

AN ACT

relating to requiring certain public and private institutions of higher education to provide amnesty to students who report certain incidents, including sexual harassment, sexual assault, dating violence, or stalking.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9366 to read as follows:

Sec. 51.9366. AMNESTY FOR STUDENTS REPORTING CERTAIN INCIDENTS. (a) In this section:

(1) "Coordinating board" means the Texas Higher Education Coordinating Board.

(2) "Dating violence" means abuse or violence, or a threat of abuse or violence, against a person with whom the actor has or has had a social relationship of a romantic or intimate nature.

(3) "Postsecondary educational institution" means an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section 61.003.

(4) "Sexual assault" means sexual contact or intercourse with a person without the person's consent, including sexual contact or intercourse against the person's will or in a circumstance in which the person is incapable of consenting to the

1 contact or intercourse.

2 (5) "Sexual harassment" means unwelcome, sex-based  
3 verbal or physical conduct that:

4 (A) in the employment context, unreasonably  
5 interferes with a person's work performance or creates an  
6 intimidating, hostile, or offensive work environment; or

7 (B) in the education context, is sufficiently  
8 severe, persistent, or pervasive that the conduct interferes with a  
9 student's ability to participate in or benefit from educational  
10 programs or activities at a postsecondary educational institution.

11 (6) "Stalking" means a course of conduct directed at a  
12 person that would cause a reasonable person to fear for the person's  
13 safety or to suffer substantial emotional distress.

14 (b) A postsecondary educational institution may not take  
15 any disciplinary action against a student enrolled at the  
16 institution who in good faith reports to the institution being the  
17 victim of, or a witness to, an incident of sexual harassment, sexual  
18 assault, dating violence, or stalking for a violation by the  
19 student of the institution's code of conduct occurring at or near  
20 the time of the incident, regardless of the location at which the  
21 incident occurred or the outcome of the institution's disciplinary  
22 process regarding the incident, if any.

23 (c) A postsecondary educational institution may investigate  
24 to determine whether a report of an incident of sexual harassment,  
25 sexual assault, dating violence, or stalking was made in good  
26 faith.

27 (d) A determination that a student is entitled to amnesty

1 under Subsection (b) is final and may not be revoked.

2 (e) Subsection (b) does not apply to a student who reports  
3 the student's own commission or assistance in the commission of  
4 sexual harassment, sexual assault, dating violence, or stalking.

5 (f) This section may not be construed to limit a  
6 postsecondary educational institution's ability to provide amnesty  
7 from application of the institution's policies in circumstances not  
8 described by Subsection (b).

9 (g) The coordinating board may adopt rules as necessary to  
10 implement and enforce this section.

11 (h) The commissioner of higher education shall establish an  
12 advisory committee to recommend to the coordinating board rules for  
13 adoption under Subsection (g). The advisory committee consists of  
14 nine members appointed by the commissioner. Each member must be a  
15 chief executive officer of a postsecondary educational institution  
16 or a representative designated by that officer. Not later than  
17 December 1, 2017, the advisory committee shall submit the  
18 committee's recommendations to the coordinating board. This  
19 subsection expires September 1, 2018.

20 SECTION 2. Section 51.9366, Education Code, as added by  
21 this Act, applies beginning with the 2018 spring semester.

22 SECTION 3. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2017.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 969 passed the Senate on April 10, 2017, by the following vote: Yeas 30, Nays 1; and that the Senate concurred in House amendment on May 25, 2017, by the following vote: Yeas 30, Nays 1.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 969 passed the House, with amendment, on May 20, 2017, by the following vote: Yeas 129, Nays 7, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor