



City of Chicago



O2014-8630

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 10/8/2014

Sponsor(s): Emanuel (Mayor)
Burke (14)
Thomas (17)

Type: Ordinance

Title: Amendment of Municipal Code Chapters 2-120 and 2-160
regarding sexual assault victims' bill of rights

Committee(s) Assignment: Joint Committee: Finance; Human Relations

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OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

October 8, 2014

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

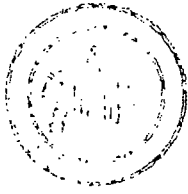
Ladies and Gentlemen:

At the request of the Chairman of the Commission on Human Relations, I transmit herewith, together with Aldermen Burke and Thomas, an ordinance amending Chapters 2-160 and 2-120 of the Municipal Code regarding a sexual assault victims' Bill of Rights.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor



ORDINANCE

WHEREAS, the City of Chicago is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6 (a); and

WHEREAS, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including promoting the quality of life, health, safety, and the welfare of its citizens; and

WHEREAS, violence against women, including domestic violence, dating violence and sexual assault, is a serious problem on college campuses across the nation; and

WHEREAS, a study by the U.S. Department of Justice has found that approximately twenty-eight percent (28%) of women are targets of attempted or completed sexual assault while they are college students; and

WHEREAS, many victims are reluctant to come forward to report their sexual assaults due to a lack of information about resources and protections available to them on college campuses; and

WHEREAS, in 2011, the U.S. Department of Education issued a Dear Colleague Letter to all federally funded schools to remind them of their responsibilities to take immediate and effective steps to respond to sexual violence in accordance with Title IX, the landmark federal civil rights legislation that prohibits sex-based discrimination in education; and

WHEREAS, in 1992, the Campus Security Act, now known as the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, was signed into law by President Bush requiring all colleges and universities across the United States to disclose information about crime on and around their campuses; and

WHEREAS, the Clery Act has been amended to require that school afford the victims of campus sexual assault certain basic rights, protect the victims of crime, whistleblowers and others from retaliation, and deal with campus emergency responses; and

WHEREAS, the Annual Security Report, which the Clery Act requires all colleges and universities to file by October 1st, must document three calendar years of select campus crime statistics including security policies and procedures as well and information on the basic rights guaranteed to victims of sexual assault; and

WHEREAS, in May of 2014, the U.S. Department of Education released a list of 55 colleges and universities that are under investigation for possible violations of the Clery Act, two of which are from Illinois – the University of Chicago and Knox College; and

WHEREAS, due to the recent publicized incidents of domestic violence by members of the National Football League and incidents on various college and university campuses, it is even more imperative that victims of sexual assault are aware of their basic rights; and

WHEREAS, the State of California recently enacted legislation that will require all California colleges and universities to develop survivor- centered policies for addressing sexual assault on campuses; and

WHEREAS, pursuant to California law, “Affirmative Consent” means consent as an affirmative act, in which both partners must express their desire to engage in each sexual act;

WHEREAS, Governor Cuomo of New York has instructed the State University of New York to overhaul its approach to preventing, investigating and prosecuting incidents of sexual assault, including making “affirmative consent” the rule on all of its campuses; and

WHEREAS, the City of Chicago finds that the public health and safety of its citizens, particularly its young adults, is being endangered by the increase of domestic and sexual violence occurring on and near college and university campuses; and

WHEREAS, affording victims of sexual violence basic rights for their protection is a legitimate role of government relating to the welfare of its citizens; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are expressly incorporated herein and made part hereof as though fully set forth herein.

SECTION 2. Chapter 2-160 of the Municipal Code of Chicago is hereby amended by adding Section 2-160-045 underscored as follows:

2-160-045. Sexual Assault Victims’ Bill of Rights.

All campuses of the City Colleges of Chicago, as well as all other universities and colleges with campuses located within the city limits of the City of Chicago shall adopt a uniform Sexual Assault Victims’ Bill of Rights to notify and assist victims of sexual assault of their right to contact campus, local and or State law enforcement, to inform both the accuser and accused that they have the same opportunity to have others present at their hearings, and both shall be informed of the outcome of any campus disciplinary hearing, and to widely publicize the Bill of Rights to all students and to distribute it to victims of sexual assault.

The Sexual Assault Victims’ Bill of Rights shall also include campus-specific and local community victim resources (including the option of housing and academic changes as well as counseling services), shall be widely publicized to all students, with a hard copy document being made specifically available to any victim, so that students have clear and effective information

on what their rights and options are as well as how to access immediate and on-going assistance after an act of sexual assault has occurred.

The Bill of Rights shall adopt the following uniform definition of affirmative consent:

a) Consent is clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.

b) Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.

c) Previous relationships or prior consent cannot imply consent to future sexual acts.

d) A person is deemed incapable of consenting when that person is mentally defective, mentally incapacitated, physically helpless (whether induced by drugs, alcohol or otherwise), or asleep.

In addition to creating the Sexual Assault Victims' Bill of Rights, the City College system of Chicago, as well as all other universities and colleges located within Chicago, shall adopt, in coordination with the Commission on Human Relations, victim-centered policies and protocols regarding sexual assault, domestic violence, dating violence and stalking involving a student that comports with best practices and current professional standards. The policies and protocols governing these areas shall include, but not be limited to, the following:

1) A statement on how the institution will provide appropriate protections for the privacy of individuals involved, including confidentiality;

2) Creating protocols for the preservation of evidence from the incident, victim and witness interviews, and interview of the accused;

3) Providing that an individual who participates as a complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the institution's student conduct policy at or near the time of the incident;

4) A comprehensive, trauma-informed training program for campus officials involved in investigating and adjudicating sexual assault, domestic violence, dating violence and stalking cases; and

5) Procedures for confidential reporting by victims and third parties.

6) Procedures for victims to report complaints concerning the handling of their sexual assault investigations to the Commission on Human Relations.

SECTION 3. Section 2-120-510 of the Municipal Code of Chicago is hereby amended by inserting the underscored language as follows:

2-120-510. Powers and Duties

The commission shall have the following powers and duties, in addition to those assigned by other provisions of the Municipal Code:

(a) to advise and consult with the mayor and the city council on all matters involving prejudice or discrimination based on race, color, sex, sexual assault victim's bill of rights, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, credit history (as to employment only) or professional training or education from an accredited institution and recommend such legislative action as it may deem appropriate to effectuate the policy of this ordinance;

* * * * *

(Omitted text is unaffected by this ordinance)

(r) to enter into collaborative partnerships with the City Colleges of Chicago and all colleges and universities with campuses in Chicago to create a uniform Sexual Assault Victims' Bill of Rights and to develop policies and protocols with these schools to for, including but not limited to, proper training in handling sexual assault crimes as well as creating programs for the prevention of sexual violence, domestic violence, dating violence and stalking.

SECTION 4. This ordinance shall be in full force and effect 60 days after its passage and publication.