



## **The Implications of New Legislation in the State of Minnesota**

**Issued on October 15, 2014**

Note: The following is an interpretation provided by The Forum on Education Abroad of new legislation in the State of Minnesota. This is based on The Forum's reading of the legislation as well as discussions with legislators and education abroad colleagues.

**This interpretation does not constitute legal advice and The Forum recommends that members consult their legal counsels for legal advice.**

Also Note: There are several places below in which the law is quoted directly. You may wish to consult the law as it appears on the State of Minnesota web site [Minn. Laws Chapter 312](#) (see Article 1, Higher Education, sections 5 and 14). For your convenience, the text of the law appears at the end of this document.

### **Background**

On May 20, 2014, a law was passed by the State of Minnesota that seeks greater transparency about the health and safety records of credit-bearing education abroad programs in which degree-seeking students enrolled at Minnesota universities and colleges participate. State Senator Bonoff, who sponsored the legislation, said that the chief purpose of the new law is to provide better and more complete information to Minnesota students and parents so that they can make informed decisions about study abroad programs. At the same time, Senator Bonoff expressed her support for study abroad and stressed that she did not want to create a law that was unreasonable.

In early 2014, Forum member institutions in Minnesota asked The Forum to assist by responding to the proposed legislation. Forum President and CEO Brian Whalen traveled to the State Capital in Saint Paul in March 2014, and along with several Minnesota colleagues, met with State Senator Bonoff, and contributed to this process. They presented copies of The Forum's *Standards of Good Practice for Education Abroad*, and described its efforts in collecting data on critical

incidents abroad. The facts that the education abroad field has a highly-regarded set of established Standards, and that it is collecting and reporting national data on critical incidents abroad, were both important to the process of influencing the draft legislation.

## **The Law**

The law was signed by the governor of Minnesota on May 20, 2014. It is important to note that the law defines "program" as a "study abroad program offered or approved for credit by a Minnesota college or university in which program participants travel outside of the United States in connection with an educational experience."

Also, a "Minnesota student" or "program participant" refers to any student (from Minnesota, another U.S. state, or from overseas) enrolled at any Minnesota college or university. The law does not apply to Minnesota residents who are enrolled as students outside of Minnesota, whether they study abroad or not. Nor does it apply to students who enroll at a Minnesota college or university *solely* for the purpose of study abroad. With these definitions in mind, here are the law's provisions:

### **I. Provisions for Postsecondary Institution Reporting**

The law requires that Minnesota postsecondary institutions do the following:

- "A postsecondary institution, must file by November 1 of each year a report on its programs with the secretary of state. The report must contain the following information from the previous academic year, including summer terms: (1) deaths of program participants that occurred during program participation as a result of program participation; and (2) accidents and illnesses that occurred during program participation as a result of program participation and that required hospitalization. Information reported under clause (1) may be supplemented by a brief explanatory statement."

The law took effect on August 1<sup>st</sup>, 2014. The first report will be for fall 2014 participants through summer 2015 participants, and will be due at the Minnesota secretary of state's office on November 1, 2015. The Office of Higher Education will provide an online reporting mechanism for all Minnesota colleges and universities.

- "A postsecondary institution must report to the secretary of state annually by November 1 whether its program complies with health and safety standards

set by the Forum on Education Abroad or a similar study abroad program standard setting agency.”

- “A postsecondary institution must include in its written materials provided to prospective program participants a link to the secretary of state Web site stating that program health and safety information is available at the Web site.”

## II. Provisions for Reporting by the Minnesota Secretary of State

The law requires that the secretary of state of Minnesota do the following:

- “The secretary of state must publish the reports required by subdivision 2, on its Web site in a format that facilitates identifying information related to a particular postsecondary institution.”
- “The secretary of state shall publish on its Web site the best available information by country on sexual assaults and other criminal acts affecting study abroad program participants during program participation. This information shall not be limited to programs subject to this section.”

The Minnesota secretary of state office has been in contact with The Forum about linking to The Forum’s Critical Incident Database to fulfill this part of the law. The first annual report on critical incidents abroad is expected to be published by The Forum in early 2015, and this will report data for the 2014 calendar year.

## III. Responsibilities of the Minnesota Office of Higher Education

The law requires that the Minnesota Office of Higher Education do the following:

- “The secretary of state shall provide the information it posts on its Web site under subdivision 3 to the Office of Higher Education, in electronic format, at the time it posts the information. The Office of Higher Education shall post the information on its Web site and may otherwise distribute the information. In materials distributed or posted, the Office of Higher Education must reference this section.”

- “The Office of Higher Education shall, using existing staff and budget, assess the appropriate state regulation of postsecondary study abroad programs. The assessment must be based on a balanced approach of protecting the health and safety of program participants and maintaining the opportunity of students to study abroad. The office shall report the results of its assessment with any legislative recommendation by February 1, 2015, to the committees of the legislature with primary jurisdiction over higher education.”

### **Implications of the Law**

This legislation applies directly only to Minnesota higher education institutions that meet “the eligibility requirements...to participate in state financial aid programs.” Thus, Minnesota institutions must require any external education abroad program or overseas university to report hospitalizations and deaths involving Minnesota students due to program participation, and for which academic credit is being awarded, to the home school. This means that any sponsoring organization or university that enrolls a Minnesota student on a credit-bearing study abroad program will potentially be impacted by this law.

Minnesota education abroad colleagues are continuing to meet with the Minnesota Secretary of State and the Office of Higher Education officials to fine tune the expectations of data collection and reporting required by the law. As with any legislation, the challenge will be in how it will be enacted.

Implications are likely to include:

- Minnesota colleges and universities that send students abroad must annually report all deaths, and all accidents and illnesses that result in hospitalization, that occur during and as a result of study abroad program participation. Failure to supply this information might result in the loss of Minnesota State financial aid support for students who enroll in programs that do not furnish an annual report.
- Program provider organizations and host universities that enroll Minnesota students will need to report deaths and hospitalizations of Minnesota students to the respective home institution.
- The law is likely to spur the education abroad field overall to do a better job of reporting and collecting data on critical incidents that occur in education abroad, an effort that The Forum has spearheaded with the [Critical Incident Database \(CID\)](#). The CID is likely to be even more important as a way to

provide national data that establishes the full context of the reporting required under the new Minnesota law. The Forum's CID is the most authoritative source for the reporting of critical incidents abroad, and it is important for all Forum member institutions and organizations to consider contributing to it. Without the larger context provided by the CID data, there is great room for misunderstanding and misinterpretation of individual institutional reports. The annual report of incidents, for example, will make comparative analyses possible so that the relative risks associated with education abroad are better understood.

- Besides spurring the field to do a better job of *collecting* data, the new law will very likely encourage better *reporting* of critical incidents in education abroad.

### **Sponsored Federal Legislation**

The new law in Minnesota has likely influenced the introduction of legislation at the Federal level. Congressman Sean Patrick Maloney (NY) is sponsoring the proposed Ravi Thackurdeen Safe Students Study Abroad Act (H.R. 5485) with the following stated purpose: "To amend the Higher Education Act of 1965 to require additional reporting on crime and harm that occurs during student participation in programs of study abroad, and for other purposes." This proposed legislation shares aspects with but goes well beyond what is required by the Minnesota law. The proposed federal legislation may be read here:

<https://www.popvox.com/bills/us/113/hr5485/report#nation>

The Forum is currently studying this proposed legislation in order to learn more about its purpose and proposed requirements. It is also working with The Alliance for International Educational and Cultural Exchange to monitor and provide input on the legislation. The Forum will report updates to its members as the legislative process unfolds.

### **What Will The Forum Be Doing?**

The Forum on Education Abroad will continue to be proactive in assisting its members to face calls for greater transparency and accountability. Specifically, The Forum will:

1. continue to monitor the impacts of the new Minnesota legislation and support and advocate for its members in every way possible;

2. continue to monitor the development of any federal legislation, and work together with other organizations and associations to support and advocate for Forum member institutions;
3. issue periodic updates and guidance that will be posted on The Forum website and announced in The Forum News;
4. continue the development of the Critical Incident Database and issue the first CID Annual Report in early 2015;

## **What Can You Do?**

There are several steps that institutions and organizations can take:

1. Read the periodic announcements from The Forum regarding updates about the impacts of the new Minnesota law;
2. Read the periodic announcements from The Forum regarding updates about the proposed Federal legislation;
3. Participate in The Forum's Critical Incident Database project;
4. Have your organization or institution participate in a Quality Improvement Program (QUIP) review to assess how well it meets established *Standards of Good Practice*;
5. Encourage and support individuals to enroll in The Forum's new Professional Certification in Education Abroad Program, which verifies that a person understands, articulates and can apply the field's established *Standards of Good Practice*.

## **Text of The New Minnesota Law**

### **Sec. 5.**

#### **[5.41] STUDY ABROAD PROGRAMS.**

##### **Subdivision 1.**

##### **Definitions.**

(a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Postsecondary institution" means an institution that meets the eligibility requirements under section 136A.103 to participate in state financial aid programs.

(c) "Program" means a study abroad program offered or approved for credit by a postsecondary institution in which program participants travel outside of the United States in connection with an educational experience.

## **Subd. 2.**

### **Report.**

(a) A postsecondary institution, must file by November 1 of each year a report on its programs with the secretary of state. The report must contain the following information from the previous academic year, including summer terms:

(1) deaths of program participants that occurred during program participation as a result of program participation; and

(2) accidents and illnesses that occurred during program participation as a result of program participation and that required hospitalization.

Information reported under clause (1) may be supplemented by a brief explanatory statement.

(b) A postsecondary institution must report to the secretary of state annually by November 1 whether its program complies with health and safety standards set by the Forum on Education Abroad or a similar study abroad program standard setting agency.

## **Subd. 3.**

### **Secretary of state; publication of program information.**

(a) The secretary of state must publish the reports required by subdivision 2, on its Web site in a format that facilitates identifying information related to a particular postsecondary institution.

(b) The secretary of state shall publish on its Web site the best available information by country on sexual assaults and other criminal acts affecting study abroad program participants during program participation. This information shall not be limited to programs subject to this section.

## **Subd. 4.**

### **Office of Higher Education.**

The secretary of state shall provide the information it posts on its Web site under subdivision 3 to the Office of Higher Education, in electronic format, at the time it posts the information. The Office of Higher Education shall post the information on its Web site and may otherwise distribute the information. In materials distributed or posted, the Office of Higher Education must reference this section.

## **Subd. 5.**

### **Program material.**

A postsecondary institution must include in its written materials provided to prospective program participants a link to the secretary of state Web site stating that program health and safety information is available at the Web site.

**EFFECTIVE DATE.**

This section is effective August 1, 2014, provided that the initial reports under subdivision 2 are due November 1, 2015.

**Sec. 14.**

**STUDY ABROAD PROGRAM; ASSESSMENT OF APPROPRIATE REGULATION.**

The Office of Higher Education shall, using existing staff and budget, assess the appropriate state regulation of postsecondary study abroad programs. The assessment must be based on a balanced approach of protecting the health and safety of program participants and maintaining the opportunity of students to study abroad. The office shall report the results of its assessment with any legislative recommendation by February 1, 2015, to the committees of the legislature with primary jurisdiction over higher education.