

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/24/17
Date

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 968 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Mike Watson

[Signature]

Eddie Lucio Jr.

[Signature]

Querson

[Signature]

X Campbell MD

[Signature]

Beper [Signature]

J. M. L.

On the part of the Senate

On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 968

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a sexual assault policy at certain public and private
3 institutions of higher education and to requiring those
4 institutions to provide students and employees an option to
5 electronically report certain offenses to the institution.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 51.9363, Education Code, is amended to
8 read as follows:

9 Sec. 51.9363. [~~CAMPUS~~] SEXUAL ASSAULT POLICY. (a) In this
10 section, "postsecondary educational institution" means an
11 ["]institution of higher education or a private or independent
12 institution of higher education, as those terms are defined[" has
13 the meaning assigned] by Section 61.003.

14 (b) Each postsecondary educational institution [~~of higher~~
15 ~~education]~~ shall adopt a policy on [~~campus~~] sexual assault
16 applicable to each student enrolled at and each employee of the
17 institution. The policy must:

18 (1) include:

19 (A) definitions of prohibited behavior;

20 (B) sanctions for violations; and

21 (C) the protocol for reporting and responding to
22 reports of [~~campus~~] sexual assault; and

23 (2) be approved by the institution's governing board
24 before final adoption by the institution.

1 (c) Each postsecondary educational institution [~~of higher~~
2 ~~education~~] shall make the institution's [~~campus~~] sexual assault
3 policy available to students, faculty, and staff members by:

4 (1) including the policy in the institution's student
5 handbook and personnel handbook; and

6 (2) creating and maintaining a web page on the
7 institution's Internet website dedicated solely to the policy.

8 (d) Each postsecondary educational institution [~~of higher~~
9 ~~education~~] shall require each entering freshman or undergraduate
10 transfer student to attend an orientation on the institution's
11 [~~campus~~] sexual assault policy before or during the first semester
12 or term in which the student is enrolled at the institution. The
13 institution shall establish the format and content of the
14 orientation.

15 (e) Each postsecondary educational institution shall
16 develop and implement a public awareness campaign to inform
17 students enrolled at and employees of the institution of the
18 institution's sexual assault policy. As part of the campaign, the
19 institution shall provide to students information regarding the
20 protocol for reporting incidents of sexual assault adopted under
21 Subsection (b), including the name, office location, and contact
22 information of the institution's Title IX coordinator, by:

23 (1) e-mailing the information to each student at the
24 beginning of each semester or other academic term; and

25 (2) including the information in the orientation
26 required under Subsection (d).

27 (f) As part of the protocol for responding to reports of

1 sexual assault adopted under Subsection (b), each postsecondary
2 educational institution shall:

3 (1) to the greatest extent practicable based on the
4 number of counselors employed by the institution, ensure that each
5 alleged victim or alleged perpetrator of an incident of sexual
6 assault and any other person who reports such an incident are
7 offered counseling provided by a counselor who does not provide
8 counseling to any other person involved in the incident; and

9 (2) notwithstanding any other law, allow an alleged
10 victim or alleged perpetrator of an incident of sexual assault to
11 drop a course in which both parties are enrolled without any
12 academic penalty.

13 (g) Each biennium, each postsecondary educational
14 institution [~~of higher education~~] shall review the institution's
15 [~~campus~~] sexual assault policy and, with approval of the
16 institution's governing board, revise the policy as necessary.

17 SECTION 2. Subchapter Z, Chapter 51, Education Code, is
18 amended by adding Section 51.9365 to read as follows:

19 Sec. 51.9365. ELECTRONIC REPORTING OPTION FOR CERTAIN
20 OFFENSES. (a) In this section:

21 (1) "Dating violence" means abuse or violence, or a
22 threat of abuse or violence, against a person with whom the actor
23 has or has had a social relationship of a romantic or intimate
24 nature.

25 (2) "Postsecondary educational institution" means an
26 institution of higher education or a private or independent
27 institution of higher education, as those terms are defined by

1 Section 61.003.

2 (3) "Sexual assault" means sexual contact or
3 intercourse with a person without the person's consent, including
4 sexual contact or intercourse against the person's will or in a
5 circumstance in which the person is incapable of consenting to the
6 contact or intercourse.

7 (4) "Sexual harassment" means unwelcome, sex-based
8 verbal or physical conduct that:

9 (A) in the employment context, unreasonably
10 interferes with an employee's work performance or creates an
11 intimidating, hostile, or offensive work environment; or

12 (B) in the education context, is sufficiently
13 severe, persistent, or pervasive that the conduct interferes with a
14 student's ability to participate in or benefit from educational
15 programs or activities.

16 (5) "Stalking" means a course of conduct directed at a
17 person that would cause a reasonable person to fear for the person's
18 safety or to suffer substantial emotional distress.

19 (b) Each postsecondary educational institution shall
20 provide an option for a student enrolled at or an employee of the
21 institution to electronically report to the institution an
22 allegation of sexual harassment, sexual assault, dating violence,
23 or stalking committed against or witnessed by the student or
24 employee, regardless of the location at which the alleged offense
25 occurred.

26 (c) The electronic reporting option provided under
27 Subsection (b) must:

1 (1) enable a student or employee to report the alleged
2 offense anonymously; and

3 (2) be easily accessible through a clearly
4 identifiable link on the postsecondary educational institution's
5 Internet website home page.

6 (d) A protocol for reporting sexual assault adopted under
7 Section 51.9363 must comply with this section.

8 (e) The Texas Higher Education Coordinating Board may adopt
9 rules as necessary to administer this section.

10 (f) The commissioner of higher education shall establish an
11 advisory committee to recommend to the Texas Higher Education
12 Coordinating Board rules for adoption under Subsection (e). The
13 advisory committee consists of nine members appointed by the
14 commissioner. Each member must be a chief executive officer of a
15 postsecondary educational institution or a representative
16 designated by that officer. Not later than December 1, 2017, the
17 advisory committee shall submit the committee's recommendations to
18 the coordinating board. This subsection expires September 1, 2018.

19 SECTION 3. Section 51.9363, Education Code, as amended by
20 this Act, applies beginning with the 2017-2018 academic year.

21 SECTION 4. Not later than January 1, 2018, each public or
22 private postsecondary educational institution shall provide the
23 electronic reporting option required under Section 51.9365,
24 Education Code, as added by this Act.

25 SECTION 5. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

S.B. No. 968

- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2017.

Senate Bill 968
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION (IE)	CONFERENCE
<i>No equivalent provision.</i>	SECTION __. Section 51.9363, Education Code, is amended by amending Subsection (e) and adding Subsections (f) and (g) to read as follows:	SECTION 1. Section 51.9363, Education Code, is amended to read as follows:
<i>No equivalent provision.</i>	Same as Senate version.	Sec. 51.9363. [CAMPUS] SEXUAL ASSAULT POLICY. (a) In this section, " <u>postsecondary educational institution</u> " means an [" "]institution of higher education or a private or independent institution of higher education, as those terms are defined[" has the meaning assigned]] by Section 61.003.
<i>No equivalent provision.</i>	Same as Senate version.	(b) Each <u>postsecondary educational institution</u> [of higher education] shall adopt a policy on [campus] sexual assault applicable to each student enrolled at and each employee of the institution. The policy must: (1) include: (A) definitions of prohibited behavior; (B) sanctions for violations; and (C) the protocol for reporting and responding to reports of [campus] sexual assault; and (2) be approved by the institution's governing board before final adoption by the institution.
<i>No equivalent provision.</i>	Same as Senate version.	(c) Each <u>postsecondary educational institution</u> [of higher education] shall make the institution's [campus] sexual assault policy available to students, faculty, and staff members by: (1) including the policy in the institution's student handbook and personnel handbook; and (2) creating and maintaining a web page on the institution's Internet website dedicated solely to the policy.
<i>No equivalent provision.</i>	Same as Senate version.	(d) Each <u>postsecondary educational institution</u> [of higher education] shall require each entering freshman or

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Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION (IE)

CONFERENCE

No equivalent provision

(e) Each *institution of higher education* shall provide to students enrolled at the institution information regarding the protocol for reporting incidents of *campus* sexual assault adopted under Subsection (b), including the name, office location, and contact information of the institution's Title IX coordinator, by:

- (1) e-mailing the information to each student at the beginning of each semester or other academic term; and
- (2) including the information in the orientation required under Subsection (d).

No equivalent provision.

(f) As part of the protocol for responding to reports of *campus* sexual assault adopted under Subsection (b), each *institution of higher education* shall:

- (1) to the greatest extent practicable based on the number of counselors employed by the institution, ensure that each alleged victim or alleged perpetrator of an incident of *campus* sexual assault and any other person who reports such an incident is offered counseling provided by a counselor who does not provide counseling to any other person involved in the incident; and
- (2) notwithstanding any other law, allow an alleged victim or alleged perpetrator of an incident of campus sexual assault to

undergraduate transfer student to attend an orientation on the institution's [~~campus~~] sexual assault policy before or during the first semester or term in which the student is enrolled at the institution. The institution shall establish the format and content of the orientation.

(e) Each *postsecondary educational institution* shall develop and implement a public awareness campaign to inform students enrolled at and employees of the institution of the institution's sexual assault policy. As part of the campaign, the institution shall provide to students information regarding the protocol for reporting incidents of sexual assault adopted under Subsection (b), including the name, office location, and contact information of the institution's Title IX coordinator, by:

- (1) e-mailing the information to each student at the beginning of each semester or other academic term; and
- (2) including the information in the orientation required under Subsection (d).

(f) As part of the protocol for responding to reports of sexual assault adopted under Subsection (b), each *postsecondary educational institution* shall:

- (1) to the greatest extent practicable based on the number of counselors employed by the institution, ensure that each alleged victim or alleged perpetrator of an incident of sexual assault and any other person who reports such an incident are offered counseling provided by a counselor who does not provide counseling to any other person involved in the incident; and
- (2) notwithstanding any other law, allow an alleged victim or alleged perpetrator of an incident of sexual assault to drop a

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SENATE VERSION

HOUSE VERSION (IE)

CONFERENCE

drop a course in which both parties are enrolled without any academic penalty.

course in which both parties are enrolled without any academic penalty.

No equivalent provision

(g) Each biennium, each *institution of higher education* shall review the institution's campus sexual assault policy and, with approval of the institution's governing board, revise the policy as necessary. [FA1]

(g) Each biennium, each postsecondary educational institution ~~[of higher education]~~ shall review the institution's ~~[campus]~~ sexual assault policy and, with approval of the institution's governing board, revise the policy as necessary.

SECTION 1. Subchapter Z, Chapter 51, Education Code, is amended.

SECTION 1. Same as Senate version.

SECTION 2. Same as Senate version.

No equivalent provision.

SECTION __. Section 51.9363, Education Code, as amended by this Act, applies beginning with the 2017-2018 academic year. [FA1]

SECTION 3. Same as House version.

SECTION 2. Transition provision.

SECTION 2. Same as Senate version.

SECTION 4. Same as Senate version.

SECTION 3. Effective date.

SECTION 3. Same as Senate version.

SECTION 5. Same as Senate version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 27, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB968** by Watson (Relating to a sexual assault policy at certain public and private institutions of higher education and to requiring those institutions to provide students and employees an option to electronically report certain offenses to the institution.),
Conference Committee Report

No significant fiscal implication to the State is anticipated.

The bill would require public and private postsecondary educational institutions to adopt a sexual assault policy applicable to any person employed by the institution and to each student enrolled in the institution. The bill would require public and private postsecondary institutions to provide students and employees an option to electronically report to the institution allegations of sexual harassment, sexual assault, dating violence, or stalking committed against or witnessed by the student or employee, regardless of the location at which the alleged offense occurred. The bill would require institutions to provide information to students regarding the protocol for reporting incidents of campus sexual assault. The Higher Education Coordinating Board could adopt rules to administer provisions of the bill. The bill would require the commissioner of higher education to establish a nine member advisory committee comprised of the chief executive officers of the postsecondary educational institution or a representative designated by that officers. The advisory committee would submit recommendations to the Higher Education Coordinating Board regarding rules for implementing provisions of the bill. Based on the analysis provided by institutions of higher education, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. It is assumed that the Higher Education Coordinating Board could implement provisions of the bill within existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 710 Texas A&M University System Administrative and General Offices,
720 The University of Texas System Administration, 758 Texas State
University System, 768 Texas Tech University System Administration,
781 Higher Education Coordinating Board, 783 University of Houston
System Administration

LBB Staff: UP, THo, DEH, GO, AG