**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 3921**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Norrell

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Introduced in the House on February 7, 2019

Currently residing in the House Committee on **Judiciary**

Summary: Sexual assault and harassment allegations

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/7/2019 House Introduced and read first time ([House Journal‑page 3](file:///h:\hj\20190207.docx))

2/7/2019 House Referred to Committee on **Judiciary** ([House Journal‑page 3](file:///h:\hj\20190207.docx))

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**VERSIONS OF THIS BILL**

[2/7/2019](file:///p:\pprever\2019-20\3921_20190207.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑105‑45 SO AS TO PROVIDE EACH INSTITUTION OF HIGHER LEARNING SHALL PROVIDE OPTIONS FOR EMPLOYEES OR ENROLLED STUDENTS TO ELECTRONICALLY REPORT ALLEGATIONS OF SEXUAL HARASSMENT, SEXUAL ASSAULT, DATING VIOLENCE, OR STALKING COMMITTED AGAINST OR WITNESSED BY THE STUDENT OR EMPLOYEE, TO PROVIDE REQUIREMENTS FOR THIS REPORTING OPTION, AND TO PROVIDE CERTAIN RELATED PROTOCOLS MUST COMPLY WITH THESE PROVISIONS; TO AMEND SECTION 59‑105‑20, RELATING TO DEFINITIONS IN THE CAMPUS SEXUAL ASSAULT INFORMATION ACT, SO AS TO DEFINE AND REDEFINE NECESSARY TERMS; TO AMEND SECTION 59‑105‑40, RELATING TO CAMPUS SEXUAL ASSAULT POLICIES, SO AS TO REVISE REQUIREMENTS OF THE POLICIES TO MAKE THEM APPLICABLE TO CAMPUS EMPLOYEES, TO REQUIRE STUDENT ORIENTATIONS CONCERNING THE POLICIES, TO REQUIRE DISTRIBUTION OF POLICIES AT THESE ORIENTATIONS AND BY EMAIL, TO REQUIRE INSTITUTIONS TO PROVIDE CERTAIN COUNSELING TO ALLEGED VICTIMS, PERPETRATORS, AND WITNESSES, AND TO REQUIRE INSTITUTIONS TO ALLOW ALLEGED VICTIMS AND PERPETRATORS OF REPORTED INCIDENTS OF CAMPUS SEXUAL ASSAULT TO WITHDRAW WITHOUT ACADEMIC PENALTY FROM COURSES IN WHICH BOTH ARE ENROLLED; AND TO REQUIRE INSTITUTIONS TO ADOPT MODIFIED COMPLIANT POLICIES WITHIN ONE HUNDRED TWENTY DAYS AFTER THE EFFECTIVE DATE OF THIS ACT, AND TO MAKE OTHER PROVISIONS APPLICABLE BEGINNING WITH THE 2020‑2021 SCHOOL YEAR.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 105, Title 59 of the 1976 Code is amended by adding:

“Section 59‑105‑45. (A) Each institution of higher learning shall provide an option for an employee or enrolled student of the institution to electronically report to the institution an allegation of sexual harassment, sexual assault, dating violence, or stalking committed against or witnessed by the student or employee, regardless of the location at which the alleged offense occurred.

(B) The electronic reporting option provided under subsection (A) must:

(1) enable a student or employee to report the alleged offense anonymously; and

(2) be easily accessible through a clearly identifiable link on the postsecondary educational institution’s Internet website home page.

(C) A protocol for reporting campus sexual assault adopted pursuant to Section 59‑105‑40 must comply with the provisions of this section.”

SECTION 2. Section 59‑105‑20 of the 1976 Code is amended to read:

“Section 59‑105‑20. As used in this act:

(1) ‘Campus’ means a building or property:

(a) owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes;

(b) owned or controlled by a student organization recognized by the institution including, but not limited to, fraternity, sorority, and cooperative houses;

(c) controlled by the institution but owned by a third party.

(2) ‘Campus sexual assault’ means a sexual assault that occurs on campus.

(3) ‘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.

(4) ‘Harassment’ has the same meaning as provided in Section 16‑3‑1700(A) and (B).

(~~3~~5) ‘Institution of higher learning’ or ‘institution’ means a public or private two‑year or four‑year college, community or junior college, technical school, or university located in this State, and also any private two‑year or four‑year college, community or junior college, technical school, or university located in this State ~~which elects to be governed by this chapter~~.

(6) ‘Stalking’ has the same meaning as provided in Section 16‑3‑1700(C).

(~~4~~7) ‘Student’ means an individual who is enrolled in an institution of higher learning on a full‑time or part‑time basis.”

SECTION 3. Section 59‑105‑40 of the 1976 Code is amended to read:

“Section 59‑105‑40. (A) ~~Not later than one hundred twenty days after the effective date of this act,~~ Each institution of higher learning must establish and implement a written campus sexual assault policy applicable to each of its employees and enrolled students regarding at least:

(1) the institution’s campus sexual assault programs, aimed at prevention and awareness of sexual assaults; and

(2) the procedures followed by the institution once a sexual assault occurs and is reported.

(B) The policy described in subsection (A) must address at least all the following areas:

(1) education programs to promote awareness of the institution’s policy and of the prevention and awareness of sexual assault;

(2) possible sanctions following the final determination of an institutional disciplinary procedure regarding a sexual assault;

(3) procedures a student follows if a sexual assault occurs, including the persons to be contacted, the importance of preserving evidence of the criminal sexual assault, and the authorities to whom the alleged offense must be reported;

(4) procedures for institutional disciplinary action in cases of alleged sexual assault, including a clear statement that both the accuser and the accused:

(i) have the same opportunities to have support persons or legal counsel, if the institution’s policy allows the presence of outside legal counsel, present during an institutional disciplinary proceeding; and

(ii) must be informed of the outcome of an institutional disciplinary proceeding brought alleging a sexual assault.

(5) notification to a student of the right to notify proper law enforcement authorities, including institutional and local police, and of the option to be assisted by representatives of the institution in notifying law enforcement authorities if the student chooses;

(6) notification of a student of existing medical, advocacy, counseling, mental health, and student services for victims of sexual assault, both on campus and in the community;

(7) notification of a student of options for, and available assistance in, changing academic and living situations after an alleged campus sexual assault, if requested by the victim and if the changes are reasonably available.

(C) An institution of higher learning shall conduct an orientation on the institution’s sexual assault policy at the beginning of each semester. Each entering freshmen and undergraduate transfer student shall attend the orientation during the first semester the student is enrolled in the institution.

(D) This action does not expand or reduce a private right of action of a person to enforce the provisions of this act.

(~~D~~E)(1) As part of the sexual assault prevention and awareness education programs provided in subsection (B)(1), each institution of higher learning must distribute to students, faculty, and staff the written campus sexual assault policy required by this chapter by:

(i) printing the policy in one or more of the institution’s publications made widely available to students, such as the institution’s catalog, student handbook, or staff handbook~~.~~;

(ii) emailing the policy to each student at the beginning of each semester; and

(iii) including the information in the orientation provided in subsection (C); and

(2) Each institution of higher learning must include on admissions and employment applications a notification that a copy of the institution’s campus sexual assault policy is available upon request. In addition, the institution’s law enforcement personnel, security personnel, and counseling center must make the written policy available to a student who reports being a victim of a sexual assault involving another student or occurring on campus.

(F) As part of the protocol for responding to reports of sexual assault adopted under subsection (A)(2), each institution shall:

(1) to the greatest extent practicable based on the number of counselors employed by the institution, ensure that each alleged victim or alleged perpetrator of an incident of sexual assault and any other person who reports such an incident are offered counseling provided by a counselor who does not provide counseling to any other person involved in the incident; and

(2) notwithstanding another provision of law, allow an alleged victim or alleged perpetrator of reported incident of sexual assault to drop a course in which both parties are enrolled without any academic penalty.”

SECTION 4. All public and private institutions of higher learning shall implement adopt modified Campus Sexual Assault policies compliant with the provisions of this act within one‑hundred twenty days of the effective date of this act. The other provisions of this act are applicable beginning with the 2020‑2021 School Year.

SECTION 5. This act takes effect upon approval by the Governor.

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