

**SENATE
STATE OF MINNESOTA
NINETY-FOURTH SESSION**

S.F. No. 1035

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DATE 02/06/2025 D-PG Introduction and first reading OFFICIAL STATUS Referred to Higher Education

1.1 A bill for an act
1.2 relating to higher education; modifying provisions related to campus sexual
1.3 misconduct; amending Minnesota Statutes 2024, section 135A.15, subdivisions
1.4 1a, 2a.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2024, section 135A.15, subdivision 1a, is amended to read:

1.7 Subd. 1a. **Definitions.** (a) For the purposes of this section, the following terms have the
1.8 meanings given.

1.9 (b) "Advisor" means a person who is selected by a responding or reporting party to serve
1.10 as a support during a campus investigation and disciplinary process. This person may be
1.11 an attorney. An advisor serves as a support to a party by offering comfort or attending
1.12 meetings.

1.13 (c) "Domestic violence" has the meaning given in section 518B.01, subdivision 2.

1.14 (d) "Incident" means one report of sexual misconduct to a postsecondary institution,
1.15 regardless of the number of complainants included in the report, the number of respondents
1.16 included in the report, and whether or not the identity of any party is known by the reporting
1.17 postsecondary institution. Incident encompasses all nonconsensual events included within
1.18 one report if multiple events have been identified.

1.19 (e) "Intimate partner violence" means any physical or sexual harm or a pattern of any
1.20 other coercive behavior committed, enabled, or solicited to gain or maintain power and
1.21 control over a victim, including verbal, psychological, economic, or technological abuse

2.1 that may or may not constitute criminal behavior against an individual, that may be classified
2.2 as a sexual misconduct, dating violence, or domestic violence caused by:

2.3 (1) a current or former spouse of the individual; or

2.4 (2) a person in a sexual or romantic relationship with the individual.

2.5 (f) "Nonconsensual dissemination of sexual images" has the meaning given in section
2.6 617.261.

2.7 (g) "Reporting party" means the party in a disciplinary proceeding who has reported
2.8 being subjected to conduct or communication that could constitute sexual misconduct.

2.9 (h) "Responding party" means the party in a disciplinary proceeding who has been
2.10 reported to be the perpetrator of conduct or communication that could constitute sexual
2.11 misconduct.

2.12 (i) "Retaliation" means intimidation, threats, coercion, or discrimination against a
2.13 reporting party, responding party, or witness for the purpose of interfering with any right
2.14 or privilege or because the person has reported information, made a complaint, testified,
2.15 assisted, or participated or refused to participate in any manner in an investigation,
2.16 proceeding, or hearing under this section, including in nondisciplinary restorative justice
2.17 services.

2.18 (j) "Sexual assault" means rape, sex offenses - fondling, sex offenses - incest, or sex
2.19 offenses - statutory rape as defined in Code of Federal Regulations, title 34, part 668, subpart
2.20 D, appendix A, as amended.

2.21 ~~(k)~~ (k) "Sexual extortion" has the meaning given in section 609.3458.

2.22 ~~(l)~~ (l) "Sex trafficking" has the meaning given in section 609.321, subdivision 7a.

2.23 ~~(m)~~ (m) "Sexual harassment" has the meaning given in section 363A.03, subdivision 43.

2.24 ~~(n)~~ (n) "Sexual misconduct" means an incident of sexual violence, intimate partner
2.25 violence, domestic violence, sexual assault, sexual harassment, nonconsensual distribution
2.26 of sexual images, sexual extortion, nonconsensual dissemination of a deepfake depicting
2.27 intimate parts or sexual acts, sex trafficking, or stalking.

2.28 ~~(o)~~ (o) "Stalking" has the meaning given in section 609.749.

2.29 Sec. 2. Minnesota Statutes 2024, section 135A.15, subdivision 2a, is amended to read:

2.30 Subd. 2a. ~~Campus investigation and disciplinary hearing procedures~~ sexual
2.31 misconduct grievance process. (a) A postsecondary institution must establish a sexual

3.1 misconduct grievance process as outlined in this section. The institution must provide a
3.2 reporting party an opportunity for an impartial, timely, and thorough investigation of a
3.3 report of sexual misconduct against a student. If an investigation reveals that sexual
3.4 misconduct has occurred, the institution must take prompt and effective steps reasonably
3.5 calculated to end the sexual misconduct, prevent its recurrence, and, as appropriate, remedy
3.6 its effects. Remedial action may include either or both of the following:

3.7 (1) disciplinary action against the responding party; and

3.8 (2) with the consent of the victim, nondisciplinary restorative justice services.

3.9 (b) Throughout any investigation or disciplinary proceeding, a postsecondary institution
3.10 must treat the reporting parties, responding parties, witnesses, and other participants in the
3.11 proceeding with dignity and respect.

3.12 ~~(c) If a postsecondary institution conducts a hearing, an advisor may provide opening~~
3.13 ~~and closing remarks on behalf of a party or assist with formulating questions to the other~~
3.14 ~~party or witnesses about related evidence or credibility. A postsecondary institution must~~
3.15 provide due process protections before imposing disciplinary action against a responding
3.16 party who is a student. The responding party must be informed in writing of the allegations;
3.17 the reporting party; and the date, time, and location of the alleged sexual misconduct. The
3.18 responding party must be provided with the campus code of conduct guidelines listing
3.19 possible sanctions. If the responding party is an employee, the institution must publish the
3.20 employee grievance process if different from the student grievance process for sexual
3.21 misconduct allegations.

3.22 (d) A hearing or other proceeding related to disciplinary action under this paragraph is
3.23 subject to the following requirements:

3.24 (1) the reporting and responding party must be given equal opportunity to:

3.25 (i) present relevant evidence and witnesses;

3.26 (ii) retain an advisor, who may be an attorney, to serve as support to a reporting or
3.27 responding party, in any meeting, interview, or disciplinary process, and any restriction of
3.28 an advisor's role must be applied equally to the reporting and responding parties;

3.29 (iii) inspect, review, and respond to relevant evidence and testimony provided by either
3.30 party and witnesses collected through an investigative report written by the institution or
3.31 designee; and

3.32 (iv) discuss the investigation and disciplinary proceedings with their advisor and parents
3.33 or guardians;

4.1 (2) the institution must:

4.2 (i) allow for the opportunity for both parties to question the credibility of the other party
4.3 and witnesses;

4.4 (ii) appoint a decision maker or a panel of decision makers who is not the investigator
4.5 to assess credibility of the parties and witnesses;

4.6 (iii) allow an advisor to provide opening and closing remarks on behalf of a party or
4.7 assist with formulating questions to the other party or witnesses about related evidence or
4.8 credibility, if a postsecondary institution conducts a hearing;

4.9 (iv) provide the reporting and responding parties with the opportunity to provide
4.10 testimony without encountering the other party in person, and to review testimony provided
4.11 by the other party in a similar manner. This may be done through video conference or
4.12 closed-circuit television;

4.13 (v) proceed with the campus sexual misconduct grievance process, if requested by the
4.14 victim, concurrently with a criminal investigation; and

4.15 (vi) deliver the outcome of the grievance process simultaneously to the reporting and
4.16 responding party;

4.17 (3) if an institution allows for cross-examination of witnesses and parties, neither the
4.18 reporting party nor responding party may be permitted to personally cross-examine one
4.19 another or other witnesses. Any cross-examination must be performed by:

4.20 (i) a neutral third party; or

4.21 (ii) an adjudicator of the campus disciplinary proceeding;

4.22 (4) personal information related to character witness or the sexual behavior of the
4.23 reporting party or mental health records is impermissible;

4.24 (5) if applicable, the institution must:

4.25 (i) inform counseling services in a timely manner that a decision of sexual misconduct
4.26 will occur without identifying the parties;

4.27 (ii) ensure availability of services; and

4.28 (iii) refer parties equitably;

4.29 (6) in any grievance process arising from an alleged incident of sexual misconduct
4.30 against a student, a postsecondary institution must apply a preponderance of the evidence
4.31 standard of proof; and

- 5.1 (7) retaliation against a reporting party, responding party, or witness due to a person's
- 5.2 participation in a campus sexual misconduct process is prohibited.