

**TESTIMONY**

**Senate Education, Health and Environmental Affairs  
Committee**

***SB 1203 – Higher Education – Sexual Assault Response Training –  
Requirements for Grant Program***

**Kate Grubb Clark, Loyola University Maryland**

March 14, 2018

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Thank you for the opportunity to provide this testimony in support of SB 1203 *Higher Education – Sexual Assault Response Training – Requirements and Grant Program* with amendments. This bill would require institutions of higher education to provide a minimum of eight hours of annual sexual assault response training that is “survivor centered” and includes “trauma informed responses” to Title IX coordinators, members of the institution’s campus security, individuals responsible for investigating alleged violations of campus sexual assault policies, and individuals responsible for determining if a violation has occurred.

In addition, each campus must provide annual sexual assault response training to any employee, contractor, or enrolled student of the institution who, because of their duties, may be involved in an incident of sexual violence, refer or provide services to a survivor of sexual violence, or make determinations concerning disciplinary procedures related to violations of campus sexual assault policies.

Over the past eighteen months, all MICUA member institutions have updated their sexual assault policies to comply with recent legislation passed by the Maryland General Assembly and have submitted these policies to the Maryland Higher Education Commission (MHEC) for review and approval. Each institution also has completed a campus climate survey and is incorporating the results of those surveys into trainings and prevention materials and strategies.

Senate Bill 1203 requires training to be “survivor centered” but also requires institutions to provide “compassionate and sensitive delivery of services in a nonjudgmental manner.” The term “survivor centered” suggests an inequity in the Title IX process that could potentially leave institutions open to charges of bias in the proceedings.

As drafted, the bill would require a minimum of eight hours of training for every campus security officer, Title IX Coordinator, and anyone involved in the investigation and adjudication of sexual assault complaints. Institutions need the flexibility to deploy limited resources to the areas that will have the greatest impact in reducing sexual assault and responding compassionately to allegations of sexual assault or misconduct. Most importantly, the training provided to workers should be related to their education, past professional training, responsibilities at the institution, and other factors and should not be based on an arbitrary number of mandated hours.

Senate Bill 1203 requires institutions to provide copies of their training resources to any federally recognized state sexual assault coalition or rape crisis program. Institutions frequently contract with private entities to provide sexual assault training. These training sessions are proprietary, and institutions may be prohibited from sharing these materials. Furthermore, it is unclear why an institution would be required to turn its training materials over to a non-government organization nor is it clear what those organizations may do with the materials. State sexual assault coalitions and local rape crisis programs do not have regulatory authority over institutions of higher education, and the transfer of these materials to non-public entities would set a troubling precedent.

While the bill mandates \$1,000,000 to establish the Sexual Assault Response Training at Institutions of Higher Education Grant Program, it is unclear if these funds will be appropriated. As a result, the bill creates an unfunded mandate that will burden institutions and further stretch campus Title IX resources by mandating a one size fits all approach for every institution of higher education.

The legislation also requires each institution of higher education to report on the costs of compliance with this law as a separate line item in its budget. This provision fails to recognize how colleges and universities budget for their operations. Sexual assault response training is budgeted in several line items and in various divisions and locations across the campuses. There is not a single budgeted line item that could capture the investments college and universities would have to make to comply with this legislation. Furthermore, budgeting costs in this manner would violate other accounting standards established to provide effective budget oversight.

Lastly, the bill mandates that training begins in the 2018 -19 academic year. This deadline does not even give MHEC the time to develop regulations necessary to implement the Act, and colleges and universities would have less than three months to develop and implement training programs that would be mandatory for most students, many contractors, and numerous employees throughout the organization. This is an unrealistic and impossible timeline.

While there are numerous problems with the bill as drafted, MICUA has worked with USM to draft amendments to address our primary concerns with the bill. If the committee adopts these amendments, MICUA could support the bill.

**For these reasons, MICUA urges a favorable report of Senate Bill 1203 that includes the following amendments.**

**AMENDMENTS TO SENATE BILL 1203**

(First Reading File Bill)

**AMENDMENT NO. 1**

On page 2, strike lines 17 through 26 in their entirety; in line 27, strike “(3)” and substitute “(2)”; and in line 29, strike “ON” and substitute “THAT INCLUDES”.

**AMENDMENT NO. 2**

On page 3, in line 3, strike “AND”; in line 4, strike “PERPETRATORS OF” and substitute “INDIVIDUALS AFFECTED BY”; after line 5, after “STALKING” insert “; AND  
(IV) THE WAYS TO COMMUNICATE COMPASSIONATELY AND WITH CULTURAL SENSITIVITY WITH AN INDIVIDUAL INVOLVED IN AN INCIDENT OF SEXUAL VIOLENCE, DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING”; in line 6, strike “2018-2019” and substitute “2019-2020”; in line 7, strike “ANNUAL” and substitute “AT LEAST BI-ANNUAL”; in line 8, strike “IS SURVIVOR-CENTERED AND”; strike beginning with “WHO,” in line 10 down through “TO” in line 22 and substitute “THAT IT DEEMS APPROPRIATE TO RECEIVE TRAINING, INCLUDING”; in lines 23, 24, 26, and 29, strike “(I)”, “(II)”, “(III)”, and “(IV)”, and substitute “(1)”, “(2)”, “(3)”, and “(4)”, respectively; in line 23, before “TITLE” insert “DESIGNATED”; in lines 26 and 28, strike “ANY” and substitute “AN”; strike in their entirety line 31 on page 3 down through line 1 on page 4.

**AMENDMENT NO. 3**

On page 4, in line 2, strike “(4)” and substitute “(2)”; in the same line, strike “PARAGRAPHS (1) AND (2)” and substitute “PARAGRAPH (1)”; in line 3, after “INCLUDE” insert “AT A MINIMUM THE FOLLOWING TOPICS”; in line 4, before “THE” insert “NOTIFICATION ABOUT”; strike beginning with “CONCERNING” in line 5 down through “PENALTIES” in line 6; strike beginning with “HEALTH” line 10 down through “COORDINATED” in line 11; in line 13, after “STALKING” insert “; AND RESOURCES AVAILABLE, SUCH AS HEALTH CARE PROVIDERS, LAW ENFORCEMENT, RAPE CRISIS PROGRAMS, AND LEGAL ADVOCACY”; in line 14, strike “A SURVIVOR” and substitute “AN INDIVIDUAL INVOLVED IN AN INCIDENT”; in line 19, after the semicolon insert “AND”; strike beginning with “THE” in line 20 down through “(VIII)” in line 23; in line 23, strike “A SURVIVOR” and substitute “AN INDIVIDUAL INVOLVED IN AN INCIDENT”; and strike in their entirety lines 25 through 30 and substitute:

“(C) ON OR BEFORE NOVEMBER 1, 2020 AND EVERY TWO YEARS THEREAFTER, EACH INSTITUTION OF HIGHER EDUCATION SHALL SUBMIT TO THE COMMISSION:

- (I) A COPY OF THE TRAINING COURSE AGENDA; AND
- (II) THE NUMBER OF INDIVIDUALS WHO PARTICIPATED IN THE TRAINING LISTED BY RESPONSIBILITIES, INCLUDING:
  - a. TITLE IX COORDINATORS;
  - b. MEMBERS OF THE INSTITUTION’S CAMPUS LAW ENFORCEMENT UNIT OR CAMPUS SECURITY;
  - c. INDIVIDUALS RESPONSIBLE FOR INVESTIGATING ALLEGED VIOLATIONS OF THE INSTITUTION’S SEXUAL ASSAULT POLICY;
  - d. INDIVIDUALS RESPONSIBLE FOR DETERMINING WHETHER A VIOLATION OF THE INSTITUTION’S SEXUAL ASSAULT POLICY OCCURRED; AND
  - e. OTHER INDIVIDUALS WHO MAY BE INVOLVED IN:
    - i. A STUDENT REPORT OF AN ALLEGED INCIDENT OF SEXUAL VIOLENCE, DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING;
    - ii. THE REFERRAL OF OR PROVISION OF SERVICES TO A SURVIVOR OF SEXUAL VIOLENCE, DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING; OR

- iii. A CAMPUS DISCIPLINARY PROCEDURE THAT RESULTS FROM AN ALLEGED VIOLATION OF A SEXUAL ASSAULT POLICY ADOPTED UNDER § 11-601 OF THIS SUBTITLE.” and

On page 5, in line 9, strike “VICTIMS” and substitute “AN INDIVIDUAL INVOLVED IN AN INCIDENT”.