

SENATE BILL REPORT

SB 5719

As Reported by Senate Committee On:
Higher Education, February 12, 2015

Title: An act relating to creating a task force on campus sexual violence prevention.

Brief Description: Creating a task force on campus sexual violence prevention.

Sponsors: Senators Bailey, Baumgartner, Becker, Kohl-Welles, Parlette, Dammeier, Honeyford, Fain, Fraser, Darneille, McAuliffe, Pearson, Angel, Keiser, Chase, Sheldon, Hill, Jayapal and Frockt.

Brief History:

Committee Activity: Higher Education: 2/03/15, 2/12/15 [DPS].

SENATE COMMITTEE ON HIGHER EDUCATION

Majority Report: That Substitute Senate Bill No. 5719 be substituted therefor, and the substitute bill do pass.

Signed by Senators Bailey, Chair; Baumgartner, Vice Chair; Kohl-Welles, Ranking Minority Member; Becker, Frockt and Liias.

Staff: Evan Klein (786-7483)

Background: Overview of Federal Law. The handling of sexual assaults on college and university campuses is governed by procedural guidelines under Title IX of the education amendments of 1972. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) and the Violence Against Women Act (VAWA) also require institutions to develop reporting protocols and disciplinary procedures for handling sexual violence incidents.

Institutions of higher education are required to develop their own student conduct, disciplinary, and reporting requirements.

Washington State does not have non-criminal statutory requirements for the handling of student-on-student sexual assaults. Public institutions of higher education each have student codes of conduct codified in the Washington Administrative Code.

Title IX. Every college and university that accepts federal funds must comply with Title IX.

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.

Title IX has been interpreted by the United States Supreme Court and the United States Department of Education to require educational institutions to maintain policies, practices and programs that do not discriminate against anyone based on sex.

A school violates a student's rights under Title IX regarding student-on-student sexual violence when: (1) the alleged conduct is serious enough to limit or deny a student's ability to participate in or benefit from the school's educational program; and, (2) the school, upon notice, fails to take prompt and effective steps reasonably calculated to end the sexual violence, prevent its recurrence, and as appropriate, remedy its effects.

The Department of Education requires institutions to investigate incidence of sexual violence and have grievance procedures in place for resolving student and employee complaints of sexual discrimination. Colleges and universities must develop sexual violence procedures that at the least, include the following:

- notice to students and employees of grievance procedures, including where complaints may be filed;
- application of grievance procedures to complaints filed by students or on their behalf;
- provisions for reliable and impartial investigation of complaints, including the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence;
- designated and reasonably prompt timeframes for the major stages of the complaint process;
- notice to the complainant and alleged perpetrator of the outcome of the complaint; and
- assurance that the school will take steps to prevent recurrence of any sexual violence and remedy discriminatory effects on the complainant and others.

Institutions can lose federal funds for violating the requirements of Title IX.

Clery Act. The Clery Act requires institutions of higher education to record and disclose information about campus crimes to the U.S. Department of Education. An institution may be fined up to \$35,000 per violation or may lose financial aid, if it violates the Clery Act reporting requirements.

Violence Against Women Act. VAWA was reauthorized in 2013, amending the Clery Act. The VAWA reauthorization added new sexual violence offenses to Clery reporting requirements including sexual offenses, domestic violence, dating violence, and stalking. The reauthorization requires institutions to develop a statement of policy describing programs to prevent sexual violence and education programs to promote awareness. The reauthorization also requires institutions to develop a statement of policy regarding procedures for responding to a sexual violence complaint.

Summary of Bill (Recommended Substitute): A task force on campus sexual violence prevention is created. The task force must include the following:

- one representative from the Washington Student Achievement Council;
- one representative from the State Board for Community and Technical Colleges;
- one representative from the Council of Presidents;

- one representative from the Washington Association of Sheriffs and Police Chiefs;
- one representative from the independent colleges of Washington;
- one representative from the Washington State Attorney General's Office;
- one representative from the Washington Association of Prosecuting Attorneys; and
- the Title IX coordinator or their designee – a representative with expertise in Title IX and sexual violence prevention, from each of the four-year institutions.

The task force must:

- develop a set of best practices that institutions of higher education may employ to promote the awareness of campus sexual violence, reduce the occurrence of campus sexual violence, and enhance student safety;
- develop recommendations for improving institutional campus sexual violence policies and procedures;
- develop recommendations for improving collaboration amongst institutions and law enforcement; and
- report to the Legislature and the institutions of higher education on its goals and recommendations annually.

EFFECT OF CHANGES MADE BY HIGHER EDUCATION COMMITTEE (Recommended Substitute): The four-year universities may allow their Title IX coordinator or a representative with expertise on Title IX and sexual violence prevention to serve on the task force, instead of requiring the Title IX coordinators to serve.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: Yes.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: Campus sexual violence needs to be a high priority for the state. The state needs to ensure that state laws work well with federal regulations. Existing law has gaps that need to be fixed.

OTHER: Victims advocacy organizations should be included in the workgroup.

Persons Testifying: PRO: Joe Holliday, WA State Board for Community and Technical Colleges, Director of Student Services; Paul Francis, Council of Presidents.

OTHER: Andrea Piper-Wentland, WA Coalition of Sexual Assault Programs.