

SENATE No. 2580

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

SENATE, February 4, 2020.

The committee on Higher Education, to whom were referred the petition (accompanied by bill, Senate, No. 736) of William N. Brownsberger, Lori A. Ehrlich, Michael O. Moore, Joan B. Lovely and other members of the General Court for legislation to create a sexual assault climate survey for Massachusetts colleges and universities; the petition (accompanied by bill, Senate, No. 747) of Adam G. Hinds for legislation relative to disciplinary notations on college transcripts; and the petition (accompanied by bill, Senate, No. 764) of Michael O. Moore, Joan B. Lovely, Barry R. Finegold, William N. Brownsberger and other members of the General Court for legislation relative to sexual violence on higher education campuses, reports recommending that the accompanying bill (Senate, No. 2580) ought to pass.

For the committee,
Anne M. Gobi

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**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to sexual violence on higher education campuses.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 6, as appearing in the 2018 official edition, of the General Laws is
2 hereby amended by inserting after section 168C the following sections:-

3 Section 168D. (a) For the purposes of this section, the following terms shall have the
4 following meanings:-

5 “Institution”, a public or independent institution of higher education located in the
6 commonwealth and authorized to grant degrees pursuant to any general or special law.

7 “Sexual misconduct”, an incident of sexual violence, dating violence, domestic violence,
8 gender-based violence, violence based on sexual orientation or gender identity or expression,
9 sexual assault, sexual harassment and stalking.

10 (b) Each institution shall conduct a sexual misconduct climate survey of all students at
11 said institution at least once every four years.

12 (c) There shall be a task force on sexual misconduct surveys. The task force shall consist
13 of the following 23 members: the commissioner of higher education, or a designee, who shall
14 serve as co-chair; the commissioner of public health or a designee, who shall serve as co-chair;
15 the secretary of the executive office of public safety and security, or a designee; the attorney
16 general, or a designee; 1 person appointed by the speaker of the house; 1 person appointed by the
17 senate president; and 17 other members who shall be appointed by the governor, 1 of whom shall
18 be a student attending a public institution of higher education in the commonwealth, 1 of whom
19 shall be a student attending a private institution of higher education in the commonwealth, 1 of
20 whom shall be a representative of the University of Massachusetts recommended by the
21 president of the university, 1 of whom shall be a representative of the state universities
22 recommended by the council of presidents of the state university system, 1 of whom shall be a
23 representative of the community colleges recommended by Massachusetts Association of
24 Community Colleges executive office, 2 of whom shall be representatives of private colleges and
25 universities recommended by the Association of Independent Colleges and Universities in
26 Massachusetts, Inc., 1 of whom shall be a representative recommended by Jane Doe, Inc., 1 of
27 whom shall be a representative recommended by the Victim Rights Law Center, Inc., 2 of whom
28 shall be representatives recommended by rape crisis and counseling centers located in an urban
29 and rural region of the commonwealth, 2 of whom shall be representatives recommended by
30 community-based sexual assault crisis service centers funded by the department of public health,
31 1 of whom shall be a representative recommended by the Massachusetts commission on lesbian,
32 gay, bisexual, transgender, queer and questioning youth, 1 of whom shall be a representative
33 recommended by Every Voice Coalition or any successor organization of Every Voice Coalition,
34 1 of whom shall be a researcher with experience in the development and design of sexual

35 misconduct climate surveys, and 1 of whom shall be a researcher of statistics, data analytics or
36 econometrics with experience in higher education survey analysis.

37 (d) The task force shall develop for the commissioner of higher education model
38 questions for a sexual misconduct climate survey for distribution to institutions under this
39 section, and shall provide the commissioner with any related recommendations respecting the
40 content, timing and application of the surveys. The task force shall deliver its model survey
41 questions and related recommendations, including but not limited to recommendations on
42 achieving statistically valid response rates, to the commissioner of higher education.

43 (e) In developing the model sexual misconduct climate survey questions, the task force
44 shall: (i) utilize best practices from peer-reviewed research and consult with individuals with
45 expertise in the development and use of sexual misconduct climate surveys by institutions of
46 higher education; (ii) review sexual misconduct climate surveys which have been developed and
47 previously utilized by institutions of higher education; (iii) provide opportunities for written
48 comment from organizations that work directly with victims and survivors of sexual misconduct
49 to ensure the adequacy and appropriateness of the proposed content; (iv) consult with institutions
50 of higher education on strategies for optimizing the effectiveness of the survey; (v) provide
51 opportunities for written comment from advocates to ensure that the survey impartially
52 addresses campus sexual misconduct; and (vi) account for the diverse needs and differences of
53 the commonwealth's institutions of higher education.

54 (f) The sexual misconduct climate surveys shall gather information on topics including,
55 but not limited to:

56 (i) the number of reported and unreported incidents of sexual misconduct at the
57 institution of higher education;

58 (ii) when and where incidents of sexual misconduct occurred;

59 (iii) student awareness of institutional policies and procedures related to campus sexual
60 assault;

61 (iv) whether a victim reported the sexual misconduct, and if so, to which campus resource
62 such report was made;

63 (iv) whether a victim was informed or referred to local, state, campus or other resources,
64 or victim support services, including appropriate medical care and legal services;

65 (v) whether a victim was provided with information about resources for protection from
66 retaliation, access to school-based accommodations, civil justice and criminal justice remedies;

67 (vi) contextual factors, such as the involvement of force, incapacitation or coercion; (vii)
68 demographic information that could be used to identify at-risk groups;

69 (viii) perceptions of campus safety among members of the campus community and
70 confidence in the institution of higher education's ability to protect against and respond to
71 incidents of sexual misconduct.

72 (g) The commissioner of higher education shall review and approve the model sexual
73 misconduct climate survey questions recommended by the task force on sexual misconduct
74 climate surveys, and thereafter the commissioner shall periodically review and make
75 recommendations for changes to the model sexual misconduct climate survey questions. The
76 commissioner of higher education shall provide a copy of the model sexual misconduct climate

77 survey questions to all institutions; provided further, however, that an institution may develop
78 and use its own campus-specific surveys as long as such survey is designed to provide the
79 institution with data to inform policies to prevent and respond to sexual misconduct and includes
80 the model survey questions.

81 (h) Within 120 days after completion and analysis of a sexual misconduct climate survey,
82 each institution shall post a summary of the results on the institution's website.

83 (i) The model sexual misconduct climate survey, and campus-specific surveys developed
84 and implemented by individual institutions of higher education, shall collect anonymous
85 responses and shall prohibit the disclosure of identifying information.

86 Section 168E.

87 (a) For the purposes of this section, the following terms shall have the following
88 meanings:-

89 "Institution", a public or independent institution of higher education located in the
90 commonwealth and authorized to grant degrees pursuant to any general or special law.

91 "Reporting party", a student or employee of the institution who reports being subject to
92 an incident of sexual misconduct to the institution.

93 "Responding party", a student or employee of the institution who has been accused of an
94 alleged incident of sexual misconduct.

95 "Responsible employee", any employee who has the authority to take action to redress
96 sexual misconduct; who has been given the duty of reporting incidents of sexual misconduct by

97 students to the Title IX coordinator or other appropriate school designee; or whom a student
98 could reasonably believe has this authority or duty.

99 “Sexual misconduct”, an incident of sexual violence, dating violence, domestic violence,
100 gender-based violence, violence based on sexual orientation or gender identity or expression,
101 sexual assault, sexual harassment and stalking.

102 (b) Each institution shall adopt policies on sexual misconduct involving students or
103 employees of the institution that comport with the best practices and current professional
104 standards and shall establish procedures for regularly reviewing and updating the policies. The
105 policies shall be made available in writing, upon request, to an applicant, student or employee of
106 the institution and shall be publicly available on the website in an accessible format. The
107 policies shall be developed in coordination with the institution’s Title IX coordinator and may
108 consider input from various internal and external entities including, but not limited to
109 institutional administrators, personnel affiliated with on-campus and off-campus health care
110 centers, personnel affiliated with on-campus, when available, and local, community-based rape
111 crisis centers and domestic violence programs, confidential resources advisors, residence life
112 staff, students, the department of state police and the police department and the district attorney
113 having jurisdiction in the city or town wherein the institution’s primary campus is located. The
114 policies shall include, but not be limited to:

115 (i) procedures by which students and employees at the institution may report or disclose
116 incidents of sexual misconduct regardless of where the offense occurred;

117 (ii) information on where to receive immediate emergency assistance following an
118 incident of sexual misconduct which shall include, but not be limited to, contact information for

119 seeking medical treatment on campus, if available, and off campus and information related to
120 preserving evidence;

121 (iii) descriptions of the types of counseling and health, safety, academic and other support
122 services available from the institution within the local community or region or through a local
123 community-based rape crisis center or domestic violence program, including contact
124 information;

125 (iv) information on the rights of students and employees to: (1) notify or decline to notify
126 law enforcement, including campus, local and state police, of an alleged incident of sexual
127 misconduct; (2) receive assistance from campus authorities in making any such notification; (3)
128 obtain a court-issued protective order or institution issued no-contact orders against an alleged
129 perpetrator of the assault, stalking or violence; and (4) utilize concurrently the institution's
130 process for investigating sexual misconduct complaints and any external civil or criminal
131 processes available to them.

132 (v) Supportive or protective measures reasonably available from the institution which
133 shall include, but not be limited to, options for changing academic, living, campus transportation
134 or working arrangements in response to an alleged incident of sexual misconduct, regardless of
135 where the conduct occurred or whether such conduct occurred outside of an institution's
136 programs or activities, and regardless of whether a complaint is filed in accordance with the
137 institution's policy for resolving complaints; how to request such protective measures; and the
138 process to have any such measures reviewed;

139 (vi) procedures for students to notify the institution that a protective order has been issued
140 under state or federal law and the institution's responsibilities upon receipt of such notice.

141 (vii) a summary of the institution's procedures for resolving complaints of sexual
142 misconduct promptly and equitably, including clear statements advising students:

143 (1) that notice shall be given to the responding party which shall include, but not be
144 limited to, the date, time and location, if known, and a specific statement of which policies were
145 allegedly violated and by what actions; (2) that an impartial investigation, including any hearings
146 and resulting disciplinary proceedings, shall be conducted by an individual who receives not less
147 than annual training on issues relating to sexual misconduct, investigatory procedures and
148 hearing procedures to protect the safety and rights of students and promote accountability; (3)
149 that the responding party is presumed to be innocent of the allegations until each element of the
150 alleged offence or offenses have been proven by the institution; (4) that both parties shall be
151 provided equal opportunities to inspect and review evidence obtained as part of the investigation
152 that is directly related to the allegations; (5) that the reporting party of an alleged incident of
153 sexual misconduct and the responding party may be accompanied by and represented by an
154 advisor or support person of their choice, which may include an advocate or counsel, to meet
155 with the institution's investigator or other fact finder and may consult with an advisor or support
156 person, which may include an advocate or counsel, during any meetings and disciplinary
157 proceedings; provided, however, that the institution may establish rules regarding how the
158 proceedings will be conducted which may include guidelines on the extent to which the advisor
159 or support person for each party may participate in a meeting or disciplinary proceeding and any
160 limitations on participation which shall apply equally to both parties; and provided further, that
161 the institution shall adopt reasonable measures to provide for the involvement of the advisor or
162 support person for each party but the availability of the advisor or support person shall not
163 significantly delay a meeting or disciplinary proceeding; (6) of the standard of evidence used to

164 resolve complaints; (7) that the reporting party and the responding party shall be provided with a
165 copy of the institution's policies regarding the submission and consideration of evidence that
166 may be used during a disciplinary proceeding and shall have equal opportunity to present
167 evidence and witnesses on their behalf during a disciplinary proceeding; provided, however, that
168 each party shall be provided with timely and equal access to relevant evidence that shall be used
169 in the determination of a discipline; (8) that there may be restrictions on evidence considered by
170 the fact finder including, but not limited to, the use of evidence of prior sexual activity or
171 character witnesses, provided, however, that evidence of prior sexual activity may be allowed
172 when it is evidence of the reporting party's recent conduct alleged to be the cause of any physical
173 feature, characteristic, or condition of the reporting party or when the exclusion of which would
174 violate the constitutional rights of the responding party; (9) that the reporting party and the
175 responding party shall not be allowed to directly question each other during disciplinary
176 proceedings; (10) that the reporting party and the responding party shall be informed in writing
177 of the results of a disciplinary proceeding not later than 7 business days after a final
178 determination of a complaint, not including any time for appeal, unless good cause for additional
179 time is shown, and they shall be informed of any process for appealing the decision; (11) that if
180 an institution offers an appeal as a result of procedural errors, previously unavailable relevant
181 evidence that could significantly impact the outcome of a case or where the sanction is
182 disproportionate to the findings, the reporting party and the responding party shall be provided
183 with an equal opportunity to appeal decisions regarding responsibility or sanctions; and (12) that
184 the institution shall not disclose the identity of the reporting party and the responding party,
185 except as necessary to carry out a disciplinary process or as permitted under state or federal law.

186 (viii) a summary of the institution's employee disciplinary process as it pertains to sexual
187 misconduct;

188 (ix) the range of sanctions or penalties the institution may impose on students and
189 employees found responsible for a violation of the applicable institutional policy prohibiting acts
190 of sexual misconduct; and

191 (x) a summary of the institution's policy on retaliation, noting that the university
192 prohibits retaliation against anyone who reports sexual misconduct, who assists another in
193 making a report, or who participates in an investigation of a report.

194 (c) Each institution shall adopt a memorandum of understanding with local law
195 enforcement agencies to establish the respective roles and responsibilities of each party related to
196 the prevention of and response to on-campus and off-campus sexual misconduct. Institutions
197 and local law enforcement agencies shall develop policies and procedures that comply with all
198 applicable confidentiality and privacy laws and: (i) set out the jurisdiction of the local law
199 enforcement agencies based on criteria such as location and type of incident and provide for
200 cross-jurisdictional or multi-jurisdictional response and investigation, as appropriate; (ii)
201 establish protocols, as permitted by federal and state law, for cases where a student consents to
202 the release of relevant documentation and information generated or acquired during local law
203 enforcement or campus police investigations; and (iii) methods for notifying the appropriate
204 district attorney's office. In those instances where an institution is subject to the jurisdiction of
205 more than one local law enforcement agency, one memorandum of understanding among the
206 institution and the local law enforcement agencies will comply with this subsection.

207 (d) The commissioner shall appoint within the department of higher education a campus
208 safety advisor to facilitate and advance statewide campus safety at public and private institutions
209 of higher education. Such person shall have relevant public safety policy experience that may
210 include campus public safety policy experience. The advisor shall coordinate, aggregate and
211 disseminate best practices, training opportunities and other resources to enhance campus safety
212 at institutions of higher education.

213 (e) An institution shall make publicly available on its website: (i) the Annual Security
214 Report required under the federal Clery Act relating to sexual misconduct and all information
215 contained in an institution's annual report as required in subsection (r); (ii) the telephone number
216 and website for a local, state or national 24-hour hotline that provides information on sexual
217 misconduct; (iii) the name and contact information for the institution's Title IX coordinator; (iv)
218 the name and contact information for a confidential resources advisor and a description of the
219 role of and services provided by the confidential resources advisor, which shall be updated on a
220 timely basis; and (v) the name and location of the nearest medical facility where an individual
221 may request that a sexual assault evidence collection kit be administered by a trained sexual
222 violence forensic health care provider, including information on transportation options and
223 reimbursement for travel costs, if any; and (vi) in an accessible format, the policy on sexual
224 misconduct. The institution shall also establish the methods for sharing the federal Clery Act
225 reporting requirements with local law enforcement authorities, and for facilitating the issuance of
226 timely warnings and emergency notifications required by the federal Clery Act relative to crimes
227 that may pose a serious threat to the campus or near campus communities.

228 The website of an institution shall also list: (i) reporting options for students; (ii) the
229 process of investigation and adjudication by the institution; and (iii) the process for requesting a

230 possible interim protective measure, when reasonable and available, to change an academic,
231 living, campus transportation or working situation in response to alleged sexual misconduct.

232 (f) Annually, not later than October 15, institutions of higher education shall transmit to
233 students by electronic mail their policies and procedures concerning the reporting and
234 investigation of an allegation of sexual misconduct made by a student or employee of the
235 institution against another student or employee of the institution.

236 (g) Upon receiving a report of sexual misconduct, an institution shall provide a notice of
237 the student's or the employee's rights and options under the institution's sexual misconduct
238 policies to the reporting party and the responding party.

239 (h) An institution that does not provide its own sexual assault crisis service center shall
240 enter into and maintain a memorandum of understanding with a community-based sexual assault
241 crisis service center funded by the department of public health and a community-based domestic
242 violence agency funded by the department of public health to: (i) provide an off-campus
243 alternative for students to receive sexual assault crisis services, including access to a sexual
244 assault nurse examiner if available, or domestic violence crisis services in response to sexual
245 misconduct; (ii) ensure that a student or employee of the institution may access free and
246 confidential counseling and advocacy services either on campus or off campus; and (iii)
247 encourage cooperation and trainings between the institution and the service center or agency to
248 ensure an understanding of the roles that the institution, service center and agency should play in
249 responding to reports and disclosures of sexual misconduct against students and employees of
250 the institution and the institution's protocols for providing support and services to such students
251 and employees.

252 The memorandum of understanding may include an agreement, including a fee structure,
253 for the sexual assault crisis service center or domestic violence agency to provide confidential
254 victim services. Confidential victim services may include: case consultation and training fees for
255 confidential resource advisors; consultation fees for the development and implementation of
256 student education and prevention programs; the development of staff training and prevention
257 curriculum; and confidential on-site office space for an advocate from a sexual assault crisis
258 service center or domestic violence agency to meet with students.

259 The department of higher education may grant a waiver of the memorandum of
260 understanding requirement to an institution that demonstrates that the institution acted in good
261 faith but was unable to obtain a signed memorandum.

262 (i) An institution shall provide a method for anonymously reporting an incident of sexual
263 misconduct that involves a student or employee of the institution. An institution shall notify its
264 students and employees of the institution's obligations under state and federal law to: (i)
265 investigate or address the alleged sexual misconduct, including when the alleged act was
266 reported anonymously; (ii) assess whether the report triggers the need for a timely warning or
267 emergency notification under state or federal regulations, the obligations of which may, in
268 limited circumstances, result in the release of the reporting party's identity; and (iii) disclose the
269 identity of a reporting party to another student, an employee or a third party.

270 (j) A reporting party or a witness who causes an investigation of sexual misconduct shall
271 not be subject to a disciplinary sanction for a violation of the institution's student conduct policy
272 related to the incident unless the institution determines that the report was not made in good faith

273 or that the violation was egregious. An egregious violation shall include, but not be limited to,
274 taking an action that places the health and safety of another person at risk.

275 (k) Each institution shall establish a campus security policy that includes the designation
276 of at least 1 confidential resource advisor. The confidential resource advisor may have another
277 role at the institution; provided, however, that the confidential resource advisor shall not be an
278 employee designated as a responsible employee or a student or a Title IX coordinator. The
279 institution shall designate new or existing categories of employees that may serve as confidential
280 resource advisors. The designation of an existing category of employees shall not preclude the
281 institution from designating a new or existing employee or partnering with a local, state or
282 national victim services organization to serve as a confidential resource advisor or to serve in
283 another confidential role. An institution may partner with an outside victim advocacy
284 organization to provide a confidential resource advisor under this section. An institution that
285 enrolls less than 1,000 students may partner with another institution in the region or within the
286 commonwealth to provide the services under this subsection.

287 If requested by the reporting party, the confidential resource advisor shall provide
288 information on: (i) reporting options and the effects of each option; (ii) counseling services
289 available on campus and through a local, community-based rape crisis center or domestic
290 violence program; (iii) medical and health services available on campus and off campus; (iv)
291 available academic and residence life accommodations; (v) the disciplinary process of the
292 institution; and (vi) the legal process carried out through local law enforcement agencies. The
293 confidential resource advisor shall receive training in the awareness and prevention of sexual
294 misconduct and in trauma-informed response and coordinate with on-campus and off-campus
295 sexual assault crisis service centers and, if directed by the reporting party, campus or local law

296 enforcement agencies may, as appropriate, assist the student in contacting or reporting to campus
297 or local law enforcement agencies. If requested by the reporting party, the confidential resource
298 advisor, using only the reporting party's identifying information, shall coordinate with the
299 institutional designee to arrange possible interim protective measures to allow the reporting party
300 to change academic, living, campus transportation or working arrangements in response to the
301 alleged assault, stalking or violence. Confidential resource advisors shall not provide services to
302 more than one student in an incident and shall ensure confidentiality is maintained.

303 The confidential resource advisor shall also notify the reporting party of their rights and
304 the institution's responsibilities regarding a protection order, no contact order and any other
305 lawful orders issued by the institution or by a criminal, civil or tribal court. The confidential
306 resource advisor shall not be required to report an incident to the institution or a law enforcement
307 agency unless otherwise required to do so by state or federal law and shall provide confidential
308 services to students and employees. A request for a possible interim protective measure made by
309 a confidential resource advisor on behalf of a reporting party to change an academic, living,
310 campus transportation or working situation in response to alleged sexual misconduct shall not
311 constitute notice to a responsible employee for Title IX purposes. A confidential resource advisor
312 may attend an administrative or institution-based adjudication proceeding as the advisor or
313 support person of the student's choice.

314 Unless otherwise required by state or federal law, a confidential resource advisor shall
315 not disclose confidential information without the prior written consent of the reporting party who
316 shared the information; provided, however, that nothing in this section shall be construed to limit
317 a responding party's right of cross examination of the advisor in a civil or criminal proceeding, if
318 the advisor testifies after written consent has been given. A confidential communication shall not

319 be subject to discovery and shall be inadmissible in a criminal or civil proceeding without the
320 prior written consent of the reporting party who shared the information. Information provided to
321 the confidential resource advisor shall not be released to a campus official or law enforcement
322 officer or agency unless written consent has been given by the reporting party. A confidential
323 resource advisor shall not act as a counselor or therapist unless the confidential resource advisor
324 holds a valid license under chapter 112 and the reporting party engages the confidential resource
325 advisor in that capacity. The privileges available under chapter 233 shall apply to all information
326 received by a confidential resource advisor.

327 If a conflict of interest arises for an institution in which a confidential resource advisor is
328 advocating for the reporting party's need for sexual assault crisis services or campus or law
329 enforcement services, the institution shall not discipline, penalize or otherwise retaliate against
330 the confidential resource advisor for representing the interest of the student.

331 Notice to a confidential resource advisor of an alleged act of sexual misconduct or a
332 confidential resource advisor's performance of a service under this section shall not be
333 considered actual or constructive notice of such an alleged act to the institution at which the
334 confidential resource advisor is employed or provides contracted services.

335 (l) Each institution shall employ responsible employees as defined in subsection (a) who
336 shall be responsible for reporting cases of sexual misconduct to the Title IX coordinator of the
337 institution. Responsible employees shall report the name of the responding party, the name of
338 reporting party, and the date, time and location of the offense, if known, to the Title IX
339 coordinator. Responsible employees shall complete training requirements consistent with best
340 practices and current professional standards..

341 (m) Within 45 days of their matriculation or employment, an institution of higher
342 education shall provide: (i) mandatory sexual misconduct primary prevention and awareness
343 programming for newly-enrolled students and newly-hired employees of the institution that shall
344 include: (1) an explanation of civil rights laws, their meaning, purpose, definition and
345 applicability to all forms of sex/gender based harm; (2) the role drugs and alcohol play in
346 changing behavior and affecting an individual's ability to consent; (3) information on options
347 relating to the reporting of an incident of sexual misconduct, the effects of each option and the
348 methods to report an incident of sexual misconduct, including confidential and anonymous
349 disclosure; (4) information on the institution's procedures for resolving sexual misconduct
350 complaints and the range of sanctions or penalties the institution may impose on students and
351 employees found responsible for a violation; (5) the name, contact information and role of the
352 confidential resource advisor; and (6) strategies for bystander intervention and risk reduction;
353 and (ii) opportunities for ongoing sexual misconduct prevention and awareness campaigns and
354 programming.

355 (n) An individual who participates in the implementation of an institution of higher
356 education's disciplinary process for addressing complaints of sexual misconduct, including an
357 individual responsible for resolving complaints of reported incidents, shall have training or
358 experience in handling sexual misconduct complaints and the operations of the institution's
359 applicable disciplinary process. The training shall include, but not be limited to: (i) information
360 on working with and interviewing persons subjected sexual misconduct; (ii) information on
361 particular types of conduct that constitute sexual misconduct;; (iii) information on consent and
362 the role drugs and alcohol may play in an individual's ability to consent; (iv) the effects of
363 trauma, including any neurobiological impact on a person; (v) cultural competence training

364 regarding how sexual misconduct may impact students differently depending on factors that
365 contribute to a student’s cultural background, including but not limited to: national origin, sex,
366 ethnicity, religion, gender identity, gender expression, and sexual orientation; (vi) ways to
367 communicate sensitively and compassionately with a reporting party of sexual misconduct
368 including, but not limited to, an awareness of responding to a reporting party with consideration
369 of that party’s cultural background and providing services to or assisting in locating services for
370 the reporting party; (vii) training and information regarding how sexual misconduct may impact
371 students with developmental or intellectual disabilities; and (viii) training on the principles of
372 due process necessary to ensure that proceedings are conducted impartially in a manner that is
373 fundamentally fair to all parties.

374 (o) Each institution of higher education shall ensure that its Title IX coordinator and
375 members of its special or campus police force or the campus safety personnel employed by the
376 institution are educated in the awareness and prevention of sexual misconduct.

377 (p) Notwithstanding any general or special law to the contrary, a member of the
378 department of state police or a local police department who acts as a first responder to a report of
379 sexual misconduct at an institution of higher education shall, subject to appropriation, receive
380 training in the awareness and prevention of sexual misconduct.

381 (q) Nothing within this section shall be construed to prevent any other civil rights
382 remedies available through any other provisions of federal or state law.

383 (r) Annually, not later than October 1, each institution of higher education shall prepare
384 and submit to the department of higher education a report that includes: (i) the total number of
385 allegations of sexual misconduct reported to the institution’s Title IX coordinator by a

386 responsible employee, student or employee of the institution against another student or employee
387 of the institution; (ii) the number of cases made by a student or employee of the institution
388 against another student or employee of the institution investigated by local or state law
389 enforcement agency, if known; (iii) the number of students found responsible for violating an
390 institution's policies prohibiting sexual misconduct; (iv) the number of students found not
391 responsible for violating an institution's policies prohibiting sexual misconduct; and (v) the
392 number of disciplinary actions imposed by the institution as a result of a finding of responsibility
393 for violating an institution's policies prohibiting sexual misconduct. Said incident data shall be
394 reported in the form and manner established by the department, in consultation with the attorney
395 general, and in a manner that complies with state and federal privacy laws. The department shall
396 analyze the reports and incident data and shall publish an annual report containing aggregate
397 statewide information on the frequency and nature of sexual misconduct on campuses. The
398 department shall file the annual report with the attorney general and with the clerks of the senate
399 and the house of representatives who shall forward the same to the chairs of the joint committee
400 on higher education.

401 SECTION 2. The task force on sexual misconduct conduct surveys established in Section
402 1 of this act, shall deliver its model survey questions and related material required pursuant to
403 Section 1, to the commissioner of higher education, no later than May 31, 2021.