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By:  Beckley H.B. No. 4098

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 51.9364 to read as follows:

Sec. 51.9364.  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)  This section applies only to an institution of higher education or a private or independent institution of higher education that receives an allegation of sexual assault in which:

(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)  On receipt of an allegation described by Subsection (b), the institution shall:

(1)  inform the victim of the alleged sexual assault of:

(A)  the requirements of this section, including:

(i)  the institution's duty under this section to report the allegation to an appropriate local law enforcement agency within 72 hours if the victim gives permission; and

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

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

(C)  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;

(D)  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;

(E)  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 the examination; and

(F)  applicable counseling, health, mental health, legal, victim advocacy, and other resources available to the victim at the institution or locally; and

(2)  request the victim's permission to report the allegation to an appropriate local law enforcement agency.

(d)  If the victim of the alleged sexual assault gives permission under Subsection (c)(2), the institution shall report the allegation to an appropriate local law enforcement agency within 72 hours of receiving permission.

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

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

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

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

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

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

(j)  An institution of higher education or private or independent institution of higher education that reports an allegation of sexual assault as required by Section 51.9364, Education Code, shall complete and return a pseudonym form on behalf of the victim unless the victim objects in writing to the submission of the form. A form completed and returned under this subsection operates as a form completed and returned by the victim for purposes of this article.

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

(b-1)  A protocol for responding to reports of campus sexual assault adopted under Subsection (b) must comply with Section 51.9364.

SECTION 4.  Not later than August 1, 2020, the Texas Higher Education Coordinating Board shall post on the board's Internet website the initial list required by Section 51.9364(g), Education Code, as added by this Act.

SECTION 5.  This Act takes effect September 1, 2019.