

CAMPUS SEXUAL VIOLENCE PROTECTION ACT

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim F. Coleman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to sexual violence and institutions of higher education.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts provisions that prohibit an institution of higher education from imposing a sanction on a student for violating the institution's code of conduct under certain circumstances;
- ▶ enacts provisions allowing an institution of higher education to report an allegation of sexual violence to a law enforcement agency under certain circumstances; and
- ▶ enacts other provisions related to the duties of an institution of higher education in circumstances related to sexual violence.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53B-27-101, Utah Code Annotated 1953



- 28 [53B-27-102](#), Utah Code Annotated 1953
- 29 [53B-27-201](#), Utah Code Annotated 1953
- 30 [53B-27-202](#), Utah Code Annotated 1953
- 31 [53B-27-203](#), Utah Code Annotated 1953

33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **53B-27-101** is enacted to read:

35 **CHAPTER 27. CAMPUS INDIVIDUAL RIGHTS ACT**

36 **Part 1. General Provisions**

37 **53B-27-101. Title.**

38 This chapter is known as the "Campus Individual Rights Act."

39 Section 2. Section **53B-27-102** is enacted to read:

40 **53B-27-102. Definitions.**

41 As used in this chapter, "institution" means an institution of higher education listed in
42 Section [53B-1-102](#).

43 Section 3. Section **53B-27-201** is enacted to read:

44 **Part 2. Campus Sexual Violence Protection Act**

45 **53B-27-201. Definitions.**

46 As used in this part:

47 (1) "Alleged perpetrator" means an individual whom an alleged victim alleges
48 committed an act of sexual violence against the alleged victim.

49 (2) "Alleged victim" means a student of an institution who alleges that the student was
50 a victim of sexual violence.

51 (3) "Code of conduct" means an institution's student code of conduct, student code of
52 ethics, honor code, or other policy under which the institution may sanction a student.

53 (4) "Covered allegation" means an allegation made to an institution that an individual
54 committed an act of sexual violence.

55 (5) "Institution" means a public or private postsecondary institution located in Utah,
56 including an institution of higher education listed in Section [53B-1-102](#).

57 (6) "Law enforcement agency" means the off-campus law enforcement agency of the
58 unit of local government with jurisdiction to respond to a covered allegation.

- 59 (7) "Sexual violence" means:
- 60 (a) sexual abuse as described in 18 U.S.C. Sec. 2242;
- 61 (b) aggravated sexual abuse as described in 18 U.S.C. Sec. 2241;
- 62 (c) assault resulting in substantial bodily injury as described in 18 U.S.C. Sec.
- 63 113(a)(7);
- 64 (d) sexual assault;
- 65 (e) dating violence;
- 66 (f) domestic violence; or
- 67 (g) stalking.
- 68 (8) "Student" means an individual enrolled in an institution.

Section 4. Section **53B-27-202** is enacted to read:

53B-27-202. Code of conduct violation -- Report of sexual violence.

71 (1) An institution may not sanction a student for a code of conduct violation related to
72 the use of drugs or alcohol if:

- 73 (a) the student is:
- 74 (i) an alleged victim of an act of sexual violence; or
- 75 (ii) a witness to an act of sexual violence;
- 76 (b) the student reports to the institution, in good faith, a covered allegation related to
77 the act of sexual violence described in Subsection (1)(a); and
- 78 (c) the institution learns of the student's code of conduct violation due to the student's
79 report described in Subsection (1)(b).

80 (2) An institution may refrain from sanctioning a student for a code of conduct
81 violation other than a violation described in Subsection (1) if:

- 82 (a) the criteria described in Subsections (1)(a) through (c) are met; and
- 83 (b) the institution determines that the interests of protecting the student from a sanction
84 outweigh the egregiousness of the violation.

Section 5. Section **53B-27-203** is enacted to read:

53B-27-203. Institution reporting of a covered allegation to a law enforcement
87 **agency -- Articulable and significant threat -- Notification.**

88 (1) (a) The alleged victim of a covered allegation may request that the institution not
89 report the covered allegation to a law enforcement agency.

90 (b) Except as provided in Subsection (1)(c), an institution shall comply with a request
 91 described in Subsection (1)(a).

92 (c) An institution that receives a request described in Subsection (1)(a) may report the
 93 covered allegation to a law enforcement agency if the institution determines, in accordance
 94 with Subsection (2), that the information in the covered allegation creates an articulable and
 95 significant threat to campus safety at the institution.

96 (2) To determine whether the information in a covered allegation creates an articulable
 97 and significant threat described in Subsection (1)(c), the institution shall consider, if the
 98 information is known to the institution, at least the following factors:

99 (a) whether the circumstances of the covered allegation suggest an increased risk that
 100 the alleged perpetrator will commit an additional act of sexual violence or other violence;

101 (b) whether the alleged perpetrator has a history of arrests that indicates a history of
 102 sexual violence or other violence;

103 (c) whether records from the alleged perpetrator's previous institution of higher
 104 education indicate that the alleged perpetrator has a history of sexual violence or other
 105 violence;

106 (d) whether the alleged perpetrator is alleged to have threatened further sexual violence
 107 or other violence against the alleged victim or another individual;

108 (e) whether the act of sexual violence was committed by more than one alleged
 109 perpetrator;

110 (f) whether the circumstances of the covered allegation suggest there is an increased
 111 risk of future acts of sexual violence under similar circumstances;

112 (g) whether the act of sexual violence was perpetrated with a weapon; and

113 (h) the age of the alleged victim.

114 (3) (a) In accordance with Subsection (3)(b), an institution that reports a covered
 115 allegation to a law enforcement agency in accordance with Subsection (1)(c) shall notify, in
 116 writing $\hat{H} \rightarrow []$:

116a (i) $\leftarrow \hat{H}$ the individual from whom the institution received the report of the covered
 116b allegation $\hat{H} \rightarrow []$; and

116c (ii) **the alleged victim of the covered allegation.** $\leftarrow \hat{H}$

117 (b) Within 24 hours of an institution's report to a law enforcement agency described in
 118 Subsection (1)(c), the institution shall notify the $\hat{H} \rightarrow [\text{individual}]$ **individuals** $\leftarrow \hat{H}$ described in
 118a Subsection (3)(a) of
 119 the institution's report and the institution's reason for reporting the covered allegation.

120 (4) Nothing in this section supersedes an individual's obligation described in Section

121 [62A-3-305](#), [62A-4a-403](#), or [78B-3-502](#).

Legislative Review Note
Office of Legislative Research and General Counsel