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H.319

Introduced by Representatives Rachelson of Burlington, Headrick of
Burlington, Mulvaney-Stanak of Burlington, Small of
Winooski, and Stone of Burlington

Referred to Committee on

Date:

Subject: Education; postsecondary education; campus sexual violence

Statement of purpose of bill as introduced: This bill proposes to create several requirements for postsecondary schools related to sexual misconduct, including (1) a sexual misconduct campus climate survey, (2) the creation of confidential resource advocates, (3) the requirement to maintain a memorandum of understanding with local sexual assault programs, (4) the provision of amnesty for good faith reports of sexual misconduct, and (5) the requirement to provide annual awareness programming and training. This bill also proposes to repeal the prospective sunset of the Intercollegiate Sexual Harm Prevention Council.

An act relating to postsecondary schools and sexual misconduct protections

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 16 V.S.A. § 182 is added to read:

§ 182. SEXUAL MISCONDUCT CAMPUS CLIMATE SURVEY

1 (a) Each postsecondary school with a campus in Vermont shall biannually
2 conduct an anonymous Sexual Misconduct Campus Survey of all students
3 attending such schools.

4 (b) The Intercollegiate Sexual Harm Prevention Council shall create the
5 Sexual Misconduct Climate Campus Survey Subcommittee from among its
6 members, which shall develop and maintain the Survey. In developing the
7 Survey, the Subcommittee shall:

8 (1) review Sexual Misconduct Climate Surveys currently utilized by
9 postsecondary schools in any location;

10 (2) provide opportunities for comment from organizations that work
11 directly with survivors of sexual assault; and

12 (3) account for the diverse needs and differences of the State's
13 postsecondary schools.

14 (c) The Survey shall gather information on sexual misconduct involving
15 postsecondary students, including:

16 (1) the number and type of incidents that occurred;

17 (2) reporting and disclosure of the incidents by the student;

18 (3) logistical details of the incidents;

19 (4) perpetrator information;

20 (5) student awareness of institutional policies and procedures related to
21 campus sexual misconduct;

1 (6) campus responses to the incidents, if reported;

2 (7) demographic information of the student survivor;

3 (8) perceptions of campus safety among members of the campus
4 community;

5 (9) subsequent actions of, and impact on, the student survivors; and

6 (10) any other items the Subcommittee deems essential to the Survey.

7 (d) The Subcommittee shall provide guidance to postsecondary schools on
8 administration of the Survey, including guidance on how to provide reasonable
9 accommodations for people with disabilities.

10 (e) Within 60 days after administration of the survey, each postsecondary
11 school shall submit a summary of its results to the Vermont Network Against
12 Domestic and Sexual Violence and shall post a summary of its results on the
13 school's website in an easily accessible manner.

14 (f) The Survey results shall also be posted on the Agency of Education's
15 website, along with the annual security report required under 20 U.S.C.

16 § 1092(f).

17 Sec. 2. 16 V.S.A. § 183 is added to read:

18 § 183. CONFIDENTIAL RESOURCE ADVOCATES

19 (a) Each postsecondary school with a campus in Vermont shall employ at
20 least one Confidential Resource Advocate. An institution with fewer than

1 1,000 students may, in the alternative, partner with a local victim advocacy
2 organization to provide an Advocate.

3 (b) An Advocate shall be appointed based on the individual's experience
4 and demonstrated ability to effectively provide victim services related to
5 sexual misconduct. An Advocate shall not:

6 (1) be a student, Title IX coordinator, an official who is an authorized
7 administrator of disciplinary process on behalf of the school, or a member of
8 campus police or law enforcement; or

9 (2) hold a position or job that may create a conflict of interest, including
10 general counsel for the school, director of athletics, dean of students, an
11 employee who serves on a misconduct hearing board, or a person to whom an
12 appeal might be made.

13 (c) A school that partners with a local organization to provide an Advocate
14 pursuant to subsection (a) of this section shall ensure that the Advocate has on-
15 campus office hours.

16 (d) The Advocate shall receive training in the awareness and prevention of
17 sexual misconduct, Title IX policies, the policies of the school, and trauma-
18 informed response. The Advocate shall coordinate with on-campus and off-
19 campus sexual assault service providers within a reasonable time after being
20 designated as an Advocate.

21 (e)(1) The Advocate shall have the following responsibilities:

1 (A) to provide confidential services to students;

2 (B) to provide information about the services, accommodations, and
3 supports available to victims of sexual assault;

4 (C) to notify all school staff involved in providing or enforcing
5 supportive measures or accommodations of their duties in writing;

6 (D) if requested in writing by a student, to assist the student with
7 coordinating supports available through on-campus supports or through the
8 memorandums of understanding with the sexual assault member organizations
9 of the Vermont Network Against Domestic and Sexual Violence;

10 (E) if requested by a student, to assist the student with contacting
11 campus or local law enforcement agencies, or both, to make a report;

12 (F) to notify a student of the student's rights and the school's
13 responsibilities regarding protection orders, no contact orders, and any other
14 lawful orders issued by the school or by a criminal, civil, or tribal court; and

15 (G) if requested by a student, to attend an administrative or school-
16 based adjudication proceeding as the Advocate or support person for the
17 student.

18 (2) The Advocate shall not:

19 (A) be required to report an incident to the campus or local law
20 enforcement agency unless otherwise required to do so by State or federal law;

1 (B) disclose confidential information, including name, contact
2 information, personally identifying information, or information on the sexual
3 misconduct incident without the prior written consent of the student who
4 shared the information;

5 (C) provide services to the reporting party and responding party of
6 the same incident; or

7 (D) act as a counselor or therapist.

8 (f) Nothing in this section shall be construed to limit either party's right of
9 cross examination of the Advocate in a civil or criminal proceeding if the
10 Advocate testifies after written consent has been given.

11 (g) Notice to an Advocate of an alleged act of sexual misconduct or an
12 Advocate's performance of a service under this section shall not be considered
13 actual or constructive notice of such an alleged act to the postsecondary school
14 at which the Advocate is employed or provides contracted services.

15 (h) If a conflict of interest arises for a school in which an Advocate is
16 advocating for a student's need for sexual assault crisis services or campus or
17 law enforcement services, the school shall not discipline, penalize, or
18 otherwise retaliate against the Advocate for representing the interest of the
19 reporting party.

20 (i) An Advocate shall be subject to the same privilege as a crisis worker
21 pursuant to 12 V.S.A. § 1614.

1 Sec. 3. 16 V.S.A. § 184 is added to read:

2 § 184. MEMORANDUM OF UNDERSTANDING BETWEEN
3 POSTSECONDARY SCHOOLS AND LOCAL SEXUAL ASSAULT
4 PROGRAMS

5 (a) A postsecondary school shall enter into and maintain a memorandum of
6 understanding with its local sexual assault member organization of the
7 Vermont Network Against Domestic and Sexual Violence. If a postsecondary
8 school is unable to obtain a memorandum from its local program, the school
9 shall notify the Intercollegiate Sexual Harm Prevention Council to discuss
10 alternatives. The memorandum of understanding shall:

11 (1) assist in developing the postsecondary school's policies, programing,
12 and training regarding sexual misconduct involving students;

13 (2) provide an off-campus alternative for students of the postsecondary
14 school to receive free and confidential sexual assault crisis services, including
15 access to a forensic nursing examiner if available, or free and confidential
16 domestic violence crisis services in response to sexual misconduct, if available;

17 (3) ensure that a student may access free and confidential counseling
18 and advocacy services either on campus or off campus; and

19 (4) ensure cooperation and training between the postsecondary school
20 and the local sexual assault member program of the Vermont Network Against
21 Domestic and Sexual Violence to ensure an understanding of the roles that the

1 school and member program should play in responding to reports and
2 disclosures of sexual misconduct against students and the school's protocols
3 for providing support and services to students.

4 (b) A memorandum of understanding may include an agreement, including
5 a fee structure, between the sexual assault member program of the Vermont
6 Network Against Domestic and Sexual Violence and the postsecondary school
7 to provide confidential victim services. Confidential victim services may
8 include case consultation and training fees for Advocates, consultation fees for
9 the development and implementation of student education and prevention
10 programs, the development of staff training and prevention curriculum, and
11 confidential on-site office space for an advocate from the sexual assault
12 member program of the Vermont Network Against Domestic and Sexual
13 Violence to meet with students.

14 Sec. 4. 16 V.S.A. § 185 is added to read:

15 § 185. AMNESTY PROTECTIONS FOR REPORTING PARTIES

16 A reporting party or a witness who causes an investigation of sexual
17 misconduct shall not be subject to disciplinary sanction for a violation of the
18 postsecondary school's student conduct policy related to the incident unless the
19 school determines that the report was not made in good faith or that the
20 violation was egregious. An egregious violation shall include taking an action
21 that places the health and safety of another person at risk.

1 Sec. 5. 16 V.S.A. § 186 is added to read:

2 § 186. ANNUAL AWARENESS PROGRAMMING AND TRAINING

3 (a) A postsecondary school, with guidance from its Title IX coordinator,
4 local law enforcement, and the sexual assault member organizations of the
5 Vermont Network Against Domestic and Sexual Violence, shall provide
6 mandatory annual trauma-informed, gender-inclusive, LGBTQ+-inclusive
7 sexual misconduct primary prevention and awareness programming for all
8 students and all staff and faculty of the school that shall include:

9 (1) an explanation of consent as it applies to sexual activity and sexual
10 relationships;

11 (2) the role drugs and alcohol play in an individual's ability to consent;

12 (3) information on options relating to the reporting of an incident of
13 sexual misconduct, the effects of each option, and the methods to report an
14 incident of sexual misconduct, including confidential and anonymous
15 disclosure;

16 (4) information on the school's procedures for resolving sexual
17 misconduct complaints and the range of sanctions or penalties the institution
18 may impose on those found responsible for a violation;

19 (5) the name, contact information, and role of the school's Confidential
20 Resource Advocate;

21 (6) strategies for bystander intervention and risk reduction;

1 (7) how to implement supportive measures for reporting parties; and

2 (8) opportunities for ongoing sexual misconduct prevention and

3 awareness training and programming.

4 (b) Trainings shall be culturally responsive and address the unique

5 experiences and challenges faced by students based on race, color, ethnicity,

6 national origin, religion, economic status, disability, and sex, including sexual

7 orientation, gender identity, and pregnancy/parenting status.

8 Sec. 6. REPEAL

9 2021 Acts and Resolves No. 68, Sec. 7 (Intercollegiate Sexual Harm
10 Prevention Council 2025 repeal) is repealed.

11 Sec. 7. 16 V.S.A. § 2187 is redesignated and amended to read:

12 § ~~2187~~ 181. INTERCOLLEGIATE SEXUAL HARM PREVENTION

13 COUNCIL

14 (a) Creation. There is created the Intercollegiate Sexual Harm Prevention

15 Council to create a coordinated response to campus sexual harm across

16 institutions of higher learning in Vermont.

17 * * *

18 (c) Duties. The Council shall:

19 * * *

1 (7) create an annual conference to address prevention and sexual assault
2 response processes open to representatives from all Vermont postsecondary
3 schools.

4 * * *

5 Sec. 8. APPROPRIATION

6 The sum of \$22,000.00 is appropriated from the General Fund to the Center
7 for Crime Victim Services in fiscal year 2024 to provide a grant for the
8 purpose of staffing the Intercollegiate Sexual Harm Prevention Council and to
9 provide per diem compensation and reimbursement of expenses for members
10 who are not otherwise compensated by the member's employer for attendance
11 at meetings.

12 Sec. 9. TRANSITION

13 (a) The Intercollegiate Sexual Harm Prevention Council shall convene the
14 Sexual Misconduct Climate Campus Survey Subcommittee, as required in 16
15 V.S.A. § 182, at the regularly scheduled Council meeting next following July
16 1, 2023.

17 (b) Each postsecondary school with a campus in Vermont shall enter into a
18 memorandum of understanding with its local sexual violence member
19 organization of the Vermont Network Against Domestic and Sexual Violence,
20 as required by 16 V.S.A. § 184, not later than September 15, 2023.

1 Sec. 10. EFFECTIVE DATE

2 This act shall take effect on July 1, 2023.