

## **BILL ANALYSIS**

Senate Research Center  
87R7829 KEL-D

S.B. 1360  
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Higher Education  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In recent years we have seen an increase of attempted theft of our intellectual property throughout our university systems.

On August 24, 2020, Texas A&M University professor Dr. Zhengdong Cheng, a professor in the College of Engineering at Texas A&M and a NASA researcher working on United States space projects, was charged with conspiracy, making false statements, and wire fraud.

On February 2, 2020, it was reported that University of Texas professor Bao Mao stole proprietary technology from United States based tech firms and gave it to Chinese telecom giant Huawei.

On July 30, 2020, the Federal Bureau of Investigation began investigating whether the Chinese government attempted to steal COVID-19 research from American universities, including The University of Texas and The University of Texas at San Antonio.

At universities such as Harvard University, Stanford University, Duke University, the University of California, Los Angeles, the University of Chicago, the University of Tennessee, the University of Kansas, and many others, there have been actions similar to the ones detailed above.

S.B. 1360 states that once a public or private institution of higher education is notified by state or federal authorities of successful or attempted intellectual property theft by a student or faculty member or other instructor, that institution has a 30-day time span to notify their governing board and for that governing board to provide written notice to:

the lieutenant governor;

the speaker of the house of representatives; and

each committee chair and member of the standing committee who has primary jurisdiction over higher education matters.

The written notice will be required to contain the individual's citizenship or permanent resident status, what information was accessed, and the seriousness of the breach. The name of the individual will be redacted.

S.B. 1360 will ensure that the leaders of our legislature are informed and confident in the security of our intellectual property in Texas.

As proposed, S.B. 1360 amends current law relating to notice of a state or federal investigation of alleged criminal conduct by a student or a faculty member or other instructor of a public or private institution of higher education in this state and authorizes a civil penalty.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.956, as follows:

Sec. 51.956. NOTICE OF INVESTIGATION OF CERTAIN CRIMINAL CONDUCT.

(a) Provides that this section applies only to an investigation conducted by a state or federal law enforcement agency with respect to an allegation of criminal conduct that:

(1) is committed by a student or a faculty member or other instructor of a public or private institution of higher education in this state; and

(2) poses a threat to the security of the institution, of any political subdivision in which the institution is located, or of this state or nation.

(b) Provides that, for purposes of this section, criminal conduct poses a threat to the security of a public or private institution of higher education, of a political subdivision of this state, or of this state or nation if the applicable conduct contains elements of any of the following:

(1) theft of intellectual property;

(2) unauthorized access to sensitive or protected information such as intellectual property, including a breach of computer security for purposes of gaining access to that information; or

(3) espionage conducted on behalf of a foreign government.

(c) Requires an administrator or department head of a public or private institution of higher education who learns of an investigation described by Subsection (a) involving alleged criminal conduct by a student or faculty member or other instructor of the institution to promptly report that information to the office of the president of the institution. Requires the president to promptly report that information to the secretary and presiding officer of the governing board of the institution.

(d) Requires the governing board of a public or private institution of higher education, not later than the 30th day after the date the presiding officer of the governing board is notified or otherwise learns of an investigation as described by Subsection (c), to provide written notice of that investigation to the lieutenant governor, the speaker of the Texas House of Representatives, and each standing committee of the legislature with primary jurisdiction over higher education matters. Requires that the written notice contain any information about the investigation that is known by the presiding officer at the time of the notice, including the name of the investigating agency and, if known:

(1) the targeted individual's citizenship or permanent resident status;

(2) the degree of access of the individual to intellectual property or to other sensitive or protected information;

(3) any link or affiliation of the individual to or with a foreign government; and

(4) a description of the nature and possible seriousness of the allegation.

(e) Requires that the name of a targeted individual be redacted for purposes of any notice provided under this section.

(f) Provides that a public or private institution of higher education whose governing board fails to timely provide the written notice as required by Subsection (d) is liable to the state for a civil penalty in an amount not to exceed \$20,000 for each violation. Authorizes the attorney general to investigate any alleged violation of this section and to sue to collect the civil penalty described by this subsection.

SECTION 2. Effective date: upon passage or September 1, 2021.