

2021 Regular Session

SENATE BILL NO. 230

BY SENATORS MIZELL AND BARROW AND REPRESENTATIVES DAVIS AND HILFERTY

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

COLLEGES/UNIVERSITIES. Provides relative to power-based violence on college and university campuses. (gov sig)

1 AN ACT

2 To amend and reenact Part XII of Chapter 26 of Title 17 of the Louisiana Revised Statutes

3 of 1950, consisting of R.S. 17:3399.11 through 3399.19, and to enact R.S.

4 15:624(A)(3), relative to power-based violence on college and university campuses;

5 to provide for reporting incidents of power-based violence at certain public and

6 private institutions of higher education; to provide for coordination between

7 institutions and local law enforcement; to provide for the number and training for

8 confidential advisors, mandatory reporters, and Title IX coordinators; to require

9 reports regarding training; to provide an amnesty policy; to require certain reports

10 be posted on institution websites; to provide relative to immunity of mandatory

11 reporters; to provide relative to failure to report or filing an intentionally false report;

12 to provide for certain confidentiality; to prohibit retaliation; to require annual reports

13 on compliance; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 15:624(A)(3) is hereby enacted to read as follows:

16 §624. Sexually-oriented criminal offense data; reporting

17 A. * * *

1 **(3) By February fifteenth of each year, each college or university campus**
 2 **police department shall submit the report to the institution's chancellor and**
 3 **Title IX coordinator. The chancellor shall have the report posted on the**
 4 **institution's website.**

5 * * *

6 Section 2. Part XII of Chapter 26 of Title 17 of the Louisiana Revised Statutes of
 7 1950, consisting of R.S. 17:3399.11 through 3399.19, is hereby amended and reenacted to
 8 read as follows:

9 PART XII. CAMPUS ACCOUNTABILITY AND SAFETY

10 §3399.11. Short ~~Title~~ **title**

11 This Part may be referred to as the "Campus Accountability and Safety Act".

12 ~~§3399.13.~~ **§3399.12.** Definitions

13 For the purposes of this Part, the following terms **and phrases** shall have the
 14 following meanings unless the context clearly indicates otherwise:

15 (1) **"Board of Regents" means the body corporate created by Article**
 16 **VIII, Section 5(A) of the Constitution of Louisiana.**

17 (2) ~~"President" means the president of the system of the respective institution.~~

18 **"Board of supervisors" means the management board of a postsecondary**
 19 **education system.**

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

22 **"Chancellor" means the chief executive officer of an institution.**

23 **(4)(a) "Employee" means anyone who is either:**

24 **(i) An administrative officer or official of an institution.**

25 **(ii) Appointed to a post or position at an institution created by rule, law,**
 26 **policy, resolution, or executive order.**

27 **(iii) Employed by an agency, officer, or official of an institution.**

28 **(b) "Employee" does not include a student enrolled at the institution.**

29 **(5) "Institution" means a public institution of postsecondary education**

1 institution.

2 (6)(a) "Power-based violence" means any form of interpersonal violence
3 intended to control or intimidate another person through the assertion of power
4 over them. "Power-based violence" includes the following:

5 (i) Sexual harassment which means unwelcome, verbal or physical
6 behavior of a sexual nature, or unwanted sexual advances, requests for sexual
7 favours and other acts of a sexual nature where submission is made a term or
8 condition of an educational or work opportunity.

9 (ii) Sexual assault which means any nonconsensual sexual contact
10 including but not limited to any offense or act included in R.S. 15:541(24) or
11 obscenity (R.S. 14:106).

12 (iii) Domestic violence which means a felony or misdemeanor crime of
13 violence committed upon a victim either:

14 (aa) By a current or former spouse or intimate partner of the victim.

15 (bb) By a person with whom the victim shares a child in common.

16 (cc) By a person who is cohabitating with, or has cohabitated with, the
17 victim as a spouse or intimate partner.

18 (iv) Dating violence which means violence committed by a person who
19 is or has been in a social relationship of a romantic or intimate nature with the
20 victim. The existence of such a relationship shall be determined based on the
21 victim's statement and with consideration of the length of the relationship, the
22 type of relationship, and the frequency of interaction between the persons
23 involved in the relationship. Dating violence includes, but is not limited to,
24 sexual or physical abuse or threat of such abuse.

25 (v) Stalking which means engaging in a course of conduct directed at a
26 specific person that would cause a reasonable person to either:

27 (aa) Fear for the person's safety or the safety of others.

28 (bb) Suffer substantial emotional distress.

29 (b) For the purposes of stalking:

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

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

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

11 (7) "Responsible employee" means each employee of an institution who
12 receives notice or witnesses an incident of power-based violence. "Responsible
13 employee" does not include a confidential advisor or employee who has
14 privileged communications with a student as provided by law.

15 (8) "System president" means the president of the system of the
16 respective institution.

17 **§3319.13. Reporting**

18 A. Except as provided in Subsection B of this Section, any responsible
19 employee who receives information or witnesses an incident of power-based
20 violence committed by or against a student shall promptly report the incident
21 to the institution's Title IX coordinator.

22 B. A responsible employee is not required to make a report if
23 information is received under either of the following circumstances:

24 (1) During a public forum or awareness event in which an individual
25 may disclose an incident of power-based violence as part of educating others.

26 (2) Disclosure is made in the course of academic work product consistent
27 with the assignment.

28 C. A report under this Section shall include the following information if
29 known:

1 **(1) The identity of the victim.**

2 **(2) The identity of the alleged perpetrator.**

3 **(3) The type of power-based violence alleged to have been committed.**

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

6 **§3399.13.1. Administrative reporting requirements**

7 **A. Not less than once every three months, the Title IX coordinator of an**
8 **institution shall submit to the chancellor of the institution a written report on**
9 **the reports received, including information regarding:**

10 **(1) The investigation of those reports.**

11 **(2) The disposition, if any, of any disciplinary processes arising from**
12 **those reports.**

13 **(3) The reports for which the institution determined not to initiate a**
14 **disciplinary process, if any.**

15 **B. The Title IX coordinator of an institution shall immediately report**
16 **to the chancellor of the institution an incident reported to the coordinator under**
17 **R.S. 17:3399.13 if the coordinator has cause to believe that the safety of any**
18 **person is in imminent danger as a result of the incident.**

19 **C. Subject to Subsection D of this Section, at least once during each fall**
20 **or spring semester, the chancellor of an institution shall submit to the**
21 **institution's board of supervisors and post the report on the institution's website**
22 **a report, which report shall not identify any person but shall include:**

23 **(1) The number of reports received under R.S. 17:3399.13.**

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

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

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

29 **(5) Any disciplinary action taken.**

1 D. If for any semester an institution has fewer than one thousand five
2 hundred enrolled students, the chancellor of the institution shall submit and
3 post a report required under Subsection C of this Section for that semester only
4 if more than five reports were received during that semester.

5 §3399.13.2. Immunities

6 A. A person acting in good faith who reports or assists in the
7 investigation of a report of an incident described by R.S. 17:3399.13(A), or who
8 testifies or otherwise participates in a disciplinary process or judicial
9 proceeding arising from a report of such an incident:

10 (1) Shall be immune from civil liability and from criminal liability that
11 might otherwise be incurred or imposed as a result of those actions.

12 (2) May not be subjected to any disciplinary action by the institution in
13 which the person is enrolled or employed for any violation by the person of the
14 institution's code of conduct reasonably related to the incident for which
15 suspension or expulsion from the institution is not a possible punishment.

16 B. Subsection A of this Section shall not apply to a person who
17 perpetrates or assists in the perpetration of the incident reported under R.S.
18 17:3399.13.

19 § 3399.13.3. Failure to report or false report

20 An employee who is required to make a report under R.S. 17:3399.13
21 and knowingly fails to make the report or, with the intent to harm or deceive,
22 makes a report under R.S. 17:3399.13 that is knowingly false shall be
23 terminated or otherwise disciplined if the institution determines in accordance
24 with the institution's disciplinary procedure that the employee knowingly failed
25 to make a report or, with the intent to harm or deceive, knowingly made a false
26 report.

27 §3399.13.4. Confidentiality

28 A. Unless waived in writing by the alleged victim, the identity of an
29 alleged victim of an incident reported under R.S. 17:3399.13 is confidential and

1 not subject to disclosure except to:

2 (1) A person employed by or under contract with the institution to which
3 the report is made who is necessary to conduct an investigation of the report or
4 any related hearings.

5 (2) A law enforcement officer as necessary to conduct a criminal
6 investigation of the report.

7 (3) A person alleged to have perpetrated the incident, to the extent
8 required by law.

9 (4) A potential witness to the incident as necessary to conduct an
10 investigation of the report.

11 B. Nothing in this Section may be construed as prohibiting a victim from
12 making a report to a law enforcement agency.

13 §3399.13.5. Retaliation prohibited

14 A. An institution may not discipline or otherwise discriminate against
15 an employee who in good faith either:

16 (1) Makes a report as required by R.S. 17:3399.13.

17 (2) Cooperates with an investigation, a disciplinary process, or a judicial
18 proceeding relating to a report made by the employee as required by R.S.
19 17:3399.13.

20 B. Subsection A of this Section does not apply to an employee who
21 either:

22 (1) Reports an incident described by R.S. 17:3399.13(A) perpetrated by
23 the employee.

24 (2) Cooperates with an investigation, a disciplinary process, or a judicial
25 proceeding relating to an allegation that the employee perpetrated an incident
26 described by R.S. 17:3399.13.

27 §3399.14. Coordination with local law enforcement

28 A. Each On or before January 1, 2022, each institution and law
29 enforcement and criminal justice agency located within the parish of the campus of

1 the institution shall enter into **and maintain** a memorandum of understanding to
 2 clearly delineate responsibilities and share information in accordance with applicable
 3 federal and state confidentiality laws, including but not limited to trends about
 4 ~~sexually-oriented criminal offenses~~ **power-based violence** occurring against students
 5 of the institution.

6 B. The Board of Regents' Uniform Policy on Sexual Assault shall require that
 7 the memorandum of understanding, as described in Subsection A of this Section, be
 8 updated every two years.

9 C. (1) Each memorandum of understanding entered into pursuant to this Part
 10 shall include:

11 ~~(1)~~(a) Delineation and sharing protocols of investigative responsibilities.

12 ~~(2)~~(b) Protocols for investigations, including standards for notification and
 13 communication and measures to promote evidence preservation.

14 ~~(3)~~(c) Agreed-upon training and requirements for the parties to the
 15 memorandum of understanding on issues related to ~~sexually-oriented criminal~~
 16 ~~offenses~~ **power-based violence** for the purpose of sharing information and
 17 coordinating training to the extent possible.

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

21 **(2) Each executed memorandum of understanding shall be signed by all**
 22 **parties to the memorandum.**

23 D. The local law enforcement agency shall include information on its police
 24 report regarding the status of the alleged victim as a student at an institution as
 25 defined in this Part.

26 E. ~~The institution shall not be held liable if the local law enforcement agency~~
 27 ~~refuses to enter into a memorandum of understanding as required by this Section.~~

28 §3399.15. Campus security policy

29 The Board of Regents shall establish uniform policies and best practices to

1 implement measures to address the reporting of ~~sexually-oriented criminal offenses~~
2 **power-based violence** on institution campuses, the prevention of such ~~crimes~~
3 **violence**, and the medical and mental health care needed for these alleged victims
4 that includes the following:

5 A.(1) Confidential advisors. (a) The institution shall designate individuals
6 who shall serve as confidential advisors, such as health care staff, clergy, staff of a
7 women's center, or other such categories. Such designation shall not preclude the
8 institution from partnering with national, state, or local victim services organizations
9 to serve as confidential advisors or to serve in other confidential roles.

10 (b) The confidential advisor shall complete the **annual** training requirements
11 as provided in this Part.

12 (c) ~~Not later than January 1, 2016, the~~ **The** attorney general in collaboration
13 with the Board of Regents, shall develop online training materials, in addition to the
14 training required under this Part, for the **annual** training of confidential advisors.

15 (d) The confidential advisor shall inform the alleged victim of the following:

16 (i) The rights of the alleged victim under federal and state law and the
17 policies of the institution.

18 (ii) The alleged victim's reporting options, including the option to notify the
19 institution, the option to notify local law enforcement, and any other reporting
20 options.

21 (iii) If reasonably known, the potential consequences of the reporting options
22 provided in this Part.

23 (iv) The process of investigation and disciplinary proceedings of the
24 institution.

25 (v) The process of investigation and adjudication of the criminal justice
26 system.

27 (vi) The limited jurisdiction, scope, and available sanctions of the
28 institutional student disciplinary proceeding, and that it should not be considered a
29 substitute for the criminal justice process.

1 (vii) Potential reasonable accommodations that the institution may provide
2 to an alleged victim.

3 (viii) The name and location of the nearest medical facility where an alleged
4 victim may have a rape kit administered by an individual trained in sexual assault
5 forensic medical examination and evidence collection, and information on
6 transportation options and available reimbursement for a visit to such facility.

7 (e) The confidential advisor may, as appropriate, serve as a liaison between
8 an alleged victim and the institution or local law enforcement, when directed to do
9 so in writing by an alleged victim who has been fully and accurately informed about
10 what procedures shall occur if information is shared, and assist an alleged victim in
11 contacting and reporting to a responsible employee or local law enforcement.

12 (f) The confidential advisor shall be authorized by the institution to liaise
13 with appropriate staff at the institution to arrange reasonable accommodations
14 through the institution to allow the alleged victim to change living arrangements or
15 class schedules, obtain accessibility services, or arrange other accommodations.

16 (g) The confidential advisor shall be authorized to accompany the alleged
17 victim, when requested to do so by the alleged victim, to interviews and other
18 proceedings of a campus investigation and institutional disciplinary proceedings.

19 (h) The confidential advisor shall advise the alleged victim of, and provide
20 written information regarding, both the alleged victim's rights and the institution's
21 responsibilities regarding orders of protection, no-contact orders, restraining orders,
22 or similar lawful orders issued by a court of competent jurisdiction or by the
23 institution.

24 (i) The confidential advisor shall not be obligated to report crimes to the
25 institution or law enforcement in a way that identifies an alleged victim or an
26 accused individual, unless otherwise required to do so by law. The confidential
27 advisor shall, to the extent authorized under law, provide confidential services to
28 students. Any requests for accommodations, as provided in Subparagraph (f) of this
29 Paragraph, made by a confidential advisor shall not trigger an investigation by the

1 institution.

2 (j) ~~No later than the beginning of the 2016-2017 academic year, the~~ The
3 institution shall appoint an adequate number of confidential advisors. The Board of
4 Regents shall determine the adequate number of confidential advisors for an
5 institution, based upon its size, no later than January 1, ~~2016~~ 2022, and annually
6 thereafter.

7 (k) Each institution that enrolls fewer than five thousand students may partner
8 with another institution in their system or region to provide the services described
9 in this Subsection. However, this Paragraph shall not absolve the institution of its
10 obligations under this Part.

11 (l) Each institution may offer the same accommodations to the accused that
12 are hereby required to be offered to the alleged victim.

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

14 (a) The contact information for obtaining a confidential advisor.

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

17 (c) The process of investigation and disciplinary proceedings of the
18 institution.

19 (d) The process of investigation and adjudication of the criminal justice
20 system.

21 (e) Potential reasonable accommodations that the institution may provide to
22 an alleged victim.

23 (f) The telephone number and website address for a local, state, or national
24 hotline providing information to ~~sexual violence~~ victims of power-based violence,
25 which shall be updated on a timely basis.

26 (g) The name and location of the nearest medical facility where an individual
27 may have a rape kit administered by an individual trained in sexual assault forensic
28 medical examination and evidence collection, and information on transportation
29 options and available reimbursement for a visit to such facility.

1 **(h) Each current memorandum of understanding between the institution**
2 **and a local law enforcement and criminal justice agency located within the**
3 **parish of the campus.**

4 (3) Online reporting. The institution ~~may~~ **shall** provide an online reporting
5 system to collect anonymous disclosures of **power-based violations and other**
6 crimes and track patterns of **power-based violations and other** crimes on campus.
7 An individual may submit a confidential report about a specific **power-based**
8 **violation or other** crime to the institution using the online reporting system. ~~If the~~
9 ~~institution uses an online reporting system, the~~ **The** online system shall also include
10 information regarding how to report a **power-based violation or other** crime to a
11 responsible employee and law enforcement and how to contact a confidential
12 advisor.

13 (4) Amnesty policy. The institution shall provide an amnesty policy for any
14 student who reports, in good faith, ~~sexual~~ **power-based** violence to the institution.
15 Such student shall not be sanctioned by the institution for a nonviolent student
16 conduct violation, such as underage drinking, that is revealed in the course of such
17 a report.

18 (5) Training.(a) Not later than January 1, ~~2016~~ **2022**, the Board of Regents,
19 in coordination with the attorney general and in consultation with state or local
20 victim services organizations, shall develop a program for **annual** training for each
21 **responsible employee**, individual who is involved in implementing an institution's
22 student grievance procedures, including each individual who is responsible for
23 resolving complaints of reported ~~sex offenses~~ **power-based violence**, or sexual
24 misconduct policy violations, **each Title IX coordinator at all institutions**, and
25 each employee of an institution who has responsibility for conducting an interview
26 with an alleged victim of a ~~sexually-oriented criminal offense~~ **power-based**
27 **violence**. Each institution shall ensure that the individuals and employees receive the
28 training described in this Subsection no later than the beginning of the ~~2016-2017~~
29 **2022-2023** academic year.

1 **(b) The Board of Regents shall annually review and revise as needed the**
2 **annual training program.**

3 **(c)(i) Each chancellor shall compile and submit a report to the**
4 **institution's board of supervisors by January tenth of each year containing**
5 **information from the previous calendar year regarding the institution's**
6 **compliance with the requirements of this Paragraph including the number and**
7 **percentage of individuals in the institution who have completed the training**
8 **requirements, the number of complaints of power-based violations received by**
9 **the institution, the number of complaints which resulted in a finding that**
10 **power-based violations occurred, the number of complaints in which the finding**
11 **of power-based violations resulted in discipline or corrective action, and the**
12 **amount of time it took to resolve each complaint. The reports shall be posted on**
13 **the institution's website.**

14 **(ii) Each system president shall compile and submit a system-wide report**
15 **of the information provided Subsubparagraph (c)(i) of this Paragraph to the**
16 **institution's board of supervisors by January fifteenth of each year.**

17 **(iii) Reports compiled under this Subparagraph shall be public record.**

18 (6) Inter-campus transfer policy. (a) The Board of Regents' Uniform Policy
19 on Sexual Assault shall require that institutions communicate with each other
20 regarding transfer of students ~~any student~~ **any student** against whom ~~disciplinary action has been~~
21 ~~taken~~ **a complaint has been reported to the Title IX coordinator** as a result of a
22 code of conduct violation relating to ~~sexually-oriented criminal offenses~~ **power-**
23 **based violence and once the investigation and adjudication is complete.**

24 B. The Board of Regents' Uniform Policy on Sexual Assault shall require that
25 institutions withhold transcripts of students ~~any student~~ **any student** seeking a transfer with
26 ~~pending disciplinary action~~ **against whom a complaint has been reported to the**
27 **Title IX coordinator** relative to ~~sexually-oriented criminal offenses~~ **power-based**
28 **violence**, until such investigation and adjudication is complete.

29 §3399.16. Safety education; recognition and reporting of potential threats to safety

1 A. The administration of each ~~public postsecondary~~ institution, in
2 consultation with campus or local law enforcement agencies, shall develop and
3 distribute information to students regarding internet and cell phone safety and online
4 content that is a potential threat to school safety. Such information shall include how
5 to recognize and report potential threats to school safety that are posted on the
6 internet, including but not limited to posts on social media.

7 B. The information shall include the following:

8 (1) Instruction on how to detect potential threats to school safety exhibited
9 online, including on any social media platform.

10 (2) Visual examples of possible threats.

11 (3) The reporting process, as provided in Subsection D of this Section.

12 **(4) Information and instruction on reports posted on the institution's**
13 **website pursuant to this Part.**

14 C. The information shall be distributed as part of new student orientation and
15 shall be posted on an easily accessible page of each institution's website.

16 D. The reporting process shall, at a minimum, include:

17 (1) A standardized form to be used by students, faculty, and other personnel
18 to report potential threats. The form shall request, at a minimum, the following
19 information:

20 (a) Name of institution, person, or group being threatened.

21 (b) Name of student, individual, or group threatening violence.

22 (c) Date and time the threat was made.

23 (d) Method by which the threat was made, including the social media outlet
24 or website where the threat was posted, a screenshot or recording of the threat, if
25 available, and any printed evidence of the threat.

26 (2) A process for allowing anonymous reporting and for safeguarding the
27 identity of a person who reports a threat.

28 E. Each institution shall adopt a policy to implement the provisions of this
29 Part. The policy shall require that for every threat report received, the actions taken

1 by the institution and the campus law enforcement agency or security officers be
2 documented. The policies shall also provide for guidelines on referring the threats
3 to the appropriate law enforcement agencies.

4 §3399.17. Public institutions of postsecondary education ~~institutions~~; ~~sexual assault~~
5 power-based violence surveys

6 A.(1) Each ~~public postsecondary education~~ institution shall administer an
7 anonymous ~~sexual assault~~ power-based violence climate survey to its students once
8 every three years. If an institution administers other surveys with regard to campus
9 safety, the ~~sexual assault~~ power-based violence survey may be included as a
10 separate component of any such survey provided that the ~~sexual assault~~ power-
11 based violence component is clearly identified as such.

12 (2) Participation in the ~~sexual assault~~ power-based violence climate survey
13 shall be voluntary; no student shall be required or coerced to participate in the survey
14 nor shall any student face retribution or negative consequence of any kind for
15 declining to participate.

16 B. The Board of Regents shall:

17 (1) Develop the survey in consultation with the public postsecondary
18 education management boards and in accordance with national best practices.

19 (2) Work with the management boards in researching and selecting the best
20 method of developing and administering the survey.

21 (3) Submit a written report on survey results to the House Committee on
22 Education, Senate Committee on Education, and the governor not later than
23 September first following administration of the survey. The report shall summarize
24 results from each ~~public postsecondary education~~ institution and the state as a whole.

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

27 C. Each public postsecondary institution shall:

28 (1) Administer a survey during the 2022-2023 academic year and every third
29 year thereafter.

1 (2) Report survey results to the institution's board of supervisors and the
2 Board of Regents.

3 **(3) Publish the survey results on the institution's website.**

4 **§3399.18. Compliance**

5 **A.(1) The chancellor of each institution shall by January tenth annually**
6 **certify in writing to the institution's board of supervisors whether the institution**
7 **is in substantial compliance with this Part. Each report shall be posted on the**
8 **internet website of the board of supervisors and the respective institution.**

9 **(2) Each system president shall by January fifteenth annually certify in**
10 **writing to the Board of Regents whether each institution within the system is in**
11 **substantial compliance with this Part. Each report shall be posted on the**
12 **system's website.**

13 **B. On or before February 15, 2022, and annually thereafter, the Board**
14 **of Regents shall submit to the governor, the speaker of the House of**
15 **Representatives, the president of the Senate, the House Committee on the**
16 **Administration of Criminal Justice, the Senate Committee on Judiciary B, the**
17 **House Committee on Education, and the Senate Committee on Education a**
18 **report regarding compliance with this Part, including a summary of the**
19 **institutions found not to be in substantial compliance as provided by this**
20 **Section during the calendar year preceding the date of the report.**

21 **§3399.19. Rules**

22 **The Board of Regents shall adopt to implement and enforce this Part.**

23 Section 3. This Act shall become effective upon signature by the governor or, if not
24 signed by the governor, upon expiration of the time for bills to become law without signature
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become
27 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

SB 230 Original 2021 Regular Session Mizell

Present law requires, by February 15th annually, each criminal justice agency, including college and university campus police departments, to report all of the following information for the prior calendar year to the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice:

- (1) The number of sexually-oriented criminal offenses reported.
- (2) The status of each sexually-oriented criminal offense case reported.
- (3) The number of sexual assault collection kits submitted for analysis.
- (4) The number of reported sexual assault collection kits requiring analysis.
- (5) The number of reported sexual assault collection kits received.
- (6) The number of unreported sexual assault collection kits received.
- (7) The number of reported sexual assault collection kits that were untested due to judicial or investigative reasons.

Also requires each criminal justice agency, including college and university campus police departments, to provide written notification if it does not have:

- (1) Any sexually-oriented criminal offenses reported.
- (2) Any reported sexual assault collection kits in its possession.
- (3) Any unreported sexual assault collection kits in its possession.

Proposed law requires that each report by a college or university police department also be transmitted to the institution's chancellor and Title IX coordinator. Requires that the chancellor have the report posted on the institution's website. Otherwise retains present law.

Present law provides for the "Campus Accountability and Safety Act".

Present law defines "institution", "president", and "sexually-oriented offense".

Proposed law redefines "president" as "system president" and deletes "sexually-oriented offense". Adds several definitions as follows:

- (1) "Board of Regents" means the body corporate created by Article VIII, Section 5(A) of the constitution.
- (2) "Board of supervisors" means a management of board of a postsecondary education system.
- (3) "Chancellor" means the chief executive officer of an institution of postsecondary education.
- (4) "Employee" means anyone who is either:

- (a) An administrative officer or official of an institution.
- (b) Appointed to a post or position at an institution created by rule, law, policy, resolution, or executive order.
- (c) Employed by an agency, officer, or official of an institution.

"Employee" does not include a student enrolled at the institution.

- (5) "Power-based violence" means any form of interpersonal violence intended to control or intimidate another person through the assertion of power over them. "Power-based violence" includes the following:

- (a) Sexual harassment which means unwelcome, verbal or physical behavior of a sexual nature, or unwanted sexual advances, requests for sexual favors and other acts of a sexual nature where submission is made a term or condition of an educational or work opportunity.
- (b) Sexual assault which means any nonconsensual sexual contact including but not limited to any offense or act included in R.S. 15:541(24) or obscenity (R.S. 14:106).
- (c) Domestic violence which means a felony or misdemeanor crime of violence committed upon a victim either:
 - (i) By a current or former spouse or intimate partner of the victim.
 - (ii) By a person with whom the victim shares a child in common.
 - (iii) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner.
- (d) Dating violence which means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the victim's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or threat of such abuse.
- (e) Stalking which means engaging in a course of conduct directed at a specific person that would cause a reasonable person to either:
 - (i) Fear for the person's safety or the safety of others.
 - (ii) Suffer substantial emotional distress.

For the purposes of stalking:

- (i) "Course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (ii) "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.
- (iii) "Substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other

professional treatment or counseling.

- (6) "Responsible employee" means each employee of an institution who receives notice or witnesses incidents of power-based violence. "Responsible employee" does not include a confidential advisor or employee who has privileged communications with a student as provided by law.
- (7) "System president" means the president of the system of the respective institution.

Proposed law requires that any responsible employee of an institution who receives information or witnesses any incident of power-based violence committed by or against a student promptly report the incident to the campus Title IX coordinator. However, a responsible employee is not required to make a report if information is received (1) during a public forum or awareness event in which an individual may disclose an incident of power-based violence as part of educating others or (2) disclosure is made in the course of academic work product consistent with the assignment.

Proposed law requires that a report include the following information if known:

- (1) The identity of the victim.
- (2) The identity of the alleged perpetrator.
- (3) The type of power-based violence alleged to have been committed.
- (4) Any other information about witnesses, location, date, and time that the incident occurred.

Proposed law requires that not less than once every three months, the Title IX coordinator submit to the chancellor of the institution a written report on reports received, including information regarding:

- (1) The investigation of those reports.
- (2) The disposition, if any, of any disciplinary processes arising from those reports.
- (3) The reports for which the institution determined not to initiate a disciplinary process, if any.

Proposed law requires the Title IX coordinator immediately report to the chancellor of the institution an incident reported to the coordinator, if the coordinator has cause to believe that the safety of any person is in imminent danger as a result of the incident.

Proposed law requires that at least once during each fall or spring semester, the chancellor of an institution submit to the institution's board of supervisors and post on the institution's internet website a report concerning the reports received, which shall not identify any person but shall include:

- (1) The number of reports received.
- (2) The number of investigations conducted as a result of the reports.
- (3) The disposition, if any, of any disciplinary processes arising from the reports.
- (4) The number of those reports for which the institution determined not to initiate a disciplinary process, if any.
- (5) Any disciplinary action taken.

Proposed law provides that if for any semester an institution has fewer than 1,500 enrolled students, the chancellor of the institution shall submit and post a report for that semester only if more than five reports were received during that semester.

Proposed law provides that a person acting in good faith who reports or assists in the investigation of a report of an incident, or who testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such an incident:

- (1) Shall be immune from civil liability and from criminal liability that might otherwise be incurred or imposed as a result of those actions.
- (2) May not be subjected to any disciplinary action by the institution in which the person is enrolled or employed for any violation by the person of the institution's code of conduct reasonably related to the incident for which suspension or expulsion from the institution is not a possible punishment.

However, these provisions do not apply to a person who perpetrates or assists in the perpetration of the incident reported.

Proposed law provides that an individual who is required to make a report and knowingly fails to make the report or an individual who, with the intent to harm or deceive, knowingly makes a report that is false shall be terminated or otherwise disciplined if the institution determines in accordance with the institution's disciplinary procedure to have failed to make a report or intentionally filed a false report.

Proposed law provides that unless waived in writing by the alleged victim, the identity of an alleged victim of an incident reported under proposed law is confidential and not subject to disclosure. However, the identity may be disclosed only to:

- (1) A person employed by or under contract with the institution to which the report is made who are necessary to conduct an investigation of the report or any related hearings.
- (2) A law enforcement officer as necessary to conduct a criminal investigation of the report.
- (3) A person alleged to have perpetrated the incident, to the extent required by other law.
- (4) A potential witness to the incident as necessary to conduct an investigation of the report.

Nothing in proposed law may be construed as prohibiting a victim from making a report to a law enforcement agency.

Proposed law provides that an institution may not discipline or otherwise discriminate against an employee who in good faith either:

- (1) Makes a report as required by proposed law.
- (2) Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to a report made by the employee.

This provision does not apply to an employee who either:

- (1) Reports an incident perpetrated by the employee.
- (2) Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to an allegation that the employee perpetrated an incident.

Present law requires each institution and law enforcement and criminal justice agency located within the parish of the campus of the institution to enter into a memorandum of understanding 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 memoranda be entered into by January 1, 2022, and thereafter maintained; substitutes "power-based violence" for "sexually-oriented criminal offenses"; and requires that each memorandum be signed by all parties to the agreement. Otherwise retains present law.

Present law requires the Board of Regents' Uniform Policy on Sexual Assault require that the memorandum of understanding be updated every two years.

Present law requires that each memorandum of understanding 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 memorandum of understanding 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 memorandum of understanding in order to improve campus safety.

Proposed law refers to "power-based violence" rather than "sexually-oriented offense" and requires that each memorandum be signed by all of the parties to the agreement.

Present law requires that the local law enforcement agency include information on its police report regarding the status of the alleged victim as a student at an institution. Proposed law retains present law.

Present law provides that the institution shall not be held liable if the local law enforcement agency refuses to enter into a memorandum of understanding. Proposed law repeals present law.

Present law requires that the Board of Regents establish uniform policies and best practices to implement measures to address the reporting of sexual harassment or sexually-oriented criminal offenses on institution campuses, the prevention of such crimes, and the medical and mental health care needed for these alleged victims.

Proposed law substitutes "power-based violence" for "sexually-oriented offense"; otherwise retains present law.

Present law requires that confidential advisors designated by institutions complete certain training. Proposed law requires such training annually.

Present law mandates that the Board of Regents requires institutions to appoint an adequate number of confidential advisors. Provides that an institution that enrolls fewer than 5,000 students may partner with another institution in their system or region to provide these services. However, such action does not absolve the institution of its obligations under present law.

Proposed law requires that the board annually determine an adequate number for each

institution. Otherwise retains present law.

Present law requires that each institution list on its website:

- (1) The contact information for obtaining a confidential advisor.
- (2) Reporting options for alleged victims of a sexually-oriented criminal offense.
- (3) The process of investigation and disciplinary proceedings of the institution.
- (4) The process of investigation and adjudication of the criminal justice system.
- (5) Potential reasonable accommodations that the institution may provide to an alleged victim.
- (6) 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.
- (7) 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.

Proposed law substitutes "power-based violence" for "sexually-oriented offense" and further requires including each current memorandum of understanding between the institution and each law enforcement and criminal justice agency located within the parish of the campus.

Present law provides that an 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. Provides that 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.

Proposed law also applies to power-based violence and requires each institution to provide an online reporting system. Otherwise retains present law.

Present law requires that the institution provide an amnesty policy for any student who reports, in good faith, sexual violence to the institution so that the 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 the report.

Proposed law changes reference from sexual violence to power-based violence". Otherwise retains present law.

Present law requires that not later than January 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. Present law requires that each institution ensure that the individuals and employees receive the training no later than the beginning of the 2016-2017 academic year.

Proposed law requires by January 1, 2022, such training includes power-based violence, be on an annual basis, and specifically include responsible employees and Title IX coordinators.

Proposed law requires that each institution ensure that the training be receive no later than the beginning of the 2022-2023 academic year. Requires the Board of Regents annually review the training and revise as needed. Otherwise retains present law.

Proposed law requires that each chancellor shall compile and submit a report to the institution's board of supervisors by January 10th of each year containing information from the previous calendar year regarding the institution's compliance with the training requirements including the number and percentage of employee's in the institution who have completed the training requirements, the number of power-based violence complaints received by the institution, the number of complaints which resulted in a finding that power-based violence occurred, the number of complaints in which the finding of power-based violence resulted in discipline or corrective action, and the amount of time it took to resolve each complaint. Requires the report be posted on the institution's website.

Proposed law requires each system president to compile and submit a system-wide report of the information provided above to the Board of Regents by January 15th.

Proposed law provides that the reports are public record.

Present law requires that the Board of Regents' Uniform Policy on Sexual Assault require that 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 and that 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 requires that the Board of Regents' Uniform Policy on Sexual Assault require that institutions communicate with each other regarding transfer of any student against whom a complaint has been reported to the Title IX coordinator as a result of a code of conduct violation relating to power-based violence and once the investigation and adjudication is complete and that institutions withhold transcripts of any student seeking a transfer against whom a complaint has been reported to the Title IX coordinator relative to power-based violence until such investigation and adjudication is complete.

Present law requires the administration of each institution, in consultation with campus or local law enforcement agencies, develop and distribute information to students regarding internet and cell phone safety and online content that is a potential threat to school safety. Requires certain information be included on how to recognize and report potential threats to school safety that are posted on the internet, including but not limited to posts on social media and be posted on the institution's website.

Proposed law adds providing information and instruction on reporting power-based offenses.

Present law requires that each institution administer an anonymous voluntary sexual assault climate survey to its students once every three years. Provides that the Board of Regents shall:

- (1) Develop the survey in consultation with the public postsecondary education management boards and in accordance with national best practices.
- (2) Work with the management boards in researching and selecting the best method of developing and administering the survey.
- (3) Submit a written report on survey results to the House Committee on Education, Senate Committee on Education , and the governor not later than September first following administration of the survey which summarizes results from each institution and the state as a whole.

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

Present law requires each institution to report the survey results to the Board of Regents.

Proposed law requires that each institution also send the report to the institution's board of supervisors and publish the survey results on the institution's website. Otherwise retains present law.

Proposed law requires that the chancellor of each institution by January 10th annually certify in writing to the institution's board of supervisors whether the institution is in substantial compliance with proposed law. Requires that each report be posted on the Internet website of the board and the respective institution.

Proposed law requires each system president by January 15th annually certify in writing to the Board of Regents whether each institutions within the system is in substantial compliance with this proposed law. Requires each report be posted on the system's website.

Proposed law requires that, on or before February 15, 2022, and annually thereafter, the Board of Regents submit to the governor, the speaker of the House of Representatives, the president of the Senate, the House Committee on Administration of Criminal Justice, the Senate Committee on Judiciary C, the House Committee on Education, and the Senate Committee on Education a report regarding compliance with proposed law, including a summary of the institutions found not to be in substantial compliance during the calendar year preceding the date of the report.

Proposed law requires that the Board of Regents adopt rules to implement and enforce proposed law.

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

(Amends R.S. 17:3399.11-3399.19; adds R.S. 15:624(A)(3))