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**AB-1467 Student safety: sexual assault and domestic violence procedures and protocols: sexual assault and domestic violence counselors.** (2021-2022)

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**Assembly Bill No. 1467**

**CHAPTER 556**

An act to amend Section 67385 of, and to add Section 89033 to, the Education Code, relating to student safety.

[ Approved by Governor September 27, 2022. Filed with Secretary of State September 27, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1467, Cervantes. Student safety: sexual assault and domestic violence procedures and protocols: sexual assault and domestic violence counselors.

(1) Existing federal law, known as Title IX, prohibits a person, on the basis of sex, from being excluded from participation in, being denied the benefits of, or being subject to discrimination, which includes sexual harassment, under any education program or activity receiving federal financial assistance. A portion of the Donahoe Higher Education Act, known as the Equity in Higher Education Act, declares, among other things, that it is the policy of the State of California that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the educational institutions of the state.

Existing law requires the governing board of a community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, and the Regents of the University of California to adopt and implement a written procedure or protocols to ensure that students, faculty, and staff who are victims of sexual assault committed at specified locations receive treatment and certain information, as provided. This requirement applies to the University of California only if the regents, by appropriate resolution, make it applicable. Existing law requires these public postsecondary governing bodies, including the regents if they make it applicable by appropriate resolution, to annually review, and update as necessary, in collaboration with sexual assault counselors and student, faculty, and staff representatives, the written procedure or protocols related to sexual assault.

This bill would expand the written procedure or protocols to apply to those students, faculty, and staff who are victims of sexual assault or domestic violence at any location. The bill would require sexual assault and domestic violence counselors to be independent of the campus Title IX office, to meet certain education and experience qualifications, to provide services regardless of whether a report is made to the Title IX office or law enforcement, and to obtain specific permission, as defined, from the victim before disclosing or revealing the victim's identity to any authority, including law enforcement, unless otherwise required to do so by law, as provided. The bill would expand the information that victims are required to receive, including information regarding the availability of counselors and support services and information regarding any alternative dispute resolution or other accountability processes.

To the extent that this provision would create new duties for community college districts, it would constitute a state-mandated local program.

(2) Existing law establishes the California State University, under the administration of the Trustees of the California State University, as a segment of public postsecondary education comprising 23 institutions located throughout the state. Existing law establishes the Chancellor of the California State University as the chief executive officer of the segment.

This bill would authorize the chancellor, when reviewing and updating any executive orders relating to discrimination, harassment, and retaliation for purposes of enforcing or implementing the requirements described in paragraph (1) above, to do so in collaboration with specified officers and employees of the university. The bill would require the texts of these executive orders to be submitted in an annual report to the chairs of the Assembly Committee on Higher Education and the Senate Committee on Education.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would incorporate additional changes to Section 67385 of the Education Code proposed by AB 1936 to be operative only if this bill and AB 1936 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### **SECTION 1.** Section 67385 of the Education Code is amended to read:

**67385.** (a) The governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, and the Regents of the University of California shall each adopt, and implement at each of their respective campuses or other facilities, a written procedure or protocols to ensure, to the fullest extent possible, that students, faculty, and staff who are victims of sexual assault or domestic violence committed at or upon locations, including, but not limited to, the grounds of the institution, off-campus grounds or facilities maintained by the institution, or grounds or facilities maintained by affiliated student organizations, shall receive treatment and information. If appropriate on-campus treatment facilities are unavailable, the written procedure or protocols may provide for referrals to local community treatment centers.

(b) The written procedure or protocols adopted pursuant to subdivision (a) shall contain at least the following information:

(1) The college policy regarding sexual assault on campus.

(2) Personnel on campus who should be notified, and procedures for notification, with the consent of the victim.

(3) Legal reporting requirements, and procedures for fulfilling them.

(4) Services available to victims, and personnel responsible for providing these services, such as the person assigned to transport the victim to the hospital, to refer the victim to a counseling center, and to notify the police, with the victim's concurrence.

(5) A description of campus resources available to victims, as well as appropriate off-campus services.

(6) Procedures for ongoing case management, including procedures for keeping the victim informed of the status of any student disciplinary proceedings in connection with the sexual assault or domestic violence, and the results of any disciplinary action or appeal, and helping the victim deal with academic difficulties that may arise because of the victimization and its impact.

(7) Procedures for guaranteeing confidentiality and appropriately handling requests for information from the press, concerned students, and parents.

(8) Procedures ensuring that each victim of sexual assault or domestic violence receives information about the availability of at least all of the following options:

(A) Counselors and support services for victims.

(B) Criminal prosecutions.

(C) Civil prosecutions.

(D) The disciplinary process through the college.

(E) Alternative dispute resolution or other accountability processes.

(F) Alternative housing assignments.

(G) Academic assistance alternatives.

(c) The written procedure or protocols adopted pursuant to subdivision (a) shall be reviewed annually, and updated as necessary in collaboration with sexual assault and domestic violence counselors and student, faculty, and staff representatives.

(d) Each segment of higher education shall implement this chapter from existing funds and resources available to it.

(e) (1) Sexual assault and domestic violence counselors shall be independent from the Title IX office, and shall, at a minimum, meet the qualifications defined in Sections 1035.2 and 1037.1 of the Evidence Code, respectively.

(2) Services provided by sexual assault and domestic violence counselors, including, but not limited to, securing alternative housing assignments and academic assistance alternatives, shall not be contingent on a victim's decision to report to the Title IX office or law enforcement.

(f) (1) A sexual assault or domestic violence counselor shall obtain specific permission from the victim before disclosing the identity of the victim, or any information that could reasonably be expected to reveal the identity of the victim, to the university or any other authority, including law enforcement, unless otherwise required to do so by applicable state or federal law.

(2) This subdivision is intended to maintain confidentiality, preserve any applicable privileges, including, but not limited to, Article 8.5 (commencing with Section 1035) and Article 8.7 (commencing with Section 1037) of Chapter 4 of Division 8 of the Evidence Code, and protect the privacy of students requesting assistance from a sexual assault or domestic violence counselor.

(g) For purposes of this section, all of the following apply:

(1) "Sexual assault" includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault.

(2) (A) "Specific permission" means all of the following:

(i) The permission is limited to disclosure to particular people, for a particular circumstance, or for a particular purpose for which the permission was given.

(ii) The permission is limited to the counselor to whom it was given.

(iii) The permission may be withdrawn.

(B) Unlimited or general permission for disclosure is not specific permission.

**SEC. 1.5.** Section 67385 of the Education Code is amended to read:

**67385.** (a) The governing board of each community college district, the Trustees of the California State University, the Board of Directors of the college named in Section 92200, and the Regents of the University of California shall each adopt, and implement at each of their respective campuses or other facilities, a written procedure or protocols to ensure, to the fullest extent possible, that students, faculty, and staff who are victims of sexual assault or domestic violence committed at or upon locations, including, but not limited to, the grounds of the institution, off-campus grounds or facilities maintained by the institution, or grounds or facilities maintained by affiliated student organizations, shall receive treatment and information. If appropriate on-campus treatment facilities are unavailable, the written procedure or protocols may provide for referrals to local community treatment centers.

(b) The written procedure or protocols adopted pursuant to subdivision (a) shall contain at least the following information:

(1) The college policy regarding sexual assault on campus.

(2) Personnel on campus who should be notified, and procedures for notification, with the consent of the victim.

(3) Legal reporting requirements, and procedures for fulfilling them.

(4) Services available to victims, and personnel responsible for providing these services, such as the person assigned to transport the victim to the hospital, to refer the victim to a counseling center, and to notify the police, with the victim's concurrence.

(5) A description of campus resources available to victims, as well as appropriate off-campus services.

(6) Procedures for ongoing case management, including procedures for keeping the victim informed of the status of any student disciplinary proceedings in connection with the sexual assault or domestic violence, and the results of any disciplinary action or appeal, and helping the victim deal with academic difficulties that may arise because of the victimization and its impact.

(7) Procedures for guaranteeing confidentiality and appropriately handling requests for information from the press, concerned students, and parents.

(8) Procedures ensuring that each victim of sexual assault or domestic violence receives information about the availability of at least all of the following options:

- (A) Counselors and support services for victims.
- (B) Criminal prosecutions.
- (C) Civil prosecutions.
- (D) The disciplinary process through the college.
- (E) Alternative dispute resolution or other accountability processes.
- (F) Alternative housing assignments.
- (G) Academic assistance alternatives.

(c) The written procedure or protocols adopted pursuant to subdivision (a) shall be reviewed annually, and updated as necessary in collaboration with sexual assault and domestic violence counselors and student, faculty, and staff representatives.

(d) Each segment of higher education shall implement this chapter from existing funds and resources available to it.

(e) (1) Sexual assault and domestic violence counselors shall be independent from the Title IX office, and shall, at a minimum, meet the qualifications defined in Sections 1035.2 and 1037.1 of the Evidence Code, respectively.

(2) Services provided by sexual assault and domestic violence counselors, including, but not limited to, securing alternative housing assignments and academic assistance alternatives, shall not be contingent on a victim's decision to report to the Title IX office or law enforcement.

(f) (1) A sexual assault or domestic violence counselor shall obtain specific permission from the victim before disclosing the identity of the victim, or any information that could reasonably be expected to reveal the identity of the victim, to the university or any other authority, including law enforcement, unless otherwise required to do so by applicable state or federal law.

(2) This subdivision is intended to maintain confidentiality, preserve any applicable privileges, including, but not limited to, Article 8.5 (commencing with Section 1035) and Article 8.7 (commencing with Section 1037) of Chapter 4 of Division 8 of the Evidence Code, and protect the privacy of students requesting assistance from a sexual assault or domestic violence counselor.

(g) For purposes of this section, all of the following apply:

(1) "Sexual assault" includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault.

(2) (A) "Specific permission" means all of the following:

- (i) The permission is limited to disclosure to particular people, for a particular circumstance, or for a particular purpose for which the permission was given.
- (ii) The permission is limited to the counselor to whom it was given.
- (iii) The permission may be withdrawn.

(B) Unlimited or general permission for disclosure is not specific permission.

**SEC. 2.** Section 89033 is added to the Education Code, to read:

**89033.** (a) The chancellor, when reviewing and updating any executive orders relating to discrimination, harassment, and retaliation for the purpose of enforcing or implementing the requirements of Section 67385, may do so in collaboration, as the chancellor deems appropriate, with any of the following:

(1) The Systemwide Title IX Office.

(2) The Executive Vice Chancellor of Academic and Student Affairs, the Associate Vice Chancellor for Student Affairs and Enrollment Management, the vice presidents for student affairs, and other executive vice chancellors and vice chancellors.

(3) The Office of General Counsel.

(4) The Vice Chancellor of Human Resources and other human resources and academic personnel officers.

(5) Campus Title IX coordinators.

(6) Presidents and provosts of the various campuses of the university.

(7) Sexual assault counselors, confidential sexual assault victims advocates, and domestic violence counselors.

(8) Representatives of the student bodies at each campus of the university.

(9) The Vice Chancellor of Administration and Finance.

(b) The chancellor shall submit the text of all executive orders to which this section applies in an annual report to the respective chairs of the Assembly Committee on Higher Education and the Senate Committee on Education.

**SEC. 3.** Section 1.5 of this bill incorporates amendments to Section 67385 of the Education Code proposed by both this bill and Assembly Bill 1936. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 67385 of the Education Code, and (3) this bill is enacted after Assembly Bill 1936, in which case Section 1 of this bill shall not become operative.

**SEC. 4.** If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.