
OLR Bill Analysis

sHB 5340

AN ACT ALLOWING THIRD PARTY VICTIMS TO PARTICIPATE IN AN INVESTIGATION OR DISCIPLINARY PROCEEDING BY AN INSTITUTION OF HIGHER EDUCATION.

SUMMARY

This bill expands the scope of the law that requires higher education institutions to adopt and disclose policies on sexual misconduct (i.e., sexual assault, stalking, and intimate partner violence) by applying the policies to third party victims, in addition to students and employees. In doing so, it generally allows third party victims to, among other things, be informed of, and participate in, institutions' sexual misconduct investigations and disciplinary proceedings.

Under the bill, third party victims are those who are not students or employees but (1) were participating or attempting to participate in an institution's educational program activity or (2) report or disclose being a victim of sexual misconduct under circumstances that indicate an ongoing risk of potential harm to the safety of the institution's educational environment.

Additionally, if a person (1) reports or discloses being a victim of sexual misconduct allegedly committed by an institution's student or employee and (2) does not qualify for the institution's process for responding to the report or disclosure under existing law or Title IX (see BACKGROUND), the bill requires the institution to give the person a summary of its sexual misconduct policies or procedures. The summary may include the following:

1. any process outlined in the institution's code of conduct,
2. whether the person will be informed and able to participate in any investigation or disciplinary proceeding involving the

responding student or employee, and

3. whether the institution will give the person any supports or resources.

Lastly, the bill makes related technical and conforming changes, including requiring higher education institutions' security procedures to cover off-campus crimes, sexual harassment, or emergencies related to students, employees, or events associated with the institution. (In doing so, it conforms to a 2020 Title IX final rule addressing sexual harassment in schools.)

EFFECTIVE DATE: July 1, 2024

SEXUAL MISCONDUCT POLICIES AND PROCEDURES

By law, higher education institutions in Connecticut must adopt and disclose sexual misconduct policies in their annual campus crime reports that include provisions on (1) providing information about assistance options to students and employees who report or disclose being subject to the misconduct, (2) investigation and disciplinary procedures, and (3) possible sanctions. The bill applies these policies to third party victims, in addition to students and employees as under current law. In doing so, it requires institutions to take certain actions for third party victims, as it must currently do for students and employees, such as:

1. informing them that the institution uses an affirmative consent standard when determining, in the context of their required sexual misconduct policies, whether sexual activity is consensual;
2. describing to them procedures they may follow after reporting or disclosing being a victim of sexual misconduct, regardless of where the misconduct occurred, including information on preserving physical evidence and people or agencies to contact;
3. giving them written contact information for, and if requested, professional help in accessing or using campus, local advocacy, counseling, health, or mental health services;

4. giving them information on their rights to (a) notify law enforcement of the sexual misconduct and get help from campus authorities to do so and (b) get a protective order, apply for a temporary restraining order, or seek law enforcement's help with an existing order;
5. disclosing to them a summary of the institution's investigation and disciplinary procedures that must, among other things advise them that (a) the procedures must be conducted by an official annually trained in sexual misconduct and (b) they can request the procedures to begin promptly;
6. informing them in writing of a disciplinary proceeding's results within one business day after it concludes;
7. keeping their identities confidential, except as allowed by law or needed to carry out a disciplinary proceeding; and
8. giving them the option to report or disclose the sexual misconduct anonymously.

BACKGROUND

Title IX

Title IX (U.S.C. § 1681 et seq.) prohibits discrimination based on sex by any higher education institution that receives federal student aid (e.g., Pell grants and student loans). Under Title IX, sexual harassment, which includes sexual misconduct, is a form of sex discrimination. Title IX requires, among other things, these institutions to (1) adopt and publish grievance procedures for students to file sexual misconduct complaints, and (2) use general disciplinary procedures to address complaints.

COMMITTEE ACTION

Higher Education and Employment Advancement Committee

Joint Favorable Substitute

Yea 22 Nay 0 (03/14/2024)