

BILL ANALYSIS

Senate Research Center
87R22848 KEL-D

C.S.S.B. 1360
By: Hughes
Higher Education
5/18/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 1360 seeks to address concerns and suggestions brought by members of our higher education community and federal counterparts. The changes are as follows:

Expand from "faculty" to include all employees per stakeholders request.

Notify legislature upon "conviction, indictment or other formal criminal charge, or incident of evasion or abscondment occurring with respect to criminal conduct."

This is in place of investigation. Federal counterparts and stakeholders saw this as a concern to the integrity of the investigation. For that reason it has been changed to the above language.

This notice will be issued to the governor, lieutenant governor, speaker, and ONLY the chairs of the committees with jurisdiction of higher education.

The president of the university will send the written notice, not the governing board.

The focus on attempted theft of intellectual capital as compared to intellectual property .

This specific jargon is used so as to encompass and protect more Texas research.

Removal of the requirement to report the citizenship of the individual in question.

This written notice will be confidential and not subject to disclosure.

C.S.S.B. 1360 amends current law relating to notice of certain criminal conduct by a student or employee 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 CERTAIN CRIMINAL CONDUCT. (a) Provides that this section applies only to criminal conduct that:

- (1) is committed or alleged to have been committed by a student or employee of a public or private institution of higher education in this state; and

(2) poses or could have posed 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 or could have posed 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 sensitive or protected intellectual capital;

(2) unauthorized access to sensitive or protected information such as intellectual capital, 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 a conviction, indictment or other formal criminal charge, or incident of evasion or abscondment occurring with respect to criminal conduct to which this section applies 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 president of a public or private institution of higher education, not later than the 30th day after the date the president is notified or otherwise learns of an investigation as described by Subsection (c), to provide written notice of that investigation to the governor, lieutenant governor, the speaker of the Texas House of Representatives, and the presiding officer of each standing committee of the legislature with primary jurisdiction over higher education matters. Requires that, subject to Subsection (e), the written notice contain any details about the investigation that are known by the president at the time of the notice, including, if known:

(1) the degree of access of the specified individual to sensitive or protected intellectual capital or to other sensitive or protected information;

(2) any link or affiliation of the individual to or with a foreign government or an organization affiliated with a foreign government; and

(3) a description of the nature and seriousness of the applicable conduct.

(e) Authorizes the information required under Subsection (d) to be limited or redacted at the request of an appropriate investigative, prosecutorial, or judicial entity if that entity determines that the disclosure of that information would impair any pending judicial proceeding, including an appellate proceeding. Requires that the name of a suspected individual who has not yet been convicted or charged be redacted for purposes of any notice provided under this section.

(f) Provides that the notice is confidential and not subject to disclosure under Chapter 551 (Open Meetings), Government Code.

(g) Provides that a public or private institution of higher education whose president 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.