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Date: (Filing No. S-)

EDUCATION AND CULTURAL AFFAIRS

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
130TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 572, L.D. 1727, “An Act Concerning Sexual Misconduct on College Campuses”

Amend the bill by striking out the title and substituting the following:

'An Act Concerning Interpersonal Violence on College Campuses'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 5 MRSA §12004-I, sub-§12-C is enacted to read:

12-C.

Education: Higher Education Interpersonal Violence Expenses Only 20-A MRSA
Higher Advisory Commission §12984
Education

Sec. 2. 20-A MRSA c. 445 is enacted to read:

CHAPTER 445

SEXUAL VIOLENCE, INTIMATE PARTNER VIOLENCE AND STALKING AT INSTITUTIONS OF HIGHER EDUCATION

§12981. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Affirmative consent. "Affirmative consent" means consent to sexual activity that can be revoked at any time. "Affirmative consent" does not include silence, lack of resistance or consent given while intoxicated.

2. Employee. "Employee" means an individual who is employed by an institution of higher education, including a full-time, part-time or contracted employee, or an individual

COMMITTEE AMENDMENT

1 who was employed by an institution of higher education, including a full-time, part-time
2 or contracted employee, but has taken a leave of absence or terminated the employment as
3 a result of having been a victim of sexual violence, intimate partner violence or stalking or
4 for any other reason.

5 **3. Institution of higher education.** "Institution of higher education" or "institution"
6 means a public, private, nonprofit or for-profit postsecondary school chartered,
7 incorporated or otherwise organized in the State with an established physical presence in
8 the State.

9 **4. Interpersonal violence climate survey.** "Interpersonal violence climate survey"
10 means the survey developed pursuant to section 12984, subsection 8.

11 **5. Intimate partner violence.** "Intimate partner violence" means any of the acts that
12 constitute abuse under Title 19-A, section 4002, subsection 1, paragraphs A to H that are
13 committed by an individual who is or has been in a social relationship with another
14 individual of an intimate nature regardless of whether the individuals were or are sexual
15 partners.

16 **6. Reporting party.** "Reporting party" means a student or employee who reports
17 having experienced an alleged incident of sexual violence, intimate partner violence or
18 stalking at an institution of higher education.

19 **7. Responding party.** "Responding party" means an individual who has been accused
20 of an alleged incident of sexual violence, intimate partner violence or stalking at an
21 institution of higher education.

22 **8. Sexual violence.** "Sexual violence" means conduct that constitutes:

23 A. Any crime under Title 17-A, chapter 11;

24 B. Unauthorized dissemination of certain private images pursuant to Title 17-A, section
25 511-A;

26 C. Aggravated sex trafficking or sex trafficking pursuant to Title 17-A, section 852 or
27 853, respectively; or

28 D. Sexual harassment as defined in Title 14, section 6000, subsection 2-A.

29 **9. Stalking.** "Stalking" means conduct that constitutes the crime of stalking under Title
30 17-A, section 210-A.

31 **10. Student.** "Student" means an individual who is enrolled or is seeking to be
32 enrolled in an institution of higher education in this State and is a candidate for a degree or
33 diploma or graduate certificate or has taken a leave of absence as a result of having been a
34 victim of sexual violence, intimate partner violence or stalking.

35 **11. Title IX coordinator.** "Title IX coordinator" means the employee at an institution
36 of higher education who is responsible for institutional compliance with the so-called Title
37 IX provisions of the federal Education Amendments of 1972, Public Law 92-318, as
38 amended.

39 **12. Trauma-informed response.** "Trauma-informed response" means a response by
40 an individual who has received specific training in the complexities of trauma caused by
41 intimate partner violence, sexual violence or stalking including training on:

42 A. The neurobiological impact of trauma;

1 B. The influence of societal stereotypes or other misconceptions relating to the causes
2 and impacts of trauma on an individual experiencing the trauma caused by intimate
3 partner violence, sexual violence or stalking;

4 C. Methodologies for avoiding perpetuation of the trauma caused by intimate partner
5 violence, sexual violence or stalking; and

6 D. How to conduct an effective investigation of trauma.

7 **§12982. Adoption of policies and related procedures**

8 **1. Adoption of policy required.** No later than July 1, 2023, each institution of higher
9 education shall adopt a policy and related procedures on sexual violence, intimate partner
10 violence and stalking, referred to in this section as "the policy," in accordance with this
11 section and consistent with applicable state and federal law. The policy must be publicly
12 available on each institution's campus website and in student handbooks. Notices of where
13 the full policy is available and outreach for victims of sexual violence, intimate partner
14 violence and stalking must be posted at campus locations where students regularly
15 congregate. The institution shall update the policy on the institution's website annually.

16 **2. Development of policy.** The policy must reflect the diverse needs of all students
17 and employees and be culturally competent. An institution may consider input from various
18 internal and external entities, including, but not limited to, the institution's Title IX
19 coordinator, a local sexual assault support center, a domestic violence resource center,
20 administrators, personnel affiliated with on-campus and off-campus health care centers,
21 confidential resource advisors, residence life staff, students, local law enforcement
22 agencies and the district attorney having jurisdiction in the municipality where the
23 institution of higher education's primary campus is located.

24 **3. Content of policy.** The policy must include, but is not limited to:

25 A. Procedures by which students and employees at the institution may report or
26 disclose alleged incidents of sexual violence, intimate partner violence or stalking
27 regardless of where the alleged incident occurred;

28 B. Information on where a reporting party may receive immediate emergency
29 assistance following an alleged incident of sexual violence, intimate partner violence
30 or stalking including, but not limited to:

31 (1) The name and location of the nearest medical facility where a reporting party
32 may request that a forensic examination be administered by a licensed health care
33 practitioner that has received sexual assault forensic examiner training and
34 education provided by the sexual assault forensic examiner program, including
35 information on transportation options and information on reimbursement for travel
36 costs, if any;

37 (2) The contact information for a local sexual assault support center and a domestic
38 violence resource center and a description of the services provided by the centers;

39 (3) The telephone number and website for a confidential statewide sexual assault
40 helpline and a national 24-hour hotline that provides information on sexual assault;
41 and

1 (4) Information on any programs that may financially assist a reporting party with
2 the cost of emergency medical assistance, including the Victims' Compensation
3 Fund pursuant to Title 5, chapter 316-A;

4 C. Descriptions of the types of and contact information for counseling, health, safety,
5 academic and other support services available within the local community or region or
6 through a local sexual assault support center or a domestic violence resource center,
7 including but not limited to the names of and contact information for organizations that
8 support responding parties accused of sexual violence, intimate partner violence or
9 stalking; the name of and contact information for a confidential resource advisor under
10 section 12986 and a description of the role of and services provided by the confidential
11 resource advisor; and the name of and contact information for the institution's Title IX
12 coordinator;

13 D. The rights of students and employees to:

14 (1) Notify or decline to notify a law enforcement agency, including campus, local
15 or state police, of an alleged incident of sexual violence, intimate partner violence
16 or stalking;

17 (2) Receive assistance from campus authorities in making any notification under
18 subparagraph (1); and

19 (3) Obtain a court-issued or institution-issued protection order against a
20 responding party involved with the alleged incident of sexual violence, intimate
21 partner violence or stalking;

22 E. The process for requesting supportive measures reasonably available from the
23 institution, including, but not limited to, options for changing academic, living, campus
24 transportation or working arrangements or taking a leave of absence in response to an
25 alleged incident of sexual violence, intimate partner violence or stalking, how to
26 request those changes and the process to have any such measures reviewed;

27 F. The contact information for the closest local, state and federal law enforcement
28 agencies with jurisdiction over matters involving sexual violence, intimate partner
29 violence or stalking, procedures for students to notify the institution that a protection
30 order has been issued under state or federal law and the institution's responsibilities
31 upon receipt of such notice;

32 G. A summary of the institution's procedures for informal resolution, investigating,
33 adjudicating and resolving sexual violence, intimate partner violence or stalking
34 complaints against students, regardless of where the alleged offense occurred,
35 including an explanation of all procedures that must be followed to obtain investigatory
36 reports and gather evidence, and potential sanctions or penalties that may be imposed.
37 The policy must provide that:

38 (1) The procedures be uniformly applied, to the extent practicable, for all
39 proceedings relating to any claims of sexual violence, intimate partner violence or
40 stalking;

41 (2) An investigation, including any hearings and resulting disciplinary
42 proceedings, be conducted by an individual who receives not less than annual
43 training on issues relating to sexual violence, intimate partner violence or stalking,
44 investigatory procedures and hearing procedures to protect the safety and rights of

1 students and promote accountability, objectivity, impartiality and a trauma-
2 informed response;

3 (3) The reporting party and the responding party be provided with a copy of the
4 policy regarding the submission and consideration of evidence that may be used
5 during a disciplinary proceeding;

6 (4) The reporting party and the responding party be informed in writing of the
7 results of a disciplinary proceeding not later than 7 business days after a final
8 determination of a complaint, not including time for appeal, if any, unless good
9 cause for additional time is shown. The reporting party and responding party must
10 be informed of the process, if any, for appealing the decision;

11 (5) The institution may not publicly disclose the identity of the reporting party or
12 the responding party, except as necessary to carry out a disciplinary proceeding or
13 as otherwise permitted under state or federal law; and

14 (6) The reporting party and the responding party must be informed that the
15 institution's disciplinary proceedings may not serve as a substitute for the criminal
16 justice process; and

17 H. The range of sanctions or penalties the institution may impose on students and
18 employees found responsible for a violation of the applicable institutional policy
19 prohibiting sexual violence, intimate partner violence or stalking.

20 **4. Adoption of and amendments to the policy.** When adopting or amending a policy,
21 an institution shall provide an opportunity for comment and a reasonable length of time in
22 which comments will be accepted. The institution shall provide the draft policy or
23 proposed substantive amendments by electronic or regular mail to internal and external
24 entities, with instructions on how to comment and the reasonable length of time in which
25 comments will be accepted. Once an institution has adopted a policy, the opportunity for
26 review and comment by internal and external entities applies only to substantive
27 amendments in the policy.

28 **5. Confidentiality.** The identity of a reporting party and a responding party and all
29 information relating to an incident of sexual violence, intimate partner violence or stalking
30 are confidential and may not be disclosed by the institution except as necessary to carry out
31 a disciplinary process or as otherwise permitted under state or federal law.

32 **§12983. Notice to proceed**

33 Each institution shall provide a reporting party and a responding party with written
34 notice of the institution's decision to hold a disciplinary proceeding regarding an allegation
35 of sexual violence, intimate partner violence or stalking sufficiently in advance of a
36 disciplinary proceeding to provide the reporting and responding parties with the
37 opportunity to meaningfully exercise their rights. The disciplinary proceeding must
38 provide due process and be prompt, fair and impartial and include the opportunity for both
39 parties to present witnesses and other evidence. The written notice must include the
40 information required to be posted on the institution's publicly accessible website pursuant
41 to section 12982, subsection 1.

42 **§12984. Higher Education Interpersonal Violence Advisory Commission**

1 **1. Establishment.** The Higher Education Interpersonal Violence Advisory
2 Commission, established by Title 5, section 12004-I, subsection 12-C and referred to in
3 this chapter as "the commission," is created for the purpose of developing a base
4 interpersonal violence climate survey for dissemination to institutions of higher education
5 and providing recommendations on the content, timing and application of the survey and
6 reporting on the survey to the joint standing committee of the Legislature having
7 jurisdiction over higher education matters.

8 **2. Membership.** The commission consists of the following 22 members:

9 A. The commissioner or the commissioner's designee;

10 B. The Commissioner of Health and Human Services or the commissioner's designee;

11 C. The following 9 members appointed by the commissioner:

12 (1) A member representing a statewide coalition of sexual assault support centers;

13 (2) A member representing an organization promoting racial equity and justice;

14 (3) A member representing a tribal coalition against sexual assault and domestic
15 violence;

16 (4) A member representing a statewide organization for disability rights;

17 (5) A member representing a statewide organization for lesbian, gay, bisexual and
18 transgender people;

19 (6) A member representing a national advocacy organization focused on passing
20 state legislation written by students and survivors addressing campus sexual
21 violence;

22 (7) A member representing a statewide coalition of domestic violence resource
23 centers;

24 (8) A member representing an organization that advocates for immigrant
25 communities in this State; and

26 (9) A representative from a civil legal services provider representing sexual assault
27 survivors; and

28 D. The following 11 members appointed by the Governor:

29 (1) A student attending a public institution of higher education in this State;

30 (2) A student attending a private institution of higher education in this State;

31 (3) A student attending an institution in the Maine Community College System;

32 (4) A representative of the University of Maine System recommended by the
33 Chancellor of the University of Maine System;

34 (5) A representative of a private institution of higher education recommended by
35 an association of independent colleges in this State;

36 (6) A representative of the Maine Community College System recommended by
37 the President of the Maine Community College System;

38 (7) A Title IX coordinator at a public institution of higher education in this State;

39 (8) A Title IX coordinator at a private institution of higher education in this State;

1 (9) A researcher with experience in the development and design of interpersonal
2 violence climate surveys;

3 (10) A researcher of statistics, data analytics or econometrics with experience in
4 higher education survey analysis; and

5 (11) A representative of an on-campus health center at an institution of higher
6 education who has experience dealing with campus sexual violence, intimate
7 partner violence or stalking.

8 **3. Staffing.** The department shall provide appropriate staffing assistance to the
9 commission.

10 **4. Terms; vacancies; compensation.** Each appointed member serves a 2-year term
11 except that, of those members first appointed, 5 appointed by the Governor and 5 appointed
12 by the commissioner must be appointed for a one-year term. The term of office of each
13 member must be designated at the time of appointment. A member of the commission may
14 serve after the expiration of that member's term until a successor has been appointed.
15 Members are compensated in accordance with Title 5, chapter 379.

16 **5. Quorum.** A quorum of the commission consists of 2/3 of appointed members.

17 **6. Powers and duties.** Beginning July 1, 2023 and biennially thereafter, the
18 commission shall provide to the commissioner the interpersonal violence climate survey
19 developed in accordance with subsections 8 and 9 and any related recommendations,
20 including but not limited to recommendations on achieving statistically valid response
21 rates. The commission may make recommendations on legislative and policy actions or on
22 enforcing and carrying out the provisions of this chapter and may undertake research
23 development and program initiatives consistent with this section. The commission shall
24 meet at least 4 times a year. Subcommittees of the commission may meet as necessary.
25 The commission may accept funds from the Federal Government, from a political
26 subdivision of the State or from an individual, foundation or corporation and may expend
27 these funds for purposes that are consistent with this subsection. The commission may
28 develop bylaws to fulfill this section.

29 **7. Fund established.** The Higher Education Interpersonal Violence Advisory
30 Commission Fund is established as a nonlapsing fund for the purpose of receiving funds
31 accepted by the commission under subsection 6.

32 **8. Development of interpersonal violence climate survey.** The commission shall
33 develop the interpersonal violence climate survey by:

34 A. Using best practices from peer-reviewed research and in consultation with
35 individuals with expertise in the development and use of interpersonal violence climate
36 surveys by institutions of higher education;

37 B. Reviewing interpersonal violence climate surveys that have been developed and
38 previously used by institutions of higher education in other states;

39 C. To ensure the adequacy and appropriateness of the proposed content, providing
40 opportunities for written comment from organizations that work directly with victims
41 and survivors of sexual violence, intimate partner violence and stalking;

42 D. Consulting with institutions on strategies for optimizing the effectiveness of the
43 interpersonal violence climate survey; and

1 E. Accounting for the diverse needs and differences among the institutions of higher
2 education.

3 **9. Information to be gathered.** The interpersonal violence climate survey must
4 collect anonymous responses and may not require the disclosure of personally identifiable
5 information. The survey must include the survey requirements of the federal Violence
6 Against Women Act Reauthorization Act of 2022, Public Law 117-103 and the survey must
7 be designed, without being duplicative of the federal requirements, to gather the following
8 information:

9 A. The number of incidents, both reported and unreported, of sexual violence, intimate
10 partner violence and stalking at each institution of higher education;

11 B. Generally, when or where incidents of sexual violence, intimate partner violence or
12 stalking occurred, including but not limited to on-campus, off-campus, abroad, online
13 or elsewhere, but without requiring students to disclose specific information about any
14 incident;

15 C. Student awareness of the institution's policies and procedures related to sexual
16 violence, intimate partner violence and stalking;

17 D. Whether a student reported sexual violence, intimate partner violence or stalking
18 and, if so, to which campus resource or law enforcement agency the report was made,
19 and, if not, the reason for the student's decision not to report;

20 E. Whether a student was informed of or referred to local, state, campus or other
21 resources or victim support services, including appropriate medical care and legal
22 services;

23 F. Whether a student was provided the option of protection from retaliation, access to
24 school-based accommodations and criminal justice remedies;

25 G. Contextual factors of each incident of sexual violence, intimate partner violence or
26 stalking, such as the involvement of force, incapacitation, coercion or drug or alcohol
27 facilitation;

28 H. Demographic information that could be used to identify at-risk groups including
29 but not limited to gender, race and sexual orientation;

30 I. Perceptions of campus safety among members of the campus community and
31 confidence in the institution's ability to protect against and respond in a timely and
32 trauma-informed manner to incidents of sexual violence, intimate partner violence or
33 stalking;

34 J. Whether a reporting party was satisfied with the institution of higher education's
35 response to the reporting party's report;

36 K. Whether the student has chosen to withdraw or take a leave of absence from the
37 institution or transferred to another institution due to being either the reporting party or
38 the responding party in an allegation of sexual violence, intimate partner violence or
39 stalking;

40 L. Whether a student has withdrawn from any classes or been placed on academic
41 probation as a result of an incident of sexual violence, intimate partner violence or
42 stalking; and

1 M. Answers to any other questions developed by the commission.

2 **§12985. Interpersonal violence climate survey dissemination; aggregate data**
3 **collection; reporting**

4 **1. Dissemination; conduct.** The commissioner shall provide the interpersonal
5 violence climate survey biennially to each institution, and each institution shall biennially
6 conduct the interpersonal violence climate survey on each campus. Each institution may
7 append campus-specific questions to the survey, as long as any additional questions do not
8 require the disclosure of any personally identifiable information and are not unnecessarily
9 traumatizing for victims of sexual violence, intimate partner violence and stalking. All
10 students must be offered an opportunity to complete part or all of the interpersonal violence
11 climate survey.

12 **2. Report to commissioner; website.** Within 120 days after completion of the
13 interpersonal violence climate survey, each institution shall submit a summary of the results
14 and the aggregate data, with any personally identifiable information removed or redacted,
15 supporting the results to the commissioner and post the following on the institution of
16 higher education's publicly accessible website in a way that does not personally identify
17 any student:

18 A. The summary of the results of the survey;

19 B. The annual security report completed pursuant to 20 United States Code, Section
20 1092(f); and

21 C. A link to the department's statewide interpersonal violence climate survey data
22 pursuant to subsection 3.

23 **3. Data collection.** The department shall establish a data repository for all summaries
24 and anonymized and aggregated data of interpersonal violence climate surveys submitted
25 by institutions. The department shall ensure that the interpersonal violence climate survey
26 data submitted by all institutions in accordance with subsection 2 is available to the public
27 in an easily accessible manner on the department's publicly accessible website.

28 **4. Protection of personal information.** The interpersonal violence climate survey
29 must be designed to collect anonymous responses and may not publicly disclose any
30 personally identifying information. An institution of higher education may not use or
31 attempt to use information collected through the interpersonal violence climate survey to
32 identify or contact any individual student on campus, nor may the responses to the survey
33 be used as the basis for any type of investigation or disciplinary or legal proceeding.

34 **§12986. Confidential resource advisors**

35 **1. Confidential resource advisor designated.** Each institution shall designate at least
36 one confidential resource advisor to provide emergency and ongoing support to survivors
37 of sexual violence, intimate partner violence and stalking. The confidential resource
38 advisor must be designated based on the confidential resource advisor's experience in
39 advocating on behalf of victims of sexual assault or domestic violence and a demonstrated
40 ability to effectively provide victim services related to sexual violence, intimate partner
41 violence or stalking. The confidential resource advisor may have another role at the
42 institution of higher education, but may not be a student or a Title IX coordinator and may
43 not have any other job responsibilities that may create a conflict of interest, including but
44 not limited to being general counsel, director of athletics, dean of students or any employee

1 who serves on a judicial or hearing board overseeing reports of sexual violence, intimate
2 partner violence or stalking or to whom an appeal of such a proceeding might be made. The
3 confidential resource advisor shall maintain a physical presence on campus that provides
4 the confidential resource advisor a place to meet discreetly and privately with students or
5 employees in-person or remotely. An institution may contract or partner with a local, state
6 or national victim advocacy organization to provide a confidential resource advisor under
7 this subsection.

8 **2. Additional designation; partnership.** Each institution of higher education shall
9 designate existing categories of employees who may also serve as confidential resource
10 advisors. This subsection may not be construed to limit an institution of higher education
11 from designating a new or existing employee as a confidential resource advisor. An
12 institution of higher education that enrolls fewer than 1,000 residential students may partner
13 with another institution of higher education or local sexual assault support center within
14 the State to provide the services under this section. Any partnership entered into under this
15 subsection must ensure that the confidential resource advisor is available to a student within
16 a reasonable distance from the student's institution of higher education.

17 **3. Training.** A confidential resource advisor must receive the following training:

18 A. Prior to designation as a confidential resource advisor, 40 hours of training on
19 sexual violence, intimate partner violence and stalking;

20 B. Training regarding unconscious biases related to race, gender and sexuality;

21 C. Training regarding awareness and prevention of sexual violence, intimate partner
22 violence or stalking, relevant federal policies, the institution's policy under section
23 12982 and trauma-informed response; and

24 D. Twenty hours of educational training annually on issues related to sexual violence,
25 intimate partner violence and stalking, including but not limited to awareness and
26 prevention of sexual violence, intimate partner violence and stalking and a trauma-
27 informed response.

28 **4. Coordination.** A confidential resource advisor shall coordinate with on-campus, if
29 any, and off-campus sexual assault support centers and domestic violence resource centers
30 within a reasonable time after being designated as a confidential resource advisor.

31 **5. Information and resources.** A confidential resource advisor is responsible for
32 providing the following information and resources regarding incidents of sexual violence,
33 intimate partner violence or stalking to students and employees:

34 A. Reporting options and the probable effects of each option;

35 B. Counseling services available on campus and through a local sexual assault support
36 center or domestic violence resource center;

37 C. Medical and mental health services available on campus and off campus;

38 D. When requested, campus escort services for security;

39 E. Available supportive measures, including academic and residential life
40 accommodations;

1 F. For students considering temporary or permanent withdrawal or reduced
2 enrollment, student loan counseling including but not limited to information regarding
3 loan deferment, forbearance or other applicable student loan programs;

4 G. The institution's investigative, disciplinary and nondisciplinary processes;

5 H. The legal process of local, state and federal law enforcement agencies;

6 I. That the institution of higher education's disciplinary process is not to be considered
7 a substitute for the criminal justice process; and

8 J. Any limits on the ability of the confidential resource advisor to keep private or
9 confidential the information of the student.

10 **6. Direct assistance.** If requested by the reporting party, the confidential resource
11 advisor, using only the student or employee's identifying information, shall coordinate with
12 the campus resources to arrange possible school-provided supportive measures, including
13 those available through any memoranda of understanding with sexual assault support
14 centers and domestic violence resource centers, and including but not limited to:

15 A. Changes in academic status, dining, housing, transportation or campus employment;

16 B. Access to counseling and other mental health services;

17 C. Excused absences, academic counseling and tutoring;

18 D. Academic course work accommodations; and

19 E. Financial resources that are under the control of the institution, including if a student
20 has to withdraw from a class or the institution entirely, such as tuition credit,
21 opportunities to withdraw or reenroll in a course without academic or financial penalty
22 and continued eligibility for scholarships and honors.

23 Supportive measures may also be obtained, when appropriate, through disability services
24 and the Title IX coordinator at the institution of higher education.

25 **7. Additional actions.** A confidential resource advisor, regarding an alleged incident
26 of sexual violence, intimate partner violence or stalking reported to the advisor:

27 A. Shall notify all campus resources that are involved in providing or enforcing
28 supportive measures or accommodations of their duties;

29 B. May, if appropriate and directed by a student, assist the student in contacting or
30 reporting to campus or local law enforcement agencies;

31 C. Shall notify a student of the student's rights and the institution's responsibility
32 regarding a protection order, no-contact order or any other lawful order issued by the
33 institution or by a criminal, civil or tribal court;

34 D. May not be required to report the incident to the institution or a law enforcement
35 agency unless otherwise required to do so by state or federal law and shall provide
36 confidential services to students or employees;

37 E. May attend an administrative adjudication proceeding or the institution's
38 disciplinary proceeding as an advisor or support person of a student's or employee's
39 choice;

1 F. May disclose confidential information with the prior written consent of the reporting
2 party or if required by state or federal law;

3 G. May not provide services to both the reporting party and the responding party to
4 the incident of sexual violence, intimate partner violence or stalking; and

5 H. May not act as a counselor or therapist unless the confidential resource advisor is a
6 licensed counselor in this State and the student engages the confidential resource
7 advisor in that capacity.

8 **8. Notice.** A report to a confidential resource advisor of an alleged incident of sexual
9 violence, intimate partner violence or stalking or a confidential resource advisor's
10 performance of a service under this section may not be considered actual or constructive
11 notice of such an alleged incident to the institution of higher education at which the
12 confidential resource advisor is employed or provides contracted services.

13 **9. Retaliation.** If a conflict of interest arises for an institution in which a confidential
14 resource advisor is advocating for a reporting party's need for sexual assault support
15 services or campus or local law enforcement agency services, the institution may not
16 discipline, penalize or otherwise retaliate against the confidential resource advisor for
17 representing the interest of the reporting party.

18 **10. Privileged communications.** Communications between a reporting party and a
19 confidential resource advisor are privileged from disclosure as follows.

20 A. A reporting party may refuse to disclose and may deny permission to a confidential
21 resource advisor to disclose confidential written or oral communications between the
22 reporting party and the confidential resource advisor and any written records, notes,
23 memoranda or reports concerning the reporting party.

24 B. Except as provided in paragraph C, a confidential resource advisor may not be
25 required through oral or written testimony or through production of documents to
26 disclose to a court in criminal or civil proceedings or to any agency or person any
27 privileged communications between the reporting party and the confidential resource
28 advisor.

29 C. Privileged communications may be disclosed in the following circumstances:

30 (1) When disclosure is required under Title 22, chapter 958-A or 1071 and that
31 disclosure is in accordance with provisions of either chapter;

32 (2) When a court in the exercise of its discretion determines the disclosure of the
33 information necessary to proper administration of justice, an inspection of records
34 may be held in camera by the judge to determine whether those records contain
35 relevant information. This proceeding does not entitle an opposing party to
36 examine the records unless those records are made available by the court; or

37 (3) When a reporting party dies or is incapable of giving consent and disclosure is
38 required for an official law enforcement agency investigation or criminal
39 proceeding regarding the cause of the victim's death or incapacitation.

40 **11. Confidential criminal history record information.** Notwithstanding any
41 provision of law to the contrary, a criminal justice agency, whether directly or through any
42 intermediary, may disseminate confidential criminal history record information to a
43 confidential resource advisor for the purpose of planning for the safety of the party the

1 confidential resource advisor is advising. A confidential resource advisor who receives
2 confidential criminal history record information pursuant to this subsection shall use it
3 solely for the purpose authorized by this subsection and may not further disseminate the
4 information.

5 **12. Cross-examination.** Nothing in this section may be construed to limit either
6 party's right of cross-examination of the confidential resource advisor in a civil or criminal
7 proceeding if the confidential resource advisor testifies after written consent has been given
8 or in accordance with subsection 10.

9 **§12987. Awareness programming**

10 An institution of higher education, with guidance from its Title IX coordinator, a local
11 law enforcement agency and the sexual assault support center or the domestic violence
12 resource center identified in the institution's policy under section 12982, shall provide
13 mandatory prevention and awareness programming on sexual violence, intimate partner
14 violence and stalking for all incoming students and all employees of the institution. The
15 institution shall make available prevention and awareness programming to all returning
16 students of the institution. The prevention and awareness programming must include:

17 **1. Affirmative consent.** An explanation of affirmative consent as it applies to sexual
18 activity and sexual relationships;

19 **2. Affirmative consent; drugs and alcohol.** The role drugs and alcohol play in an
20 individual's ability to provide affirmative consent;

21 **3. Options for reporting.** Information on options relating to the reporting of an
22 incident of sexual violence, intimate partner violence or stalking, the probable effects and
23 potential outcomes of each option and the methods to report an incident of sexual violence,
24 intimate partner violence or stalking, including confidential and anonymous disclosure;

25 **4. Institution's procedures; sanctions and penalties.** Information on the institution's
26 procedures for resolving reports of sexual violence, intimate partner violence and stalking
27 and the range of sanctions or penalties the institution may impose on students and
28 employees found responsible for a violation of a policy and related procedures adopted
29 under section 12982;

30 **5. Contact information.** The name, contact information and role of the confidential
31 resource advisor, information about the local sexual assault support center, their
32 confidential services and how to access those services, information about the domestic
33 violence resource center, their confidential services and how to access those services, as
34 well as the name and contact information of all other personnel governed by confidentiality
35 policies at the institution;

36 **6. Bystander intervention and risk reduction.** Strategies for bystander intervention
37 and risk reduction;

38 **7. Ongoing prevention and awareness.** Opportunities for ongoing sexual violence,
39 intimate partner violence and stalking prevention and awareness programming, including
40 through ongoing campaigns; and

41 **8. Sensitivity; marginalized groups.** An approach to training that recognizes and is
42 sensitive to the disproportionate impacts and rates of occurrence of sexual violence,
43 intimate partner violence and stalking on members of marginalized groups, including but

1 not limited to people of color, people with disabilities and lesbian, gay, bisexual and
2 transgender people.

3 **§12988. Training for Title IX coordinators, campus safety personnel and individuals**
4 **involved in the disciplinary process**

5 **1. General requirement.** Each institution of higher education shall ensure that its
6 Title IX coordinator and members of its campus police force or campus safety personnel
7 employed by the institution of higher education undergo annual training in awareness of
8 sexual violence, intimate partner violence and stalking and trauma-informed responses.

9 **2. Requirements for involvement in disciplinary process.** Any individual who
10 participates in the implementation of an institution's disciplinary process under this chapter,
11 including but not limited to any individuals responsible for resolving reports of incidents
12 of sexual violence, intimate partner violence and stalking, must be trained or have
13 experience in handling such reports and the operations of the institution's disciplinary
14 practice. The training must include, but is not limited to:

15 A. Information about providing a trauma-informed response when working with and
16 interviewing victims of an alleged incident of sexual violence, intimate partner
17 violence or stalking;

18 B. Information on particular types of conduct that constitute sexual violence, intimate
19 partner violence and stalking;

20 C. Information on affirmative consent and the role drugs and alcohol may play in an
21 individual's ability to consent;

22 D. The effects of trauma, including any neurobiological impact on an individual;

23 E. Cultural competency training regarding how sexual violence, intimate partner
24 violence and stalking may affect students differently depending on factors that
25 contribute to a student's cultural background, including but not limited to national
26 origin, sex, ethnicity, religion, gender identity, gender expression and sexual
27 orientation;

28 F. Methods of communicating sensitively and compassionately with a reporting party
29 including, but not limited to, an awareness of responding to a reporting party with
30 consideration of that party's cultural background and providing services to or assisting
31 in locating services for the reporting party;

32 G. Training and information regarding how sexual violence, intimate partner violence
33 and stalking may affect students with developmental or intellectual disabilities; and

34 H. Methods of communicating sensitively with a responding party, including an
35 awareness of the emotional impact of an allegation of sexual violence, intimate partner
36 violence and stalking.

37 **§12989. Reporting**

38 **1. Report.** By October 1, 2023 and annually thereafter, an institution of higher
39 education shall prepare and submit to the commissioner, the Commissioner of Health and
40 Human Services and the joint standing committee of the Legislature having jurisdiction
41 over higher education matters the annual security report required under the federal Jeanne

1 Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 United
2 States Code, Section 1092(f).

3 **§12990. Immunity**

4 A reporting party or a witness who requests an investigation of sexual violence,
5 intimate partner violence or stalking may not be subject to a disciplinary proceeding or
6 sanction or penalty for a violation of the institution's student conduct policy related to drug
7 or alcohol use, trespassing or unauthorized entry of the institution's facilities that comes to
8 the attention of the institution as part of that report or investigation of sexual violence,
9 intimate partner violence or stalking unless the institution determines that the report was
10 not made in good faith or that the violation was egregious. An egregious violation must
11 include, but not be limited to, taking an action that places the health and safety of another
12 person at risk. This section may not be construed to limit the ability of an institution to
13 establish an immunity policy for student conduct violations not mentioned in this section.

14 **§12991. Memoranda of understanding**

15 **1. Requirement.** No later than July 1, 2023, an institution of higher education shall
16 enter into and maintain a memorandum of understanding with a sexual assault support
17 center and domestic violence resource center that is funded by the Department of Health
18 and Human Services to:

19 A. Provide an off-campus option for students and employees of the institution to
20 receive free and confidential sexual assault crisis services, including access to a sexual
21 assault nurse examiner, if available, or free and confidential domestic violence crisis
22 services;

23 B. Ensure that a student or employee of the institution may access free and confidential
24 advocacy services either on campus or off campus related to sexual violence, intimate
25 partner violence or stalking;

26 C. Ensure cooperation and training between the institution and the sexual assault
27 support center or domestic violence resource center regarding the roles that the
28 institution, sexual assault support center and domestic violence resource center should
29 play in responding to reports and disclosures of sexual violence, intimate partner
30 violence and stalking against students and employees of the institution and the
31 institution's protocols for providing support and services to such students and
32 employees;

33 D. Ensure that a student or employee of the institution has access to mental health
34 services, either on campus or off campus, relating to sexual violence, intimate partner
35 violence or stalking; and

36 E. Make referrals for civil legal representation to assist with civil protections, including
37 but not limited to those related to protections under Title IX of the federal Education
38 Amendments of 1972, Public Law 92-318, as amended, or protection from abuse
39 orders.

40 **2. Confidential victim services; fees.** A memorandum of understanding may include
41 an agreement, including a fee structure, between the sexual assault support center or
42 domestic violence resource center under subsection 1 and the institution of higher
43 education to provide confidential victim services. Confidential victim services may include
44 case consultation and training fees for confidential resource advisors, consultation fees for

1 the development and implementation of sexual violence, intimate partner violence and
 2 stalking education and prevention programs for students, the development of trauma-
 3 informed response staff training and prevention curricula and private on-site office space
 4 for an advocate from the sexual assault support center and domestic violence resource
 5 center to meet with students or employees.

6 **Sec. 3. Appropriations and allocations.** The following appropriations and
 7 allocations are made.

8 **COMMUNITY COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE MAINE**

9 **Maine Community College System - Board of Trustees 0556**

10 Initiative: Provides ongoing funds to contract for the services of a confidential resource
 11 advisor at each of the 7 campuses within the Maine Community College System.

12	GENERAL FUND	2021-22	2022-23
13	All Other	\$0	\$344,531
14			
15	GENERAL FUND TOTAL	\$0	\$344,531

16

17 **COMMUNITY COLLEGE SYSTEM, BOARD OF**
 18 **TRUSTEES OF THE MAINE**

19 **DEPARTMENT TOTALS**

20		2021-22	2022-23
21	GENERAL FUND	\$0	\$344,531
22			
23	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$344,531

24 **EDUCATION, DEPARTMENT OF**

25 **Higher Education Interpersonal Violence Advisory Commission Fund N957**

26 Initiative: Provides a base allocation to authorize expenditures of funds received from the
 27 Federal Government to support the work of the commission.

28	FEDERAL EXPENDITURES FUND	2021-22	2022-23
29	All Other	\$0	\$500
30			
31	FEDERAL EXPENDITURES FUND TOTAL	\$0	\$500

32 **Higher Education Interpersonal Violence Advisory Commission Fund N957**

33 Initiative: Provides a base allocation to authorize expenditures of funds received from
 34 public or private sources to support the work of the commission.

35	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
36	All Other	\$0	\$500
37			
38	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$500

39 **Higher Education Interpersonal Violence Advisory Commission Fund N957**

1 Initiative: Provides funds for the costs associated with developing the interpersonal
 2 violence climate survey for dissemination to institutions of higher education on a biennial
 3 basis.

4	GENERAL FUND	2021-22	2022-23
5	All Other	\$0	\$40,000
6			
7	GENERAL FUND TOTAL	\$0	\$40,000

8 **Higher Education Interpersonal Violence Advisory Commission Fund N957**

9 Initiative: Provides ongoing funds for the costs associated with staffing the commission
 10 and coordinating and validating the data collected from the interpersonal violence climate
 11 survey.

12	GENERAL FUND	2021-22	2022-23
13	All Other	\$0	\$16,000
14			
15	GENERAL FUND TOTAL	\$0	\$16,000

16 **Higher Education Interpersonal Violence Advisory Commission Fund N957**

17 Initiative: Provides ongoing funds for the costs associated with establishing and
 18 maintaining a data repository for all anonymized and aggregated raw data of interpersonal
 19 violence climate surveys submitted by higher education institutions.

20	GENERAL FUND	2021-22	2022-23
21	All Other	\$0	\$20,000
22			
23	GENERAL FUND TOTAL	\$0	\$20,000

25 **EDUCATION, DEPARTMENT OF**
 26 **DEPARTMENT TOTALS**

27		2021-22	2022-23
28	GENERAL FUND	\$0	\$76,000
29	FEDERAL EXPENDITURES FUND	\$0	\$500
30	OTHER SPECIAL REVENUE FUNDS	\$0	\$500
31			
32	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$77,000

33 **MARITIME ACADEMY, MAINE**

34 **Maritime Academy - Operations 0035**

35 Initiative: Provides ongoing funds to contract for the services of a confidential resource
 36 advisor at the Maine Maritime Academy.

37	GENERAL FUND	2021-22	2022-23
38	All Other	\$0	\$49,219
39			
40	GENERAL FUND TOTAL	\$0	\$49,219

42 **MARITIME ACADEMY, MAINE**

1	DEPARTMENT TOTALS	2021-22	2022-23
2			
3	GENERAL FUND	\$0	\$49,219
4			
5	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$49,219
6	UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE		
7	Educational and General Activities - UMS 0031		
8	Initiative: Provides ongoing funds to contract for a confidential resource advisor at each of		
9	the 7 campuses within the University of Maine System as well as for the University of		
10	Maine School of Law.		
11	GENERAL FUND	2021-22	2022-23
12	All Other	\$0	\$393,750
13			
14	GENERAL FUND TOTAL	\$0	\$393,750
15			
16	UNIVERSITY OF MAINE SYSTEM, BOARD OF		
17	TRUSTEES OF THE		
18	DEPARTMENT TOTALS	2021-22	2022-23
19			
20	GENERAL FUND	\$0	\$393,750
21			
22	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$393,750
23			
24	SECTION TOTALS	2021-22	2022-23
25			
26	GENERAL FUND	\$0	\$863,500
27	FEDERAL EXPENDITURES FUND	\$0	\$500
28	OTHER SPECIAL REVENUE FUNDS	\$0	\$500
29			
30	SECTION TOTAL - ALL FUNDS	\$0	\$864,500

31 '
 32 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
 33 number to read consecutively.

34 **SUMMARY**

- 35 This amendment, which is the majority report of the committee, does the following:
- 36 1. Removes references to "sexual misconduct" and replaces that phrase with "sexual
 37 violence, intimate partner violence or stalking" and defines each of those terms and amends
 38 the definition of "student";
 - 39 2. Replaces references to a local rape crisis center with references to a sexual assault
 40 support center and references to a domestic violence support center with references to a
 41 domestic violence resource center;

COMMITTEE AMENDMENT

1 3. Provides that an institution of higher education's policy, and related procedures,
2 regarding sexual violence, intimate partner violence and stalking must be adopted no later
3 than July 1, 2023 and that the policy must be available on each institution's campus website
4 and in student handbooks, and that notices of policy availability and outreach for victims
5 of sexual violence, intimate partner violence and stalking must be posted at locations where
6 students regularly congregate;

7 4. Amends the content of the institution's policy;

8 5. Amends the confidentiality provision to clarify that the identity of a reporting party
9 and responding party and all information related to an incident of sexual violence, intimate
10 partner violence or stalking is confidential and may not be disclosed by the institution of
11 higher education except as necessary to carry out a disciplinary process or as otherwise
12 permitted under state or federal law;

13 6. Amends the name of the Higher Education Sexual Misconduct Advisory
14 Commission to the Higher Education Interpersonal Violence Advisory Commission and
15 amends its membership, initial terms of appointment, quorum requirements and duties;

16 7. Provides that institutions of higher education may contract or partner with a local,
17 state or national organization to provide a confidential resource advisor on campus;

18 8. Provides that, if requested by a student or employee, the confidential resource
19 advisor must provide direct assistance coordinating with the appropriate institutional
20 personnel to arrange possible school-provided support measures;

21 9. Amends the provision that provides for privileged communications between a victim
22 and a confidential resource advisor and the conditions under which those communications
23 are privileged from disclosure and when they may be disclosed;

24 10. Simplifies the reporting requirements of the institutions of higher education to
25 require that the institutions submit the annual security report under the federal Jeanne Clery
26 Disclosure of Campus Security Policy and Campus Crime Statistics Act;

27 11. Adds that the memoranda of understanding with a sexual assault support center or
28 domestic violence resource center must help ensure that a student or employee of the
29 institution has access to mental health services and facilitate making referrals to civil legal
30 representation to assist with civil protections; and

31 12. Removes the provisions of the bill that relate to Department of Education oversight,
32 enforcement, penalties and rulemaking.

33 The amendment adds an appropriations and allocations section.

34 **FISCAL NOTE REQUIRED**

35 **(See attached)**