

House Bill 3456

Sponsored by Representative HARTMAN

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes Sexual Misconduct Survey Council. Requires council to biennially distribute base sexual misconduct climate survey and recommendations regarding use of study to each institution of higher education.

Requires each institution of higher education in state to biennially use base survey from council to conduct sexual misconduct climate survey of all students enrolled at institution. Requires each institution to submit aggregate summary of survey results to Higher Education Coordinating Commission and post copy of summary and other reports on institution's website.

Requires each institution of higher education to hire certified advocate. Lists exceptions for when hiring not required. Details duties of certified advocate.

Requires each institution of higher education to enter into and maintain memorandum of understanding with rape crisis center or domestic violence center in same county as institution. Details requirements of memorandum of understanding.

Prohibits institution of higher education from punishing students who report incidents of sexual misconduct due to stated violations of institution's policies that are discovered during investigation into misconduct.

Requires each institution of higher education to prepare and deliver sexual misconduct primary prevention and awareness training that must be attended annually by each student and employee of institution. Details requirements of training.

Requires Higher Education Coordinating Commission and each institution of higher education to waive any academic or disciplinary record requirements required to demonstrate academic success that are part of institution-provided scholarship or scholarship or grant administered by commission for students who experience sexual misconduct and obtain waiver in specified manner.

Requires each institution of higher education to provide annual report to Legislative Assembly, Higher Education Coordinating Commission and Director of Human Services detailing specified aspects of reported sexual misconduct and institution responses during previous academic year.

Authorizes Higher Education Coordinating Commission to impose civil penalty not to exceed \$150,000 or one percent of institution's annual operating budget, whichever is lower, for violation of provisions.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to sexual misconduct at institutions of higher education; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in sections 1 to 12 of this 2023 Act:

(1) **"Certified advocate" and "qualified victim services program" have the meanings given those terms in ORS 40.264.**

(2) **"Institution of higher education" has the meaning given that term in ORS 350.253.**

(3) **"Reporting party" means a student or employee at an institution of higher education who reports having experienced an incident of sexual misconduct to the institution.**

(4) **"Sexual misconduct" means an incident of sexual harassment, sexual violence, intimate partner violence, domestic violence, sexual exploitation, stalking, harassment or violence based on sexual orientation or gender identity or expression, or other gender-based harassment or violence.**

(5) **"Student" means an individual who:**

(a) **Is enrolled or who is seeking to enroll in a credit-bearing program at an institution**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 of higher education, whether part-time, full-time or as an extension student; or

2 (b) Who has taken a leave of absence or withdrawn from the institution of higher edu-
3 cation due to being a victim of sexual misconduct.

4 (6) "Trauma-informed response" means a response involving an understanding of the
5 complexities of intimate partner violence, domestic violence, sexual assault and stalking
6 through training centered on the neurobiological impact of trauma, the influence of societal
7 myths and stereotypes surrounding the causes and impacts of trauma, an understanding of
8 perpetration methodology and knowledge of how to conduct an effective investigation.

9 **SECTION 2.** (1) The Sexual Misconduct Survey Council is established, consisting of 18
10 voting members and four nonvoting members.

11 (2) The four nonvoting members of the council shall be appointed as follows:

12 (a) The President of the Senate shall appoint two nonvoting members from among
13 members of the Senate; and

14 (b) The Speaker of the House of Representatives shall appoint two nonvoting members
15 from among members of the House of Representatives.

16 (3)(a) The executive director of the Higher Education Coordinating Commission, in con-
17 sultation with the Attorney General's Sexual Assault Task Force and the Oregon Coalition
18 Against Domestic and Sexual Violence, shall appoint the following 16 voting members of the
19 council:

20 (A) One individual who represents a public university listed in ORS 352.002;

21 (B) One individual who represents a private institution of higher education;

22 (C) One individual who represents a community college operated under ORS chapter 341;

23 (D) One Title IX coordinator from an institution of higher education that awards
24 bachelor's degrees.;

25 (E) One individual from the Oregon Coalition Against Domestic and Sexual Violence;

26 (F) One representative from the Attorney General's Sexual Assault Task Force;

27 (G) One individual from a national coalition focused on ending campus sexual violence,
28 including but not limited to the Every Voice Coalition;

29 (H) Two students who are enrolled at a public university listed in ORS 352.002 and who
30 are affiliated with a group or organization that advocates for multicultural, diversity or
31 antidiscrimination training;

32 (I) Two students who are enrolled at a private institution of higher education and who
33 are affiliated with a group or organization that advocates for multicultural, diversity or
34 antidiscrimination training;

35 (J) Two students who are enrolled at a community college operated under ORS chapter
36 341 and who are affiliated with a group or organization that advocates for multicultural, di-
37 versity or antidiscrimination training;

38 (K) One individual who has demonstrated experience in the development and design of
39 sexual misconduct climate surveys;

40 (L) One individual who has demonstrated expertise in statistics, data analytics or
41 econometrics and experience in higher education survey analysis; and

42 (M) One individual who is a medical or mental health care professional with experience
43 working with victims of trauma at a health services program at an institution of higher ed-
44 ucation.

45 (b) An individual appointed under paragraph (a)(E) to (G) of this subsection may appoint

1 a designee to serve on the council in place of the individual appointed.

2 (4) In addition to the individuals described in subsections (2) and (3) of this section, the
 3 Attorney General and the executive director of the commission, or the designee of the At-
 4 torney General or the executive director of the commission, shall serve as voting members
 5 of the council.

6 (5) In appointing members to the council, the appointing authorities shall:

7 (a) Seek to ensure that membership on the council is reflective of the gender, racial and
 8 geographic diversity of Oregon; and

9 (b) Seek to appoint individuals with a background, education or experience in the fields
 10 of public health, survey design or Title IX of the Education Amendments Act of 1972, 20
 11 U.S.C. 1681 to 1688, as amended.

12 (6)(a) The term of office of each individual appointed to the council under subsections (2)
 13 and (3) of this section is two years. Before the expiration of the term of a member, the ap-
 14 pointing authority shall appoint a successor. A member is eligible for reappointment.

15 (b) If there is a vacancy for any cause, the appointing authority shall make an appoint-
 16 ment to become immediately effective for the unfinished term.

17 (7) The council shall select one or more of its voting members as chairperson or as
 18 cochairpersons.

19 (8) A majority of the voting members of the council constitutes a quorum for the trans-
 20 action of business.

21 (9) The Legislative Policy and Research Director shall provide staff support to the coun-
 22 cil.

23 (10)(a) Except as provided in paragraphs (b) and (c) of this subsection, members of the
 24 council are not entitled to compensation for their service on the council.

25 (b) To the extent moneys are available, members of the council who are not members
 26 of the Legislative Assembly shall be reimbursed for actual and necessary travel and other
 27 expenses incurred by the members in the performance of official duties in the manner and
 28 amount as provided in ORS 292.495.

29 (c) Legislative members of the council shall be entitled to payment of compensation and
 30 expense reimbursement under ORS 171.072, payable from funds appropriated to the Legisla-
 31 tive Assembly.

32 **SECTION 3.** (1) At least once every two years, the Sexual Misconduct Survey Council
 33 established under section 2 of this 2023 Act shall:

34 (a) Develop a base survey for distribution to institutions of higher education; and

35 (b) Provide each institution of higher education with any recommendations regarding use
 36 of the survey, including but not limited to additional content that could be added, the timing
 37 for conducting the survey, recommendations for achieving statistically valid response rates
 38 and how the survey results should be interpreted.

39 (2) In developing the base survey required under subsection (1) of this section, the
 40 council shall:

41 (a) Utilize best practices from peer-reviewed research and consult with individuals with
 42 expertise in the development and use of sexual misconduct climate surveys by post-secondary
 43 institutions of education;

44 (b) Review sexual misconduct climate surveys that have been developed and previously
 45 used by post-secondary institutions of education;

1 (c) Provide opportunities for written comment from organizations that work directly with
2 victims of sexual misconduct in order to ensure the adequacy and appropriateness of the
3 proposed content;

4 (d) Consult with institutions of higher education on strategies for optimizing the effec-
5 tiveness of the survey;

6 (e) Account for the diverse needs and differences of institutions of higher education; and

7 (f) Provide opportunities for student feedback through optional comment boxes at the
8 end of the survey and by providing a time and space for students to comment to the council
9 on what could be done to improve the sexual misconduct climate survey described in section
10 4 of this 2023 Act so that the results of the survey convey an accurate representation of
11 happenings on campus.

12 (3) The base survey shall gather data on topics including but not limited to:

13 (a) The number and type of incidents, both reported and unreported, of sexual miscon-
14 duct at the institution of higher education;

15 (b) When incidents of sexual misconduct occurred, without requiring a specific date or
16 time;

17 (c) Whether incidents of sexual misconduct occurred on campus, off campus, overseas
18 or virtually;

19 (d) If the sexual misconduct was perpetrated by a student, faculty member, nonfaculty
20 staff member, third-party vendor to the institution of higher education or other individual;

21 (e) How aware students are of institutional policies and procedures related to campus
22 sexual misconduct;

23 (f) Whether a student reported sexual misconduct, with specific follow-up questions re-
24 garding:

25 (A) For students who reported sexual misconduct, whether the report was made to a
26 campus resource or law enforcement agency; and

27 (B) For students who did not report sexual misconduct, why the student chose not to
28 make a report;

29 (g) Whether students who experienced sexual misconduct disclosed the sexual miscon-
30 duct to a friend, peer, family member, faculty or nonfaculty staff member, campus resource
31 or law enforcement official;

32 (h) For a student who reported sexual misconduct:

33 (A) Whether the student was informed of or referred to local, state, campus or other
34 resources, or to victim support services, including but not limited to appropriate medical
35 care, mental health counseling and legal services; and

36 (B) Whether the student was provided with protection from retaliation, access to
37 institution-based supportive measures or institution-based accommodations and criminal
38 justice remedies;

39 (i) For a student who experienced assault, the types of contextual factors that were
40 present during the assault, including but not limited to the involvement of force, incapacitation,
41 coercion, drugs or alcohol;

42 (j) Demographic information that could be used to identify at-risk groups, including but
43 not limited to sex, race, ethnicity, national origin, economic status, disability status, gender
44 identity, immigration status and sexual orientation;

45 (k) Perceptions of campus safety among members of the campus community;

1 (L) Student confidence in the institution's ability to protect against and respond to inci-
2 dents of sexual misconduct;

3 (m) Whether students who reported sexual misconduct decided to withdraw or take a
4 leave of absence from the institution, or considered transferring to another institution;

5 (n) Whether students who experienced sexual misconduct withdrew from any classes or
6 were placed on academic probation;

7 (o) Whether students experienced any financial impacts from sexual misconduct or the
8 institution's response to a report of sexual misconduct;

9 (p) Whether students experienced any negative health impacts from sexual misconduct
10 or the institution's response to a report of sexual misconduct, including but not limited to
11 post-traumatic stress disorder, anxiety, depression, chronic pain or eating disorders;

12 (q) Community attitudes towards sexual misconduct, including but not limited to
13 students' willingness to intervene as bystanders; and

14 (r) Any other questions the council determines would be beneficial.

15 (4) A base survey developed under this section:

16 (a) Shall:

17 (A) Include a "decline to state" and "not applicable" option for each question;

18 (B) Be offered to all students enrolled at the institution of higher education, including
19 students who are on a leave of absence or studying abroad;

20 (C) Be created taking into account all reasonable measures to ensure that an adequate,
21 random and representative sample of students complete the survey; and

22 (D) Be administered online, with reasonable accommodations provided to all students in
23 order to ensure accessibility; and

24 (b) May not require the disclosure of any personally identifiable information.

25 **SECTION 4.** (1) At least once every two years, each institution of higher education shall
26 conduct a sexual misconduct climate survey of all students enrolled at the institution.

27 (2) A survey conducted under this section shall include:

28 (a) The most recent base survey provided by the Sexual Misconduct Survey Council under
29 section 3 of this 2023 Act; and

30 (b) Any additional campus-specific questions chosen by the institution, provided that the
31 additional questions do not:

32 (A) Require the disclosure of any personally identifiable information; and

33 (B) Are not objectively traumatizing for victims of sexual misconduct.

34 (3) No later than 120 days after completing a survey under this section, each institution
35 of higher education shall:

36 (a) Submit an aggregate summary of the results to the Higher Education Coordinating
37 Commission; and

38 (b) Post on the institution's website in an easily accessible manner:

39 (A) A summary of the results of the survey;

40 (B) Any annual security reports required to be reported under federal law, including but
41 not limited to the Annual Security Report required to be reported under the Clery Act of 1990
42 (P.L. 101-542), as amended; and

43 (C) A link to the data repository for summaries of sexual misconduct climate surveys
44 established by the commission under section 5 of this 2023 Act.

45 **SECTION 5.** (1) The Higher Education Coordinating Commission shall establish a data

1 repository for all summaries of sexual misconduct climate surveys conducted by institutions
 2 of higher education and submitted to the commission under section 4 of this 2023 Act.

3 (2) The data repository established under this section must:

4 (a) Be made available to the public in an easily accessible manner on the website of the
 5 commission; and

6 (b) Except as provided in subsection (3) of this section, include all sexual misconduct
 7 climate survey data received by the commission.

8 (3) Prior to making the data of any sexual misconduct climate survey the commission
 9 receives publicly available, the commission shall ensure that the data is anonymized and does
 10 not contain any personally identifiable information. The commission may alter the data it
 11 receives to the degree necessary to ensure conformity with this subsection.

12 (4) The commission shall adopt rules for the dissemination and collection of sexual mis-
 13 conduct climate surveys at institutions of higher education. In adopting these rules, the
 14 commission shall seek to promote effective solicitation that will achieve the highest practi-
 15 cable response rate, collection and publication of statistical information from institutions of
 16 higher education.

17 **SECTION 6.** (1)(a) Except as provided in paragraph (b) of this subsection, each institution
 18 of higher education shall employ at least one certified advocate as part of a institution-based
 19 qualified victim services program.

20 (b) An institution of higher education is not required to employ a certified advocate if the
 21 institution:

22 (A)(i) Does not have an institution-based qualified victim services program; or

23 (ii) Has fewer than 1,000 enrolled students who reside on campus; and

24 (B)(i) Partners with a local victim advocacy organization to provide a certified advocate;

25 (ii) Ensures that the certified advocate has on-campus office hours; and

26 (iii) Ensures that the services of the certified advocate are provided without charge to
 27 enrolled students.

28 (2) A certified advocate employed by an institution of higher education under this section
 29 shall be appointed based on the individual's experience and demonstrated ability to effectively
 30 provide victim services related to sexual misconduct and:

31 (a) May not:

32 (A) Be a student of the institution;

33 (B) Be a Title IX coordinator for the institution;

34 (C) Be an authorized administrator of disciplinary processes on behalf of the institution;

35 (D) Be a member of campus police or law enforcement; or

36 (E) Have any additional job responsibilities that could create a conflict of interest, in-
 37 cluding but not limited to being a general counsel, director of athletics, dean of students,
 38 clergy member, or any employee who serves on a judicial or hearing board or to whom an
 39 appeal regarding an allegation of sexual misconduct may be made; and

40 (b) Shall receive training:

41 (A) Required to be a certified advocate;

42 (B) On the requirements of Title IX of the Education Amendments Act of 1972, 20 U.S.C.
 43 1681 to 1688, as amended;

44 (C) On the policies of the institution of higher education relating to sexual misconduct;
 45 and

1 (D) On trauma-informed response.

2 (3) A certified advocate who is employed under this section shall:

3 (a) Provide confidential services to students and inform students of all information re-
4 quired to be provided under ORS 350.253 and 350.255;

5 (b) Provide written notification to all institution staff involved in providing or enforcing
6 supportive measures or accommodations of the respective duties of these staff members;

7 (c) If directed by a student, assist the student in contacting campus police or local law
8 enforcement agencies to make a report;

9 (d) Notify students of their rights, and the responsibilities of the institution, regarding
10 protection orders, no contact orders and any other lawful ordered issued by the institution
11 or by a criminal, civil or tribal court;

12 (e) Be subject to privilege as a certified advocate under ORS 40.264;

13 (f) Coordinate with on-campus sexual misconduct response resources and any rape crisis
14 center or domestic violence center with which the institution has entered into a memoran-
15 dum of understanding under section 7 of this 2023 Act within a reasonable time after being
16 designated as a certified advocate; and

17 (g) If requested by signed written consent from a student, assist the student with coor-
18 dinating on-campus supports and supports available with any rape crisis center or domestic
19 violence center with which the institution has entered into a memorandum of understanding
20 under section 7 of this 2023 Act.

21 (4) A certified advocate employed under this section:

22 (a) If requested by a student, may attend an administrative or institution-based adjudi-
23 cation proceeding as the advocate or support person for the student;

24 (b) May not:

25 (A) Be required to report an incident to the institution or a law enforcement agency
26 unless otherwise required to do so by state or federal law;

27 (B) Disclose confidential information, including but not limited to the name, contact in-
28 formation or any personally identifiable information of a student or any information on the
29 sexual misconduct, without the prior written consent of the student who provided the in-
30 formation to the certified advocate;

31 (C) Provide services to both the reporting party and the responding party of the same
32 sexual misconduct incident; or

33 (D) Act as a counselor or therapist.

34 (5) Nothing in this section may be construed to limit either party's right of cross exam-
35 ination of the certified advocate in a criminal or civil proceeding if the advocate testifies
36 after written consent has been given.

37 (6) Providing notice to a certified advocate of an alleged act of sexual misconduct or an
38 advocate's performance of a service under this section may not be considered actual or
39 constructive notice to the institution of higher education of the alleged act.

40 (7) If a conflict of interest arises for an institution of higher education in which a certi-
41 fied advocate is advocating for a student's need for sexual misconduct crisis services or for
42 campus resources or law enforcement services, the institution may not discipline, penalize
43 or otherwise retaliate against the certified advocate for representing the interest of the re-
44 porting party.

45 **SECTION 7.** (1) Except as provided in subsection (4) of this section, each institution of

1 higher education shall enter into and maintain a memorandum of understanding with a rape
 2 crisis center or a domestic violence center that is in the same county as the institution.

3 (2) The memorandum of understanding entered into under this section shall ensure that
 4 the rape crisis center or domestic violence center will:

5 (a) Assist in developing the institution’s policies, programming and training regarding
 6 sexual misconduct that involves students and employees;

7 (b) Provide an accessible off-campus alternative where students and employees of the
 8 institution can receive free and confidential sexual misconduct crisis services, including but
 9 not limited to access to a sexual assault nurse examiner, if available, and to domestic vi-
 10 olence crisis services in response to sexual misconduct;

11 (c) Ensure that a student or employee of the institution can access free and confidential
 12 counseling and advocacy services either on campus or off campus; and

13 (d) Ensure cooperation and training between the institution and the rape crisis center
 14 or domestic violence center to ensure an understanding of the roles that the institution or
 15 center should play in responding to reports and disclosures of sexual misconduct against
 16 students and employees of the institution and the institution’s protocols for providing sup-
 17 port and services to students and employees who have been the victims of sexual misconduct.

18 (3)(a) A memorandum of understanding entered into under this section may include an
 19 agreement, including a fee structure, between the rape crisis center or domestic violence
 20 center and the institution of higher education for the provision of confidential victim ser-
 21 vices.

22 (b) As used in this subsection, “confidential victim services” means case consultation and
 23 training fees for certified advocates, consultation fees for the development and implementa-
 24 tion of student education and prevention programs, the development of staff training and
 25 prevention curriculum and confidential on-site office space for a representative from a rape
 26 crisis center or domestic violence center to meet with students or employees of the institu-
 27 tion of higher education.

28 (4) Notwithstanding subsection (1) of this section, the Higher Education Coordinating
 29 Commission may waive the requirements of this section if the commission determines that,
 30 despite reasonable efforts, an institution of higher education was unable to enter into a
 31 memorandum of understanding with a rape crisis center or domestic violence center.

32 **SECTION 8.** (1)(a) A reporting party or a witness who requests an investigation of sexual
 33 misconduct may not be subjected to a disciplinary proceeding or sanction for violating the
 34 institution of higher education’s student conduct policy related to drug or alcohol use, tres-
 35 passing or unauthorized entry of school facilities or other violations of a school policy or
 36 code of conduct that is discovered in connection with the alleged sexual misconduct unless
 37 the institution determines that the report was not made in good faith or that the violation
 38 of the policy was an egregious violation.

39 (b) As used in this subsection, an “egregious violation” includes but is not limited to
 40 taking an action that places the health and safety of another individual at risk.

41 (2) If the code of conduct of an institution of higher education prohibits sexual activity
 42 or certain forms of sexual activity, including but not limited to same-gender relationships
 43 or sexual activity, the institution may not take disciplinary action against:

44 (a) Individuals who report sexual misconduct or nonharassing sexual activity related to
 45 sexual misconduct that is discovered during an investigation into reported sexual miscon-

1 duct; or

2 (b) Other nonharassing sexual activity that is discovered during an investigation into an
3 allegation of sexual misconduct.

4 (3) In any instance in which disciplinary action is taken against an individual who has
5 reported sexual misconduct, the institution of higher education shall review the disciplinary
6 action to determine if there is a link between the disclosed sexual misconduct and the mis-
7 conduct that led to the reporting party's being disciplined.

8 **SECTION 9.** (1) In addition to any requirements set forth in ORS 350.253 and 350.255, each
9 institution of higher education shall:

10 (a) Receive guidance from the Title IX coordinator of the institution, local law enforce-
11 ment, violence prevention specialists, public health specialists, other individuals with expe-
12 rience identifying protective and risk factors related to violence and the rape crisis center
13 or domestic violence center with which the institution entered into a memorandum of
14 understanding under section 7 of this 2023 Act; and

15 (b) Use the guidance received under paragraph (a) of this subsection to establish a
16 trauma-informed, gender-inclusive sexual misconduct primary prevention and awareness
17 training that must be attended annually by each student and employee of the institution.

18 (2) Trainings provided under this section:

19 (a) Must be accessible to individuals with a disability;

20 (b) Must be culturally responsive and address the unique experiences and challenges
21 faced by students based on race, color, ethnicity, national origin, religion, economic status,
22 disability status, immigration status, sexual orientation, gender identity and pregnancy or
23 parenting status; and

24 (c) Must include:

25 (A) An explanation of consent as it applies to sexual activity and sexual relationships;

26 (B) The role drugs and alcohol play in an individual's ability to consent;

27 (C) Information on options relating to the reporting of an incident of sexual misconduct,
28 the effects of each option presented and the methods to report an incident of sexual mis-
29 conduct, including confidential and anonymous disclosure;

30 (D) Information on the institution's procedures for resolving sexual misconduct reports
31 and the range of sanctions or penalties the institution may impose on students and employ-
32 ees responsible for a violation;

33 (E) The name, contact information and role of the certified advocate employed by the
34 institution;

35 (F) Strategies for bystander intervention and risk reduction; and

36 (G) Opportunities for ongoing sexual misconduct prevention and awareness training and
37 programming.

38 **SECTION 10.** (1) The Higher Education Coordinating Commission and each institution of
39 higher education shall waive any requirements relating to a minimum required grade point
40 average or other academic or disciplinary record requirements required to demonstrate ac-
41 ademic success that are part of any institution-sponsored program or activity for any stu-
42 dent applicant or participant who:

43 (a) Has experienced sexual misconduct; and

44 (b) Has received a waiver in the manner described in subsection (2) of this section.

45 (2) A student may obtain a waiver from fulfilling requirements for an institution-

1 sponsored program or activity under this section from the certified advocate employed by the
 2 institution, the Title IX coordinator at the institution, a student basic needs coordinator at
 3 the institution, any law enforcement personnel at the institution, the student's academic
 4 advisor at the institution or any disability resource center personnel.

5 (3) The commission and each institution of higher education shall maintain
 6 confidentiality of all materials that contain personally identifiable information for individuals
 7 who have submitted a waiver under this section unless disclosure is required specifically for
 8 the purpose of making required accommodations or if otherwise required by a court of law.

9 (4) As used in this section, "institution-sponsored program or activity" includes but is
 10 not limited to a scholarship provided by an institution of higher education or a scholarship
 11 or grant administered by the higher Education Coordinating Commission.

12 **SECTION 11.** (1) No later than October 1 of each year, each institution of higher educa-
 13 tion shall submit a report in the manner provided by ORS 192.245 to:

- 14 (a) The Secretary of the Senate and the Chief Clerk of the House of Representatives;
- 15 (b) The interim committees of the Legislative Assembly relating to higher education;
- 16 (c) The Higher Education Coordinating Commission; and
- 17 (d) The Director of Human Services.

18 (2) The report shall include:

19 (a) The total number of allegations of intimate partner violence, domestic violence, sex-
 20 ual assault, sexual harassment and stalking that were reported to the institution's Title IX
 21 coordinator by a student or employee of the institution against another student or employee
 22 of the institution during the previous academic year;

23 (b) The number of law enforcement investigations known to have been initiated during
 24 the previous academic year in response to reports of sexual misconduct that were brought
 25 forward by a student or employee of the institution against another student or employee of
 26 the institution;

27 (c) The number of students and employees at the institution who were found responsible
 28 during the previous academic year for violating the institution's policies prohibiting sexual
 29 misconduct;

30 (d) The number of students and employees at the institution who during the previous
 31 academic year, faced academic or employment disciplinary action due to having violated the
 32 institution's policies prohibiting sexual misconduct;

33 (e) The number of students and employees at the institution who, during the previous
 34 academic year, were investigated, but found not responsible for having violated the
 35 institution's policies prohibiting sexual misconduct;

36 (f) The number of disciplinary actions imposed during the previous academic year by the
 37 institution as a result of a finding of responsibility for violating the institution's policies
 38 prohibiting sexual misconduct;

39 (g) The number of students at the institution who, during the previous academic year,
 40 requested supportive measures;

41 (h) The number of supportive measures requested by each student described in paragraph
 42 (g) of this subsection;

43 (i) The number of supported measures granted to each student described in paragraph
 44 (g) of this subsection; and

45 (j) The number of students during the previous academic year who took a leave of ab-

1 sence, transferred to a different institution of higher education or withdrew from the insti-
2 tution of higher education.

3 (3) The information provided in the report must be provided in an anonymous and ag-
4 gregate manner that complies with all state and federal privacy laws.

5 SECTION 12. (1) If, after providing reasonable notice and an opportunity for a hearing,
6 the Higher Education Coordinating Commission determines that an institution of higher ed-
7 ucation has violated or failed to carry out any provision of sections 1 to 12 of this 2023 Act,
8 the commission may impose a civil penalty against the institution not to exceed \$150,000 or
9 one percent of the institution's annual operating budget, whichever is lower, for each vio-
10 lation.

11 (2) Prior to the start of each academic year, the commission shall adjust the dollar
12 amount set forth in this section by the cumulative change in the Consumer Price Index for
13 All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statis-
14 tics of the United States Department of Labor, or its successor, since the previous academic
15 year. The adjustments performed under this subsection shall be rounded to the nearest \$10
16 increment.

17 (3) The commission may adopt rules necessary to implement sections 1 to 12 of this 2023
18 Act.

19 SECTION 13. The Sexual Misconduct Survey Council must submit the first base survey
20 and related recommendations, including but not limited to recommendations on achieving
21 statistically valid response rates, to each institution of higher education no later than Jan-
22 uary 1, 2024.

23 SECTION 14. Sections 1 to 12 of this 2023 Act first apply to the 2023-2024 academic year.

24 SECTION 15. It is the intent of the Legislative Assembly that all parts of this 2023 Act
25 are independent and that if any part of this 2023 Act is held unconstitutional, all remaining
26 parts shall remain in force.

27 SECTION 16. This 2023 Act being necessary for the immediate preservation of the public
28 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
29 on its passage.

30 _____