
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: AB 913
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Version: April 9, 2015
Urgency: No
Consultant: Lynn Lorber
Hearing Date: June 17, 2015
Fiscal: Yes

Subject: Student safety

SUMMARY

This bill expands the existing written jurisdictional agreements between postsecondary educational institutions and local law enforcement to include responsibility for investigating sexual assaults and hate crimes, and requires the written agreements to be updated every five years.

BACKGROUND

The federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act requires public and private postsecondary educational institutions that receive federal financial aid to disclose information about crimes on and around campuses as well as establish certain rights for victims of sexual assault. (United States Code, Title 20, § 1092)

Existing state law:

- 1) Requires, as a condition for participation in the Cal Grant program, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing board of each private and independent postsecondary institution to adopt and implement written policies and procedures, by July 1, 2015, to ensure that any report of a Part 1 violent crime, sexual assault, or hate crime, committed on or off campus, received by a campus security authority, and made by the victim for purposes of notifying the institution or law enforcement, is immediately, or as soon as practicably possible, forwarded to the appropriate law enforcement agency. (Education Code § 67383)
- 2) Requires the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing board of independent postsecondary institutions to adopt rules requiring each of their respective campuses to enter into written agreements with local law enforcement agencies that clarify operational responsibilities for investigations of Part 1 violent crimes occurring on each campus. (EC § 67381)
- 3) Defines:
 - a) "Part 1 violent crime" as willful homicide, forcible rape, robbery, or aggravated assault, as defined in the Uniform Crime Reporting Handbook of the Federal

Bureau of Investigation.

- b) "Sexual assault" to include, but not be limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or the threat of any of these.
- c) "Hate crime" as any offense described in Penal Code § 422.55.
- d) "Local law enforcement" as a city or county law enforcement agency with operational responsibilities for police services in the community in which a campus is located. (EC § 67383)

ANALYSIS

This bill expands the existing written jurisdictional agreements between postsecondary educational institutions and local law enforcement to include responsibility for investigating sexual assaults and hate crimes, and requires the written agreements to be updated every five years. Specifically, this bill:

- 1) Adds sexual assaults and hate crimes to offenses that are included in written agreements with local law enforcement agencies that clarify operational responsibilities for investigations of those offenses.
- 2) Strikes the July 1, 1999, deadline by which the written agreements are to be in place and instead requires written agreements to be reviewed and updated, if necessary, by July 1, 2016.
- 3) Requires written agreements to be reviewed and updated, if necessary, every five years.
- 4) Includes definitions of hate crime and sexual assault that are identical to definitions on existing law.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "The United States Department of Education's Office for Civil Rights is investigating over one hundred postsecondary institutions over their handling of sexual violence complaints under Title IX. Complainants allege these schools violated Title IX by failing to thoroughly investigate sexual assaults, and other assert schools violated federal law requiring reporting of campus crime by underreporting sex crimes. The White House Task Force to Protect Students from Sexual Assault recommended campus and local law enforcement agencies establish written agreements regarding campus sexual assault, stating that cooperation between campus and local law enforcement on sexual assault is critical."
- 2) ***Written agreements with law enforcement.*** Existing law requires postsecondary education campuses to report to law enforcement any Part 1 violent crime, sexual assault, or hate crime, committed on or off campus. Existing law requires postsecondary education campuses to enter into written agreements with local law enforcement agencies that clarify operational responsibilities for investigations of

Part 1 violent crimes occurring on each campus. Part 1 violent crimes include willful homicide, forcible rape, robbery, or aggravated assault, as defined in the Uniform Crime Reporting Handbook of the Federal Bureau of Investigation. Part 1 violent crimes do not include sexual assault or hate crimes, and therefore, written agreements between campuses and law enforcement are not required to describe operational responsibility for investigating those offenses.

- 3) **Model Memorandum of Understanding.** The California Attorney General's Office recently released a model Memorandum of Understanding (MOU) to help law enforcement agencies and postsecondary education institutions improve their coordination and collaboration in response to incidents of campus sexual assault. The model MOU also may assist with compliance with other state and federal laws, including the federal Clery Act and Title IX. <http://oag.ca.gov/campus-sexual-assault>
- 4) **Fiscal impact.** According to the Assembly Appropriations Committee, costs for each campus to modify their agreements with local law enforcement agencies to incorporate investigations for sexual assaults and hate crimes, and to review every five years, should be minor and absorbable. For most community colleges, the mandated costs for this activity should not exceed \$1,000, and thus would not result in a claim for reimbursement.
- 5) **Related legislation.** AB 636 (Medina, 2015) requires postsecondary education institutions to disclose to law enforcement the identity of an alleged assailant if the institution determines that the alleged assailant represents a serious or ongoing threat to the safety of the campus community and the immediate assistance of law enforcement is necessary. AB 636 is pending in the Senate Public Safety Committee.

AB 967 (Williams, 2015) requires the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing board of each independent postsecondary institution, as a condition of receiving state funds for student financial aid, to adopt and implement a uniform process, applicable to each campus of the institution, for disciplinary proceedings relating to any claims of sexual assault. AB 967 is pending referral in the Senate.

SUPPORT

Anti-Defamation League
 Association for Los Angeles Deputy Sheriffs
 California Association of Code Enforcement Officers
 California Coalition Against Sexual Assault
 California College and University Police Chiefs Association
 California District Attorneys Association
 California Faculty Association
 California Federation of Teachers
 California Narcotic Officers Association
 California State Lodge, Fraternal Order of Police
 California Women's Law Center
 Community College League of California

Crime Victims United of California
Long Beach Police Officers Association
Los Angeles Community College District
Los Angeles County Professional Peace Officers Association
Los Angeles Police Protective League
Riverside Sheriffs Association
Sacramento County Deputy Sheriffs' Association
San Jose-Evergreen Community College District
Santa Ana Police Officers Association

OPPOSITION

None received.

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