

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: _____

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



Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53B-28-301, Utah Code Annotated 1953**53B-28-302**, Utah Code Annotated 1953**53B-28-303**, Utah Code Annotated 1953**53B-28-304**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **53B-28-301** is enacted to read:**Part 3. Sexual Violence Reporting****53B-28-301. Definitions.**As used in this part:

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

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

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

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

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

(6) "Sexual violence" means:

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

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

(c) assault resulting in substantial bodily injury as described in 18 U.S.C. Sec. 113(a)(7);

(d) sexual assault;

(e) dating violence;

(f) domestic violence; or

(g) stalking.

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

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

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

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

(1) the student is:

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

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

(2) the student reports to the institution, in good faith, a covered allegation related to the act of sexual violence described in Subsection (1); and

(3) the institution learns of the student's code of conduct violation due to the student's report described in Subsection (2).

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

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

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

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

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

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

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

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

sexual violence or other violence;

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

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

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

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

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

(h) the age of the alleged victim.

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

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

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

(4) Nothing in this section supersedes:

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

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

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

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

(1) As used in this section:

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

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

(2) An individual is guilty of a third degree felony if the individual inflicts bodily injury or damage:

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

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

(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.