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**SUBSTITUTE HOUSE BILL 2242**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** House Postsecondary Education & Workforce (originally sponsored by Representatives Orwall, Pollet, Ramel, Callan, Fosse, Leavitt, Davis, and Morgan)

1 AN ACT Relating to supporting sexual assault survivors at  
2 institutions of higher education; amending RCW 28B.112.040; adding  
3 new sections to chapter 28B.112 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature recognizes that policies  
6 concerning sex-based violence and harassment have evolved into a  
7 survivor-focused, victim-centered approach on a state level. While  
8 college campuses have been working in this area, this approach has  
9 not been fully realized on college campuses, and sex-based violence  
10 and harassment remain a major barrier for students working to achieve  
11 their educational goals. Postsecondary students lack adequate  
12 protections against sex-based violence and harassment as well as  
13 avenues for justice. Survivors at postsecondary institutions should  
14 be entitled to certain protections, resources, and accommodations to  
15 help them navigate the aftermath of traumatic sex-based violence and  
16 harassment.

17 The legislature has previously found in section 1, chapter 335,  
18 Laws of 2020 that nondisclosure agreements, which prevent an  
19 institution from disclosing that an employee has committed sexual  
20 misconduct, create a high potential for students in jeopardy of being  
21 victimized. Therefore, the legislature finds such nondisclosure

1 agreements between an employee and institution, pursuant to which the  
2 institution agrees not to disclose findings of sexual misconduct  
3 supported by a preponderance of evidence or not to complete an  
4 investigation, are against public policy and should not be entered  
5 into by any Washington postsecondary educational institution and  
6 should not be enforced by Washington courts.

7 The legislature also finds that the same public policy to protect  
8 students, faculty, and staff from serial sexual misconduct should  
9 extend to nondisclosure agreements proposed by a postsecondary  
10 educational institution to a student who has filed a Title IX  
11 complaint, other civil action, or criminal complaint arising from the  
12 alleged sexual misconduct of a student or employee of the  
13 institution.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.112  
15 RCW to read as follows:

16 (1) In addition to all other rights provided in law, a student at  
17 an institution of higher education in Washington who is a survivor of  
18 sex-based violence and harassment has the right to:

19 (a) Engage with staff who have been trained in trauma-informed  
20 care throughout the entirety of the disclosing process. Institutional  
21 staff who are trained in trauma-informed care must be listed on each  
22 institution of higher education's website in an easily accessible  
23 place. Title IX staff at each institution of higher education who may  
24 interact with a survivor of sex-based violence and harassment must  
25 receive at least three hours of training on relationship violence,  
26 abuse dynamics, impacts of trauma on the body, and other forms of  
27 violence. The institution of higher education shall provide the  
28 training in accordance with section 4 of this act;

29 (b) A quick and timely institutional investigation process not to  
30 exceed six months from the date an investigation is initiated, unless  
31 extenuating circumstances exist. Students must be kept informed on  
32 the status of the investigation throughout the entirety of the  
33 process;

34 (c) In-person or live electronic education on reporting sex-based  
35 violence and harassment at institutions of higher education and  
36 available resources, including confidential advocates, for students  
37 who have experienced sex-based violence and harassment on campus.  
38 Education must be provided at the beginning of each academic term;

1 (d) Protection from legal retaliation for reporting sex-based  
2 violence and harassment on campus, including strategic lawsuit  
3 against public participation lawsuits advanced by a person being  
4 accused of sex-based violence and harassment. Institutions of higher  
5 education must have a policy against legal retaliation for reporting  
6 sex-based violence and harassment;

7 (e) Mental health or counseling services, on campus or off-site,  
8 regardless of whether the student chooses to make a formal report  
9 through Title IX or to law enforcement. The institution of higher  
10 education shall make a good faith effort to ensure students have  
11 access to no less than six visits with the same mental health  
12 provider either in person or electronically via telehealth;

13 (f) Access to confidential support services, which may include  
14 peer advocates, confidential advocates, and gender-based violence  
15 support groups. Beginning with the 2025-26 academic year,  
16 institutions of higher education must hire and train confidential  
17 advocates. A confidential advocate trained in trauma-informed care  
18 must be available within two business days of a report being made.  
19 Beginning with the 2027-28 academic year, the state college, state  
20 universities, and regional universities that serve 8,000 or more  
21 students shall provide students on campus and within a one-mile  
22 radius of campus 24/7 transportation access to sexual assault nurse  
23 examiners and forensic medical services on campus or at a medical  
24 facility. Survivors must have the option to be accompanied by a  
25 confidential advocate or peer advocate trained in trauma-informed  
26 care. Peer advocates must be trained in trauma-informed care and have  
27 40 hours of basic advocacy training provided by the institution.  
28 Confidential advocates may include personnel from the institution or  
29 from a partnership with a local victim's advocacy organization;

30 (g) Academic adjustments to prevent academic harm. Title IX staff  
31 or a confidential advocate must be available to a survivor and that  
32 survivor's instructors or supervisors to assist with the adjustment  
33 request. Survivors must be permitted to participate in academic  
34 activities through alternate means where feasible. Once an adjustment  
35 is requested under this subsection, the confidential advocate shall  
36 collaborate with instructors or supervisors to identify the means of  
37 adjustment that best preserves the benefits of the academic activity  
38 for the survivor. Adjustments must be available to sexual assault  
39 survivors regardless of whether the student requesting adjustments  
40 has made a formal report through Title IX. Confidential advocates may

1 not disclose any information regarding the survivor's experience to  
2 faculty in the course of negotiating academic adjustments under this  
3 subsection;

4 (h) Have court-issued no-contact and restraining orders honored  
5 and reported to university police and security services by a trained  
6 employee such as a confidential advocate when they become aware of  
7 such an order; and

8 (i) Be made aware by an employee if the employee is a Title IX  
9 mandatory reporter and to whom the employee reports.

10 (2) Unless otherwise stated, this section applies to (a) the  
11 state universities, the regional universities, and the state college  
12 as defined in RCW 28B.10.016 and (b) all community and technical  
13 colleges that serve 8,000 or more students.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.112  
15 RCW to read as follows:

16 (1) The state universities, the regional universities, and the  
17 state college as defined in RCW 28B.10.016, and all community and  
18 technical colleges that serve 8,000 or more students shall establish  
19 or expand an existing committee to include a student health and  
20 safety committee that includes representatives from various groups,  
21 such as admissions, counseling, health care, student advocates, and  
22 professors. The committee shall evaluate barriers that impact  
23 survivors of sex-based violence and harassment and their ability to  
24 access services and obtain accommodations at institutions of higher  
25 education, and may collaborate with outside organizations and  
26 entities focused on survivors of sex-based violence and harassment.

27 (2) The student health and safety committee shall:

28 (a) Evaluate existing accommodations and make recommendations on  
29 how to facilitate existing processes to better serve survivors in  
30 requesting accommodations;

31 (b) Form community partnerships with local victims' advocacy  
32 organizations; and

33 (c) Annually report its recommendations to the appropriate  
34 committees of the legislature in accordance with RCW 43.01.036.

35 (3) Beginning with the 2025-26 academic year, the state college,  
36 the state universities, and the regional universities as defined in  
37 RCW 28B.10.016 that serve 8,000 or more students shall conduct  
38 surveys and outreach to collect student feedback on relevant issues,  
39 including on the availability of 24/7 transportation to a hospital or

1 medical facility with sexual assault nurse examiners provided by  
2 institutions.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.112  
4 RCW to read as follows:

5 (1) Beginning in the 2025 fall academic term, each state  
6 university, regional university, and the state college as defined in  
7 RCW 28B.10.016, and all community and technical colleges that serve  
8 8,000 or more students, shall provide at least three hours of  
9 education on the Title IX reporting process for sex-based violence  
10 and harassment, accessing support services, consent, and the  
11 availability and role of confidential advocates as defined in section  
12 2 of this act either in person or electronically at the beginning of  
13 each academic term. Additionally, institutions shall ensure that the  
14 education is made available throughout the academic year.  
15 Institutions shall make a good-faith effort to include perspectives  
16 from sexual assault survivors.

17 (2) The education required in subsection (1) of this section must  
18 be provided to all students and any employee of the institution of  
19 higher education who may interact with a survivor of sex-based  
20 violence and harassment.

21 NEW SECTION. **Sec. 5.** A new section is added to chapter 28B.112  
22 RCW to read as follows:

23 Postsecondary educational institutions may not propose, request,  
24 or pressure a student reporting sexual misconduct in a complaint  
25 filed with the institution under Title IX or otherwise, law  
26 enforcement, or in a civil court action to enter into a nondisclosure  
27 agreement relating to the alleged sexual misconduct by another  
28 student or employee of the institution.

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 28B.112  
30 RCW to read as follows:

31 (1) The Title IX process may not exceed 180 business days from  
32 the date a report is made unless extenuating circumstances exist. The  
33 timeline for each step of the Title IX process is as follows:

34 (a) The institution of higher education must provide to the  
35 student information on available resources, including information on  
36 the Title IX process, counseling services, and confidential  
37 advocates, within two business days of making a report;

1 (b) The initial assessment must be completed within 10 business  
2 days of the student meeting with Title IX personnel and providing the  
3 necessary information to complete an assessment, including whether  
4 the investigation will proceed under Title IX or the institution of  
5 higher education's internal process;

6 (c) The investigation must be completed within 120 business days  
7 of the initial report or disclosure. This process includes the final  
8 decision and subsequent hearings; and

9 (d) If a sanction is issued it must be determined and  
10 administered within 10 business days of the final decision.

11 (2) If the process will take longer than 180 business days due to  
12 extenuating circumstances, the institution of higher education shall  
13 provide a written explanation to the student including the reason for  
14 the delay and when the process is expected to be completed.

15 (3) Students must be kept informed on the status of the  
16 investigation and, if conducted, the hearing, throughout the entirety  
17 of the Title IX process. Beginning with the 2027-28 academic year,  
18 all state universities, regional universities, and the state college  
19 as defined in RCW 28B.10.016 that serve 8,000 or more students shall  
20 provide an online tool for students to track the process of the  
21 investigation and, if conducted, the hearing. All institutions of  
22 higher education are encouraged to provide the online tracking tool.

23 **Sec. 7.** RCW 28B.112.040 and 2023 c 79 s 2 are each amended to  
24 read as follows:

25 The definitions in this section apply throughout this (~~section~~  
26 ~~and RCW 28B.112.050 through 28B.112.080~~) chapter unless the context  
27 clearly requires otherwise.

28 (1) "Applicant" means a person applying for employment as  
29 faculty, instructor, staff, advisor, counselor, coach, athletic  
30 department staff, and any position in which the applicant will likely  
31 have direct ongoing contact with students in a supervisory role or  
32 position of authority. "Applicant" does not include enrolled students  
33 who are applying for temporary student employment with the  
34 postsecondary educational institutions, unless the student is a  
35 graduate student applying for a position in which the graduate  
36 student will have a supervisory role or position of authority over  
37 other students. "Applicant" does not include a person applying for  
38 employment as medical staff or for employment with an affiliated  
39 organization, entity, or extension of a postsecondary educational

1 institution, unless the applicant will have a supervisory role or  
2 position of authority over students.

3 (2) "Association" means a scholarly or professional organization  
4 or learned society that sponsors activities or events for the benefit  
5 of individuals affiliated with postsecondary educational  
6 institutions, with a code of conduct forbidding sexual misconduct at  
7 such activities or events, and established investigative procedures  
8 for allegations that the code of conduct has been violated.

9 (3) "Employee" means a person who is receiving or has received  
10 wages as an employee from the postsecondary educational institutions  
11 and includes current and former workers, whether the person is  
12 classified as an employee, independent contractor, or consultant, and  
13 is in, or had, a position with direct ongoing contact with students  
14 in a supervisory role or position of authority. "Employee" does not  
15 include a person who was employed by the institution in temporary  
16 student employment while the person was an enrolled student unless  
17 the student, at the time of employment, is or was a graduate student  
18 in a position in which the graduate student has or had a supervisory  
19 role or authority over other students. "Employee" does not include a  
20 person employed as medical staff or with an affiliated organization,  
21 entity, or extension of a postsecondary educational institution,  
22 unless the employee has or had a supervisory role or position of  
23 authority over students. A person who would be considered an  
24 "employee" under this subsection, remains an "employee" even if the  
25 person enrolls in classes under an institution's employee tuition  
26 waiver program or similar program that allows faculty, staff, or  
27 other employees to take classes.

28 (4) "Employer" includes postsecondary educational institutions in  
29 this or any other state.

30 (5) "Investigation" means a procedure initiated in response to a  
31 formal complaint, as defined in 34 C.F.R. Sec. 106.30, provided that  
32 the procedure fully complies with the provisions of 34 C.F.R. Sec.  
33 106.45.

34 (6) "Postsecondary educational institution" means an institution  
35 of higher education as defined in RCW 28B.10.016, a degree-granting  
36 institution as defined in RCW 28B.85.010, a private vocational school  
37 as defined in RCW 28C.10.020, or school as defined in RCW 18.16.020,  
38 that participates in the state student financial aid program.

39 (7) "Sexual misconduct" includes, but is not limited to,  
40 unwelcome sexual contact, unwelcome sexual advances, requests for

1 sexual favors, other unwelcome verbal, nonverbal, electronic, or  
2 physical conduct of a sexual nature, sexual harassment, and any  
3 misconduct of a sexual nature that is in violation of the  
4 postsecondary educational institution's policies or has been  
5 determined to constitute sex discrimination pursuant to state or  
6 federal law.

7 (8) "Student" means a person enrolled at (~~a postsecondary~~  
8 ~~educational~~) an institution and for whom educational records are  
9 maintained.

10 (9) "Substantiated findings" means a written determination  
11 regarding responsibility as described in 34 C.F.R. Sec. 106.45(b)(7)  
12 prepared at the conclusion of an investigation, as amended by any  
13 appeals process.

14 (10) "Confidential advocate" means a person trained in trauma-  
15 informed care to provide a safe and confidential space to help  
16 survivors of sex-based violence and harassment identify what steps to  
17 take, what resources they need, what their rights and options are,  
18 and what options they have for reporting on campus and to law  
19 enforcement. Confidential advocates do not report incidents to the  
20 university.

21 (11) "Sex-based violence and harassment" includes sexual or sex-  
22 based harassment, including hostile environments or quid-pro-quo  
23 harassment, sexual exploitation, stalking, domestic violence,  
24 relationship and dating violence, and sexual assault.

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