



March 8, 2022

Senator Rafferty, Representative Brennan, and Members of the Joint Standing Committee on Education and Cultural Affairs:

My name is Elizabeth Ward Saxl and I am submitting testimony today on behalf of the Maine Coalition Against Sexual Assault (MECASA), the organization which represents and serves Maine's [sexual violence prevention and response programs](#). Member agencies include:

- AMHC Sexual Assault Services (Aroostook, Washington & Hancock)
- Immigrant Resource Center of Maine (serving new Mainers)
- Penquis Rape Response Services (Penobscot & Piscataquis)
- Sexual Assault Crisis and Support Center (Kennebec & Somerset)
- Sexual Assault Prevention and Response Services (Franklin, Oxford & Androscoggin)
- Sexual Assault Response Services of Southern Maine (York & most of Cumberland)
- Sexual Assault Support Services of Midcoast Maine (Knox, Waldo Lincoln, Sagadahoc & eastern Cumberland)

MECASA initiates and advocates for victim-centered public policy; provides expert training, technical assistance, and resources for providers and partners; and funds the service providers in your communities.

MECASA is here today **in support of the majority of sections of LD 1727, “An Act Concerning Sexual Misconduct on College Campuses,” but in opposition to a couple sections.** Many thanks to President Jackson and the student leaders for their many hours of work to bring this bill to the Committee.

Our positions on this bill are based on decades of our providers working with hundreds of victims/survivors of sexual violence on college and university campuses in every part of this state – with survivors who made reports to campus authorities and those who didn't want a single

person on campus to know what had happened to them. We have long been aware of the shortcomings of Title IX proceeding and worked with DHHS to invest over a million dollars in services through Pine Tree Legal to make sure that these student survivors and other sexual violence survivors have legal counsel as they sort through this very complicated civil legal environment. The result is a landscape which is remarkably different from other states. And yet sexual violence continues to be all too common and survivors do not always get the support they need. We hope that this bill will help change that.

We have not come to these positions lightly, **we know that 18 to 24-year-old college women are three times more likely than women in the general population to be a victim of rape or sexual assault, and that college men are nearly 80% more likely than non-students of the same age to be a victim.**¹ And that the impact can be devastating – including increased risk of suicide, not being able to finish school and ongoing mental health challenges. What we do in this space must be done very carefully.

We have worked with the student leaders and organizational leadership of Every Voice for more than two years now. I can't say enough about how inspiring the student leaders are. The work started with a piece of national model legislation that had great intentions, but which needed a lot of tailoring to be in line with Maine law and practice. And now, you have before you an amendment which is full of really groundbreaking changes which we believe will make a real and lasting difference for victims/survivors of sexual violence.

And as previously noted, there are a couple of sections in the amendment before you which we believe will have very serious unintended consequences, and we would beg you to look very carefully at those sections.

One of many things for which we are grateful, is that discussing this bill has spurred an unprecedented level of collaboration between Maine's victim services providers and Maine's institutions of higher education. Because, at the end of the day, those are the two groups of entities who will be responsible for implementing this law. We started in very different places but have been working diligently over the last few months to try to chart a path forward that is both ambitious and implementable; we believe we are headed in the right direction.

Assuming the three-minute rule, I recognize there is not time to go over the many complex sections of this bill today. But please refer to my written testimony for section-by-section analysis.

¹ Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Rape and Sexual Victimization Among College-Aged Females, 1995-2013 (2014).

Also included is a chart which outlines where the institutions and the victim service providers are with regard to each section, as well as a chart that outlines which parts of the bill have been implemented in other states and which parts have not.

The Problem

We know young people in this age group are at an increased risk of sexual violence. As previously noted, 18 to 24-year-old college women are three times more likely than women in the general population to be a victim of rape or sexual assault, and college men are nearly 80% more likely than non-students of the same age to be a victim.² It is our responsibility to ensure that pathways to justice and healing are easily accessible to Maine college students both on- and off-campus.

National data from the Association of American Universities campus climate surveys reveal a wide range of reasons students don't report to campus authorities or victim assistance programs. Of the students who answered that they had experienced what the survey called "nonconsensual sexual touching with penetration," nearly a quarter said they didn't talk to a school resource or program for fear of getting the perpetrator in trouble.³ The ability to talk to someone off campus is essential for these and other students who face barriers in reporting and accessing supports within the campus community.

For students of marginalized identities, talking to a campus staff person may mean 'outing' their sexual identity or potentially alienating themselves from their small, close-knit community. And for many young people used to having everything they need offered on campus, knowledge of community resources to support survivors is limited or may seem totally inaccessible. Coordinating with local sexual assault support centers and domestic violence resource centers makes it easier for survivors of interpersonal violence to access support and civil and legal remedies wherever feels most comfortable to them.

LD 1727 Sponsor's Amendment Section by Section

§12952. Adoption of policies & 12953. Notice to Proceed – WE **OPPOSE THIS SECTION**

The current Title IX process is complicated and is often difficult for survivors to navigate even with the best policies and procedures in place. Changes under the last federal administration

² Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Rape and Sexual Victimization Among College-Aged Females, 1995-2013 (2014).

³ Westat, Prepared for: The Association of American Universities, Report on the AAU Campus Climate Survey on Sexual Assault and Misconduct, (2020).

made it more problematic by instating barriers to pursuing an investigation like required live hearings with cross-examinations and measures that over-emphasize institutional impartiality. And so, we understand the interest in creating a more victim-centered, more transparent process. Nevertheless, since state law does not trump federal law, our concern is that the policy requirements in this section of the bill would result in schools creating parallel processes to satisfy both state and federal mandates. Navigating multiple policies and varied definitions and considerations is categorically worse for survivors already reporting feeling overwhelmed by the current Title IX process. It is also worth noting that dual processes would burden both reporting as well as responding parties.

§12954. Higher Education Interpersonal Violence Advisory Commission & §12955. Interpersonal violence climate survey dissemination; data collection; reporting - SUPPORT

We are in enthusiastic agreement that there is a need for more statewide leadership to support best practices in responding to and preventing campus sexual violence. After hearing this need communicated clearly from our advocates at local sexual assault support centers and stakeholders at colleges and universities across the state, we created a regular convening of campus Title IX staff and preventionists where folks have been excited to be part of a space that connects them to one another to learn and share best practices. We believe in the value of multi-disciplinary efforts that ground this work in theory, research, and people's lived experience. A Commission like this would make sure that a climate survey that was implemented in a way that was safe for survivors and closed the loop in making recommendations to the Legislature and others about the survey results.

§12956. Confidential resource advisors – OPPOSE

Campus climate surveys across the state show that student survivors most often disclose their experience to a friend, rather than a professional staff member. A mistrust of administration or misunderstanding of the Title IX process can make it really difficult for some survivors to report, so we understand the drive to develop easily-accessible, confidential resources for student survivors. However, the confidential resource advisor role described would put campus staff in a difficult position within their institutions. It's most likely that these advisors would be supervised by campus administrators who are not confidential, making it really challenging for them to get support in their work without risking breaking confidentiality. Additionally, many of the duties as outlined around supportive measures duplicate work that a Title IX coordinator would already be doing. The good news is there are existing systems set up within networks of sexual assault support centers and domestic violence resource centers to afford survivors access to privileged advocacy services, and Title IX coordinators to assist survivors in obtaining protective measures. Requiring

MOUs with community providers is the approach that most states engaging with campus safety legislation have opted for. That is the recommended approach for Maine.

§12957. Awareness programming – SUPPORT with minor amendments

There is a whole field of prevention science that goes into approaches to reduce sexual violence perpetration in any given community. Colleges and universities, particularly residential ones, are in the unique position of influencing many of the spaces in which students live, work, learn, and play. It is our deepest hope that annual training for incoming students and employees would help build a foundation for preventing sexual violence on campuses. A great deal of time and energy goes into our local sexual assault support centers' outreach efforts to advertise their services to the community. Similarly, ongoing educational campaigns at each institution would be an essential way to keep students and employees well-informed of available resources, both on and off campus.

§12958. Training for individuals involved in the disciplinary process – SUPPORT

While science's understanding of the impact on trauma on survivors has grown more and more robust, there are still many myths about how individuals respond to sexual violence, particularly to how memory might be affected in recounting the details of an incident. Our partners in law enforcement have made great strides in ensuring officers know ways to interview survivors that prevent re-traumatization. Similar trainings for campus police or safety personnel and staff involved in disciplinary processes would go a long way in making sure investigations, hearings, and process meetings are safe for all involved and accurately reflect the evidence.

§12959. Reporting – SUPPORT

Similar to the goal of the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Statistic Act, we know that publicly accessible data are essential for institutions to have full transparency and accountability regarding the safety of their campuses. Mainers have a right to know how sexual violence is impacting colleges and universities in the state. That knowledge helps paint a picture of how we're making progress. We support President Jackson's proposed amendment to require institutions to submit the Annual Security Report required under the federal Clery Act.

§12960. Immunity – SUPPORT

In the national campus climate report mentioned earlier, over half (54%) of women who reported nonconsensual penetration did not contact a program or resource because alcohol was involved.⁴ All students deserve support and resources regardless of the decisions they made before they experienced harm. Immunity policies would remove barriers to reporting for students who may have used drugs or alcohol at the time of their assault; this protection is necessary given that we know that alcohol is involved in the vast majority of campus sexual assault (i.e., studies estimate between 50-75% of sexual assaults on college campuses involve alcohol consumed by the survivor, perpetrator or both)⁵. In the rare instances in which a survivor did something that would endanger others, we believe that provisions the bills make around egregious violations would allow schools to also address their responsibility in campus safety.

§12961. Memoranda of understanding – SUPPORT

In talking with both local sexual assault support center advocates and campus professionals, it is clear there are a wide range of relationships between institutions and their local centers across Maine. Often that connection is dependent on individual staff members or historical relationships. No matter the reason, the result is that for institutions lacking this relationship the onus is on students to find community resources independently, and in the middle of experiencing trauma. MOUs would yield better and more durable connections to community- based services for students and employees seeking emotional support and resources, and ensure that everyone can find what they need, wherever they feel most comfortable accessing it.

§12962. Enforcement; penalty; appeal – OPPOSE

Our experience in working on multi-disciplinary efforts to prevent and better respond to sexual violence is that everyone wants to do the right thing – and that when presented with ways to do that community partners are typically on board. The Maine way is to build trust and collaborative partnerships and only turn to enforcement mechanisms if that fails. At this point, we think that

⁴ Westat, Prepared for: The Association of American Universities, Report on the AAU Campus Climate Survey on Sexual Assault and Misconduct, (2020).

⁵ Abbey A. Alcohol-related sexual assault: a common problem among college students. J Stud Alcohol Suppl. 2002 Mar;(14):118-28.

Abbey, A., Clinton, A. M., McAuslan, P., Zawacki, T., & Buck, P. O. (2002). Alcohol-involved rapes: Are they more violent? Psychology of Women Quarterly, 26, 99-109

Krebs CP, Lindquist CH, Warner TD, Fisher BS, Martin SL. College women's experiences with physically forced, alcohol- or other drug-enabled, and drug-facilitated sexual assault before and since entering college. J Am Coll Health. 2009 May-Jun;57(6):639-47.

there is good faith collaboration between organizations and that a penalty provision is not necessary. However, we are ready to support penalties in the future if institutions do not make the good faith efforts to comply.

Thank you for your partnership in addressing these important issues. I urge you to support this bill with the suggested amendments and would be pleased to answer any questions you might have. I will be available for the work session.

About Maine's Sexual Assault Service Providers

Maine's [sexual violence service providers](#) provide free and confidential services across the state to victims/survivors of sexual harassment and sexual assault and those close to them, as well as to individuals who wish to increase their understanding of the issues. Just some of the services include a 24-hour statewide sexual assault helpline, crisis intervention and information, support groups, in-person accompaniment and advocacy through the medical and legal systems, and school- and community-based prevention education. Services are provided for a victim/survivor regardless of when they experienced sexual violence, and regardless of what type of sexual violence they experienced. Types of sexual violence include, but are not limited to, sexual harassment and gender-based bullying, child sexual abuse, elder sexual abuse, stalking, sex trafficking, and sexual violence within an intimate partner relationship.

24/7 Confidential

Maine Sexual Assault Helpline: [1-800-871-7741](tel:1-800-871-7741)

LD 1727, “An Act Concerning Sexual Misconduct on College Campuses”
Campus Safety Policy Working Group Summary

Amendment Section	Summary	Position	Rationale <i>These are broad suggestions; smaller edits will be addressed in our amendment to clean up the bill.</i>
§12951. Definitions	N/A	<u>Supported with Amendments:</u> Maine Coalition to End Domestic Violence, Maine Coalition Against Sexual Assault, University of Maine System, Maine Independent Colleges Association, Maine Community Colleges, Maine Maritime Academy	We support the vast majority of definitions as written. However, we feel the definitions of employee and student are overly broad and should be revised by deleting “and for any other reason.” The current definitions would allow any student or employee who left an institution for any reason at any time to avail themselves of the services and rights afforded to “students” and “employees” under this bill, which we do not understand to be the intention of the bill.
§12952. Adoption of policies And 12953. Notice to Proceed.	Requires institutions to adopt a policy on interpersonal violence including procedures for reporting, investigating, adjudicating, and resolving misconduct complaints as well as information about resources and supportive measures.	<u>Opposed:</u> Maine Coalition to End Domestic Violence, Maine Coalition Against Sexual Assault, University of Maine System, Maine Independent Colleges Association, Maine Community Colleges, Maine Maritime Academy	This section will require a parallel process to Title IX, creating undue burden and confusion for both reporting and responding parties. It will increase the complexity of the process as well as create barriers to reporting. Enacting this state level puts institutions in conflict with federal regulations. Wait on current pending federal changes to be complete.
§12954. Higher Education Interpersonal Violence Advisory Commission	Creates a 22-member Commission, comprised of subject practitioners, students, campus and Title IX staff, and researchers, which: <ul style="list-style-type: none"> must develop and advise the commissioner on an interpersonal violence climate survey for biennial 	<u>Supported with Amendments:</u> Maine Coalition Against Sexual Assault, Maine Coalition to End Domestic Violence, MICA University of Maine System,	A Commission with expertise and multilevel stakeholder engagement will be an asset in ensuring effective and trauma-informed implementation of a climate survey that is <u>conducted every three years</u> . Their mission should be to develop the questions of the survey, review the results of the survey, and to make recommendations to the Legislation about the results

<p>and</p> <p>§12955. Interpersonal violence climate survey dissemination; data collection; reporting</p>	<p>dissemination to institutions of higher education</p> <ul style="list-style-type: none"> • may make recommendations on legislative and policy action based on survey findings • may undertake research development and program initiatives <p>Requires institutions to submit a summary of climate survey results and deidentified raw data and to ensure the summary and biennial security report is publicly accessible.</p>	<p>Maine Community Colleges, Maine Maritime Academy University of Maine System</p>	<p>of the survey. The Commission should allow professionals in the field of survey development design the survey, based on best practices.</p> <p>Sections 1294 and 1295 should be combined into one section.</p> <p>The Commission should not have a role in oversight over higher education.</p>
<p>§12956. Confidential resource advisors</p>	<p>Requires each institution to designate a confidential resource advisor and creates statutory privilege under Title 16 (Court Procedure – Evidence) for those new positions.</p>	<p>Opposed: Maine Coalition to End Domestic Violence, Maine Coalition Against Sexual Assault, University of Maine System, Maine Independent Colleges Association, Maine Community Colleges, Maine Maritime Academy</p>	<p>There are existing systems set up within networks of sexual assault support centers and domestic violence resource centers to afford survivors free access to advocacy services with statutory privileged communications, and Title IX coordinators to assist students and employees in obtaining on-campus support and critical protective measures.</p> <p>Requiring MOUs with community providers is the approach that most states engaging with campus safety legislation have opted for. That is the recommended approach for Maine.</p> <p>The CRA role would put campus staff in a compromised position within their institution, and their requirement to maintain confidentiality would bar many from accessing effective supervision within the campus hierarchy.</p>

			A more effective, trauma-informed approach would be to better utilize existing resources on and off campuses.
§12957. Awareness programming	Requires each institution to provide mandatory annual interpersonal violence prevention and awareness programming for all its students and employees on a prescribed list of topics.	Supported with minor amendments: Maine Coalition to End Domestic Violence, Maine Coalition Against Sexual Assault, Maine Community Colleges, Maine Maritime Academy Maine Independent Colleges Association University of Maine System	We support offering annual training for incoming students and employees and we support ongoing education campaigns to keep students and employees well-informed of available resources, both on and off campus.
§12958. Training for individuals involved in the disciplinary process	Requires annual training for each institution's Title IX coordinator and members of its campus police force or campus safety personnel. Also requires training or relevant experience for any staff involved in interpersonal violence disciplinary processes.	Supported: Maine Coalition to End Domestic Violence, Maine Coalition Against Sexual Assault, University of Maine System, Maine Independent Colleges Association, Maine Community Colleges, Maine Maritime Academy	We support requirements for training for campus police or safety personnel and staff involved in disciplinary processes. Misunderstandings of neurobiological impacts of trauma can result in investigations, hearings, and process meetings that re-traumatize survivors or mischaracterize evidence.
§12959. Reporting	Requires an annual report that includes numbers of reported alleged incidents of sexual misconduct and data pertaining to the outcomes of investigations of interpersonal violence.	Supported: Maine Coalition to End Domestic Violence, Maine Coalition Against Sexual Assault,	Publicly accessible data are important for institutions to have transparency and accountability regarding the prevalence of violent crime on campuses. We support President Jackson's proposed amendment to require institutions to submit the Annual Security Report

		University of Maine System, Maine Independent Colleges Association, Maine Community Colleges, Maine Maritime Academy	required under the federal Jeanne Clery Disclosure of Campus Security Policy and campus Statistic Act.
§12960. Immunity	Provides immunity to a reporting party or a witness who requests an investigation of interpersonal violence from disciplinary sanction for a violation of the institution's student conduct policy.	Supported: Maine Coalition to End Domestic Violence, Maine Coalition Against Sexual Assault, University of Maine System, Maine Independent Colleges Association, Maine Community Colleges, Maine Maritime Academy	We support policies that remove barriers to reporting for students who experience harm and believe that provisions around egregious violations allow schools to consider campus safety.
§12961. Memoranda of understanding	Requires each institution to enter into and maintain an MOU with their local sexual assault support center and domestic violence resource center to assist in the development of policy, programming, and training; provide advocacy and support; ensure access to free transportation and counseling; and coordinate support to students.	Supported: Maine Coalition to End Domestic Violence, Maine Coalition Against Sexual Assault, University of Maine System, Maine Independent Colleges Association, Maine Community Colleges, Maine Maritime Academy	MOUs would yield better connection to community- based services for students and employees seeking emotional support and resources.
§12962. Enforcement; penalty; appeal	Provides an administrative penalty to an institution in violation of the chapter. Establishes an Interpersonal Violence Response Fund, into which any administrative penalties will be collected.	Opposed: Maine Coalition to End Domestic Violence, Maine Coalition Against Sexual Assault, University of Maine System,	At this point, we think that there is good faith collaboration between organizations and that a penalty provision is not necessary. However, we are ready to support penalties in the future if institutions do not make good faith efforts to comply.

		Maine Independent Colleges Association, Maine Community Colleges, Maine Maritime Academy	
§12963. Rulemaking	Allows the commissioner to adopt rules to implement this chapter, including those related to climate survey dissemination and caps on administrative penalties.	<u>Opposed:</u> University of Maine System, Maine Independent Colleges Association Maine Community Colleges Maine Maritime Academy <u>No Position:</u> Maine Coalition to End Domestic Violence, Maine Coalition Against Sexual Assault,	Oppose: DOE does not currently and should not play an oversight role over higher ed.

Review of Every Voice Coalition Legislation (as linked from the EVC website)

State	Link to Legislation	Status of Legislation	Creates Commission?	Climate Survey	Frequency of Survey	Requires MOUs with Local providers?	Requires Confidential Resource Advisors?	Contains EVC Policy & Process Mandates?
Arizona	https://www.azleg.gov/legtext/55leg/2R/adopted/S.1626ED.pdf	Pending	16 member task force	Would require the Task Force to develop a survey (several mandatory	Annually	No	No	No
Connecticut	https://www.cga.ct.gov/2021/ACT/PA/pdf/2021PA-00081-R00HB-06374-PA.pdf	Passed	20 member council	Council shall develop and recommend at least one climate survey	Every 2 years	No	No	No. But several policy and process requirements already existed in law
Hawaii	https://www.capitol.hawaii.gov/session2022/bills/HB691_.pdf	Pending	None	None	None	Yes	Unclear	No
Illinois	https://www.capitol.hawaii.gov/session2022/bills/HB691_.pdf	Passed	24 member Task Force (sunsets in 2026)	Task Force develops and recommends survey to Board of Education (several mandatory elements)	Annually	No	No	No
Massachusetts	https://www.capitol.hawaii.gov/session2022/bills/HB691_.pdf	Passed	26 member task force	Task Force develops surveys to be distributed.	Every 4 years	Yes	Yes	Yes
Nevada	https://www.leg.state.nv.us/Session/81st2021/Bills/SB/SB347_EN.pdf	Passed	12 member Task Force	Gives Board of Regents authority to develop a survey within resources; if developed, mandatory elements	Every 2 years, within available resources	Authorizes Board of Regents to require MOUs	Authorizes Board of Regents to require provision of an advocate; scope of confidentiality is undefined.	No. Authorizes Board of Regents to require institutions to develop policies.

New Hampshire	https://www.gencourt.state.nh.us/rsa/html/XV/188-H/188-H-mrg.htm	Passed	20 member Task Force	Task Force develops surveys (many mandatory elements)	Every 2 years	Yes	Yes	Yes
New Mexico	https://www.nmlegis.gov/Sessions/21%20Regular/bills/house/HB0142.pdf	Failed; plans to reintroduce	12 member Task Force (sunsets in 2023)	Task Force develops the surveys (many mandatory elements)	Every 2 years	Yes	No	No. Requires policies to address a number of issues; directs policy on very few.
Oregon	Unclear what the EVC legislation is/has been here.							
Pennsylvania	Multiple: https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2021&sessInd=0&billBody=H&billTyp=B&billNbr=1489&pn=1718 https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2021&sessInd=0&billBody=S&	Pending	Creates Commission (membership undefined; required input from approx. 20 stakeholders)	Commission will generate surveys and recommendations. No requirement upon institutions.	None	Yes	No	No