

**Representative Kim F. Coleman** proposes the following substitute bill:

**CAMPUS SEXUAL VIOLENCE REPORTING**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kim F. Coleman**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill enacts provisions related to reports of sexual violence at postsecondary institutions.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ enacts provisions that prohibit a postsecondary institution from imposing a sanction on a student for violating the institution's code of conduct under certain circumstances;
- ▶ enacts provisions that allow a postsecondary institution to report an allegation of sexual violence to an off-campus law enforcement agency under certain circumstances;
- ▶ enacts other provisions related to the duties of a postsecondary institution in circumstances related to an allegation of sexual violence; and
- ▶ creates criminal offenses related to retaliation against an alleged victim of or a witness to an act of sexual violence under certain circumstances.

**Money Appropriated in this Bill:**

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 ENACTS:

30 **53B-28-301**, Utah Code Annotated 1953

31 **53B-28-302**, Utah Code Annotated 1953

32 **53B-28-303**, Utah Code Annotated 1953

33 **53B-28-304**, Utah Code Annotated 1953



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

36 Section 1. Section **53B-28-301** is enacted to read:

37 **Part 3. Sexual Violence Reporting**

38 **53B-28-301. Definitions.**

39 As used in this part:

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

42 (2) "Alleged victim" means a student who alleges that the student was a victim of  
43 sexual violence.

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

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

48 (5) "Law enforcement agency" means an off-campus law enforcement agency of the  
49 unit of local government with jurisdiction to respond to a covered allegation.

50 (6) "Sexual violence" means:

51 (a) sexual abuse as described in 18 U.S.C. Sec. 2242;

52 (b) aggravated sexual abuse as described in 18 U.S.C. Sec. 2241;

53 (c) assault resulting in substantial bodily injury as described in 18 U.S.C. Sec.

54 113(a)(7);

55 (d) sexual assault;

56 (e) dating violence;

57 (f) domestic violence; or

58 (g) stalking.

59 (7) "Student" means an individual enrolled in an institution.

60 Section 2. Section **53B-28-302** is enacted to read:

61 **53B-28-302. Code of conduct violation -- Report of sexual violence.**

62 An institution may not sanction a student for a code of conduct violation if:

63 (1) the student is:

64 (a) an alleged victim of an act of sexual violence; or

65 (b) a witness to an act of sexual violence;

66 (2) the student reports to the institution, in good faith, a covered allegation related to

67 the act of sexual violence described in Subsection (1); and

68 (3) the institution learns of the student's code of conduct violation due to the student's

69 report described in Subsection (2).

70 Section 3. Section **53B-28-303** is enacted to read:

71 **53B-28-303. Institution reporting of a covered allegation to a law enforcement**  
72 **agency -- Articulate and significant threat -- Notification.**

73 (1) (a) An alleged victim of a covered allegation who reports the covered allegation to  
74 an institution may request that the institution not report the covered allegation to a law  
75 enforcement agency.

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

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

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

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

87 (b) whether the alleged perpetrator has an arrest history that indicates a history of

88 sexual violence or other violence;

89 (c) whether records from the alleged perpetrator's previous postsecondary institution  
 90 indicate that the alleged perpetrator has a history of sexual violence or other violence;

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

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

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

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

98 (h) the age of the alleged victim.

99 (3) An institution that makes a report in accordance with Subsection (1)(c)

99a shall, ~~H→~~ [~~within~~

100 ~~24 hours of~~ **before** ~~←H~~ making the report, provide to the alleged victim of the covered

100a allegation, in

101 writing:

102 (a) a notification that the institution ~~H→~~ [~~made~~] **will make** ~~←H~~ the report; ~~H→~~ [~~and~~] ~~←H~~

103 (b) the reason the institution made the determination described in

103a Subsection (1)(c) ~~H→~~ [~~]~~ ; **and**

103b **(c) the law enforcement agency to which the institution will make the report.** ~~←H~~

104 (4) Nothing in this section supersedes:

105 (a) an obligation described in Section [62A-3-305](#), [62A-4a-403](#), or [78B-3-502](#); or

106 (b) a requirement described in Part 2, Confidential Communications for Institutional

107 Advocacy Services Act.

108 Section 4. Section **53B-28-304** is enacted to read:

109 **53B-28-304. Criminal retaliation against an alleged victim or a witness.**

110 (1) As used in this section:

111 (a) "Bodily injury" means the same as that term is defined in Section [76-1-601](#).

112 (b) "Damage" means physical damage to an individual's property.

113 (2) An individual is guilty of a third degree felony if the individual inflicts bodily

114 injury or damage:

115 (a) upon an alleged victim of or a witness to an act of sexual violence alleged in a  
 116 covered allegation; and

117 (b) in retaliation for the alleged victim's or the witness's:

118 (i) report of the covered allegation; or

119           (ii) involvement in an investigation initiated by the institution in response to the  
120 covered allegation.

121           (3) An individual is guilty of a third degree felony if the individual:

122           (a) communicates an intention to inflict bodily injury:

123           (i) upon an alleged victim of or a witness to an act of sexual violence alleged in a  
124 covered allegation; and

125           (ii) in retaliation for the alleged victim's or the witness's:

126           (A) report of the covered allegation; or

127           (B) involvement in an investigation initiated by the institution in response to the  
128 covered allegation; and

129           (b) (i) intends the communication described in Subsection (3)(a) as a threat against the  
130 alleged victim or the witness; or

131           (ii) knows that the communication described in Subsection (3)(a) will be viewed as a  
132 threat against the alleged victim or the witness.