

By: Lozano

H.B. No. 16

A BILL TO BE ENTITLED

AN ACT

relating to sexual assault, family violence, and stalking at public and private postsecondary educational institutions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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.

(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

1 STALKING. (a) Each postsecondary educational institution shall
2 adopt a policy on campus sexual assault, family violence, and
3 stalking. The policy must:

4 (1) include:

5 (A) definitions of prohibited behavior;

6 (B) sanctions for violations;

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

9 and

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

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

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

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

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

24 (c) Each postsecondary educational institution shall
25 require each entering freshman or undergraduate transfer student to
26 attend an orientation on the institution's campus sexual assault,
27 family violence, and stalking policy before or during the first

1 semester or term in which the student is enrolled at the
2 institution. The institution shall establish the format and
3 content of the orientation. The orientation may be provided
4 online.

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

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

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

18 (2) the alleged sexual assault occurred:

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

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

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

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

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

8 (b) A postsecondary educational institution may investigate
9 to determine whether a report of an incident of sexual assault was
10 made in good faith.

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

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

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

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

26 (2) shall expedite the institution's disciplinary
27 process as necessary to accommodate the student's interest in a

1 speedy resolution.

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

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

12 Sec. 51.257. MEMORANDA OF UNDERSTANDING REQUIRED. A
13 postsecondary educational institution shall enter into a
14 memorandum of understanding with one or more local law enforcement
15 agencies, sexual assault advocacy groups, and hospitals or other
16 medical resource providers to facilitate effective communication
17 and coordination regarding allegations of sexual assault at the
18 institution.

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

22 (b) Each postsecondary educational institution shall:

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

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

27 (c) An employee of a postsecondary educational institution

1 is not considered to be designated under Subsection (b)(1) to act as
2 a responsible employee for purposes of Title IX solely because the
3 employee:

4 (1) is a faculty member of the institution; or

5 (2) has been directed to report information regarding
6 sexual assault or other crimes to the institution pursuant to a
7 mandatory reporting policy applicable to all employees of the
8 institution.

9 (d) Information regarding an incident of sexual assault
10 disclosed to a health care provider or other medical provider
11 employed by a postsecondary educational institution is
12 confidential and may be shared by the provider only with the
13 victim's consent. The provider must provide aggregate data or other
14 nonidentifying information regarding incidents of sexual assault
15 to the institution's Title IX coordinator.

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

20 Sec. 51.259. COMPLIANCE. Students enrolled at a private or
21 independent college or university that does not substantially
22 comply with this section as determined by the coordinating board
23 are ineligible for tuition equalization grants under Subchapter F,
24 Chapter 61.

25 Sec. 51.260. RULES. The coordinating board shall adopt
26 rules as necessary to implement and enforce this subchapter,
27 including rules that ensure implementation of this section in a

1 manner that complies with federal law regarding confidentiality of
2 student educational information, including the Family Educational
3 Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

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

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

7 SECTION 4. Not later than January 1, 2018, each public or
8 private postsecondary educational institution shall develop and
9 establish the online reporting system required under Section
10 51.253, Education Code, as added by this Act.

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