

2021 Regular Session

SENATE BILL NO. 230

BY SENATORS MIZELL, ABRAHAM, ALLAIN, BARROW, BERNARD, BOUDREAUX, BOUIE, CARTER, CATHEY, CLOUD, CONNICK, CORTEZ, FESI, FIELDS, FOIL, HARRIS, HENRY, HENSGENS, HEWITT, JACKSON, LAMBERT, LUNEAU, MCMATH, MILLIGAN, FRED MILLS, ROBERT MILLS, MORRIS, PEACOCK, PETERSON, POPE, PRICE, SMITH, TALBOT, WARD, WHITE AND WOMACK AND REPRESENTATIVES CARPENTER, DAVIS, EDMONSTON, HILFERTY, MOORE AND WHITE

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, comprised of R.S. 17:3399.11 through 3399.17, 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 public postsecondary

6 education institutions; to provide for coordination between institutions and law

7 enforcement; to provide for confidential advisors, responsible employees, and Title

8 IX coordinators; to require training; to provide for immunities for certain employees;

9 to provide for confidentiality; to provide relative to failure to report or filing false

10 reports; to prohibit retaliation; to require annual reports; to require student safety

11 education; to provide for student power-based violence surveys; and to provide for

12 related matters.

13 Be it enacted by the Legislature of Louisiana:

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

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

16 A. * * *

17 **(3) By February fifteenth of each year, each college or university campus**

1 police department shall submit the report to the president of the institution's
 2 system, the chancellor of the institution, and the institution's Title IX
 3 coordinator. The chancellor shall have the report posted on the institution's
 4 website.

5 * * *

6 Section 2. Part XII of Chapter 26 of Title 17 of the Louisiana Revised Statutes of
 7 1950, comprised of R.S. 17:3399.11 through 3399.17, 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) **"Chancellor" means the chief executive officer of a public**
 16 **postsecondary education institution.**

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

18 **"Confidential advisor" means a person designated by an institution to**
 19 **provide emergency and on-going support to students who are alleged victims of**
 20 **power-based violence.**

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

23 **"Employee" means:**

24 (a)(i) **An administrative officer, official, or employee of a public**
 25 **postsecondary education board or institution.**

26 (ii) **Anyone appointed to a public postsecondary education board or**
 27 **institution.**

28 (iii) **Anyone employed by or through a public postsecondary education**
 29 **board or institution.**

1 **(iv) Anyone employed by a foundation or association related to a public**
2 **postsecondary education management board or institution.**

3 **(b) "Employee" does not include a student enrolled at a public**
4 **postsecondary institution.**

5 (4) "Institution" means a public postsecondary education institution.

6 **(5) "Power-based violence" means any form of interpersonal violence**
7 **intended to control or intimidate another person through the assertion of power**
8 **over them and shall include, at a minimum, the following:**

9 **(a) Dating violence (R.S. 46:2151(C)).**

10 **(b) Domestic and family violence (R.S. 46:2121.1(2) and 2132(3)).**

11 **(c) Nonconsensual observation of another person's sexuality without the**
12 **other person's consent, including voyeurism (R.S. 14:283.1), video voyeurism**
13 **(R.S. 14:283), nonconsensual disclosure of a private image (R.S. 14:283.2), and**
14 **peeping tom activities (R.S. 14:284).**

15 **(d) Sexual assault (R.S. 14:41, 42 through 43.5, 89, 89.1, and 106).**

16 **(e) "Sexual exploitation" which means an act attempted or committed**
17 **by a person for sexual gratification, financial gain, or other advancement**
18 **through the abuse of another person's sexuality including prostituting another**
19 **person (R.S. 14:46.2 and 82 through 86).**

20 **(f) "Sexual harassment" which means unwelcome sexual advances,**
21 **requests for sexual favors, and other verbal, physical, or inappropriate conduct**
22 **of a sexual nature when the conduct explicitly or implicitly affects an**
23 **individual's employment or education, unreasonably interferes with an**
24 **individual's work or educational performance, or creates an intimidating,**
25 **hostile, or offensive work or educational environment and has no legitimate**
26 **relationship to the subject matter of a course or academic research.**

27 **(g) Stalking (R.S. 14:40.2) and cyberstalking (R.S. 14:40.3).**

28 **(h) Unlawful communications (R.S. 14:285).**

29 **(i) Unwelcome sexual or sex- or gender-based conduct that is objectively**

1 offensive, has a discriminatory intent, and lacks a bona fide academic purpose.

2 (6) "Responsible employee" means an employee of a public
3 postsecondary education institution who receives notice or witnesses an incident
4 of power-based violence. "Responsible employee" does not include an employee
5 designated as a confidential advisor pursuant to R.S. 17:3399.15(A) or an
6 employee who has privileged communications with a student as provided by
7 law.

8 (7) "System president" means the president of a public postsecondary
9 education system.

10 (8) "Title IX coordinator" means the individual designated by a public
11 postsecondary education institution as the institution's official for coordinating
12 the institution's efforts to comply with and carry out its responsibilities under
13 Title IX of the Education Amendments of 1972.

14 §3399.13 Mandatory reporting of power-based violence

15 A. Except as provided in Subsection C of this Section, a responsible
16 employee who receives a complaint or witnesses an incident of power-based
17 violence committed by or against a student shall promptly report the incident
18 to the institution's Title IX coordinator.

19 B. A responsible employee who receives information regarding
20 retaliation against a person for reporting power-based violence shall promptly
21 report the retaliation to the institution's Title IX coordinator.

22 C. 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 discloses 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 D. 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 or retaliation alleged to have been
4 committed.

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

7 §3399.13.1. Administrative reporting requirements

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

11 (1) The investigation of those reports.

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

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

16 (4) Any complaints of retaliation and the status of the investigation of the
17 complaints.

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

22 C. The chancellor of each institution shall annually submit a report to
23 the institution's management board by October tenth containing information
24 from the previous calendar year regarding the institution's compliance with the
25 requirements of this Part and the Jeanne Clery Disclosure of Campus Security
26 Policy and Crime Statistics Act of 1990, 20 U.S.C. §1092(f). The report shall
27 include the number of responsible employees and confidential advisors for the
28 institution, the number and percentage of these who have completed required
29 annual training, the number of complaints of power-based violence received by

1 the institution, the number of complaints which resulted in a finding that
2 power-based violations occurred, the number of complaints in which the finding
3 of power-based violations resulted in discipline or corrective action, the type of
4 discipline or corrective action taken, the amount of time it took to resolve each
5 complaint, the number of reports of retaliation, and the findings of any
6 investigations on reports of retaliation. The report shall be posted on the
7 institution's website.

8 D. The system president shall annually submit a systemwide report of the
9 information provided Subsection C of this Section to the institution's
10 management board and the Board of Regents by November fifteenth. The
11 reports shall be published on the websites of the management board and the
12 Board of Regents.

13 E. The Board of Regents shall annually submit a report to the governor,
14 the president of the Senate, the speaker of the House of Representatives, and the
15 Senate and House committees on education by December thirty-first which shall
16 include the systemwide and statewide information. The report shall also include
17 any recommendations for legislation. The report shall be published on the
18 website of the Board of Regents.

19 §3399.13.2. Immunities

20 A. A person acting in good faith who reports or assists in the
21 investigation of a report of an incident described by R.S. 17:3399.13, or who
22 testifies or otherwise participates in a disciplinary process or judicial
23 proceeding arising from a report of such an incident:

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

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

1 **B. Subsection A of this Section shall not apply to a person who**
2 **perpetrates or assists in the perpetration of the incident reported under R.S.**
3 **17:3399.13.**

4 **§3399.13.3. Failure to report or false report**

5 **A responsible employee who is determined, by the institution's**
6 **disciplinary procedures, to have knowingly failed to make a report or, with the**
7 **intent to harm or deceive, made a report that is knowingly false shall be**
8 **terminated.**

9 **§3399.13.4. Confidentiality**

10 **A. Unless waived in writing by the alleged victim, the identity of an**
11 **alleged victim of an incident reported under R.S. 17:3399.13 is confidential and**
12 **not subject to disclosure except to:**

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

16 **(2) A law enforcement officer as necessary to conduct a criminal**
17 **investigation of the report.**

18 **(3) A person alleged to have perpetrated the incident, to the extent**
19 **required by law.**

20 **(4) A potential witness to the incident as necessary to conduct an**
21 **investigation of the report.**

22 **B. The alleged victim shall have the right to obtain a copy of any report**
23 **made pursuant to this Part that pertains to the alleged victim.**

24 **§3399.13.5. Retaliation prohibited**

25 **A. An institution may not discipline, discriminate, or otherwise retaliate**
26 **against an employee or student who in good faith either:**

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

28 **(2) Cooperates with an investigation, a disciplinary process, or a judicial**
29 **proceeding relating to a report made by the employee or student as required by**

1 **R.S. 17:3399.13.**

2 **B. Subsection A of this Section does not apply to an employee or student**
 3 **who either:**

4 **(1) Reports an incident described by R.S. 17:3399.13(A) perpetrated by**
 5 **the employee or student.**

6 **(2) Cooperates with an investigation, a disciplinary process, or a judicial**
 7 **proceeding relating to an allegation that the employee or student perpetrated**
 8 **an incident described by R.S. 17:3399.13.**

9 §3399.14. Coordination with local law enforcement

10 A. ~~Each~~ **On or before January 1, 2022, each** institution and law
 11 enforcement and criminal justice agency located within the parish of the campus of
 12 the institution shall enter into **and maintain** a memorandum of understanding to
 13 clearly delineate responsibilities and share information in accordance with applicable
 14 federal and state confidentiality laws, including but not limited to trends about
 15 ~~sexually-oriented criminal offenses~~ **power-based violence** occurring **by or** against
 16 students of the institution.

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

20 C. Each memorandum of understanding entered into pursuant to this Part
 21 shall include:

22 (1) Delineation and sharing protocols of investigative responsibilities.

23 (2) Protocols for investigations, including standards for notification and
 24 communication and measures to promote evidence preservation.

25 (3) Agreed-upon training and requirements for the parties to the
 26 memorandum of understanding on issues related to ~~sexually-oriented criminal~~
 27 ~~offenses~~ **power-based violence** for the purpose of sharing information and
 28 coordinating training to the extent possible.

29 (4) A method of sharing general information about ~~sexually-oriented criminal~~

1 offenses **power-based violence** occurring within the jurisdiction of the parties to the
2 memorandum of understanding in order to improve campus safety.

3 ~~D. The (5) A requirement that the~~ local law enforcement agency shall
4 include information on its police report regarding the status of the alleged victim as
5 a student at an institution ~~as defined in this Part.~~

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

9 **C. Each memorandum of understanding shall be signed by all parties to**
10 **the memorandum.**

11 **D. Each executed memorandum of understanding shall be reviewed**
12 **annually by each institution's chancellor, Title IX coordinator, and the**
13 **executive officer of the criminal justice agency, and shall be revised as**
14 **considered necessary.**

15 **E. Nothing in this Part or any memorandum of understanding entered**
16 **into pursuant to this Section shall be construed as prohibiting a victim from**
17 **making a complaint to both the institution and a law enforcement agency.**

18 §3399.15. Campus security policy

19 **A.** The Board of Regents shall establish uniform policies and best practices
20 to implement measures to address the reporting of ~~sexually-oriented criminal~~
21 ~~offenses~~ **power-based violence** on institution campuses, the prevention of such
22 ~~crimes~~ **violence**, and the medical and mental health care needed for these alleged
23 victims ~~that includes the following:~~

24 **B. Each public postsecondary education management board shall**
25 **institute policies incorporating the policies and best practices prescribed by the**
26 **Board of Regents regarding the prevention and reporting of incidents of power-**
27 **based violence occurring by or against students of an institution. The policies,**
28 **at a minimum, shall require each institution under the board's management to**
29 **provide for the following:**

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

6 (b) **Prior to designating a person as a confidential advisor, the person**
7 **shall complete a training program that includes information on power-based**
8 **violence, trauma-informed interactions, Title IX requirements, state law on**
9 **power-based violence, and resources for victims.**

10 (c) The confidential advisor shall complete ~~the training requirements as~~
11 ~~provided in this Part.~~ **annual training relative to power-based violence and Title**
12 **IX. The initial and annual training shall be developed by**

13 (c) ~~Not later than January 1, 2016,~~ the attorney general in collaboration with
14 the Board of Regents; **and shall develop be provided through** online training
15 materials; ~~in addition to the training required under this Part, for the training of~~
16 ~~confidential advisors.~~

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

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

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

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

25 (iv) The process of investigation and disciplinary proceedings of the
26 institution.

27 (v) The process of investigation and adjudication of the criminal justice
28 system.

29 (vi) The limited jurisdiction, scope, and available sanctions of the

1 institutional student disciplinary proceeding, and that it should not be considered a
2 substitute for the criminal justice process.

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

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

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

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

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

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

26 (i) The confidential advisor shall not be obligated to report crimes to the
27 institution or law enforcement in a way that identifies an alleged victim or an
28 accused individual, unless otherwise required to do so by law. The confidential
29 advisor shall, to the extent authorized under law, provide confidential services to

1 students. Any requests for accommodations, as provided in Subparagraph (f) of this
2 Paragraph, made by a confidential advisor shall not trigger an investigation by the
3 institution.

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

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

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

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

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

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

19 (c) The process of investigation and disciplinary proceedings of the
20 institution.

21 (d) The process of investigation and adjudication of the criminal justice
22 system.

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

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

28 (g) The name and location of the nearest medical facility where an individual
29 may have a rape kit administered by an individual trained in sexual assault forensic

1 medical examination and evidence collection, and information on transportation
2 options and available reimbursement for a visit to such facility.

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

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

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

20 (5) Training. ~~(a) Not later than January 1, 2016, the Board of Regents, in~~
21 ~~coordination with the attorney general and in consultation with state or local victim~~
22 ~~services organizations, shall develop a program for~~ **The institution shall require**
23 **annual** training for each **responsible employee,** individual who is involved in
24 implementing an institution's student grievance procedures, including each individual
25 who is responsible for resolving complaints of reported ~~sex offenses~~ **power-based**
26 **violence,** or sexual misconduct policy violations, **each Title IX coordinator at all**
27 **institutions,** and each employee of an institution who has responsibility for
28 conducting an interview with an alleged victim of a ~~sexually-oriented criminal~~
29 ~~offense~~ **power-based violence.** Each institution shall ensure that the individuals and

1 employees receive the training described in this Subsection no later than the
2 beginning of the ~~2016-2017~~ 2022-2023 academic year.

3 (b) Not later than January 1, 2022, the Board of Regents, in coordination
4 with the attorney general and in consultation with state or local victim services
5 organizations, shall develop the annual training program required by
6 Subparagraph (a) of this Paragraph. The Board of Regents shall annually
7 review and revise as needed the annual training program.

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

15 B. ~~The Board of Regents' Uniform Policy on Sexual Assault shall require that~~
16 ~~institutions~~ (b) Institutions shall withhold the transcripts of students any student
17 seeking a transfer with pending disciplinary action against whom a complaint has
18 been reported to the Title IX coordinator relative to ~~sexually-oriented criminal~~
19 offenses power-based violence, until such investigation and adjudication is
20 complete.

21 §3399.16. Safety education; recognition and reporting of potential threats to safety

22 A. The administration of each ~~public~~ postsecondary institution, in
23 consultation with campus or local law enforcement agencies, shall develop and
24 distribute information to students regarding power-based violence, campus safety,
25 and internet and cell phone safety and online content that is a potential threat to
26 school safety. ~~Such information shall include how to recognize and report potential~~
27 ~~threats to school safety that are posted on the internet, including but not limited to~~
28 ~~posts on social media.~~

29 B. The information shall include the following:

1 (1) Instruction on how to identify and prevent power-based violence and
 2 how to detect potential threats to school safety exhibited online, including on any
 3 social media platform.

4 (2) ~~Visual examples of possible threats.~~ How to report incidents of power-
 5 based violence, crimes on campus, violations of the student code of conduct, and
 6 possible threats to campus safety.

7 (3) ~~The reporting processes, as provided in Subsection D of this Section.~~
 8 Where to find reports regarding campus safety.

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

11 D. The reporting process for possible threats to the campus shall, at a
 12 minimum, include:

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

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

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

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

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

22 (2) A process for allowing anonymous reporting and for safeguarding the
 23 identity of a person who reports ~~a threat.~~ an incident of power-based violence or
 24 a safety threat.

25 E. Each institution shall adopt a policy to implement the provisions of this
 26 Part. The policy shall require that for every ~~threat report~~ report of an incident of
 27 power-based violence or a safety threat received, the actions taken by the
 28 institution and the campus law enforcement agency or security officers be
 29 documented. The policies shall also provide for guidelines on referring the ~~threats~~

1 reports to the appropriate law enforcement agencies.

2 §3399.17. Public ~~institutions of~~ postsecondary education ~~institutions~~; ~~sexual assault~~
3 **power-based violence** surveys

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

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

14 **(3) Each institution shall make every effort to maximize student**
15 **participation in the survey.**

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) Consult with victims' advocacy groups and student leaders who**
22 **represent a variety of student organizations and affiliations, including student**
23 **government associations, academic associations, faith-based groups, cultural**
24 **groups, and fraternities and sororities, when meeting the requirements of**
25 **Paragraph (1) of this Subsection.**

26 **(4)** Submit a written report on survey results to the House Committee on
27 Education, Senate Committee on Education, and the governor not later than
28 September first following administration of the survey. The report shall summarize
29 results from each ~~public postsecondary education~~ institution and the state as a whole.

1 ~~(4)~~**(5)** Publish the survey results on the board's website and in any other
 2 location or venue the board ~~deems~~ **considers** necessary or appropriate.

3 C. Each public postsecondary institution shall:

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

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

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

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

The original instrument was prepared by Jerry J. Guillot. The following digest, which does not constitute a part of the legislative instrument, was prepared by Matt DeVille.

| | | |
|--------------------|----------------------|--------|
| | DIGEST | |
| SB 230 Reengrossed | 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 system president, 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) "Chancellor" means the chief executive officer of a public postsecondary education institution.
- (2) "Confidential advisor" means a person designated by an institution to provide emergency and on-going support to students who are alleged victims of power-based violence.
- (3) "Employee" means:
 - (a) An administrative officer, official, or employee of a public postsecondary education board or institution.
 - (b) Anyone appointed to a public postsecondary education board or institution.
 - (c) Anyone employed by or through a public postsecondary education board or institution.
 - (d) Anyone employed by a foundation or association related to a public postsecondary education management board or institution.

"Employee" does not include a student enrolled at a public postsecondary institution.

- (4) "Institution" means a public postsecondary education 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 and shall include, at a minimum, the following:
 - (a) Dating violence (R.S. 46:2151(C)).
 - (b) Domestic and family violence (R.S. 46:2121.1(2) and 2132(3)).
 - (c) Nonconsensual observation of another person's sexuality without the other person's consent, including voyeurism (R.S. 14:283.1), video voyeurism (R.S. 14:283), nonconsensual disclosure of a private image (R.S. 14:283.2), and peeping tom activities (R.S. 14:284).
 - (d) Sexual assault (R.S. 14:41, 42 through 43.5, 89, 89.1, and 106).
 - (e) "Sexual exploitation" which means an act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse of another person's sexuality including prostituting another person

(R.S. 14:46.2 and 82 through 86).

- (f) "Sexual harassment" which means unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature when the conduct explicitly or implicitly affects an individual's employment or education, unreasonably interferes with an individual's work or educational performance, or creates an intimidating, hostile, or offensive work or educational environment and has no legitimate relationship to the subject matter of a course or academic research.
 - (g) Stalking (R.S. 14:40.2) and cyberstalking (R.S. 14:40.3).
 - (h) Unlawful communications (R.S. 14:285).
 - (i) Unwelcome sexual, sex or gender-based conduct that is objectively offensive, has a discriminatory intent, and lacks a bona fide academic purpose.
- (6) "Responsible employee" means an employee of a public postsecondary education institution who receives notice or witnesses an incident of power-based violence. "Responsible employee" does not include an employee designated as a confidential advisor pursuant to R.S. 17:3399.15(A) or an employee who has privileged communications with a student as provided by law.
- (7) "System president" means the president of a public postsecondary education system.
- (8) "Title IX coordinator" means the individual designated by a public postsecondary education institution as the institution's official for coordinating the institution's efforts to comply with and carry out its responsibilities under Title IX of the Education Amendments of 1972.

Proposed law requires that any responsible employee of an institution who receives information or witnesses any incident of power-based violence or retaliation 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 or retaliation alleged to have been committed.
- (4) Any other information about witnesses, location, date, and time that the incident occurred.

Proposed law provides that not less than once every three months, the Title IX coordinator shall 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.
- (4) Any complaints of retaliation and the status of the investigation of the complaints.

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 the chancellor of an institution to annually submit, by October 10, to the institution's management board and post on the institution's internet website a report concerning the reports received, which shall not identify any specific 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.
- (6) The number of reports of retaliation and the findings of those investigations.

Proposed law requires the system president to annually submit, by November 15, a systemwide report to the institution's management board and the Board of Regents. Provides that the reports shall be posted on the management board's and Board of Regents' website.

Proposed law requires the Board of Regents to annually submit, by December 31, a report on power-based violence incidents to the governor and the legislature and post the report on the board's website.

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 a responsible employee who is determined by the institution's disciplinary procedure to have knowingly failed to make a report or, with the intent to harm or deceive, made a report that is knowingly false shall be terminated.

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.

Proposed law provides that an alleged victim has a right to obtain a copy of any report that pertains to the alleged victim.

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

Proposed law provides that an institution may not discipline, discriminate, or otherwise retaliate against an employee or student 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 or student.

This provision does not apply to an employee or student who either:

- (1) Reports an incident perpetrated by the employee or student.
- (2) Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to an allegation that the employee or student 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 (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 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 MOU be updated every two years.

Proposed law deletes these provisions and instead requires that the chancellor, the Title IX coordinator, and the executive officer of the criminal justice agency annually review the MOU and make revisions as needed.

Present law requires that each MOU 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.

Proposed law requires each management board to institute policies incorporating the policies and best practices of the Board of Regents relative to power-based violence.

Proposed law requires the management board policies to direct the institutions to develop policies to provide for certain things, including confidential advisors, information on their website, online reporting, an amnesty policy, annual training of confidential advisors and responsible employees, and an inter-campus transfer policy.

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

Proposed law requires such training annually and specifies certain information to be included in the training.

Present law 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. Further 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 that by January 1, 2022, such training include power-based violence, be on an annual basis, and specifically include responsible employees and Title IX coordinators. Further requires that each institution ensure that the training be received no later than the beginning of the 2022-2023 academic year. Requires the Board of Regents to annually review the training and revise as needed. Otherwise retains present law.

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 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 power-based violence complaint 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 power-based violence and how to report such 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 make every effort to maximize student participation in the survey. Also requires the institutions to send report to the institution's management board and publish the survey results on the institution's website. Otherwise retains present law.

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

(Amends R.S. 17:3399.11, 3399.13, 3399.14, 3399.15, 3399.16, and 3399.17; adds R.S. 15:624(A)(3) and R.S. 17:3399.12 and 3399.13.1-5)

Summary of Amendments Adopted by Senate

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

1. Adds and clarifies definitions.
2. Requires reporting of incidents of retaliation.
3. Changes reporting dates and entities required to make annual reports.

4. Requires management boards to adopt policies regarding power-based violence that require institutions to implement the policies.
5. Requires termination of an employee who is determined to have knowingly failed to make a report or who knowingly makes a false report.
6. Provides the alleged victim the right to obtain a copy of any report that pertains to the victim.
7. Adds students to the groups prohibited from being retaliated against.
8. Requires each memorandum of understanding to be annually reviewed and revised as necessary.
9. Specifies that certain information be included in the training for confidential advisors.
10. Requires annual training of responsible employees.
11. Requires the Board of Regents and the attorney general to consult with victim services organizations in developing annual training programs.
12. Expands the safety education program to include power-based violence.
13. Requires each institution to maximize student participation in the Board of Regents' power-based violence survey.
14. Incorporated compliance reporting into annual reporting requirements.
15. Deletes provisions relative to rule making.
16. Makes technical corrections.

Senate Floor Amendments to engrossed bill

1. Makes technical corrections.