

By: Alvarado

H.B. No. 2404

A BILL TO BE ENTITLED

AN ACT

relating to reports of sexual assault made to public or private institutions of higher education.

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

SECTION 1. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9762 to read as follows:

Sec. 51.9762. REPORTS OF SEXUAL ASSAULT. (a) In this section:

(1) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003.

(2) "Sexual assault" means an offense under Section 22.011 or 22.021, Penal Code.

(b) Except as provided by Subsection (c), within 72 hours of receipt of the allegation, an institution of higher education or a private or independent institution of higher education shall report to an appropriate local law enforcement agency an allegation of sexual assault made to the institution if:

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

(2) the alleged sexual assault occurred on the institution's campus or on any other property owned by or under the control of the institution.

(c) The institution may not report an allegation of sexual

assault to a local law enforcement agency under Subsection (b) if, before the institution makes the report, the victim of the alleged sexual assault requests in writing that the report not be made.

(d) On receipt of an allegation to which Subsection (b) applies, the institution shall inform the victim of the alleged sexual assault of:

(1) the requirements of this section, including:

(A) the institution's duty to report the allegation within 72 hours and the victim's right to request that the report not be made; and

(B) the use of a pseudonym form in connection with the report and the victim's right to request that the form not be used;

(2) the importance of preserving any evidence as proof for potential criminal proceedings;

(3) the victim's right to report or decline to report the allegation to the campus peace officers or to the local law enforcement agency, including the right to be assisted by the institution in making a report;

(4) the victim's right to seek a protective order under Chapter 7A, Code of Criminal Procedure, or an order for emergency protection under Article 17.292, Code of Criminal Procedure, and the institution's responsibilities, if any, in enforcing those orders;

(5) the victim's rights under Chapter 56, Code of Criminal Procedure, including the right to have a forensic medical examination conducted at no cost to the victim and where to obtain

1 the examination; and

2 (6) applicable counseling, health, mental health,
3 legal, victim advocacy, and other resources available to the victim
4 at the institution or locally.

5 (e) A report under Subsection (b) must be made using the
6 pseudonym form described by Article 57.02, Code of Criminal
7 Procedure, unless the victim of the alleged sexual assault objects
8 in writing to the submission of the form.

9 (f) The campus peace officers employed by the institution
10 and the appropriate local law enforcement agency shall develop
11 policies regarding an investigation into an allegation of sexual
12 assault reported to the agency by the institution under Subsection
13 (b). The policies must:

14 (1) provide for the cooperation of the officers and
15 the agency; and

16 (2) establish the respective roles of the officers and
17 the agency in handling the investigation.

18 (g) The Texas Higher Education Coordinating Board shall
19 adopt rules as necessary to implement and enforce this section,
20 including rules for identifying institutions of higher education or
21 private or independent institutions of higher education that fail
22 to comply with this section. The board shall post a list of
23 noncompliant institutions on the board's Internet website and
24 update the list at least once each year.

25 SECTION 2. Article 57.02, Code of Criminal Procedure, is
26 amended by adding Subsection (j) to read as follows:

27 (j) An institution of higher education or private or

1 independent institution of higher education that reports an
2 allegation of sexual assault as required by Section 51.9762,
3 Education Code, shall complete and return a pseudonym form on
4 behalf of the victim unless the victim objects in writing to the
5 submission of the form. A form completed and returned under this
6 subsection operates as a form completed and returned by the victim
7 for purposes of this article.

8 SECTION 3. Section 51.9363, Education Code, is amended by
9 adding Subsection (b-1) to read as follows:

10 (b-1) A protocol for responding to reports of campus sexual
11 assault adopted under Subsection (b) must comply with Section
12 51.9762.

13 SECTION 4. Not later than August 1, 2018, the Texas Higher
14 Education Coordinating Board shall post on the board's Internet
15 website the initial list required by Section 51.9762(g), Education
16 Code, as added by this Act.

17 SECTION 5. This Act takes effect September 1, 2017.