

BILL ANALYSIS

Senate Research Center

S.B. 576
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

With studies showing that one in five female college students experience some kind of assault during their time at college, it is imperative that victims and witnesses have a safe and reliable reporting structure. By compelling both public and private Texas colleges and universities to account for incidents of rape and sexual violence on their campuses, Texans can finally understand the pervasive nature of these horrible crimes. It is time to put a real and tangible number to the occurrence of these criminal acts on Texas campuses. By confronting the prevalence of these crimes through the reporting required in S.B. 576, Texas colleges can take their first steps towards eliminating sexual assault and violence.

As proposed, S.B. 576 amends current law relating to a reporting requirement for certain incidents of sexual harassment, sexual assault, family violence, or stalking at public institutions of higher education and creates a criminal offense.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 1 (Sections 51.287 and 51.289, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 51, Education Code, by adding Subchapter E-3, as follows:

SUBCHAPTER E-3. REPORTING INCIDENTS OF SEXUAL HARASSMENT, SEXUAL ASSAULT, FAMILY VIOLENCE, AND STALKING

Sec. 51.281. DEFINITIONS. Defines “coordinating board,” “family violence,” and “institution of higher education.”

Sec. 51.282. REPORTING REQUIRED FOR CERTAIN INCIDENTS. (a) Requires an employee of an institution of higher education (IHE) or the highest ranking member of a student organization recognized by or registered with an IHE who becomes aware of an incident of sexual harassment, sexual assault, family violence, or stalking alleged to have been committed by or against a student enrolled at or an employee of the IHE to report the incident to the IHE’s chief executive officer not later than the 48th hour after the employee or member becomes aware of the incident.

(b) Requires that the report include, if known, the name and address of each alleged victim and any other pertinent information concerning the incident.

(c) Provides that Subsection (b) does not apply if the person became aware of an incident through a communication that, at the time of the communication, was privileged and the alleged victim wishes to exercise the privilege.

(d) Prohibits a person required to make a report from delegating the person’s duty to report to another person or rely on another person to make the report.

Sec. 51.283. IMMUNITIES. Provides that a person acting in good faith who reports or assists in the investigation of a report of an incident described by Section 51.282(a) or who testifies or otherwise participates in a judicial proceeding arising from a report of an incident is immune from civil or criminal liability that might otherwise be incurred or imposed.

Sec. 51.284. FAILURE TO REPORT OR FALSE REPORT; OFFENSES. (a) Provides that a person commits an offense if the person is required to make a report under Section 51.282 and knowingly fails to make the report or, with the intent to deceive, knowingly makes a report that is false.

(b) Provides that an offense under Subsection (a)(1) is a Class B misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the actor intended to conceal the incident that the actor was required to report.

(c) Provides that an offense under Subsection (a)(2) is a state jail felony, except that the offense is a felony of the third degree if it is shown on the trial of the offense that the actor has been previously convicted of the same offense.

Sec. 51.285. CONFIDENTIALITY AND DISCLOSURE. (a) Provides that, except as provided by Subsection (b) and unless waived in writing by the person making the report, the identity of a person who makes a report under Section 51.282 is confidential, and authorizes the disclosure of identity only to a law enforcement officer for the purpose of conducting a criminal investigation of the report.

(b) Authorizes a court to order the disclosure of the identity of a person who makes a report under certain conditions.

Sec. 51.286. EMPLOYER RETALIATION PROHIBITED. (a) Prohibits an IHE from suspending or terminating the employment of, or otherwise discriminating against, an employee who in good faith makes a report as required by Section 51.282 or initiates or cooperates with an investigation or proceeding by a law enforcement agency relating to a report made by the employee.

(b) Provides that Subsection (a) does not apply to an employee who reports an incident described by Section 51.282(a) perpetrated by the employee or who initiates or cooperates with an investigation or proceeding by a law enforcement agency relating to an allegation that the employee perpetrated an incident.

Sec. 51.287. TRAINING ON RECEIVING REPORTS OF CERTAIN INCIDENTS. (a) Requires the Texas Higher Education Coordinating Board (THECB) to develop and implement a training program for chief executive officers of IHEs on receiving reports of incidents under Section 51.282(a). Requires the training program to include information on the proper methods for receiving and screening reports of those incidents.

(b) Requires THECB, by rule, to prescribe the intervals at which each chief executive officer of an IHE must complete the training program.

Sec. 51.288. BIENNIAL REPORT. Requires the chief executive officer of an IHE, at least twice each year, to submit to the IHE's governing body a report on any incidents of sexual harassment, sexual assault, family violence, or stalking reported to the officer during the preceding academic year.

Sec. 51.289. RULES. Requires THECB to adopt rules as necessary to implement this subchapter, including rules that ensure implementation of this subchapter in a manner that complies with certain federal and state laws.

SECTION 2. Provides that this Act applies beginning with the 2018-2019 academic year.

SECTION 3. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2017.

(b) Effective date, Section 51.284, Education Code, as added by this Act: September 1, 2018.