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PUBLIC SAFETY & HOMELAND SECURITY



# Campus Sexual Violence:

## The 2015 Virginia Legislative Session

**Anne B. Holton**  
Secretary of Education

**Brian J. Moran**  
Secretary of Public Safety  
& Homeland Security



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# **Notification of Sexual Assault to Local Commonwealth's Attorney HB 1785- Delegate Massie**

Requires campus police forces and/or the local law enforcement agency to notify the local attorney for the Commonwealth within 48 hours of any investigation involving felony criminal sexual assault occurring on campus property.

*Amends Virginia Code Section § 23-234*



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# HB 1785: As Introduced (1/14/15)

- Stats that mutual aid agreements between institutions and local law enforcement or the Virginia State Police must include:
  - Campus police force or agency with a MOA must notify the local attorney for the Commonwealth of any investigation involving a felony criminal sexual assault on a campus/property controlled by the institution within 48 hours.



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# HB 1785: Proposed Amendments

### House Committee on Education (2/4/15)

- Incorporates Clery geography to specify which acts must be reported (on campus, in or on a noncampus building or property, or on public property).
- Not required to disclose identifying information about the victim.
- If no campus police department, the institution must enter into a MOU with an adjacent law enforcement agency, or the Virginia State Police for the purposes of reporting to the local attorney for the Commonwealth.
- Adds definitions consistent with the geography specified in the Clery Act.

### House Courts of Justice ( 2/4/15)

- Adds provisions to the MOA section to include reporting for incidents that are victim-initiated or that require the institution to issue a timely report to the campus community.
- Clarifies in new sections that reporting is for any felony sexual assault crimes and includes victim-initiated reports.
- Modifies Clery definitions.

### Senate Courts of Justice (2/18/15)

- Removes victim-initiated language.



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### **HB 1785: As Passed House and Senate**

- Requires the campus police force and/or the local law enforcement agency to notify the local attorney for the Commonwealth within 48 hours of any investigation involving felony criminal sexual assault occurring on campus property.
  - Specifies reporting for felony sexual assaults.
  - Incorporates most up-to-date Clery geography language.
  - Includes MOU procedures for institutions without campus police departments or those with contracted services.



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# **Reporting of Sexual Violence to Campus Title IX Coordinator HB1930-Delegate Bell SB712-Senator Black**

Requires any responsible employee of the institution to report any information regarding an act of sexual violence to the campus's Title IX coordinator; requires Title IX coordinator to report information to review committee, which shall meet within 72 hours of receiving the information.

*Creates Virginia Code Sections § 23-9.2:15, § 23-9.2:16 and § 23-235.1.*

*Amends Virginia Code Sections § 15.2-1627.4 and § 23-234*



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# HB 1930: As Introduced

- Multidisciplinary responses to criminal sexual assault shall include protocols and policies for the campus and community response to criminal sexual assault on campus, shall implement new reporting provisions and shall collect and report annually the number of cases of criminal sexual assault on campuses. Policies must be reviewed, updated and improved upon as necessary.
- Creates a new Code section relating to the reporting of violent felonies.
  - Any faculty member/ administrator shall report information about a violent felony *within four hours* to the local attorney for the Commonwealth or the local law enforcement agency.
  - Exemptions for mandatory reporting to include if reporting violates the law, the incident has already been reported, information is obtained during provision of legal services.
- Faculty members/administrators who knowingly violate these provisions are subject to *civil penalty* of \$500 for a first offense, \$1000 for all subsequent offenses.
- Faculty/administrators shall testify and shall be immune from civil liability unless the person acted in bad faith or with malicious intent.
- The governing board shall have a MOU with a local sexual assault crisis center or other support services for a trauma-informed response. Shall also have policies to inform victims of services.
- Mandatory reporting by campus police to the local Attorney for the Commonwealth within *24 hours*.
- Campus police officers or other members of auxiliary forces shall receive training on trauma-informed responses, interviewing and investigation of criminal sexual assaults.



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# SB 712: As Introduced

- Adds a new Code section regarding reporting of sexual assault.
- Any faculty member, administrator, or full-time staff member of a public institution of higher education must report any allegations of certain violations *within 48 hours* to the local law enforcement agency unless such report is a violation of federal or state law.
- Any person who knowingly and intentionally violates these provisions is guilty of a ***Class 1 Misdemeanor***.
- Not required to report if: an attorney obtained information during provision of legal services, the person is an accredited practitioner of any religious organization or denomination (with certain specifications).
- Not required to report if the incident has already been reported.
- Immune from civil proceedings if required to testify unless the person acted in bad faith or with malicious intent.





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### **HB1930/SB712: As Passed by the House and Senate**

- Creates a new Code section to address reporting of acts of sexual violence.
- Incorporates Clery geography and defines terms.
- “Responsible employees” must report information that an act of sexual violence occurred within Clery geography to the Title IX coordinator after addressing the needs of the victim.
- The Title IX coordinator shall promptly report, including any personally identifiable information to a review committee. Can also report to law enforcement with consent of the victim.
- Institutions shall establish a review committee consisting of the Title IX coordinator, a representative of law enforcement, and a student affairs representative. \*Law enforcement shall be campus police or campus security.
  - May be threat assessment team or other body.
  - May obtain law-enforcement records, criminal history information, health records, available institutional conduct or personnel records, and known facts and circumstances.
    - Considered a threat assessment team for obtaining criminal history information, health records and FOIA exemptions.



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### **HB1930/SB712: As Passed; Continued**

- Review Committee shall meet within 72 hours to review information and shall continue to meet as necessary.
- The Title IX coordinator shall disclose all information, including personally identifying information, to the local law enforcement agency if the committee determines it necessary to protect the health or safety of the student/campus community or if the committee does not reach consensus on whether to report. The victim shall be notified of report.
- If the act of sexual violence would constitute a felony, the representative of law enforcement, or any other member of the committee, shall notify the local attorney for the Commonwealth within 24 hours without disclosing personally identifiable information- unless disclosure is already required.
- After conclusion of the review, records and the authority to proceed with further investigations is retained.
- Several exemptions for mandatory reporting are listed.
- Immunity for civil liability for testimony unless acting in bad faith or with malicious intent.
- Victims are not required to report sexual violence.



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### **HB1930/SB712: As Passed; Continued**

- Institution is to ensure that victims are informed of available law-enforcement options, importance of collection and preservation of evidence, the available options for a protective order, available campus options for investigation and adjudication, the victim's rights to participate or decline to participate in investigations, applicable federal or state confidentiality provisions, available on/off-campus resources and the importance of seeking medical attention.
- Institutions shall adopt a policy requiring a MOU with a sexual assault crisis center or other victim support service.
- Institutions shall adopt policies to provide information about contacting sexual assault crisis centers or other victim support services.
- By 10/31 annually, institutions shall certify that sexual violence policies have reviewed and updated.
- The State Council on Higher Education for Virginia and the Department of Criminal Justice Services shall establish criteria for the certification process.
- The State Council on Higher Education for Virginia and the Department of Criminal Justice Services shall report to the Secretary of Education on the certification status of each institution by November 30<sup>th</sup>, annually.



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# Notation on Academic Transcripts

## SB 1193- Senator Norment

Requires institutions to prominently display on the student's academic transcript any instances of any student who has been suspended for, has been permanently dismissed for, or withdraws from the institution while under investigation for a violation of the institution's code or rules.

*Creates Virginia Code Section § 23-9.2:15*



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# SB 1193: As Introduced (1/13/15)

- The registrar shall include a prominent notation on the academic transcript of each student who has been suspended or permanently dismissed from the institution for a violation of the institution's code, rules, or set of standards governing conduct of students.
- The original bill did not:
  - Include transcript notations for students who withdraw from the university while under investigation.
  - Limit notations to only acts of sexual violence.
  - Prescribe the format for which notations should be displayed.
  - Include a mechanism for removing notations.



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# SB 1193: Proposed Amendments

### Senate Education and Health Committee (1/26/15)

- Captures students who withdraw while under investigation for sexual offenses that are required to be reported under the Clery Act.
- Institutions must notify and receive confirmation regarding understanding of the notation.

### Senate Courts of Justice (2/9/15)

- Notation shall include specific violation, whether the student was suspended, dismissed or withdrew while under investigation.
- Institutions shall notify students when a notation is placed on a transcript and must adopt policies and procedures for removing the notation if student is found not to be in violation.

### House Courts of Justice (2/23/15)

- Removes Clery reporting provision and inserts that notations will be added to the transcript for any violations that would be considered felonies.
- Outlines the format for which a notification shall be displayed.

### Conference Report (2/27/15)

- Removes the provision from 2/23/15 relating to the felony violations and includes **any** violation.
- Adds a section stating that institutions shall remove the notation for a suspension of the student has completed the term of suspension and all conditions thereof, and has been determined to be in good standing with the institution.



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# **SB 1193: As Passed House and Senate**

- Notation to be displayed for any violation resulting in suspension, dismissal, or a student withdrawing during the investigation.
- Prescribes the format for notation to include whether the student was suspended, dismissed, or withdrew during the investigation as well as the specific violation of the institution's code, rules, or set of standards.
- The institution shall remove the notation if the student completes the suspension and any other conditions thereof, and has been determined to be in good standing with the institution.