

CAMPUS SEXUAL VIOLENCE REPORTING

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim F. Coleman

Senate Sponsor: _____

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 allowing a postsecondary institution to report an allegation of sexual violence to an off-campus law enforcement agency under certain circumstances; and
- ▶ enacts other provisions related to the duties of an institution of higher education in circumstances related to an allegation of sexual violence.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



28 [53B-28-301](#), Utah Code Annotated 1953
 29 [53B-28-302](#), Utah Code Annotated 1953
 30 [53B-28-303](#), Utah Code Annotated 1953



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

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

34 **Part 3. Sexual Violence Reporting**

35 **53B-28-301. Definitions.**

36 As used in this part:

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

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

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

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

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

47 (6) "Sexual violence" means:

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

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

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

51 113(a)(7);

52 (d) sexual assault;

53 (e) dating violence;

54 (f) domestic violence; or

55 (g) stalking.

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

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

58 **53B-28-302. Code of conduct violation -- Report of sexual violence.**

59 An institution may not sanction a student for a code of conduct violation if:
60 (1) the student is:
61 (a) an alleged victim of an act of sexual violence; or
62 (b) a witness to an act of sexual violence;
63 (2) the student reports to the institution, in good faith, a covered allegation related to
64 the act of sexual violence described in Subsection (1); and
65 (3) the institution learns of the student's code of conduct violation due to the student's
66 report described in Subsection (2).

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

68 **53B-28-303. Institution reporting of a covered allegation to a law enforcement**
69 **agency -- Articulable and significant threat -- Notification.**

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

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

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

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

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

84 (b) whether the alleged perpetrator has an arrest history that indicates a history of
85 sexual violence or other violence;

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

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

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

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

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

95 (h) the age of the alleged victim.

96 (3) An institution that makes a report in accordance with Subsection (1)(c) shall, within
97 24 hours of making the report, provide to the alleged victim of the covered allegation, in
98 writing:

99 (a) a notification that the institution made the report; and

100 (b) the reason the institution made the determination described in Subsection (1)(c).

101 (4) Nothing in this section supersedes:

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

103 (b) a requirement described in Part 2, Confidential Communications for Institutional
104 Advocacy Services Act.

Legislative Review Note
Office of Legislative Research and General Counsel