

ACT 222

S.B. NO. 387

A Bill for an Act Relating to Affirmative Consent.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that while Congress has enacted several historic and significant federal laws to address sex-based discrimination and violence against women and girls, including Title IX of the Education Amendments of 1972, renamed the Patsy Takemoto Mink Equal Opportunity in Education Act in 2002 in recognition of the late United States Representative Patsy Mink's tireless efforts regarding Title IX, and the more recent Violence Against Women Act, sexual violence is prevalent on college campuses. Nationally, one in five women is sexually assaulted while in college. Approximately one-third of these sexual assaults are perpetrated on women who are first-year students between the ages of seventeen and nineteen. Also, women aged sixteen to twenty-four are at the highest risk for experiencing abuse by an intimate partner.

The legislature concludes that violence against women is a continuing problem that must be addressed. Ending campus sexual violence is a combined endeavor of effective response and intervention, awareness education to change attitudes and behaviors, and clear policies that do not tolerate such conduct.

The legislature acknowledges that the University of Hawaii is committed to maintaining and promoting safe, respectful campus environments that are

free from discrimination, harassment, and sexual violence. The University of Hawaii board of regents recently adopted an executive policy concerning sexual harassment, sexual assault, domestic violence, dating violence, and stalking that requires the various campuses to implement comprehensive education and prevention programs, information and assistance for individuals who report alleged sexual harassment and sexual violence, prompt and equitable complaint procedures, information for respondents and complainants about their rights, and corrective action to prevent and end incidents of harassment and sexual violence. The policy also provides a comprehensive definition of affirmative consent.

The purpose of this Act is to provide for a review of the university's policy.

SECTION 2. (a) There is established the affirmative consent task force to review and make recommendations on the University of Hawaii's executive policy on sexual harassment, sexual assault, domestic violence, dating violence, and stalking.

(b) The task force shall comprise:

- (1) The president of the University of Hawaii, or the president's designee;
- (2) The vice president for community colleges, or the vice president's designee;
- (3) The chancellor of the University of Hawaii at Manoa, or the chancellor's designee;
- (4) The chancellor of the University of Hawaii at Hilo, or the chancellor's designee;
- (5) The chancellor of the University of Hawaii at West Oahu, or the chancellor's designee;
- (6) The executive director of the Hawaii state commission on the status of women, or the executive director's designee;
- (7) The chair of the University of Hawaii commission on the status of women, or the chair's designee;
- (8) At least two students at the University of Hawaii to be chosen by the president of the University of Hawaii, or the president's designee;
- (9) The executive director of the Sex Abuse Treatment Center, or the director's designee;
- (10) A member of the American Civil Liberties Union;
- (11) A member of the National Association of Social Workers;
- (12) A representative of the Hawaii State Coalition Against Domestic Violence;
- (13) A representative of the Honolulu police department; and
- (14) A member of the women's legislative caucus of the legislature.

(c) The members of the task force shall elect a chairperson from among themselves.

(d) The task force shall consider the following concepts when reviewing and revising the University of Hawaii's current policy:

- (1) Affirming the University of Hawaii's commitment to increasing resources and strengthening the institutional infrastructure of all of its campuses to more effectively address the issue of affirmative consent;
- (2) Considering best practices and current professional standards in reviewing and revising the current policy;
- (3) Using contemporary corrective actions consistent with academic environments, standard business practices, and the laws of the State; and

- (4) That the University of Hawaii's policy shall provide guidance to each campus within the University of Hawaii system on the following:
- (A) Comprehensive education and prevention programs that inform the University of Hawaii community about the policies, resources, complaint options, remedies, and the risks and myths that contribute to sexual harassment, sexual assault, domestic violence, dating violence, and stalking;
 - (B) Information and assistance for individuals who report alleged sexual harassment and sexual violence, including informing individuals about their right to file criminal charges as well as the availability of on- and off-campus resources (e.g., medical, counseling, advocacy, legal, and other support services, including confidential options) and alternative remedies, such as housing, academic, or workplace accommodations, if appropriate and reasonably available, regardless of whether the individual chooses to file a complaint with or report a crime to campus security or a local law enforcement agency;
 - (C) Prompt and equitable complaint procedures for students and employees that are accessible and widely publicized on a regular basis;
 - (D) Information for both respondents and complainants regarding their rights during a student disciplinary hearing or investigation, including the right to a fair and impartial process, to be accompanied by an advisor, to give their side of the story and present all relevant evidence, to receive simultaneous updates on the status of the investigation and written notice of the outcome, including relevant sanctions imposed on student respondents, and to appeal;
 - (E) Provisions for corrective actions that the campuses will implement or instill, including remedies and disciplinary sanctions, to end incidents of harassment or sexual violence and to prevent their recurrence;
 - (F) Training on non-judgmental, victim-centered communication for university staff who receive and handle complaints of harassment or sexual violence; and
 - (G) Procedures for the university's coordination and cooperation with police and prosecutors if an individual decides to report an incident of harassment or sexual violence.
- (e) The task force shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular sessions of 2016 and 2017.
- (f) The task force shall cease to exist on June 30, 2017.

SECTION 3. This Act shall take effect on July 1, 2015.

(Approved July 9, 2015.)