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~~text~~ shows text that was in SB0163 but was deleted in SB0163S01.

text shows text that was not in SB0163 but was inserted into SB0163S01.

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Senator Jani Iwamoto proposes the following substitute bill:

CAMPUS SAFETY AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jani Iwamoto

House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill amends provisions related to campus safety and creates the Safety and Equity Commission.

Highlighted Provisions:

This bill:

- ▶ requires campus law enforcement to share a report of a crime that occurs outside campus law enforcement's jurisdiction with the law enforcement agency that has jurisdiction;
- ▶ requires an institution of higher education to:
 - create a report of crime statistics aggregated by type of housing facility;
 - include the report in the institution's annual campus safety report to the Education Interim Committee and the Law Enforcement and Criminal Justice

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Interim Committee;

- distribute the report to students, incoming students, and prospective students; and
- make the report publicly available and easily accessible on the institution's website;
- ▶ creates the Safety and Equity Commission to review institution's policies, procedures, and practices related to campus safety and equity;
- ▶ defines terms; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-3-104, as enacted by Laws of Utah 1987, Chapter 167

53B-3-105, as enacted by Laws of Utah 1987, Chapter 167

53B-28-401, as last amended by Laws of Utah 2020, Chapter 365

ENACTS:

53B-28-403, Utah Code Annotated 1953

53B-28-501, Utah Code Annotated 1953

53B-28-502, Utah Code Annotated 1953

53B-28-503, Utah Code Annotated 1953

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

Section 1. Section **53B-3-104** is amended to read:

53B-3-104. Establishment of police or security departments.

[~~The board~~] A state institution of higher education may establish and maintain police or security departments for the purpose of enforcing the regulations [~~of each~~] of the state institution of higher education and the laws of the state.

Section 2. Section **53B-3-105** is amended to read:

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53B-3-105. Appointment of police or security personnel -- Powers -- Regulations.

~~[(1) Members of the police or security department of any college or university are appointed by the board.]~~

(1) As used in this section, "campus law enforcement" means a police or security department that an institution establishes as described in Section 53B-3-104.

(2) A state institution of higher education may appoint members of campus law enforcement.

~~[(2)]~~ (3) Upon appointment, ~~[they]~~ members of campus law enforcement are peace officers and have:

(a) all the powers possessed by ~~[policemen]~~ police officers in cities and by sheriffs, including the power to make arrests on view or on warrant of violation of state statutes and city or county ordinances~~[-];~~ and

~~[(3)]~~ (b) ~~[Members of the police or security department of any college or university also have]~~ the power to enforce all rules and regulations promulgated by the board as related to the institution.

(4) Except as provided in Section 53B-28-303, when campus law enforcement receives a complaint or a report of a crime that campus law enforcement reasonably determines occurred outside of campus law enforcement's jurisdiction, campus law enforcement shall share any record of the complaint or the report with the law enforcement agency with jurisdiction.

Section 3. Section **53B-28-401** is amended to read:

53B-28-401. Campus safety plans and training -- Institution duties -- Governing board duties.

(1) As used in this section:

(a) "Covered offense" means:

(i) sexual assault;

(ii) domestic violence;

(iii) dating violence; or

(iv) stalking.

(b) "Institution" means an institution of higher education described in Section 53B-1-102.

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(c) "Student organization" means a club, group, sports team, fraternity or sorority, or other organization:

(i) of which the majority of members is composed of students enrolled in an institution; and

(ii) (A) that is officially recognized by the institution; or

(B) seeks to be officially recognized by the institution.

(2) An institution shall develop a campus safety plan that addresses:

(a) where an individual can locate the institution's policies and publications related to a covered offense;

(b) institution and community resources for a victim of a covered offense;

(c) the rights of a victim of a covered offense, including the measures the institution takes to ensure, unless otherwise provided by law, victim confidentiality throughout all steps in the reporting and response to a covered offense;

(d) how the institution informs the campus community of a crime that presents a threat to the campus community;

(e) availability, locations, and methods for requesting assistance of security personnel on the institution's campus;

(f) guidance on how a student may contact law enforcement for incidents that occur off campus;

(g) institution efforts related to increasing campus safety, including efforts related to the institution's increased response in providing services to victims of a covered offense, that:

(i) the institution made in the preceding 18 months; and

(ii) the institution expects to make in the upcoming 24 months;

(h) coordination and communication between institution resources and organizations, including campus law enforcement;

(i) institution coordination with local law enforcement or community resources, including coordination related to a student's safety at an off-campus location; and

(j) how the institution requires a student organization to provide the campus safety training as described in Subsection (5).

(3) An institution shall:

(a) prominently post the institution's campus safety plan on the institution's website and

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each of the institution's campuses; and

(b) annually update the institution's campus safety plan.

(4) An institution shall develop a campus safety training curriculum that addresses:

(a) awareness and prevention of covered offenses, including information on institution and community resources for a victim of a covered offense;

(b) bystander intervention; and

(c) sexual consent.

(5) An institution shall require a student organization, in order for the student organization to receive or maintain official recognition by the institution, to annually provide campus safety training, using the curriculum described in Subsection (4), to the student organization's members.

(6) The board shall:

(a) on or before July 1, 2019, establish minimum requirements for an institution's campus safety plan described in Subsection (2);

(b) identify resources an institution may use to develop a campus safety training curriculum as described in Subsection (4); and

(c) report annually to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee, at or before the committees' November meetings, on:

(i) the implementation of the requirements described in this section[-]; and

(ii) crime statistics aggregated by housing facility as described in Subsection 53B-28-403(2).

Section 4. Section **53B-28-403** is enacted to read:

53B-28-403. Student housing crime reporting.

(1) As used in this section:

(a) "Campus law enforcement" means the same as that term is defined in Section 53B-3-105.

(b) "Crime statistics" means the number of each of the crimes in 34 C.F.R. Sec. 668.46(c)(1) that are reported to a local police agency or campus law enforcement, listed by type of crime.

(c) "Institution" means an institution of higher education described in Section 53B-2-101.

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(d) (i) "Institution noncampus housing facility" means a building or property that:

(A) is used for housing students;

(B) is not part of the institution's campus; and

(C) the institution owns, manages, controls, or leases;

(ii) "Institution noncampus housing facility" includes real property that is adjacent to, and is used in direct support of, the building or property described in Subsection (1)(d)(i).

(e) "Local law enforcement agency" means a state or local law enforcement agency other than campus law enforcement.

(f) (i) "On-campus housing facility" means a building or property that is:

(A) used for housing students; and

(B) part of the institution's campus.

(ii) "On-campus housing facility" includes real property that is:

(A) adjacent to the on-campus housing facility; and

(B) used in direct support of the on-campus housing facility.

(g) "Student housing" means:

(i) an institution noncampus housing facility;

(ii) an on-campus housing facility; or

(iii) a student organization noncampus housing facility.

(h) "Student organization" means the same as that term is defined in Section 53B-28-401.

(i) "Student organization noncampus housing facility" means a building or property that:

(i) is used for housing students;

(ii) is not part of the institution's campus; and

(iii) (A) a student organization owns, manages, controls, or leases; or

(B) is real property that is adjacent to the student organization noncampus housing facility and is used in direct support of the noncampus housing facility.

(2) An institution shall:

(a) create a report of crime statistics aggregated by:

(i) on-campus housing facility, identified and listed individually using the institution's system for inventorying institution facilities;

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(ii) institution noncampus housing facility, identified and listed individually using the institution's system for inventorying institution facilities; and

(iii) student organization noncampus housing facilities, identified and listed individually using the institution's system for identifying student organization noncampus housing facilities;

(b) include the report described in Subsection (2)(a) in the report described in Subsection 53B-28-401(6); and

(c) annually:

(i) distribute the report described in Subsection (2)(a) to each student;

(ii) include the report described in Subsection (2)(a):

(A) with materials related to housing that an institution provides to prospective students, incoming students, or students living in student housing; and

(B) with enrollment application materials that an institution provides to prospective students; and

(iii) post the report described in Subsection (2)(a):

(A) on the institution's website homepage; and

(B) in at least three places on the institution's website, including, if applicable, the institution's housing website, campus safety website, and admissions website.

(3) An institution shall report crime statistics as described in Subsection (2):

(a) in 2021, for the previous calendar year;

(b) in 2022, for the previous two calendar years; and

(c) beginning in 2023, for the three most recent calendar years.

(4) Upon request from an institution, a local law enforcement agency shall provide to the institution crime statistics for each student housing facility over which the local law enforcement agency has jurisdiction.

Section 5. Section **53B-28-501** is enacted to read:

Part 5. Safety and Equity Commission

53B-28-501. Definitions.

As used in this part:

(1) "Commission" means the Safety and Equity Commission established in Section 53B-28-502.

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(2) "Institution" means an institution of higher education listed in Subsection 53B-2-101(1).

(3) "Member of the campus community" means:

(a) a student admitted or enrolled at an institution;

(b) an individual participating in a program that an institution offers;

(c) a volunteer who volunteers at an institution or program that an institution offers;

(d) faculty that an institution employs;

(e) staff that an institution employs;

(f) an administrator of an institution; or

(g) a member of the board.

(4) "Private institution of higher education" means a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

Section 6. Section **53B-28-502** is enacted to read:

53B-28-502. Safety and Equity Commission established -- Members.

(1) There is created the Safety and Equity Commission composed of:

(a) one member from each ~~degree-granting~~ institution who is:

(i) a student at the institution at the time of appointment; and

(ii) appointed by the president of the associated students of the institution;

~~(b)~~ one member from each technical college who is:

~~(i)~~ a student at the time of appointment; and

~~(ii)~~ appointed by the technical college;

~~(b)(c)~~ a member with experience and expertise in addressing sexual assault, appointed by the commissioner; and

~~(c)(d)~~ a member with experience and expertise in addressing discrimination, appointed by the commissioner.

(2) The commissioner shall make the appointments described in ~~Subsection~~ Subsections (1)(c) and (1)(d) from nominations submitted by the commission.

(3) (a) The co-chairs may appoint up to one member from each private institution of higher education in the state who is a student at the private institution of higher education at the time of appointment.

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(b) The members described in Subsection (3)(a) shall serve as nonvoting, ex officio members.

(4) The co-chairs may appoint up to three at large members who serve at the discretion of the co-chairs.

(5) (a) Except as provided in Subsections (4) and (5)(b), the term of members of the commission is two-years.

(b) For initial appointments in 2021:

(i) the commissioner shall appoint:

(A) one of the individuals described in Subsections (1)(~~f~~~~b~~~~c~~) and (1)(~~f~~~~c~~~~d~~) for a term of two years; and

(B) one of the individuals described in Subsections (1)(~~f~~~~b~~~~c~~) and (1)(~~f~~~~c~~~~d~~) for a term of one year;

(ii) the president of the associated students at a ~~{degree granting}~~ degree-granting institution described in Subsections 53B-2-101(1)(a) through (1)(d) ~~and~~ shall make the appointment described in Subsection (1)(a) for a term of two years;

(iii) a technical college described in Subsections 53B-2-101(1)(i) through (1)(l) shall make ~~the~~ an appointment described in Subsection (1)(~~f~~~~a~~~~b~~) for a term of two years; ~~and~~

(~~iiii~~) ~~iv~~) the president of the associated students at a ~~{degree granting}~~ degree-granting institution described in Subsections 53B-2-101(1)(e) through (1)(h) shall make the appointment described in Subsection (1)(a) for a term of one year; and

(v) a technical college described in Subsections 53B-2-101(1)(m) through (1)(p) shall make the appointment described in Subsection (1)(~~f~~~~a~~~~b~~) for a term of one year.

(c) When a vacancy occurs in the membership of the commission, the individual responsible for the appointment shall appoint a replacement for the unexpired term.

(6) (a) The members of the commission shall elect two co-chairs of the commission from the members appointed under ~~{Subsection}~~ Subsections (1)(a) and (1)(b).

(b) The co-chairs shall set the agenda for commission meetings.

(7) The commission shall convene the first meeting on or before July 31, 2021.

(8) Attendance of a simple majority of the members constitutes a quorum for the transaction of official commission business.

(9) Formal action by the commission requires a majority vote of a quorum.

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(10) A member of the commission may not receive compensation, benefits, per diem, or travel expenses for the member's service.

(11) The board shall provide staff support to the commission.

Section 7. Section **53B-28-503** is enacted to read:

53B-28-503. Safety and Equity Commission duties.

The commission may:

(1) review:

(a) an institution's policies, procedures, and practices for addressing:

(i) crime;

(ii) sexual harassment;

(iii) sexual assault;

(iv) campus safety;

(v) discrimination; or

(vi) any other issue related to the issues described in Subsections (1)(a)(i) through (v);

(b) how an institution's policies, procedures, and practices address allegations of crime, sexual harassment, sexual assault, or discrimination at the institution, including:

(i) a Title IX complaint;

(ii) a report of a crime filed with campus law enforcement;

(iii) a complaint of discrimination reported to or filed with any office of an institution;

and

(iv) a complaint of sexual assault or sexual harassment reported to or filed with any office of an institution; and

(c) any other issue related to campus safety and equity policies, procedures, and practices that the commission considers necessary;

(2) create a process for a member of the campus community to submit an issue described in Subsection (1)(a) for the commission's review;

~~{ (3) prepare an annual report on the commission's review of the issues described in Subsection (1)(a);~~

~~— (4) make the report described in Subsection (3) publicly available;~~

~~— (5) make recommendations, including for:~~

~~— (a) amendments to an institution's policies or for best practices to the board; or~~

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~~— (b) legislation to the Legislature;~~

~~— (6) (a) annually prepare an institutional report card for each institution's performance in addressing the issues described in Subsection (1)(a); and~~

~~— (b) work with the board to establish criteria for the report card described in Subsection (6)(a);~~

~~— (7) (a) present an award to one or more institutions that demonstrate outstanding commitment to campus safety and equity; and~~

~~— (b) establish criteria for the award described in Subsection (7)(a);~~

~~— (8) work with the board to create a template submission form for members of the campus community to submit an issue for the commission's review as part of the process described in Subsection (2);~~

‡ (9)3 (a) study an issue described in Subsection (1)(a) on the commission's own initiative, regardless of whether a member of the campus community submits the issue;

(b) produce a report or make recommendations based on a study described in Subsection (9)3(a); and

(c) distribute or publish a report or recommendations described in Subsection (9)3(b) at the commission's discretion; and

(10)4 request from an institution any documents or information that:

(a) are publicly available under state and federal privacy laws; and

(b) the commission deems necessary to carry out the ~~commission's~~ commission's duties under this section.