

111TH CONGRESS
2D SESSION

S. 4039

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

IN THE SENATE OF THE UNITED STATES

DECEMBER 16, 2010

Mr. CASEY (for himself and Mr. SPECTER) 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, intimate partner 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”.

1 **SEC. 2. CAMPUS SEXUAL VIOLENCE, INTIMATE PARTNER**
2 **VIOLENCE, AND STALKING EDUCATION AND**
3 **PREVENTION.**

4 Section 485(f) of the Higher Education Act of 1965
5 (20 U.S.C. 1092(f)) is amended—

6 (1) by amending paragraph (8) to read as fol-
7 lows:

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

13 “(i) such institution’s sexual assault and other
14 intimate partner violence programs, which shall be
15 aimed at prevention of sex offenses and other inti-
16 mate partner violence, including stalking, dating vio-
17 lence, sexual violence, and domestic violence of-
18 fenses;

19 “(ii) the procedures followed once a sex offense
20 or other intimate partner violence, including stalk-
21 ing, dating violence, sexual violence, or domestic vio-
22 lence offenses has occurred, which shall include—

23 “(I) providing, in writing, to each student
24 or employee who reports to the institution that
25 he or she has been a victim of a sex offense or
26 other intimate partner violence—

1 “(aa) an explanation of the right of
2 victims of such offenses to notify proper
3 law enforcement authorities, including on-
4 campus and local police, and the option to
5 be assisted by campus authorities in noti-
6 fying such authorities, if the student or
7 employee so chooses;

8 “(bb) an explanation of the right of
9 victims of such offenses, when relevant, to
10 obtain an order of protection, no contact
11 order, restraining order, or similar lawful
12 order issued by a criminal or civil court or
13 enforce an order already in existence; and

14 “(cc) contact information for advo-
15 cacy, counseling, health, mental health,
16 legal assistance and other services available
17 to victims both on-campus and in the local
18 community; and

19 “(II) the institution honoring any order of
20 protection, no contact order, restraining order,
21 or similar lawful order issued by any criminal
22 or civil court.

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

1 “(i) Education programs to promote the aware-
2 ness of sex offenses and other intimate partner vio-
3 lence, including stalking, dating violence, sexual vio-
4 lence, and domestic violence offenses, which shall in-
5 clude—

6 “(I) primary prevention and awareness
7 programming for all incoming students and new
8 employees, including information about—

9 “(aa) the definition of consent in sex-
10 ual relationships;

11 “(bb) reporting such sex offenses, in-
12 cluding those offenses occurring on and off
13 campus;

14 “(cc) bystander intervention; and

15 “(dd) risk reduction; and

16 “(II) ongoing prevention and awareness
17 campaigns to students and faculty, including in-
18 formation described in items (aa) through (dd)
19 of subclause (I).

20 “(ii) Possible sanctions to be imposed following
21 the final determination of an institutional discipli-
22 nary procedure regarding sex offenses or other inti-
23 mate partner violence.

24 “(iii) Procedures victims should follow if a sex
25 offense described in clause (ii) occurs, including who

1 should be contacted, the importance of preserving
2 evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense
3 should be reported.
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5 “(iv) Procedures for on-campus disciplinary action in cases of an alleged sexual offense or other intimate partner violence, including stalking, dating violence, sexual violence, or domestic violence offenses,
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9 which shall include a clear statement that—

10 “(I) any accuser shall have the opportunity
11 to request that prompt disciplinary proceedings
12 be initiated against the accused;

13 “(II) such proceedings shall—

14 “(aa) be conducted by officials trained
15 to understand the issues of sex offenses
16 and other intimate partner violence; and

17 “(bb) use the preponderance of the
18 evidence standard;

19 “(III) the accuser and the accused are entitled to the same opportunities to have others
20 present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by
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24 an advisor of their choice; and

1 “(IV) both the accuser and the accused
 2 shall be informed, in writing, of the final results
 3 of any institutional disciplinary proceeding
 4 brought alleging a sex offense or other intimate
 5 partner violence within one business day of such
 6 outcome being reached.

7 “(v) A student or employee who reports to the
 8 institution that he or she have been the victim of a
 9 sex offense or intimate partner violence shall receive
 10 notification of options for, and available assistance
 11 in, changing academic, living, transportation, and
 12 working situations, if such assistance is requested by
 13 the student or employee and if such accommodations
 14 are reasonably available.

15 “(C) Nothing in this paragraph shall be construed to
 16 confer a private right of action upon any person to enforce
 17 the provisions of this paragraph.”;

18 (2) in paragraph (6), by adding at the end of
 19 subparagraph (A) the following new clauses:

20 “(iv) The term ‘intimate partner vio-
 21 lence’—

22 “(I) means any physical, sexual,
 23 or psychological harm against an indi-
 24 vidual by a current or former partner
 25 or spouse of the individual;

1 “(II) includes stalking, dating vi-
2 olence, sexual violence, or domestic vi-
3 olence offense;

4 “(III) includes such harm against
5 individuals in heterosexual and same-
6 sex relationships; and

7 “(IV) does not require sexual in-
8 timacy between the individual and
9 such partner or spouse.

10 “(v) The term ‘stalking’ means an in-
11 dividual willfully and repeatedly engaging
12 in a knowing course of harassing conduct
13 directed at another individual that reason-
14 ably and seriously alarms, torments, or ter-
15 rorizes such individual.

16 “(vi) The term ‘primary prevention’
17 means programming and strategies in-
18 tended to stop sexual and intimate partner
19 violence before it occurs through the
20 changing of social norms and other ap-
21 proaches.

22 “(vii) The term ‘awareness program-
23 ming’ means any program designed to
24 alert students to the prevalence of intimate

1 partner violence, sexual violence, and stalk-
2 ing, including—

3 “(I) discussions of the nature
4 and number of cases of intimate part-
5 ner violence, sexual violence, forcible
6 sex offenses, and stalking reported at
7 an institution of higher education in
8 the 3 preceding calendar years;

9 “(II) statistics on the outcomes
10 of disciplinary proceedings for such
11 cases at such institution; and

12 “(III) risk factors associated with
13 such cases, including physically, sexu-
14 ally, and psychologically controlling
15 behavior.

16 “(viii) The term ‘bystander interven-
17 tion’ means safe and positive options that
18 may be carried out by an individual to pre-
19 vent or intervene when there is a risk of
20 sexual violence against a person other than
21 such individual.

22 “(ix) The term ‘risk reduction’ means
23 options for recognizing warning signs of
24 abusive personalities and how to fight back
25 against potential attackers.

1 “(x) The term ‘final results’ means a
2 decision or determination, made by an
3 honor court or council, committee, commis-
4 sion, or other entity authorized to resolve
5 disciplinary matters within the institution.
6 The disclosure of final results shall include
7 only the name of the accused, the violation
8 alleged (including any institutional rules or
9 code sections that were allegedly violated),
10 essential findings supporting such final re-
11 sult, and any sanction imposed by the in-
12 stitution against the accused (including a
13 description of any disciplinary action taken
14 by the institution, the date of the imposi-
15 tion of such action, and the duration of
16 such action).”; and

17 (3) by adding at the end of paragraph (16) the
18 following new sentence: “The Secretary shall seek
19 the advice and counsel of the Attorney General con-
20 cerning the development, and dissemination to insti-
21 tutions of higher education, of best practices infor-
22 mation about preventing and responding to incidents
23 of sex offenses, forcible and nonforcible, and other
24 intimate partner violence including stalking, dating

1 violence, sexual violence, and domestic violence of-
2 fenses.”.

3 **SEC. 3. EFFECTIVE DATE.**

4 The amendments made by this Act shall take effect
5 with respect to any annual security report under section
6 485(f)(1) of the Higher Education Act of 1965 (20 U.S.C.
7 1092(f)(1)) prepared by an institution of higher education
8 in calendar year 2012 and any subsequent calendar year.

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