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I. Higher Education

NOTE: P.A. 99-426, eff. Aug. 21, 2015, created the Preventing Sexual Violence in Higher Education Act, amended Section 10 of the Campus Security Enhancement Act of 2008, amended Section 9.21 of the Board of Higher Education Act, and added §8-804 (Confidential Advisor privilege) to the Code of Civil Procedure. Some provisions of P.A. 99-426 have a delayed implementation date.

A. Preventing Sexual Violence in Higher Education Act

1. Short Title

This Act may be cited as the Preventing Sexual Violence in Higher Education Act.

Created by P.A. 99-426, eff. Aug. 21, 2015.

2. Definitions

110 ILCS 155/5

In this Act:

“Awareness programming” means institutional action designed to communicate the prevalence of sexual violence, including without limitation training, poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars, or panel discussions.

“Bystander intervention” includes without limitation the act of challenging the social norms that support, condone, or permit sexual violence.

“Complainant” means a student who files a complaint alleging violation of the comprehensive policy through the higher education institution’s complaint resolution procedure.

“Comprehensive policy” means a policy created and implemented by a higher education institution to address student allegations of sexual violence, domestic violence, dating violence, and stalking.

“Confidential advisor” means a person who is employed or contracted by a higher education institution to provide emergency and ongoing support to student survivors of sexual violence with the training, duties, and responsibilities described in Section 20 of this Act.

“Higher education institution” means a public university, a public community college, or an independent, not-for-profit or for-profit higher education institution located in this State.

“Primary prevention programming” means institutional action and strategies intended to prevent sexual violence before it occurs by means of changing social norms and other approaches, including without limitation training, poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars, or panel discussions.

“Respondent” means a student involved in the complaint resolution procedure who has been accused of violating a higher education institution’s comprehensive policy.

“Sexual violence” means physical sexual acts attempted or perpetrated against a person’s will or when a person is incapable of giving consent, including without limitation rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

“Survivor” means a student who has experienced sexual violence, domestic violence, dating violence, or stalking while enrolled at a higher education institution.

“Survivor-centered” means a systematic focus on the needs and concerns of a survivor of sexual violence, domestic violence, dating violence, or stalking that (i) ensures the compassionate and sensitive delivery of services in a nonjudgmental manner; (ii) ensures an understanding of how trauma affects survivor behavior; (iii) maintains survivor safety, privacy, and, if possible, confidentiality; and (iv) recognizes that a survivor is not responsible for the sexual violence, domestic violence, dating violence, or stalking.

“Trauma-informed response” means a response involving an understanding of the complexities of sexual violence, domestic violence, dating violence, or stalking through training centered on the neurobiological impact of trauma, the influence of societal myths and stereotypes surrounding sexual violence, domestic violence, dating violence, or stalking, and understanding the behavior of perpetrators.

Current through P.A. 99-426, eff. Aug. 21, 2015.

3. Comprehensive Policy

110 ILCS 155/10

On or before August 1, 2016, all higher education institutions shall adopt a comprehensive policy concerning sexual violence, domestic violence, dating violence, and stalking consistent with governing federal and State law. The higher education institution’s comprehensive policy shall include, at a minimum, all of the following components:

- (1) A definition of consent that, at a minimum, recognizes that (i) consent is a freely given agreement to sexual activity, (ii) a person’s lack of verbal or physical resistance or submission resulting from the use or threat of force does not constitute consent, (iii) a person’s manner of dress does not constitute consent, (iv) a person’s consent to past sexual activity does not constitute consent to future sexual activity, (v) a person’s consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another, (vi) a person

can withdraw consent at any time, and (vii) a person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following:

- (A) the person is incapacitated due to the use or influence of alcohol or drugs;
- (B) the person is asleep or unconscious;
- (C) the person is under age; or
- (D) the person is incapacitated due to a mental disability.

Nothing in this Section prevents a higher education institution from defining consent in a more demanding manner.

- (2) Procedures that students of the higher education institution may follow if they choose to report an alleged violation of the comprehensive policy, regardless of where the incident of sexual violence, domestic violence, dating violence, or stalking occurred, including all of the following:
 - (A) Name and contact information for the Title IX coordinator, campus law enforcement or security, local law enforcement, and the community-based sexual assault crisis center.
 - (B) The name, title, and contact information for confidential advisors and other confidential resources and a description of what confidential reporting means.
 - (C) Information regarding the various individuals, departments, or organizations to whom a student may report a violation of the comprehensive policy, specifying for each individual and entity (i) the extent of the individual's or entity's reporting obligation, (ii) the extent of the individual's or entity's ability to protect the student's privacy, and (iii) the extent of the individual's or entity's ability to have confidential communications with the student.
 - (D) An option for students to electronically report.
 - (E) An option for students to anonymously report.
 - (F) An option for students to confidentially report.
 - (G) An option for reports by third parties and bystanders.
- (3) The higher education institution's procedure for responding to a report of an alleged incident of sexual violence, domestic violence, dating violence, or

stalking, including without limitation (i) assisting and interviewing the survivor, (ii) identifying and locating witnesses, (iii) contacting and interviewing the respondent, (iv) contacting and cooperating with law enforcement, when applicable, and (v) providing information regarding the importance of preserving physical evidence of the sexual violence and the availability of a medical forensic examination at no charge to the survivor.

- (4) A statement of the higher education institution's obligation to provide survivors with concise information, written in plain language, concerning the survivor's rights and options, upon receiving a report of an alleged violation of the comprehensive policy, as described in Section 15 of this Act.
- (5) The name, address, and telephone number of the medical facility nearest to each campus of the higher education institution where a survivor may have a medical forensic examination completed at no cost to the survivor, pursuant to the Sexual Assault Survivors Emergency Treatment Act.
- (6) The name, telephone number, address, and website URL, if available, of community-based, State, and national sexual assault crisis centers.
- (7) A statement notifying survivors of the interim protective measures and accommodations reasonably available from the higher education institution that a survivor may request in response to an alleged violation of the comprehensive policy, including without limitation changes to academic, living, dining, transportation, and working situations, obtaining and enforcing campus no contact orders, and honoring an order of protection or no contact order entered by a State civil or criminal court.
- (8) The higher education institution's complaint resolution procedures if a student alleges violation of the comprehensive violence policy, including, at a minimum, the guidelines set forth in Section 25 of this Act.
- (9) A statement of the range of sanctions the higher education institution may impose following the implementation of its complaint resolution procedures in response to an alleged violation of the comprehensive policy.
- (10) A statement of the higher education institution's obligation to include an amnesty provision that provides immunity to any student who reports, in good faith, an alleged violation of the higher education institution's comprehensive policy to a responsible employee, as defined by federal law, so that the reporting student will not receive a disciplinary sanction by the institution for a student conduct violation, such as underage drinking, that is revealed in the course of such a report, unless the institution determines that the violation was egregious, including without limitation an action that places the health or safety of any other person at risk.

- (11) A statement of the higher education institution's prohibition on retaliation against those who, in good faith, report or disclose an alleged violation of the comprehensive policy, file a complaint, or otherwise participate in the complaint resolution procedure and available sanctions for individuals who engage in retaliatory conduct.

Current through P.A. 99-426, eff. Aug. 21, 2015.

4. Student Notification of Rights and Options

110 ILCS 155/15

- (a) On or before August 1, 2016, upon being notified of an alleged violation of the comprehensive policy by or on behalf of a student, each higher education institution shall, at a minimum, provide the survivor, when identified, with a concise notification, written in plain language, of the survivor's rights and options, including without limitation:
 - (1) the survivor's right to report or not report the alleged incident to the higher education institution, law enforcement, or both, including information about the survivor's right to privacy and which reporting methods are confidential;
 - (2) the contact information for the higher education institution's Title IX coordinator or coordinators, confidential advisors, a community-based sexual assault crisis center, campus law enforcement, and local law enforcement;
 - (3) the survivor's right to request and receive assistance from campus authorities in notifying law enforcement;
 - (4) the survivor's ability to request interim protective measures and accommodations for survivors, including without limitation changes to academic, living, dining, working, and transportation situations, obtaining and enforcing a campus-issued order of protection or no contact order, if such protective measures and accommodations are reasonably available, and an order of protection or no contact order in State court;
 - (5) the higher education institution's ability to provide assistance, upon the survivor's request, in accessing and navigating campus and local health and mental health services, counseling, and advocacy services; and
 - (6) a summary of the higher education institution's complaint resolution procedures, under Section 25 of this Act, if the survivor reports a violation of the comprehensive policy.
- (b) Within 12 hours after receiving an electronic report, the higher education institution shall respond to the electronic reporter and, at a minimum, provide the

information described in subdivisions (1) through (6) of subsection (a) of this Section and a list of available resources. The higher education institution may choose the manner in which it responds including, but not limited to, through verbal or electronic communication. Nothing in this subsection (b) limits a higher education institution's obligations under subsection (a) of this Section.

Current through P.A. 99-426, eff. Aug. 21, 2015.

5. Confidential Advisor

110 ILCS 155/20

- (a) Each higher education institution shall provide students with access to confidential advisors to provide emergency and ongoing support to survivors of sexual violence.
- (b) The confidential advisors may not be individuals on campus who are designated as responsible employees under Title IX of the federal Education Amendments of 1972. Nothing in this Section precludes a higher education institution from partnering with a community-based sexual assault crisis center to provide confidential advisors.
- (c) All confidential advisors shall receive 40 hours of training on sexual violence, if they have not already completed this 40-hour training, before being designated a confidential advisor and shall attend a minimum of 6 hours of ongoing education training annually on issues related to sexual violence to remain a confidential advisor. Confidential advisors shall also receive periodic training on the campus administrative processes, interim protective measures and accommodations, and complaint resolution procedures.
- (d) In the course of working with a survivor, each confidential advisor shall, at a minimum, do all of the following:
 - (1) Inform the survivor of the survivor's choice of possible next steps regarding the survivor's reporting options and possible outcomes, including without limitation reporting pursuant to the higher education institution's comprehensive policy and notifying local law enforcement.
 - (2) Notify the survivor of resources and services for survivors of sexual violence, including, but not limited to, student services available on campus and through community-based resources, including without limitation sexual assault crisis centers, medical treatment facilities, counseling services, legal resources, medical forensic services, and mental health services.
 - (3) Inform the survivor of the survivor's rights and the higher education institution's responsibilities regarding orders of protection, no contact

orders, or similar lawful orders issued by the higher education institution or a criminal or civil court.

- (4) Provide confidential services to and have privileged, confidential communications with survivors of sexual violence in accordance with Section 8-804 of the Code of Civil Procedure.
- (5) Upon the survivor's request and as appropriate, liaise with campus officials, community-based sexual assault crisis centers, or local law enforcement and, if requested, assist the survivor with contacting and reporting to campus officials, campus law enforcement, or local law enforcement.
- (6) Upon the survivor's request, liaise with the necessary campus authorities to secure interim protective measures and accommodations for the survivor.

Current through P.A. 99-426, eff. Aug. 21, 2015.

6. Complaint Resolution Procedures

110 ILCS 155/25

- (a) On or before August 1, 2016, each campus of a higher education institution shall adopt one procedure to resolve complaints of alleged student violations of the comprehensive policy.
- (b) For each campus, a higher education institution's complaint resolution procedures for allegations of student violation of the comprehensive policy shall provide, at a minimum, all of the following:
 - (1) Complainants alleging student violation of the comprehensive policy shall have the opportunity to request that the complaint resolution procedure begin promptly and proceed in a timely manner.
 - (2) The higher education institution shall determine the individuals who will resolve complaints of alleged student violations of the comprehensive policy.
 - (3) All individuals whose duties include resolution of complaints of student violations of the comprehensive policy shall receive a minimum of 8 to 10 hours of annual training on issues related to sexual violence, domestic violence, dating violence, and stalking and how to conduct the higher education institution's complaint resolution procedures, in addition to the annual training required for employees as provided in subsection (c) of Section 30 of this Act.

- (4) The higher education institution shall have a sufficient number of individuals trained to resolve complaints so that (i) a substitution can occur in the case of a conflict of interest or recusal and (ii) an individual or individuals with no prior involvement in the initial determination or finding hear any appeal brought by a party.
- (5) The individual or individuals resolving a complaint shall use a preponderance of the evidence standard to determine whether the alleged violation of the comprehensive policy occurred.
- (6) The complainant and respondent shall (i) receive notice of the individual or individuals with authority to make a finding or impose a sanction in their proceeding before the individual or individuals initiate contact with either party and (ii) have the opportunity to request a substitution if the participation of an individual with authority to make a finding or impose a sanction poses a conflict of interest.
- (7) The higher education institution shall have a procedure to determine interim protective measures and accommodations available pending the resolution of the complaint.
- (8) Any proceeding, meeting, or hearing held to resolve complaints of alleged student violations of the comprehensive policy shall protect the privacy of the participating parties and witnesses.
- (9) The complainant, regardless of this person's level of involvement in the complaint resolution procedure, and the respondent shall have the opportunity to provide or present evidence and witnesses on their behalf during the complaint resolution procedure.
- (10) The complainant and the respondent may not directly cross examine one another, but may, at the discretion and direction of the individual or individuals resolving the complaint, suggest questions to be posed by the individual or individuals resolving the complaint and respond to the other party.
- (11) Both parties may request and must be allowed to have an advisor of their choice accompany them to any meeting or proceeding related to an alleged violation of the comprehensive policy, provided that the involvement of the advisor does not result in undue delay of the meeting or proceeding. The advisor must comply with any rules in the higher education institution's complaint resolution procedure regarding the advisor's role. If the advisor violates the rules or engages in behavior or advocacy that harasses, abuses, or intimidates either party, a witness, or an individual resolving the complaint, that advisor may be prohibited from further participation.

- (12) The complainant and the respondent may not be compelled to testify, if the complaint resolution procedure involves a hearing, in the presence of the other party. If a party invokes this right, the higher education institution shall provide a procedure by which each party can, at a minimum, hear the other party's testimony.
- (13) The complainant and the respondent are entitled to simultaneous, written notification of the results of the complaint resolution procedure, including information regarding appeal rights, within 7 days of a decision or sooner if required by State or federal law.
- (14) The complainant and the respondent shall, at a minimum, have the right to timely appeal the complaint resolution procedure's findings or imposed sanctions if the party alleges (i) a procedural error occurred, (ii) new information exists that would substantially change the outcome of the finding, or (iii) the sanction is disproportionate with the violation. The individual or individuals reviewing the findings or imposed sanctions shall not have participated previously in the complaint resolution procedure and shall not have a conflict of interest with either party. The complainant and the respondent shall receive the appeal decision in writing within 7 days after the conclusion of the review of findings or sanctions or sooner if required by federal or State law.
- (15) The higher education institution shall not disclose the identity of the survivor or the respondent, except as necessary to resolve the complaint or to implement interim protective measures and accommodations or when provided by State or federal law.

Current through P.A. 99-426, eff. Aug. 21, 2015.

7. Campus Training, Education, and Awareness

110 ILCS 155/30

- (a) On or before August 1, 2016, a higher education institution shall prominently publish, timely update, and have easily available on its Internet website all of the following information:
 - (1) The higher education institution's comprehensive policy, as well as options and resources available to survivors.
 - (2) The higher education institution's student notification of rights and options described in Section 15 of this Act.
 - (3) The name and contact information for all of the higher education institution's Title IX coordinators.

- (4) An explanation of the role of (i) Title IX coordinators, including deputy or assistant Title IX coordinators, under Title IX of the federal Education Amendments of 1972, (ii) responsible employees under Title IX of the federal Education Amendments of 1972, (iii) campus security authorities under the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and (iv) mandated reporters under the Abused and Neglected Child Reporting Act and the reporting obligations of each, as well as the level of confidentiality each is allowed to provide to reporting students under relevant federal and State law.
 - (5) The name, title, and contact information for all confidential advisors, counseling services, and confidential resources that can provide a confidential response to a report and a description of what confidential reporting means.
 - (6) The telephone number and website URL for community-based, State, and national hotlines providing information to sexual violence survivors.
- (b) Beginning with the 2016-2017 academic year, each higher education institution shall provide sexual violence primary prevention and awareness programming for all students who attend one or more classes on campus, which shall include, at a minimum, annual training as described in this subsection (b). Nothing in this Section shall be construed to limit the higher education institution's ability to conduct additional ongoing sexual violence primary prevention and awareness programming.

Each higher education institution's annual training shall, at a minimum, provide each student who attends one or more classes on campus information regarding the higher education institution's comprehensive policy, including without limitation the following:

- (1) the institution's definitions of consent, inability to consent, and retaliation as they relate to sexual violence;
- (2) reporting to the higher education institution, campus law enforcement, and local law enforcement;
- (3) reporting to the confidential advisor or other confidential resources;
- (4) available survivor services; and
- (5) strategies for bystander intervention and risk reduction.

At the beginning of each academic year, each higher education institution shall provide each student of the higher education institution with an electronic copy or hard copy of its comprehensive policy, procedures, and related protocols.

- (c) Beginning in the 2016-2017 academic year, a higher education institution shall provide annual survivor-centered and trauma-informed response training to any employee of the higher education institution who is involved in (i) the receipt of a student report of an alleged incident of sexual violence, domestic violence, dating violence, or stalking, (ii) the referral or provision of services to a survivor, or (iii) any campus complaint resolution procedure that results from an alleged incident of sexual violence, domestic violence, dating violence, or stalking. Employees falling under this description include without limitation the Title IX coordinator, members of the higher education institution’s campus law enforcement, and campus security. An enrolled student at or a contracted service provider of the higher education institution with the employee responsibilities outlined in clauses (i) through (iii) of this paragraph shall also receive annual survivor-centered and trauma-informed response training.

The higher education institution shall design the training to improve the trainee’s ability to understand (i) the higher education institution’s comprehensive policy; (ii) the relevant federal and State law concerning survivors of sexual violence, domestic violence, dating violence, and stalking at higher education institutions; (iii) the roles of the higher education institution, medical providers, law enforcement, and community agencies in ensuring a coordinated response to a reported incident of sexual violence; (iv) the effects of trauma on a survivor; (v) the types of conduct that constitute sexual violence, domestic violence, dating violence, and stalking, including same-sex violence; and (vi) consent and the role drugs and alcohol use can have on the ability to consent. The training shall also seek to improve the trainee’s ability to respond with cultural sensitivity; provide services to or assist in locating services for a survivor, as appropriate; and communicate sensitively and compassionately with a survivor of sexual violence, domestic violence, dating violence, or stalking.

Current through P.A. 99-426, eff. Aug. 21, 2015.

B. Campus Security Enhancement Act of 2008 – Task Force

NOTE: P.A. 99-426, eff. Aug. 21, 2015, which created the Preventing Sexual Violence in Higher Education Act also amended Section 10 of the Campus Security Enhancement Act of 2008.

Task Force 110 ILCS 12/10

- (a) In this Section:

“Higher education institution” means a public university, a public community college, or an independent, not-for-profit or for-profit higher education institution located in this State.

“Sexual violence” means physical sexual acts attempted or perpetrated against a person’s will or when a person is incapable of giving consent, including without limitation rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

- (b) Each higher education institution shall either establish their own campus-wide task force or participate in a regional task force, as set out in this Section, on or before August 1, 2016. The task forces shall be composed of representatives of campus staff, campus students, community-based organizations, and law enforcement. The task forces shall work toward improving coordination between community leaders and service providers to prevent sexual violence, domestic violence, dating violence, and stalking and to ensure a coordinated response both in terms of law enforcement and victim services.
 - (1) The participants of the campus-wide task force shall consist of individuals, including campus staff, faculty, and students, selected by the president or chancellor of each higher education institution or the president’s or chancellor’s designee, which must include various stakeholders on the issue of sexual violence, domestic violence, dating violence, and stalking.

The president or chancellor of each higher education institution or the president’s or chancellor’s designee shall invite each of the following entities to identify an individual to serve on the campus-wide task force:

- (A) a community-based sexual assault crisis center;
- (B) a community-based domestic violence agency;
- (C) local law enforcement; and
- (D) the local State’s Attorney’s office.

Each higher education institution may make available to members of the campus-wide task force training on (i) the awareness and prevention of sexual violence, domestic violence, dating violence, and stalking and communicating with and providing assistance to a student survivor of sexual violence, domestic violence, dating violence, and stalking; (ii) the higher education institution’s comprehensive policy concerning sexual violence, domestic violence, dating violence, and stalking; (iii) the provisions of federal and State law concerning survivors of sexual violence, domestic violence, dating violence, and stalking at higher education institutions; (iv) survivor-centered responses and the role of community-based advocates; (v) the role and functions of each member on such campus-wide task force for the purpose of ensuring a coordinated response to reported incidences of sexual violence, domestic violence, dating violence, and stalking; and (vi) trauma-informed responses to sexual violence, domestic violence, dating violence, and stalking.

The campus-wide task force shall meet at least 2 times per calendar year for the purpose of discussing and improving upon the following areas:

- (I) best practices as they relate to prevention, awareness, education, and response to sexual violence, domestic violence, dating violence, and stalking;
 - (II) the higher education institution's comprehensive policy and procedures; and
 - (III) collaboration and information-sharing among the higher education institution, community-based organizations, and law enforcement, including without limitation discussing memoranda of understanding, protocols, or other practices for cooperation.
- (2) Any regional task force in which a higher education institution participates shall have representatives from the following: higher education institutions, community-based sexual assault crisis centers and domestic violence organizations, and law enforcement agencies in the region, including, police, State's Attorney's offices, and other relevant law enforcement agencies. A higher education institution shall send appropriate designees, including faculty, staff, and students, to participate in the regional task force.

The regional task force shall meet at least 2 times per calendar year for the purpose of discussing and improving upon the following areas:

- (A) best practices as they relate to prevention of, awareness of, education concerning, and the response to sexual violence, domestic violence, dating violence, and stalking;
- (B) sexual violence policies and procedures; and
- (C) collaboration and information-sharing among higher education institutions, community-based organizations, and law enforcement, including without limitation discussing memoranda of understanding, protocols, or other practices for cooperation.

Current through P.A. 99-426, eff. Aug. 21, 2015.

C. Board of Higher Education Act – Human Relations

NOTE: P.A. 99-426, eff. Aug. 21, 2015, which created the Preventing Sexual Violence in Higher Education Act also amended Section 9.21 of the Board of Higher Education Act.

Human Relations

110 ILCS 205/9.21

- (a) The Board shall monitor, budget, evaluate, and report to the General Assembly in accordance with Section 9.16 of this Act on programs to improve human relations to include race, ethnicity, gender and other issues related to improving human relations. The programs shall at least:
- (1) require each public institution of higher education to include, in the general education requirements for obtaining a degree, coursework on improving human relations to include race, ethnicity, gender and other issues related to improving human relations to address racism and sexual harassment on their campuses, through existing courses;
 - (2) require each public institution of higher education to report annually to the Department of Human Rights and the Attorney General on each adjudicated case in which a finding of racial, ethnic or religious intimidation or sexual harassment made in a grievance, affirmative action or other proceeding established by that institution to investigate and determine allegations of racial, ethnic or religious intimidation and sexual harassment; and
 - (3) require each public institution of higher education to forward to the local State's Attorney any report received by campus security or by a university police department alleging the commission of a hate crime as defined under Section 12-7.1 of the Criminal Code of 2012.

- (b) In this subsection (b):

“Higher education institution” means a public university, a public community college, or an independent, not-for-profit or for-profit higher education institution located in this State.

“Sexual violence” means physical sexual acts attempted or perpetrated against a person's will or when a person is incapable of giving consent, including without limitation rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

On or before November 1, 2017 and on or before every November 1 thereafter, each higher education institution shall provide an annual report, concerning the immediately preceding calendar year, to the Department of Human Rights and the Attorney General with all of the following components:

- (1) A copy of the higher education institution's most recent comprehensive policy adopted in accordance with Section 10 of the Preventing Sexual Violence in Higher Education Act.
- (2) A copy of the higher education institution's most recent concise, written notification of a survivor's rights and options under its comprehensive policy,

required pursuant to Section 15 of the Preventing Sexual Violence in Higher Education Act.

- (3) The number, type, and number of attendees, if applicable, of primary prevention and awareness programming at the higher education institution.
- (4) The number of incidents of sexual violence, domestic violence, dating violence, and stalking reported to the Title IX coordinator or other responsible employee, pursuant to Title IX of the federal Education Amendments of 1972, of the higher education institution.
- (5) The number of confidential and anonymous reports to the higher education institution of sexual violence, domestic violence, dating violence, and stalking.
- (6) The number of allegations in which the survivor requested not to proceed with the higher education institution's complaint resolution procedure.
- (7) The number of allegations of sexual violence, domestic violence, dating violence, and stalking that the higher education institution investigated.
- (8) The number of allegations of sexual violence, domestic violence, dating violence, and stalking that were referred to local or State law enforcement.
- (9) The number of allegations of sexual violence, domestic violence, dating violence, and stalking that the higher education institution reviewed through its complaint resolution procedure.
- (10) With respect to all allegations of sexual violence, domestic violence, dating violence, and stalking reviewed under the higher education institution's complaint resolution procedure, an aggregate list of the number of students who were (i) dismissed or expelled, (ii) suspended, (iii) otherwise disciplined, or (iv) found not responsible for violation of the comprehensive policy through the complaint resolution procedure during the reporting period.

The Office of the Attorney General shall maintain on its Internet website for public inspection a list of all higher education institutions that fail to comply with the annual reporting requirements as set forth in this subsection (b).

Current through P.A. 99-426, eff. Aug. 21, 2015.

D. Code of Civil Procedure – Confidential Advisor

NOTE: P.A. 99-426, eff. Aug. 21, 2015, which created the Preventing Sexual Violence in Higher Education Act also added Section 8-804 to the Code of Civil Procedure.

Confidential Advisor

735 ILCS 5/8-804

(a) This Section is intended to protect students at higher education institutions in this State who are survivors of sexual violence from public disclosure of communications they make in confidence to confidential advisors. Because of the fear, stigma, and trauma that often result from incidents of sexual violence, many survivors hesitate to report or seek help, even when it is available at no cost to them. As a result, they not only fail to receive needed medical care and emergency counseling, but may lack the psychological support necessary to report the incident of sexual violence to the higher education institution or law enforcement.

(b) In this Section:

“Confidential advisor” means a person who is employed or contracted by a higher education institution to provide emergency and ongoing support to survivors of sexual violence with the training, duties, and responsibilities described in Section 20 of the Preventing Sexual Violence in Higher Education Act.

“Higher education institution” means a public university, a public community college, or an independent, not-for-profit or for-profit higher education institution located in this State.

“Sexual violence” means physical sexual acts attempted or perpetrated against a person’s will or when a person is incapable of giving consent, including without limitation rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

“Survivor” means a student who has experienced sexual violence while enrolled at a higher education institution.

(c) All communications between a confidential advisor and a survivor pertaining to an incident of sexual violence shall remain confidential, unless the survivor consents to the disclosure of the communication in writing, the disclosure falls within one of the exceptions outlined in subsection (d) of this Section, or failure to disclose the communication would violate State or federal law. Communications include all records kept by the confidential advisor in the course of providing the survivor with services related to the incident of sexual violence.

(d) The confidential advisor may disclose confidential communications between the confidential advisor and the survivor if failure to disclose would result in a clear, imminent risk of serious physical injury to or death of the survivor or another person.

The confidential advisor shall have no obligation to report crimes to the higher education institution or law enforcement, except to report to the Title IX coordinator, as defined by Title IX of the federal Education Amendments of 1972, on a monthly basis the number and type of incidents of sexual violence reported exclusively to the confidential advisor in accordance with the higher education institution's reporting requirements under subsection (b) of Section 9.21 of the Board of Higher Education Act and under federal law.

If, in any judicial proceeding, a party alleges that the communications are necessary to the determination of any issue before the court and written consent to disclosure has not been given, the party may ask the court to consider ordering the disclosure of the communications. In such a case, communications may be disclosed if the court finds, after in camera examination of the communication, that the communication is relevant, probative, and not unduly prejudicial or inflammatory or is otherwise clearly admissible; that other evidence is demonstrably unsatisfactory as evidence of the facts sought to be established by the communication or communications; and that disclosure is more important to the interests of substantial justice than protection from injury to the confidential advisor-survivor relationship, to the survivor, or to any other individual whom disclosure is likely to harm.

- (e) This privilege shall not preclude an individual from asserting a greater privilege under federal or State law that applies.

Current through P.A. 99-426, eff. Aug. 21, 2015.

II. School Policy and Procedure Requirements

A. Erin’s Law

Public Act 97-1147 (HB 6193), eff. January 24, 2013, is often referred to as “Erin’s Law.” P.A. 97-1147 amended Section 3 (Comprehensive Health Education Program) of the Critical Health Problems and Comprehensive Health Education Act to provide for “age-appropriate sexual abuse and assault awareness and prevention education in grades pre-kindergarten through 12.” 105 ILCS 110/3. Sexual assault awareness education was already required in secondary schools before the amendment.

P.A. 97-1147 also amended Section 21-14 of the School Code to allow teachers to receive continuing education credit for participating in or presenting in-service training programs on sexual abuse and assault awareness and prevention. 105 ILCS 5/21-14(e)(3)(H)(v).

Adding to the confusion, Section 10-23.13 of the School Code (105 ILCS 5/10-23.13) was added by P.A. 96-1524, eff. Feb. 14, 2011 (before the above changes). That section (Policies addressing sexual abuse) “may be referred to as Erin’s Law.”

Although you will not find Erin’s Law in one centralized location, the mission of Erin’s Law is pretty simple – sexual assault prevention education for all school kids and teachers in all 50 states.

Resources:

- You can read P.A. 97-1147 by clicking [here](#), or by going to www.ilga.gov and clicking on the “Public Acts” and “Public Acts/Leg. From Previous General Assemblies” links.
- Section 3 of the School Code (105 ILCS 110/3) (Comprehensive Health Education Program) is included below.
- Section 10-23.13 of the School Code (105 ILCS 5/10-23.13) (Policies addressing sexual abuse) is included below.
- The Children’s Advocacy Centers of Illinois maintains a website with Erin’s Law information and resources: www.erinslawillinois.org.

B. School Counseling Services

105 ILCS 5/10-22.24b

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School counseling services may include, but are not limited to:

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- (49) participating, at least once every 2 years, in an in-service training program for school counselors conducted by persons with expertise in domestic and sexual violence and the needs of expectant and parenting youth, which shall include training concerning
 - (i) communicating with and listening to youth victims of domestic or sexual violence and expectant and parenting youth,
 - (ii) connecting youth victims of domestic or sexual violence and expectant and parenting youth to appropriate in-school services and other agencies, programs, and services as needed, and
 - (iii) implementing the school district's policies, procedures, and protocols with regard to such youth, including confidentiality; at a minimum, school personnel must be trained to understand, provide information and referrals, and address issues pertaining to youth who are parents, expectant parents, or victims of domestic or sexual violence;

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Current through P.A. 99-276, eff. Aug. 5, 2015.

C. Policies Addressing Sexual Abuse

105 ILCS 5/10-23.13

To adopt and implement a policy addressing sexual abuse of children that may include age-appropriate curriculum for students in pre-K through 5th grade; training for school personnel on child sexual abuse; educational information to parents or guardians provided in the school handbook on the warning signs of a child being abused, along with any needed assistance, referral, or resource information; available counseling and resources for students affected by sexual abuse; and emotional and educational support for a child of abuse to continue to be successful in school.

Any policy adopted may address without limitation:

- (1) methods for increasing teacher, student, and parent awareness of issues regarding sexual abuse of children, including knowledge of likely warning signs indicating that a child may be a victim of sexual abuse;
- (2) actions that a child who is a victim of sexual abuse should take to obtain assistance and intervention; and
- (3) available counseling options for students affected by sexual abuse.

This Section may be referred to as Erin's Law.

Current through P.A. 96-1524, eff. Feb. 14, 2011.

D. Violence Prevention and Conflict Resolution Education

105 ILCS 5/27-23.4

School districts shall provide instruction in violence prevention and conflict resolution education for grades kindergarten through 12 and may include such instruction in the courses of study regularly taught therein. School districts may give regular school credit for satisfactory completion by the student of such courses.

As used in this Section, “violence prevention and conflict resolution education” means and includes instruction in the following:

- (1) The consequences of violent behavior.
- (2) The causes of violent reactions to conflict.
- (3) Nonviolent conflict resolution techniques.
- (4) The relationship between drugs, alcohol and violence.

The State Board of Education shall prepare and make available to all school boards instructional materials that may be used as guidelines for development of a violence prevention program under this Section, provided that each school board shall determine the appropriate curriculum for satisfying the requirements of this Section. The State Board of Education shall assist in training teachers to provide effective instruction in the violence prevention curriculum.

The State Board of Education and local school boards shall not be required to implement the provisions of this Section unless grants of funds are made available and are received after July 1, 1993 from private sources or from the federal government in amounts sufficient to enable the State Board and local school boards to meet the requirements of this Section. Any funds received by the State or a local educational agency pursuant to the federal Safe and Drug-Free Schools and Communities Act of 1994 shall first be applied or appropriated to meet the requirements and implement the provisions of this Section.

Current through P.A. 97-87, eff. July 8, 2011.

E. Bullying Prevention

105 ILCS 5/27-23.7

- (a) The General Assembly finds that a safe and civil school environment is necessary for students to learn and achieve and that bullying causes physical, psychological, and emotional harm to students and interferes with students’ ability to learn and participate in school activities. The General Assembly further finds that bullying has been linked to other forms of antisocial behavior, such as vandalism, shoplifting, skipping and dropping out of school, fighting, using drugs and alcohol, sexual harassment, and sexual violence. Because of the negative outcomes associated with bullying in schools, the General Assembly finds that school districts, charter schools, and non-public, non-sectarian elementary and secondary schools should educate students, parents, and school district,

charter school, or non-public, non-sectarian elementary or secondary school personnel about what behaviors constitute prohibited bullying.

Bullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic is prohibited in all school districts, charter schools, and non-public, non-sectarian elementary and secondary schools. No student shall be subjected to bullying:

- (1) during any school-sponsored education program or activity;
 - (2) while in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities;
 - (3) through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment; or
 - (4) through the transmission of information from a computer that is accessed at a nonschool-related location, activity, function, or program or from the use of technology or an electronic device that is not owned, leased, or used by a school district or school if the bullying causes a substantial disruption to the educational process or orderly operation of a school. This item (4) applies only in cases in which a school administrator or teacher receives a report that bullying through this means has occurred and does not require a district or school to staff or monitor any nonschool-related activity, function, or program.
- (a-5) Nothing in this Section is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment to the United States Constitution or under Section 3 of Article I of the Illinois Constitution.

(b) In this Section:

“Bullying” includes “cyber-bullying” and means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to have the effect of one or more of the following:

- (1) placing the student or students in reasonable fear of harm to the student’s or students’ person or property;
- (2) causing a substantially detrimental effect on the student’s or students’ physical or mental health;

- (3) substantially interfering with the student's or students' academic performance; or
- (4) substantially interfering with the student's or students' ability to participate in or benefit from the services, activities, or privileges provided by a school.

Bullying, as defined in this subsection (b), may take various forms, including without limitation one or more of the following: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying. This list is meant to be illustrative and non-exhaustive.

“Cyber-bullying” means bullying through the use of technology or any electronic communication, including without limitation any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photoelectronic system, or photooptical system, including without limitation electronic mail, Internet communications, instant messages, or facsimile communications. “Cyber-bullying” includes the creation of a webpage or weblog in which the creator assumes the identity of another person or the knowing impersonation of another person as the author of posted content or messages if the creation or impersonation creates any of the effects enumerated in the definition of bullying in this Section. “Cyber-bullying” also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons if the distribution or posting creates any of the effects enumerated in the definition of bullying in this Section.

“Policy on bullying” means a bullying prevention policy that meets the following criteria:

- (1) Includes the bullying definition provided in this Section.
- (2) Includes a statement that bullying is contrary to State law and the policy of the school district, charter school, or non-public, non-sectarian elementary or secondary school and is consistent with subsection (a-5) of this Section.
- (3) Includes procedures for promptly reporting bullying, including, but not limited to, identifying and providing the school e-mail address (if applicable) and school telephone number for the staff person or persons responsible for receiving such reports and a procedure for anonymous reporting; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.
- (4) Consistent with federal and State laws and rules governing student privacy rights, includes procedures for promptly informing parents or guardians of all students involved in the alleged incident of bullying and discussing, as appropriate, the availability of social work services, counseling, school psychological services, other interventions, and restorative measures.

- (5) Contains procedures for promptly investigating and addressing reports of bullying, including the following:
 - (A) Making all reasonable efforts to complete the investigation within 10 school days after the date the report of the incident of bullying was received and taking into consideration additional relevant information received during the course of the investigation about the reported incident of bullying.
 - (B) Involving appropriate school support personnel and other staff persons with knowledge, experience, and training on bullying prevention, as deemed appropriate, in the investigation process.
 - (C) Notifying the principal or school administrator or his or her designee of the report of the incident of bullying as soon as possible after the report is received.
 - (D) Consistent with federal and State laws and rules governing student privacy rights, providing parents and guardians of the students who are parties to the investigation information about the investigation and an opportunity to meet with the principal or school administrator or his or her designee to discuss the investigation, the findings of the investigation, and the actions taken to address the reported incident of bullying.
- (6) Includes the interventions that can be taken to address bullying, which may include, but are not limited to, school social work services, restorative measures, social-emotional skill building, counseling, school psychological services, and community-based services.
- (7) Includes a statement prohibiting reprisal or retaliation against any person who reports an act of bullying and the consequences and appropriate remedial actions for a person who engages in reprisal or retaliation.
- (8) Includes consequences and appropriate remedial actions for a person found to have falsely accused another of bullying as a means of retaliation or as a means of bullying.
- (9) Is based on the engagement of a range of school stakeholders, including students and parents or guardians.
- (10) Is posted on the school district's, charter school's, or non-public, non-sectarian elementary or secondary school's existing Internet website and is included in the student handbook, and, where applicable, posted where other policies, rules, and standards of conduct are currently posted in the school, and is distributed annually to parents, guardians, students, and school personnel, including new employees when hired.

- (11) As part of the process of reviewing and re-evaluating the policy under subsection (d) of this Section, contains a policy evaluation process to assess the outcomes and effectiveness of the policy that includes, but is not limited to, factors such as the frequency of victimization; student, staff, and family observations of safety at a school; identification of areas of a school where bullying occurs; the types of bullying utilized; and bystander intervention or participation. The school district, charter school, or non-public, non-sectarian elementary or secondary school may use relevant data and information it already collects for other purposes in the policy evaluation. The information developed as a result of the policy evaluation must be made available on the Internet website of the school district, charter school, or non-public, non-sectarian elementary or secondary school. If an Internet website is not available, the information must be provided to school administrators, school board members, school personnel, parents, guardians, and students.
- (12) Is consistent with the policies of the school board, charter school, or non-public, non-sectarian elementary or secondary school.

“Restorative measures” means a continuum of school-based alternatives to exclusionary discipline, such as suspensions and expulsions, that: (i) are adapted to the particular needs of the school and community, (ii) contribute to maintaining school safety, (iii) protect the integrity of a positive and productive learning climate, (iv) teach students the personal and interpersonal skills they will need to be successful in school and society, (v) serve to build and restore relationships among students, families, schools, and communities, and (vi) reduce the likelihood of future disruption by balancing accountability with an understanding of students’ behavioral health needs in order to keep students in school.

“School personnel” means persons employed by, on contract with, or who volunteer in a school district, charter school, or non-public, non-sectarian elementary or secondary school, including without limitation school and school district administrators, teachers, school guidance counselors, school social workers, school counselors, school psychologists, school nurses, cafeteria workers, custodians, bus drivers, school resource officers, and security guards.

- (c) (Blank).
- (d) Each school district, charter school, and non-public, non-sectarian elementary or secondary school shall create, maintain, and implement a policy on bullying, which policy must be filed with the State Board of Education. The policy or implementing procedure shall include a process to investigate whether a reported act of bullying is within the permissible scope of the district’s or school’s jurisdiction and shall require that the district or school provide the victim with information regarding services that are available within the district and community, such as counseling, support services, and other programs. Every 2 years, each school district, charter school, and non-public, non-sectarian elementary or secondary school shall conduct a review and re-evaluation of its policy and make any necessary and appropriate revisions. The policy must be filed with the State Board of Education after being updated. The State Board of Education shall

monitor and provide technical support for the implementation of policies created under this subsection (d).

- (e) This Section shall not be interpreted to prevent a victim from seeking redress under any other available civil or criminal law.

Current through P.A. 99-78, eff. July 20, 2015.

F. Comprehensive Health Education Program

105 ILCS 110/3

The program established under this Act shall include, but not be limited to, the following major educational areas as a basis for curricula in all elementary and secondary schools in this State: human ecology and health, human growth and development, the emotional, psychological, physiological, hygienic and social responsibilities of family life, including sexual abstinence until marriage, prevention and control of disease, including instruction in grades 6 through 12 on the prevention, transmission and spread of AIDS, age-appropriate sexual abuse and assault awareness and prevention education in grades pre-kindergarten through 12, public and environmental health, consumer health, safety education and disaster survival, mental health and illness, personal health habits, alcohol, drug use, and abuse including the medical and legal ramifications of alcohol, drug, and tobacco use, abuse during pregnancy, evidence-based and medically accurate information regarding sexual abstinence, tobacco, nutrition, and dental health. The program shall also provide course material and instruction to advise pupils of the Abandoned Newborn Infant Protection Act. The program shall include information about cancer, including without limitation types of cancer, signs and symptoms, risk factors, the importance of early prevention and detection, and information on where to go for help. Notwithstanding the above educational areas, the following areas may also be included as a basis for curricula in all elementary and secondary schools in this State: basic first aid (including, but not limited to, cardiopulmonary resuscitation and the Heimlich maneuver), heart disease, diabetes, stroke, the prevention of child abuse, neglect, and suicide, and teen dating violence in grades 7 through 12. Beginning with the 2014-2015 school year, training on how to properly administer cardiopulmonary resuscitation (which training must be in accordance with standards of the American Red Cross, the American Heart Association, or another nationally recognized certifying organization) and how to use an automated external defibrillator shall be included as a basis for curricula in all secondary schools in this State.

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No pupil shall be required to take or participate in any class or course on AIDS or family life instruction or to receive training on how to properly administer cardiopulmonary resuscitation or how to use an automated external defibrillator if his or her parent or guardian submits written objection thereto, and refusal to take or participate in the course or program or the training shall not be reason for suspension or expulsion of the pupil.

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Current through P.A. 98-756, eff. July 16, 2014.

G. Policy on Teen Dating Violence

105 ILCS 110/3.10

(a) As used in this Section:

“Dating” or “dating relationship” means an ongoing social relationship of a romantic or intimate nature between 2 persons. “Dating” or “dating relationship” does not include a casual relationship or ordinary fraternization between 2 persons in a business or social context.

“Teen dating violence” means either of the following:

- (1) A pattern of behavior in which a person uses or threatens to use physical, mental, or emotional abuse to control another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age.
 - (2) Behavior by which a person uses or threatens to use sexual violence against another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age.
- (b) The school board of each public school district in this State shall adopt a policy that does all of the following:
- (1) States that teen dating violence is unacceptable and is prohibited and that each student has the right to a safe learning environment.
 - (2) Incorporates age-appropriate education about teen dating violence into new or existing training programs for students in grades 7 through 12 and school employees, as recommended by the school officials identified under subdivision (4) of this subsection (b).
 - (3) Establishes procedures for the manner in which employees of a school are to respond to incidents of teen dating violence that take place at the school, on school grounds, at school-sponsored activities, or in vehicles used for school-provided transportation.
 - (4) Identifies by job title the school officials who are responsible for receiving reports related to teen dating violence.
 - (5) Notifies students and parents of the teen dating violence policy adopted by the board.

Current through P.A. 98-190, eff. Aug. 6, 2013.

H. Civil Rights Violations – Elementary, Secondary, and Higher Education
775 ILCS 5/5A-102

It is a civil rights violation:

- (A) For any elementary, secondary, or higher education representative to commit or engage in sexual harassment in elementary, secondary, or higher education.
- (B) For any institution of elementary, secondary, or higher education to fail to take remedial action, or to fail to take appropriate disciplinary action against an elementary, secondary, or higher education representative employed by such institution, when such institution knows that such elementary, secondary, or higher education representative was committing or engaging in or committed or engaged in sexual harassment in elementary, secondary, or higher education.

Current through P.A. 96-1319, eff. July 27, 2010

III. Mandated Reporting to DCFS

A. Persons Required to Report; Privileged Communications; Transmitting False Report

325 ILCS 5/4

Any physician, resident, intern, hospital, hospital administrator and personnel engaged in examination, care and treatment of persons, surgeon, dentist, dentist hygienist, osteopath, chiropractor, podiatric physician, physician assistant, substance abuse treatment personnel, funeral home director or employee, coroner, medical examiner, emergency medical technician, acupuncturist, crisis line or hotline personnel, school personnel (including administrators and both certified and non-certified school employees), personnel of institutions of higher education, educational advocate assigned to a child pursuant to the School Code, member of a school board or the Chicago Board of Education or the governing body of a private school (but only to the extent required in accordance with other provisions of this Section expressly concerning the duty of school board members to report suspected child abuse), truant officers, social worker, social services administrator, domestic violence program personnel, registered nurse, licensed practical nurse, genetic counselor, respiratory care practitioner, advanced practice nurse, home health aide, director or staff assistant of a nursery school or a child day care center, recreational or athletic program or facility personnel, early intervention provider as defined in the Early Intervention Services System Act, law enforcement officer, licensed professional counselor, licensed clinical professional counselor, registered psychologist and assistants working under the direct supervision of a psychologist, psychiatrist, or field personnel of the Department of Healthcare and Family Services, Juvenile Justice, Public Health, Human Services (acting as successor to the Department of Mental Health and Developmental Disabilities, Rehabilitation Services, or Public Aid), Corrections, Human Rights, or Children and Family Services, supervisor and administrator of general assistance under the Illinois Public Aid Code, probation officer, animal control officer or Illinois Department of Agriculture Bureau of Animal Health and Welfare field investigator, or any other foster parent, homemaker or child care worker having reasonable cause to believe a child known to them in their professional or official capacity may be an abused child or a neglected child shall immediately report or cause a report to be made to the Department.

Any member of the clergy having reasonable cause to believe that a child known to that member of the clergy in his or her professional capacity may be an abused child as defined in item (c) of the definition of “abused child” in Section 3 of this Act shall immediately report or cause a report to be made to the Department.

Any physician, physician’s assistant, registered nurse, licensed practical nurse, medical technician, certified nursing assistant, social worker, or licensed professional counselor of any office, clinic, or any other physical location that provides abortions, abortion referrals, or contraceptives having reasonable cause to believe a child known to him or her in his or her professional or official capacity may be an abused child or a neglected child shall immediately report or cause a report to be made to the Department.

If an allegation is raised to a school board member during the course of an open or closed school

board meeting that a child who is enrolled in the school district of which he or she is a board member is an abused child as defined in Section 3 of this Act, the member shall direct or cause the school board to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse. For purposes of this paragraph, a school board member is granted the authority in his or her individual capacity to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse.

Notwithstanding any other provision of this Act, if an employee of a school district has made a report or caused a report to be made to the Department under this Act involving the conduct of a current or former employee of the school district and a request is made by another school district for the provision of information concerning the job performance or qualifications of the current or former employee because he or she is an applicant for employment with the requesting school district, the general superintendent of the school district to which the request is being made must disclose to the requesting school district the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made to the Department, as required under this Act. Only the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made to the Department may be disclosed by the general superintendent of the school district to which the request for information concerning the applicant is made, and this fact may be disclosed only in cases where the employee and the general superintendent have not been informed by the Department that the allegations were unfounded. An employee of a school district who is or has been the subject of a report made pursuant to this Act during his or her employment with the school district must be informed by that school district that if he or she applies for employment with another school district, the general superintendent of the former school district, upon the request of the school district to which the employee applies, shall notify that requesting school district that the employee is or was the subject of such a report.

Whenever such person is required to report under this Act in his capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, or as a member of the clergy, he shall make report immediately to the Department in accordance with the provisions of this Act and may also notify the person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent that such report has been made. Under no circumstances shall any person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent to whom such notification has been made, exercise any control, restraint, modification or other change in the report or the forwarding of such report to the Department.

The privileged quality of communication between any professional person required to report and his patient or client shall not apply to situations involving abused or neglected children and shall not constitute grounds for failure to report as required by this Act or constitute grounds for failure to share information or documents with the Department during the course of a child abuse or neglect investigation. If requested by the professional, the Department shall confirm in writing that the information or documents disclosed by the professional were gathered in the course of a child abuse or neglect investigation.

The reporting requirements of this Act shall not apply to the contents of a privileged communication between an attorney and his or her client or to confidential information within the meaning of Rule 1.6 of the Illinois Rules of Professional Conduct relating to the legal representation of an individual client.

A member of the clergy may claim the privilege under Section 8-803 of the Code of Civil Procedure.

Any office, clinic, or any other physical location that provides abortions, abortion referrals, or contraceptives shall provide to all office personnel copies of written information and training materials about abuse and neglect and the requirements of this Act that are provided to employees of the office, clinic, or physical location who are required to make reports to the Department under this Act, and instruct such office personnel to bring to the attention of an employee of the office, clinic, or physical location who is required to make reports to the Department under this Act any reasonable suspicion that a child known to him or her in his or her professional or official capacity may be an abused child or a neglected child. In addition to the above persons required to report suspected cases of abused or neglected children, any other person may make a report if such person has reasonable cause to believe a child may be an abused child or a neglected child.

Any person who enters into employment on and after July 1, 1986 and is mandated by virtue of that employment to report under this Act, shall sign a statement on a form prescribed by the Department, to the effect that the employee has knowledge and understanding of the reporting requirements of this Act. The statement shall be signed prior to commencement of the employment. The signed statement shall be retained by the employer. The cost of printing, distribution, and filing of the statement shall be borne by the employer.

Within one year of initial employment and at least every 5 years thereafter, school personnel required to report child abuse as provided under this Section must complete mandated reporter training by a provider or agency with expertise in recognizing and reporting child abuse.

The Department shall provide copies of this Act, upon request, to all employers employing persons who shall be required under the provisions of this Section to report under this Act. Any person who knowingly transmits a false report to the Department commits the offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the Criminal Code of 2012. A violation of this provision is a Class 4 felony.

Any person who knowingly and willfully violates any provision of this Section other than a second or subsequent violation of transmitting a false report as described in the preceding paragraph, is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation; except that if the person acted as part of a plan or scheme having as its object the prevention of discovery of an abused or neglected child by lawful authorities for the purpose of protecting or insulating any person or entity from arrest or prosecution, the person is guilty of a Class 4 felony for a first offense and a Class 3 felony for a second or subsequent offense (regardless of whether the second or subsequent offense involves any of the same facts or persons as the first or other prior offense).

A child whose parent, guardian or custodian in good faith selects and depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care may be considered neglected or abused, but not for the sole reason that his parent, guardian or custodian accepts and practices such beliefs.

A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code, as amended.

Nothing in this Act prohibits a mandated reporter who reasonably believes that an animal is being abused or neglected in violation of the Humane Care for Animals Act from reporting animal abuse or neglect to the Department of Agriculture's Bureau of Animal Health and Welfare.

A home rule unit may not regulate the reporting of child abuse or neglect in a manner inconsistent with the provisions of this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

For purposes of this Section "child abuse or neglect" includes abuse or neglect of an adult resident as defined in this Act.

Current through P.A. 98-756, eff. July 16, 2014.

B. Time and Manner of Making Reports

325 ILCS 5/7

All reports of suspected child abuse or neglect made under this Act shall be made immediately by telephone to the central register established under Section 7.7 on the single, State-wide, toll-free telephone number established in Section 7.6, or in person or by telephone through the nearest Department office. The Department shall, in cooperation with school officials, distribute appropriate materials in school buildings listing the toll-free telephone number established in Section 7.6, including methods of making a report under this Act. The Department may, in cooperation with appropriate members of the clergy, distribute appropriate materials in churches, synagogues, temples, mosques, or other religious buildings listing the toll-free telephone number established in Section 7.6, including methods of making a report under this Act.

Wherever the Statewide number is posted, there shall also be posted the following notice:

"Any person who knowingly transmits a false report to the Department commits the offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the Criminal Code of 2012. A violation of this subsection is a Class 4 felony."

The report required by this Act shall include, if known, the name and address of the child and his parents or other persons having his custody; the child's age; the nature of the child's condition including any evidence of previous injuries or disabilities; and any other information that the person filing the report believes might be helpful in establishing the cause of such abuse or neglect and the identity of the person believed to have caused such abuse or neglect. Reports

made to the central register through the State-wide, toll-free telephone number shall be immediately transmitted by the Department to the appropriate Child Protective Service Unit. All such reports alleging the death of a child, serious injury to a child including, but not limited to, brain damage, skull fractures, subdural hematomas, and internal injuries, torture of a child, malnutrition of a child, and sexual abuse to a child, including, but not limited to, sexual intercourse, sexual exploitation, sexual molestation, and sexually transmitted disease in a child age 12 and under, shall also be immediately transmitted by the Department to the appropriate local law enforcement agency. The Department shall within 24 hours orally notify local law enforcement personnel and the office of the State's Attorney of the involved county of the receipt of any report alleging the death of a child, serious injury to a child including, but not limited to, brain damage, skull fractures, subdural hematomas, and, internal injuries, torture of a child, malnutrition of a child, and sexual abuse to a child, including, but not limited to, sexual intercourse, sexual exploitation, sexual molestation, and sexually transmitted disease in a child age twelve and under. All oral reports made by the Department to local law enforcement personnel and the office of the State's Attorney of the involved county shall be confirmed in writing within 24 hours of the oral report. All reports by persons mandated to report under this Act shall be confirmed in writing to the appropriate Child Protective Service Unit, which may be on forms supplied by the Department, within 48 hours of any initial report.

Written confirmation reports from persons not required to report by this Act may be made to the appropriate Child Protective Service Unit. Written reports from persons required by this Act to report shall be admissible in evidence in any judicial proceeding or administrative hearing relating to child abuse or neglect. Reports involving known or suspected child abuse or neglect in public or private residential agencies or institutions shall be made and received in the same manner as all other reports made under this Act.

For purposes of this Section "child" includes an adult resident as defined in this Act.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

C. Testimony by Person Making Report

325 ILCS 5/10

Any person who makes a report or who investigates a report under this Act shall testify fully in any judicial proceeding or administrative hearing resulting from such report, as to any evidence of abuse or neglect, or the cause thereof. Any person who is required to report a suspected case of abuse or neglect under Section 4 of this Act shall testify fully in any administrative hearing resulting from such report, as to any evidence of abuse or neglect or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged perpetrator of abuse or neglect, or the child subject of the report under this Act and any person who is required to report a suspected case of abuse or neglect under Section 4 of this Act or the person making or investigating the report.

Current through P.A. 97-387, eff. Aug. 15, 2011.

IV. Juvenile Offenders

NOTE: We have included the juvenile offender statutes preventionists are most likely to use here. For additional information, please see *The Law Book: Illinois Sex Offenses and Related Statutes*.

A. Minors Involved in Electronic Dissemination of Indecent Visual Depictions in Need of Supervision (Sexting)

705 ILCS 405/3-40

(a) For the purposes of this Section:

“Computer” has the meaning ascribed to it in Section 17-0.5 of the Criminal Code of 2012.

“Electronic communication device” means an electronic device, including but not limited to a wireless telephone, personal digital assistant, or a portable or mobile computer, that is capable of transmitting images or pictures.

“Indecent visual depiction” means a depiction or portrayal in any pose, posture, or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the person.

“Minor” means a person under 18 years of age.

(b) A minor shall not distribute or disseminate an indecent visual depiction of another minor through the use of a computer or electronic communication device.

(c) Adjudication. A minor who violates subsection (b) of this Section may be subject to a petition for adjudication and adjudged a minor in need of supervision.

(d) Kinds of dispositional orders. A minor found to be in need of supervision under this Section may be:

(1) ordered to obtain counseling or other supportive services to address the acts that led to the need for supervision; or

(2) ordered to perform community service.

(e) Nothing in this Section shall be construed to prohibit a prosecution for disorderly conduct, public indecency, child pornography, a violation of Article 26.5 (Harassing and Obscene Communications) of the Criminal Code of 2012, or any other applicable provision of law.

Current through P.A. 99-78, eff. July 20, 2015.

B. Stalking No Contact Order – School Remedy

740 ILCS 21/80(b-5), (b-6)

NOTE: See *The Law Book: Illinois Sex Offenses and Related Statutes* for the full Stalking No Contact Order Act or go to www.ilga.gov.

- (b-5) When the petitioner and the respondent attend the same public, private, or non-public elementary, middle, or high school, the court when issuing a stalking no contact order and providing relief shall consider the severity of the act, any continuing physical danger or emotional distress to the petitioner, the educational rights guaranteed to the petitioner and respondent under federal and State law, the availability of a transfer of the respondent to another school, a change of placement or a change of program of the respondent, the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school, and any other relevant facts of the case. The court may order that the respondent not attend the public, private, or non-public elementary, middle, or high school attended by the petitioner, order that the respondent accept a change of placement or program, as determined by the school district or private or non-public school, or place restrictions on the respondent's movements within the school attended by the petitioner. The respondent bears the burden of proving by a preponderance of the evidence that a transfer, change of placement, or change of program of the respondent is not available. The respondent also bears the burden of production with respect to the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school. A transfer, change of placement, or change of program is not unavailable to the respondent solely on the ground that the respondent does not agree with the school district's or private or non-public school's transfer, change of placement, or change of program or solely on the ground that the respondent fails or refuses to consent to or otherwise does not take an action required to effectuate a transfer, change of placement, or change of program. When a court orders a respondent to stay away from the public, private, or non-public school attended by the petitioner and the respondent requests a transfer to another attendance center within the respondent's school district or private or non-public school, the school district or private or non-public school shall have sole discretion to determine the attendance center to which the respondent is transferred. In the event the court order results in a transfer of the minor respondent to another attendance center, a change in the respondent's placement, or a change of the respondent's program, the parents, guardian, or legal custodian of the respondent is responsible for transportation and other costs associated with the transfer or change.
- (b-6) The court may order the parents, guardian, or legal custodian of a minor respondent to take certain actions or to refrain from taking certain actions to ensure that the respondent complies with the order. In the event the court orders a transfer of the respondent to another school, the parents, guardian, or legal custodian of the respondent are responsible for transportation and other costs associated with the change of school by the respondent.

Current through P.A. 97-1131, eff. Jan. 1, 2013.

C. Civil No Contact Order – School Remedy

740 ILCS 22/213(b-6), (b-7)

NOTE: See *The Law Book: Illinois Sex Offenses and Related Statutes* for the full Civil No Contact Order Act or go to www.ilga.gov.

- (b-6) When the petitioner and the respondent attend the same public or private elementary, middle, or high school, the court when issuing a civil no contact order and providing relief shall consider the severity of the act, any continuing physical danger or emotional distress to the petitioner, the educational rights guaranteed to the petitioner and respondent under federal and State law, the availability of a transfer of the respondent to another school, a change of placement or a change of program of the respondent, the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school, and any other relevant facts of the case. The court may order that the respondent not attend the public, private, or non-public elementary, middle, or high school attended by the petitioner, order that the respondent accept a change of placement or program, as determined by the school district or private or non-public school, or place restrictions on the respondent's movements within the school attended by the petitioner. The respondent bears the burden of proving by a preponderance of the evidence that a transfer, change of placement, or change of program of the respondent is not available. The respondent also bears the burden of production with respect to the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school. A transfer, change of placement, or change of program is not unavailable to the respondent solely on the ground that the respondent does not agree with the school district's or private or non-public school's transfer, change of placement, or change of program or solely on the ground that the respondent fails or refuses to consent to or otherwise does not take an action required to effectuate a transfer, change of placement, or change of program. When a court orders a respondent to stay away from the public, private, or non-public school attended by the petitioner and the respondent requests a transfer to another attendance center within the respondent's school district or private or non-public school, the school district or private or non-public school shall have sole discretion to determine the attendance center to which the respondent is transferred. In the event the court order results in a transfer of the minor respondent to another attendance center, a change in the respondent's placement, or a change of the respondent's program, the parents, guardian, or legal custodian of the respondent is responsible for transportation and other costs associated with the transfer or change.
- (b-7) The court may order the parents, guardian, or legal custodian of a minor respondent to take certain actions or to refrain from taking certain actions to ensure that the respondent complies with the order. In the event the court orders a transfer of the respondent to another school, the parents or legal guardians of the respondent are responsible for transportation and other costs associated with the change of school by the respondent.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

D. Order of Protection – School Remedy

750 ILCS 60/214(b)(3)(B), (b)(3)(C)

NOTE: Go to www.ilga.gov for the full Domestic Violence Act.

- (B) When the petitioner and the respondent attend the same public, private, or non-public elementary, middle, or high school, the court when issuing an order of protection and providing relief shall consider the severity of the act, any continuing physical danger or emotional distress to the petitioner, the educational rights guaranteed to the petitioner and respondent under federal and State law, the availability of a transfer of the respondent to another school, a change of placement or a change of program of the respondent, the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school, and any other relevant facts of the case. The court may order that the respondent not attend the public, private, or non-public elementary, middle, or high school attended by the petitioner, order that the respondent accept a change of placement or change of program, as determined by the school district or private or non-public school, or place restrictions on the respondent's movements within the school attended by the petitioner. The respondent bears the burden of proving by a preponderance of the evidence that a transfer, change of placement, or change of program of the respondent is not available. The respondent also bears the burden of production with respect to the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school. A transfer, change of placement, or change of program is not unavailable to the respondent solely on the ground that the respondent does not agree with the school district's or private or non-public school's transfer, change of placement, or change of program or solely on the ground that the respondent fails or refuses to consent or otherwise does not take an action required to effectuate a transfer, change of placement, or change of program. When a court orders a respondent to stay away from the public, private, or non-public school attended by the petitioner and the respondent requests a transfer to another attendance center within the respondent's school district or private or non-public school, the school district or private or non-public school shall have sole discretion to determine the attendance center to which the respondent is transferred. In the event the court order results in a transfer of the minor respondent to another attendance center, a change in the respondent's placement, or a change of the respondent's program, the parents, guardian, or legal custodian of the respondent is responsible for transportation and other costs associated with the transfer or change.
- (C) The court may order the parents, guardian, or legal custodian of a minor respondent to take certain actions or to refrain from taking certain actions to ensure that the respondent complies with the order. In the event the court orders a transfer of the respondent to another school, the parents, guardian, or legal custodian of the respondent is responsible for transportation and other costs associated with the change of school by the respondent.

Current through P.A. 99-90, eff. Jan. 1, 2016.