

By: Huffman

S.B. No. 576

A BILL TO BE ENTITLED

AN ACT

relating to a reporting requirement for certain incidents of sexual harassment, sexual assault, family violence, or stalking at public institutions of higher education; creating a criminal offense.

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

SECTION 1. Chapter 51, Education Code, is amended by adding Subchapter E-3 to read as follows:

SUBCHAPTER E-3. REPORTING INCIDENTS OF SEXUAL HARASSMENT, SEXUAL ASSAULT, FAMILY VIOLENCE, AND STALKING

Sec. 51.281. 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) "Institution of higher education" has the meaning assigned by Section 61.003.

Sec. 51.282. REPORTING REQUIRED FOR CERTAIN INCIDENTS.

(a) An employee of an institution of higher education or the highest ranking member of a student organization recognized by or registered with an institution of higher education who becomes aware of an incident of sexual harassment, sexual assault, family violence, or stalking alleged to have been committed by or against a student enrolled at or an employee of the institution shall report the incident to the institution's chief executive officer not later

1 than the 48th hour after the employee or member becomes aware of the
2 incident.

3 (b) The report must include, if known, the name and address
4 of each alleged victim and any other pertinent information
5 concerning the incident.

6 (c) Subsection (b) does not apply if the person became aware
7 of an incident described by Subsection (a) through a communication
8 that, at the time of the communication, was privileged and the
9 alleged victim wishes to exercise the privilege.

10 (d) A person required to make a report under this section
11 may not delegate the person's duty to report to another person or
12 rely on another person to make the report.

13 Sec. 51.283. IMMUNITIES. A person acting in good faith who
14 reports or assists in the investigation of a report of an incident
15 described by Section 51.282(a) or who testifies or otherwise
16 participates in a judicial proceeding arising from a report of an
17 incident described by Section 51.282(a) is immune from civil or
18 criminal liability that might otherwise be incurred or imposed.

19 Sec. 51.284. FAILURE TO REPORT OR FALSE REPORT; OFFENSES.

20 (a) A person commits an offense if the person:

21 (1) is required to make a report under Section 51.282
22 and knowingly fails to make the report; or

23 (2) with the intent to deceive, knowingly makes a
24 report under Section 51.282 that is false.

25 (b) An offense under Subsection (a)(1) is a Class B
26 misdemeanor, except that the offense is a Class A misdemeanor if it
27 is shown on the trial of the offense that the actor intended to

1 conceal the incident that the actor was required to report under
2 Section 51.282.

3 (c) An offense under Subsection (a)(2) is a state jail
4 felony, except that the offense is a felony of the third degree if
5 it is shown on the trial of the offense that the actor has been
6 previously convicted of an offense under that subdivision.

7 Sec. 51.285. CONFIDENTIALITY AND DISCLOSURE. (a) Except
8 as provided by Subsection (b), unless waived in writing by the
9 person making the report, the identity of a person who makes a
10 report under Section 51.282 is confidential and may be disclosed
11 only to a law enforcement officer for the purpose of conducting a
12 criminal investigation of the report.

13 (b) A court may order the disclosure of the identity of a
14 person who makes a report under Section 51.282 if:

15 (1) a motion has been filed with the court requesting
16 the release of the information;

17 (2) a notice of a hearing has been served on the
18 investigating law enforcement agency and all other interested
19 parties; and

20 (3) after a hearing and an in camera review of the
21 requested information, the court determines that the disclosure of
22 the requested information is:

23 (A) essential to the administration of justice;
24 and

25 (B) not likely to endanger the life or safety of:

26 (i) a person who is alleged to be a victim
27 of the reported offense; or

1 (ii) the person who made the report.

2 Sec. 51.286. EMPLOYER RETALIATION PROHIBITED. (a) An
3 institution of higher education may not suspend or terminate the
4 employment of, or otherwise discriminate against, an employee who
5 in good faith:

6 (1) makes a report as required by Section 51.282; or

7 (2) initiates or cooperates with an investigation or
8 proceeding by a law enforcement agency relating to a report made by
9 the employee as required by Section 51.282.

10 (b) Subsection (a) does not apply to an employee who reports
11 an incident described by Section 51.282(a) perpetrated by the
12 employee or who initiates or cooperates with an investigation or
13 proceeding by a law enforcement agency relating to an allegation
14 that the employee perpetrated an incident described by Section
15 51.282(a).

16 Sec. 51.287. TRAINING ON RECEIVING REPORTS OF CERTAIN
17 INCIDENTS. (a) The coordinating board shall develop and implement
18 a training program for chief executive officers of institutions of
19 higher education on receiving reports of incidents under Section
20 51.282(a). The training program must include information on the
21 proper methods for receiving and screening reports of those
22 incidents.

23 (b) The coordinating board by rule shall prescribe the
24 intervals at which each chief executive officer of an institution
25 of higher education must complete the training program described by
26 Subsection (a).

27 Sec. 51.288. BIENNIAL REPORT. At least twice each year, the

1 chief executive officer of an institution of higher education shall
2 submit to the institution's governing body a report on any
3 incidents of sexual harassment, sexual assault, family violence, or
4 stalking reported to the officer during the preceding academic
5 year.

6 Sec. 51.289. RULES. The coordinating board shall adopt
7 rules as necessary to implement this subchapter, including rules
8 that ensure implementation of this subchapter in a manner that
9 complies with:

10 (1) federal law regarding confidentiality of student
11 educational information, including the Family Educational Rights
12 and Privacy Act of 1974 (20 U.S.C. Section 1232g);

13 (2) Title IX of the Education Amendments of 1972 (20
14 U.S.C. Section 1681 et seq.); and

15 (3) any federal or state law regarding the privacy of
16 victims of sexual harassment, sexual assault, family violence, or
17 stalking.

18 SECTION 2. This Act applies beginning with the 2018-2019
19 academic year.

20 SECTION 3. (a) Except as provided by Subsection (b) of
21 this section, this Act takes effect September 1, 2017.

22 (b) Section 51.284, Education Code, as added by this Act,
23 takes effect September 1, 2018.