H.B. NO. ⁵⁵⁴ H.D. 2 S.D. 2 C.D. 1

A BILL FOR AN ACT

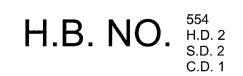
RELATING TO CAMPUS SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that college campuses 2 should be safe from sexual and domestic violence. According to 3 the Rape, Abuse & Incest National Network, the nation's largest anti-sexual violence organization, thirteen per cent of all 4 5 college students experience rape or sexual assault through 6 physical force, violence, or incapacitation. Among 7 undergraduate students, 26.4 per cent of females and 6.8 per 8 cent of males experience rape or sexual assault through physical 9 force, violence, or incapacitation.

10 The legislature further finds that incidents of sexual and 11 domestic violence are also pervasive on college campuses in the 12 State. More than nineteen per cent of students who were in a 13 partnered relationship while enrolled at the University of 14 Hawaii reported having experienced dating violence or domestic 15 violence. In addition, about ten per cent said they had been 16 sexually harassed or stalked, and 6.3 per cent reported

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nonconsensual sexual contact, according to a survey of students
 released by the university in January 2018.

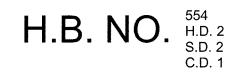
The legislature additionally finds that a study released in the journal *Radiology* in August 2020 found a higher incidence of physical intimate partner violence, both in numbers and proportion, and that the injuries that victims suffered were much more severe.

8 Given the already elevated prevalence of sexual and 9 domestic violence on college campuses, the legislature finds 10 that strengthening campus safety protocols to ensure that 11 students are adequately protected from escalating incidents of 12 abuse is a matter of statewide concern.

13 The purpose of this Act is to expand protections for 14 victims of sexual and domestic violence at the University of 15 Hawaii by:

16 (1) Requiring the university to ensure that any individual
17 who participates in implementing the university's
18 disciplinary process has training or experience in
19 handling sexual misconduct complaints and the
20 university's disciplinary process;





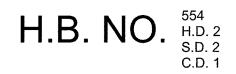
1	(2)	Requiring that the university provide mandatory
2		annual, trauma-informed, gender-inclusive,
3		LGBTQ+-inclusive sexual misconduct primary prevention
4		and awareness programming for all students and
5		employees of the university;
6	(3)	Prohibiting the university from taking certain
7		disciplinary action against individuals reporting
8		sexual misconduct unless certain exceptions apply; and
9	(4)	Establishing positions and appropriating funds.
10	SECT	ION 2. Section 304A-120, Hawaii Revised Statutes, is
11	amended t	o read as follows:
12	"§30	4A-120 Campus safety and accountability. (a) The
13	Universit	y of Hawaii shall:
14	(1)	Train all University of Hawaii students enrolled at
15		least part-time and employees, including campus safety
16		and security personnel, Title IX coordinators,
17		confidential advocates, and residential advisors, on:
18		(A) Public Law 92-318, Title IX of the federal
19		Education Amendments of 1972, as amended;
20		(B) The Violence Against Women Act of 1994, as

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1		(C) University of Hawaii executive policies on sexual
2		[harassment, sexual assault, domestic violence,
3		dating violence, and stalking;] misconduct;
4	(2)	Provide all existing University of Hawaii employees
5		with the training described in paragraph (1) by [July
6		1, 2017,] December 31, 2023, and every two years
7		thereafter;
8	(3)	Provide all new University of Hawaii employees with
9		the training described in paragraph (1) no later than
10		thirty days after the date of first employment;
11	(4)	Provide all students with the training described in
12		paragraph (1) annually;
13	(5)	Ensure that any individual who participates in the
14		implementation of the University of Hawaii's
15		disciplinary process, including confidential
16		advocates; individuals responsible for resolving
17		complaints of reported incidents; and individuals
18	_	responsible for conducting a meeting, hearing, or
19		other disciplinary proceeding or informal resolution
20		process, has training or experience in handling sexual
21		misconduct complaints and the university's

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1	disciplinary process; provided that the training shall				
2	incl	include:			
3	(A)	The effects of trauma, including any			
. 4		neurobiological and physical impact trauma, on a			
5		person;			
6	<u>(B)</u>	Cultural competence training regarding how sexual			
7		misconduct may impact individuals differently			
8		depending on factors related to an individual's			
9		cultural background, including race; color;			
10		national origin; ethnicity; religion; economic			
11		status; disability; and sex, which includes			
12		gender identity, gender expression, sexual			
13		orientation, and pregnancy or parenting status;			
14	(C)	Ways to communicate sensitively and			
15		compassionately with a reporting party, including			
16		an awareness of responding with consideration of			
17		the reporting party's cultural background and			
18		providing services to the reporting party or			
19		assisting the reporting party in locating			
20		services; and			

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1		(D) Training and information regarding the possible
2		impact of sexual misconduct on individuals having
3		disabilities;
4	[(5)]	(6) At each campus of the University of Hawaii
5		system, designate a confidential advocate for students
6		to confidentially discuss incidents of, and obtain
7		information on, sexual [harassment, sexual assault,
8		domestic violence, dating violence, stalking,]
9		misconduct and related issues; provided that
10		confidential advocates and communications received by
11		confidential advocates shall not be exempt from any
12		otherwise applicable mandatory reporting requirements
13		for child and vulnerable adult neglect and abuse as
14		provided by chapters 346 and 350;
15	[(6)]	(7) Publicize the name, location, phone number, and
16		[e-mail] electronic mail address of the confidential
17		advocate on the website of each respective campus;
18	[(7)]	(8) Make available to students and employees written
19		and electronic materials and training programs
20		concerning Title IX of the [Higher] federal Education
21		Amendments of 1972[;], as amended; the Violence

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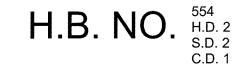
1		Against Women Act of 1994[;] <u>, as amended;</u> and
2		University of Hawaii policies concerning sexual
3		[harassment, sexual assault, domestic violence, dating
4		<pre>violence, and stalking; and] misconduct;</pre>
5	[-(8)]	(9) Inform victims in writing of the right to file a
6		police report with the appropriate county police
7		department for investigation and assist victims in
8		submitting the police report [-]; and
9	(10)	With guidance from the office of institutional equity,
10		confidential advocates, prevention educators, local
11		law enforcement, and local sexual and domestic
12		violence advocacy organizations, provide mandatory
13		annual trauma-informed, gender-inclusive,
14		LGBTQ+-inclusive sexual misconduct primary prevention
15		and awareness programming for all students enrolled at
16		least part-time and employees of the university;
17		provided that the programming shall include:
18		(A) An explanation of consent as it applies to sexual
19		activity and sexual relationships;
20		(B) The effect of drugs and alcohol on an
21		individual's ability to consent;

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1	(C)	Strategies for bystander and upstander
2		intervention and risk reduction education that
3		include recognition of individual biases and
4		attitudes;
5	(D)	Methods to access supportive measures for
6		reporting parties; and
7	<u>(E)</u>	Culturally responsive methods to address the
8		unique experiences and challenges faced by
9		individuals based on race; color; national
10		origin; ethnicity; religion; economic status;
11		disability; and sex, which includes gender
12		identity, gender expression, sexual orientation,
13		and pregnancy or parenting status.
14	(b) All	University of Hawaii faculty members are
15	designated as	"responsible employees" under Public Law 92-318,
16	Title IX of th	e federal Education Amendments of 1972, as
17	amended, and s	hall report any violations of University of Hawaii
18	executive poli	cies regarding sexual [harassment, sexual assault,
19	domestic viole	nce, dating violence, and stalking] misconduct to
20	the Title IX c	oordinator of the faculty member's campus;
21	provided that	any faculty member designated as a confidential

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advocate pursuant to subsection [(a) (5)] (a) (6) shall not be a
 "responsible employee"; provided further that the confidential
 advocate shall annually provide general statistics to the Title
 IX coordinator about the number and type of incidents received
 by the confidential advocate.

6 (c) All University of Hawaii students and employees shall
7 complete the training required under subsection (a) (1), (a) (2),
8 (a) (3), [and] (a) (4), and (a) (10) or may be subject to fines,
9 sanctions, or other discipline, as deemed appropriate by the
10 University of Hawaii.

11 (d) The University of Hawaii shall not subject a reporting 12 party or witness who asks for an investigation of sexual

13 misconduct to a disciplinary proceeding or sanction for a

14 violation of the university's policy related to drug or alcohol

15 use unless the university determines that the report of sexual

16 misconduct was not made in good faith.

17 (e) If the University of Hawaii's code of conduct

18 prohibits sexual activity or certain forms of sexual activity,

19 including same-gender relationships or sexual activity, the

20 university shall not take disciplinary action against

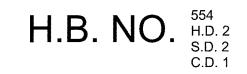
21 individuals reporting sexual misconduct or non-harassing sexual



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activity	related to	the inc	ident	or oth	ner no	on-hai	cassi	ing s	sexual
activity	discovered	during	an inv	vestiga	ation	into	the	repo	rted
incident									
<u></u>	<u> </u>								

4	(f) The University of Hawaii shall review any disciplinary
5	action taken against a reporting party to determine if there is
6	a link between the disclosed sexual misconduct and the
7	misconduct that led to the reporting party being disciplined.
8	(g) Nothing in this section shall be construed to limit
9	the University of Hawaii's ability to establish an immunity
10	policy for student conduct violations not mentioned in this
11	section.
12	[(d)] <u>(h)</u> No later than March 31, 2017, and every two
13	years thereafter, the University of Hawaii shall conduct a
14	campus climate survey of all students. The University of Hawaii
15	shall submit a report to the legislature no later than twenty
16	days before the convening of each regular session that [shall
17	<pre>include:</pre>
18	(1) A summary of the most recent campus climate survey
19	results;

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1	(2)	Information on the number of sexual assaults that
2		occurred on a University of Hawaii system campus
3		within the past five years; and
4	(3)	Recommendations and efforts to improve campus safety
5		and accountability.
6	[.(e)] <u>(i)</u> The University of Hawaii shall establish
7	policies	and procedures to effectuate this section.
8	<u>(j)</u>	For purposes of this section:
9	"Rep	orting party" means a student or employee who reports
10	to the Un	iversity of Hawaii as having experienced an incident of
11	sexual mi	sconduct.
12	"Sex	ual harassment" means unwelcome conduct of a sexual
13	nature.	
14	"Sex	ual misconduct" means an incident of sex-based
15	discrimin	ation, sexual harassment, sexual violence, intimate
16	partner v	iolence, domestic violence, dating violence, sexual
17	<u>exploitat</u>	ion, or violence based on sexual orientation or gender
18	identity (or expression.
19	"Tra	uma-informed" means an understanding of the
20	complexit.	ies of sexual misconduct through training centered on
21	the neurol	biological impact of trauma, symptoms of trauma,

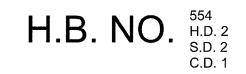


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1	effective and supportive techniques to address trauma, the
2	influence of societal myths and stereotypes surrounding the
3	causes and impacts of trauma, perpetration methodology, and
4	techniques for conducting an effective investigation."
5	SECTION 3. There is appropriated out of the general
6	revenues of the State of Hawaii the sum of \$1,000,000 or so much
7	thereof as may be necessary for fiscal year 2023-2024 and the
8	same sum or so much thereof as may be necessary for fiscal year
9	2024-2025 for the establishment of four full-time equivalent
10	(4.0 FTE) administrative, professional, and technical positions
11	to enable the University of Hawaii to fulfill the requirements
12	of this Act.
13	The sums appropriated shall be expended by the University
14	of Hawaii for the purposes of this Act.
15	SECTION 4. In accordance with section 9 of article VII of
16	the Hawaii State Constitution and sections 37-91 and 37-93,
17	Hawaii Revised Statutes, the legislature has determined that the
18	appropriations contained in H.B. No. 300, H.D. 1, S.D. 1,
19	C.D. 1, will cause the state general fund expenditure ceiling
20	for fiscal year 2023-2024 to be exceeded by \$1,063,767,367 or
21	10 per cent. In addition, the appropriations contained in this

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1	Act will cause the general fund expenditure ceiling for fiscal
2	year 2023-2024 to be further exceeded by \$1,000,000 or 1 per
3	cent. The combined total amount of general fund appropriations
4	contained in only these two Acts will cause the state general
5	fund expenditure ceiling for fiscal year 2023-2024 to be
6	exceeded by \$1,064,767,367 or 11 per cent. The reasons for
7	exceeding the general fund expenditure ceiling are that:
8	(1) The appropriation made in this Act is necessary to
9	serve the public interest; and
10	(2) The appropriation made in this Act meets the needs
11	addressed by this Act.
12	SECTION 5. Statutory material to be repealed is bracketed
13	and stricken. New statutory material is underscored.
14	SECTION 6. This Act shall take effect upon its approval;
15	provided that section 3 shall take effect on July 1, 2023.

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Report Title:

Campus Safety; UH; Training; Sexual Misconduct; Trauma-Informed; Disciplinary Process; Appropriation; Expenditure Ceiling

Description:

Requires that the University of Hawaii ensure that any individual who participates in implementing the University's disciplinary process has training or experience in handling sexual misconduct complaints and the University's disciplinary process. Requires that the University provide mandatory annual trauma-informed, gender-inclusive, LGBTQ+-inclusive sexual misconduct primary prevention and awareness programming for students and employees of the University. Prohibits the University from taking certain disciplinary action against individuals reporting sexual misconduct unless certain exceptions apply. Establishes positions and appropriates funds. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.