

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 17, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1735 by Howard (Relating to sexual harassment, sexual assault, dating violence, and stalking at public and private postsecondary educational institutions; providing an administrative penalty.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would require public and private postsecondary educational institutions to adopt a policy on campus sexual harassment, sexual assault, dating violence and stalking. Under provisions of the bill, each peace officer employed by a postsecondary educational institution must complete training on trauma-informed investigation into allegations of sexual harassment, sexual assault, dating violence, and stalking. The bill would require each postsecondary educational institution to designate a Title IX Coordinator. Under provisions of the bill, as part of the protocol for responding to reports of sexual harassment, sexual assault, dating violence, and stalking, each institution shall, to the greatest extent practicable based on the number of counselors employed by the institution, offer counseling provide by a counselor who does not provide counseling to any other person involved in the incident. The bill creates two misdemeanor offenses for failing to report certain incidents. No significant impact to state correctional agencies is anticipated from these provisions of the bill.

The bill would require an employee of a postsecondary education institution who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident must report the incident to the institution's Title IX or deputy Title IX coordinator. Under provisions of the bill, the institution must designate an employee with whom students may speak confidentially without violating a student's expectation of privacy.

The bill would authorize the Higher Education Coordinating Board to assess an administrative penalty of up to \$2.0 million against an institution that failed to substantially comply with provisions of the bill. Under provisions of the bill, a postsecondary educational institution may not pay an administrative penalty using state or federal money. The bill would require the commissioner of higher education to establish an advisory committee.

The bill includes provisions regarding the termination of employees, who were required to report incidents and failed to do so, and for employees that made false reports regarding incidents.

Failure to make a report or intentionally making a false report would be a Class B misdemeanor. Such an offense would be a Class A misdemeanor if it was shown at trial that the employee knowingly intended to conceal the incident.

This analysis assumes that any costs for institutions of higher education and the Higher Education Coordinating Board to implement the provisions of the bill could be absorbed within current resources. The bill creates two misdemeanor offenses for failing to report certain incidents. This analysis assumes the provisions of the bill addressing sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

The legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 710 Texas A&M University System Administrative and General Offices, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 783 University of Houston System Administration, 985 Tyler Junior College, 720 The University of Texas System Administration, 758 Texas State University System, 781 Higher Education Coordinating Board, 996 Lone Star College System

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