

HOUSE BILL REPORT

SSB 5518

As Reported by House Committee On:
Higher Education
Appropriations

Title: An act relating to campus sexual violence.

Brief Description: Creating procedures to address campus sexual violence.

Sponsors: Senate Committee on Higher Education (originally sponsored by Senators Kohl-Welles, Litzow, Frockt, Darneille, McAuliffe, Liias, Dammeier, Fain, Keiser, Hasegawa and Habib).

Brief History:

Committee Activity:

Higher Education: 3/24/15, 3/26/15 [DP];

Appropriations: 4/6/15, 4/7/15 [DP].

Brief Summary of Substitute Bill

- Prohibits the institutions of higher education from establishing different disciplinary processes for a matter of sexual violence on the same campus, based on the status or characteristics of the student involved.
- Requires the institutions to develop and distribute policies and procedures for handling complaints of sexual violence.
- Specifies that the institutions must make information available annually regarding their compliance with campus sexual violence confidentiality and reporting requirements.
- Directs the institutions to conduct a campus climate assessment to gauge the prevalence of sexual assault on their campuses and report their findings to the Governor and the Legislature by December 31, 2016.
- Requires the public institutions and the Independent Colleges of Washington to submit reports to the Governor and the Legislature by July 1, 2016, on steps taken to enter into memoranda of understanding with local law enforcement related to the prevention and response to sexual assault.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON HIGHER EDUCATION

Majority Report: Do pass. Signed by 13 members: Representatives Hansen, Chair; Pollet, Vice Chair; Zeiger, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Bergquist, Gregory, Hargrove, Holy, Reykdal, Sells, Stambaugh, Tarleton and Van Werven.

Staff: Megan Wargacki (786-7194).

Background:

Sexual Violence.

Sexual violence, generally, refers to physical sexual acts perpetrated against a person's will or when a person is incapable of giving consent. These acts include rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are considered forms of sex discrimination that are prohibited under Title IX of the Education Amendments of 1972 (Title IX).

Federal Laws Related to Sexual Violence and Campus Safety.

Title IX is a federal civil rights law that prohibits discrimination based on sex in federally funded education programs and activities. Under Title IX, a public or private institution of higher education receiving federal financial assistance must respond promptly and effectively to reports of sexual violence. Title IV of the 1964 Civil Rights Act also requires public schools to respond to sexual assaults committed against their students.

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requires federally funded institutions of higher education to provide current and prospective students and employees, the public, and the Department of Education with crime statistics and information about campus crime prevention programs and policies. Among other crimes, the Clery Act requires that institutions report forcible sex offenses including sexual assault and rape.

The Violence Against Women Reauthorization Act of 2013 amended the Violence Against Women Act and the Clery Act to provide new requirements for schools to prevent and respond to sexual violence, domestic violence, dating violence, and stalking. These requirements include: providing primary prevention education and awareness programs for all incoming students and employees; collecting statistics on domestic violence, dating violence, and stalking, in addition to current requirements to collect sexual assault statistics; issuing complainants a written notice of their rights; and adopting grievance policies that are prompt, fair, and impartial, as well as administered by trained officials. These updates are sometimes referred to as the Campus Sexual Violence Elimination Act or Campus SaVE Act.

White House Task Force to Protect Students from Sexual Assault.

In April 2014, the White House Task Force to Protect Students from Sexual Assault issued its first report, which includes the following action steps and recommendations:

1. Campus climate surveys will name and determine the extent of the problem.
2. Prevention programs can change attitudes and behavior, then culture; to be most effective, these programs need to engage men.

3. Effective response to sexual assault on campus includes having a confidential place victims can go to report the assault, comprehensive sexual misconduct policies, trauma-informed training for school officials, better school disciplinary systems, and partnerships with the community.
4. Enforcement efforts must be improved and must be more transparent.

State Laws Related to Campus Safety.

Prior to 2012, the public institutions of higher education in Washington were required to:

- report crime statistics each month;
- publish an annual report on crime statistics and submit it to the Legislature;
- develop a campus safety plan and update it annually (included in the annual report to the Legislature);
- enter into a memorandum of understanding that outlines the responsibilities of affected local governments in the event of a campus emergency; and
- establish a task force to examine campus security and safety issues at least annually.

In 2012 Substitute House Bill 2259 repealed these requirements. The stated intent was to remove requirements that were duplicative of federal reporting requirements.

Public institutions of higher education are required to develop and distribute policies and procedures for handling complaints of sexual harassment, as part of an overall effort to eliminate possible gender discrimination to students.

Summary of Bill:

Disciplinary Process.

Public institutions of higher education must not establish different disciplinary processes for a matter of sexual violence on the same campus, based on the status or characteristics of the student involved in that disciplinary proceeding, including membership on an athletic team, membership in a fraternity or sorority, or academic year.

Sexual Violence Policies.

Public institutions of higher education must develop and distribute policies and procedures for handling complaints of sexual violence, which should include information about the institution's Title IX compliance office or other individuals responsible for handling sexual violence violations and potential criminal conduct. Institutions must annually distribute these policies and procedures in writing or electronically to all students and employees.

Notification of Policies, Procedures, and Compliance.

Public institutions of higher education must make information available on an annual basis to all current and prospective students and employees regarding:

- the institution's policies and procedures;
- the responsible employee to receive complaints; and
- the institution's compliance with campus sexual violence confidentiality and reporting requirements required by federal law.

This information and other information and support must be made available on a confidential basis to all campus sexual assault survivors, regardless of whether the survivor chooses to proceed with a formal report of sexual assault.

Campus Climate Assessment.

The public four-year institutions of higher education must conduct a campus climate assessment to gauge the prevalence of sexual assault on their campuses. The State Board for Community and Technical Colleges (SBCTC) must conduct a uniform campus climate assessment of community and technical colleges to gauge the prevalence of sexual assault on community and technical college campuses. The campus climate assessment should include:

- the prevalence of sexual assault, domestic violence, dating violence, and stalking on and off campus;
- student and employee knowledge of:
 - their institution's Title IX coordinator's role;
 - campus policies and procedures addressing sexual assault and violence;
 - options for reporting sexual violence as a survivor or witness; and
 - the availability of resources on and off campus, such as counseling, health, and academic assistance;
- student and employee bystander attitudes and behavior;
- whether survivors reported to the institutions, law enforcement, or both, whether they report to campus police or a local law enforcement agency, and reasons why they did or did not report; and
- an evaluation of student and employee attitudes and awareness of the campus sexual violence issue and any recommendations for better addressing and preventing sexual violence on and off campus.

The public four-year institutions and the SBCTC must report their findings to the Governor and the Legislature by December 31, 2016. The report must also include a plan or proposal to undertake a statewide public awareness campaign on campus sexual violence. The findings must include an evaluation of student and employee attitudes and awareness of campus sexual violence issues and, if needed, should provide recommendations for making improvements in addressing and preventing sexual violence on and off campus. An assessment conducted to comply with new federal requirements pertaining to campus climate assessments fulfills these requirements.

This section expires July 1, 2017.

Memoranda of Understanding.

The SBCTC, the Council of Presidents, and the Independent Colleges of Washington must submit reports to the Governor and the Legislature by July 1, 2016, on steps taken by their institutions to enter into memoranda of understanding with local law enforcement describing each party's respective roles and responsibilities related to the prevention and response to sexual assault.

This section expires December 31, 2016.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The newspaper frequently has stories about rape and sexual violence on campuses. In college it is frequently the freshman women who are victimized. These young women are too often invited to parties, consume too much alcohol or are slipped a date rape drug, and then assaulted. This is becoming a public health crisis. As many as one in five women in our country are victimized in some way during their college career, either physically or threatened with sexual violence. In addition, 16 percent of men are victimized in their college career; the actual number is likely higher due to underreporting. All campuses that receive federal funds have a Title IX compliance officer to take complaints and investigate, but it is not always commonly known who this person is. Also, college students may be concerned about confidentiality should they report. Students should know the policy of their institution, to whom they should report, that there are the same standards for investigation regardless of who is involved. In some instances, athletes are treated differently than other students. It should not make a difference which group of students is involved. The public and private institutions in our state are doing a really good job; but campus sexual violence is a problem and more needs to be done. The victims need to be assured confidentiality during reporting, so that there is not retaliation against the reporting student. The institutions have been helpful in perfecting this bill. This bill is closely aligned with federal requirements. It would be good to look at the conflicts between federal and state requirements. Some of the bill's requirements are already being implemented, such as a model policy and student conduct codes that meet federal requirements. Institutions are already providing resources. The areas that will be a challenge for institutions to meet include the campus climate survey and memoranda of understanding. The better the institutions do at getting the word out about their policies and confidentiality, the more likely it is that survivors will report.

Last year, the public four-year institution's presidents thought it would be good to bring all stakeholders to the table to talk about the key issues around sexual assault. They brought in a variety of concerned parties, including the military, to learn best practices and integrate state efforts with federal efforts. There is a lot that can be done around prevention and response. This bill provides an opportunity to make a great improvement on this topic. Very often people concentrate on the response rather than the prevention, but this is an issue that requires a focus on prevention. Campuses are difficult climates for this issue because there are lots of young people and people from all over the country and the world coming together. It is important that we create a uniform process for sexual violence. This bill makes sure that institutions are complying with Title IX. Students should know about resources on and off campus. It is difficult for students to seek help and often students do not know what resources are provided.

(In support with amendment(s)) When students are victimized their education is disrupted and some students are traumatized for the rest of their lives. We often hear about schools failing to investigate prominent students. Proceedings and investigations should be conducted according to the survivor's needs. For example, the survivor might request that the accused testify without being able to see the survivor, or that the proceeding be scheduled on certain days or times. A uniform process should not prevent an institution from expediting the process. If the accused is close to graduation, institutions often do not complete the investigation or disciplinary proceedings and justice for the survivor is delayed or denied. The campus climate assessment survey should include the voices of survivors and advocates. Moving the needle on this topic is a cultural issue and should probably not start on college campuses. It is about seeing others as human beings and this starts at a young age. The confidentiality provision is important. And it is important to give the institutions discretion around investigation timelines when the accused is close to graduation.

(Opposed) None.

Persons Testifying: (In support) Senator Kohl-Welles, prime sponsor; Joe Holliday, State Board for Community and Technical Colleges; Paul Francis, Council of Presidents; and Justin Nygard, Associated Students of the University of Washington Bothell.

(In support with amendment(s)) Nancy Sapiro, Legal Voice; and Rebecca Johnson, Washington Coalition of Sexual Assault Programs.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 27 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Carlyle, Cody, Dent, Dunshee, Fagan, Haler, Hansen, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, MacEwen, Magendanz, Pettigrew, Sawyer, Senn, Springer, Stokesbary, Sullivan, Tharinger, Van Werven and Walkinshaw.

Minority Report: Do not pass. Signed by 5 members: Representatives Chandler, Ranking Minority Member; Buys, Condotta, G. Hunt and Taylor.

Staff: Catrina Lucero (786-7192).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Higher Education:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Campus sexual assault is a very real problem on Washington's higher education campuses and an important issue in higher education. One in five women and one in 16 men are sexually assaulted while in college. More than 90 percent of sexual assault victims do not report their assault. The national cost of rape is higher than any other crime. This bill would take steps to addressing and preventing sexual violence. The fiscal note does not take into account the cost savings from addressing sexual violence. Federal law already requires schools to comply with certain provisions in the bill. The current spotlight on the issue of sexual violence provides an opportunity to make progress on this issue.

(Opposed) None.

Persons Testifying: Nancy Sapiro, Legal Voice; and Paul Francis, Council of Presidents.

Persons Signed In To Testify But Not Testifying: None.