

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1374 Session of 2012

INTRODUCED BY SCHWANK, FONTANA, BAKER, YUDICHAK, BREWSTER,
FARNESE, SOLOBAY, GREENLEAF AND LEACH, JANUARY 31, 2012

REFERRED TO JUDICIARY, JANUARY 31, 2012

AN ACT

1 Amending the act of November 29, 2004 (P.L.1383, No.180),
2 entitled "An act requiring institutions of higher education
3 to provide students and employees with information relating
4 to crime statistics and security measures and to provide
5 similar information to prospective students and employees
6 upon request; granting powers to the State Board of
7 Education; establishing a uniform crime reporting program;
8 requiring all county and municipal law enforcement agencies
9 to report certain information occurring within the respective
10 jurisdictions; imposing duties on the Pennsylvania Commission
11 on Crime and Delinquency; authorizing the Pennsylvania State
12 Police to collect and gather information on crime and make
13 annual reports; providing for penalties; and making a related
14 repeal," further providing for crime statistics and security
15 policies and procedures; and providing for Pennsylvania safe
16 campuses.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Section 303(b) of the act of November 29, 2004
20 (P.L.1383, No.180), known as the Uniform Crime Reporting Act, is
21 amended to read:

22 Section 303. Crime statistics and security policies and
23 procedures.

24 * * *

25 (b) Publishing and distributing reports.--Each institution

1 of higher education shall publish and distribute a report which
2 shall be updated annually and which shall include the crime
3 statistics as reported under subsections (a) and (b.2) for the
4 most recent three-year period. Crime rates shall also be
5 included in the report. The crime rates reported shall be based
6 on the numbers and categories of crimes reported under
7 subsections (a) and (b.2) and the number of full-time equivalent
8 undergraduate and graduate students (FTES) and full-time
9 equivalent employees at the institution of higher education.
10 [Upon] The report shall be posted on the official Internet
11 website of the institution and upon request, the institution
12 shall provide the report to every person who submits an
13 application for admission to either a main or branch campus and
14 to each new employee at the time of employment. In its
15 acknowledgment of receipt of the formal application of
16 admission, the institution shall notify the applicant of the
17 availability of such information. The information shall also be
18 provided on an annual basis to all students and employees.
19 Institutions with more than one campus shall provide the
20 required information on a campus-by-campus basis.

21 * * *

22 Section 2. The act is amended by adding a chapter to read:

23 CHAPTER 3-A

24 PENNSYLVANIA SAFE CAMPUSES

25 Section 301-A. Scope of chapter.

26 This chapter relates to reporting, policy and program
27 requirements concerning sexual assault and intimate partner
28 violence on campuses of institutions of higher education.

29 Section 302-A. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Awareness program." A program designed to communicate the
4 nature and risk of sexual assaults and intimate partner
5 violence.

6 "Institution of higher education." As defined under section
7 302.

8 "Intimate partner violence." The commission of, attempt to
9 commit or conspiracy to commit an act constituting abuse within
10 the meaning of 23 Pa.C.S. Ch. 61 (relating to protection from
11 abuse) where the actor is or was the spouse of or in a dating
12 relationship with the victim.

13 "Prevention program." A program designed to prevent sexual
14 assault and intimate partner violence.

15 "Sexual assault." The commission of, attempt to commit and
16 conspiracy to commit an act prohibited under 18 Pa.C.S. Ch. 31
17 (relating to sexual offenses).

18 "Valid complaint." As defined under section 302.

19 "Victim." A victim of sexual assault or intimate partner
20 violence.

21 Section 303-A. Sexual assault and intimate partner violence
22 reporting.

23 (a) Reporting requirements.--An institution of higher
24 education shall annually include in the report required under
25 section 303 the security policies specifically relating to and
26 the number of valid complaints of sexual assault and intimate
27 partner violence reported on its campus, including:

28 (1) The number of valid complaints of sexual assault and
29 intimate partner violence reported to campus police, campus
30 security officers or State, county or local police as

1 follows:

2 (i) beginning one year after the effective date of
3 this section, the information shall be reported for the
4 immediately preceding calendar year;

5 (ii) beginning two years after the effective date of
6 this section, the information shall be reported for the
7 two immediately preceding calendar years; and

8 (iii) beginning three years after the effective date
9 of this section and thereafter, the information shall be
10 reported for the three immediately preceding calendar
11 years.

12 (2) A statement indicating where information concerning
13 the location of offenders subject to 42 Pa.C.S. Ch. 97 Subch.
14 H (relating to registration of sexual offenders) can be
15 obtained.

16 (3) A description of programs available to students,
17 employees and other institution of higher education officials
18 concerning the institution's security procedures and
19 practices relating to sexual assault and intimate partner
20 violence.

21 (b) Interim reports.--Reports of incidents that represent a
22 potential threat to other parties shall be publicly and timely
23 disclosed in a manner that is prudent to prevent harm and to
24 protect the confidentiality of the prior victim.

25 Section 304-A. Policies required.

26 An institution of higher education shall have a policy that
27 informs students, employees and officials of the institution of
28 the rights of victims and the responsibilities of witnesses of
29 sexual assault and intimate partner violence and sets forth the
30 manner for informing them of their rights and responsibilities.

1 The policy shall include all of the following:

2 (1) All instances of sexual assault or intimate partner
3 violence involving a minor that are required under Federal or
4 State law to be reported to law enforcement authorities shall
5 be reported without delay.

6 (2) Victims shall be provided with written, plain
7 language information that identifies the availability of and
8 contact information for local medical, mental health and
9 legal assistance services and the procedures a victim should
10 follow after an incident of sexual assault or intimate
11 partner violence.

12 (3) Student and employee victims shall be informed of
13 assistance that is available to them from the institution of
14 higher education in making appropriate changes to academic,
15 living, transportation or work circumstances as a result of
16 sexual assault or intimate partner violence.

17 Section 305-A. Sexual assault and intimate partner violence
18 prevention and awareness program.

19 (a) Program requirements.--An institution of higher
20 education shall offer a program on prevention and awareness of
21 sexual assault and intimate partner violence for all students
22 and employees. The program shall:

23 (1) Provide information on the nature and dynamics of
24 sexual assault and intimate partner violence, including the
25 meaning of consent and the number of valid complaints of
26 sexual assault and intimate partner violence at the
27 institution during the most recently concluded calendar year
28 and the immediately preceding two calendar years.

29 (2) Provide information on sanctions called for under
30 institutional disciplinary proceedings and on potential

criminal and civil liability.

(3) Provide information on procedures that should be followed, including the preservation of evidence, contacting law enforcement and victim assistance agencies and the availability of assistance from the institution to notify civil authorities of incidents of sexual assault or intimate partner violence.

(4) Provide information on the availability of counseling, mental health or other services for victims on campus or in the community.

(5) Provide information relating to bystander intervention and risk-reduction strategies.

(b) Construction.--This section shall not be construed to require particular programs, policies or procedures.

Section 306-A. Interpretation.

The provisions of this chapter shall not confer a private right of action to enforce its provisions, to establish a specific standard of care or a civil cause of action or to require the reporting or disclosure of privileged information. Evidence of compliance or noncompliance shall not be admissible as evidence in a proceeding before a court, agency, board or other entity except with respect to an action to enforce the provisions of this act.

Section 307-A. Enforcement.

(a) Action to compel compliance.--The Attorney General may bring an action in the name of the Commonwealth against an institution of higher education to compel compliance with this chapter.

(b) Civil penalty.--In an action by the Attorney General to compel compliance with this chapter, the court may award a civil

1 penalty as follows:

2 (1) Not more than \$1,000 for each day of violation for
3 willful noncompliance or failure to promptly comply with an
4 order of the court to comply with the provisions of this
5 chapter.

6 (2) Not more than \$25,000 for the first case of
7 intentional misrepresentation or concealment by an
8 institution of higher education of a valid complaint required
9 to be reported under this chapter.

10 (3) Not more than \$50,000 for a second or subsequent
11 intentional misrepresentation or concealment by an
12 institution of higher education of a valid complaint required
13 to be reported under this chapter.

14 Section 308-A. Rules and regulations.

15 The State Board of Education may, in the manner provided by
16 law, promulgate the rules and regulations necessary to carry out
17 this chapter.

18 Section 3. This act shall take effect in 180 days.