

2021 Regular Session

HOUSE BILL NO. 409

BY REPRESENTATIVE FREEMAN

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

HIGHER EDUCATION: Provides relative to campus safety and accountability

1 AN ACT

2 To amend and reenact R.S. 17:3399.13, 3399.14(A), (B), and (C)(3) and (4),
3 3399.15(introductory paragraph), (2)(b) and (f), (3), (5), and (6), and 3399.17 and
4 to enact R.S. 17:3399.12, relative to public postsecondary education; to provide
5 requirements relative to reporting power-based violence; to require termination of
6 employees who fail to comply with reporting requirements; to provide relative to
7 memoranda of understanding between institutions and law enforcement; to require
8 online reporting systems; to provide relative to training; to provide relative to the
9 development and administration of campus climate surveys; to provide relative to the
10 sharing of survey results; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 17:3399.13, 3399.14(A), (B), and (C)(3) and (4),
13 3399.15(introductory paragraph), (2)(b) and (f), (3), (5), and (6), and 3399.17 are hereby
14 amended and reenacted and R.S. 17:3319.12 is hereby enacted to read as follows:

15 ~~§3399.13.~~ §3399.12. Definitions

16 For the purposes of this Part, the following terms shall have the following
17 meanings unless the context clearly indicates otherwise:

- 18 (1) "Institution" means a public postsecondary education institution.
- 19 (2) "~~President~~" "Chancellor" means the ~~president of the system~~ person
20 servng as the administrative head of the campus of the respective institution.

1 (3) ~~"Sexually-oriented criminal offense" includes any sexual assault offense~~
2 ~~as defined in R.S. 44:51 and any sexual abuse offense as defined in R.S. 14:403.~~

3 "Power-based violence" means any form of interpersonal violence intended to
4 control or intimidate another person through the assertion of power over the person,
5 including any of the following:

6 (a) Dating violence, which means violence committed by a person who is or
7 has been in a social relationship of a romantic or intimate nature with the victim.
8 The existence of such a relationship shall be determined based on the victim's
9 statement and with consideration of the length of the relationship, the type of
10 relationship, and the frequency of interaction between the persons involved in the
11 relationship. For the purposes of this definition, dating violence includes but is not
12 limited to sexual or physical abuse or threat of such abuse.

13 (b) Domestic violence, which means a felony or misdemeanor crime of
14 violence committed by any of the following:

15 (i) A current or former spouse or intimate partner of the victim.

16 (ii) A person with whom the victim shares a child in common.

17 (iii) A person who is cohabitating with or has cohabitated with the victim as
18 a spouse or intimate partner.

19 (c) Sexual assault, which means any nonconsensual sexual contact including
20 but not limited to any act provided in R.S. 15:541(24) or obscenity as provided in
21 R.S. 14:106.

22 (d) Sexual harassment, which means unwelcome verbal or physical behavior
23 of a sexual nature or unwanted sexual advances, requests for sexual favors, or other
24 acts of a sexual nature where submission is made a term or condition of an
25 opportunity.

26 (e) Stalking, which means engaging in a course of conduct directed at a
27 specific person that would cause a reasonable person to fear for the person's safety
28 or the safety of others or to suffer substantial emotional distress. For purposes of this
29 definition:

1 (i) Course of conduct means two or more acts, including but not limited to
2 acts in which the stalker directly, indirectly, or through third parties, by any action,
3 method, device, or means, follows, monitors, observes, surveils, threatens, or
4 communicates to or about a person, or interferes with a person's property.

5 (ii) Reasonable person means a reasonable person under similar
6 circumstances and with similar identities to the victim.

7 (iii) Substantial emotional distress means significant mental suffering or
8 anguish that may but does not necessarily require medical or other professional
9 treatment or counseling.

10 (4) "Responsible employee" means any employee of an institution who
11 receives notice of or witnesses an incident of power-based violence. Responsible
12 employees do not include confidential advisors or employees who have privileged
13 communications with students as provided by law.

14 (5) "System president" means the president of the system of the respective
15 institution.

16 §3319.13. Reporting

17 A. (1) Except as provided in Paragraph (2) of this Subsection, a responsible
18 employee who receives notice of or witnesses an incident of power-based violence
19 committed by or against a student shall promptly report the incident to the campus
20 Title IX Coordinator.

21 (2) Responsible employees are not required to make a report if information
22 is received under any of following circumstances:

23 (a) During a public forum or awareness event in which individuals disclose
24 incidents of power-based violence as part of educating others.

25 (b) In the course of reviewing an academic work product consistent with the
26 assignment.

27 (3) A report made in accordance with this Subsection shall include the
28 following information if known:

29 (a) The identity of the victim.

1 (b) The identity of the perpetrator.

2 (c) The type of power-based violence alleged to have been committed.

3 (d) Any other information about witnesses, the location, and date and time
4 the incident occurred.

5 B.(1) At least once every three months, each campus's Title IX Coordinator
6 shall submit to the chancellor a written report on the reports received under
7 Subsection A of this Section, including information regarding:

8 (a) The investigation of those reports.

9 (b) The disposition, if any, of any disciplinary processes arising from those
10 reports.

11 (c) The reports for which the institution determined not to initiate a
12 disciplinary process, if any.

13 (2) Each Title IX coordinator shall immediately report to the chancellor an
14 incident reported to the coordinator if the coordinator has cause to believe that any
15 person is in imminent danger as a result of the incident.

16 C. Not later than fourteen days after receiving a report from the Title IX
17 coordinator pursuant to Subsection B of this Section, each chancellor shall submit
18 a copy of the report to the system president.

19 D. At least once every three months, the system president shall submit a
20 report to the management board summarizing reports he has received from each
21 chancellor pursuant to Subsection C of this Section. This report shall not contain any
22 personally identifiable information as defined in R.S. 17:3914 and shall include:

23 (a) The number of reports received.

24 (b) The number of investigations conducted as a result of those reports.

25 (c) The disposition, if any, of any disciplinary processes arising from those
26 reports.

27 (d) The number of those reports for which the institution determined not to
28 initiate a disciplinary process, if any.

1 (4) A method of sharing general information about ~~sexually-oriented~~
2 ~~criminal offenses~~ power-based violence occurring within the jurisdiction of the
3 parties to the memorandum of understanding in order to improve campus safety.

4 * * *

5 §3399.15. Campus security policy

6 The Board of Regents shall establish uniform policies and best practices to
7 implement measures to address the reporting of ~~sexually-oriented criminal offenses~~
8 power-based violence on institution campuses, the prevention of such ~~crimes,~~
9 violence, and the medical and mental health care needed for these alleged victims
10 that includes the following:

11 * * *

12 (2) Website. The institution shall list on its website:

13 * * *

14 (b) Reporting options for alleged victims of a ~~sexually-oriented criminal~~
15 ~~offense~~ power-based violence.

16 * * *

17 (f) The telephone number and website address for a local, state, or national
18 hotline providing information to ~~sexual~~ power-based violence victims, which shall
19 be updated on a ~~timely~~ at least an annual basis.

20 * * *

21 (3) Online reporting. The institution ~~may~~ shall provide an online reporting
22 system to collect anonymous disclosures of ~~crimes~~ power-based violence and track
23 patterns of ~~crime~~ such violence on campus. An individual may submit a confidential
24 report about a specific ~~crime~~ incident of power-based violence to the institution
25 using the online reporting system. ~~If the institution uses an online reporting system,~~
26 ~~the~~ The online system shall also include information regarding how to report a ~~crime~~
27 an incident of power-based violence to a responsible employee and law enforcement
28 and how to contact a confidential advisor.

29 * * *

1 (5) Training. Not later than January 1, ~~2016~~, 2022, the Board of Regents, in
 2 coordination with the attorney general and in consultation with state or local victim
 3 services organizations, shall develop a program for training for the members of each
 4 public postsecondary education management board, each individual who is involved
 5 in implementing an institution's student grievance procedures, including each
 6 individual who is responsible for resolving complaints of reported ~~sex offenses or~~
 7 ~~policy violations~~ incidents of power-based violence, and each employee of an
 8 institution who has responsibility for conducting an interview with an alleged victim
 9 of a ~~sexually-oriented criminal offense~~ such an incident. Each institution shall
 10 ensure that the individuals and employees receive the training described in this
 11 ~~Subsection~~ Paragraph no later than the beginning of the ~~2016-2017~~ 2022-2023
 12 academic year.

13 (6) Inter-campus transfer policy. (a) The Board of Regents' Uniform Policy
 14 on ~~Sexual Assault~~ Power-Based Violence shall require that institutions communicate
 15 with each other regarding transfer of students against whom disciplinary action has
 16 been taken as a result of a code of conduct violation relating to ~~sexually-oriented~~
 17 ~~criminal offenses~~ power-based violence.

18 (b) The Board of Regents' Uniform Policy on ~~Sexual Assault~~ Power-Based
 19 Violence shall require that institutions withhold transcripts of students seeking a
 20 transfer with pending disciplinary action relative to ~~sexually-oriented criminal~~
 21 ~~offenses~~ power-based violence, until such investigation and adjudication is complete.

* * *

23 §3399.17. Public postsecondary education institutions; ~~sexual assault~~ power-based
 24 violence climate surveys

25 A.(1) Each public postsecondary education institution shall administer an
 26 anonymous ~~sexual assault~~ power-based violence climate survey to its students ~~once~~
 27 ~~every three years~~ annually. If an institution administers other surveys with regard
 28 to campus safety, the ~~sexual assault~~ power-based violence climate survey may be

1 included as a separate component of any such survey provided that the ~~sexual assault~~
2 power-based violence component is clearly identified as such.

3 (2) Participation in the ~~sexual assault~~ climate survey shall be voluntary; no
4 student shall be required or coerced to participate in the survey nor shall any student
5 face retribution or negative consequence of any kind for declining to participate.
6 Each institution shall make every effort to maximize student participation in the
7 survey.

8 B. The Board of Regents shall:

9 (1) Develop the survey in consultation with the public postsecondary
10 education management boards and in accordance with national best practices and
11 work with the management boards in researching and selecting the best method of
12 developing and administering the survey.

13 (2) ~~Work with the management boards in researching and selecting the best~~
14 ~~method of developing and administering the survey.~~ Consult with victims' advocacy
15 groups and student leaders who represent a variety of student organizations and
16 affiliations, including but not limited to student government associations, academic
17 associations, faith-based groups, cultural groups, and fraternities and sororities, when
18 performing the requirements of Paragraph (1) of this Subsection.

19 (3) Submit a written report on survey results to the House Committee on
20 Education, Senate Committee on Education, and the governor not later than
21 ~~September first following administration of the survey~~ forty-five days prior to the
22 convening of each Regular Session of the Legislature. The report shall summarize
23 results from each public postsecondary education institution and the state as a whole.

24 (4) Publish the survey results on the board's website and in any other location
25 or venue the board deems necessary or appropriate.

26 C. Each public postsecondary institution shall:

27 (1) Administer a survey during ~~the 2022-2023~~ each academic year ~~and every~~
28 ~~third year thereafter~~ and post the results of each survey in a prominent, easy to access
29 location on its website.

- 1 (2) Report survey results to the Board of Regents.

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 409 Original

2021 Regular Session

Freeman

Abstract: Requires the termination of postsecondary education institution employees for failure to comply with reporting requirements relative to power-based violence committed by or against students (dating violence, domestic violence, sexual assault, sexual harassment, and stalking).

Mandatory reporting

Present law provides relative to the handling of sexually-oriented criminal offenses at public postsecondary education institutions. Proposed law instead uses the term "power-based violence", which includes dating violence, domestic violence, sexual assault, sexual harassment, and stalking, and proposed law provides the following:

- (1) Requires employees to report power-based violence to the campus Title IX Coordinator. Provides exceptions.
- (2) Requires the Title IX Coordinator to report to the chancellor.
- (3) Requires the chancellor to report to the system president.
- (4) Requires the system president to report to the management board.
- (5) Requires an institution to terminate any employee who fails to comply with these requirements.
- (6) Grants victims the right to obtain a copy of any report pertaining to any incident involving them.

Memoranda of understanding

Present law requires each institution and local criminal justice agency to enter into a memorandum of understanding (MOU) relative to responsibilities, information, investigation protocols, and other aspects of dealing with sexually-oriented criminal offenses. Requires that the MOU be updated every two years. Proposed law requires instead that an MOU relative to power-based violence be updated on at least an annual basis.

Hotline information

Present law requires institutions to post certain information on their website, including the phone number and website address for a victims' hotline. Requires this information to be updated "timely". Proposed law instead requires it to be updated on at least an annual basis.

Online reporting system

Present law authorizes institutions to provide an online reporting system to collect anonymous disclosures of crimes and track patterns of crime on campus. Proposed law requires rather than authorizes such online reporting systems.

Training

Present law requires the Bd. of Regents to have developed a training program relative to handling sexually-oriented criminal offenses by Jan. 1, 2016, and for institutions to have provided such training not later than the beginning of the 2016-2017 school year. Proposed law extends such deadlines to Jan. 1, 2022, and the beginning of the 2022-2023 academic year, respectively, and provides for the training to address power-based violence; adds that training shall also be provided to members of each public postsecondary education management board.

Student surveys

Present law requires an institution to administer an anonymous sexual assault climate survey to its students once every three years. Proposed law changes the terminology to a power-based violence climate survey, makes this an annual requirement, and additionally requires results to be posted prominently on each institution's website and for each institution to make every effort to maximize student participation in the survey.

Present law requires the Bd. of Regents to develop the survey in consultation with the management boards and work with such boards in researching and selecting the best method for survey development and administration. Proposed law additionally requires the Bd. of Regents to consult with victims' advocacy groups and student leaders who represent a variety of student organizations and affiliations when performing these responsibilities.

Present law requires the Bd. of Regents to submit a written report on survey results to the House and Senate education committees and governor not later than Sept. 1st following administration of the survey. Proposed law changes this deadline to 45 days prior to the convening of each Regular Session of the Legislature.

(Amends R.S. 17:3399.13, 3399.14(A), (B), and (C)(3) and (4), 3399.15(intro. para.), (2)(b) and (f), (3), (5), and (6), and 3399.17; Adds R.S. 17:3399.12)