

CREATION OF HIGHER EDUCATION SEXUAL ASSAULT ADVOCACY OFFICER

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House Bill 5795 (reported from committee as substitute H-1)

Sponsor: Rep. Sam Singh

Committee: Law and Justice

Complete to 5-23-18

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5795 would create the *Higher Education Sexual Assault Prevention, Advocacy, and Resource Officer Act*, which would create the Office of the Higher Education Sexual Assault Prevention, Advocacy, and Resource Officer (“officer”) within the Michigan Department of Civil Rights (MDCR), to be appointed by and serve at the pleasure of the MDCR. The officer would have to be qualified by training and experience to fulfill that role and run that office, as provided in the Act.

Under the MDCR’s supervision, in consultation with experts on sexual assault and harassment including the Michigan Domestic and Sexual Violence Prevention and Treatment Board, the officer would be required to do all of the following:

- Advocate for students at institutions of higher education (“institutions”) who may be victims of sexual assaults committed on those campuses or at events provided or supported by those institutions.
- Encourage institutions to improve the quality and coordination of services they provide to assist potential victims of sexual assaults on their campuses or at their programs.
- Encourage institutions to improve the quality and coordination of preventative and corrective measures taken by those institutions to mitigate the likelihood and effects of sexual assaults on their campuses or at their programs, including:
 - Institutional policies, procedures, and protocols for responding to and reporting incidents of sexual assaults of students.
 - Sexual assault prevention and response training and presentations for institutional personnel and students.
 - Publication of information about campus and community resources available to student-victims of sexual assaults.
- Promote public awareness of the issue of sexual assault at institutions.
- Provide information and referral services to students who may be victims of sexual assaults at institutions to ensure that their rights are protected.
- Provide information to students who may be victims of sexual assaults at institutions regarding programs and services provided for them by each level of government.
- Promote new services, when necessary, for student-victims of sexual assaults at institutions.
- Maintain statistics, facts, and data pertaining to the incidence and nature of sexual assaults of students at institutions.

- Provide technical assistance to institutions regarding preventive and corrective measures to mitigate the likelihood and effects of sexual assaults on their campuses or at their events.
- Coordinate efforts to identify campus sexual assault systems' response practices in order to remove barriers to victims receiving helping services and reporting, and, as needed, convene working group and campus response experts to identify gaps and solutions.
- Coordinate and collaborate with the Department of State Police (MSP), Department of Health and Human Services (DHHS), and any other state agency with responsibilities that include preventing sexual assault on college campuses to review and evaluate the use of state funds dedicated to sexual assault prevention, including grants awarded under the campus sexual assault grant program administered by the MSP, and make recommendations to state agencies, the legislature, and the governor regarding proposed legislation, rules, hearings, future funding allocations and investigations considered necessary or proper to promote student safety at institutions.

Under the MDCR's supervision and except as otherwise provided by law, the officer would be able to obtain access to all information, records, and documents in the possession of an institution pertaining to a possible assault that the officer considers necessary, with the written consent of the student who may be the victim of sexual assault. The officer could also request and receive a progress report concerning the progress of a sexual assault report made to the institution.

The bill would require the officer to submit an *annual report* on the conduct of the office to the MDCR and to the chairpersons of the House and Senate committees overseeing institutions of higher education. The report would have to address issues prescribed by the MDCR, would have to be posted to the MDCR's website, and could not disclose the identity of any individual involved in any way in an alleged sexual assault. Additionally, the officer may provide intermediate reports as needed.

Records used or kept by the officer's office would be exempt from disclosure under the Freedom of Information Act (FOIA).

The bill would require the MDCR to promulgate rules, and the legislature to appropriate a sum annually, to implement the proposed Act.

The bill would take effect 90 days after enactment.

FISCAL IMPACT:

House Bill 5795 will have a limited fiscal impact on public universities. There may be a negligible increase of costs to universities to provide records to the officer. Universities would not be required to implement any changes under the bill, but could face increased costs if they decided to make improvements encouraged by the officer as noted in Section 4.

The bill requires an annual appropriation to support the costs of the new Office of the Higher Education Sexual Assault Officer within the Department of Civil Rights. Funds appropriated for the office would primarily cover the costs of staffing. The Department of Civil Rights estimates that up to four additional FTEs may be required to fulfill the responsibilities set forth in the bill. Additionally, there would be office start-up costs, such as acquiring computers, IT services, and furniture, as well as potential ongoing costs such as for renting or leasing office space. Total estimated costs would be between \$500,000 and \$650,000.

POSITIONS

The following organizations indicated support for the bill:

- Michigan Department of Civil Rights (5-1-18)
- Department of Attorney General (4-17-18)
- American Civil Liberties Union (4-24-18)
- American Association of University Women (5-1-18)
- Wayne County SAFE Program (4-23-18)

The Michigan Community College Association indicated support for the bill in concept. (4-24-18)

The Michigan Domestic and Sexual Violence Prevention and Treatment Board took no position on the bill. (5-22-18)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.