

## State Policy Proposals to Combat Campus Sexual Assault

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### Context

Sexual offenses rank as some of the most challenging campus health and safety concerns. While researchers have struggled to quantify the prevalence of campus sexual assault, widespread concern exists that sexual assault is endemic among college students. Leading national studies corroborate these concerns: a 2007 study funded by the U.S. Department of Justice<sup>1</sup> found that nearly one in five undergraduate women surveyed said they experienced an attempted or completed sexual assault since entering college, while a 2015 survey by the Association of American Universities<sup>2</sup> (AAU) reported 23.1 percent of undergraduate women who responded to the survey had experienced nonconsensual sexual contact by physical force, threats of physical force, or incapacitation since enrolling at their university.

The Obama administration has increased enforcement of federal law related to campus sexual assault and thus raised the visibility of this issue. Beginning in 2011, the U.S. Department of Education informed colleges of their obligations to prevent and respond to sexual harassment and sexual violence under federal Title IX<sup>3</sup> provisions with a Dear Colleague letter. Following this letter, enforcement of these provisions also increased, from only a few institutions under investigation for Title IX violations in years past to 142 today.<sup>4</sup> The White House

also commissioned a task force to study this issue in 2014, leading to a report and the “It’s on Us” public awareness and education campaign. High-profile media coverage of campus sexual misconduct allegations have caused further scrutiny of existing campus disciplinary policies and what institutions should be doing to prevent sexual assault, provide support services to victims,<sup>5</sup> and address allegations of sexual violence.

In response to this national conversation, state lawmakers have begun asserting their authority to crack down on campus sexual assault. According to the National Conference of State Legislatures (NCSL), 26 states have considered legislation related to campus sexual assault this year, compared to six states in 2014.<sup>6</sup> In 2015 alone, nearly a dozen states have passed legislation aimed at combating campus sexual assault, while lawmakers in several other states created committees to study the issue and make policy recommendations.

This brief reviews the terminology of this discussion and provides an overview of the federal role in campus sexual assault, as well as legislative items related to this issue under consideration in Congress. It then examines major trends in recent state policy around campus sexual assault, including affirmative consent requirements, transcript notations, campus climate surveys, and memorandums of understanding between campuses and external organizations like municipal law enforcement agencies and crisis centers. The paper concludes with a brief advocacy statement indicating AASCU’s support for legislation that improves sexual assault prevention, provides robust support services to victims, and ensures an equitable disciplinary process.

### Terminology

Language and terminology often complicates conversations around campus sexual assault. Although policymakers and the public often use the same terms—

like “sexual violence” and “sexual assault”—when discussing this issue, many leave terms undefined and assume a common definition about the types of acts these terms cover. Even when legislation refers to other federal or state statutes in an attempt to maintain consistency across definitions, common terminology can mask widely varied individual definitions of assault.

The Department of Education’s 2011 Dear Colleague letter specified that Title IX applied to sexual harassment, including sexual violence. The department defined sexual violence as “physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol” and includes rape, sexual assault, sexual battery and sexual coercion.<sup>7</sup> The Rape, Abuse and Incest National Network (RAINN) defines sexual assault as “sexual contact or behavior that occurs without explicit consent of the victim” and includes penetration of the body or mouth, attempted rape, and fondling or unwanted sexual touching.<sup>8</sup> Federal definitions for “sexual act” and “sexual contact” can be found in the Crimes and Criminal Procedure section of the United States Code.<sup>9</sup>

Institutions, states and legislation often use the terms “sexual assault” and “sexual violence” interchangeably, partially because different federal laws highlight different terminology—“sexual violence,” for example, has roots in the Violence Against Women Act (VAWA). VAWA’s influence can also be seen in legislation that targets sexual violence and other explicitly listed issues like domestic violence, relationship or dating violence, or stalking, among others. Institutions often use “sexual misconduct” to refer to activities that violate their student code of conduct related to sexual violence; this language subtly differentiates the allegation and disciplinary process from criminal proceedings.

It should be noted that although definitions for sexual violence and sexual assault include a broad range of unwanted sexual acts, critics of the seminal campus climate surveys—the ones that established the “one in

five” or “one in four” statistic—argue that the surveys inflated actual rates of sexual assault by lumping completed penetration with other offenses like groping or forced kissing. These arguments contribute to the perception that discussions about sexual assault exclusively concern rape. Legislation and policy should clearly define all terms to avoid confusion and help all victims of sexual violence access support.

The uncertainty around terminology also reflects issues in the criminal justice system. Sexual assault as a criminal offense is largely determined through state statutes. Yet, as a recent 50-state survey of criminal sexual assault statutes found, only 18 states define “sexual assault” in their statutes.<sup>10</sup> Twenty-eight states describe what constitutes “sexual conduct,” and only 14 explain the required actions of the illegal “sex act.” Three states do not use gender-neutral language for the perpetrator or victim of sexual violence, meaning certain incidents may not qualify as sexual violence if the genders do not align with the legislative language.<sup>11</sup>

This report attempts to maintain consistency around the use of terms like “sexual assault” or “sexual violence” by following the predominant language convention for that given topic or policy. Legislators and policymakers should also be cognizant of possible misconceptions and confusion related to terminology when discussing issues related to sexual violence.

## Federal Role in Campus Sexual Assault and Legislative Issues

Two primary federal laws provide a legal framework for oversight of campus sexual assault prevention policies and response programs: Title IX and the Clery Act,<sup>12</sup> as most recently amended by the Campus Sexual Violence Act (SaVE Act) provisions of the Violence Against Women Act.<sup>13</sup> Title IX of the Education Amendments of 1972 is a federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity; the 2011 Dear Colleague letter specified that Title IX extended to acts of sexual violence, and

colleges have a responsibility to end sexual harassment and sexual violence immediately and effectively. The Clery Act, on the other hand, pertains to reporting crime rates and requires colleges to keep and disclose information about crime on and near their campuses. The Campus SaVE Act, approved as part of the Violence Against Women Reauthorization Act of 2013, amended the Clery Act to expand the reporting of and response to sexual violence and mandates extensive prevention and awareness programs—including bystander intervention strategies—for new students and employees on topics such as sexual assault, stalking, and relationship violence.

Congress is currently weighing several pieces of legislation that would add to the federal legal framework related to campus sexual assault, with two at the forefront. The Campus Accountability and Safety Act of 2015 (CASA), introduced by Senators Kirsten Gillibrand (D-N.Y.) and Claire McCaskill (D-Mo.), requires colleges to:

- Provide resources and support for victims of sexual assault and a minimum level of training for staff;
- Follow new discipline reporting requirements;
- Create a uniform student disciplinary process;
- Work with the Department of Education to ensure a reflective sample population of students complete the department's regularly administered campus climate survey;
- Establish confidential advisors; and
- Craft memorandums of understanding (MOUs) with municipal law enforcement agencies.

Due to the bill's extensive nature, many groups representing sexual assault survivors, higher education leaders, and campus security personnel have issued statements on a number of provisions for revision and clarification. The provision about confidential advisors, for example, establishes reporting responsibilities for this position that could conflict with state and other federal laws; additionally, the title “confidential

advisor” could create a false expectation of complete confidentiality that may not be considered privileged under state law. Another concern is that some of the language regarding the mandatory MOUs between colleges and municipal law enforcement places an unequal burden on the college in establishing and maintaining these partnerships without sanctions for the law enforcement agency for noncompliance. Though a uniform disciplinary process for all students is widely supported, there is concern that this legislation would preclude further disciplinary processes—for example, if the student is also enrolled in a military program with its own disciplinary structure, such as ROTC. Finally, the bill changes the statute of limitations from six months from the date of the incident to 180 days after the date of graduation or disaffiliation with the institution. Some higher education leaders have expressed concern that this lengthy extension could cause difficulties in evidence collection or accuracy, and that “disaffiliation” can be challenging to measure.

The second piece of legislation, the Safe Campus Act of 2015, introduced by Representative Matt Salmon (R-Ariz.), prohibits colleges from carrying out institutional disciplinary proceedings for allegations of sexual assault unless the victim first reports the incident to municipal law enforcement agencies, even if multiple accounts against the same individual have been raised. Institutions would also be banned from offering interim measures, such as adjustments of class schedules or changing in housing arrangements for victims, until a criminal investigation has been initiated. At the federal level, the Campus SaVE Act currently includes measures for confidentiality such as requiring colleges to provide victims with information about their reporting options, including the right not to report. Many state laws also ensure victims have multiple reporting options, by requiring colleges to provide a confidential advisor to victims of sexual assault or by requiring colleges to include information about confidential reporting options in institutional sexual misconduct policies. Rep. Salmon's proposal clearly conflicts with these mandates, and the

compliance environment would need to be clarified legislatively or through judicial review.

The Safe Campus Act was originally supported by the North American Interfraternity Conference (NIC) and National Panhellenic Conference (NPC). These umbrella groups, who represent fraternities and sororities at the national level, spent a significant amount to lobby for the bill throughout 2015. However, after eight sororities publicly opposed the legislation in November, NIC and NPC withdrew their support. In their opposition, the sororities join many higher education leaders, organizations and associations, as well as sexual assault survivor advocacy groups, who universally oppose the bill. Beyond arguments that the legislation would have a chilling effect on the number of sexual assault reports and would strip victims of their choice in how they want to respond to this personal issue, opponents point out that the bill singles out sexual assault from other types of violence and offenses—like hate crimes or underage drinking—in which college disciplinary processes have also historically played a role. Furthermore, the bill enhances municipal law enforcement over campus law enforcement, even in locations or areas where campus law enforcement may be better trained.

## State Role in Campus Sexual Assault and Legislative Issues

Although both federal and state governments have a responsibility to protect individuals from harm, states have traditionally played a larger role in defining and legislating criminal activity than the federal government; criminal sexual assault law is defined and prosecuted under state statutes. Even so, the increased national visibility and federal action on this issue highlight how policymakers and the public perceive existing state laws and campus protocols as inefficient and inadequate in combating campus sexual assault. In continuing to address the problem of sexual assault on college campuses, state legislators must remember their work exists within a framework of institutional policies and

federal law as they consider new policy proposals.

**Affirmative consent.** Affirmative consent is a standard that some states require colleges to include in their institutional student conduct codes or sexual misconduct policies. This standard specifies that students must express clear, unambiguous, and ongoing affirmative words or actions in order to confer consent for sexual relations. Because lack of consent is critical in identifying incidents of sexual assault, affirmative consent requirements seek to clarify what consent looks like and instances—like silence or lack of resistance—that do not qualify as consent.

Table 1 provides an overview of recent state legislation containing affirmative consent standards. In 2015, at least 13 states have considered affirmative consent policies, though only two states and a few systems of higher education have actually passed the new standards. While many proposals borrowed language from California's policy—the nation's first state to approve affirmative consent—some states differed in how they would treat cases involving drugs or alcohol. Many left an undefined gray area between intoxication and incapacitation for colleges to decipher, where intoxication is not a valid reason to believe affirmative consent was obtained, but individuals under the influence of drugs or alcohol could be considered incapacitated and unable to consent.

Advocates for affirmative consent say the new standard changes the nature of questions asked from “what signs show that consent was not given?” to “how was affirmative consent conveyed?” They argue that the previous standard of “no means no” implicitly requires victims to verbally refuse an advance in order for it to constitute an assault. Individuals often communicate with one another through non-verbal cues, however, so requiring clear verbal or physical signs of refusal puts an unfair burden on the victim. Affirmative consent clarifies to all parties that “yes, and only yes, means yes” and protects victims that may not have resisted out of fear or shock.

Individual rights' activists and judges in several states

**Table 1: State Legislation and Higher Education System Policies Regarding Affirmative Consent**

State	Bill	Action	Description
Arizona <sup>1</sup>	AZ HB 2474	Referred to Committee 3/31/15	Requires colleges to adopt policies concerning sexual violence including an affirmative consent standard. <sup>1</sup>
California	CA SB 967	Enacted 9/28/14	
Connecticut	CT SB 00636	Passed by Senate 5/19/15	
Hawaii	HI HB 597	Referred to Committee 1/28/15	
	HI SB 923	Referred to Committee 1/28/15	
	HI HB 1249	Referred to Committee 2/2/15	
	HI HB 451	Referred to Committee 2/13/15	
Illinois <sup>1</sup>	IL HB 821	Enacted 8/21/15	
Iowa	IA SF 79	Referred to Committee 1/28/15	
	IA HF 390	Referred to Committee 3/2/15	
Kansas	KS HB 2266	Referred to Committee 2/26/15	
Maine	University of Maine Board of Trustees	Adopted November 2014	
Maryland	MD HB 667	Unfavorable Report by Committee 3/16/15	
	MD HB 138	Unfavorable Report by Committee 3/16/15	
	MD HB 839	Unfavorable Report by Committee, Withdrawn 3/18/15	
Massachusetts	Massachusetts Board of Higher Education	Adopted December 2014	
Minnesota	MN HF 1689	Referred to Committee 3/10/15	
	University of Minnesota Board of Regents	Adopted August 2015	
Missouri	MO HB 412	Referred to Committee 3/31/15	
New Jersey	NJ S 2478	Referred to Committee 10/14/14	
	NJ A 3947	Referred to Committee 12/4/14	
New York	NY A 5400	Referred to Committee 2/20/15	
	NY S 4569	Referred to Committee 3/28/15	
	NY A 6632	Referred to Committee 3/30/15	
	NY S 5965	Enacted 7/7/15	
North Carolina	NC S 474	Referred to Committee 3/30/15	
	NC H 815	Referred to Committee 4/27/15	
Pennsylvania	PA SB 1005	Referred to Committee 9/16/15	
West Virginia	WV HB 2690	Referred to Committee 2/11/15	

\*Tables in this report are not exhaustive of all legislation at the state level.

<sup>1</sup>Legislation in Arizona and Illinois did not explicitly include the term “affirmative consent,” but the language included many of the same provisions as other affirmative consent policies, such as: consent is freely given and cannot be obtained through force or coercion; consent cannot be inferred from silence, lack of resistance or prior relations; consent can be withdrawn at any time; and delineating the types or conditions of individuals who are not able to consent.

have criticized affirmative consent policies because they argue that such policies shift the burden of proof onto the accused and violate due-process rights. Some legal professionals have raised concerns, asking how students can protect themselves from accusations of sexual assault when entering into sexual relations with another student. It might be impossible for an accused student to prove they had consent without witnesses or video documentation, they argue, and if professionals trained in the law cannot decipher these policies, they have little hope for a college freshman. Proponents for affirmative consent counter such arguments by pointing out that victims have had to prove an assault occurred under these same circumstances, and the policy change actually rebalances the protections between victims and the accused.

**Transcript Notations.** Transcript notations require colleges to add notations to academic transcripts of students found in violation of student conduct policies and those charged with sexual misconduct who withdrew during disciplinary proceedings. At least six states considered such policies this year, as shown in Table 2. New York and Virginia both passed legislation requiring transcript notations, though there were differences in the conditions that would trigger a transcript notation. New York's law applies to students expelled or suspended after being found responsible for conduct violations of crimes of violence, as well as for students who withdraw during disciplinary proceedings—in this case, crimes of violence are singled out. Virginia's law, on the other hand, applies to students suspended for, expelled for, or who withdraw from the institution while under investigation for a violation of the institutional sexual violence code or other student conduct policy—the severity of the violation is not specified. Louisiana also passed legislation, but only for cases where students withdrew amidst pending disciplinary actions.

The driving force behind transcript notation policies is a couple of high-profile examples where an individual withdrew from an institution prior to disciplinary action

and proceeded to enroll at another college—where the student engaged in sexual violence again. To address this issue, some legislators and administrators have called for a measure of accountability across institutions. As an existing record, the transcript provides a convenient vehicle for this accountability, particularly because most colleges examine transcripts from prior institutions attended in order to determine admission eligibility. Therefore, adding a notation to the transcript would inform college officials of misconduct, either alleged or determined violations, at previous institutions. Moreover, proponents argue, because individuals use transcripts for a wide range of purposes, including employment applications, the threat of a notation on the transcript could discourage students from engaging in sexual violence and prevent them from simply withdrawing from an institution without any repercussions.

One primary concern raised by critics of these notations is that the transcript serves as the official record of academic pursuits at a college, and the practice of adding a notation for sexual misconduct violations and allegations changes the fundamental purpose of the transcript. Registrars and other administrative professionals contend that the transcript's purpose is not to capture the totality of a student's experience at the institution, particularly when such additional notations are not codified and cannot be unambiguously deciphered by receiving parties. Other opponents of transcript notations are concerned that this policy is likely to be levied unequally at different student populations: the high stakes and potential lifelong implications of a transcript notation will inevitably lead colleges into judicial and legal challenges, but only by those students with the most financial and legal resources. Traditionally underserved populations, by comparison, would be more likely to bear the weight of this disciplinary outcome without access to the resources or guidance needed to challenge a transcript notation.<sup>14</sup> Finally, they argue, federal privacy laws already allow colleges to notify other schools in which a student may seek to enroll of any relevant information without the individual's consent, though the receiving institution

**Table 2: State Policy Regarding Transcript Notations and Transcript Withholding<sup>1</sup>**

State	Bill	Action	Description
California	CA AB 968	Vetoed by Gov. 10/9/15	Requires colleges to indicate when a student is ineligible to reenroll due to suspension or expulsion on the student's transcript for the period of time the student is ineligible to reenroll.
Louisiana	LA SB 255	Enacted 6/23/15	Requires colleges to withhold transcripts for students seeking to transfer with pending disciplinary action until such investigation is complete.
Maryland	MD HB 749	Referred to Committee 3/10/15	Requires colleges to include a prominent notation on the transcript of each student who has been suspended for, expelled for, or withdraws from the institution while under investigation for a violation of the institutional sexual violence code or other student conduct policy.
	MD SB 817	Unfavorable Committee Report 3/23/15	
New York	NY S 5965	Enacted 7/7/15	Requires colleges to make a notation on the transcript of students found responsible for conduct violations for crimes of violence or those that withdraw from the institution while such conduct charges are pending.
Pennsylvania	PA HB 1203	Referred to Committee 5/13/15	Requires colleges to include a notation on the transcript of students suspended or expelled for code of conduct violations specifying the time period or permanency of the suspension or expulsion.
Virginia	VA SB 1326	Incorporated by Committee 1/26/15	Requires colleges to document the dismissal of any student who has been dismissed for violation of the institutional sexual violence code or other student conduct policy.
	VA HB 2201	Referred to Committee 2/10/15	
	VA HB 1888	Referred to Committee 2/10/15	Requires colleges to include a prominent notation on the transcript of each student who has been suspended for, expelled for, or withdraws from the institution while under investigation for a violation of the institutional sexual violence code or other student conduct policy.
	VA HB 2139	Referred to Committee 2/10/15	Requires colleges to place a hold on transcripts for students accused of sexual assault until the institution deems it appropriate to release such hold.
	VA SB 1193	Enacted 4/30/15	Requires colleges to include a prominent notation on the transcript of each student who has been suspended for, expelled for, or withdraws from the institution while under investigation for a violation of the institutional sexual violence code or other student conduct policy.

<sup>1</sup>Many of these policies differed in the parameters that would produce a notation, what language the notation must include, or whether the college would determine how specific a notation would be.

would need to know to inquire with the sending institution.<sup>15</sup>

**Mandatory Reporting.** Mandatory reporting requirements require college professors and other employees to report sexual assault allegations immediately to municipal law enforcement officials. This policy is widely opposed by sexual assault prevention and advocacy groups because they believe such policies strip victims of their power and choice and thus discourage reporting. According to experts in the field, incidents of sexual violence can leave victims feeling at a complete loss of control, and they should have the choice to engage with the criminal justice system while still maintaining access to various types of support on their campuses. Mandatory reporting requirements at institutions could undermine the college campus as a safe space where victims can access support systems on their terms and may have a chilling effect on reporting to any source.

Mandatory reporting would limit the college's role in sexual assault cases to reporting any allegation of sexual assault to municipal law enforcement. Depending on the legislative language, these requirements might forbid colleges from initiating an internal disciplinary proceeding entirely, or make the disciplinary process contingent on victims first filing a criminal report with municipal law enforcement. Table 3 highlights at least five states that considered legislation around mandatory reporting requirements in 2015, although no state ultimately ended up instituting such policies. Concerns from sexual assault survivor advocacy organizations led to the elimination of mandatory reporting language in a bill passed in Virginia.

Some lawmakers and civil liberties advocacy organizations support mandatory reporting requirements because they believe sexual assaults on campus should only be adjudicated by the criminal justice system. Proponents maintain that colleges do not have the same tools or jurisdiction as municipal law enforcement, both

of which are needed to gather evidence, investigate allegations, and prosecute threats to public safety. College administrators, they note, do not have the legal training or expertise required to adjudicate sexual assault cases fairly, despite federal law, like Title IX, that requires colleges to investigate such allegations. They argue the criminal justice system would better protect both the rights of the accuser and the accused.

Title IX guidance delineated in the Department of Education's 2011 Dear Colleague letter strongly discourages schools from allowing the parties to personally question or cross-examine each other during college disciplinary processes. The lack of due-process rights—such as the right to confront your accuser or cross-examine witnesses—are examples used by proponents of mandatory reporting requirements to demonstrate why criminal courts would better protect the rights of accused students. Additionally, they claim colleges cannot sufficiently protect victims either, and point to the exponentially increasing number of colleges under investigation by the Department of Education for violations of Title IX provisions.

Lawmakers and policymakers considering mandatory reporting requirements should keep in mind that the Campus SaVE Act requires colleges to inform victims of their reporting options, including their right to decline to notify law enforcement agencies. State-level mandatory reporting requirements, then, would conflict with federal policy allowing for confidential reporting to college officials.

**Medical Services for Victims.** Many states and institutions are revisiting their medical service policies and programs for victims of sexual assault, particularly around access to Sexual Assault Forensic Examinations (SAFE). SAFE kits assess the physical health of sexual assault victims and are necessary to collect evidence for criminal investigations. The evidence collected through SAFE kits is time-sensitive and sometimes the only physical evidence available in sexual assault investigations.

**Table 3: State Policy Regarding Mandatory Reporting**

State	Bill	Action	Description
Delaware	DE HB 1	Referred to Committee 6/30/15	Requires colleges to notify the appropriate law enforcement authorities of allegations of sexual assault within 24 hours.
Maryland	MD SB 578	Unfavorable Committee Report, Withdrawn 3/16/15	Requires colleges to notify the appropriate law enforcement authorities of allegations of sexual assault within 24 hours.
New Jersey	NJ S 2317	Referred to Committee 7/31/14	Requires colleges to notify the appropriate law enforcement authorities of allegations of sexual assault within 24 hours; explicitly does not preclude or restrict college disciplinary actions.
	NJ A 3567	Referred to Committee 9/11/14	
	NJ S 2382	Referred to Committee 9/18/14	
North Carolina	NC S 474	Referred to Committee 3/30/15	Requires campus law enforcement to report allegations of sexual assault to local law enforcement if student contacts on own initiative.
Rhode Island	RI H-5034	Referred to Committee 1/8/15	Requires colleges to immediately notify the appropriate law enforcement authorities of allegations of sexual assault; explicitly does not preclude or restrict college disciplinary actions.
Virginia	VA SB 734	Incorporated by Committee 1/26/15	Requires college professors and administrators to notify the appropriate law enforcement authorities of allegations of sexual assault within 24 hours.
	VA SB 1252	Incorporated by Committee 1/26/15	
	VA HB 1786	Referred to Committee 2/10/15	
	VA HB 2139	Referred to Committee 2/10/15	Requires college professors and administrators to notify the appropriate law enforcement authorities of allegations of sexual assault within 24 hours; Requires campus law enforcement to report allegations of a felony criminal sexual assault to the attorney for the Commonwealth within 24 hours.
	VA HB 1988	Referred to Committee 2/10/15	Requires campus law enforcement to report allegations of a felony criminal sexual assault to local law enforcement agency and the attorney for the Commonwealth within 48 hours.
	VA SB 712	Enacted 5/28/15 (without mandatory reporting)	Requires colleges to follow prescribed reporting policy; establish MOUs with community-based organizations, including rape crisis centers, so victims have access to a confidential, independent advocate; annually review the sexual violence policy. Originally included mandatory reporting to law enforcement, but language was removed in revisions.
	VA HB 1930		

Despite their central role, many colleges and medical facilities do not have SAFE kits readily available due to a lack of training and resources. Nurses or other medical personnel with specialized training and certification to perform these examinations typically administer SAFE kits. Not all medical professionals have this training, however, and medical facilities are not required to have such an individual on staff.

Beyond a lack of training, inconsistent processing protocols and a lack of resources are also challenges for sexual assault investigations within the criminal justice system. Each examination costs approximately \$1,000 to analyze, so while universal processing of SAFE kits could lead to convictions in other open cases, some police stations with limited financial resources may choose to forgo processing if the victim is unsure about reporting or, in states that require SAFE kit processing in all potential cases with unknown suspects regardless of the victim's decision, the suspect is already known. Tens of thousands of SAFE kits go untested nationwide because of inconsistent guidelines about evidence handling for sex crimes, particularly in smaller or rural police departments.<sup>16</sup>

As seen in Table 4, at least seven states have passed legislation to ensure students can receive needed medical help and services, including SAFE kits, for free either at their college campus or at a designated nearby medical facility. Colorado and Maryland additionally require that colleges provide victims with transportation to those designated medical facilities. Another notable policy is in Louisiana, where lawmakers designated a funding source to ensure victims would not be responsible for medical care charges associated with an incident and that SAFE kits would be available and processed.

### **Memorandums of Understanding (MOUs).**

Memorandums of Understanding (MOUs) between campus administration and external entities like municipal law enforcement agencies or community-based organizations are often intended to clearly

delineate the responsibilities of the various parties in the event of a sexual assault. These agreements can also streamline information sharing and collaboration in prevention efforts and response training, as well as provide independent, confidential advising and advocacy for victims.

Tables 5 and 6 highlight state policy regarding MOUs with municipal law enforcement agencies and community-based organizations, respectively. At least five states considered MOUs with law enforcement in 2015, with four states passing such policies. Ten states considered MOUs with community-based organizations, with many explicitly citing a need to provide victims with counseling and advising services. Five states have enacted laws requiring MOUs with community-based organizations.

While policies to increase communication and improve collaboration across the network of support for sexual assault victims receive widespread support, some higher education leaders have expressed concerns about how mandatory MOUs might interact with existing federal and state confidentiality and privacy laws. For example, how do laws that protect the privacy of student educational and medical records operate under state open records laws when information is shared between institutions and external entities or at public institutions generally? Additionally, some language within the legislation places an unequal burden on the college in establishing and maintaining these partnerships without sanctions for the municipal law enforcement agency for noncompliance.

**Confidential Advisors.** Confidential advisors are college employees whose primary function is to help victims understand their legal options and direct them to available services. This includes, but is not limited to, reporting an incident to the college or police (or both), helping victims assess medical and counseling services, and assisting victims in changing classes or living arrangements. This individual is distinct from a Title IX coordinator or other designated employee responsible

**Table 4: State Policy Regarding Access to Medical Attention for Sexual Assault Victims**

State	Bill	Action	Description
Colorado	CO HB-15 1220	Enacted 5/4/15	Requires colleges to establish MOU or other formal arrangement with at least one nearby medical facility, with medical professionals specifically trained to care for sexual assault victims, to refer and transport those victims.
Connecticut	CT SB 966	Enacted 5/26/15	Allows sexual assault forensic examiners to provide immediate care and treatment to victims of sexual assault at health care facilities operated by a college, provided the facility is licensed by the state.
Illinois	IL HB 821	Enacted 8/21/15	Requires colleges to provide victims with contact information for nearby medical facility to receive a SAFE kit at no charge.
Louisiana	LA HB 835	Enacted 6/23/15	Requires criminal justice agencies to submit SAFE kits to a forensic laboratory for testing within 30 days of receiving a kit involving an unknown suspect; prevents hospitals or healthcare providers from directly billing a victim for any healthcare services rendered in conducting a forensic medical examination.
	LA HB 143	Enacted 6/23/15	Establishes time period for collecting unclaimed jackpot tickets, with unclaimed tickets deposited into Crime Victims Reparations Fund; funds shall be used exclusively to pay the expenses associated with healthcare services of victims of sexually-oriented criminal offenses, including forensic medical examinations.
Maryland	MD HB 571	Enacted 5/12/15	Requires colleges to provide victims with contact information for a nearby medical facility to receive a SAFE kit and provide transportation to this facility.
New York	NY S 5965	Enacted 7/7/15	Requires colleges to ensure access to SAFE kits by employing a sexual assault nurse examiner in the campus health center or entering into MOUs with local health care facilities to provide such a service.
Tennessee	TN HB 1239	Enacted 4/30/15	Establishes that victims of sexual offenses are entitled to a forensic medical examination without charge to the victim; law enforcement agencies must submit SAFE kits to a forensic laboratory for testing within 60 days of receipt.

**Table 5: State Policy Regarding MOUs with Municipal Law Enforcement<sup>1</sup>**

State	Bill	Action	Description
California	CA AB 913	Enacted 10/9/15	Requires colleges to enter into written agreements with local law enforcement agencies.
Louisiana	LA SB 255	Enacted 6/23/15	
Maryland	MD HB 571	Enacted 5/12/15	
Massachusetts	MA S 679	Referred to Committee 5/7/15	
Minnesota	MA H 1041	Referred to Committee 5/7/15	
	MN SF 5	Enacted 5/22/15	

<sup>1</sup>Many states already have legislation regarding MOUs between campuses and municipal law enforcement, and in some cases, these laws are decades old; this table highlights recent state action on this issue.

for reporting crime statistics under the Clery Act and other legislation.

As demonstrated in the above discussion about MOUs with community-based organizations, confidential support for victims has received significant state attention. Table 7 describes the policies around confidential advisors that were considered across eight states in 2015. Some states have requirements for confidential advisors on campus, with privileged communication between advisors and victims, while others permit or require colleges to collaborate with community-based organizations to provide these services. Many other institutions already have individuals in place to serve their students independent from state law. Sexual assault prevention and advocacy groups strongly promote access to a confidential resource as a way to encourage victims to report without worrying that they might be required to report the incident to their institution or the police.

However, some higher education experts say there may be conflict-of-interest questions and legal issues around privacy with campus-based confidential advisors.<sup>17</sup> They wonder if a college's advisor can remain truly objective if the victim's wishes conflict with institutional compliance requirements. There are also legal and liability implications to this confidentiality: college officials must keep campuses safe, and a threat assessment might have to override a victim's request for privacy. Although

requiring colleges to establish MOUs with community-based organizations can provide victims with access to independent, confidential advising free of college-related conflicts of interest and some legal implications, campus confidential advisors may be better situated to assist victims with administrative support such as residential or class changes.

**Campus Climate Surveys.** Climate surveys help students, administrators, policymakers and others understand the prevalence, perceptions and attitudes toward sexual assault and violence on a campus. By asking students directly and anonymously about their experiences, supporters hope campus climate surveys can provide a clearer picture of the reality of sexual misconduct on a campus rather than solely relying on reported incidents, which often only count certain types of crimes in specifically designated areas.

Campus climate surveys have been the subject of much discussion, although states have not widely considered legislation in this area. A number of states included a one-time climate survey in proposals for committees or task forces to study the issue of campus sexual assault. As shown in Table 8, three states in 2015 passed legislation requiring colleges to complete regular campus climate surveys.

In September 2015, the Association of American Universities (AAU) published initial findings from their

**Table 6: State Policy Regarding MOUs with Community Organizations**

State	Bill	Action	Description
California	CA SB 967	Enacted 9/28/14	Requires colleges to establish MOUs with on-campus and community-based organizations, including rape crisis centers.
Connecticut	CT HB 5029	Enacted 5/8/14	Requires colleges to establish MOUs with community-based organizations, including rape crisis centers, that can provide free and confidential counseling and advocacy services.
Florida	FL S 1404	Died in Committee 5/1/15	Requires colleges to establish MOUs with on-campus and community-based organizations, including rape crisis centers.
Hawaii	HI SB 923	Referred to Committee 1/28/15	Requires colleges to establish MOUs with on-campus and community-based organizations, including rape crisis centers.
	HI HB 1249	Referred to Committee 2/2/15	
	HI HB 451	Referred to Committee 2/13/15	
Maryland	MD HB 667	Unfavorable Report by Committee 3/16/15	Requires colleges to establish MOUs with on-campus and community-based organizations, including rape crisis centers.
	MD HB 571	Enacted 5/12/15	Requires colleges to establish MOUs with state or federally recognized crisis centers.
Massachusetts	MA S 679	Referred to Committee 5/7/15	Requires colleges to establish MOUs with community-based organizations, including rape crisis centers, that can provide free and confidential counseling and advocacy services.
	MA H 1041	Referred to Committee 5/7/15	
Missouri	MO HB 412	Referred to Committee 3/31/15	Requires colleges to establish MOUs with on-campus and community-based organizations, including rape crisis centers.
New Jersey	NJ S 2478	Referred to Committee 10/14/14	Requires colleges to establish MOUs with on-campus and community-based organizations, including rape crisis centers.
	NJ A 3947	Referred to Committee 12/4/14	
New York	NY A 5400	Referred to Committee 2/20/15	Requires colleges to establish MOUs with community-based organizations, including rape crisis centers, if institutions lack appropriate on-campus resources.
	NY S 5965	Enacted 7/7/15	
North Carolina	NC S 474	Referred to Committee 3/30/15	Requires colleges to establish MOUs with on-campus and community-based organizations, including rape crisis centers.
	NC H 815	Referred to Committee 4/27/15	
Pennsylvania	PA SB 1005	Referred to Committee 9/16/15	Requires colleges to establish MOUs with on-campus and community-based organizations, including rape crisis centers.
Virginia	VA SB 712	Enacted 5/28/15	Requires colleges to establish MOUs with community-based organizations, including rape crisis centers, so victims have access to a confidential, independent advocate.
	VA HB 1930		
West Virginia	WV HB 2690	Referred to Committee 2/11/15	Requires colleges to establish MOUs with on-campus and community-based organizations, including rape crisis centers.

**Table 7: State Policy Regarding Confidential Advisors<sup>1</sup>**

State	Bill	Action	Description
Connecticut	CT HB 5029	Enacted 5/8/14	Requires colleges to establish MOUs with community-based organizations, including rape crisis centers, that can provide free and confidential counseling and advocacy services.
Delaware	DE HB 1	Referred to Committee 6/30/15	College officials shall provide information regarding confidential counseling and advocacy services available to victims on campus, as well as appropriate off-campus services available to victims.
Florida	FL S 1404	Died in Committee 5/1/15	Requires colleges to operate campus-based victim advocacy programs with privileged and confidential communication between victims and advocates.
Illinois	IL HB 821	Enacted 8/21/15	Requires colleges to provide a confidential adviser to help victims understand their options and seek assistance, can be on-campus or provided through a partnership with a community-based organization or crisis center.
Louisiana	LA SB 255	Enacted 6/23/15	Requires colleges to provide a confidential adviser to help victims understand their options and seek assistance, can be on-campus or provided through a partnership with a community-based organization or crisis center.
Massachusetts	MA S 679	Referred to Committee 5/7/15	Requires colleges to establish MOUs with community-based organizations, including rape crisis centers, that can provide free and confidential counseling and advocacy services; designate one or more confidential advisor roles at the institution to whom victims can report anonymously or directly, can be provided through a partnership with a community-based organization or crisis center.
	MA H 1041	Referred to Committee 5/7/15	
Minnesota	MN SF 5	Enacted 5/22/15	Requires colleges to designate a confidential resource for victims if the institution offers student health or counseling services.
New York	NY A 6632	Referred to Committee 3/30/15	Requires colleges to provide information regarding confidential counseling and advocacy services available to victims on campus, as well as appropriate off-campus services available to victims.
	NY S 5965	Enacted 7/7/15	
Virginia	VA SB 981	Incorporated by Committee 1/26/15	Requires colleges to establish MOUs with community-based organizations, including rape crisis centers, so victims have access to a confidential, independent advocate.
	VA HB 1508	Referred to Committee 2/10/15	
	VA SB 1329	Referred to Committee 2/16/15	
	VA SB 712	Enacted 5/28/15	
	HB 1930		

<sup>1</sup>Many proposed legislation regarding affirmative consent (see Table 1) includes a requirement for colleges to provide students with information about procedures for confidential reporting, but does not prescribe a confidential advocate either on- or off-campus. Some state legislation requires a confidential advisor to be on-campus and employed by the institution, while others require or permit this service to be provided through a community-based organization or crisis center.

**Table 8: State Policy Regarding Campus Climate Surveys**

State	Bill	Action	Policy	Frequency
Louisiana	LA SB 255	Enacted 6/23/15	Requires colleges to conduct a campus climate survey.	Annually
Maryland	MD HB 571	Enacted 5/12/15		At least every 2 years
New York	NY S 5965	Enacted 7/7/15		No less than every other year
Texas	TX HB 1744	Committee 3/12/15		Annually

survey of 27 campuses and over 150,000 students.<sup>18</sup> Though this survey was one of the largest of its kind, many other similar surveys have been conducted at individual institutions, in research groups, and by the Department of Justice.

Large, multi-campus surveys like AAU’s can help compare campuses to try to determine factors that may foster higher-risk environments, but these one-size-fits-all surveys cannot account for the wide diversity in institutional size, type, mission or student population present across all of higher education. Surveys of one individual campus, on the other hand, can be helpful in guiding strategic initiatives by identifying and directing attention to the areas in most need of consideration at that college. Administrators, policymakers and legislators must consider this trade-off between generalizable data and the individualized needs of colleges in the national push for more data surrounding the frequency of sexual violence.

**“Good Samaritan” Provisions.** Good Samaritan provisions protect complainants and witnesses that report an incident from disciplinary actions involving their alcohol or drug use at or near the time of the assault. Also known as ‘amnesty clauses,’ these provisions are typically included in a college’s sexual violence and misconduct policy and explicitly declare that students who report, in good faith, a violation of the policy are immune from receiving disciplinary sanctions by the institution for student conduct violations, such as underage drinking, related to the reported incident. Proponents of Good Samaritan provisions claim that the policy assuages student fears of being reprimanded

by university officials for coming forward, therefore encouraging more victims and bystanders to report incidents.

In 2015, 11 states considered requiring colleges to include Good Samaritan provisions in institutional sexual violence or student conduct policies. Depending on the language in the legislation, there are often conditions on this immunity, such as when the violation is egregious, places the health or safety of another at risk, or signals that a substance abuse intervention is necessary.

**Mandatory Minimum Punishments.** Mandatory minimum punishments establish the minimum sanction that colleges can assign if a student is found in violation of the institution’s student conduct or sexual violence policy. Table 10 shows that mandatory minimum punishment policies have only been considered in a few states and do not have a track record of legislative success. In 2015, California and New York considered, but did not enact, legislation that would establish minimum punishments of suspension up to expulsion for students found in violation of their college’s sexual misconduct policy.

While standardization or being explicit about repercussions can be helpful in discouraging violations—as well as help institutions maintain equitable treatment across cases—each case of campus sexual violence is highly individual, contextual and situational. Critics of mandatory minimum punishments argue that state legislators should not determine for administrators what discipline would be appropriate and that such policies keep college officials from using their professional

**Table 9: State Policy Regarding Good Samaritan Provisions**

State	Bill	Action	Description
California	CA SB 967	Enacted 9/28/14	Requires colleges to adopt policies concerning sexual violence, including protections for complainants and witnesses who report incidents of sexual assault in good faith from disciplinary sanctions for violations of student conduct policy at or near the time of incident.
Hawaii	HI SB 923	Referred to Committee 1/28/15	
	HI HB 1249	Referred to Committee 2/2/15	
	HI HB 451	Referred to Committee 2/13/15	
Illinois	IL HB 821	Enacted 8/21/15	
Kansas	KS HB 2266	Referred to Committee 2/26/15	
Louisiana	LA SB 255	Enacted 6/23/15	
Maryland	MD HB 667	Unfavorable Report by Committee 3/16/15	
	MD HB 571	Enacted 5/12/15	
Massachusetts	MA S 679	Referred to Committee 5/7/15	
	MA H 1041	Referred to Committee 5/7/15	
Minnesota	MN HF 1689	Referred to Committee 3/10/15	
	MN SF 5	Enacted 5/22/15	
Missouri	MO HB 412	Referred to Committee 3/31/15	
New Jersey	NJ S 2478	Referred to Committee 10/14/14	
	NJ A 3947	Referred to Committee 12/4/14	
New York	NY A 5400	Referred to Committee 2/20/15	
	NY A 6632	Referred to Committee 3/30/15	
	NY S 5965	Enacted 7/7/15	
North Carolina	NC S 474	Referred to Committee 3/30/15	
	NC H 815	Referred to Committee 4/27/15	
Pennsylvania	PA SB 1005	Referred to Committee 9/16/15	

**Table 10: State Policy Regarding Mandatory Minimum Punishments**

State	Bill	Action	Description
California	CA AB 967	Vetoed by Gov. 10/9/15	Requires colleges to provide for a minimum suspension of at least two years up to, and including, expulsion for the most egregious violations of the institution's sexual assault policies.
New York	NY S 5965	Enacted 7/7/15 (without mandatory minimum sentencing)	Requires colleges to adopt policies concerning sexual violence, including a "Students' Bill of Rights" and procedures for confidential reporting; regularly review sexual violence policies. Originally included language for mandatory minimum punishments, but was removed in revisions.

judgment given relevant circumstances to a particular case.

## Conclusion

Although the recent proliferation of proposals concerning campus sexual assault demonstrates the prominence of campus safety concerns, the various policies discussed in this brief highlight some of the nuances and the complicated nature of legislating around this issue. Due to the wide number of distinct institutional policies, state statutes, and federal laws currently and potentially addressing campus sexual assault, policymakers should be cautious about the potential for conflict of laws and unintended consequences. Colleges, states and the federal government must work together to create a collaborative set of policies that will help prevent sexual assault, provide support services to victims, and appropriately adjudicate allegations of student misconduct.

As outlined in the *AASCU Public Policy Agenda*, AASCU welcomes conversations on how to improve campus and state approaches on this issue. Specifically, greater emphasis needs to be directed at solutions to help prevent sexual assault through education and outreach, including more attention to this issue in high schools. Campuses must also have support services in place for victims and ensure that students are aware of these

services. Lastly, AASCU remains committed to ensuring that campus disciplinary hearings on these matters are conducted in an equitable and timely manner.

## Endnotes

- <sup>14</sup>"The Campus Sexual Assault (CSA) Study," U.S. Department of Justice, accessed October 26, 2015, <https://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf>
- <sup>24</sup>AAU Campus Survey on Sexual Assault and Sexual Misconduct," Association of American Universities, accessed October 26, 2015, <http://www.aau.edu/Climate-Survey.aspx?id=16525>; "Statistics about Sexual Violence," National Sexual Violence Resource Center, accessed October 2015, [http://www.nsvrc.org/sites/default/files/publications\\_nsvrc\\_factsheet\\_media-pack\\_statistics-about-sexual-violence\\_0.pdf](http://www.nsvrc.org/sites/default/files/publications_nsvrc_factsheet_media-pack_statistics-about-sexual-violence_0.pdf)
- <sup>3</sup>Title IX of the Education Amendments of 1972, 20 USC §1681 et seq.
- <sup>44</sup>"OCR Title IX Sexual Violence Cases Open," *Politico*, accessed September 23, 2015, <http://static.politico.com/6c/cd/dc9a48d14d33b2ba26fdc2a1cccc/ocr-title-ix-sexual-violence-cases-open-9-23-15.pdf>
- <sup>5</sup>Many sexual assault survivor advocacy groups promote the term "survivor" in place of "victim" as the former connotes progress, healing, and power while the latter is a label of powerlessness and irreparable damage (<http://www.weendviolence.com/blog/2013/06/04/the-language-we-use-victim-and-survivor/>). This report uses the term "victim" not out of personal preference, but to maintain internal consistency and to align with language usage trends in

related legislation such as the Campus Accountability and Safety Act (CASA) and the Violence Against Women Act.

<sup>6</sup>“A ‘scarlet letter’ for students implicated in sex assaults: D.C. bill sparks debate,” *The Washington Post*, accessed October 26, 2015, <https://www.washingtonpost.com/news/grade-point/wp/2015/07/20/a-scarlet-letter-for-students-implicated-in-sex-assaults-d-c-bill-sparks-debate/>

<sup>7</sup>“2011 Dear Colleague Letter,” U.S. Department of Education, accessed November 10, 2015, <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>

<sup>8</sup>“Sexual Assault,” RAINN, accessed November 10, 2015, <https://rainn.org/get-information/types-of-sexual-assault/sexual-assault>

<sup>9</sup>18 USC §2246 (2-3)

<sup>10</sup>DeMatteo, D., Galloway, M., Arnold, S., and Patel, U. (2015). Sexual Assault on College Campuses: A 50-State Survey of Criminal Sexual Assault Statutes and Their Relevance to Campus Sexual Assault. American Psychological Association, 21(3), 227-238. <http://dx.doi.org/10.1037/law0000055>

<sup>11</sup>The federal government also had legal definitions using non-gender-neutral language as recently as 2012.

<sup>12</sup>The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990, 20 USC §1092(f) et al

<sup>13</sup>Violence Against Women Reauthorization Act of 2013, 42 USC §13701, sec. 304

<sup>14</sup>This argument about equity can be made with many other discipline-related issues, such as access to or use of legal council and representation in the college disciplinary process generally, and is one to consider when policy-making.

<sup>15</sup>34 CFR 99.31(a)(2)

<sup>16</sup>“Tens of thousands of rape kits go untested across USA,” *USA Today*, accessed October 26, 2015, <http://www.usatoday.com/story/news/2015/07/16/untested-rape-kits-evidence-across-usa/29902199/>

<sup>17</sup>“More Colleges Add ‘Confidential Advisers’ for Students Reporting Sexual Assault,” *The Chronicle of Higher Education*, accessed October 26, 2015, <http://chronicle.com/article/More-Colleges-Add/232319/?cid=at>

<sup>18</sup>“AAU Campus Survey on Sexual Assault and Sexual Misconduct,” Association of American Universities, accessed October 26, 2015, <http://www.aau.edu/Climate-Survey.aspx?id=16525>

### Appendix A: Enacted State Policies on Campus Sexual Assault

State	Bill	Action	Description
California	CA SB 967	Enacted 9/28/14	Requires colleges to: <ol style="list-style-type: none"> <li>1. Adopt policies concerning sexual violence, including an affirmative consent standard, Good Samaritan provisions, and procedures for confidential reporting;</li> <li>2. Establish MOUs with on-campus and community-based organizations, including rape crisis centers;</li> <li>3. Implement comprehensive prevention and outreach programs as part of every incoming student's orientation.</li> </ol>
	CA AB 913	Enacted 10/9/15	Requires colleges to: <ol style="list-style-type: none"> <li>1. enter into written agreements with local law enforcement agencies (MOUs)</li> </ol>
Colorado	CO HB-15 1220	Enacted 5/4/15	Requires colleges to: <ol style="list-style-type: none"> <li>1. Establish MOU or other formal arrangement with at least one nearby medical facility, with medical professionals specifically trained to care for sexual assault victims, to refer and transport those victims.</li> </ol>
Connecticut	CT HB 5029	Enacted 5/8/14	Requires colleges to: <ol style="list-style-type: none"> <li>1. Notify victims concerning their rights and options;</li> <li>2. Establish a campus resource team responsible for, among other things, regularly reviewing sexual violence policies;</li> <li>3. Establish MOUs with community-based organizations, including rape crisis centers, that can provide free and confidential counseling and advocacy services.</li> </ol>
	CT SB 966	Enacted 5/26/15	<ol style="list-style-type: none"> <li>1. Allows sexual assault forensic examiners to provide immediate care and treatment to victims of sexual assault at health care facilities operated by a college, provided the facility is licensed by the state.</li> </ol>
Illinois	IL HB 821	Enacted 8/21/15	Requires colleges to: <ol style="list-style-type: none"> <li>1. Develop a clear, comprehensive sexual violence policy that defines consent with included provisions and contains Good Samaritan language;</li> <li>2. Provide a confidential adviser to help victims understand their options and seek assistance, can be on-campus or provided through a partnership with a community-based organization or crisis center;</li> <li>3. Provide victims with contact information for nearby medical facility to receive a SAFE kit at no charge;</li> <li>4. Implement, at a minimum, annual prevention and awareness programming and training;</li> <li>5. Establish a campus resource team responsible for, among other things, regularly reviewing sexual violence policies.</li> </ol>

## Appendix A: Enacted State Policies on Campus Sexual Assault *continued*

State	Bill	Action	Description
Louisiana	LA HB 835	Enacted 6/23/15	<ol style="list-style-type: none"> <li>1. Requires criminal justice agencies to submit SAFE kits to a forensic laboratory for testing within 30 days of receiving a kit involving an unknown suspect;</li> <li>2. Prevents hospitals or healthcare providers from directly billing a victim for any healthcare services rendered in conducting a forensic medical examination.</li> </ol>
	LA HB 143	Enacted 6/23/15	<ol style="list-style-type: none"> <li>1. Establishes time period for collecting unclaimed jackpot tickets, with unclaimed tickets deposited into Crime Victims Reparations Fund; funds shall be used exclusively to pay the expenses associated with healthcare services of victims of sexually-oriented criminal offenses, including forensic medical examinations.</li> </ol>
	LA SB 255	Enacted 6/23/15	<p>Requires colleges to:</p> <ol style="list-style-type: none"> <li>1. Conduct an annual anonymous sexual assault climate survey;</li> <li>2. Establish MOUs with local law enforcement agencies;</li> <li>3. Provide a confidential adviser to help victims understand their options and seek assistance, can be on-campus or provided through a partnership with a community-based organization or crisis center;</li> <li>4. Include Good Samaritan language in institutional sexual violence policy;</li> <li>5. Withhold transcripts for students seeking to transfer with pending disciplinary action until such investigation is complete.</li> </ol>
Maryland	MD HB 571	Enacted 5/12/15	<p>Requires colleges to:</p> <ol style="list-style-type: none"> <li>1. Include Good Samaritan language in institutional sexual violence policy;</li> <li>2. Provide victims with contact information for nearby medical facility to receive a SAFE kit and provide transportation to this facility;</li> <li>3. Establish MOUs with local law enforcement agencies as well as state or federally recognized crisis centers;</li> <li>4. Conduct campus climate surveys at least every 2 years in coordination with the Maryland Higher Education Commission.</li> </ol>
Minnesota	MN SF 5	Enacted 5/22/15	<p>Requires colleges to:</p> <ol style="list-style-type: none"> <li>1. Develop a clear, comprehensive sexual violence policy that contains Good Samaritan language;</li> <li>2. Establish MOUs with local law enforcement agencies;</li> <li>3. Provide an online reporting system to receive complaints of sexual harassment and violence, including anonymous complaints;</li> <li>4. Implement comprehensive prevention and outreach programs as part of every incoming student's orientation;</li> <li>5. Designate a confidential resource for victims if the institution offers student health or counseling services.</li> </ol>

### Appendix A: Enacted State Policies on Campus Sexual Assault *continued*

State	Bill	Action	Description
New York	NYS 5965	Enacted 7/7/15	<p>Requires colleges to:</p> <ol style="list-style-type: none"> <li>1. Adopt policies concerning sexual violence, including an affirmative consent standard, Good Samaritan language, a “Students’ Bill of Rights,” and procedures for confidential reporting;</li> <li>2. Make a notation on the transcript of students found responsible for conduct violations for crimes of violence or those that withdraw from the institution while such conduct charges are pending;</li> <li>3. Establish MOUs with community-based organizations, including rape crisis centers, if institutions lack appropriate on-campus resources;</li> <li>4. Ensure access to SAFE kits by employing a sexual assault nurse examiner in the campus health center or entering into MOUs with local health care facilities to provide such a service;</li> <li>5. Provide information about confidential resources victims may contact;</li> <li>6. Conduct anonymous campus climate surveys no less than every other year;</li> <li>7. Implement mandatory prevention and outreach programs as part of every incoming student’s orientation;</li> <li>8. Regularly review sexual violence policies.</li> </ol>
Tennessee	TN HB 1239	Enacted 4/30/15	<ol style="list-style-type: none"> <li>1. Establishes that victims of sexual offenses are entitled to a forensic medical examination without charge to the victim;</li> <li>2. Law enforcement agencies must submit SAFE kits to a forensic laboratory for testing within 60 days of receipt.</li> </ol>
Texas	TX HB 699	Enacted 6/19/15	<p>Requires colleges to:</p> <ol style="list-style-type: none"> <li>1. Establish a policy on campus sexual assault that includes definitions and sanctions, to be distributed as part of every incoming student’s orientation;</li> <li>2. Review established policy each biennium.</li> </ol>

**Appendix A: Enacted State Policies on Campus Sexual Assault** *continued*

State	Bill	Action	Description
Virginia	VA HB 1785	Enacted 3/27/15	Requires colleges to: 1. Establish MOUs with local law enforcement agencies; 2. MOUs must contain provisions for notifying the local attorney for the Commonwealth of any investigation involving felony criminal sexual assault occurring on property owned or controlled by the college within 48 hours.
	VA SB 712	Enacted 4/15/15	Requires colleges to: 1. Follow prescribed reporting policy, including the formation of a review committee upon receiving an allegation of sexual assault to assess potential threat and to contact the attorney for the Commonwealth; 2. Establish MOUs with community-based organizations, including rape crisis centers, so victims have access to a confidential, independent advocate; 3. Annually review the sexual violence policy.
	VA HB 1930		
	VA SB 1193	Enacted 4/30/15	Requires colleges to: 1. Include a prominent notation on the transcript of each student who has been suspended for, expelled for, or withdraws from the institution while under investigation for a violation of the institutional sexual violence code or other student conduct policy.