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CHAIR:

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3rd SESSION, 65th GENERAL ASSEMBLY
Province of Prince Edward Island
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(Bill No. 41)

Post-secondary Institutions Sexual Violence Policies Act

Hon. Sonny (Stanley) Gallant
Minister of Workforce and Advanced Learning

GOVERNMENT BILL

Carol Mayne
Acting Queen's Printer
Charlottetown, Prince Edward Island



POST-SECONDARY INSTITUTIONS SEXUAL VIOLENCE POLICIES ACT

BILL NO. 41

2018

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

PART 1 - INTERPRETATION AND APPLICATION

1. Definitions

In this Act,

- (a) “**post-secondary institution**” means a post-secondary institution specified in subsection 2(1);
- (b) “**sexual violence**” means any sexual act or act that targets a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes, but is not limited to, sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

2. Application

- (1) This Act applies to the following post-secondary institutions:
 - (a) the University of Prince Edward Island, established under the *University Act* R.S.P.E.I. 1988, Cap. U-4;
 - (b) Holland College, established under the *Holland College Act* R.S.P.E.I. 1988, Cap. H-6;
 - (c) La Société Éducative de L'Île-de-Prince Édouard Inc., a non-profit corporation established under the laws of the Province, operating under the trade name “Collège de l'Île”;
 - (d) a post-secondary institution designated in the regulations.

Minister responsible

- (2) The Minister of Workforce and Advanced Learning is the Minister responsible for the administration of this Act.

PART 2 - SEXUAL VIOLENCE POLICY

3. Requirement for sexual violence policy

- (1) A post-secondary institution shall establish and maintain a sexual violence policy that
- (a) addresses sexual violence involving students enrolled at the post-secondary institution;
 - (b) sets out the process for how the post-secondary institution will respond to and address incidents and complaints of sexual violence involving students enrolled at the post-secondary institution, and includes the elements specified in the regulations relating to the process;
 - (c) addresses any other topics and includes any other elements required by the regulations; and
 - (d) otherwise complies with the requirements set out in the regulations.

Student input

- (2) A post-secondary institution shall ensure that student input is considered, in accordance with any regulations, in the development of its sexual violence policy and every time the policy is reviewed or amended.

4. Implementation of policy

- (1) A post-secondary institution shall
- (a) implement its sexual violence policy in accordance with the regulations; and
 - (b) implement any other measure or do any other thing it is required to do under the regulations relating to sexual violence involving students enrolled at the post-secondary institution.

Publication

- (2) In addition to any requirements respecting publication of its sexual violence policy specified in the regulations, a post-secondary institution shall make its sexual violence policy publicly available on an Internet site maintained by or on behalf of the post-secondary institution.

5. Review of policy

- (1) A post-secondary institution shall review its sexual violence policy
- (a) at least once every three years; and
 - (b) when directed to do so by the Minister.

Results of review

- (2) A post-secondary institution shall
- (a) determine whether its sexual violence policy requires amendments based on a review under subsection (1); and
 - (b) if the post-secondary institution determines amendments are required, make those amendments.

Commencement of period

- (3) For the purposes of clause (1)(a), the first three-year period begins on the date that a post-secondary institution establishes its first sexual violence policy under section 3.



6. "Governing body" defined

- (1) In this section, "**governing body**", in relation to
- (a) the University of Prince Edward Island, means the Board of Governors of the University of Prince Edward Island;
 - (b) Holland College, means the Board of Governors of Holland College; and
 - (c) Collège de l'Île, means the Board of Directors of Collège de l'Île.

Report to governing body

- (2) Each year, the president of a post-secondary institution shall report to the governing body on the implementation of the post-secondary institution's sexual violence policy.

Identifying information prohibited

- (3) The report of the president referred to in subsection (2) shall not contain individually identifying information of any person in relation to an incident or complaint of sexual violence at the post-secondary institution.

PART 3 - REGULATIONS

7. Regulations

The Lieutenant Governor in Council may make regulations relating to sexual violence involving students enrolled at a post-secondary institution, and governing sexual violence policies required under this Act, and without limiting the generality of this power, make regulations

- (a) governing processes that shall be followed and persons who shall be consulted in the development and approval of sexual violence policies, and in the review and amendment of those policies, and governing how student input shall be provided and considered in that development, review and amendment;
- (b) governing topics that shall be addressed or elements that shall be included in sexual violence policies, including but not limited to the ways in which complaints respecting sexual violence may be made and requirements respecting procedural fairness in dealing with complaints;
- (c) governing the provision of training to faculty, staff, students and other persons about sexual violence policies;
- (d) respecting the publication of sexual violence policies and the promotion of awareness of the policies;
- (e) requiring that appropriate supports, services and, accommodation relating to sexual violence be provided to students affected by sexual violence, and governing those supports, services and accommodation and their provision;
- (f) designating other post-secondary institutions to which this Act applies;
- (g) governing any other matter that the Lieutenant Governor in Council determines is necessary or advisable relating to sexual violence involving students, including
 - (i) governing all matters relating to sexual violence policies and their implementation, and
 - (ii) governing other measures that a post-secondary institution shall implement, or other things that a post-secondary institution shall do, to address sexual violence involving students.

PART 4 - TRANSITIONAL MATTERS, COMMENCEMENT

8. Transition - existing policies

- (1) Where, on the date this section comes into force, a post-secondary institution has a written policy that complies with the requirements of subsection 3(1), the policy is deemed to be a sexual violence policy for the purposes of this Act.

Commencement of period

- (2) For the purposes of clause 5(1)(a), the first three-year period for a policy deemed to be a sexual violence policy under subsection (1) begins on the date this section comes into force.

9. Commencement

- (1) Subject to subsection (2), this Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.

Idem

- (2) Section 6 comes into force one year after the commencement date of the proclamation referred to in subsection (1).



EXPLANATORY NOTES

SECTION 1 establishes definitions for the purposes of the Act.

SECTION 2 specifies the post-secondary institutions to which the Act applies and provides that the Minister of Workforce and Advanced Learning is the Minister responsible for the administration of the Act.

SECTION 3 requires a specified post-secondary institution to establish and maintain a sexual violence policy that meets the requirements of the section and the regulations, including the requirement to ensure that student input is considered in the development, review or amendment of its sexual violence policy.

SECTION 4 requires a specified post-secondary institution to implement its sexual violence policy, and other measures specified in the regulations, in accordance with the regulations, and to make its sexual violence policy publicly available on an internet site maintained by or on behalf of the post-secondary institution.

SECTION 5 requires a specified post-secondary institution to review its sexual violence policy at least once every three years and at other times as directed by the Minister, to determine whether amendments are needed and make any needed amendments to it. The section also clarifies that the first three-year period commences on the date that the post-secondary institution establishes its first sexual violence policy under section 3.

SECTION 6 requires the president of a specified post-secondary institution to report to the governing body of the institution each year on the implementation of the sexual violence policy.

SECTION 7 authorizes the Lieutenant Governor in Council to make regulations respecting the requirements for the sexual violence policy of the specified post-secondary institutions and for the other purposes of the Act.

SECTION 8 provides that where, on the date the section comes into force, a post-secondary institution has a written policy that complies with the requirements of section 3 and the regulations, the policy is deemed to be a sexual violence policy for the purposes of the Act. The section also clarifies when the first three-year period begins to run in respect of the policy for the purposes of clause 5(1)(a).

SECTION 9 provides for the commencement of the Act.

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<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	November 13, 2018
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

SIGNATURES:

Honourable Antoinette Perry, Lieutenant Governor

Honourable Francis (Buck) Watts, Speaker

Charles H. MacKay, Clerk

Hon. Sonny (Stanley) Gallant
Minister of Workforce and Advanced Learning

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