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L.D. 1727

Date: 4/14/22

(Filing No. S-554)

**MAJORITY**

**EDUCATION AND CULTURAL AFFAIRS**

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**STATE OF MAINE  
SENATE  
130TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 572, L.D. 1727, "An Act Concerning Sexual Misconduct on College Campuses"

Amend the bill by striking out the title and substituting the following:

**'An Act Concerning Interpersonal Violence on College Campuses'**

Amend the bill by striking out everything after the enacting clause and inserting the following:

**Sec. 1. 5 MRSA §12004-I, sub-§12-C is enacted to read:**

**12-C.**

<u>Education:</u>	<u>Higher Education Interpersonal Violence Expenses Only</u>	<u>20-A MRSA</u>
<u>Higher Education</u>	<u>Advisory Commission</u>	<u>§12984</u>

**Sec. 2. 20-A MRSA c. 445 is enacted to read:**

**CHAPTER 445**

**SEXUAL VIOLENCE, INTIMATE PARTNER VIOLENCE AND STALKING AT INSTITUTIONS OF HIGHER EDUCATION**

**§12981. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Affirmative consent.** "Affirmative consent" means consent to sexual activity that can be revoked at any time. "Affirmative consent" does not include silence, lack of resistance or consent given while intoxicated.

**2. Employee.** "Employee" means an individual who is employed by an institution of higher education, including a full-time, part-time or contracted employee, or an individual

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1 who was employed by an institution of higher education, including a full-time, part-time  
 2 or contracted employee, but has taken a leave of absence or terminated the employment as  
 3 a result of having been a victim of sexual violence, intimate partner violence or stalking or  
 4 for any other reason.

5 **3. Institution of higher education.** "Institution of higher education" or "institution"  
 6 means a public, private, nonprofit or for-profit postsecondary school chartered,  
 7 incorporated or otherwise organized in the State with an established physical presence in  
 8 the State.

9 **4. Interpersonal violence climate survey.** "Interpersonal violence climate survey"  
 10 means the survey developed pursuant to section 12984, subsection 8.

11 **5. Intimate partner violence.** "Intimate partner violence" means any of the acts that  
 12 constitute abuse under Title 19-A, section 4002, subsection 1, paragraphs A to H that are  
 13 committed by an individual who is or has been in a social relationship with another  
 14 individual of an intimate nature regardless of whether the individuals were or are sexual  
 15 partners.

16 **6. Reporting party.** "Reporting party" means a student or employee who reports  
 17 having experienced an alleged incident of sexual violence, intimate partner violence or  
 18 stalking at an institution of higher education.

19 **7. Responding party.** "Responding party" means an individual who has been accused  
 20 of an alleged incident of sexual violence, intimate partner violence or stalking at an  
 21 institution of higher education.

22 **8. Sexual violence.** "Sexual violence" means conduct that constitutes:

23 A. Any crime under Title 17-A, chapter 11;

24 B. Unauthorized dissemination of certain private images pursuant to Title 17-A, section  
 25 511-A;

26 C. Aggravated sex trafficking or sex trafficking pursuant to Title 17-A, section 852 or  
 27 853, respectively; or

28 D. Sexual harassment as defined in Title 14, section 6000, subsection 2-A.

29 **9. Stalking.** "Stalking" means conduct that constitutes the crime of stalking under Title  
 30 17-A, section 210-A.

31 **10. Student.** "Student" means an individual who is enrolled or is seeking to be  
 32 enrolled in an institution of higher education in this State and is a candidate for a degree or  
 33 diploma or graduate certificate or has taken a leave of absence as a result of having been a  
 34 victim of sexual violence, intimate partner violence or stalking.

35 **11. Title IX coordinator.** "Title IX coordinator" means the employee at an institution  
 36 of higher education who is responsible for institutional compliance with the so-called Title  
 37 IX provisions of the federal Education Amendments of 1972, Public Law 92-318, as  
 38 amended.

39 **12. Trauma-informed response.** "Trauma-informed response" means a response by  
 40 an individual who has received specific training in the complexities of trauma caused by  
 41 intimate partner violence, sexual violence or stalking including training on:

42 A. The neurobiological impact of trauma;

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1           B. The influence of societal stereotypes or other misconceptions relating to the causes  
2           and impacts of trauma on an individual experiencing the trauma caused by intimate  
3           partner violence, sexual violence or stalking;

4           C. Methodologies for avoiding perpetuation of the trauma caused by intimate partner  
5           violence, sexual violence or stalking; and

6           D. How to conduct an effective investigation of trauma.

7           **§12982. Adoption of policies and related procedures**

8           1. Adoption of policy required. No later than July 1, 2023, each institution of higher  
9           education shall adopt a policy and related procedures on sexual violence, intimate partner  
10           violence and stalking, referred to in this section as "the policy," in accordance with this  
11           section and consistent with applicable state and federal law. The policy must be publicly  
12           available on each institution's campus website and in student handbooks. Notices of where  
13           the full policy is available and outreach for victims of sexual violence, intimate partner  
14           violence and stalking must be posted at campus locations where students regularly  
15           congregate. The institution shall update the policy on the institution's website annually.

16           2. Development of policy. The policy must reflect the diverse needs of all students  
17           and employees and be culturally competent. An institution may consider input from various  
18           internal and external entities, including, but not limited to, the institution's Title IX  
19           coordinator, a local sexual assault support center, a domestic violence resource center,  
20           administrators, personnel affiliated with on-campus and off-campus health care centers,  
21           confidential resource advisors, residence life staff, students, local law enforcement  
22           agencies and the district attorney having jurisdiction in the municipality where the  
23           institution of higher education's primary campus is located.

24           3. Content of policy. The policy must include, but is not limited to:

25           A. Procedures by which students and employees at the institution may report or  
26           disclose alleged incidents of sexual violence, intimate partner violence or stalking  
27           regardless of where the alleged incident occurred;

28           B. Information on where a reporting party may receive immediate emergency  
29           assistance following an alleged incident of sexual violence, intimate partner violence  
30           or stalking including, but not limited to:

31                   (1) The name and location of the nearest medical facility where a reporting party  
32                   may request that a forensic examination be administered by a licensed health care  
33                   practitioner that has received sexual assault forensic examiner training and  
34                   education provided by the sexual assault forensic examiner program, including  
35                   information on transportation options and information on reimbursement for travel  
36                   costs, if any;

37                   (2) The contact information for a local sexual assault support center and a domestic  
38                   violence resource center and a description of the services provided by the centers;

39                   (3) The telephone number and website for a confidential statewide sexual assault  
40                   helpline and a national 24-hour hotline that provides information on sexual assault;  
41                   and

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- 1                   (4) Information on any programs that may financially assist a reporting party with  
2                   the cost of emergency medical assistance, including the Victims' Compensation  
3                   Fund pursuant to Title 5, chapter 316-A;
  
- 4                   C. Descriptions of the types of and contact information for counseling, health, safety,  
5                   academic and other support services available within the local community or region or  
6                   through a local sexual assault support center or a domestic violence resource center,  
7                   including but not limited to the names of and contact information for organizations that  
8                   support responding parties accused of sexual violence, intimate partner violence or  
9                   stalking; the name of and contact information for a confidential resource advisor under  
10                   section 12986 and a description of the role of and services provided by the confidential  
11                   resource advisor; and the name of and contact information for the institution's Title IX  
12                   coordinator;
  
- 13                   D. The rights of students and employees to:
  - 14                   (1) Notify or decline to notify a law enforcement agency, including campus, local  
15                   or state police, of an alleged incident of sexual violence, intimate partner violence  
16                   or stalking;
  - 17                   (2) Receive assistance from campus authorities in making any notification under  
18                   subparagraph (1); and
  - 19                   (3) Obtain a court-issued or institution-issued protection order against a  
20                   responding party involved with the alleged incident of sexual violence, intimate  
21                   partner violence or stalking;
  
- 22                   E. The process for requesting supportive measures reasonably available from the  
23                   institution, including, but not limited to, options for changing academic, living, campus  
24                   transportation or working arrangements or taking a leave of absence in response to an  
25                   alleged incident of sexual violence, intimate partner violence or stalking, how to  
26                   request those changes and the process to have any such measures reviewed;
  
- 27                   F. The contact information for the closest local, state and federal law enforcement  
28                   agencies with jurisdiction over matters involving sexual violence, intimate partner  
29                   violence or stalking, procedures for students to notify the institution that a protection  
30                   order has been issued under state or federal law and the institution's responsibilities  
31                   upon receipt of such notice;
  
- 32                   G. A summary of the institution's procedures for informal resolution, investigating,  
33                   adjudicating and resolving sexual violence, intimate partner violence or stalking  
34                   complaints against students, regardless of where the alleged offense occurred,  
35                   including an explanation of all procedures that must be followed to obtain investigatory  
36                   reports and gather evidence, and potential sanctions or penalties that may be imposed.  
37                   The policy must provide that:
  - 38                   (1) The procedures be uniformly applied, to the extent practicable, for all  
39                   proceedings relating to any claims of sexual violence, intimate partner violence or  
40                   stalking;
  - 41                   (2) An investigation, including any hearings and resulting disciplinary  
42                   proceedings, be conducted by an individual who receives not less than annual  
43                   training on issues relating to sexual violence, intimate partner violence or stalking,  
44                   investigatory procedures and hearing procedures to protect the safety and rights of

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1 students and promote accountability, objectivity, impartiality and a trauma-  
2 informed response;

3 (3) The reporting party and the responding party be provided with a copy of the  
4 policy regarding the submission and consideration of evidence that may be used  
5 during a disciplinary proceeding;

6 (4) The reporting party and the responding party be informed in writing of the  
7 results of a disciplinary proceeding not later than 7 business days after a final  
8 determination of a complaint, not including time for appeal, if any, unless good  
9 cause for additional time is shown. The reporting party and responding party must  
10 be informed of the process, if any, for appealing the decision;

11 (5) The institution may not publicly disclose the identity of the reporting party or  
12 the responding party, except as necessary to carry out a disciplinary proceeding or  
13 as otherwise permitted under state or federal law; and

14 (6) The reporting party and the responding party must be informed that the  
15 institution's disciplinary proceedings may not serve as a substitute for the criminal  
16 justice process; and

17 H. The range of sanctions or penalties the institution may impose on students and  
18 employees found responsible for a violation of the applicable institutional policy  
19 prohibiting sexual violence, intimate partner violence or stalking.

20 **4. Adoption of and amendments to the policy.** When adopting or amending a policy,  
21 an institution shall provide an opportunity for comment and a reasonable length of time in  
22 which comments will be accepted. The institution shall provide the draft policy or  
23 proposed substantive amendments by electronic or regular mail to internal and external  
24 entities, with instructions on how to comment and the reasonable length of time in which  
25 comments will be accepted. Once an institution has adopted a policy, the opportunity for  
26 review and comment by internal and external entities applies only to substantive  
27 amendments in the policy.

28 **5. Confidentiality.** The identity of a reporting party and a responding party and all  
29 information relating to an incident of sexual violence, intimate partner violence or stalking  
30 are confidential and may not be disclosed by the institution except as necessary to carry out  
31 a disciplinary process or as otherwise permitted under state or federal law.

32 **§12983. Notice to proceed**

33 Each institution shall provide a reporting party and a responding party with written  
34 notice of the institution's decision to hold a disciplinary proceeding regarding an allegation  
35 of sexual violence, intimate partner violence or stalking sufficiently in advance of a  
36 disciplinary proceeding to provide the reporting and responding parties with the  
37 opportunity to meaningfully exercise their rights. The disciplinary proceeding must  
38 provide due process and be prompt, fair and impartial and include the opportunity for both  
39 parties to present witnesses and other evidence. The written notice must include the  
40 information required to be posted on the institution's publicly accessible website pursuant  
41 to section 12982, subsection 1.

42 **§12984. Higher Education Interpersonal Violence Advisory Commission**

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1. Establishment. The Higher Education Interpersonal Violence Advisory Commission, established by Title 5, section 12004-I, subsection 12-C and referred to in this chapter as "the commission," is created for the purpose of developing a base interpersonal violence climate survey for dissemination to institutions of higher education and providing recommendations on the content, timing and application of the survey and reporting on the survey to the joint standing committee of the Legislature having jurisdiction over higher education matters.

2. Membership. The commission consists of the following 22 members:

A. The commissioner or the commissioner's designee;

B. The Commissioner of Health and Human Services or the commissioner's designee;

C. The following 9 members appointed by the commissioner:

(1) A member representing a statewide coalition of sexual assault support centers;

(2) A member representing an organization promoting racial equity and justice;

(3) A member representing a tribal coalition against sexual assault and domestic violence;

(4) A member representing a statewide organization for disability rights;

(5) A member representing a statewide organization for lesbian, gay, bisexual and transgender people;

(6) A member representing a national advocacy organization focused on passing state legislation written by students and survivors addressing campus sexual violence;

(7) A member representing a statewide coalition of domestic violence resource centers;

(8) A member representing an organization that advocates for immigrant communities in this State; and

(9) A representative from a civil legal services provider representing sexual assault survivors; and

D. The following 11 members appointed by the Governor:

(1) A student attending a public institution of higher education in this State;

(2) A student attending a private institution of higher education in this State;

(3) A student attending an institution in the Maine Community College System;

(4) A representative of the University of Maine System recommended by the Chancellor of the University of Maine System;

(5) A representative of a private institution of higher education recommended by an association of independent colleges in this State;

(6) A representative of the Maine Community College System recommended by the President of the Maine Community College System;

(7) A Title IX coordinator at a public institution of higher education in this State;

(8) A Title IX coordinator at a private institution of higher education in this State;

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- 1                   (9) A researcher with experience in the development and design of interpersonal  
2                   violence climate surveys;
- 3                   (10) A researcher of statistics, data analytics or econometrics with experience in  
4                   higher education survey analysis; and
- 5                   (11) A representative of an on-campus health center at an institution of higher  
6                   education who has experience dealing with campus sexual violence, intimate  
7                   partner violence or stalking.
- 8                   **3. Staffing.** The department shall provide appropriate staffing assistance to the  
9                   commission.
- 10                   **4. Terms; vacancies; compensation.** Each appointed member serves a 2-year term  
11                   except that, of those members first appointed, 5 appointed by the Governor and 5 appointed  
12                   by the commissioner must be appointed for a one-year term. The term of office of each  
13                   member must be designated at the time of appointment. A member of the commission may  
14                   serve after the expiration of that member's term until a successor has been appointed.  
15                   Members are compensated in accordance with Title 5, chapter 379.
- 16                   **5. Quorum.** A quorum of the commission consists of 2/3 of appointed members.
- 17                   **6. Powers and duties.** Beginning July 1, 2023 and biennially thereafter, the  
18                   commission shall provide to the commissioner the interpersonal violence climate survey  
19                   developed in accordance with subsections 8 and 9 and any related recommendations,  
20                   including but not limited to recommendations on achieving statistically valid response  
21                   rates. The commission may make recommendations on legislative and policy actions or on  
22                   enforcing and carrying out the provisions of this chapter and may undertake research  
23                   development and program initiatives consistent with this section. The commission shall  
24                   meet at least 4 times a year. Subcommittees of the commission may meet as necessary.  
25                   The commission may accept funds from the Federal Government, from a political  
26                   subdivision of the State or from an individual, foundation or corporation and may expend  
27                   these funds for purposes that are consistent with this subsection. The commission may  
28                   develop bylaws to fulfill this section.
- 29                   **7. Fund established.** The Higher Education Interpersonal Violence Advisory  
30                   Commission Fund is established as a nonlapsing fund for the purpose of receiving funds  
31                   accepted by the commission under subsection 6.
- 32                   **8. Development of interpersonal violence climate survey.** The commission shall  
33                   develop the interpersonal violence climate survey by:
- 34                   A. Using best practices from peer-reviewed research and in consultation with  
35                   individuals with expertise in the development and use of interpersonal violence climate  
36                   surveys by institutions of higher education;
- 37                   B. Reviewing interpersonal violence climate surveys that have been developed and  
38                   previously used by institutions of higher education in other states;
- 39                   C. To ensure the adequacy and appropriateness of the proposed content, providing  
40                   opportunities for written comment from organizations that work directly with victims  
41                   and survivors of sexual violence, intimate partner violence and stalking;
- 42                   D. Consulting with institutions on strategies for optimizing the effectiveness of the  
43                   interpersonal violence climate survey; and



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- 1           E. Accounting for the diverse needs and differences among the institutions of higher  
2           education.
- 3           **9. Information to be gathered.** The interpersonal violence climate survey must  
4           collect anonymous responses and may not require the disclosure of personally identifiable  
5           information. The survey must include the survey requirements of the federal Violence  
6           Against Women Act Reauthorization Act of 2022, Public Law 117-103 and the survey must  
7           be designed, without being duplicative of the federal requirements, to gather the following  
8           information:
- 9           A. The number of incidents, both reported and unreported, of sexual violence, intimate  
10           partner violence and stalking at each institution of higher education;
- 11           B. Generally, when or where incidents of sexual violence, intimate partner violence or  
12           stalking occurred, including but not limited to on-campus, off-campus, abroad, online  
13           or elsewhere, but without requiring students to disclose specific information about any  
14           incident;
- 15           C. Student awareness of the institution's policies and procedures related to sexual  
16           violence, intimate partner violence and stalking;
- 17           D. Whether a student reported sexual violence, intimate partner violence or stalking  
18           and, if so, to which campus resource or law enforcement agency the report was made,  
19           and, if not, the reason for the student's decision not to report;
- 20           E. Whether a student was informed of or referred to local, state, campus or other  
21           resources or victim support services, including appropriate medical care and legal  
22           services;
- 23           F. Whether a student was provided the option of protection from retaliation, access to  
24           school-based accommodations and criminal justice remedies;
- 25           G. Contextual factors of each incident of sexual violence, intimate partner violence or  
26           stalking, such as the involvement of force, incapacitation, coercion or drug or alcohol  
27           facilitation;
- 28           H. Demographic information that could be used to identify at-risk groups including  
29           but not limited to gender, race and sexual orientation;
- 30           I. Perceptions of campus safety among members of the campus community and  
31           confidence in the institution's ability to protect against and respond in a timely and  
32           trauma-informed manner to incidents of sexual violence, intimate partner violence or  
33           stalking;
- 34           J. Whether a reporting party was satisfied with the institution of higher education's  
35           response to the reporting party's report;
- 36           K. Whether the student has chosen to withdraw or take a leave of absence from the  
37           institution or transferred to another institution due to being either the reporting party or  
38           the responding party in an allegation of sexual violence, intimate partner violence or  
39           stalking;
- 40           L. Whether a student has withdrawn from any classes or been placed on academic  
41           probation as a result of an incident of sexual violence, intimate partner violence or  
42           stalking; and

1           M. Answers to any other questions developed by the commission.

2           **§12985. Interpersonal violence climate survey dissemination; aggregate data**  
 3           **collection; reporting**

4           **1. Dissemination; conduct.** The commissioner shall provide the interpersonal  
 5           violence climate survey biennially to each institution, and each institution shall biennially  
 6           conduct the interpersonal violence climate survey on each campus. Each institution may  
 7           append campus-specific questions to the survey, as long as any additional questions do not  
 8           require the disclosure of any personally identifiable information and are not unnecessarily  
 9           traumatizing for victims of sexual violence, intimate partner violence and stalking. All  
 10          students must be offered an opportunity to complete part or all of the interpersonal violence  
 11          climate survey.

12          **2. Report to commissioner; website.** Within 120 days after completion of the  
 13          interpersonal violence climate survey, each institution shall submit a summary of the results  
 14          and the aggregate data, with any personally identifiable information removed or redacted,  
 15          supporting the results to the commissioner and post the following on the institution of  
 16          higher education's publicly accessible website in a way that does not personally identify  
 17          any student:

18                A. The summary of the results of the survey;

19                B. The annual security report completed pursuant to 20 United States Code, Section  
 20                1092(f); and

21                C. A link to the department's statewide interpersonal violence climate survey data  
 22                pursuant to subsection 3.

23          **3. Data collection.** The department shall establish a data repository for all summaries  
 24          and anonymized and aggregated data of interpersonal violence climate surveys submitted  
 25          by institutions. The department shall ensure that the interpersonal violence climate survey  
 26          data submitted by all institutions in accordance with subsection 2 is available to the public  
 27          in an easily accessible manner on the department's publicly accessible website.

28          **4. Protection of personal information.** The interpersonal violence climate survey  
 29          must be designed to collect anonymous responses and may not publicly disclose any  
 30          personally identifying information. An institution of higher education may not use or  
 31          attempt to use information collected through the interpersonal violence climate survey to  
 32          identify or contact any individual student on campus, nor may the responses to the survey  
 33          be used as the basis for any type of investigation or disciplinary or legal proceeding.

34          **§12986. Confidential resource advisors**

35                **1. Confidential resource advisor designated.** Each institution shall designate at least  
 36                one confidential resource advisor to provide emergency and ongoing support to survivors  
 37                of sexual violence, intimate partner violence and stalking. The confidential resource  
 38                advisor must be designated based on the confidential resource advisor's experience in  
 39                advocating on behalf of victims of sexual assault or domestic violence and a demonstrated  
 40                ability to effectively provide victim services related to sexual violence, intimate partner  
 41                violence or stalking. The confidential resource advisor may have another role at the  
 42                institution of higher education, but may not be a student or a Title IX coordinator and may  
 43                not have any other job responsibilities that may create a conflict of interest, including but  
 44                not limited to being general counsel, director of athletics, dean of students or any employee

1 who serves on a judicial or hearing board overseeing reports of sexual violence, intimate  
 2 partner violence or stalking or to whom an appeal of such a proceeding might be made. The  
 3 confidential resource advisor shall maintain a physical presence on campus that provides  
 4 the confidential resource advisor a place to meet discreetly and privately with students or  
 5 employees in-person or remotely. An institution may contract or partner with a local, state  
 6 or national victim advocacy organization to provide a confidential resource advisor under  
 7 this subsection.

8 **2. Additional designation; partnership.** Each institution of higher education shall  
 9 designate existing categories of employees who may also serve as confidential resource  
 10 advisors. This subsection may not be construed to limit an institution of higher education  
 11 from designating a new or existing employee as a confidential resource advisor. An  
 12 institution of higher education that enrolls fewer than 1,000 residential students may partner  
 13 with another institution of higher education or local sexual assault support center within  
 14 the State to provide the services under this section. Any partnership entered into under this  
 15 subsection must ensure that the confidential resource advisor is available to a student within  
 16 a reasonable distance from the student's institution of higher education.

17 **3. Training.** A confidential resource advisor must receive the following training:

18 A. Prior to designation as a confidential resource advisor, 40 hours of training on  
 19 sexual violence, intimate partner violence and stalking;

20 B. Training regarding unconscious biases related to race, gender and sexuality;

21 C. Training regarding awareness and prevention of sexual violence, intimate partner  
 22 violence or stalking, relevant federal policies, the institution's policy under section  
 23 12982 and trauma-informed response; and

24 D. Twenty hours of educational training annually on issues related to sexual violence,  
 25 intimate partner violence and stalking, including but not limited to awareness and  
 26 prevention of sexual violence, intimate partner violence and stalking and a trauma-  
 27 informed response.

28 **4. Coordination.** A confidential resource advisor shall coordinate with on-campus, if  
 29 any, and off-campus sexual assault support centers and domestic violence resource centers  
 30 within a reasonable time after being designated as a confidential resource advisor.

31 **5. Information and resources.** A confidential resource advisor is responsible for  
 32 providing the following information and resources regarding incidents of sexual violence,  
 33 intimate partner violence or stalking to students and employees:

34 A. Reporting options and the probable effects of each option;

35 B. Counseling services available on campus and through a local sexual assault support  
 36 center or domestic violence resource center;

37 C. Medical and mental health services available on campus and off campus;

38 D. When requested, campus escort services for security;

39 E. Available supportive measures, including academic and residential life  
 40 accommodations;

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- 1        F. For students considering temporary or permanent withdrawal or reduced  
2        enrollment, student loan counseling including but not limited to information regarding  
3        loan deferment, forbearance or other applicable student loan programs;
- 4        G. The institution's investigative, disciplinary and nondisciplinary processes;
- 5        H. The legal process of local, state and federal law enforcement agencies;
- 6        I. That the institution of higher education's disciplinary process is not to be considered  
7        a substitute for the criminal justice process; and
- 8        J. Any limits on the ability of the confidential resource advisor to keep private or  
9        confidential the information of the student.
- 10       **6. Direct assistance.** If requested by the reporting party, the confidential resource  
11       advisor, using only the student or employee's identifying information, shall coordinate with  
12       the campus resources to arrange possible school-provided supportive measures, including  
13       those available through any memoranda of understanding with sexual assault support  
14       centers and domestic violence resource centers, and including but not limited to:
- 15        A. Changes in academic status, dining, housing, transportation or campus employment;  
16        B. Access to counseling and other mental health services;  
17        C. Excused absences, academic counseling and tutoring;  
18        D. Academic course work accommodations; and  
19        E. Financial resources that are under the control of the institution, including if a student  
20        has to withdraw from a class or the institution entirely, such as tuition credit,  
21        opportunities to withdraw or reenroll in a course without academic or financial penalty  
22        and continued eligibility for scholarships and honors.
- 23       Supportive measures may also be obtained, when appropriate, through disability services  
24       and the Title IX coordinator at the institution of higher education.
- 25       **7. Additional actions.** A confidential resource advisor, regarding an alleged incident  
26       of sexual violence, intimate partner violence or stalking reported to the advisor:
- 27        A. Shall notify all campus resources that are involved in providing or enforcing  
28        supportive measures or accommodations of their duties;
- 29        B. May, if appropriate and directed by a student, assist the student in contacting or  
30        reporting to campus or local law enforcement agencies;
- 31        C. Shall notify a student of the student's rights and the institution's responsibility  
32        regarding a protection order, no-contact order or any other lawful order issued by the  
33        institution or by a criminal, civil or tribal court;
- 34        D. May not be required to report the incident to the institution or a law enforcement  
35        agency unless otherwise required to do so by state or federal law and shall provide  
36        confidential services to students or employees;
- 37        E. May attend an administrative adjudication proceeding or the institution's  
38        disciplinary proceeding as an advisor or support person of a student's or employee's  
39        choice;

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- 1           F. May disclose confidential information with the prior written consent of the reporting  
2           party or if required by state or federal law;
- 3           G. May not provide services to both the reporting party and the responding party to  
4           the incident of sexual violence, intimate partner violence or stalking; and
- 5           H. May not act as a counselor or therapist unless the confidential resource advisor is a  
6           licensed counselor in this State and the student engages the confidential resource  
7           advisor in that capacity.
- 8           **8. Notice.** A report to a confidential resource advisor of an alleged incident of sexual  
9           violence, intimate partner violence or stalking or a confidential resource advisor's  
10           performance of a service under this section may not be considered actual or constructive  
11           notice of such an alleged incident to the institution of higher education at which the  
12           confidential resource advisor is employed or provides contracted services.
- 13           **9. Retaliation.** If a conflict of interest arises for an institution in which a confidential  
14           resource advisor is advocating for a reporting party's need for sexual assault support  
15           services or campus or local law enforcement agency services, the institution may not  
16           discipline, penalize or otherwise retaliate against the confidential resource advisor for  
17           representing the interest of the reporting party.
- 18           **10. Privileged communications.** Communications between a reporting party and a  
19           confidential resource advisor are privileged from disclosure as follows.
- 20           A. A reporting party may refuse to disclose and may deny permission to a confidential  
21           resource advisor to disclose confidential written or oral communications between the  
22           reporting party and the confidential resource advisor and any written records, notes,  
23           memoranda or reports concerning the reporting party.
- 24           B. Except as provided in paragraph C, a confidential resource advisor may not be  
25           required through oral or written testimony or through production of documents to  
26           disclose to a court in criminal or civil proceedings or to any agency or person any  
27           privileged communications between the reporting party and the confidential resource  
28           advisor.
- 29           C. Privileged communications may be disclosed in the following circumstances:
- 30           (1) When disclosure is required under Title 22, chapter 958-A or 1071 and that  
31           disclosure is in accordance with provisions of either chapter;
- 32           (2) When a court in the exercise of its discretion determines the disclosure of the  
33           information necessary to proper administration of justice, an inspection of records  
34           may be held in camera by the judge to determine whether those records contain  
35           relevant information. This proceeding does not entitle an opposing party to  
36           examine the records unless those records are made available by the court; or
- 37           (3) When a reporting party dies or is incapable of giving consent and disclosure is  
38           required for an official law enforcement agency investigation or criminal  
39           proceeding regarding the cause of the victim's death or incapacitation.
- 40           **11. Confidential criminal history record information.** Notwithstanding any  
41           provision of law to the contrary, a criminal justice agency, whether directly or through any  
42           intermediary, may disseminate confidential criminal history record information to a  
43           confidential resource advisor for the purpose of planning for the safety of the party the

# COMMITTEE AMENDMENT

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1 confidential resource advisor is advising. A confidential resource advisor who receives  
2 confidential criminal history record information pursuant to this subsection shall use it  
3 solely for the purpose authorized by this subsection and may not further disseminate the  
4 information.

5 **12. Cross-examination.** Nothing in this section may be construed to limit either  
6 party's right of cross-examination of the confidential resource advisor in a civil or criminal  
7 proceeding if the confidential resource advisor testifies after written consent has been given  
8 or in accordance with subsection 10.

9 **§12987. Awareness programming**

10 An institution of higher education, with guidance from its Title IX coordinator, a local  
11 law enforcement agency and the sexual assault support center or the domestic violence  
12 resource center identified in the institution's policy under section 12982, shall provide  
13 mandatory prevention and awareness programming on sexual violence, intimate partner  
14 violence and stalking for all incoming students and all employees of the institution. The  
15 institution shall make available prevention and awareness programming to all returning  
16 students of the institution. The prevention and awareness programming must include:

17 **1. Affirmative consent.** An explanation of affirmative consent as it applies to sexual  
18 activity and sexual relationships;

19 **2. Affirmative consent; drugs and alcohol.** The role drugs and alcohol play in an  
20 individual's ability to provide affirmative consent;

21 **3. Options for reporting.** Information on options relating to the reporting of an  
22 incident of sexual violence, intimate partner violence or stalking, the probable effects and  
23 potential outcomes of each option and the methods to report an incident of sexual violence,  
24 intimate partner violence or stalking, including confidential and anonymous disclosure;

25 **4. Institution's procedures; sanctions and penalties.** Information on the institution's  
26 procedures for resolving reports of sexual violence, intimate partner violence and stalking  
27 and the range of sanctions or penalties the institution may impose on students and  
28 employees found responsible for a violation of a policy and related procedures adopted  
29 under section 12982;

30 **5. Contact information.** The name, contact information and role of the confidential  
31 resource advisor, information about the local sexual assault support center, their  
32 confidential services and how to access those services, information about the domestic  
33 violence resource center, their confidential services and how to access those services, as  
34 well as the name and contact information of all other personnel governed by confidentiality  
35 policies at the institution;

36 **6. Bystander intervention and risk reduction.** Strategies for bystander intervention  
37 and risk reduction;

38 **7. Ongoing prevention and awareness.** Opportunities for ongoing sexual violence,  
39 intimate partner violence and stalking prevention and awareness programming, including  
40 through ongoing campaigns; and

41 **8. Sensitivity; marginalized groups.** An approach to training that recognizes and is  
42 sensitive to the disproportionate impacts and rates of occurrence of sexual violence,  
43 intimate partner violence and stalking on members of marginalized groups, including but

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1 not limited to people of color, people with disabilities and lesbian, gay, bisexual and  
2 transgender people.

3 **§12988. Training for Title IX coordinators, campus safety personnel and individuals**  
4 **involved in the disciplinary process**

5 **1. General requirement.** Each institution of higher education shall ensure that its  
6 Title IX coordinator and members of its campus police force or campus safety personnel  
7 employed by the institution of higher education undergo annual training in awareness of  
8 sexual violence, intimate partner violence and stalking and trauma-informed responses.

9 **2. Requirements for involvement in disciplinary process.** Any individual who  
10 participates in the implementation of an institution's disciplinary process under this chapter,  
11 including but not limited to any individuals responsible for resolving reports of incidents  
12 of sexual violence, intimate partner violence and stalking, must be trained or have  
13 experience in handling such reports and the operations of the institution's disciplinary  
14 practice. The training must include, but is not limited to:

15 A. Information about providing a trauma-informed response when working with and  
16 interviewing victims of an alleged incident of sexual violence, intimate partner  
17 violence or stalking;

18 B. Information on particular types of conduct that constitute sexual violence, intimate  
19 partner violence and stalking;

20 C. Information on affirmative consent and the role drugs and alcohol may play in an  
21 individual's ability to consent;

22 D. The effects of trauma, including any neurobiological impact on an individual;

23 E. Cultural competency training regarding how sexual violence, intimate partner  
24 violence and stalking may affect students differently depending on factors that  
25 contribute to a student's cultural background, including but not limited to national  
26 origin, sex, ethnicity, religion, gender identity, gender expression and sexual  
27 orientation;

28 F. Methods of communicating sensitively and compassionately with a reporting party  
29 including, but not limited to, an awareness of responding to a reporting party with  
30 consideration of that party's cultural background and providing services to or assisting  
31 in locating services for the reporting party;

32 G. Training and information regarding how sexual violence, intimate partner violence  
33 and stalking may affect students with developmental or intellectual disabilities; and

34 H. Methods of communicating sensitively with a responding party, including an  
35 awareness of the emotional impact of an allegation of sexual violence, intimate partner  
36 violence and stalking.

37 **§12989. Reporting**

38 **1. Report.** By October 1, 2023 and annually thereafter, an institution of higher  
39 education shall prepare and submit to the commissioner, the Commissioner of Health and  
40 Human Services and the joint standing committee of the Legislature having jurisdiction  
41 over higher education matters the annual security report required under the federal Jeanne

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1 Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 United  
2 States Code, Section 1092(f).

3 **§12990. Immunity**

4 A reporting party or a witness who requests an investigation of sexual violence,  
5 intimate partner violence or stalking may not be subject to a disciplinary proceeding or  
6 sanction or penalty for a violation of the institution's student conduct policy related to drug  
7 or alcohol use, trespassing or unauthorized entry of the institution's facilities that comes to  
8 the attention of the institution as part of that report or investigation of sexual violence,  
9 intimate partner violence or stalking unless the institution determines that the report was  
10 not made in good faith or that the violation was egregious. An egregious violation must  
11 include, but not be limited to, taking an action that places the health and safety of another  
12 person at risk. This section may not be construed to limit the ability of an institution to  
13 establish an immunity policy for student conduct violations not mentioned in this section.

14 **§12991. Memoranda of understanding**

15 **1. Requirement.** No later than July 1, 2023, an institution of higher education shall  
16 enter into and maintain a memorandum of understanding with a sexual assault support  
17 center and domestic violence resource center that is funded by the Department of Health  
18 and Human Services to:

19 A. Provide an off-campus option for students and employees of the institution to  
20 receive free and confidential sexual assault crisis services, including access to a sexual  
21 assault nurse examiner, if available, or free and confidential domestic violence crisis  
22 services;

23 B. Ensure that a student or employee of the institution may access free and confidential  
24 advocacy services either on campus or off campus related to sexual violence, intimate  
25 partner violence or stalking;

26 C. Ensure cooperation and training between the institution and the sexual assault  
27 support center or domestic violence resource center regarding the roles that the  
28 institution, sexual assault support center and domestic violence resource center should  
29 play in responding to reports and disclosures of sexual violence, intimate partner  
30 violence and stalking against students and employees of the institution and the  
31 institution's protocols for providing support and services to such students and  
32 employees;

33 D. Ensure that a student or employee of the institution has access to mental health  
34 services, either on campus or off campus, relating to sexual violence, intimate partner  
35 violence or stalking; and

36 E. Make referrals for civil legal representation to assist with civil protections, including  
37 but not limited to those related to protections under Title IX of the federal Education  
38 Amendments of 1972, Public Law 92-318, as amended, or protection from abuse  
39 orders.

40 **2. Confidential victim services; fees.** A memorandum of understanding may include  
41 an agreement, including a fee structure, between the sexual assault support center or  
42 domestic violence resource center under subsection 1 and the institution of higher  
43 education to provide confidential victim services. Confidential victim services may include  
44 case consultation and training fees for confidential resource advisors, consultation fees for

# COMMITTEE AMENDMENT



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1 the development and implementation of sexual violence, intimate partner violence and  
2 stalking education and prevention programs for students, the development of trauma-  
3 informed response staff training and prevention curricula and private on-site office space  
4 for an advocate from the sexual assault support center and domestic violence resource  
5 center to meet with students or employees.

6 **Sec. 3. Appropriations and allocations.** The following appropriations and  
7 allocations are made.

8 **COMMUNITY COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE MAINE**  
9 **Maine Community College System - Board of Trustees 0556**

10 Initiative: Provides ongoing funds to contract for the services of a confidential resource  
11 advisor at each of the 7 campuses within the Maine Community College System.

12	<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
13	All Other	\$0	\$344,531
14			
15	<b>GENERAL FUND TOTAL</b>	<u>\$0</u>	<u>\$344,531</u>

16  
17 **COMMUNITY COLLEGE SYSTEM, BOARD OF**  
18 **TRUSTEES OF THE MAINE**  
19 **DEPARTMENT TOTALS**

20		<b>2021-22</b>	<b>2022-23</b>
21	<b>GENERAL FUND</b>	\$0	\$344,531
22			
23	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u>\$0</u>	<u>\$344,531</u>

24 **EDUCATION, DEPARTMENT OF**  
25 **Higher Education Interpersonal Violence Advisory Commission Fund N957**

26 Initiative: Provides a base allocation to authorize expenditures of funds received from the  
27 Federal Government to support the work of the commission.

28	<b>FEDERAL EXPENDITURES FUND</b>	<b>2021-22</b>	<b>2022-23</b>
29	All Other	\$0	\$500
30			
31	<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<u>\$0</u>	<u>\$500</u>

32 **Higher Education Interpersonal Violence Advisory Commission Fund N957**

33 Initiative: Provides a base allocation to authorize expenditures of funds received from  
34 public or private sources to support the work of the commission.

35	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
36	All Other	\$0	\$500
37			
38	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$0</u>	<u>\$500</u>

39 **Higher Education Interpersonal Violence Advisory Commission Fund N957**

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COMMITTEE AMENDMENT "A" to S.P. 572, L.D. 1727 (S-554)

1 Initiative: Provides funds for the costs associated with developing the interpersonal  
2 violence climate survey for dissemination to institutions of higher education on a biennial  
3 basis.

4	<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
5	All Other	\$0	\$40,000
6			
7	GENERAL FUND TOTAL	\$0	\$40,000

8 **Higher Education Interpersonal Violence Advisory Commission Fund N957**

9 Initiative: Provides ongoing funds for the costs associated with staffing the commission  
10 and coordinating and validating the data collected from the interpersonal violence climate  
11 survey.

12	<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
13	All Other	\$0	\$16,000
14			
15	GENERAL FUND TOTAL	\$0	\$16,000

16 **Higher Education Interpersonal Violence Advisory Commission Fund N957**

17 Initiative: Provides ongoing funds for the costs associated with establishing and  
18 maintaining a data repository for all anonymized and aggregated raw data of interpersonal  
19 violence climate surveys submitted by higher education institutions.

20	<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
21	All Other	\$0	\$20,000
22			
23	GENERAL FUND TOTAL	\$0	\$20,000

25 **EDUCATION, DEPARTMENT OF**  
26 **DEPARTMENT TOTALS**

27			
28	<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$76,000</b>
29	<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>\$500</b>
30	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$500</b>
31			
32	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$77,000

33 **MARITIME ACADEMY, MAINE**

34 **Maritime Academy - Operations 0035**

35 Initiative: Provides ongoing funds to contract for the services of a confidential resource  
36 advisor at the Maine Maritime Academy.

37	<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
38	All Other	\$0	\$49,219
39			
40	GENERAL FUND TOTAL	\$0	\$49,219

41  
42 **MARITIME ACADEMY, MAINE**

# COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to S.P. 572, L.D. 1727 (S-554)

1	<b>DEPARTMENT TOTALS</b>	<b>2021-22</b>	<b>2022-23</b>
2			
3	<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$49,219</b>
4			
5	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$49,219</b>
6	<b>UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE</b>		
7	<b>Educational and General Activities - UMS 0031</b>		
8	Initiative: Provides ongoing funds to contract for a confidential resource advisor at each of		
9	the 7 campuses within the University of Maine System as well as for the University of		
10	Maine School of Law.		
11	<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
12	All Other	\$0	\$393,750
13			
14	<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$393,750</b>
15			
16	<b>UNIVERSITY OF MAINE SYSTEM, BOARD OF</b>		
17	<b>TRUSTEES OF THE</b>		
18	<b>DEPARTMENT TOTALS</b>	<b>2021-22</b>	<b>2022-23</b>
19			
20	<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$393,750</b>
21			
22	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$393,750</b>
23			
24	<b>SECTION TOTALS</b>	<b>2021-22</b>	<b>2022-23</b>
25			
26	<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$863,500</b>
27	<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>\$500</b>
28	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$500</b>
29			
30	<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$864,500</b>

31

32       Amend the bill by relettering or renumbering any nonconsecutive Part letter or section

33       number to read consecutively.

**SUMMARY**

- 34       This amendment, which is the majority report of the committee, does the following:
- 35
- 36       1. Removes references to "sexual misconduct" and replaces that phrase with "sexual
- 37       violence, intimate partner violence or stalking" and defines each of those terms and amends
- 38       the definition of "student";
- 39       2. Replaces references to a local rape crisis center with references to a sexual assault
- 40       support center and references to a domestic violence support center with references to a
- 41       domestic violence resource center;

**COMMITTEE AMENDMENT**

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COMMITTEE AMENDMENT "A" to S.P. 572, L.D. 1727 (S-554)

- 1           3. Provides that an institution of higher education's policy, and related procedures,
- 2           regarding sexual violence, intimate partner violence and stalking must be adopted no later
- 3           than July 1, 2023 and that the policy must be available on each institution's campus website
- 4           and in student handbooks, and that notices of policy availability and outreach for victims
- 5           of sexual violence, intimate partner violence and stalking must be posted at locations where
- 6           students regularly congregate;
- 7           4. Amends the content of the institution's policy;
- 8           5. Amends the confidentiality provision to clarify that the identity of a reporting party
- 9           and responding party and all information related to an incident of sexual violence, intimate
- 10          partner violence or stalking is confidential and may not be disclosed by the institution of
- 11          higher education except as necessary to carry out a disciplinary process or as otherwise
- 12          permitted under state or federal law;
- 13          6. Amends the name of the Higher Education Sexual Misconduct Advisory
- 14          Commission to the Higher Education Interpersonal Violence Advisory Commission and
- 15          amends its membership, initial terms of appointment, quorum requirements and duties;
- 16          7. Provides that institutions of higher education may contract or partner with a local,
- 17          state or national organization to provide a confidential resource advisor on campus;
- 18          8. Provides that, if requested by a student or employee, the confidential resource
- 19          advisor must provide direct assistance coordinating with the appropriate institutional
- 20          personnel to arrange possible school-provided support measures;
- 21          9. Amends the provision that provides for privileged communications between a victim
- 22          and a confidential resource advisor and the conditions under which those communications
- 23          are privileged from disclosure and when they may be disclosed;
- 24          10. Simplifies the reporting requirements of the institutions of higher education to
- 25          require that the institutions submit the annual security report under the federal Jeanne Clery
- 26          Disclosure of Campus Security Policy and Campus Crime Statistics Act;
- 27          11. Adds that the memoranda of understanding with a sexual assault support center or
- 28          domestic violence resource center must help ensure that a student or employee of the
- 29          institution has access to mental health services and facilitate making referrals to civil legal
- 30          representation to assist with civil protections; and
- 31          12. Removes the provisions of the bill that relate to Department of Education oversight,
- 32          enforcement, penalties and rulemaking.

33           The amendment adds an appropriations and allocations section.

34                           **FISCAL NOTE REQUIRED**  
35                           **(See attached)**

**COMMITTEE AMENDMENT**



# 130th MAINE LEGISLATURE

LD 1727

LR 248(02)

## An Act Concerning Sexual Misconduct on College Campuses

**Fiscal Note for Bill as Amended by Committee Amendment "A" (S-554)**  
**Committee: Education and Cultural Affairs**  
**Fiscal Note Required: Yes**

### Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$863,500	\$811,500	\$851,500
<b>Appropriations/Allocations</b>				
General Fund	\$0	\$863,500	\$811,500	\$851,500
Federal Expenditures Fund	\$0	\$500	\$500	\$500
Other Special Revenue Funds	\$0	\$500	\$500	\$500

### Fiscal Detail and Notes

This bill includes General Fund appropriations totaling \$863,500 in fiscal year 2022-23 for the costs associated with addressing sexual misconduct on college campuses. Of that amount, \$787,500 is for the ongoing costs to the University of Maine System (UMS), the Maine Community College System (MCCS) and Maine Maritime Academy (MMA) to contract for the services of a confidential resource advisor at each of their campuses, with UMS receiving \$393,750, MCCS receiving \$344,531 and MMA receiving \$49,219.

The remaining amount of \$76,000 is appropriated in fiscal year 2022-23 to a newly established Higher Education Interpersonal Violence Advisory Commission Fund within the Department of Education for the costs associated with supporting the work of the commission. Of that amount, \$40,000 is provided in fiscal year 2022-23 and every other year thereafter for the cost of developing the interpersonal violence climate survey for dissemination to institutions of higher education. A General Fund appropriation of \$20,000 is provided in fiscal year 2022-23 for the costs to establish a data repository for the survey results. The estimated cost to maintain the data repository is \$8,000 per year beginning in fiscal year 2023-24. Finally, \$16,000 per year is provided for the costs of staffing the commission and coordinating and validating the data collected from the survey. This bill also includes Other Special Revenue Funds and Federal Expenditures Fund base allocations of \$500 in fiscal year 2022-23 to the fund to authorize expenditure of any funding received from federal, public or private sources to support the work of the commission.

Any additional costs to the Department of Health and Human Services to be a part of The Higher Education Interpersonal Violence Advisory Commission are expected to be minor and can be absorbed within existing budgeted resources.