

Senate Engrossed

~~universities; community colleges; sexual misconduct~~
(now: sexual misconduct; universities; community colleges)

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SENATE BILL 1626

AN ACT

AMENDING TITLE 15, CHAPTER 14, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 9.2; RELATING TO INSTITUTIONS OF HIGHER EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 14, Arizona Revised Statutes, is
3 amended by adding article 9.2, to read:

4 ARTICLE 9.2. SEXUAL MISCONDUCT

5 15-1893. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "EMPLOYEE" MEANS AN INDIVIDUAL WHO IS EMPLOYED FULL TIME OR PART
8 TIME AT AN INSTITUTION.

9 2. "INSTITUTION" MEANS ANY UNIVERSITY UNDER THE JURISDICTION OF THE
10 ARIZONA BOARD OF REGENTS OR A COMMUNITY COLLEGE AS DEFINED IN SECTION
11 15-1401.

12 3. "REPORTING PARTY" MEANS A STUDENT OR EMPLOYEE WHO REPORTS HAVING
13 EXPERIENCED AN INCIDENT OF SEXUAL MISCONDUCT TO THE INSTITUTION, WHETHER
14 OR NOT AN OFFICIAL COMPLAINT HAS BEEN FILED.

15 4. "RESPONDENT" MEANS AN INDIVIDUAL WHO HAS BEEN REPORTED TO BE THE
16 PERPETRATOR OF CONDUCT THAT COULD CONSTITUTE SEXUAL MISCONDUCT.

17 5. "SEXUAL MISCONDUCT" MEANS AN INCIDENT OF ANY OF THE FOLLOWING:

18 (a) SEXUAL HARASSMENT. FOR THE PURPOSES OF THIS SUBDIVISION,
19 "SEXUAL HARASSMENT" MEANS UNWELCOME CONDUCT OF A SEXUAL NATURE, INCLUDING
20 SEXUAL ADVANCES, SEXUAL SOLICITATION, REQUESTS FOR SEXUAL FAVORS,
21 UNWELCOME COMMENTS OR GESTURES, OR ANY OTHER VERBAL OR PHYSICAL CONDUCT OF
22 A SEXUAL NATURE.

23 (b) SEXUAL VIOLENCE. FOR THE PURPOSES OF THIS SUBDIVISION, "SEXUAL
24 VIOLENCE" MEANS A PHYSICAL SEXUAL ACT PERPETRATED AGAINST A PERSON'S WILL
25 OR FOR WHICH A PERSON IS INCAPABLE OF GIVING CONSENT.

26 (c) DOMESTIC VIOLENCE AS DEFINED IN SECTION 13-3601.

27 (d) STALKING AS PRESCRIBED IN SECTION 13-2923.

28 (e) HARASSMENT OR VIOLENCE BASED ON SEXUAL ORIENTATION OR GENDER
29 IDENTITY.

30 (f) ANY OTHER SEX-BASED HARASSMENT OR VIOLENCE.

31 6. "STUDENT" MEANS AN INDIVIDUAL WHO IS PARTICIPATING IN A
32 CREDIT-BEARING PROGRAM THROUGH AN INSTITUTION, WHETHER PART TIME OR FULL
33 TIME OR AS AN EXTENSION STUDENT, OR WHO HAS TAKEN A LEAVE OF ABSENCE OR
34 WITHDRAWN FROM THE INSTITUTION DUE TO BEING A VICTIM OF SEXUAL MISCONDUCT.

35 7. "TITLE IX" MEANS TITLE IX OF THE EDUCATION AMENDMENTS ACT OF
36 1972.

37 15-1893.01. Prevention of sexual misconduct on campus task
38 force; membership; duties; base survey

39 A. THE PREVENTION OF SEXUAL MISCONDUCT ON CAMPUS TASK FORCE IS
40 ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS:

41 1. A LICENSED CLINICAL SOCIAL WORKER WHO HAS EXPERIENCE IN
42 ASSISTING VICTIMS OF SEXUAL MISCONDUCT AND WHO IS APPOINTED BY THE
43 PRESIDENT OF THE SENATE.

- 1 2. A REPRESENTATIVE FROM AN ORGANIZATION THAT ADVOCATES FOR STUDENT
2 VICTIMS OF SEXUAL MISCONDUCT WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE
3 OF REPRESENTATIVES.
- 4 3. A MEMBER OF THE SENATE WHO IS APPOINTED BY THE PRESIDENT OF THE
5 SENATE.
- 6 4. A MEMBER OF THE HOUSE OF REPRESENTATIVES WHO IS APPOINTED BY THE
7 SPEAKER OF THE HOUSE OF REPRESENTATIVES.
- 8 5. A REPRESENTATIVE FROM THE ARIZONA BOARD OF REGENTS WHO IS
9 APPOINTED BY THE PRESIDENT OF THE SENATE.
- 10 6. AN EXECUTIVE REPRESENTATIVE FROM A UNIVERSITY UNDER THE
11 JURISDICTION OF THE ARIZONA BOARD OF REGENTS WHO IS APPOINTED BY THE
12 GOVERNOR.
- 13 7. AN EXECUTIVE REPRESENTATIVE FROM A COMMUNITY COLLEGE DISTRICT
14 WHO IS APPOINTED BY THE GOVERNOR.
- 15 8. A RESIDENT OF THIS STATE WHO IS A MEDICAL PROFESSIONAL FROM AN
16 INSTITUTION, WHO PROVIDES SERVICES TO VICTIMS OF SEXUAL MISCONDUCT AND WHO
17 IS APPOINTED BY THE GOVERNOR.
- 18 9. A TITLE IX COORDINATOR FROM AN INSTITUTION WHO IS APPOINTED BY
19 THE GOVERNOR.
- 20 10. A RESIDENT OF THIS STATE WHO IS EMPLOYED BY A PUBLIC OR PRIVATE
21 NONPROFIT ORGANIZATION THAT SERVES VICTIMS OF SEXUAL VIOLENCE AND WHO IS
22 APPOINTED BY THE GOVERNOR.
- 23 11. A RESIDENT OF THIS STATE WHO IS A RESEARCHER WITH EXPERIENCE IN
24 DEVELOPING AND DESIGNING SEXUAL MISCONDUCT CLIMATE SURVEYS AND WHO IS
25 APPOINTED BY THE GOVERNOR.
- 26 12. A RESIDENT OF THIS STATE WHO IS A RESEARCHER WITH EXPERIENCE IN
27 STATISTICS, DATA ANALYTICS OR ECONOMETRICS AND WHO IS APPOINTED BY THE
28 GOVERNOR.
- 29 13. A RESIDENT OF THIS STATE WHO IS A STUDENT ATTENDING A
30 UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS AND WHO
31 IS APPOINTED BY THE GOVERNOR.
- 32 14. A RESIDENT OF THIS STATE WHO IS A STUDENT OF A COMMUNITY
33 COLLEGE AS DEFINED IN SECTION 15-1401 AND WHO IS APPOINTED BY THE
34 GOVERNOR.
- 35 15. A RESIDENT OF THIS STATE WHO IS A SURVIVOR OF SEXUAL ASSAULT
36 AND WHO IS APPOINTED BY THE GOVERNOR.
- 37 16. A REPRESENTATIVE OF A NONPROFIT LEGAL SERVICES ORGANIZATION
38 THAT PROVIDES LEGAL REPRESENTATION TO VICTIMS OF CAMPUS SEXUAL ASSAULT WHO
39 IS APPOINTED BY THE GOVERNOR.
- 40 B. THE TASK FORCE SHALL ELECT A CHAIRPERSON FROM AMONG THE MEMBERS
41 APPOINTED PURSUANT TO SUBSECTION A OF THIS SECTION.
- 42 C. THE TASK FORCE SHALL DO ALL OF THE FOLLOWING:
43 1. REVIEW ANNUAL REPORTS SUBMITTED PURSUANT TO SECTION 15-1893.02.

1 2. REVIEW POLICIES THAT ARE IN PLACE AT INSTITUTIONS AND THAT
2 PROHIBIT SEXUAL MISCONDUCT AND PROVIDE SUPPORTIVE MEASURES AND RESOURCES
3 FOR VICTIMS OF SEXUAL MISCONDUCT.

4 3. RECOMMEND TO THE ARIZONA BOARD OF REGENTS AND INSTITUTIONS
5 ACTIONS TO PREVENT SEXUAL MISCONDUCT TO BE CONSIDERED BY INSTITUTIONS.

6 4. DEVELOP AND ANNUALLY UPDATE A BASE SURVEY TO BE USED BY
7 INSTITUTIONS AND PROVIDE THE INSTITUTIONS WITH RECOMMENDATIONS REGARDING
8 THE CONTENT, TIMING AND DISTRIBUTION OF THE SURVEY. THE BASE SURVEY MUST
9 BE ABLE TO BE DISTRIBUTED ONLINE. IN DEVELOPING THE BASE SURVEY, THE TASK
10 FORCE SHALL USE BEST PRACTICES FROM PEER-REVIEWED RESEARCH AND CONSULT
11 WITH INDIVIDUALS WITH EXPERTISE IN DEVELOPING SEXUAL MISCONDUCT CLIMATE
12 SURVEYS.

13 D. THE BASE SURVEY DEVELOPED PURSUANT TO SUBSECTION C, PARAGRAPH 4
14 OF THIS SECTION MUST GATHER AT LEAST THE FOLLOWING INFORMATION:

15 1. THE NUMBER AND TYPE OF INCIDENTS, WHETHER OFFICIALLY REPORTED OR
16 UNREPORTED, OF SEXUAL MISCONDUCT AT THE INSTITUTION.

17 2. WHEN, IN GENERAL TERMS, INCIDENTS OF SEXUAL MISCONDUCT OCCURRED.
18 THE SURVEY MAY NOT REQUIRE THE DISCLOSURE OF A SPECIFIC DATE OR TIME OF AN
19 INCIDENT.

20 3. WHERE, IN GENERAL TERMS, INCIDENTS OF SEXUAL MISCONDUCT
21 OCCURRED, SUCH AS ON CAMPUS, OFF CAMPUS OR ONLINE. THE SURVEY MAY NOT
22 REQUIRE THE DISCLOSURE OF THE SPECIFIC LOCATION OF AN INCIDENT.

23 4. WHO, IN GENERAL TERMS, PERPETRATED THE SEXUAL MISCONDUCT, SUCH
24 AS A STUDENT OF THE INSTITUTION, A STUDENT OF ANOTHER INSTITUTION, AN
25 EMPLOYEE, A THIRD-PARTY VENDOR OR SOMEONE ELSE.

26 5. STUDENT AWARENESS OF THE INSTITUTION'S POLICIES AND PROCEDURES
27 RELATED TO SEXUAL MISCONDUCT.

28 6. IF AN INCIDENT OF SEXUAL MISCONDUCT WAS REPORTED TO THE
29 INSTITUTION, TO WHOM IT WAS REPORTED.

30 7. IF AN INCIDENT OF SEXUAL MISCONDUCT WAS NOT REPORTED TO THE
31 INSTITUTION, WHY THE INDIVIDUAL CHOSE NOT TO REPORT.

32 8. WHETHER AN INCIDENT OF SEXUAL MISCONDUCT WAS REPORTED TO A
33 TEACHER, FRIEND, PEER OR FAMILY MEMBER.

34 9. IF A STUDENT REPORTED AN INCIDENT OF SEXUAL MISCONDUCT, WHETHER
35 THE STUDENT WAS INFORMED OF OR REFERRED TO LOCAL, STATE, CAMPUS OR OTHER
36 RESOURCES OR VICTIM SUPPORT SERVICES, SUCH AS COUNSELING OR MEDICAL CARE.

37 10. DEMOGRAPHIC INFORMATION THAT COULD BE USED TO IDENTIFY GROUPS
38 THAT ARE AT RISK OF SEXUAL MISCONDUCT, INCLUDING RACE, NATIONALITY, SEX,
39 SEXUAL ORIENTATION, DISABILITY STATUS OR IMMIGRATION STATUS.

40 11. WHETHER A STUDENT DECIDED TO WITHDRAW, TRANSFER OR TAKE A LEAVE
41 OF ABSENCE FROM THE INSTITUTION, OR CONSIDERED DOING SO, AS A RESULT OF
42 BEING A REPORTING PARTY.

43 12. WHETHER A STUDENT DECIDED TO WITHDRAW, TRANSFER OR TAKE A LEAVE
44 OF ABSENCE FROM THE INSTITUTION, OR CONSIDERED DOING SO, AS A RESULT OF
45 BEING A RESPONDENT.

1 13. WHETHER A STUDENT FACED ANY FINANCIAL, PHYSICAL OR EMOTIONAL
2 IMPACTS IN THE LONG TERM AS A RESULT OF BEING A REPORTING PARTY.

3 14. COMMUNITY ATTITUDES TOWARD SEXUAL MISCONDUCT, INCLUDING THE
4 WILLINGNESS OF BYSTANDERS TO INTERVENE.

5 E. THE TASK FORCE SHALL DISTRIBUTE THE BASE SURVEY DEVELOPED
6 PURSUANT TO SUBSECTION C, PARAGRAPH 4 OF THIS SECTION TO THE INSTITUTIONS
7 FOR USE BY THE INSTITUTIONS. EACH INSTITUTION:

8 1. SHALL ADMINISTER THE BASE SURVEY OPENLY TO ALL STUDENTS ON AN
9 ANNUAL BASIS.

10 2. SHALL NOTIFY ALL STUDENTS OF AND INVITE THEM TO PARTICIPATE IN
11 THE BASE SURVEY.

12 3. SHALL DISTRIBUTE THE BASE SURVEY ONLINE AND PROVIDE REASONABLE
13 ACCOMMODATIONS TO INDIVIDUALS WITH DISABILITIES TO TAKE THE SURVEY.

14 4. MAY ADD ADDITIONAL QUESTIONS TO THE BASE SURVEY.

15 5. MAY ADJUST THE BASE SURVEY TO MEET THE INSTITUTION'S NEEDS AND
16 MEET OTHER REQUIREMENTS, SUCH AS THOSE PRESCRIBED IN TITLE IX.

17 6. MAY NOT FORCE ANY STUDENT TO PARTICIPATE IN THE SURVEY.

18 15-1893.02. Annual report; posting

19 A. ON OR BEFORE NOVEMBER 1 OF EACH YEAR, EACH INSTITUTION SHALL
20 SUBMIT A REPORT TO THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE
21 OF REPRESENTATIVES AND THE CHAIRPERSON OF THE PREVENTION OF SEXUAL
22 MISCONDUCT ON CAMPUS TASK FORCE ESTABLISHED BY SECTION 15-1893.01, AND
23 SHALL SUBMIT A COPY OF THE REPORT TO THE SECRETARY OF STATE, THAT INCLUDES
24 ALL OF THE FOLLOWING INFORMATION FOR THAT INSTITUTION FOR THE PRECEDING
25 SCHOOL YEAR:

26 1. THE TOTAL NUMBER OF ALLEGATIONS OF SEXUAL MISCONDUCT REPORTED TO
27 THE INSTITUTION'S TITLE IX COORDINATOR BY A STUDENT OR EMPLOYEE OF THE
28 INSTITUTION AGAINST ANOTHER STUDENT OR EMPLOYEE OF THE INSTITUTION.

29 2. THE NUMBER OF STUDENTS AND EMPLOYEES FOUND TO BE RESPONSIBLE FOR
30 VIOLATING THE INSTITUTION'S POLICIES PROHIBITING SEXUAL MISCONDUCT AND THE
31 NUMBER OF STUDENTS AND EMPLOYEES WHO FACED DISCIPLINARY ACTION.

32 3. THE NUMBER OF STUDENTS AND EMPLOYEES FOUND TO BE NOT RESPONSIBLE
33 FOR REPORTED SEXUAL MISCONDUCT.

34 4. THE NUMBER OF DISCIPLINARY ACTIONS IMPOSED BY THE INSTITUTION AS
35 A RESULT OF A FINDING OF RESPONSIBILITY FOR REPORTED SEXUAL
36 MISCONDUCT. THE REPORT SHALL PROVIDE INFORMATION IN AN ANONYMOUS MANNER
37 THAT COMPLIES WITH STATE AND FEDERAL PRIVACY LAWS.

38 5. THE NUMBER OF LAW ENFORCEMENT INVESTIGATIONS INITIATED IN
39 RESPONSE TO REPORTS OF SEXUAL MISCONDUCT BROUGHT FORWARD BY STUDENTS AND
40 EMPLOYEES OF THE INSTITUTION AGAINST ANOTHER STUDENT OR EMPLOYEE OF THE
41 INSTITUTION, IF KNOWN.

42 6. THE NUMBER OF STUDENTS WHO REPORTED SEXUAL MISCONDUCT AND WHO
43 TOOK A LEAVE OF ABSENCE, TRANSFERRED, WITHDREW OR WERE EXPELLED FROM THE
44 INSTITUTION.

1 7. STEPS THE INSTITUTION HAS TAKEN TO MITIGATE RISKS OF SEXUAL
2 MISCONDUCT, PROVIDE RESOURCES TO AFFECTED STUDENTS AND COMMUNICATE WITH
3 STUDENTS.
4 8. THE RESULTS AND FINDINGS OF THE BASE SURVEY ADMINISTERED
5 PURSUANT TO SECTION 15-1893.01, SUBSECTION E.
6 9. ANY OTHER RELEVANT INFORMATION THE INSTITUTION WISHES TO
7 PROVIDE.
8 B. THE INSTITUTION SHALL POST THE REPORT REQUIRED BY SUBSECTION A
9 OF THIS SECTION ON THE INSTITUTION'S WEBSITE SO THAT IT IS PUBLICLY
10 AVAILABLE AND EASILY ACCESSIBLE TO STUDENTS AND EMPLOYEES.