11 “(BB) the option to be assisted
12 by campus authorities in notifying
13 such authorities if the student or em-
14 ployee so chooses; and

15 “(CC) the right of victims of
16 such offenses to not notify such au-
17 thorities;

18 “(bb) an explanation of the right of
19 victims of such offenses, when relevant, to
20 seek an order of protection, no contact
21 order, restraining order, or similar lawful
22 order issued by a criminal, civil, or tribal
23 court or enforce an order already in exist-
24 ence;

1 “(cc) contact information for victim
2 advocacy, counseling, health, mental
3 health, legal assistance, and other services
4 available to victims both on-campus and in
5 the local community;

6 “(dd) an explanation of the avail-
7 ability of a victims’ rights advocate to as-
8 sist in reporting an incident and in locat-
9 ing and utilizing victim services;

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

12 “(ff) suggested safety planning (in-
13 cluding a change in residence, class sched-
14 ule, and travel) and individuals at the in-
15 stitution and in the local community who
16 can assist the victim in implementing safe-
17 ty planning;

18 “(II) a description of how such institution
19 shall help to enforce any order of protection, no
20 contact order, restraining order, or similar law-
21 ful order issued by any criminal, civil, or tribal
22 court, if the victim has informed such institu-
23 tion of such order; and

24 “(III) information about how the institu-
25 tion will protect the confidentiality of victims,

1 including how publicly available recordkeeping
2 will be accomplished without the inclusion of
3 identifying information about the victim, to the
4 extent permissible by law.

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

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

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

14 “(aa) a statement that the institution
15 of higher education prohibits the offenses
16 of domestic violence, dating violence, sex-
17 ual assault, and stalking;

18 “(bb) the definition of domestic vio-
19 lence, dating violence, sexual assault, and
20 stalking;

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

23 “(dd) information about reporting
24 such offenses, including such offenses that
25 occur on and off campus;

1 “(ee) the elements of healthy relation-
2 ships and the right of individuals to live
3 without the fear of becoming a victim of
4 domestic violence, dating violence, sexual
5 assault, or stalking;

6 “(ff) bystander intervention; and

7 “(gg) risk reduction; and

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

12 “(ii) Possible sanctions or protective measures
13 that such institution may impose following the final
14 determination of an institutional disciplinary proce-
15 dure regarding domestic violence, dating violence,
16 sexual assault, or stalking.

17 “(iii) Procedures victims should follow if domes-
18 tic violence, dating violence, sexual assault, or stalk-
19 ing occurs, including information about the impor-
20 tance of preserving evidence as may be necessary to
21 the proof of criminal domestic violence, dating vio-
22 lence, sexual assault, or stalking, or in obtaining a
23 protection order.

1 “(iv) Information about to whom the alleged
2 domestic violence, dating violence, sexual assault, or
3 stalking should be reported.

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

8 “(I) such proceedings shall—

9 “(aa) provide a prompt and equitable
10 resolution;

11 “(bb) be conducted by officials who
12 receive annual training on the issues re-
13 lated to domestic violence, dating violence,
14 sexual assault, and stalking and how to
15 conduct an investigation and hearing proc-
16 ess that protects the safety of victims and
17 promotes accountability; and

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

20 “(II) the accuser and the accused are enti-
21 tled to the same opportunities to have others
22 present during an institutional disciplinary pro-
23 ceeding, including the opportunity to be accom-
24 panied to any related meeting or proceeding by
25 an advisor of their choice;

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

3 “(aa) of the results of any institu-
4 tional disciplinary proceeding that arises
5 from an allegation of domestic violence,
6 dating violence, sexual assault, or stalking;

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

9 “(cc) of any change to such results
10 that occurs prior to the time that such re-
11 sults become final; and

12 “(dd) when such results become final;
13 and

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

16 “(aa) shall include only the name of
17 the accused, the violation alleged, and
18 whether any institutional rules or code sec-
19 tions were violated, essential findings sup-
20 porting such result, and any sanction im-
21 posed by the institution against the ac-
22 cused (including a description of any dis-
23 ciplinary action taken by the institution,
24 the date of the imposition of such action,
25 and the duration of such action);

1 “(bb) shall include a notice of whether
2 an appeal will be permitted, a notice of the
3 grounds for appeal, and a clear statement
4 that if an appeal is permitted, both the ac-
5 cuser and the accused shall be entitled to
6 appeal; and

7 “(cc) shall not include identifying in-
8 formation about the victim.

9 “(vi) Policies and procedures to ensure that a
10 student or employee who reports to the institution
11 that he or she has been the victim of domestic vio-
12 lence, dating violence, sexual assault, or stalking, re-
13 gardless of whether the victim chooses to report the
14 crime to campus police or local law enforcement,
15 shall receive information about options for, and
16 available assistance in, changing academic, living,
17 transportation, and working situations, if such as-
18 sistance is requested by the student or employee and
19 if such accommodations are reasonably available.”;

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

25 (8) by striking paragraph (14);

1 (9) by redesignating paragraphs (15) through
2 (18) as paragraphs (14) through (17), respectively;

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

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

10 “(B) The Secretary shall seek the advice and counsel
11 of the Attorney General of the United States (through the
12 Director of the Office on Violence Against Women) and
13 the Secretary of Health and Human Services (through the
14 Director of the Family Violence Prevention and Services
15 Office) concerning the development, and dissemination to
16 institutions of higher education, of best practices informa-
17 tion about preventing and responding to incidents of do-
18 mestic violence, dating violence, sexual assault, and stalk-
19 ing, including elements of institutional policies that have
20 proven successful based on evidence-based outcome meas-
21 urements.”; and

22 (11) by striking paragraph (16), as redesign-
23 nated by paragraph (9), and inserting the following:

24 “(16) No officer, employee, or agent of an institution
25 participating in any program under this title shall retali-

1 ate, intimidate, threaten, coerce, or otherwise discriminate
2 against any individual for exercising their rights or re-
3 sponsibilities under any provision of this subsection.”.

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

5 The amendments made by this Act shall take effect
6 with respect to the annual security report under section
7 485(f)(1) of the Higher Education Act of 1965 (20 U.S.C.
8 1092(f)(1)) prepared by an institution of higher education
9 1 calendar year after the date of enactment of this Act,
10 and each subsequent calendar year.

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