
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
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Author: Block
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Consultant: Lynn Lorber
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Subject: Postsecondary education: preventing and addressing incidents of rape and sexual assault

SUMMARY

This bill requires the Attorney General to establish a statewide Title IX Oversight Office, requires postsecondary educational institutions to report specific data to this office, requires each student to complete training on rape and sexual assault awareness and prevention annually. This bill also requires postsecondary educational institutions to enter into a contract with a local rape crisis center to provide immediate assistance for a victim.

BACKGROUND

Existing federal law

The federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requires public and private postsecondary educational institutions that receive federal financial aid to disclose information about crimes on and around campuses as well as establish certain rights for victims of sexual assault. The Clery Act requires institutions to collect, classify and county crime statistics, publish an Annual Security Report with crime statistics and security policies, and report crime statistics to the United States Department of Education. The Clery Act requires reporting of crimes in seven major categories, some with significant sub-categories and conditions, including crimes involving forcible and non-forcible sex offenses.

The 2013 reauthorization of the federal Violence Against Women Act, which includes the Campus Sexual Violence Elimination Act, amended the Clery Act to, among other things, require postsecondary institutions to offer prevention and awareness programs to new students and employees regarding rape, domestic and dating violence, sexual assault, and stalking. Institutions are also required to compile statistics of incidents of sexual assault, domestic violence, dating violence and stalking. This Act also requires the Annual Security Report to contain additional information such as prevention programs, procedures once incidents are reported, and possible sanctions following an institutional disciplinary procedure. The final rule implementing changes to the Clery Act was issued in October 2014, and is effective July 1, 2015.

State law

Current law requires:

1. The governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing board of independent postsecondary institutions to adopt a policy concerning campus sexual violence, domestic violence, dating violence and stalking that includes specified components, including the affirmative consent standard. (Education Code § 67386)
2. The governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, and the Regents of the University of California to each adopt and implement at each campus or other facilities, a written procedure or protocols to ensure, to the fullest extent possible, that students, faculty and staff who are victims of sexual assault committed on grounds maintained by the institution or affiliated student organizations receive treatment and information. (EC § 67385)
3. The governing board of each community college district and the Trustees of the California State University, and requests the Regents of the University of California, in collaboration with campus and community-based victim advocacy organizations, to provide educational and preventive information about sexual violence as part of campus orientations. (EC § 67385.7)
4. Each campus of the California Community Colleges and the California State University, and requests each campus of the University of California, to post sexual violence prevention and education information on its campus website. The information must include specific components including dating violence, rape, sexual assault, domestic violence and stalking crimes, how to file a complaint, and the availability and contact information for resources for victims. (EC § 67385.7)
5. Each campus of the California Community Colleges and the California State University, and requests each campus of the University of California, to develop policies to encourage students to report any campus crimes involving sexual violence. (EC § 67385.7)

ANALYSIS

This bill requires postsecondary educational institutions to enter into a contract with a local rape crisis center to provide immediate assistance for a victim. This bill requires the Attorney General to establish a statewide Title IX Oversight Office, requires postsecondary educational institutions to report specific data to this office. This bill also requires each student to complete training on rape and sexual assault awareness and prevention annually. Specifically, this bill:

Rape Crisis Center

1. Requires the governing board of each community college district, the Trustees of the California State University, the governing board of each independent postsecondary educational institution, and the Regents of the University of California to enter into a contract with a local rape crisis center to designate an advocate, who is independent from the college or university, to provide immediate assistance for a victim of rape or sexual assault who is enrolled at one of the campuses.
2. Requires the assistance to include, but not be limited to, accompanying the victim to the hospital and assisting with campus and criminal justice system reporting procedures.

Statewide Title IX Oversight Office

1. Requires the Attorney General to establish a statewide Title IX Oversight Office (office), with the following authority:
 - A. Requires the office to serve as a point of contact for students dissatisfied with their campus-based policies or investigative procedures designed to prevent or address incidents of rape and sexual assault.
 - B. Authorizes the office to assess fines on a postsecondary educational institution that does not comply with its campus or systemwide policies, or state or federal laws, relating to rape and sexual assault.
 - C. Requires the office to receive an annual de-identified report on the total number of campus-based investigations, the timelines for investigations, and the outcomes of investigations regarding incidents of rape and sexual assault that involve students.
 - D. Authorizes the office to investigate the policies, procedures, or investigations of the postsecondary educational institutions following an incident of rape or sexual assault and make recommendations to the Attorney General, district attorney, or city attorney, to the extent doing so is in compliance with state and federal law.
2. Requires the governing boards of postsecondary educational institutions to report to the office each incident of rape or sexual assault that involves one or more of their enrolled students.

Annual training of students

1. Requires each student enrolled at a campus of the California Community Colleges, the California State University, the University of California, or an independent postsecondary educational institution to complete annual training, electronically or in person, on rape and sexual assault awareness and prevention.

2. Requires the training to include, but not be limited to, the contract information for the independent advocate who is designated to provide immediate assistance for a victim.
3. Requires a hold to be placed on the registration of a student who does not complete the training, until the student completes the training.

Placement of informational posters

1. Requires postsecondary educational institutions to ensure that each campus places informational posters in all buildings, that contain all of the following information:
 - A. Summaries of the campus' policies on rape and sexual assault.
 - B. Contact information for police and campus and local rape and crisis center offices or representatives who respond to incidents of rape and sexual assault.
 - C. Campus, civil, and criminal penalties for committing acts of rape and sexual assault.
 - D. References to the federal Jeanne Clary Disclosure of Campus Security Policy and Campus Crime Statistics Act, Title IX, and other relevant state and federal laws and regulations.

Condition of receiving state funds

Requires each independent postsecondary educational institution and the University of California to comply with the requirements of this bill as a condition of receiving state funds for financial assistance.

STAFF COMMENTS

1. ***Need for the bill.*** According to the author, "The college campus is a place where students should be free to learn and grow without the fear of violence. Unfortunately, a shocking number of students are victimized by sexual assault in their collegiate careers. Recent legislative efforts in both the Assembly and Senate have targeted sexual assault, and SB 665 builds on that work. This legislation is necessary to provide important training to college students, additional resources for sexual assault survivors, and more rigorous oversight of campus Title IX enforcement and reporting."
2. ***Author's amendments.*** The author wishes to amend this bill as follows:
 - A. Delete the requirement that postsecondary educational institutions contract with a local rape crisis center for an independent advocate, and instead state legislative intent that victim support services be available to victims of sexual assault on a 24 hour, 7 day-a-week basis.

- B. Clarify that a “dissatisfied” student who contacts the Attorney General’s office is filing a complaint regarding non-compliance with Title IX, and that complaints may cover all aspects of Title IX (any discrimination on the basis of sex).
 - C. Clarify that postsecondary educational institutions are to report annually to the Attorney General, and the Attorney General is to receive, the total number (each) of incidents of rape or sexual assault reported to a campus, the number of incidents that were investigated by the institution, the timelines and outcomes of those investigations, the sanctions imposed by the institution upon any students involved in the incidents, whether criminal charges were filed, and the result of any criminal proceedings.
 - D. Limit the scope of student training to initial training for incoming students (freshmen, transfers, and graduate students) as part of orientation, annual refresher training or information for all students, and annual training for resident assistants, members of fraternities and sororities, and athletes.
 - E. Clarify that a hold may not be placed on a student’s registration for the first term of the academic year.
 - F. Delete the authority for the Attorney General to assess fines and instead authorize the Attorney General to establish a process to investigate complaints, campus policies and procedures, and investigations.
 - G. Limit the requirement to post information to buildings most frequented by students, such as student housing and dining, the student union, and athletics facilities.
3. ***Student training.*** Current law requires the California Community Colleges, the California State University, and requests the University of California to provide educational and preventive information about sexual violence as part of campus orientations.

The University of California (UC) updated policies relative to sexual harassment and violence effective February 25, 2014. Among other things, the UC provides prevention education programs to all incoming students and ongoing prevention and awareness campaigns to the University community to promote awareness of rape and acquaintance rape, domestic violence, dating violence, sexual assault, and stalking, including the definition of consent, options for bystander intervention, and risk reduction awareness information. Policies also require the identification of on- and off-campus resources for reporting sexual harassment or sexual violence, including law enforcement, medical, and victim support services. <http://policy.ucop.edu/doc/4000385/SHSV>

The California State University (CSU) updated policies that are effective June 2015, including the requirement that each campus provide prevention and awareness programs for all new students, refresher programs at least annually

for all students, twice a year for all students who serve as advisors in residence halls, annually for all student members of fraternities and sororities, and annually for all student athletes.

According to the University of Southern California, the campus provides sexual assault training as part of freshman orientation and incorporates refresher courses throughout the school year for dormitory residents and campus organizations (fraternities, sororities and athletes).

This bill requires students to complete training on rape and sexual assault awareness and prevention, but does not prescribe components of this training other than the inclusion of the contact information for the independent rape crisis advocate (the section of this bill related to the independent rape crisis advocate is being removed from the bill). It is not clear that the contents of training as required by this bill would necessarily differ from existing practices that are included in orientation for incoming students.

This bill, as proposed to be amended, exceeds current training requirements by:

- A. Imposing these requirements on students attending the UC and independent universities.
 - B. Requiring all incoming students to receive the training annually (currently information must be included as part of orientation).
 - C. Requiring annual training for resident assistants, members of fraternities and sororities, and athletes.
 - D. Requiring returning students to complete refresher training or receive information.
 - E. Requiring institutions to place a hold on the registration of students who do not complete the training.
4. **Registration hold.** The University of California at Berkeley (UC Berkeley) requires, beginning with the Fall 2014, all new undergraduate students (freshmen and transfers) to complete training in sexual assault/violence prevention. UC Berkeley requires students to complete this training by October 1, or risk having a hold placed on registration in the Spring term.
<http://survivorsupport.berkeley.edu/education-requirement>

The author's amendments include clarification that a hold may be placed on a student's registration only for the second or Spring term of the academic year, addressing concerns that registration holds at the beginning of the school year may jeopardize students' eligibility for financial aid.

5. **Existing reporting requirements.** Federal law requires postsecondary educational institutions to compile general statistics of incidents of sexual assault, domestic violence, dating violence and stalking. Each institution's Annual Security Report must also contain information such as prevention

programs, procedures once incidents are reported, and possible sanctions following an institutional disciplinary procedure.

Federal legislation proposes the Campus Accountability and Safety Act, which includes reporting requirements that are similar to those proposed by this bill, such as the number of incidents reported to the Title IX coordinator, the number of cases processed through the student disciplinary process, and a description of the final sanction, if any was imposed.

6. **Attorney General's office.** The Attorney General's office currently has an active role in the implementation of recently-enacted statutory requirements that campuses report incidents of Part 1 violent crimes, hate crimes, or sexual assault, and the adoption of policies that include affirmative consent and use of the preponderance of evidence standard. The Attorney General's office is drafting a campus sexual assault and violence model Memorandum of Understanding to meet recently-enacted requirements for campuses to coordinate with law enforcement in the prevention, reporting and resolution of incidents of campus sexual assault.

The Attorney General's office does not currently have a role in the enforcement of Title IX compliance. There is no state-level governmental entity that addresses Title IX complaints lodged by postsecondary students. Students seeking remedy beyond the campus or system level must turn to the federal Office of Civil Rights.

This bill authorizes the Attorney General to assess fines on postsecondary educational institutions that do not comply with policies or laws relating to rape and sexual assault. It appears that the Attorney General's office does not currently possess the authority to assess fines in any regard. The author's amendments delete the authority to assess fines and instead authorize the Attorney General to establish a process to investigate complaints, campus policies and procedures, and investigations.

The author may wish to consider clarifying how to avoid duplicative or conflicting concurrent investigations if a complaint is filed with both the Attorney General and the federal Office of Civil Rights.

7. **Posting.** Current law requires each community college and CSU campus, and requests each campus of the University of California, to post sexual violence prevention and education information on its campus website. This bill requires informational posters to be placed in all buildings on all campuses. The author's amendments clarify that the posting of information is limited to buildings most frequented by students, such as student housing and dining, the student union, and athletics facilities.
8. **Impact on community colleges.** This bill imposes significant mandated costs upon community colleges by requiring training for students and reporting of information regarding incidents of sexual assault that exceed current law.

9. ***Related and prior legislation.***

RELATED LEGISLATION

AB 967 (Williams, 2015) establishes minimum disciplinary standards and reporting requirements for sexual assault complaints received by community colleges, CSU, UC and independent postsecondary educational institutions, including reporting specific to complaints involving sexual assault, domestic violence, dating violence and stalking. AB 967 is pending in the Assembly Appropriations Committee.

PRIOR LEGISLATION

SB 967 (De León, Ch. 748, 2014) requires the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing board of independent postsecondary institutions to adopt a policy concerning campus sexual violence, domestic violence, dating violence and stalking that includes specified components.

AB 1433 (Gatto, Ch. 798, 2014) requires governing boards of each public and private postsecondary educational institution to adopt and implement policies and procedures to ensure that any report of a Part 1 violent crime, sexual assault, or hate crime is immediately forwarded to the appropriate law enforcement agency.

SUPPORT

Center for Community Solutions
Peace Over Violence
Women Give San Diego

OPPOSITION

None received.

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