

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 4108

By: Vancuren

AS INTRODUCED

An Act relating to higher education; enacting the Campus Accountability and Safety Act; specifying applicability; defining terms; mandating state institution of higher education coordination with local law enforcement; directing the Oklahoma State Regents for Higher Education to create a Uniform Policy on Sexual Assault; directing that the Uniform Policy on Sexual Assault require memorandum of understanding be updated every two years; providing what shall be included in the memorandum of understanding; exempting institutions from liability for refusal by local law enforcement to enter memorandum of understanding; directing the State Regents to establish uniform policies and best practices to address sexually oriented criminal offenses; creating the role of confidential advisors; stating training and duties of the confidential advisor; directing institutions to list various resources on their website; authorizing institutions to provide online reporting system; establishing an amnesty policy for students who report in good faith; directing that the State Regents, in coordination with the Attorney General and local law enforcement, shall develop training program; mandating an inter-campus transfer policy to be created by the State Regents; directing for the administration by institution of an anonymous sexual assault climate survey; providing for codification; providing an effective date; and declaring an emergency.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 3260 of Title 70, unless there
4 is created a duplication in numbering, reads as follows:

5 This act shall be known and may be cited as the "Campus
6 Accountability and Safety Act".

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3260.1 of Title 70, unless there
9 is created a duplication in numbering, reads as follows:

10 This act shall apply to each postsecondary education institution
11 that receives any Title IV funding from the United States Department
12 of Education.

13 SECTION 3. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3260.2 of Title 70, unless there
15 is created a duplication in numbering, reads as follows:

16 For the purposes of this act, the following terms shall have the
17 following meanings unless the context clearly indicates otherwise:

18 1. "Institution" means a state educational institution as
19 defined in Section 3102 of Title 70 of the Oklahoma Statutes;

20 2. "President" means the president of the system of the
21 respective institution;

22 3. "Sexually oriented criminal offense" means any sexual
23 assault as defined in Section 112 of Title 21 of the Oklahoma
24 Statutes; and

1 4. "Title IX coordinator" means the individual designated as a
2 responsible employee in Section 106.8(a) of Title 34, Code of
3 Federal Regulations, as such section is in effect on the date of
4 enactment of this act.

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3260.3 of Title 70, unless there
7 is created a duplication in numbering, reads as follows:

8 A. Each institution and law enforcement and criminal justice
9 agency located within the county of the campus of the institution
10 shall enter into a memorandum of understanding to clearly delineate
11 responsibilities and share information in accordance with applicable
12 federal and state confidentiality laws, including but not limited to
13 trends about sexually oriented criminal offenses occurring against
14 students of the institution.

15 B. The Oklahoma State Regents for Higher Education Uniform
16 Policy on Sexual Assault shall require that the memorandum of
17 understanding, as described in subsection A of this section, be
18 updated every two (2) years.

19 C. Each memorandum of understanding entered into pursuant to
20 this act shall include:

21 1. Delineation and sharing protocols of investigative
22 responsibilities;
23
24

1 2. Protocols for investigations, including standards for
2 notification and communication and measures to promote evidence
3 preservation;

4 3. Agreed-upon training and requirements for the parties to the
5 memorandum of understanding on issues related to sexually oriented
6 criminal offenses for the purpose of sharing information and
7 coordinating training to the extent possible; and

8 4. A method of sharing general information about sexually
9 oriented criminal offenses occurring within the jurisdiction of the
10 parties to the memorandum of understanding in order to improve
11 campus safety.

12 D. The local law enforcement agency shall include information
13 on its police report regarding the status of the alleged victim as a
14 student at an institution as defined in this act.

15 E. The institution shall not be held liable if the local law
16 enforcement agency refuses to enter into a memorandum of
17 understanding as required by this section.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3260.4 of Title 70, unless there
20 is created a duplication in numbering, reads as follows:

21 A. 1. The Oklahoma State Regents for Higher Education shall
22 establish the Uniform Policy on Sexual Assault, which shall include
23 uniform policies and best practices to implement measures to address
24 the reporting of sexually oriented criminal offenses on institution

1 campuses, the prevention of such crimes, and the medical and mental
2 health care needed for these alleged victims that includes
3 confidential advisors. The institution shall designate individuals
4 who shall serve as confidential advisors, such as health care staff,
5 clergy, staff of a women's center, or other such categories. Such
6 designation shall not preclude the institution from partnering with
7 national, state, or local victim services organizations to serve as
8 confidential advisors or to serve in other confidential roles.

9 2. The confidential advisor shall complete the training
10 requirements as provided in this act.

11 3. Not later than January 1, 2023, the Attorney General, in
12 collaboration with the State Regents, shall develop online training
13 materials, in addition to the training required under this act, for
14 the training of confidential advisors.

15 4. The confidential advisor shall inform the alleged victim of
16 the following:

- 17 a. the rights of the alleged victim under federal and
18 state law and the policies of the institution,
- 19 b. the alleged victim's reporting options, including the
20 option to notify the institution, the option to notify
21 local law enforcement, and any other reporting
22 options,
- 23 c. if reasonably known, the potential consequences of the
24 reporting options provided in this act,

- d. the process of investigation and disciplinary proceedings of the institution,
- e. the process of investigation and adjudication of the criminal justice system,
- f. the limited jurisdiction, scope, and available sanctions of the institutional student disciplinary proceeding, and that it should not be considered a substitute for the criminal justice process,
- g. potential reasonable accommodations that the institution may provide to an alleged victim, and
- h. the name and location of the nearest medical facility where an alleged victim may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such facility.

5. The confidential advisor may, as appropriate, serve as a liaison between an alleged victim and the institution or local law enforcement, when directed to do so in writing by an alleged victim who has been fully and accurately informed about what procedures shall occur if information is shared, and assist an alleged victim in contacting and reporting to a responsible employee or local law enforcement.

1 6. The confidential advisor shall be authorized by the
2 institution to liaise with appropriate staff at the institution to
3 arrange reasonable accommodations through the institution to allow
4 the alleged victim to change living arrangements or class schedules,
5 obtain accessibility services, or arrange other accommodations.

6 7. The confidential advisor shall be authorized to accompany
7 the alleged victim, when requested to do so by the alleged victim,
8 to interviews and other proceedings of a campus investigation and
9 institutional disciplinary proceedings.

10 8. The confidential advisor shall advise the alleged victim of,
11 and provide written information regarding, both the alleged victim's
12 rights and the institution's responsibilities regarding orders of
13 protection, no-contact orders, restraining orders, or similar lawful
14 orders issued by a court of competent jurisdiction or by the
15 institution.

16 9. The confidential advisor shall not be obligated to report
17 crimes to the institution or law enforcement in a way that
18 identifies an alleged victim or an accused individual, unless
19 otherwise required to do so by law. The confidential advisor shall,
20 to the extent authorized under law, provide confidential services to
21 students. Any requests for accommodations, as provided in paragraph
22 6 of this subsection, made by a confidential advisor shall not
23 trigger an investigation by the institution.
24

1 10. No later than the beginning of the 2023-2024 academic year,
2 the institution shall appoint an adequate number of confidential
3 advisors. The State Regents shall determine the adequate number of
4 confidential advisors for an institution, based upon its size, no
5 later than January 1, 2023.

6 11. Each institution that enrolls fewer than five thousand
7 (5,000) students may partner with another institution in its system
8 or region to provide the services described in this subsection.
9 However, this paragraph shall not absolve the institution of its
10 obligations under this act.

11 12. Each institution may offer the same accommodations to the
12 accused that are hereby required to be offered to the alleged
13 victim.

14 B. The institution shall list on its website:

15 1. The contact information for obtaining a confidential
16 advisor;

17 2. Reporting options for alleged victims of a sexually oriented
18 criminal offense;

19 3. The process of investigation and disciplinary proceedings of
20 the institution;

21 4. The process of investigation and adjudication of the
22 criminal justice system;

23 5. Potential reasonable accommodations that the institution may
24 provide to an alleged victim;

1 6. The telephone number and website address for a local, state,
2 or national hotline providing information to sexual violence
3 victims, which shall be updated on a timely basis; and

4 7. The name and location of the nearest medical facility where
5 an individual may have a rape kit administered by an individual
6 trained in sexual assault forensic medical examination and evidence
7 collection, and information on transportation options and available
8 reimbursement for a visit to such facility.

9 C. The institution may provide an online reporting system to
10 collect anonymous disclosures of crimes and track patterns of crime
11 on campus. An individual may submit a confidential report about a
12 specific crime to the institution using the online reporting system.
13 If the institution uses an online reporting system, the online
14 system shall also include information regarding how to report a
15 crime to a responsible employee and law enforcement and how to
16 contact a confidential advisor.

17 D. The institution shall provide an amnesty policy for any
18 student who reports, in good faith, sexual violence to the
19 institution. Such student shall not be sanctioned by the
20 institution for a nonviolent student conduct violation, such as
21 underage drinking, that is revealed in the course of such a report.

22 E. Not later than January 1, 2023, the Oklahoma State Regents
23 for Higher Education, in coordination with the Attorney General and
24 in consultation with state or local victim services organizations,

1 shall develop a program for training for each individual who is
2 involved in implementing an institution's student grievance
3 procedures, including each individual who is responsible for
4 resolving complaints of reported sex offenses or sexual misconduct
5 policy violations, and each employee of an institution who has
6 responsibility for conducting an interview with an alleged victim of
7 a sexually oriented criminal offense. Each institution shall ensure
8 that the individuals and employees receive the training described in
9 this subsection no later than the beginning of the 2023-2024
10 academic year.

11 F. The Oklahoma State Regents for Higher Education Uniform
12 Policy on Sexual Assault shall require that institutions communicate
13 with each other regarding transfer of students against whom
14 disciplinary action has been taken because of a code of conduct
15 violation relating to sexually oriented criminal offenses. The
16 State Regents' Uniform Policy on Sexual Assault shall require that
17 institutions withhold transcripts of students seeking a transfer
18 with pending disciplinary action relative to sexually oriented
19 criminal offenses, until such investigation and adjudication is
20 complete.

21 SECTION 6. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3260.5 of Title 70, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. When funding is made available, each state educational
2 institution shall administer an annual, anonymous sexual assault
3 climate survey to its students.

4 B. Participation in the sexual assault climate survey shall be
5 voluntary. No student shall be required or coerced to participate
6 in the survey nor shall any student face retribution or negative
7 consequence of any kind for declining to participate.

8 C. The Oklahoma State Regents for Higher Education shall
9 develop the survey and establish procedures for the administration
10 of the survey and shall use the survey developed by the Center on
11 Violence Against Women and Children at the Rutgers University School
12 of Social Work as a model.

13 D. Each state educational institution shall:

14 1. Administer the survey to students who choose to participate;
15 and

16 2. Report school-specific results of the survey to the Board of
17 Regents.

18 E. The Oklahoma State Regents for Higher Education shall:

19 1. Submit a written report not later than September 1 of each
20 year regarding the survey results of each state educational
21 institution and the state as a whole to the Governor and the Senate
22 and House of Representatives committees on education for the
23 previous academic year; and
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1 2. Publish the survey results on the State Regents' website and
2 in any other location or venue the State Regents deem necessary or
3 appropriate.

4 SECTION 7. This act shall become effective July 1, 2022.

5 SECTION 8. It being immediately necessary for the preservation
6 of the public peace, health or safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

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