

# HOUSE BILL REPORT

## ESHB 1998

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**As Passed House:**  
March 5, 2019

**Title:** An act relating to creating a task force to provide more certainty and clarity for institutions of higher education and our communities regarding campus sexual violence policies and procedures.

**Brief Description:** Creating a task force on sexual violence at institutions of higher education.

**Sponsors:** House Committee on College & Workforce Development (originally sponsored by Representatives Pellicciotti, Leavitt, Jinkins, Callan, Stonier, Valdez, Frame, Stanford, Pollet, Tarleton, Bergquist, Santos, Macri and Doglio).

**Brief History:**

**Committee Activity:**

College & Workforce Development: 2/19/19, 2/20/19 [DPS].

**Floor Activity:**

Passed House: 3/5/19, 97-0.

**Brief Summary of Engrossed Substitute Bill**

- Creates a task force on Title IX protections and compliance to examine options, develop model policies, and recommend oversight on campus sexual violence at institutions of higher education.

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### HOUSE COMMITTEE ON COLLEGE & WORKFORCE DEVELOPMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Hansen, Chair; Leavitt, Vice Chair; Van Werven, Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Bergquist, Kraft, Mead, Paul, Pollet, Ramos, Rude, Sells, Slatter, Sutherland and Young.

**Staff:** Trudes Tango (786-7384).

**Background:**

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*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 refers to the federal law that prohibits discrimination on the basis of sex in federally funded educational benefits, programing, or activities. Every institution of higher education that accepts federal funds must comply with Title IX. Under Title IX, institutions of higher education must adopt grievance procedures providing for the "prompt and equitable" resolution of sex discrimination complaints.

In September 2017 the United States Department of Education (DOE) issued new guidance regarding how institutions of higher education address sexual harassment and sexual violence under Title IX. The DOE rescinded policies previously published in 2014 and is engaged in new rulemaking.

In addition to Title IX, there are other federal laws, such as the Clery Act and the Violence Against Women Act, that require institutions of higher education to report on campus sexual violence and develop policy statements on preventing sexual violence. State laws also require institutions of higher education to develop regulations and guidelines to eliminate sex discrimination.

In 2015 the Legislature created a campus sexual violence prevention task force to, among other things, develop best practices and recommendations to promote awareness of campus sexual violence, enhance student safety, improve institutions' policies, and improve collaboration between institutions and law enforcement. The task force issued a final report in 2016 with recommendations on funding, prevention education, training, communications, and other issues.

### **Summary of Engrossed Substitute Bill:**

The Legislature recognizes that institutions of higher education must have policies that are consistent with overlapping state and federal laws and that Title IX regulations are subject to change. The Legislature intends to create a task force to analyze and recommend changes to state laws, regulations, policies, and procedures to ensure institutions of higher education have robust, trauma-informed, and survivor-centered policies in the event federal regulations under Title IX erode.

A task force on Title IX protections and compliance (task force) is established. Members of the task force consist of:

- one member from each of the two largest caucuses of the Senate, appointed by the President of the Senate;
- one member from each of the two largest caucuses of the House, appointed by the Speaker of the House of Representatives;
- the Attorney General (AG) or the AG's designee;
- one member representing each of the following, appointed jointly by the President of the Senate and the Speaker of the House of Representatives: the state sexual assault coalition; the independent four-year private universities; the private degree-granting institutions and private career colleges; the state affiliate of a national organization focused on civil liberties; and any other entity the President of the Senate and the Speaker of the House of Representatives agree upon;

- three members representing campus sexual assault survivors, appointed by the President of the Senate and the Speaker of the House of Representatives, upon recommendation by a sexual assault advocacy organization;
- one member representing the public four-year institutions of higher education, appointed by the Governor;
- one member representing the public community and technical colleges, appointed by the Governor; and
- the Superintendent of Public Instruction or the Superintendent's designee.

The task force must choose its chair from among its legislative membership, and the chair must convene the first meeting by August 1, 2019.

The task force must:

- examine legislative, administrative, and other options to ensure that the state provides clear, consistent, and comprehensive protections consistent with federal law;
- develop model procedures, policies, and guidance for institutions of higher education to implement;
- evaluate and recommend oversight and accountability measures, including the feasibility of establishing a statewide office to implement, monitor, and ensure the consistency of campus sexual violence policies statewide; and
- take into consideration the work of the 2015 Campus Sexual Violence Prevention Task Force.

The Washington Student Achievement Council must provide staff support for the task force. The task force must report its findings and recommendations to the appropriate committees of the Legislature after changes to the Title IX have been adopted. The task force expires January 1, 2022.

**Appropriation:** None.

**Fiscal Note:** Requested on February 14, 2019.

**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) It is possible there will be a number of changes to Title IX. The goal of the bill is to maintain current protections for survivors. The task force will look at issues of federal preemption and find a consistent legal framework under state law. The changes being proposed on the federal level would make schools less safe for all students and could potentially discourage assault victims from reporting. The federal law provides the "floor" and states should be able to provide more protections. Schools need to have stronger protections and clear guidelines. The task force is a first step.

(Opposed) None.

**Persons Testifying:** Representative Pellicciotti, prime sponsor; Andrea Piper-Wentland, Washington Coalition of Sexual Assault Programs; Paul Francis, Council of Presidents; Joe Holliday, State Board of Community and Technical Colleges; Fajer Saeed Ebrahim, Legal Voice; Scarlett Dahl; Maya Greenberg; and Zackary Turner, Washington Students Association.

**Persons Signed In To Testify But Not Testifying:** None.