

Date of Hearing: April 7, 2015

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 913 (Santiago) – As Introduced February 26, 2015

**[Note: This bill is double referred to the Assembly Committee on Public Safety and will be heard as it relates to issues under its jurisdiction.]**

**SUBJECT:** Student safety

**SUMMARY:** Provides for changes to the written jurisdictional agreements between postsecondary educational institutions and local law enforcement. Specifically, **this bill:**

- 1) Requires the governing board of each community college district (CCD), the Trustees of the California State University (CSU), the Regents of the University of California (UC) and the governing board of independent postsecondary institutions to update their existing written jurisdictional agreements with local law enforcement for investigation of Part 1 violent crimes to include sexual assaults and hate crimes by July 1, 2016;
- 2) Requires written agreements to be updated every five years;
- 3) Defines “Hate crime” to mean any offense described in Section 422.55 of the Penal Code;
- 4) Defines “Sexual assault” to include, but not be limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of any of these.
- 5) Deletes provisions requiring agreements be in place by July 1, 1999 and submitted to the Legislative Analyst by September 1, 1999.
- 6) Provides for reimbursement if the Commission on State Mandates determines that this act contains costs mandated by the state.

**EXISTING LAW:** Requires, under the Kristen Smart Campus Safety Act, UC Regents, CSU Trustees, CCD governing boards, and independent colleges that meet specified conditions to enter into specific written agreements, by July 1, 1999, with local law enforcement agencies regarding the coordination and responsibilities for investigating Part 1 violent crimes which occur on campus.

**FISCAL EFFECT:** Unknown.

**COMMENTS:** *Background.* College students who are victims of sexual assault are entitled to the protections and services provided to victims of the general population (law enforcement investigation, rape crisis center services, district attorney criminal prosecutions, etc.) and to the services and remedies required to be provided by colleges and universities under state and federal laws. In recent years, there has been an increasing public awareness of sexual harassment and assault occurring on and near college campuses. State and federal governments have responded through laws and regulations that seek to strengthen partnerships between

colleges and local law enforcement agencies (for criminal prosecutions) and to improve campus handling of sexual assault complaints (for campus-based remedies).

*Campus based requirements and remedies required under federal law.* Pursuant to Title IX of the Higher Education Amendments of 1972 and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, postsecondary educational institutions that receive federal financial aid are required to disclose information about crimes on and around campuses (Clery Act) as well as establish certain rights for victims of sexual assault (Title IX). Title IX prohibits sex based discrimination in education. If an institution knows, or reasonably should know about discrimination, harassment or violence that is creating a "hostile environment" for any student, it must act to eliminate it, remedy the harm caused, and prevent its recurrence. The rights provided under Title IX include notification to victims of the right to file a complaint, available counseling services, the results of disciplinary proceedings, and the option for victims to change their academic schedule or living arrangements, and requires postsecondary institutions to offer prevention and awareness programs to new students and employees regarding rape, domestic and dating violence, sexual assault, and stalking.

*Enforcement of federal requirements.* The United States Department of Education (USDE) Office for Civil Rights (OCR) is responsible for enforcing campus compliance with federal Title IX requirements. In the past several years, OCR has issued strengthened guidance to colleges outlining campuses responsibilities and obligations to promptly investigate and respond to sexual violence. In May of 2014, OCR publically identified campuses under investigation for failing to comply with the federal requirements. The initial list of campuses under investigation by OCR contained 55 institutions; by January of 2015 the list had grown to 94 institutions.

*California actions.* In California, several highly publicized events and investigations have contributed to Legislative attention and action on campus sexual assault. In April of 2013, UC Berkeley students voted "no confidence" in the campus handling of sexual assault disciplinary actions. Subsequently, students at UC Berkeley, and at several other California campuses including Occidental, University of Southern California, and UC Santa Barbara, filed complaints with OCR. In June, 2014, the Bureau of State Audits released a report containing several recommendations for improving training of faculty and staff regarding sexual assault prevention and response. In 2014, two measures addressing sexual assault were adopted. SB 967 (De Leon), Chapter 748, Statutes of 2014, established a requirement for campus "affirmative consent" and other victim centered standards and policies; and, AB 1433 (Gatto), Chapter 798, Statutes of 2014, requires campuses to immediately report specified crimes to law enforcement.

*Committee oversight.* On June 30, 2014, the Assembly Higher Education Committee held a joint oversight hearing to review compliance with federal sexual harassment laws at California's public universities. There was overwhelming consensus among witnesses and Committee members that campuses can and should do more to protect and respond to sexual assault; several members committed to monitoring campus progress on these issues. In the fall of 2014, the Committee organized three roundtable discussions. The first took place at UC Berkeley in September, the second at UC Santa Barbara in November, and the third at UCLA in December. Among the recommendations presented, several witnesses spoke to the importance of strong coordination between campus administrators, law enforcement, and district attorneys.

*Purpose of this bill.* The author argues steps must be taken to ensure allegations of campus sexual assault are appropriately responded to and investigated; cooperation between campus and

local law enforcement on sexual assault is critical. The author notes that 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. California law requires written agreements between local law enforcement and campuses regarding investigations of Part 1 violent crimes. However, existing California law does not require these agreements clarify responsibilities on non-Part 1 sexual assault or hate crimes. This bill specifically requires the written agreements between campus law enforcement and local law enforcement to designate the agency responsible for investigation of sexual assaults and hate crimes.

*Suggested amendment.* The author may wish to consider, rather than requiring written jurisdictional agreements to be updated every five years, an amendment specifying that the agreements must be reviewed at least every five years and updated as necessary.

**REGISTERED SUPPORT / OPPOSITION:****Support**

California College and University Police Chiefs

**Opposition**

None on File

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