

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 5, 2019

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

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

IN RE: **SB212** by Huffman (relating to a reporting requirement for certain incidents of sexual harassment, sexual assault, dating violence, or stalking at certain public and private institutions of higher education; creating a criminal offense; authorizing administrative penalties.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

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 require that not less than once every three months the Title IX coordinator must submit a written report on the reports received to the institution's chief executive officer; a report shall be submitted immediately if the safety of the person is in imminent danger as a result of the incident. At least once during the fall or spring semester the chief executive officer shall submit to the institution's governing body and post on the institution website a report concerning the reports received unless the postsecondary educational institution has enrolled fewer than 1,500 students in that semester. If a postsecondary educational institution has enrolled fewer than 1,500 students, the chief executive officer shall submit and post a report only if more than five reports were received during that semester.

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.

The Texas Higher Education Coordinating Board would be authorized to assess an administrative penalty against the institution in the amount not to exceed \$2 million. The institution may not pay the penalty assessed using state or federal money and would be credited to the sexual assault program under Government Code, Section 420.008.

The bill would require the Commissioner of Higher Education to establish an advisory committee of nine members to develop training for the person required to report certain incidents, including the institution's Title IX and deputy Title IX coordinators. The Higher Education Coordinating Board would be required to engage in negotiated rulemaking with institutions of higher education regarding policies related to the reporting of certain incidents of sexual harassment, sexual assault, dating violence or stalking.

Based on analysis of agency responses, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by using existing resources.

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 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. 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. 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: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 696 Department of Criminal Justice, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 781 Higher Education Coordinating Board, 783 University of Houston System Administration

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