

2021 Regular Session

HOUSE BILL NO. 394

BY REPRESENTATIVE RISER AND SENATOR WARD

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HIGHER EDUCATION: Provides for mandatory reporting of sexual misconduct at postsecondary education institutions and requires such institutions to post reports relative to campus security policies and campus crime statistics on their websites

1 AN ACT

2 To enact R.S. 17:3399.18, relative to campus safety and accountability; to provide for
3 mandatory reporting of sexual misconduct at postsecondary education institutions;
4 to require postsecondary education institutions to post security reports on their
5 websites; to provide relative to the information contained in the security reports; to
6 provide for compliance monitoring relative to the security reports by the Board of
7 Regents; to provide for penalties and enforcement; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 17:3399.18 is hereby enacted to read as follows:

10 §3399.18. Mandatory reporting; disclosure of campus security policies and campus
11 crime statistics

12 A.(1) Each employee of a postsecondary education institution shall be a
13 mandatory reporter of sexual misconduct. Notwithstanding any claim of privileged
14 communication, any employee who has cause to believe that an incident of sexual
15 misconduct has been committed by or against any student of the institution shall
16 report it to the campus Title IX coordinator. If the campus does not have a Title IX
17 coordinator, the employee shall report it to a law enforcement agency.

18 (2) The following shall be fined not more than five hundred dollars or
19 imprisoned for not more than six months, or both:

1 (a) Any person who is required to report sexual misconduct and knowingly
2 and willfully fails to so report.

3 (b) Any person who reports sexual misconduct, knowing that the information
4 reported is false.

5 (3) Each institution shall provide training to each employee on the reporting
6 procedure and the consequences of failing to report.

7 B.(1) Each campus of each postsecondary education institution shall publish
8 on its website a quarterly security report that contains updated campus security
9 policies and campus crime statistics. The information in the report shall include, at
10 a minimum, all of the information relative to such policies and statistics specified in
11 the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics
12 Act, 20 U.S.C. 1092, referred to in this Section as the Clery Act.

13 (2) The report shall be posted in a prominent location that is readily
14 accessible from the main landing page of each campus's website. If an individual
15 campus does not have its own website, it shall be posted on the main website of the
16 institution with the campus clearly indicated.

17 (3) This Subsection applies to each postsecondary education institution as
18 defined in Subsection C of this Section regardless of whether or not it is subject to
19 the Clery Act.

20 (4)(a) The Board of Regents shall monitor websites for compliance with this
21 Subsection. The board shall notify the House Committee on Education and the
22 Senate Committee on Education upon an institution's first failure to comply with this
23 Section. A second failure to comply shall result in a ten percent reduction of Taylor
24 Opportunity Program for Students payments to the institution, and each subsequent
25 violation shall result in an additional ten percent reduction.

26 (b) Any person may commence a suit in the district court for the parish in
27 which an action in violation of this Section occurred for the issuance of a writ of
28 mandamus or injunctive or declaratory relief to require compliance with the
29 provisions of this Section, together with reasonable attorney fees and costs.

1 C. As used in this Section, the following terms shall have the following
2 meanings:

3 (1) "Employee" means any employee of a postsecondary education
4 institution, including faculty, staff, administrators, and any other employee, whether
5 employed on salary or on contract.

6 (2) "Postsecondary education institution" includes all institutions eligible for
7 participation in the Taylor Opportunity Program for Students pursuant to Chapter 50
8 of this Title.

9 (3) "Sexual misconduct" means any of the following:

10 (a) Aggravated assault upon a dating partner as provided in R.S. 14:34.9.1.

11 (b) Battery of a dating partner as provided in R.S. 14:34.9.

12 (c) Domestic abuse aggravated assault as provided in R.S. 14:37.7.

13 (d) Domestic abuse battery means any of the acts defined as crimes in R.S.
14 14:35.3.

15 (e) Sexual abuse as provided in R.S. 14:403.

16 (f) Sexual assault crimes as provided in R.S. 14:41, 42, 42.1, 43, 43.1, 43.2,
17 43.3, and 43.5.

18 (g) Stalking as provided in R.S. 14:40.2.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 394 Original

2021 Regular Session

Riser

Abstract: Provides for mandatory reporting of sexual misconduct at postsecondary education institutions and requires such institutions to post reports relative to campus security policies and campus crime statistics on their websites.

Mandatory reporting

Proposed law provides that each employee of a postsecondary education institution shall be a mandatory reporter of sexual misconduct as defined in proposed law. Requires any employee who has cause to believe that an incident of sexual misconduct has been committed by or against any student of the institution to report it to the campus Title IX coordinator. Provides that if the campus does not have a Title IX coordinator, the employee shall report it to a law enforcement agency.

Proposed law provides that the following shall be fined not more than \$500 or imprisoned for not more than six months, or both:

- (1) Any person who is required to report sexual misconduct and knowingly and willfully fails to so report.
- (2) Any person who reports sexual misconduct, knowing that the information reported is false.

Proposed law requires each institution to provide training to each employee on the reporting procedure and the consequences of failing to report.

Disclosure of campus security policies and campus crime statistics

Proposed law requires each postsecondary education institution to publish on its website a quarterly security report that contains updated campus security policies and campus crime statistics. Requires reports to contain, at a minimum, all information relative to such policies and statistics specified in federal law commonly known as the "Clery Act".

Proposed law provides for compliance monitoring by the Bd. of Regents and notification of the legislative education committees and reductions in Taylor Opportunity Program for Students (TOPS) payments for failure to comply. Also authorizes any person to commence a suit in the district court for the parish in which an action in violation of proposed law occurred for the issuance of a writ of mandamus or injunctive or declaratory relief to require compliance with proposed law together with reasonable attorney fees and costs.

Applicability

Proposed law is applicable to all institutions eligible for participation in the TOPS; this includes all public colleges and universities, nonpublic institutions that are members of the La. Assoc. of Independent Colleges and Universities, and certain proprietary and cosmetology schools. (Proposed law relative to the security reports applies to all of these institutions regardless of whether they are subject to the Clery Act.)

(Adds R.S. 17:3399.18)