

**SUBSTITUTE FOR
HOUSE BILL NO. 5795**

A bill to create the office of the higher education sexual assault prevention, advocacy, and resource officer within the department of civil rights; to prescribe the powers and duties of the office, the advocacy officer, and certain state governmental officers and entities; and to provide for an appropriation.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "higher education sexual assault prevention, advocacy, and resource
3 officer act".

4 Sec. 2. As used in this act:

5 (a) "Advocacy officer" means the higher education sexual
6 assault prevention, advocacy, and resource officer.

7 (b) "Department" means the department of civil rights.

8 (c) "Institution of higher education" means a degree- or

1 certificate-granting public or private college or university,
2 junior college, or community college in this state.

3 (d) "Office" means the office of the higher education sexual
4 assault prevention, advocacy, and resource officer created under
5 this act.

6 (e) "Sexual assault" means a violation or attempted violation
7 of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal
8 code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and
9 750.520g.

10 Sec. 3. (1) The office of the higher education sexual assault
11 prevention, advocacy, and resource officer is created within the
12 department.

13 (2) The principal executive officer of the office of the
14 higher education sexual assault prevention, advocacy, and resource
15 officer is the higher education sexual assault prevention,
16 advocacy, and resource officer who shall be appointed by and serve
17 at the pleasure of the department. An individual appointed to serve
18 as the higher education sexual assault prevention, advocacy, and
19 resource officer must be qualified by training and experience to
20 perform the duties and exercise the powers of the higher education
21 sexual assault prevention, advocacy, and resource officer and the
22 office of the higher education sexual assault prevention, advocacy,
23 and resource officer as provided in this act.

24 Sec. 4. Under the supervision of the department, exercised in
25 consultation with experts on sexual assault and sexual harassment,
26 including, but not limited to, the Michigan domestic and sexual
27 violence prevention and treatment board created under Executive

1 Order No. 2012-17, the advocacy officer shall do all of the
2 following:

3 (a) Advocate for students at institutions of higher education
4 who may be victims of sexual assaults committed on the campuses of
5 those institutions or at programs, activities, or events sponsored
6 or otherwise provided or supported by those institutions.

7 (b) Encourage institutions of higher education to improve the
8 quality and coordination of services they provide to assist
9 students who may be victims of sexual assaults on their campuses or
10 at programs, activities, or events that they sponsor or otherwise
11 provide or support.

12 (c) Encourage institutions of higher education to improve the
13 quality and coordination of preventive and corrective measures
14 taken by those institutions to mitigate the likelihood and effects
15 of sexual assaults on their campuses or at programs, activities, or
16 events that they sponsor or otherwise provide or support,
17 including, but not limited to, all of the following:

18 (i) Institutional policies, procedures, and protocols for
19 responding to and reporting incidents of sexual assaults of
20 students.

21 (ii) Sexual assault prevention and response training for
22 institutional personnel.

23 (iii) Sexual assault prevention and response presentations or
24 courses for students.

25 (iv) Publication of information about campus and community
26 resources available to student-victims of sexual assaults.

27 (d) Promote public awareness of the issue of sexual assault at

1 institutions of higher education.

2 (e) Provide information and referral services to students who
3 may be victims of sexual assaults at institutions of higher
4 education to ensure that their rights are protected.

5 (f) Provide information to students who may be victims of
6 sexual assaults at institutions of higher education regarding
7 programs and services provided for them by each level of
8 government.

9 (g) Promote new services, when necessary, for student-victims
10 of sexual assaults at institutions of higher education.

11 (h) Maintain statistics, facts, and data pertaining to the
12 incidence and nature of sexual assaults of students at institutions
13 of higher education.

14 (i) Provide technical assistance to institutions of higher
15 education regarding preventive and corrective measures to mitigate
16 the likelihood and effects of sexual assaults on their campuses or
17 at programs, activities, or events that they sponsor or otherwise
18 provide or support.

19 (j) Coordinate efforts to identify campus sexual assault
20 systems' response practices in order to remove barriers to victims
21 receiving helping services and reporting, and, as needed, convene
22 working group and campus response experts to identify gaps and
23 solutions.

24 (k) Coordinate and collaborate with the department of state
25 police, the department of health and human services, and any other
26 state agency with responsibilities that include preventing sexual
27 assault on college campuses to review and evaluate the use of state

1 funds dedicated to sexual assault prevention, including, but not
2 limited to, grants awarded under the campus sexual assault grant
3 program administered by the Michigan state police, and make
4 recommendations to state agencies, the legislature, and the
5 governor regarding proposed legislation, rules, hearings, future
6 funding allocations, and investigations considered necessary or
7 proper to promote student safety at institutions of higher
8 education.

9 Sec. 5. Under the supervision of the department, the advocacy
10 officer may do any of the following:

11 (a) Except as otherwise provided by law and with the written
12 consent of a student who may be a victim of sexual assault, obtain
13 access to all information, records, and documents in the possession
14 of an institution of higher education pertaining to the possible
15 sexual assault and that the advocacy officer considers necessary in
16 the performance of his or her duties set forth in section 4.

17 (b) Request and receive from an institution of higher
18 education a progress report concerning the processing of any report
19 of sexual assault made to the institution by a student.

20 Sec. 6. (1) The advocacy officer shall submit an annual report
21 on the conduct of the office to the department and the chairpersons
22 of all committees in both houses of the legislature responsible for
23 the oversight of institutions of higher education. A report under
24 this section must be posted to the department's website, must
25 address specific issues as prescribed by the department, and must
26 not disclose the identity of any individual who may have been
27 involved in any way, as a complainant, respondent, witness, or

1 otherwise, in any alleged sexual assault.

2 (2) In addition to the annual report described in subsection
3 (1), the office may, as needed, provide intermediate reports
4 relating to specific matters of concern.

5 Sec. 7. Except as provided in section 11 of the child
6 protection law, 1975 PA 238, MCL 722.631, any communication between
7 the advocacy officer and any person regarding a possible sexual
8 assault shall be treated as confidential.

9 Sec. 8. Any record owned, used, possessed, or retained by the
10 office in the performance of an official function of the office,
11 and all records kept by the advocacy officer, are exempt from
12 disclosure under the freedom of information act, 1976 PA 442, MCL
13 15.231 to 15.246.

14 Sec. 9. The department shall promulgate rules to implement
15 this act pursuant to the administrative procedures act of 1969,
16 1969 PA 306, MCL 24.201 to 24.328.

17 Sec. 10. The legislature shall annually appropriate a sum
18 sufficient to implement this act.

19 Enacting section 1. This act takes effect 90 days after the
20 date it is enacted into law.