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113TH CONGRESS
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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

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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 Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Campus Sexual Violence Elimination Act''.

SEC. 2. CAMPUS SEXUAL VIOLENCE, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING EDUCATION AND PREVENTION.

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

(1) in paragraph (1)—

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

(B) in subparagraph (F)—

(i) in clause (i)(VIII), by striking "and" after the semicolon;

(ii) in clause (ii)—

(I) by striking "sexual orientation" and inserting "national origin, sexual orientation, gender identity,"; and

(II) by striking the period 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.";

(2) in paragraph (3), by inserting ", that withholds the names of victims as confidential," after "that is timely";

(3) in paragraph (6)(A)—

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

(B) by inserting before clause (ii), as redesignated by subparagraph (A), the following:

"(i) The terms 'dating violence', 'domestic violence', and 'stalking' have the meaning given such terms in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).''; and

(C) by inserting after clause (iv), as redesignated by subparagraph (A), the following:

"(v) 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.'';

(4) 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)).'';

(5) 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, and 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, including a statement of the standard of evidence that will be used during any institutional conduct proceeding arising from such a report.

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

''(i) Education programs to promote the awareness of rape, acquaintance rape, domestic violence,

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

"(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 violence, dating violence, sexual assault, and stalking in the applicable jurisdiction;

"(cc) the definition of consent, in reference to sexual activity, in the applicable jurisdiction;

"(dd) safe and positive options for bystander intervention 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;

"(ee) information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks; and

''(ff) the information described in clauses (ii) through (vii); and

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

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

''(iii) Procedures victims should follow if a sex offense, domestic violence, dating violence, sexual assault, or stalking has occurred, including information in writing about—

''(I) 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;

''(II) to whom the alleged offense should be reported;

''(III) options regarding law enforcement and campus authorities, including notification of the victim's option to—

''(aa) notify proper law enforcement authorities, including on-campus and local police;

''(bb) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and

''(cc) decline to notify such authorities; and

''(IV) where applicable, the rights of victims and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.

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

''(I) such proceedings shall—

''(aa) provide a prompt, fair, and impartial investigation and 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 proc-

ess 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; and

''(III) both the accuser and the accused shall be simultaneously informed, in writing, of—

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

''(bb) the institution's procedures for the accused and the victim to appeal the results of the institutional disciplinary proceeding;

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

''(dd) when such results become final.

''(v) 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.

''(vi) Written notification of students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community.

''(vii) Written notification of victims about options for, and available assistance in, changing academic, living, transportation, and working situations, if so requested by the victim and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

''(C) A student or employee who reports to an institution of higher education that the student or employee has been a victim of domestic violence, dating violence, sexual assault, or stalking, whether the offense occurred on or off campus, shall be provided with a written explanation of the student or employee's rights and options, as described in clauses (ii) through (vii) of subparagraph (B).'';

(6) in paragraph (9), by striking ''The Secretary'' and inserting ''The Secretary, in consultation with the Attorney General of the United States,'';

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

''(16)(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 and the Secretary of Health and Human Services 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

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

''(17) No officer, employee, or agent of an institution participating in any program under this title shall retaliate, intimidate, threaten, coerce, or otherwise discriminate

against any individual for exercising their rights or responsibilities under any provision of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to the annual security report under section 485(f)(1) of the Higher Education Act of 1965 (20 U.S.C. 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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