

Campus Sexual Assault Policies

Molly Sarubbi

What Is the Issue, and Why Does It Matter?

[Data estimates](#) 11.2% of college students experience sexual assault at some point during their postsecondary education. The prevalence of this issue and the resulting impact on students' lives and educational outcomes highlights the importance of examining the role of federal, state and institutional action in preventing and addressing issues of campus safety.

Title IX of the Education Amendments Act of 1972 serves as the foundational federal law regarding sex discrimination at institutions receiving federal dollars. [New regulations proposed](#) by the U.S. Department of Education, if passed, would likely change how higher education institutions address campus sexual assault relative to definitions, reporting requirements and disciplinary proceeding allowances.

State statute also serves an important role in directing campus safety intervention strategies. Through legislation, states are promoting policy and programmatic efforts to educate, prevent and respond to issues related to postsecondary campus sexual assault. This Policy Snapshot highlights activity in the 2019 legislative sessions, and bills largely fall into three content areas:

Awareness and prevention: Targeted programmatic efforts to increase knowledge around consent and healthy relationships, along with other capacity building around preventing and/or responding to campus sexual assault.

Reporting guidelines and procedures: Provisions for campus leadership regarding confidentiality, reporting requirements, and collaboration with community officials and response professionals.

Assessment and accountability: Establishment of task forces or other administrative bodies to assess or evaluate current policies and practice at both state and institutional levels.

Some states proposed multiple bills that address more than one of these content areas. Other less frequent, but important, issues related to campus sexual assault identified in 2019 legislation include victim's bill of rights, assault counseling hotlines, resource identification cards, sex equity and campus safety generally.

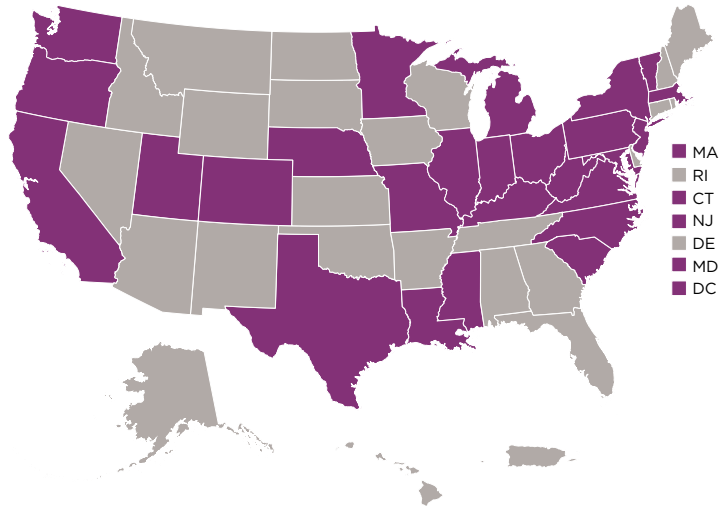
FOR MORE on recent legislative activity related to postsecondary campus safety, see the companion Policy Snapshot on [Policies Addressing Guns on Campus](#).

TO VIEW how all states approach postsecondary campus safety, see the [50-State Comparison](#).

How Many States Considered Legislation in 2019?

Based on a review of 2019 legislative activity concerning postsecondary campus sexual assault:

At least **95** bills were **INTRODUCED** in 27 states and the District of Columbia.




At least **16** bills were **ENACTED**.


Enacted Legislation			
California	A.B. 1000 , A.B. 381	Oregon	H.B. 3415
Colorado	S.B. 19-007 , S.B. 19-170	Pennsylvania	H.B. 1615
Louisiana	H.B. 294	Texas	H.B. 1735 , S.B. 212
Maryland	H.B. 633 , S.B. 396	Utah	H.B. 346 , S.B. 134
Minnesota	S.F. 2415	Washington	H.B. 1166
Ohio	H.B. 166		

Awareness and Prevention

Example of Enacted Legislation


 **OR** [H.B. 3415](#) requires higher education institutions to adopt written policies regarding sexual assault, both on and off campus, that utilize a shared definition of sexual harassment and procedures for assessing and responding to assertions of related incidences. The bill requires specific institutional leadership to participate in annual training on sexual harassment, sexual assault, domestic violence, dating violence and stalking. Further, it outlines required content for communication policies and awareness training, including trauma-informed and culturally responsive care.


Example of Introduced Legislation

 **CA** [A.B. 381](#), as amended, would require institutions receiving state funds for student financial aid or entering into community partnerships to adopt a policy concerning sexual assault, domestic violence, dating violence and stalking, as defined in the federal Higher Education Act of 1965. The policy would have to include standards for affirmative consent and investigative or disciplinary guidelines for reports of incidence. Additionally, institutions would need to maintain best practices around confidentiality and wraparound victim support services, such as a trauma-informed training program for campus officials, collaboration with on-campus and community-based organizations, and broad student outreach programming.


Reporting Guidelines and Procedures

Examples of Enacted Legislation

 **TX** [S.B. 212](#) requires employees of a postsecondary institution who have witnessed or received information about a sexual assault or related incident to promptly report the incident to the institution's Title IX coordinator. Reports must remain confidential. The bill requires the coordinator to provide a written explanation of incidents reported and investigated to institutional leadership once every three months.

 **UT** [H.B. 346](#) enacts that a postsecondary institution cannot impose a sanction or proceeding disciplinary action on a student who has been a victim, witness or reporter of a sexual assault. Reporting and response guidelines specify that all identifying student information must remain confidential from law enforcement unless student's permission is obtained or unless there is sustained risk to the campus community. Victims must be notified before law enforcement is involved in proceedings.

Example of Introduced Legislation

 **PA** [S.B. 295](#) proposes the College Sexual Harassment and Sexual Violence Online Reporting System Act. This would require postsecondary institutions to establish and maintain an electronic database in order to continue receiving institutional funds. The reporting system would catalog student and employee reports of sexual harassment and violence. Reports would be kept anonymous; and institutions would have to provide victims information on how to report, anticipated response and on- and off-campus support services.

Assessment and Accountability

Examples of Enacted Legislation



[H.B. 294](#) compels each postsecondary institution, in collaboration with the Louisiana Board of Regents, to administer an anonymous sexual assault climate survey to students once every three years. The bill allows for participation in such surveys to be voluntary and requires a written report on the survey results. Institutions must submit the survey results to the Louisiana House and Senate education committees and the governor's office.



[H.B. 1735](#) requires each postsecondary institution to adopt a policy on sexual harassment, sexual assault, dating violence and stalking. The bill specifically outlines the sanctions for violations and the protocol for reporting incidents of sexual violence, and requires a webpage dedicated solely to communicating the policy guidelines. Additionally, the bill specifies that each institution must develop and implement a program on campus sexual violence, and incoming students must attend an orientation on campus sexual violence policies. Lastly, the legislation provides guidelines regarding victims' rights and the disciplinary process for certain violations; it also requires the commissioner of higher education to establish an advisory committee to make recommendations related to campus sexual violence.

Examples of Introduced Legislation




[S. 736](#) In addition to defining sexual misconduct, the bill suggests that the commissioner of higher education approve and monitor the administration of a sexual misconduct climate survey at all postsecondary institutions. All results would need to be submitted to the department of education and posted on each institution's website. Additionally, this legislation would establish a task force on sexual misconduct, consisting of 21 members from higher education, public health and safety, and victim rights and services. The main charge of the task force would be to develop the model climate survey to assess the number, location and processes around incidents on campus. All data and institutional or departmental responses would be collected and available to the public.





[A.B. 1763](#) would establish a leadership commission to complement the existing task force on campus sexual assault. The office of the secretary of higher education would oversee the commission, which would be made up of 12 representatives: the secretary, attorney general, one representative from the division of women in the department of children and families, five representatives appointed by the governor and four experts related to the issue of sexual assault to be appointed by the legislature. The commission would evaluate current policies and programs, implement recommendations of the task force, and every three years, administer a campus climate survey and develop an action plan in response.


Existing Comprehensive State Policies

A recent [50-State Comparison](#) of codified postsecondary campus safety policies shows that prior to the 2019 legislative sessions, 22 states had already enacted campus sexual assault policies. Statutes differ, but common variables include provisions around affirmative consent, the role of law enforcement, transcription notation, legal counsel, support services and training. A few states have robust policy efforts for addressing multiple measures of response.

 State statute defines criteria for appropriate reporting of sexual assault incidences and awareness programming, including guidelines around transcription notation. Police departments at institutions of higher education are required to make all efforts to ensure victims' confidentiality, as necessary, and redact the victim's name and identifying information unless the victim agrees otherwise. The statute also denotes that awareness programming and campaign efforts use a variety of outreach strategies to inform the campus community of the affirmative consent standards and communicate the prevalence of postsecondary sexual assaults and related behaviors.¹

 State statute defines affirmative consent and outlines requirements for creating awareness and prevention programs. Institutions must also inform students and employees of available resources and work collaboratively with community partners to provide support both on and off campus. Institutions must notify victims of sexual assault of reasonable options for changing academic, living, working or transportation situations in response to the incident, collaborating with community partners when applicable. Institutions must also provide prevention and awareness programming for all students and employees that includes an explanation of the definition of affirmative consent, bystander interventions and risk reduction.²

 By law, each postsecondary institution that receives any Title IV funding from the U.S. Department of Education is required to coordinate with local law enforcement and follow guidelines specific to reporting, prevention and student support services around issues of campus sexual assault. Institutions must enter into a memorandum of understanding with local law enforcement, which defines investigative and information sharing responsibilities and protocols for investigation. On-campus institutional staff involved in campus sexual assault proceedings are also required to have additional response training.³

 Each institution must have a written and widely distributed policy on sexual assault that includes guidelines on the timeliness of reporting, disciplinary proceedings and victim support services, such as medical care, legal pursuits and mental health. Specifically, institutions must offer the assistance of a licensed attorney, an advocate supervised by an attorney or a trained advocate throughout the disciplinary proceedings; and permit students to access counsel paid for by the higher education commission. Students must be informed of both campus and community support services and have protection from disciplinary action or retaliation when reporting a sexual assault.⁴



About the Author

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As senior project manager for Strong Start to Finish, Molly counsels the national network of partner organizations that provide technical assistance to systems and institutions. She has over 15 years of nonprofit leadership and project management experience and earned her doctorate in higher education from the University of Denver. Molly believes in the power of integrative education policy to positively impact equitable student and community outcomes at scale. Contact Molly at msarubbi@ecs.org or **303.299.3606**.

Related Resources

[50-State Comparison: Postsecondary Campus Safety](#)

[State Information Request: Sexual Assault Response Teams](#)

[Postsecondary Campus Safety \(2016 and 2017 legislative activity\)](#)

[Partnership to Elevate Policy and Practice: Campus Sexual Violence and Guns on Campus](#)

ENDNOTES

1. Colorado Rev. Statute Ann. § 23-5-141.

3. Louisiana Rev. Statute 17:3399, 2017.

2. Connecticut Gen. Statute Ann. § 10a-55m.

4. Maryland Code, Education, § 11-601.