SPONSOR: Rep. K. Williams & Rep. Mitchell & Rep. Longhurst & Sen. Peterson
Reps. Bennett, Bolden, Heffernan, Hudson, Keeley, Kowalko, Osienski, M. Smith; Sens. Blevins, Cloutier, Hall-Long, Henry, Poore

HOUSE OF REPRESENTATIVES
148th GENERAL ASSEMBLY

# HOUSE BILL NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO SEXUAL ASSAULT REPORTING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

CHAPTER 90A. SEXUAL ASSAULT REPORTING BY INSTITUTIONS OF HIGHER EDUCATION

§ 9001A. Definitions.

As used in this chapter:

(1) "Academic institution" means a public or nonpublic institution of higher education or institution of postsecondary education.

(2) “Advocate” means an employee or volunteer of a domestic violence shelter, crisis line, or provider of services for victims of domestic violence, sexual offenses, including sexual assault, stalking, or any abuse.

(3) “Responsible employee” means all persons who:

a. Are employees of the academic institution who have a collegiate policy-making or collegiate policy implementation responsibility, such as administrators, faculty and instructors, and are acting in their capacity as such;

b. Serve as an appointed trustee or director of the academic institution; or

c. Are student employees of the academic institution who have a collegiate policy-making or collegiate policy implementation responsibility, including resident advisors, hall directors, and teaching assistants and are acting in their capacity as such.

(4) “Sexual assault” means physical contact of a sexual nature perpetrated without consent or where consent is unable to be given.

§ 9002A. Reporting requirements.

(a) Any responsible employee of an academic institution who, in the context of their role as a responsible employee, becomes aware of an alleged sexual assault upon or by a student of the academic institution, shall notify the law enforcement officers or public safety officials who service the academic institution of the allegation within 24 hours. A



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report is required only where the alleged sexual assault occurred while the victim or perpetrator was on campus, or was enrolled as a student, at the academic institution, unless the sexual assault occurred when such victim was a minor, in which case it must be reported consistent with the requirements of Chapter 9 of Title 16. Any responsible employee of an academic institution who, in the context of their role as a responsible employee, becomes aware of an alleged sexual assault that occurred on campus even if the victim or perpetrator are not students, shall notify the law enforcement or public safety officials who service the academic institution of the allegation within 24 hours. Academic institutions are responsible for their responsible employees' compliance with this chapter.

(b) The responsible employee shall inform the victim of the alleged sexual assault of the employee's duty to report. The responsible employee shall further inform the victim of their rights pursuant to the Victims' Bill of Rights in Chapter 94 of Title 11. Responsible employees shall provide information regarding confidential counseling and advocacy services available to victims on campus, as well as appropriate off-campus services available to victims.

(c) All law enforcement officers or public safety officials serving an academic institution shall within 24 hours of receiving a report pursuant to subsection (a) of this section notify the municipal or state law enforcement agency having jurisdiction over the offense of the alleged sexual assault, and shall provide an aggregated report of the number and nature of alleged sexual assault reports received to the Department of Justice every 30 days.

(d) Law enforcement agencies shall be discrete when contacting a victim to ensure the victim's privacy and shall inform the victim of their rights pursuant to the Victims' Bill of Rights in Chapter 94 of Title 11. Law enforcement agencies shall provide information regarding confidential counseling and advocacy services available to victims on campus, as well as appropriate off-campus services available to victims.

§ 9003A. Exceptions.

(a) No responsible employee is required to report an alleged sexual assault where the information was obtained through any communication considered privileged or confidential under state or federal law.

(b) No responsible employee is required to report an alleged sexual assault if that employee is an advocate.

(c) No responsible employee is required to report an alleged sexual assault disclosed at any student-led speak out events.

§ 9004A. Training.

(a) Academic institutions shall provide training to responsible employees regarding the prevalence and nature of sexual assaults on college campuses, and the reporting requirements of this chapter. This training shall ensure that responsible employees are trained to respond to disclosures of sexual assaults using best practices with regard to a victim-centered, trauma-informed approach.

(b) New employees who are responsible employees of academic institutions shall be trained within 3 months of beginning work.

(c) All responsible employees must receive refresher training under this section at least every 2 years.

(d) Each academic institution shall annually certify its compliance with the training requirements of this section to the Office of Higher Education.

(e) Newly enrolled full-time students shall be required to receive training in sexual assault prevention, awareness, and the requirements of this chapter.

(f) At risk student populations, such as student athletes, members of Greek fraternities and sororities, and international students shall be required to receive additional training in sexual assault prevention, awareness and the requirements of this chapter oriented specifically to the unique situations of each student population.

§ 9005A. Penalty for violation.

(a) Any academic institution that violates § 9002A of this chapter shall be liable for a civil penalty not to exceed $10,000 for the first violation, and not to exceed $50,000 for any subsequent violation within a five year period.

(b) The Department of Justice is empowered to enforce this section.

§ 9006A. Annual report.

By June 15 of each year, the Department of Justice shall deliver a report to the Governor and the General Assembly detailing the number and nature of reports received per academic institution.

Section 2. Sections 9001A and 9004A shall be effective one year after the enactment of this bill, and the remainder of the provisions shall be effective two years after enactment.

Ssynopsis

This bill will require responsible employees of institutions of higher educations to report incidents of sexual assault perpetrated by or against a student to the law enforcement authorities or public safety officials serving the institution of the alleged assault within 24 hours. The law enforcement authorities or public safety officials serving an academic institution are then required to report the sexual assault to the proper municipal or state authorities within 24 hours as well as the Delaware Department of Justice every 30 days.

The victim of the alleged assault shall be informed of their rights under the Victims' Bill of Rights in Chapter 11 as well as available confidential counseling and advocacy services. Law enforcement agencies are required to be discrete when contacting a victim and are required to inform the victim of their rights under the Victims' Bill of Rights. Exceptions to the reporting requirement are made for persons with privilege against disclosing communications, as well as sexual assault victim advocates. There is also an exception for disclosures made at student-led speak out events.

Institutions will also be required to train all staff in the reporting requirement and the nature and prevalence of sexual assaults on campus, and certify compliance with the training requirement to the Office of Higher Education. Training is also required for all students regarding sexual assault and the reporting requirement, with extra training mandated for high risk student groups such as athletes, fraternities and sororities, and international students. The Department of Justice is empowered to fine academic institutions for failure to comply with the reporting requirements. The Department is further required to deliver an annual report to the General Assembly and the Governor regarding reports received under this new chapter.

The training requirements will be effective one year after enactment and the remainder of the chapter will become effective two years after enactment.