

2015 Regular Session

SENATE BILL NO. 255

BY SENATORS MORRELL, APPEL AND PETERSON AND REPRESENTATIVES
ADAMS, WESLEY BISHOP, GISCLAIR AND PATRICK WILLIAMS

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

POSTSECONDARY ED. Provides relative to sexual assault on college campuses. (gov sig)

AN ACT

To enact R.S. 17:3351(H) and Part XII of Chapter 26 of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 17:3399.11 through 3399.15, relative to sexual assault on campuses of postsecondary institutions; to provide for the general powers, duties, and functions of postsecondary management boards; to require annual anonymous sexual assault climate surveys to be conducted; to provide for procedures; to provide for reporting; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:3351(H) and Part XII of Chapter 26 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:3399.11 through 3399.15, are hereby enacted to read as follows:

§3351. General powers, duties, and functions of college and university boards

* * *

H.(1)(a) Beginning with the 2015-2016 academic year, or as soon as funding is made available, each public postsecondary institution shall administer an annual, anonymous sexual assault climate survey to its students, faculty, and employees.

1 **(b) The Board of Regents, in consultation with the public postsecondary**
2 **education management boards, shall establish procedures for the**
3 **administration of the survey and may use the National Intimate Partner and**
4 **Sexual Violence Survey developed by the National Center for Injury Prevention**
5 **and Control of the Centers for Disease Control and Prevention as a model.**

6 **(2) Each public postsecondary institution shall:**

7 **(a) Administer the survey to students, faculty, and employees.**

8 **(b) Report school-specific results of the survey to the Board of Regents.**

9 **(3) The Board of Regents shall:**

10 **(a) Submit a written report not later than September first of each year**
11 **regarding the survey results of each public postsecondary institution and the**
12 **state as a whole to the governor and the Senate and House of Representatives**
13 **committees on education for the previous academic year.**

14 **(b) Publish the survey results on the board's website and in any other**
15 **location or venue the board deems necessary or appropriate.**

16 **(4) The provisions of this Subsection shall be implemented as**
17 **expeditiously and to the maximum extent possible utilizing any and all available**
18 **funding sources, including funding provided by the legislature.**

19 * * *

20 **PART XII. CAMPUS ACCOUNTABILITY AND SAFETY**

21 **§3399.11. Short Title**

22 **This Part may be referred to as the Campus Accountability and Safety**
23 **Act.**

24 **§3399.12. Scope**

25 **Each postsecondary institution in this state that receives any Title IX**
26 **funding from the United States Department of Education shall be subject to all**
27 **the provisions of this Part.**

28 **§3399.13. Definitions**

29 **For the purposes of this Part, the following terms shall have the following**

1 meanings unless the context clearly indicates otherwise:

2 (1) "Institution" means a postsecondary institution as defined in R.S.
3 17:3399.12.

4 (2) "Responsible employee" means an employee of an institution who has
5 the authority to take action to redress a sexually-oriented criminal offense or
6 has the duty to report a sexually-oriented criminal offense or any other
7 misconduct by students or employees to appropriate school officials, and:

8 (a) Has completed the training requirements provided in this Part or
9 agrees to complete such training within a reasonable time after being designated
10 as a responsible employee.

11 (b) Is responsible for assisting the Title IX coordinator or designee with
12 providing a student or employee who reports that the student has been a victim
13 of a sexually- oriented criminal offense, whether the offense occurred on or off
14 campus, with a written explanation of the student's rights and options, as
15 described in this Part.

16 (3) "President" means the president of the system of the respective
17 institution.

18 (4) "Sexually-oriented criminal offense" includes any sexual assault
19 offense as defined in R.S. 44:51 and any sexual abuse offense as defined in R.S.
20 14:403.

21 (5) "Title IX coordinator" means the individual designated as a
22 responsible employee in Section 106.8(a) of Title 34, Code of Federal
23 Regulations, as such section is in effect on the date of enactment of this Part.

24 §3399.14. Coordination with local law enforcement

25 A. Each institution and law enforcement agency that has jurisdiction to
26 report as a first responder to a campus of the institution shall enter into a
27 memorandum of understanding to clearly delineate responsibilities and share
28 information in accordance with applicable federal and state confidentiality laws,
29 including but not limited to trends about sexually-oriented criminal offenses

1 occurring against students of the institution.

2 B. Each institution shall review the memorandum of understanding
3 entered into pursuant to this Part with each law enforcement agency every two
4 years. As part of the review process, the institution shall contact each law
5 enforcement agency to discuss how changes in policies or procedures at either
6 the institution or the law enforcement agency may impact the provisions of the
7 memorandum of understanding. If changes in policies or procedures are
8 identified that impact the provisions of the memorandum of understanding, the
9 institution and the law enforcement agency shall update the memorandum of
10 understanding as necessary.

11 C. Each memorandum of understanding entered into pursuant to this
12 Part shall include:

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

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

16 (3) Agreed upon training and requirements for the institution on issues
17 related to sexually-oriented criminal offenses.

18 (4) A method of sharing information about specific crimes, when
19 authorized or requested to do so by a victim who has been fully and accurately
20 informed about what procedures shall occur if the information is shared.

21 (5) A method of sharing information about specific crimes anonymously,
22 when authorized or requested to do so by a victim who has been fully and
23 accurately informed about what procedures shall occur if the information is
24 shared, in order to better protect overall campus safety.

25 §3399.15. Campus security policy

26 The Board of Regents shall establish uniform policies and best practices
27 to implement measures to address the reporting of sexually-oriented criminal
28 offenses on postsecondary campuses, the prevention of such crimes, and the
29 medical and mental health care needed for these victims that includes the

1 following:

2 A.(1) Confidential advisors. The president, upon recommendation of the
3 chief academic officer of each campus, shall designate employees who shall
4 serve as confidential advisors, such as health care staff, clergy, staff of a
5 women's center, or other such categories. Such designation shall not preclude
6 the institution from partnering with national, state, or local victim services
7 organizations to serve as confidential advisors or to serve in other confidential
8 roles.

9 (2) The confidential advisor shall complete the training requirements as
10 provided in this Part.

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

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

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

18 (b) The victim's reporting options, including the option to notify a
19 responsible employee, the option to notify local law enforcement, and any other
20 reporting options.

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

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

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

27 (f) That the institutional student disciplinary proceeding has limited
28 jurisdiction, scope, and available sanctions, and should not be considered a
29 substitute for the criminal justice process.

1 (g) Potential reasonable accommodations that the institution may
2 provide to a victim.

3 (h) The name and location of the nearest medical facility where a victim
4 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 (5) The confidential advisor may, as appropriate, serve as a liaison
8 between a victim and the institution or local law enforcement, when directed to
9 do so in writing by a victim who has been fully and accurately informed about
10 what procedures shall occur if information is shared, and assist a victim in
11 contacting and reporting to a responsible employee or local law enforcement.

12 (6) 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 victim to change living arrangements or
15 class schedules, obtain accessibility services, or arrange other accommodations.

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

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

23 (9) The confidential advisor shall not be obligated to report crimes to the
24 institution or law enforcement in a way that identifies a victim or an accused
25 individual, unless otherwise required to do so by law. The confidential advisor
26 shall, to the extent authorized under law, provide confidential services to
27 students. Any requests for accommodations, as provided in Paragraph (6) of
28 this Subsection, made by a confidential advisor shall not trigger an investigation
29 by the institution.

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

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

9 B. Website. The institution shall list on its website:

10 (1) The contact information for obtaining a confidential advisor.

11 (2) Reporting options for victims of a sexually-oriented criminal offense.

12 (3) The process of investigation and disciplinary proceedings of the
13 institution.

14 (4) The process of investigation and adjudication of the criminal justice
15 system.

16 (5) Potential reasonable accommodations that the institution may
17 provide to a victim.

18 (6) The telephone number and website address for a local, state, or
19 national hotline providing information to sexual violence victims, which shall
20 be updated on a timely basis.

21 (7) The name and location of the nearest medical facility where an
22 individual may have a rape kit administered by an individual trained in sexual
23 assault forensic medical examination and evidence collection, and information
24 on transportation options and available reimbursement for a visit to such
25 facility.

26 C. Online reporting. The institution may provide an online reporting
27 system to collect anonymous disclosures of crimes and track patterns of crime
28 on campus. An individual may submit a confidential report about a specific
29 crime to the institution using the online reporting system. If the institution uses

1 an online reporting system, the online system shall also include information
 2 regarding how to report a crime to a responsible employee and law enforcement
 3 and how to contact a confidential advisor.

4 D. Amnesty policy. The institution shall provide an amnesty policy for
 5 any student who reports, in good faith, sexual violence to a postsecondary
 6 education responsible employee. Such student shall not be sanctioned by the
 7 institution for a nonviolent student conduct violation, such as underage
 8 drinking, that is revealed in the course of such a report.

9 E. Training. Not later than January 1, 2016, the Board of Regents, in
 10 coordination with the attorney general and in consultation with state or local
 11 victim services organizations, shall develop a program for training for each
 12 individual who is involved in implementing an institution's student grievance
 13 procedures, including each individual who is responsible for resolving
 14 complaints of reported sex offenses or sexual misconduct policy violations, and
 15 each employee of an institution who has responsibility for conducting an
 16 interview with an alleged victim of a sexually-oriented criminal offense. Each
 17 institution shall ensure that the individuals and employees receive the training
 18 described in this Subsection no later than the beginning of the 2016-2017
 19 academic year.

20 Section 2. This Act shall become effective upon signature by the governor or, if not
 21 signed by the governor, upon expiration of the time for bills to become law without signature
 22 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 23 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 24 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 Alan Miller.

DIGEST

SB 255 Original 2015 Regular Session Morrell

Proposed law requires that beginning with the 2015-2016 academic year, or as soon as funding is made available, each public postsecondary institution shall administer an annual, anonymous sexual assault climate survey to its students, faculty, and employees.

Proposed law requires the Board of Regents, in consultation with the public postsecondary education management boards, to establish procedures for the administration of the survey and may use the National Intimate Partner and Sexual Violence Survey developed by the National Center for Injury Prevention and Control of the Centers for Disease Control and Prevention as a model.

Proposed law requires each public postsecondary institution to:

- (1) Administer the survey to students, faculty, and employees.
- (2) Report school-specific results of the survey to the Board of Regents.

Proposed law requires the Board of Regents to:

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

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

Proposed law creates the Campus Accountability and Safety Act.

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

Proposed law provides for a "responsible employee" who is an employee of a postsecondary institution with the authority to take action to redress a sexually-oriented criminal offense or has the duty to report such an offense or any other misconduct by students or employees to appropriate school officials.

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

Proposed law requires each institution to review and, if necessary, revise the MOU with each law enforcement agency every two years.

Proposed law requires the MOU to include:

- (1) Delineation and sharing protocols of investigative responsibilities.
- (2) Protocols for investigations, including standards for notification and communication and measures to promote evidence preservation.
- (3) Agreed upon training and requirements for the institution on issues related to sexually-oriented criminal offenses.
- (4) A method of sharing information about specific crimes, when authorized or requested to do so by a victim who has been fully and accurately informed about what procedures shall occur if the information is shared.

- (5) A method of sharing information about specific crimes anonymously, when authorized or requested to do so by a victim who has been fully and accurately informed about what procedures shall occur if the information is shared, in order to better protect overall campus safety.

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

- (1) Confidential advisors. The president, upon recommendation of the chief academic officer of each campus, shall designate employees who shall serve as confidential advisors, such as health care staff, clergy, staff of a women's center, or other such categories. Such designation shall not preclude the institution from partnering with national, state, or local victim services organizations to serve as confidential advisors or to serve in other confidential roles.
- (a) The confidential advisor shall complete the training requirements as provided in proposed law.
- (b) Not later than January 1, 2016, the attorney general in collaboration with the Board of Regents shall develop online training materials.
- (c) The confidential advisor shall inform the victim of the following:
- (i) The rights of the victim under federal and state law and the policies of the institution.
- (ii) The victim's reporting options, including the option to notify a responsible employee, the option to notify local law enforcement, and any other reporting options.
- (iii) If reasonably known, the potential consequences of the reporting options.
- (iv) The process of investigation and disciplinary proceedings of the institution.
- (v) The process of investigation and adjudication of the criminal justice system.
- (vi) That the institutional student disciplinary proceeding has limited jurisdiction, scope, and available sanctions, and should not be considered a substitute for the criminal justice process.
- (vii) Potential reasonable accommodations that the institution may provide to a victim.
- (viii) The name and location of the nearest medical facility where a victim may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such facility.
- (d) The confidential advisor may serve as a liaison between a victim and the institution or local law enforcement, when directed to do so in writing, and assist a victim in contacting and reporting to a postsecondary education responsible employee or local law enforcement.

- (e) The confidential advisor shall be authorized by the institution to liaise with appropriate staff to arrange reasonable accommodations to allow the victim to change living arrangements or class schedules, obtain accessibility services, or arrange other accommodations.
 - (f) The confidential advisor shall be authorized to accompany the victim to interviews and other proceedings of a campus investigation and institutional disciplinary proceedings.
 - (g) The confidential advisor shall advise the victim of, and provide written information, regarding both the victim's rights and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a court of competent jurisdiction.
 - (h) The confidential advisor shall not be obligated to report crimes to the institution or law enforcement in a way that identifies a victim or an accused individual, unless otherwise required to do so by law. The confidential advisor shall, to the extent authorized under law, provide confidential services to students. Any requests for accommodations, made by a confidential advisor shall not trigger an investigation by the institution.
 - (i) No later than the beginning of the 2016-2017 academic year, the institution shall appoint an adequate number of confidential advisors. The Board of Regents shall determine the adequate number of confidential advisors for an institution based upon its size no later than January 1, 2016.
 - (j) Each institution that enrolls fewer than 5,000 students may partner with another institution in their system or region to provide services.
- (2) Website. The institution shall list on its website:
- (a) The contact information for obtaining a confidential advisor.
 - (b) Reporting options for victims of a sexually-oriented criminal offense.
 - (c) The process of investigation and disciplinary proceedings of the institution.
 - (d) The process of investigation and adjudication of the criminal justice system.
 - (e) Potential reasonable accommodations that the institution may provide to a victim.
 - (f) The telephone number and website address for a local, state, or national hotline providing information to sexual violence victims, which shall be updated on a timely basis.
 - (g) The name and location of the nearest medical facility where an individual may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such facility.
- (3) Online reporting. The institution may provide an online reporting system to collect anonymous disclosures of crimes and track patterns of crime on campus. An individual may submit a confidential report about a specific crime to the institution using the online reporting system. If the institution uses an online reporting system, the online system shall also include information regarding how to report a crime to a responsible employee and law enforcement and how to contact a confidential advisor.

- (4) **Amnesty policy.** The institution shall provide an amnesty policy for any student who reports, in good faith, sexual violence to a postsecondary education responsible employee. Such student shall not be sanctioned by the institution for a nonviolent student conduct violation, such as underage drinking, that is revealed in the course of such a report.
- (5) **Training.** Not later than 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. Each institution shall ensure that the individuals and employees receive the training described in this Subsection no later than the beginning of the 2016-2017 academic year.

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

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