

FIFTY-SIXTH LEGISLATURE
SECOND SESSION, 2024

HB 151/a

February 13, 2024

Mr. President:

Your **JUDICIARY COMMITTEE**, to whom has been referred

HOUSE BILL 151

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, strike lines 12 through 15 and insert in lieu thereof:

"REQUIRING STATE-FUNDED POST-SECONDARY EDUCATIONAL INSTITUTIONS TO ADOPT POLICIES AND PROCEDURES ADDRESSING AFFIRMATIVE CONSENT.".

2. On page 1, strike lines 18 through 25 and strike pages 2 through 7 and insert in lieu thereof:

"SECTION 1. [NEW MATERIAL] POLICIES AND PROCEDURES ADDRESSING AFFIRMATIVE CONSENT.--

A. A post-secondary educational institution shall adopt policies and procedures that shall:

(1) reference an affirmative consent standard in the determination of whether consent was given by all parties to sexual activity;

(2) specify the requirement for the affirmative consent of all other parties engaged in that sexual activity; and

(3) specify that affirmative consent:

(a) can never be given by a party who is asleep, unconscious, incapacitated due to the influence of drugs, alcohol or medication or unable to communicate due to a mental or physical condition;

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(b) cannot be implied, assumed or inferred from silence or lack of protest or resistance; and

(c) can be revoked at any time; and

(4) specify that the existence of a dating relationship or sexual relations shall not alone be affirmative consent.

B. Policies shall include:

(1) appropriate protections in any investigation of offending conduct of the parties and witnesses involved, including confidentiality;

(2) that all parties who participate as a complainant or witness in an investigation will not be subject to disciplinary sanctions for a violation of the post-secondary educational institution student conduct policy at or near the time of the incident, unless the post-secondary educational institution determines that the violation was egregious, including an action that places the health or safety of any other party at risk or involves plagiarism, cheating or academic dishonesty; and

(3) requirements for a training program of employees or contractors involved in investigating allegations of offending conduct, counseling, health care and reporting to law enforcement;

(4) implementing any awareness prevention programs, including primary prevention, bystander intervention and risk reduction programs that:

(a) include a range of prevention strategies, including empowerment programming, awareness-raising campaigns, primary prevention, bystander intervention and risk reduction;

(b) advise students of the policies and

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procedures on affirmative consent; and

(c) are included as part of every incoming student's orientation.

C. For purposes of this section:

(1) "affirmative consent" means affirmative, conscious and voluntary agreement to engage in sexual activity;

(2) "post-secondary educational institution" means a public, private, nonprofit or for-profit educational institution chartered, incorporated or otherwise operating in this state that is legally authorized to award a vocational or technical certificate or a degree at an associate level or above with a physical presence in this state;

(3) "student" means a person who is enrolled in a credit-bearing program through a post-secondary educational institution, whether enrolled part-time, full-time or in an extension program or who has taken a leave of absence or has withdrawn from the institution due to being a complainant;

(4) "trauma-informed policy" means a program or system that considers the widespread impact of trauma and understands potential paths for recovery; recognizes the signs and symptoms of trauma in clients, families, staff and others involved with the system; responds by fully integrating knowledge about trauma into policies, procedures and practices; and seeks to actively resist re-traumatization; and

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(5) "trauma-informed response" means a response involving an understanding of the complexities of dating violence, domestic violence, sexual assault and harassment or stalking through training centered on the neurobiological impact of trauma, the influence of societal myths and stereotypes surrounding the causes and impacts of trauma with an understanding of perpetration methodology and how to conduct an effective investigation."

Respectfully submitted,

Joseph Cervantes, Chair

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Baca, Duhigg, Moores, Pirtle

Absent: None

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