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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **742**

02/12/2015 Authored by O'Neill, Hilstrom, Mahoney, Lien, Christensen and others

The bill was read for the first time and referred to the Committee on Higher Education Policy and Finance

03/05/2015 Adoption of Report: Amended and re-referred to the Committee on Public Safety and Crime Prevention Policy and Finance

1.1 A bill for an act
1.2 relating to higher education; requiring changes to campus policies on sexual
1.3 harassment and sexual violence; encouraging good faith reporting of sexual
1.4 harassment and sexual violence; requiring coordination between postsecondary
1.5 institutions and law enforcement; requiring postsecondary institutions to
1.6 create an online reporting system; restricting access to data; providing data
1.7 classifications; requiring training of campus security officers and administrators;
1.8 requiring institutions provide student health services for victims of sexual assault;
1.9 amending Minnesota Statutes 2014, sections 13.322, by adding a subdivision;
1.10 135A.15, subdivisions 1, 2, by adding subdivisions; proposing coding for new
1.11 law in Minnesota Statutes, chapter 626.

1.12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.13 Section 1. Minnesota Statutes 2014, section 13.322, is amended by adding a
1.14 subdivision to read:

1.15 Subd. 6. **Campus sexual assault data.** Data relating to allegations of sexual assault
1.16 at a postsecondary institution are classified in section 135A.15.

1.17 Sec. 2. Minnesota Statutes 2014, section 135A.15, subdivision 1, is amended to read:

1.18 Subdivision 1. **Policy required.** The Board of Trustees of the Minnesota State
1.19 Colleges and Universities shall, and the University of Minnesota is requested to, adopt
1.20 a clear, understandable written policy on sexual harassment and sexual violence that
1.21 informs victims of their rights under the crime victims bill of rights, including the right to
1.22 assistance from the Crime Victims Reparations Board and the commissioner of public
1.23 safety. The policy must apply to students and employees and must provide information
1.24 about their rights and duties. The policy must apply to criminal incidents against a student
1.25 or employee of a postsecondary institution occurring on property owned or leased by the
1.26 postsecondary system or institution ~~in which the victim is a student or employee of that~~

~~system or institution~~ or at any activity, program, organization, or event sponsored by the system or institution, including fraternities and sororities. It must include procedures for reporting incidents of sexual harassment or sexual violence and for disciplinary actions against violators. During student registration, each technical college, community college, or state university shall, and the University of Minnesota is requested to, provide each student with information regarding its policy. A copy of the policy also shall be posted at appropriate locations on campus at all times. Each private postsecondary institution that is ~~an eligible institution as defined in section 136A.155,~~ registered as a postsecondary institution under section 136A.65 must ~~adopt a policy that meets the~~ comply with the requirements of this section.

Sec. 3. Minnesota Statutes 2014, section 135A.15, subdivision 2, is amended to read:

Subd. 2. **Victims' rights.** (a) The policy required under subdivision 1 shall, at a minimum, require that students and employees be informed of the policy, and shall include provisions for:

(1) filing criminal charges with local law enforcement officials in sexual assault cases;

(2) the prompt assistance of campus authorities, at the request of the victim, in notifying the appropriate law enforcement officials and disciplinary authorities of a sexual assault incident;

(3) allowing sexual assault victims to decide whether to refer a case to law enforcement;

(4) requiring campus authorities to treat sexual assault victims with dignity;

(5) requiring campus authorities to offer sexual assault victims fair and respectful health care, counseling services, or referrals to such services;

(6) preventing campus authorities from suggesting a victim of sexual assault is at fault for the crimes or violations that occurred;

(7) preventing campus authorities from suggesting that a victim of sexual assault should have acted in a different manner to avoid such a crime;

(8) protecting the privacy of sexual assault victims by, unless otherwise required by law, only disclosing data collected under this section to the victim, campus officials investigating a report or conducting a disciplinary procedure related to the incident, and, at a sexual assault victim's request, police conducting a criminal investigation;

~~(3)~~ (9) an investigation and resolution of a sexual assault complaint by campus disciplinary authorities;

3.1 ~~(4)~~ (10) a sexual assault victim's participation in and the presence of the victim's
3.2 attorney or other support person at any meeting with campus officials concerning a sexual
3.3 assault complaint or campus disciplinary proceeding concerning a sexual assault complaint;

3.4 (11) ensuring that a sexual assault victim is not required to repeat unnecessarily a
3.5 description of the incident of sexual assault;

3.6 (12) notice to a sexual assault victim of the availability of a campus or local program
3.7 providing sexual assault advocacy services;

3.8 ~~(5)~~ (13) notice to a sexual assault victim of the outcome of any campus disciplinary
3.9 proceeding concerning a sexual assault complaint, consistent with laws relating to data
3.10 practices;

3.11 ~~(6)~~ (14) the complete and prompt assistance of campus authorities, at the direction
3.12 of law enforcement authorities, in obtaining, securing, and maintaining evidence in
3.13 connection with a sexual assault incident;

3.14 ~~(7)~~ (15) the assistance of campus authorities in preserving for a sexual assault
3.15 complainant or victim materials relevant to a campus disciplinary proceeding; ~~and~~

3.16 ~~(8)~~ (16) during and after the process of investigating a complaint and conducting
3.17 a campus disciplinary procedure, the assistance of campus personnel, in cooperation
3.18 with the appropriate law enforcement authorities, at a sexual assault victim's request, in
3.19 shielding the victim from unwanted contact with the alleged assailant, including transfer
3.20 of the victim to alternative classes or to alternative college-owned housing, if alternative
3.21 classes or housing are available and feasible;

3.22 (17) forbidding retaliation, and establishing a process for investigating complaints of
3.23 retaliation, against sexual assault victims by campus authorities, the accused, organizations
3.24 affiliated with the accused, other students, and other employees;

3.25 (18) allowing sexual assault victims to practice their religion and exercise their
3.26 civil rights without interference by the investigative, criminal justice, or student conduct
3.27 process of the institution;

3.28 (19) providing students who reported sexual assaults to the institution and
3.29 subsequently choose to transfer to another postsecondary institution with information
3.30 about resources for victims of sexual assault at the institution to which the victim is
3.31 transferring; and

3.32 (20) providing a student who reported an incident of sexual assault with access to
3.33 the campus investigatory file regarding the incident, including if that student transfers to
3.34 another postsecondary institution.

(b) For the purposes of this section, "sexual assault" means forcible sex offenses as defined in Code of Federal Regulations, title 34, part 668, subpart D, appendix A, as amended.

Sec. 4. Minnesota Statutes 2014, section 135A.15, is amended by adding a subdivision to read:

Subd. 3. **Uniform amnesty.** The Board of Trustees of the Minnesota State Colleges and Universities shall, and the University of Minnesota is requested to, include in the system's sexual harassment and violence policy a provision that no student who reports, in good faith, an act of sexual harassment or sexual violence shall be sanctioned by the institution for admitting to a violation of the institution's student conduct policy on the use of drugs or alcohol as part of the report. Each private postsecondary institution that is registered under section 136A.65 must comply with the requirements of this subdivision.

Sec. 5. Minnesota Statutes 2014, section 135A.15, is amended by adding a subdivision to read:

Subd. 4. **Coordination with local law enforcement.** (a) The Board of Trustees of the Minnesota State Colleges and Universities shall, and the University of Minnesota is requested to, direct each campus in the system to enter into a memorandum of understanding with the primary local law enforcement agencies that serve the campus. The memorandum must be entered into no later than January 1, 2017, and updated every two years thereafter. Each private postsecondary institution that is registered under section 136A.65 must comply with the requirements of this subdivision. This memorandum shall clearly delineate responsibilities and require information sharing, in accordance with applicable state and federal privacy laws, about certain crimes including, but not limited to, sexual assault. This memorandum of understanding shall provide:

(1) delineation and sharing protocols of investigative responsibilities;

(2) protocols for investigations, including standards for notification and communication and measures to promote evidence preservation; and

(3) a method of sharing information about specific crimes, when directed by the victim, and a method of sharing crime details anonymously in order to better protect overall campus safety.

(b) Prior to the start of each academic year, the Board of Trustees of the Minnesota State Colleges and Universities shall, and the University of Minnesota is requested to, distribute an electronic copy of the memorandum of understanding to all employees on the campus that are subject to the memorandum.

5.1 (c) A campus is exempt from the requirement that it develop a memorandum of
5.2 understanding under this section if the campus and local or county law enforcement
5.3 agencies establish a sexual assault protocol team to facilitate effective cooperation and
5.4 collaboration between the institution and law enforcement.

5.5 Sec. 6. Minnesota Statutes 2014, section 135A.15, is amended by adding a subdivision
5.6 to read:

5.7 Subd. 5. **Online reporting system.** (a) The Board of Trustees of the Minnesota
5.8 State Colleges and Universities shall, and the University of Minnesota is requested to,
5.9 provide an online reporting system to receive complaints of sexual harassment and sexual
5.10 violence from students and employees. The system must permit anonymous reports,
5.11 provided that the institution is not obligated to investigate an anonymous report, unless
5.12 a formal report is submitted through the process established in the institution's sexual
5.13 harassment and sexual violence policy or an investigation is otherwise required by law.

5.14 (b) The Board of Trustees of the Minnesota State Colleges and Universities shall,
5.15 and the University of Minnesota is requested to, provide students making reports under
5.16 this section with information about who will receive and have access to the reports filed,
5.17 how the information gathered through the system will be used, and contact information for
5.18 on-campus and off-campus organizations serving victims of sexual violence.

5.19 (c) Each private postsecondary institution that is registered under section 136A.65
5.20 must comply with the requirements of this subdivision.

5.21 (d) Data collected under this subdivision is classified as private data on individuals
5.22 as defined by section 13.02, subdivision 12.

5.23 Sec. 7. Minnesota Statutes 2014, section 135A.15, is amended by adding a subdivision
5.24 to read:

5.25 Subd. 6. **Data collection and reporting.** (a) The Board of Trustees of the
5.26 Minnesota State Colleges and Universities and the University of Minnesota shall annually
5.27 report statistics on sexual assault. Each private postsecondary institution that is registered
5.28 under section 136A.65 must comply with the requirements of this subdivision. This report
5.29 must be prepared in addition to any federally required reporting on campus security,
5.30 including reports required by the Jeanne Clery Disclosure of Campus Security Policy and
5.31 Campus Crime Statistics Act, United States Code, title 20, section 1092(f). The report
5.32 must include, but not be limited to:

5.33 (1) the number of incidents that were investigated by the institution;

(2) the number of incidents that were referred for a disciplinary proceeding at the institution;

(3) the number of incidents that the victim chose to report to local or state law enforcement;

(4) the number of alleged perpetrators that were found responsible by the disciplinary proceeding at the institution;

(5) the number of disciplinary proceedings at the institution that resulted in any action by the institution greater than a warning issued to the accused;

(6) the number of disciplinary proceedings at the institution that have closed without resolution;

(7) the number of disciplinary proceedings at the institution that were closed without resolution because the accused withdrew from the institution;

(8) the number of disciplinary proceedings at the institution that have closed without resolution because the victim chose not to participate in the procedure; and

(9) the number of reports made through the online reporting system established in subdivision 5, excluding reports submitted anonymously.

(b) The data reported as part of this subdivision shall be provided as summary data as defined by section 13.02, subdivision 19, and shall not identify alleged victims or perpetrators of crimes. The report required by this section must be submitted to the Office of Higher Education. The Office of Higher Education shall publish the data reported under this subdivision on its Web site. Each technical college, community college, or state university shall, and the University of Minnesota is requested to, publish the data reported as part of this subdivision on its Web site. This subdivision does not require disclosure of data that would violate state or federal laws governing access to student records.

Sec. 8. Minnesota Statutes 2014, section 135A.15, is amended by adding a subdivision to read:

Subd. 7. **Access to data; audit trail.** (a) Data on incidents of sexual assault shared with campus security officers or campus administrators responsible for investigating or adjudicating complaints of sexual assault are classified as private data on individuals as defined by section 13.02, subdivision 12.

(b) Only individuals with explicit authorization from an institution may enter, update, or access electronic data collected, created, or maintained under this section. The ability of authorized individuals to enter, update, or access data must be limited through the use of role-based access that corresponds to the official duties or training level of the individual and the institutional authorization that grants access for that purpose.

All queries and responses, and all actions in which data are entered, updated, accessed, shared, or disseminated outside of the institution, must be recorded in a data audit trail. An institution shall immediately and permanently revoke the authorization of any individual determined to have willfully entered, updated, accessed, shared, or disseminated data in violation of this subdivision or any provision of chapter 13. If an individual is determined to have willfully gained access to data without explicit authorization, the matter shall be forwarded to a county attorney for prosecution.

Sec. 9. Minnesota Statutes 2014, section 135A.15, is amended by adding a subdivision to read:

Subd. 8. **Comprehensive training.** (a) The Board of Trustees of the Minnesota State Colleges and Universities shall, and the University of Minnesota is requested to, provide campus security officers and campus administrators responsible for investigating or adjudicating complaints of sexual assault with comprehensive training on preventing and responding to sexual assault in collaboration with the Bureau of Criminal Apprehension or another law enforcement agency with expertise in criminal sexual conduct. The training for campus security officers shall include a presentation on the dynamics of sexual assault, neurobiological responses to trauma, and best practices for preventing, responding to, and investigating sexual assault. The training for campus administrators responsible for investigating or adjudicating complaints on sexual assault shall include presentations on preventing sexual assault, responding to incidents of sexual assault, the dynamics of sexual assault, neurobiological responses to trauma, and compliance with state and federal laws on sexual assault.

(b) The Board of Trustees of the Minnesota State Colleges and Universities shall, and the University of Minnesota is requested to, require that each incoming student complete training on sexual assault no later than ten business days after the start of a student's first semester of classes. Once a student completes such training, institutions must document the completion of such a course on the student's transcript. Students who previously completed a campus training on sexual assault that is documented on their transcript are exempt from this requirement. This training shall include information about topics including, but not limited to, sexual assault as defined in subdivision 2; consent as defined in section 609.341, subdivision 4; preventing and reducing the prevalence of sexual assault; procedures for reporting campus sexual assault; and campus resources on sexual assault, including organizations that support victims of sexual assault.

(c) The Board of Trustees of the Minnesota State Colleges and Universities shall, and the University of Minnesota is requested to, annually train individuals responsible

for responding to reports of sexual assault. This training shall include information about best practices for interacting with victims of sexual assault, including how to reduce the emotional distress resulting from the reporting, investigatory, and disciplinary process.

(d) Each private postsecondary institution that is registered under section 136A.65 must comply with the requirements of this subdivision.

Sec. 10. Minnesota Statutes 2014, section 135A.15, is amended by adding a subdivision to read:

Subd. 9. Student health services. (a) The Board of Trustees of the Minnesota State Colleges and Universities shall, and the University of Minnesota is requested to, develop and implement a policy that requires student health service providers to screen students for incidents of sexual assault. Student health service providers shall offer students information on resources available to victims and survivors of sexual assault including counseling, mental health services, and procedures for reporting incidents of sexual assault to the institution.

(b) The Board of Trustees of the Minnesota State Colleges and Universities shall, and the University of Minnesota is requested to, require that each institution offering student health or counseling services designate an existing staff member or existing staff members as confidential resources for victims of sexual assault. The confidential resource must be available to meet with victims of sexual assault on a walk-in basis. The confidential resource must provide victims of sexual assault with information about locally available resources for victims of sexual assault, including, but not limited to, mental health services and legal assistance. The confidential resource must provide victims of sexual assault with information about the process for reporting an incident of sexual assault to campus authorities or local law enforcement. The victim of sexual assault shall decide whether to report an incident of sexual assault to campus authorities or local law enforcement. Confidential resources must be trained in all aspects of responding to incidents of sexual assault including, but not limited to, best practices for interacting with victims of trauma, preserving evidence, campus disciplinary and local legal processes, and locally available resources for victims of sexual assault. Data shared with a confidential resource is classified as sexual assault communication data as defined by section 13.822, subdivision 1.

(c) Each private postsecondary institution that is registered under section 136A.65 must comply with the requirements of this subdivision.

EFFECTIVE DATE. The policy required under this subdivision must be in place by January 1, 2017.

9.1 Sec. 11. **[626.891] COOPERATION WITH POSTSECONDARY INSTITUTIONS.**

9.2 Local law enforcement agencies, including law enforcement agencies operated by
9.3 statutory cities, home rule charter cities, and counties, must enter into and honor the
9.4 memoranda of understanding required under section 135A.15.

9.5 Sec. 12. **EFFECTIVE DATE.**

9.6 This act is effective August 1, 2016.