

FIRST REGULAR SESSION

HOUSE BILL NO. 328

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE INGLE.

1205H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 173, RSMo, by adding thereto two new sections relating to sexual assault policies of institutions of higher education.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 173, RSMo, is amended by adding thereto two new sections, to be known as sections 173.2100 and 173.2102, to read as follows:

173.2100. 1. The provisions of sections 173.2100 and 173.2102 shall be known and may be cited as the "Enough is Enough Act".

2. As used in sections 173.2100 and 173.2102, the following terms mean:

(1) "Institution of higher education", a public or private educational institution located in Missouri that provides a postsecondary course of instruction;

(2) "Sexual assault", sexual assault as defined by each institution of higher education in its sexual assault policies, in a manner consistent with applicable federal definitions.

3. Each institution of higher education shall comply with every provision in Sections 1681 to 1688 of Title IX of the federal Education Amendments of 1972, as amended, if applicable.

4. Each institution of higher education shall:

(1) Adopt sexual assault policies derived from evidence-based and peer-reviewed research and prominently display such policies on its website; and

(2) Distribute written copies of its sexual assault policies established under subdivision (1) of this subsection to all students enrolled at its institution at least one time each academic year.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **5. The sexual assault policies of each institution of higher education shall include**
19 **an affirmative consent standard in determining whether the parties consented to sexual**
20 **activity. The sexual assault policies of each institution of higher education shall define**
21 **"affirmative consent" as knowing, voluntary, and mutual agreement among all**
22 **participants to engage in a sexual activity.**

23 **6. The sexual assault policies of each institution of higher education shall provide**
24 **that a student acting in good faith who reports an incident of sexual assault to law**
25 **enforcement or to the institution of higher education shall not be subject to discipline or**
26 **any other consequences for violations of any drug policy or alcohol policy, ancillary to the**
27 **incident, of the institution of higher education.**

28 **7. The opening of an investigation by a law enforcement agency into a student's**
29 **report of sexual assault shall not relieve the institution of higher education from its**
30 **obligation to provide accommodations for all students involved in the reported incident**
31 **and to follow its procedures regarding reports of sexual assault that apply in the absence**
32 **of a law enforcement investigation.**

33 **8. Each institution of higher education shall provide a student accused of sexual**
34 **assault with:**

35 **(1) One hearing unless declined by such accused student; and**

36 **(2) One level of appeal of a determination unless declined by such accused student.**

37 **9. Each institution of higher education shall employ at least one full-time individual**
38 **as a Title IX coordinator who investigates Title IX complaints. Institutions with an**
39 **enrollment of more than twenty-five thousand students shall employ at least one full-time**
40 **Title IX coordinator for every twenty-five thousand students enrolled at such institution.**
41 **Any person employed as a Title IX coordinator shall not be assigned any job**
42 **responsibilities that may conflict with the employee's Title IX responsibilities.**

173.2102. 1. Sexual assault policies adopted by institutions of higher education, as
2 **required under section 173.2100, shall include formal grievance procedures that include,**
3 **but are not limited to, the following elements:**

4 **(1) Notice to students and employees of the institution's grievance procedures,**
5 **including where complaints may be filed;**

6 **(2) Application of the procedures to complaints alleging harassment carried out by**
7 **employees, other students, or third parties;**

8 **(3) Adequate, reliable, and impartial investigation of complaints, including the**
9 **opportunity for both parties to present witnesses and other evidence;**

10 **(4) Designated and reasonably prompt time frames for the major stages of the**
11 **complaint process;**

12 **(5) Notice to parties of the outcome of the complaint; and**
13 **(6) An assurance that the institution will take steps to prevent the recurrence of any**
14 **harassment and to correct its discriminatory effects on the complainant and others, if**
15 **appropriate.**

16 **2. Institutions of higher education may use a preponderance of evidence standard**
17 **when resolving complaints.**

18 **3. All persons involved in implementing an institution of higher education's**
19 **grievance procedure shall receive training on handling complaints of sexual harassment**
20 **and sexual violence, which shall include specific instructions on the institution's grievance**
21 **policies and procedures and applicable confidentiality requirements.**

22 **4. Remedies provided by an institution of higher education may include, but shall**
23 **not be limited to, the following:**

24 **(1) Providing an escort to ensure that the complainant can move safely between**
25 **classes and activities;**

26 **(2) Ensuring that the complainant and alleged perpetrator do not attend the same**
27 **classes;**

28 **(3) Moving the complainant or alleged perpetrator to a different residence hall;**

29 **(4) Providing counseling services;**

30 **(5) Providing medical services;**

31 **(6) Providing academic support services, such as tutoring;**

32 **(7) Arranging for the complainant to retake a course or withdraw from a class**
33 **without penalty, including ensuring that any changes do not adversely affect the**
34 **complainant's academic record;**

35 **(8) Reviewing any disciplinary actions taken against the complainant to see if there**
36 **is a causal connection between the harassment and the misconduct that may have resulted**
37 **in the complainant being disciplined;**

38 **(9) Offering counseling, health, mental health, or other holistic and comprehensive**
39 **victim services to all students affected by sexual harassment or sexual violence and**
40 **notifying students of campus and community counseling, health, mental health, and other**
41 **student services;**

42 **(10) Designating an individual from the institution's counseling center to be "on**
43 **call" to assist victims of sexual harassment or violence when needed;**

44 **(11) Training the Title IX coordinator and any other employees who are involved**
45 **in processing, investigating, or resolving complaints of sexual harassment or sexual**
46 **violence, including providing training on:**

47 **(a) The institution's Title IX responsibilities to address allegations of sexual**
48 **harassment or violence;**

49 **(b) How to conduct Title IX investigations; and**

50 **(c) Information on the link between alcohol and drug abuse and sexual harassment**
51 **or violence and best practices to address that link;**

52 **(12) Training all of the institution's law enforcement unit personnel on the**
53 **institution's Title IX responsibilities and handling of sexual harassment or violence**
54 **complaints;**

55 **(13) Training all employees who interact with students regularly on recognizing**
56 **and appropriately addressing allegations of sexual harassment or violence under Title IX;**
57 **and**

58 **(14) Informing students of their options to notify proper law enforcement**
59 **authorities, including the institution's police and local police, and the option to be assisted**
60 **by employees of the institution in notifying those authorities.**

61 **5. Institutions of higher education shall create a committee of students and officials**
62 **who are given the task of identifying strategies for ensuring that students understand the**
63 **Title IX process. The committee may make policy and process recommendations to the**
64 **institution of higher education.**

65 **6. Institutions of higher education shall periodically conduct investigations to**
66 **determine the following:**

67 **(1) Whether the practices and behavior of students violate the institution's policies**
68 **against sexual harassment and violence;**

69 **(2) Whether any other students also may have been subjected to sexual harassment**
70 **or violence; and**

71 **(3) Whether employees with knowledge of allegations of sexual harassment or**
72 **violence failed to carry out their duties in responding to those allegations.**

73 **7. In conjunction with student leaders, an assessment shall be conducted**
74 **periodically of the effectiveness of the institution's efforts to ensure that the institution of**
75 **higher education is free from sexual harassment and violence. The institution shall use the**
76 **resulting information to inform future proactive steps that will be taken by the institution.**

77 **8. Notwithstanding any other provision of law to the contrary, the institution of**
78 **higher education shall submit to the federal Office for Civil Rights copies of all grievances**
79 **filed by students alleging sexual harassment or violence and shall provide the Office for**
80 **Civil Rights with documentation related to the investigation of each complaint, such as**
81 **witness interviews, investigator notes, evidence submitted by the parties, investigative**

82 reports and summaries, any final disposition letters, disciplinary records, and
83 documentation regarding any appeals.

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