

113TH CONGRESS
1ST SESSION

S. 128

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

JANUARY 24 (legislative day, JANUARY 3), 2013

Mr. CASEY (for himself, Mr. BENNET, Mr. LAUTENBERG, Ms. MIKULSKI, Mrs. MURRAY, Mrs. BOXER, Ms. KLOBUCHAR, and Mr. BEGICH) 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”.

1 **SEC. 2. CAMPUS SEXUAL VIOLENCE, DOMESTIC VIOLENCE,**
2 **DATING VIOLENCE, AND STALKING EDU-**
3 **CATION AND PREVENTION.**

4 (a) IN GENERAL.—Section 485(f) of the Higher Edu-
5 cation Act of 1965 (20 U.S.C. 1092(f)) is amended—

6 (1) in paragraph (1)—

7 (A) in subparagraph (C)(iii), by striking
8 the period at the end and inserting “, when the
9 victim of such crime elects or is unable to make
10 such a report.”; and

11 (B) in subparagraph (F)—

12 (i) in clause (i)(VIII), by striking
13 “and” after the semicolon;

14 (ii) in clause (ii)—

15 (I) by striking “sexual orienta-
16 tion” and inserting “national origin,
17 sexual orientation, gender identity,”;
18 and

19 (II) by striking the period and
20 inserting “; and”; and

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

23 “(iii) of domestic violence, dating vio-
24 lence, and stalking incidents that were re-
25 ported to campus security authorities or
26 local police agencies.”;

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

4 (3) in paragraph (6)(A)—

5 (A) by redesignating clauses (i), (ii), and
6 (iii) as clauses (ii), (iii), and (iv), respectively;

7 (B) by inserting before clause (ii), as re-
8 designated by subparagraph (A), the following:

9 “(i) The terms ‘dating violence’, ‘domestic vio-
10 lence’, and ‘stalking’ have the meaning given such
11 terms in section 40002(a) of the Violence Against
12 Women Act of 1994 (42 U.S.C. 13925(a)).”;

13 (C) by inserting after clause (iv), as redesi-
14 gnated by subparagraph (A), the following:

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

19 (4) in paragraph (7)—

20 (A) by striking “paragraph (1)(F)” and in-
21 serting “clauses (i) and (ii) of paragraph
22 (1)(F)”;

23 (B) by inserting after “Hate Crime Statis-
24 tics Act.” the following: “For the offenses of
25 domestic violence, dating violence, and stalking,

1 such statistics shall be compiled in accordance
2 with the definitions used in section 40002(a) of
3 the Violence Against Women Act of 1994 (42
4 U.S.C. 13925(a)).”;

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

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

12 “(i) such institution’s programs to prevent do-
13 mestic violence, dating violence, sexual assault, and
14 stalking; and

15 “(ii) the procedures that such institution will
16 follow once an incident of domestic violence, dating
17 violence, sexual assault, or stalking has been re-
18 ported, including a statement of the standard of evi-
19 dence that will be used during any institutional con-
20 duct proceeding arising from such a report.

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

23 “(i) Education programs to promote the aware-
24 ness of rape, acquaintance rape, domestic violence,

1 dating violence, sexual assault, and stalking, which
2 shall include—

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

6 “(aa) a statement that the institution
7 of higher education prohibits the offenses
8 of domestic violence, dating violence, sex-
9 ual assault, and stalking;

10 “(bb) the definition of domestic vio-
11 lence, dating violence, sexual assault, and
12 stalking in the applicable jurisdiction;

13 “(cc) the definition of consent, in ref-
14 erence to sexual activity, in the applicable
15 jurisdiction;

16 “(dd) safe and positive options for by-
17 stander intervention that may be carried
18 out by an individual to prevent harm or in-
19 tervene when there is a risk of domestic vi-
20 olence, dating violence, sexual assault, or
21 stalking against a person other than such
22 individual;

23 “(ee) information on risk reduction to
24 recognize warning signs of abusive behav-
25 ior and how to avoid potential attacks; and

1 “(ff) the information described in
2 clauses (ii) through (vii); and

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

7 “(ii) Possible sanctions or protective measures
8 that such institution may impose following a final
9 determination of an institutional disciplinary proce-
10 dure regarding rape, acquaintance rape, domestic vi-
11 olence, dating violence, sexual assault, or stalking.

12 “(iii) Procedures victims should follow if a sex
13 offense, domestic violence, dating violence, sexual as-
14 sault, or stalking has occurred, including informa-
15 tion in writing about—

16 “(I) the importance of preserving evidence
17 as may be necessary to the proof of criminal do-
18 mestic violence, dating violence, sexual assault,
19 or stalking, or in obtaining a protection order;

20 “(II) to whom the alleged offense should
21 be reported;

22 “(III) options regarding law enforcement
23 and campus authorities, including notification
24 of the victim’s option to—

1 “(aa) notify proper law enforcement
2 authorities, including on-campus and local
3 police;

4 “(bb) be assisted by campus authori-
5 ties in notifying law enforcement authori-
6 ties if the victim so chooses; and

7 “(cc) decline to notify such authori-
8 ties; and

9 “(IV) where applicable, the rights of vic-
10 tims and the institution’s responsibilities re-
11 garding orders of protection, no contact orders,
12 restraining orders, or similar lawful orders
13 issued by a criminal, civil, or tribal court.

14 “(iv) Procedures for institutional disciplinary
15 action in cases of alleged domestic violence, dating
16 violence, sexual assault, or stalking, which shall in-
17 clude a clear statement that—

18 “(I) such proceedings shall—

19 “(aa) provide a prompt, fair, and im-
20 partial investigation and resolution;

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

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

14 “(aa) the outcome of any institutional
15 disciplinary proceeding that arises from an
16 allegation of domestic violence, dating vio-
17 lence, sexual assault, or stalking;

18 “(bb) the institution’s procedures for
19 the accused and the victim to appeal the
20 results of the institutional disciplinary pro-
21 ceeding;

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

25 “(dd) when such results become final.

1 “(v) Information about how the institution will
2 protect the confidentiality of victims, including how
3 publicly available recordkeeping will be accomplished
4 without the inclusion of identifying information
5 about the victim, to the extent permissible by law.

6 “(vi) Written notification of students and em-
7 ployees about existing counseling, health, mental
8 health, victim advocacy, legal assistance, and other
9 services available for victims both on-campus and in
10 the community.

11 “(vii) Written notification of victims about op-
12 tions for, and available assistance in, changing aca-
13 demic, living, transportation, and working situations,
14 if so requested by the victim and if such accom-
15 modations are reasonably available, regardless of
16 whether the victim chooses to report the crime to
17 campus police or local law enforcement.

18 “(C) A student or employee who reports to an institu-
19 tion of higher education that the student or employee has
20 been a victim of domestic violence, dating violence, sexual
21 assault, or stalking, whether the offense occurred on or
22 off campus, shall be provided with a written explanation
23 of the student or employee’s rights and options, as de-
24 scribed in clauses (ii) through (vii) of subparagraph (B).”;

1 (6) in paragraph (9), by striking “The Sec-
2 retary” and inserting “The Secretary, in consulta-
3 tion with the Attorney General of the United
4 States,”;

5 (7) by striking paragraph (16) and inserting
6 the following:

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

12 “(B) The Secretary shall seek the advice and counsel
13 of the Attorney General of the United States and the Sec-
14 retary of Health and Human Services concerning the de-
15 velopment, and dissemination to institutions of higher
16 education, of best practices information about preventing
17 and responding to incidents of domestic violence, dating
18 violence, sexual assault, and stalking, including elements
19 of institutional policies that have proven successful based
20 on evidence-based outcome measurements.”; and

21 (8) by striking paragraph (17) and inserting
22 the following:

23 “(17) No officer, employee, or agent of an institution
24 participating in any program under this title shall retali-
25 ate, intimidate, threaten, coerce, or otherwise discriminate

1 against any individual for exercising their rights or re-
2 sponsibilities under any provision of this subsection.”.

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

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