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DIGEST

SB 255 Re-Reengrossed

2015 Regular Session

Morrell

Proposed law requires that when funding is made available, each public postsecondary institution shall administer an annual, anonymous sexual assault climate survey to its students who choose to participate.

Proposed law requires the Board of Regents, in consultation with the public postsecondary education management boards, to develop the survey and establish procedures for the administration of the survey and use the survey developed by the Center on Violence Against Women and Children at the Rutgers University School of Social Work as a model.

Proposed law requires each public postsecondary institution to:

- (1) Administer the survey to students who choose to participate.
- (2) Report school-specific results of the survey to the Board of Regents.

Proposed law requires the Board of Regents to:

- (1) Submit a written report not later than September 1st of each year regarding the survey results of each public postsecondary institution and the state as a whole to the governor and the Senate and House of Representatives committees on education for the previous academic year.
- (2) Publish the survey results on the board's website and in any other location or venue the board deems necessary or appropriate.

Proposed law provides that the provisions of proposed law be implemented as expeditiously and to the maximum extent possible utilizing any and all available funding sources, including funding provided by the legislature.

Proposed law creates the Campus Accountability and Safety Act.

Proposed law requires each public postsecondary institution that receives any Title IV funding from the U.S. Dept. of Education to comply with proposed law.

Proposed law requires each institution and area law enforcement and criminal justice agency located within the parish to enter into a memorandum of understanding (MOU) to clearly delineate responsibilities and share information in accordance with applicable federal and state confidentiality laws, including but not limited to trends about sexually-oriented criminal offenses occurring against

students of the institution.

Proposed law requires each institution to update the MOU with each law enforcement agency every two years.

Proposed law requires the MOU to include:

- (1) Delineation and sharing protocols of investigative responsibilities.
- (2) Protocols for investigations, including standards for notification and communication and measures to promote evidence preservation.
- (3) Agreed-upon training and requirements for the parties to the MOU on issues related to sexually-oriented criminal offenses for the purpose of sharing information and coordinating training to the extent possible.
- (4) A method of sharing general information about sexually-oriented criminal offenses occurring within the jurisdiction of the parties to the MOU in order to improve campus safety.

Proposed law requires local law enforcement agency to include information on its police report regarding the status of the alleged victim as a student at an institution as defined in proposed law.

Proposed law provides that the institution shall not be held liable if the local law enforcement agency refuses to enter into a MOU as required by proposed law.

Proposed law requires the Board of Regents to establish uniform policies and best practices to implement measures to address the reporting of sexually-oriented criminal offenses on postsecondary campuses, the prevention of such crimes, and the medical and mental health care needed for these alleged victims that includes the following:

- (1) Confidential advisors. The institution shall designate individuals who shall serve as confidential advisors, such as health care staff, clergy, staff of a women's center, or other such categories. Such designation shall not preclude the institution from partnering with national, state, or local victim services organizations to serve as confidential advisors or to serve in other confidential roles.
 - (a) The confidential advisor shall complete the training requirements as provided in proposed law.
 - (b) Not later than Jan. 1, 2016, the attorney general in collaboration with the Board of Regents shall develop online training materials.
 - (c) The confidential advisor shall inform the alleged victim of the following:
 - (i) The rights of the alleged victim under federal and state law and the policies

of the institution.

- (ii) The alleged victim's reporting options, including the option to notify the institution, the option to notify local law enforcement, and any other reporting options.
 - (iii) If reasonably known, the potential consequences of the reporting options.
 - (iv) The process of investigation and disciplinary proceedings of the institution.
 - (v) The process of investigation and adjudication of the criminal justice system.
 - (vi) The limited jurisdiction, scope, and available sanctions, of the institutional student disciplinary proceeding and should not be considered a substitute for the criminal justice process.
 - (vii) Potential reasonable accommodations that the institution may provide to an alleged victim.
 - (viii) The name and location of the nearest medical facility where an alleged victim may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such facility.
- (d) The confidential advisor may serve as a liaison between an alleged victim and the institution or local law enforcement, when directed to do so in writing, and assist an alleged victim in contacting and reporting to a postsecondary education responsible employee or local law enforcement.
 - (e) The confidential advisor shall be authorized by the institution to liaise with appropriate staff to arrange reasonable accommodations to allow the alleged victim to change living arrangements or class schedules, obtain accessibility services, or arrange other accommodations.
 - (f) The confidential advisor shall be authorized to accompany the alleged victim to interviews and other proceedings of a campus investigation and institutional disciplinary proceedings.
 - (g) The confidential advisor shall advise the alleged victim of, and provide written information regarding, both the alleged victim's rights and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a court of competent jurisdiction or by the institution.
 - (h) The confidential advisor shall not be obligated to report crimes to the institution or

law enforcement in a way that identifies an alleged victim or an accused individual, unless otherwise required to do so by law. The confidential advisor shall, to the extent authorized under law, provide confidential services to students. Any requests for accommodations, made by a confidential advisor shall not trigger an investigation by the institution.

- (i) No later than the beginning of the 2016-2017 academic year, the institution shall appoint an adequate number of confidential advisors. The Board of Regents shall determine the adequate number of confidential advisors for an institution based upon its size no later than Jan. 1, 2016.
 - (j) Each institution that enrolls fewer than 5,000 students may partner with another institution in their system or region to provide services.
 - (k) Each institution may offer the same accommodations to the accused that are required to be offered to the alleged victim.
- (2) Website. The institution shall list on its website:
- (a) The contact information for obtaining a confidential advisor.
 - (b) Reporting options for alleged victims of a sexually-oriented criminal offense.
 - (c) The process of investigation and disciplinary proceedings of the institution.
 - (d) The process of investigation and adjudication of the criminal justice system.
 - (e) Potential reasonable accommodations that the institution may provide to an alleged victim.
 - (f) The telephone number and website address for a local, state, or national hotline providing information to sexual violence victims, which shall be updated on a timely basis.
 - (g) The name and location of the nearest medical facility where an individual may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such facility.
- (3) Online reporting. The institution may provide an online reporting system to collect anonymous disclosures of crimes and track patterns of crime on campus. An individual may submit a confidential report about a specific crime to the institution using the online reporting system. If the institution uses an online reporting system, the online system shall also include information regarding how to report a crime to a responsible employee and law enforcement and how to contact a confidential advisor.

- (4) Amnesty policy. The institution shall provide an amnesty policy for any student who reports, in good faith, sexual violence to the institution. Such student shall not be sanctioned by the institution for a nonviolent student conduct violation, such as underage drinking, that is revealed in the course of such a report.
- (5) Training. Not later than Jan. 1, 2016, the Board of Regents, in coordination with the attorney general and in consultation with state or local victim services organizations, shall develop a program for training for each individual who is involved in implementing an institution's student grievance procedures, including each individual who is responsible for resolving complaints of reported sex offenses or sexual misconduct policy violations, and each employee of an institution who has responsibility for conducting an interview with an alleged victim of a sexually-oriented criminal offense. Each institution shall ensure that the individuals and employees receive the training described in proposed law no later than the beginning of the 2016-2017 academic year.

Proposed law requires the Board of Regents' Uniform Policy on Sexual Assault to require that public and nonpublic institutions communicate with each other regarding transfer of students against whom disciplinary action has been taken as a result of a code of conduct violation relating to sexually-oriented criminal offenses.

Proposed law requires the Board of Regents' Uniform Policy on Sexual Assault to require that public and nonpublic institutions withhold transcripts of students seeking a transfer with pending disciplinary action relative to sexually-oriented criminal offenses, until such investigation and adjudication is complete.

Proposed law provides that all required provisions for implementation of this Act shall be achieved with existing staff and resources unless a specific appropriation is provided for these purposes.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 17:3351(H) and R.S. 17:3399.11 through 3399.15)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Education to the original bill

1. Provides that proposed law becomes effective when funding is made available.
2. Removes requirement that survey be administered to faculty and employees.
3. Provides that student participation in the survey is voluntary.
4. Makes present law applicable only to public postsecondary institutions.

5. Removes requirement that each institution designate a employee responsible for reporting or redressing offenses.
6. Provides that Board of Regents' policy shall prescribe method of updating memorandum of understanding between postsecondary institutions and law enforcement and criminal justice agencies.
7. Provides for method of sharing general information to improve campus safety.
8. Provides for certain information to be included in police reports.
9. Provides that institution is not liable if local law enforcement agencies refuse to enter into memorandum of understanding.
10. Changes terminology regarding "victims" to "alleged victims".
11. Provides for inter-campus transfer policy.
12. Requires each nonpublic postsecondary institution to annually submit its campus safety plan to combat sexual harassment to the Board of Regents, beginning Aug. 16, 2016.
13. Makes technical corrections.

Committee Amendments Proposed by Senate Committee on Finance to the engrossed bill

1. Provides that in Board of Regents policies, confidential advisor shall provide information to alleged victim regarding orders issued by institutions.
2. Provides that in Board of Regents policies, each institution may offer the same accommodations to the accused that are required to be offered to the alleged victim.
3. Provides that Board of Regents' Uniform Policy on Sexual Assault requires public and nonpublic institutions to communicate with each other regarding inter-campus transfers and to withhold transcripts of students seeking a transfer with a pending disciplinary action relative to sexually-oriented criminal offenses.
4. Provides that the Board of Regents shall identify a common notation to be used by institutions on the transcript of a student who has had a disciplinary action taken against him, which mark shall not reveal the nature of the action and which shall be removed if the student's record is cleared.
5. Deletes provision requiring that beginning Aug. 1, 2016, every private institution in the state annually submit its campus safety plan to combat sexual harassment to the Board of Regents.

6. Provides that all required provisions for implementation of Act shall be achieved with existing staff and resources unless a specific appropriation is provided for these purposes.

Senate Floor Amendments to reengrossed bill

1. Limits proposed law to public postsecondary institutions.
2. Removes the common notation requirements from proposed law.
3. Makes technical corrections.