

BILL ANALYSIS

C.S.H.B. 16
By: Lozano
Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties suggest that the underreporting of sexual harassment, sexual assault, dating violence, and stalking incidents at public and private institutions of higher education increases the need for prevention efforts and support systems for victims. C.S.H.B. 16 seeks to address this need and increase awareness by requiring institutions of higher education to implement new policies on sexual harassment, sexual assault, dating violence, and stalking and establish an online reporting system, among other measures.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 16 repeals Education Code provisions relating to the adoption of a campus sexual assault policy by each public institution of higher education and amends the Education Code to require each postsecondary educational institution to adopt a policy on campus sexual harassment, sexual assault, dating violence, and stalking that is approved by the institution's governing board before final adoption by the institution and that includes definitions of prohibited behavior; sanctions for violations; the protocol for reporting and responding to reports of campus sexual harassment, sexual assault, dating violence, and stalking; interim measures to protect victims of sexual harassment, sexual assault, dating violence, or stalking during the pendency of the institution's disciplinary process and any other accommodations available to those victims at the institution; and a statement emphasizing the importance of a victim of sexual harassment, sexual assault, dating violence, or stalking going to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident and a victim of a crime reporting the crime to law enforcement as soon as practicable after the commission of the crime.

C.S.H.B. 16 defines "postsecondary educational institution" as a public institution of higher education and a private or independent college or university approved for purposes of the tuition equalization grant program; "dating violence" as abuse or violence, or a threat of abuse or violence, against a person with whom the actor has or has had a social relationship of a romantic or intimate nature; "sexual assault" as sexual contact or intercourse with a person without the person's consent, including sexual contact or intercourse against the person's will or in a circumstance in which the person is incapable of consenting to the contact or intercourse; "sexual harassment" as unwelcome, sex-based verbal or physical conduct that in the employment context

unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment or in the education context is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary educational institution; and "stalking" as a course of conduct directed at a person that would cause a reasonable person to fear for the person's safety or to suffer substantial emotional distress.

C.S.H.B. 16 requires each institution to make the institution's campus sexual harassment, sexual assault, dating violence, and stalking policy available to students, faculty, and staff members by including the policy in the institution's student handbook and personnel handbook and by creating and maintaining a web page on the institution's website dedicated solely to the policy. The bill requires each institution to require each entering freshman or undergraduate transfer student to attend an orientation on the institution's policy, which may be provided online, before or during the first semester or term in which the student is enrolled at the institution, with the format and content of the orientation established by the institution. The bill requires the orientation to emphasize the importance of a victim of sexual harassment, sexual assault, dating violence, or stalking going to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident and of criminal matters being handled primarily by law enforcement. The bill requires each institution to develop and implement a comprehensive prevention and outreach program on campus sexual harassment, sexual assault, dating violence, and stalking that addresses a range of strategies to prevent campus sexual harassment, sexual assault, dating violence, and stalking, including a victim empowerment program, a public awareness campaign, primary prevention, bystander intervention, and risk reduction. The bill requires each institution to review its policy each biennium and, with approval of the institution's governing board, revise the policy as necessary.

C.S.H.B. 16 requires each institution to develop and establish or contract with a third party to develop and establish an online reporting system through which a student enrolled at or an employee of the institution may report to the institution an allegation of sexual harassment, sexual assault, dating violence, or stalking committed against or witnessed by the student or employee regardless of the location at which the alleged incident occurred. The bill requires the system to enable a student or employee to report the alleged incident anonymously and requires the protocol for reporting sexual harassment, sexual assault, dating violence, or stalking adopted by the institution to comply with the requirements for the online reporting system. The bill requires each public or private postsecondary educational institution to develop and establish the required online reporting system not later than January 1, 2018.

C.S.H.B. 16 prohibits an institution from taking any disciplinary action against a student enrolled at the institution who in good faith reports to the institution being the victim of, or a witness to, an incident of sexual harassment, sexual assault, dating violence, or stalking for a minor violation by the student of the institution's code of conduct occurring at or near the time of the incident and authorizes an institution to investigate to determine whether a report of an incident of sexual harassment, sexual assault, dating violence, or stalking was made in good faith. The bill establishes that a minor violation of an institution's code of conduct for these purposes is any violation for which the permissible punishments do not include suspension or expulsion from the institution. The prohibition against disciplinary action expressly does not apply to a student who reports the student's own commission or assistance in the commission of sexual harassment, sexual assault, dating violence, or stalking. The bill prohibits these provisions from being construed to limit an institution's ability to provide amnesty from application of the institution's policies in circumstances not described in the prohibition against disciplinary action.

C.S.H.B. 16 authorizes an institution, if an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking reported to the institution requests the institution not to investigate the alleged incident, to investigate the alleged incident in a manner that complies with the confidentiality requirements set out by the bill. The bill identifies the factors the institution is required to consider in determining whether to investigate the alleged incident and

requires the institution, if it decides not to investigate an alleged incident of sexual harassment, sexual assault, dating violence, or stalking based on the alleged victim's request not to investigate, to take any steps the institution determines necessary to protect the health and safety of the institution's community in relation to the alleged incident. The bill requires the institution to inform an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking who requests the institution not to investigate the alleged incident of the institution's decision whether to investigate the alleged incident.

C.S.H.B. 16 requires an institution that initiates a disciplinary process against a student enrolled at the institution for violating the institution's code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking to provide to the student a meaningful opportunity to admit or contest the alleged violation at a disciplinary proceeding, whether formal or informal; to ensure that both the student and the alleged victim have reasonable and complete access to all evidence related to the alleged violation not later than five days before the date on which the disciplinary process begins, including any statements made by the alleged victim or by other persons, information stored electronically, written or electronic communications, social media posts, or physical evidence; and to permit both the student and the alleged victim to safely question witnesses of the alleged violation in an appropriate manner, as determined by the institution.

C.S.H.B. 16 prohibits an institution, if a student withdraws or graduates from the institution pending a disciplinary charge alleging that the student violated the institution's code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking, from ending the disciplinary process or issuing a transcript to the student until the institution makes a final determination of responsibility and requires the institution in such a circumstance to expedite the institution's disciplinary process as necessary to accommodate the student's interest in a speedy resolution. The bill requires the institution, on request by another postsecondary educational institution, to provide to the requesting institution information relating to a determination by the institution that a student enrolled at the institution violated the institution's code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking.

C.S.H.B. 16 requires each peace officer employed by an institution to complete training on trauma-informed investigation into allegations of sexual harassment, sexual assault, dating violence, and stalking. The bill requires an institution to enter into a memorandum of understanding with one or more local law enforcement agencies, sexual harassment, sexual assault, dating violence, or stalking advocacy groups, and hospitals or other medical resource providers for the purpose of facilitating effective communication and coordination regarding allegations of sexual harassment, sexual assault, dating violence, and stalking at the institution.

C.S.H.B. 16 requires each institution to designate one or more employees to act as responsible employees for purposes of Title IX and one or more employees as persons to whom students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking and to inform each student enrolled at the institution of the responsible and confidential employees so designated. The bill sets out provisions relating to the confidentiality protections for an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking reported to the institution; a person who reports to a postsecondary educational institution an incident of sexual harassment, sexual assault, dating violence, or stalking, who sought guidance from the institution concerning such an incident, or who participated in the institution's investigation of such an incident; and a person who is alleged in a report made to a postsecondary educational institution to have committed or assisted in the commission of sexual harassment, sexual assault, dating violence, or stalking if, after completing an investigation, the institution determines the report to be unsubstantiated or without merit.

C.S.H.B. 16 establishes information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking disclosed to a health care provider or other medical provider employed by a postsecondary educational institution as confidential and authorizes the

information to be shared by the provider only with the victim's consent. The bill requires the provider to provide aggregate data or other nonidentifying information regarding those incidents to the institution's Title IX coordinator.

C.S.H.B 16 requires each institution to annually submit to the institution's governing body a report concerning any reports of sexual harassment, sexual assault, dating violence, or stalking received by the institution during the preceding academic year and prohibits this report from identifying any person. The bill establishes that the report is public information subject to disclosure under state public information law and that a private or independent college or university approved for purposes of the tuition equalization grant program is a governmental body with respect to such a report for purposes of that law.

C.S.H.B. 16 sets out provisions relating to the means by which the Texas Higher Education Coordinating Board may enforce compliance with the bill's provisions; authorizes a postsecondary educational institution to adopt a policy to include incidents other than sexual harassment, sexual assault, dating violence, or stalking for purposes of any provision of the bill; and provides for the establishment by the commissioner of higher education of an advisory committee to develop recommended training for responsible and confidential employees designated under the bill's provisions and for Title IX coordinators at postsecondary educational institutions.

C.S.H.B. 16 requires the coordinating board to adopt rules as necessary to implement and enforce the bill's provisions, which apply beginning with the 2017-2018 academic year.

C.S.H.B. 16 repeals Section 51.9363, Education Code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 16 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 51, Education Code, is amended by adding Subchapter E-2 to read as follows:

SUBCHAPTER E-2. SEXUAL ASSAULT, FAMILY VIOLENCE, AND STALKING

Sec. 51.251. DEFINITIONS. In this subchapter:

(1) "Coordinating board" means the Texas Higher Education Coordinating Board.

(2) "Family violence" has the meaning assigned by Section 71.004, Family Code.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 51, Education Code, is amended by adding Subchapter E-2 to read as follows:

SUBCHAPTER E-2. SEXUAL HARASSMENT, SEXUAL ASSAULT, DATING VIOLENCE, AND STALKING

Sec. 51.251. DEFINITIONS. In this subchapter:

(1) "Coordinating board" means the Texas Higher Education Coordinating Board.

(2) "Dating violence" means abuse or violence, or a threat of abuse or violence, against a person with whom the actor has or has had a social relationship of a romantic or intimate nature.

(3) "Postsecondary educational institution" means:

(A) an institution of higher education, as defined by Section 61.003; and

(B) a private or independent college or university approved for purposes of the tuition equalization grant program under Subchapter F, Chapter 61.

(4) "Sexual assault" means any act or attempted act described by Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code.

(5) "Stalking" means any act or attempted act described by Section 42.072, Penal Code.

Sec. 51.252. POLICY ON SEXUAL ASSAULT, FAMILY VIOLENCE, AND STALKING. (a) Each postsecondary educational institution shall adopt a policy on campus sexual assault, family violence, and stalking. The policy must:

(1) include:

(A) definitions of prohibited behavior;

(B) sanctions for violations;

(C) the protocol for reporting and responding to reports of campus sexual assault, family violence, and stalking; and

(D) interim measures to protect victims of sexual assault, family violence, or stalking during the pendency of the institution's disciplinary process and any other accommodations available to those victims at the institution; and

(3) "Postsecondary educational institution" means:

(A) an institution of higher education, as defined by Section 61.003; and

(B) a private or independent college or university approved for purposes of the tuition equalization grant program under Subchapter F, Chapter 61.

(4) "Sexual assault" means sexual contact or intercourse with a person without the person's consent, including sexual contact or intercourse against the person's will or in a circumstance in which the person is incapable of consenting to the contact or intercourse.

(5) "Sexual harassment" means unwelcome, sex-based verbal or physical conduct that:

(A) in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or

(B) in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary educational institution.

(6) "Stalking" means a course of conduct directed at a person that would cause a reasonable person to fear for the person's safety or to suffer substantial emotional distress.

Sec. 51.252. POLICY ON SEXUAL HARASSMENT, SEXUAL ASSAULT, DATING VIOLENCE, AND STALKING.

(a) Each postsecondary educational institution shall adopt a policy on campus sexual harassment, sexual assault, dating violence, and stalking. The policy must:

(1) include:

(A) definitions of prohibited behavior;

(B) sanctions for violations;

(C) the protocol for reporting and responding to reports of campus sexual harassment, sexual assault, dating violence, and stalking;

(D) interim measures to protect victims of sexual harassment, sexual assault, dating violence, or stalking during the pendency of the institution's disciplinary process, including protection from retaliation, and any other accommodations available to those victims at the institution; and

(E) a statement emphasizing the importance

(2) be approved by the institution's governing board before final adoption by the institution.

(b) Each postsecondary educational institution shall make the institution's campus sexual assault, family violence, and stalking policy available to students, faculty, and staff members by:

(1) including the policy in the institution's student handbook and personnel handbook; and

(2) creating and maintaining a web page on the institution's Internet website dedicated solely to the policy.

(c) Each postsecondary educational institution shall require each entering freshman or undergraduate transfer student to attend an orientation on the institution's campus sexual assault, family violence, and stalking policy before or during the first semester or term in which the student is enrolled at the institution. The institution shall establish the format and content of the orientation. The orientation may be provided online.

of:

(i) a victim of sexual harassment, sexual assault, dating violence, or stalking going to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident; and

(ii) a victim of a crime reporting the crime to law enforcement as soon as practicable after the commission of the crime; and

(2) be approved by the institution's governing board before final adoption by the institution.

(b) Each postsecondary educational institution shall make the institution's campus sexual harassment, sexual assault, dating violence, and stalking policy available to students, faculty, and staff members by:

(1) including the policy in the institution's student handbook and personnel handbook; and

(2) creating and maintaining a web page on the institution's Internet website dedicated solely to the policy.

(c) Each postsecondary educational institution shall require each entering freshman or undergraduate transfer student to attend an orientation on the institution's campus sexual harassment, sexual assault, dating violence, and stalking policy before or during the first semester or term in which the student is enrolled at the institution. The institution shall establish the format and content of the orientation. The orientation:

(1) may be provided online; and

(2) must emphasize the importance of:

(A) a victim of sexual harassment, sexual assault, dating violence, or stalking going to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident; and

(B) criminal matters being handled primarily by law enforcement.

(d) Each postsecondary educational institution shall develop and implement a comprehensive prevention and outreach program on campus sexual harassment, sexual assault, dating violence, and stalking. The program must address a range of strategies to prevent campus sexual harassment, sexual assault, dating violence, and stalking, including a victim empowerment program, a public awareness campaign, primary prevention, bystander intervention, and risk reduction.

(d) Each biennium, each postsecondary educational institution shall review the institution's campus sexual assault, family violence, and stalking policy and, with approval of the institution's governing board, revise the policy as necessary.

Sec. 51.253. SEXUAL ASSAULT ONLINE REPORTING SYSTEM. (a) Each postsecondary educational institution shall develop and establish or contract with a third party to develop and establish an online reporting system through which a student enrolled at or an employee of the institution may report to the institution an allegation of sexual assault committed against or witnessed by the student or employee if:

(1) the perpetrator of the alleged sexual assault is a student enrolled at or an employee of the institution; or

(2) the alleged sexual assault occurred:

(A) on the institution's campus or any other property owned by or under the control of the institution, or in close proximity to the campus or property; or

(B) during any event or activity sponsored or sanctioned by the institution.

(b) The online reporting system must enable a student or employee to report the alleged sexual assault anonymously.

(c) A protocol for reporting sexual assault adopted under Section 51.252 must comply with this section.

Sec. 51.254. AMNESTY FOR STUDENTS REPORTING INCIDENTS OF SEXUAL ASSAULT. (a) A postsecondary educational institution may not take any disciplinary action against a student enrolled at the institution who in good faith reports to the institution being the victim of, or a witness to, an incident of sexual assault for any violation by the student of the institution's code of conduct occurring at or near the time of the incident of sexual assault.

(b) A postsecondary educational institution may investigate to determine whether a

(e) Each biennium, each postsecondary educational institution shall review the institution's campus sexual harassment, sexual assault, dating violence, and stalking policy and, with approval of the institution's governing board, revise the policy as necessary.

Sec. 51.253. ONLINE REPORTING SYSTEM. (a) Each postsecondary educational institution shall develop and establish or contract with a third party to develop and establish an online reporting system through which a student enrolled at or an employee of the institution may report to the institution an allegation of sexual harassment, sexual assault, dating violence, or stalking committed against or witnessed by the student or employee, regardless of the location at which the alleged incident occurred.

(b) The online reporting system must enable a student or employee to report the alleged incident anonymously.

(c) A protocol for reporting sexual harassment, sexual assault, dating violence, or stalking adopted under Section 51.252 must comply with this section.

Sec. 51.254. AMNESTY FOR STUDENTS REPORTING CERTAIN INCIDENTS. (a) A postsecondary educational institution may not take any disciplinary action against a student enrolled at the institution who in good faith reports to the institution being the victim of, or a witness to, an incident of sexual harassment, sexual assault, dating violence, or stalking for a minor violation by the student of the institution's code of conduct occurring at or near the time of the incident. For purposes of this subsection, a minor violation of an institution's code of conduct is any violation for which the permissible punishments do not include suspension or expulsion from the institution.

(b) A postsecondary educational institution may investigate to determine whether a

report of an incident of sexual assault was made in good faith.

(c) Subsection (a) does not apply to a student who reports the student's own commission of sexual assault or assistance in the commission of sexual assault.

(d) This section may not be construed to limit a postsecondary educational institution's ability to provide amnesty from application of the institution's policies in circumstances not described by Subsection (a).

No equivalent provision.

report of an incident of sexual harassment, sexual assault, dating violence, or stalking was made in good faith.

(c) Subsection (a) does not apply to a student who reports the student's own commission or assistance in the commission of sexual harassment, sexual assault, dating violence, or stalking.

(d) This section may not be construed to limit a postsecondary educational institution's ability to provide amnesty from application of the institution's policies in circumstances not described by Subsection (a).

Sec. 51.255. VICTIM REQUEST NOT TO INVESTIGATE. (a) If an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking reported to a postsecondary educational institution requests the institution not to investigate the alleged incident, the institution may investigate the alleged incident in a manner that complies with the confidentiality requirements under Section 51.261. In determining whether to investigate the alleged incident, the institution shall consider:

(1) the seriousness of the alleged incident;
(2) whether the institution has received other reports of sexual harassment, sexual assault, dating violence, or stalking committed by the alleged perpetrator or perpetrators;

(3) whether the alleged incident poses a risk of harm to others; and

(4) any other factors the institution determines relevant.

(b) If a postsecondary educational institution decides not to investigate an alleged incident of sexual harassment, sexual assault, dating violence, or stalking based on the alleged victim's request not to investigate, the institution shall take any steps the institution determines necessary to protect the health and safety of the institution's community in relation to the alleged incident.

(c) A postsecondary educational institution shall inform an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking who requests the institution not to investigate the alleged incident of the institution's decision whether to investigate the alleged incident.

No equivalent provision.

Sec. 51.255. STUDENT WITHDRAWAL OR GRADUATION PENDING DISCIPLINARY CHARGES. (a) If a student withdraws or graduates from a postsecondary educational institution pending a disciplinary charge alleging that the student violated the institution's code of conduct by committing sexual assault, the institution:

(1) may not end the disciplinary process or issue a transcript to the student until the institution makes a final determination of responsibility; and

(2) shall expedite the institution's disciplinary process as necessary to accommodate the student's interest in a speedy resolution.

(b) On request by another postsecondary educational institution, a postsecondary educational institution shall provide to the requesting institution information relating to a determination by the institution that a student enrolled at the institution violated the institution's code of conduct by committing sexual assault.

Sec. 51.256. DISCIPLINARY PROCESS FOR CERTAIN VIOLATIONS. A postsecondary educational institution that initiates a disciplinary process against a student enrolled at the institution for violating the institution's code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking shall:

(1) provide to the student a meaningful opportunity to admit or contest the alleged violation at a disciplinary proceeding, whether formal or informal;

(2) ensure that both the student and the alleged victim have reasonable and complete access to all evidence related to the alleged violation not later than five days before the date on which the disciplinary process begins, including any statements made by the alleged victim or by other persons, information stored electronically, written or electronic communications, social media posts, or physical evidence; and

(3) permit both the student and the alleged victim to safely question witnesses of the alleged violation in an appropriate manner, as determined by the institution.

Sec. 51.257. STUDENT WITHDRAWAL OR GRADUATION PENDING DISCIPLINARY CHARGES. (a) If a student withdraws or graduates from a postsecondary educational institution pending a disciplinary charge alleging that the student violated the institution's code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking, the institution:

(1) may not end the disciplinary process or issue a transcript to the student until the institution makes a final determination of responsibility; and

(2) shall expedite the institution's disciplinary process as necessary to accommodate the student's interest in a speedy resolution.

(b) On request by another postsecondary educational institution, a postsecondary educational institution shall provide to the requesting institution information relating to a determination by the institution that a student enrolled at the institution violated the institution's code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking.

Sec. 51.256. SEXUAL ASSAULT INVESTIGATION TRAINING. Each peace officer employed by a postsecondary educational institution shall complete training on trauma-informed investigation into allegations of sexual assault.

Sec. 51.257. MEMORANDA OF UNDERSTANDING REQUIRED.

A postsecondary educational institution shall enter into a memorandum of understanding with one or more local law enforcement agencies, sexual assault advocacy groups, and

hospitals or other medical resource providers to facilitate effective communication and coordination regarding allegations of sexual assault at the institution.

Sec. 51.258. RESPONSIBLE EMPLOYEE; CONFIDENTIALITY. (a) In this section, "Title IX" means Title IX of the Education Amendments of 1972 (20 U.S.C. Section 1681 et seq.).

(b) Each postsecondary educational institution shall:

(1) designate one or more employees to act as responsible employees for purposes of Title IX; and

(2) inform each student enrolled at the institution of the responsible employees designated under Subdivision (1).

(c) An employee of a postsecondary educational institution is not considered to be designated under Subsection (b)(1) to act as a responsible employee for purposes of Title IX solely because the employee:

(1) is a faculty member of the institution; or
(2) has been directed to report information regarding sexual assault or other crimes to

Sec. 51.258. TRAUMA-INFORMED INVESTIGATION TRAINING. Each peace officer employed by a postsecondary educational institution shall complete training on trauma-informed investigation into allegations of sexual harassment, sexual assault, dating violence, and stalking.

Sec. 51.259. MEMORANDA OF UNDERSTANDING REQUIRED. To facilitate effective communication and coordination regarding allegations of sexual harassment, sexual assault, dating violence, and stalking at the institution, a postsecondary educational institution shall enter into a memorandum of understanding with one or more:

(1) local law enforcement agencies;
(2) sexual harassment, sexual assault, dating violence, or stalking advocacy groups; and
(3) hospitals or other medical resource providers.

Sec. 51.260. RESPONSIBLE OR CONFIDENTIAL EMPLOYEE.

Each postsecondary educational institution shall:

(1) designate:

(A) one or more employees to act as responsible employees for purposes of Title IX of the Education Amendments of 1972 (20 U.S.C. Section 1681 et seq.); and

(B) one or more employees as persons to whom students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking; and

(2) inform each student enrolled at the institution of the responsible and confidential employees designated under Subdivision (1).

the institution pursuant to a mandatory reporting policy applicable to all employees of the institution.

(d) Information regarding an incident of sexual assault disclosed to a health care provider or other medical provider employed by a postsecondary educational institution is confidential and may be shared by the provider only with the victim's consent.

The provider must provide aggregate data or

Sec. 51.261. CONFIDENTIALITY. (a) The protections provided by this section apply to:

(1) an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking reported to a postsecondary educational institution;

(2) a person who reports to a postsecondary educational institution an incident of sexual harassment, sexual assault, dating violence, or stalking, who sought guidance from the institution concerning such an incident, or who participated in the institution's investigation of such an incident; and

(3) a person who is alleged in a report made to a postsecondary educational institution to have committed or assisted in the commission of sexual harassment, sexual assault, dating violence, or stalking if, after completing an investigation, the institution determines the report to be unsubstantiated or without merit.

(b) Unless waived in writing by the person, the identity of a person described by Subsection (a):

(1) is confidential and not subject to disclosure under Chapter 552, Government Code; and

(2) may be disclosed only to:

(A) the postsecondary educational institution to which the report described by Subsection (a) is made as necessary to conduct an investigation of the report;

(B) a law enforcement officer as necessary to conduct a criminal investigation of the report described by Subsection (a); or

(C) a health care provider in an emergency situation, as determined necessary by the institution.

(c) A disclosure under Subsection (b) is not a voluntary disclosure for purposes of Section 552.007, Government Code.

(d) Information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking disclosed to a health care provider or other medical provider employed by a postsecondary educational institution is confidential and may be shared by the provider only with the victim's consent.

The provider must provide aggregate data or

other nonidentifying information regarding incidents of sexual assault to the institution's Title IX coordinator.

(e) On request for confidentiality by the victim of a sexual assault, a responsible employee may withhold details regarding the incident when making a report under Title IX but must include in the report a statement that the victim requested confidentiality.

No equivalent provision.

Sec. 51.259. COMPLIANCE.

Students enrolled at a private or independent college or university that does not substantially comply with this section as determined by the coordinating board are ineligible for tuition equalization grants under Subchapter F, Chapter 61.

other nonidentifying information regarding those incidents to the institution's Title IX coordinator.

Sec. 51.262. REPORT. (a) Each postsecondary educational institution shall annually submit to the institution's governing body a report concerning any reports of sexual harassment, sexual assault, dating violence, or stalking received by the institution during the preceding academic year. The report may not identify any person.

(b) A report submitted under Subsection (a) is public information subject to disclosure under Chapter 552, Government Code, and a private or independent college or university approved for purposes of the tuition equalization grant program under Subchapter F, Chapter 61, is a governmental body with respect to such a report for purposes of Chapter 552, Government Code.

Sec. 51.263. COMPLIANCE. (a) If the coordinating board determines that an institution of higher education is not in substantial compliance with this subchapter, the coordinating board may reduce the allocation of state funding to the institution for the following academic year in an amount determined by the coordinating board.

(b) If the coordinating board determines that a private or independent college or university is not in substantial compliance with this subchapter, the coordinating board may:

(1) assess an administrative penalty against the college or university in an amount not to exceed \$2 million; or

(2) declare students enrolled at the college or university ineligible for tuition equalization grants under Subchapter F, Chapter 61.

(c) In determining the amount of a penalty under Subsection (a) or (b)(1), the

coordinating board shall consider the seriousness of the violation.

(d) If the coordinating board takes an action under Subsection (a) or (b) against an institution of higher education or a private or independent college or university, as applicable, the coordinating board shall provide to the institution or college or university written notice of the coordinating board's reasons for taking the action.

(e) An institution of higher education or a private or independent college or university against which the coordinating board takes an action under Subsection (a) or (b), as applicable, may appeal the action taken in the manner provided by Chapter 2001, Government Code.

(f) A private or independent college or university may not pay an administrative penalty assessed under Subsection (b)(1) using state or federal money.

No equivalent provision.

Sec. 51.264. ADDITIONAL TYPES OF INCIDENTS. A postsecondary educational institution may adopt a policy to include incidents other than sexual harassment, sexual assault, dating violence, or stalking for purposes of any provision of this subchapter.

No equivalent provision.

Sec. 51.265. TRAINING ADVISORY COMMITTEE. (a) The commissioner of higher education shall establish an advisory committee to develop recommended training for responsible and confidential employees designated under Section 51.260 and for Title IX coordinators at postsecondary educational institutions.

(b) Each member of the advisory committee is appointed by the commissioner of higher education and must be a chief executive officer of a postsecondary educational institution or a representative designated by that officer.

(c) The advisory committee shall annually review and, if necessary, update the recommended training.

Sec. 51.260. RULES. The coordinating board shall adopt rules as necessary to implement and enforce this subchapter, including rules that

ensure implementation of this section in a manner that complies with federal law

Sec. 51.266. RULES. The coordinating board shall adopt rules as necessary to implement and enforce this subchapter, including rules that:

(1) define relevant terms; and

(2) ensure implementation of this subchapter in a manner that complies with federal law

regarding confidentiality of student educational information, including the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

SECTION 2. Section 51.9363, Education Code, is repealed.

SECTION 3. The changes in law made by this Act apply beginning with the 2017-2018 academic year.

SECTION 4. Not later than January 1, 2018, each public or private postsecondary educational institution shall develop and establish the online reporting system required under Section 51.253, Education Code, as added by this Act.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

regarding confidentiality of student educational information, including the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.