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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1433

Introduced by Assembly Member Gatto
(Principal coauthors: Assembly Members Lowenthal and Weber)
(Coauthors: Assembly Members Brown, Campos, Chávez,
Quirk-Silva, Ting, Waldron, Wieckowski, and Yamada)

January 6, 2014

An act to amend Section 67380 of, and to add Section 67383 to, the Education Code, relating to student safety, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1433, as amended, Gatto. Student safety.

Existing law requires the governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing boards of postsecondary educational institutions receiving public funds for student financial assistance to require the appropriate officials at each campus to compile records of specified crimes and noncriminal acts reported to campus police, campus security personnel, campus safety authorities, or

designated campus authorities. This provision does not apply to the governing boards of private postsecondary educational institutions with fewer than 1,000 students, or to campuses of public postsecondary educational systems with 1,000 or fewer students. This provision also does not apply to the California Community Colleges unless and until the Legislature makes funds available to the California Community Colleges for purposes of this provision.

Existing law, the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program (Cal Grant Program), establishes the Cal Grant A and B Entitlement Awards, the California Community College Transfer Cal Grant Entitlement Awards, the Competitive Cal Grant A and B Awards, the Cal Grant C Awards, and the Cal Grant T Awards under the administration of the Student Aid Commission, and establishes eligibility requirements for awards under these programs for participating students attending qualifying institutions.

~~This bill would~~ *would, as a condition for participation in the Cal Grant Program, require any report by a victim of a Part 1 violent crime, sexual assault, or hate crime, as defined, received by a campus-law enforcement agency security authority and made by the victim for purposes of notifying the institution or law enforcement, to be immediately, or as soon as practicably possible, disclosed to the appropriate local law enforcement agency without identifying the victim, unless the victim consents to being identified. identified after the victim has been informed of his or her right to have his or her personally identifying information withheld.* The bill would prohibit a report to a local law enforcement agency from identifying the alleged assailant if the victim does not consent to being identified. ~~By creating new duties for community college districts, this bill would impose a state-mandated local program.~~ *The bill would provide that these requirements do not constitute a waiver of, or exception to, any law providing for the confidentiality of information.*

~~This bill would~~ *would, as a condition for participation in the Cal Grant Program, provide that the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing board of each private and independent postsecondary institution shall, on or before July 1, 2015, adopt and implement written policies and procedures to ensure that any report of a Part 1 violent crime, sexual assault, or hate crime, committed on or off campus, as defined, received by a campus security authority, as defined, and made by the victim for*

purposes of notifying the institution or law enforcement, is immediately, or as soon as practicably possible, forwarded to the appropriate law enforcement agency, as provided. The bill would require that the report be forwarded to the appropriate law enforcement agency without identifying the victim, unless the victim consents to being identified. ~~By imposing additional duties on community college districts, this bill would impose a state-mandated local program.~~ *identified after the victim has been informed of his or her right to have his or her personally identifying information withheld. The bill would provide that these requirements do not constitute a waiver of, or exception to, any law providing for the confidentiality of information.*

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 67380 of the Education Code is amended
- 2 to read:
- 3 67380. (a) ~~The~~ *Except as provided in subparagraph (B) of*
- 4 *paragraph (6), the* governing board of each community college
- 5 district, the Trustees of the California State University, the Board
- 6 of Directors of the Hastings College of the Law, the Regents of
- 7 the University of California, and the governing board of any
- 8 postsecondary educational institution receiving public funds for
- 9 student financial assistance shall do all of the following:
- 10 (1) Require the appropriate officials at each campus within their
- 11 respective jurisdictions to compile records of both of the following:
- 12 (A) All occurrences reported to campus police, campus security
- 13 personnel, or campus safety authorities of, and arrests for, crimes
- 14 that are committed on campus and that involve violence, hate

1 violence, theft, destruction of property, illegal drugs, or alcohol
2 intoxication.

3 (B) All occurrences of noncriminal acts of hate violence reported
4 to, and for which a written report is prepared by, designated campus
5 authorities.

6 (2) Require any written record of a noncriminal act of hate
7 violence to include, but not be limited to, the following:

8 (A) A description of the act of hate violence.

9 (B) Victim characteristics.

10 (C) Offender characteristics, if known.

11 (3) (A) Make the information concerning the crimes compiled
12 pursuant to subparagraph (A) of paragraph (1) available within
13 two business days following the request of any student or employee
14 of, or applicant for admission to, any campus within their respective
15 jurisdictions, or to the media, unless the information is the type of
16 information exempt from disclosure pursuant to subdivision (f) of
17 Section 6254 of the Government Code, in which case the
18 information is not required to be disclosed. Notwithstanding
19 ~~paragraph (2)~~ of subdivision (f) of Section 6254 of the Government
20 Code, the name *or any other personally identifying information*
21 of a victim of any crime defined by Section 243.4, 261, 262, 264,
22 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or
23 422.75 of the Penal Code shall not be disclosed without the
24 permission of the victim, or the victim's parent or guardian if the
25 victim is a minor.

26 (B) For purposes of this paragraph and subparagraph (A) of
27 paragraph (1), the campus police, campus security personnel, and
28 campus safety authorities described in subparagraph (A) of
29 paragraph (1) shall be included within the meaning of "state or
30 local police agency" and "state and local law enforcement agency,"
31 as those terms are used in subdivision (f) of Section 6254 of the
32 Government Code.

33 (4) Require the appropriate officials at each campus within their
34 respective jurisdictions to prepare, prominently post, and copy for
35 distribution on request, a campus safety plan that sets forth all of
36 the following: the availability and location of security personnel,
37 methods for summoning assistance of security personnel, any
38 special safeguards that have been established for particular facilities
39 or activities, any actions taken in the preceding 18 months to
40 increase safety, and any changes in safety precautions expected to

1 be made during the next 24 months. For purposes of this section,
2 posting and distribution may be accomplished by including relevant
3 safety information in a student handbook or brochure that is made
4 generally available to students.

5 (5) Require the appropriate officials at each campus within their
6 respective jurisdictions to report information compiled pursuant
7 to paragraph (1) relating to hate violence to the governing board,
8 trustees, board of directors, or regents, as the case may be. The
9 governing board, trustees, board of directors, or regents, as the
10 case may be, shall, upon collection of that information from all of
11 the campuses within their jurisdiction, transmit a report containing
12 a compilation of that information to the Legislative Analyst's
13 Office no later than January 1 of each year and shall make the
14 report available to the general public on the Internet Web site of
15 each respective institution. It is the intent of the Legislature that
16 the governing board of each community college district, the
17 Trustees of the California State University, the Board of Directors
18 of the Hastings College of the Law, the Regents of the University
19 of California, and the governing board of any postsecondary
20 educational institution receiving public funds for student financial
21 assistance establish guidelines for identifying and reporting
22 occurrences of hate violence. It is the intent of the Legislature that
23 the guidelines established by these institutions of higher education
24 be as consistent with each other as possible. These guidelines shall
25 be developed in consultation with the Department of Fair
26 Employment and Housing and the California Association of Human
27 Relations Organizations.

28 (6) ~~Require~~ (A) *Notwithstanding subdivision (f) of Section 6254*
29 *of the Government Code, require* any report made by a victim or
30 an employee pursuant to Section 67383 of a Part 1 violent crime,
31 sexual assault, or hate crime, as described in Section 422.55 of the
32 Penal Code, received by a campus law enforcement agency security
33 authority and made by the victim for purposes of notifying the
34 institution or law enforcement, to be immediately, or as soon as
35 practicably possible, disclosed to the local law enforcement agency
36 with which the institution has a written agreement pursuant to
37 Section 67381 without identifying the victim, unless the victim
38 consents to being identified. *identified after the victim has been*
39 *informed of his or her right to have his or her personally identifying*
40 *information withheld.* If the victim does not consent to being

1 identified, the alleged assailant shall not be identified in the
2 information disclosed to the local law enforcement agency. *The*
3 *requirements of this paragraph shall not constitute a waiver of,*
4 *or exception to, any law providing for the confidentiality of*
5 *information.*

6 (B) *This requirement only applies as a condition for*
7 *participation in the Cal Grant Program established pursuant to*
8 *Chapter 1.7 (commencing with Section 69430) of Part 42.*

9 (b) Any person who is refused information required to be made
10 available pursuant to subparagraph (A) of paragraph (1) of
11 subdivision (a) may maintain a civil action for damages against
12 any institution that refuses to provide the information, and the
13 court shall award that person an amount not to exceed one thousand
14 dollars (\$1,000) if the court finds that the institution refused to
15 provide the information.

16 (c) For purposes of this section:

17 (1) "Hate violence" means any act of physical intimidation or
18 physical harassment, physical force or physical violence, or the
19 threat of physical force or physical violence, that is directed against
20 any person or group of persons, or the property of any person or
21 group of persons because of the ethnicity, race, national origin,
22 religion, sex, sexual orientation, gender identity, gender expression,
23 disability, or political or religious beliefs of that person or group.

24 (2) "Part 1 violent crime" means willful homicide, forcible rape,
25 robbery, or aggravated assault, as defined in the Uniform Crime
26 Reporting Handbook of the Federal Bureau of Investigation.

27 (3) "Sexual assault" includes, but is not limited to, rape, forced
28 sodomy, forced oral copulation, rape by a foreign object, sexual
29 battery, or the threat of any of these.

30 (d) This section does not apply to the governing board of a
31 private postsecondary educational institution receiving funds for
32 student financial assistance with a full-time enrollment of less than
33 1,000 students.

34 (e) This section shall apply to a campus of one of the public
35 postsecondary educational systems identified in subdivision (a)
36 only if that campus has a full-time equivalent enrollment of more
37 than 1,000 students.

38 (f) Notwithstanding any other provision of this section, this
39 section shall not apply to the California Community Colleges

1 unless and until the Legislature makes funds available to the
2 California Community Colleges for the purposes of this section.

3 SEC. 2. Section 67383 is added to the Education Code, to read:

4 67383. (a) ~~The~~ *As a condition for participation in the Cal*
5 *Grant Program established pursuant to Chapter 1.7 (commencing*
6 *with Section 96430) of Part 42, the* governing board of each
7 community college district, the Trustees of the California State
8 University, the Regents of the University of California, and the
9 governing board of each private and independent postsecondary
10 institution shall, on or before July 1, 2015, adopt and implement
11 written policies and procedures to ensure that any report of a Part
12 1 violent crime, sexual assault, or hate crime, committed on or off
13 campus, received by a campus security authority, as defined
14 pursuant to Section 668.46 of Title 34 of the Code of Federal
15 Regulations, as that section existed on May 15, 2014, and made
16 by the victim for purposes of notifying the institution or law
17 enforcement, is immediately, or as soon as practicably possible,
18 forwarded to the appropriate law enforcement agency.

19 (b) ~~The~~ *Notwithstanding subdivision (f) of Section 6254 of the*
20 *Government Code, the* report shall be forwarded to the appropriate
21 law enforcement agency without identifying the victim, unless the
22 victim consents to being ~~identified~~ *identified after the victim has*
23 *been informed of his or her right to have his or her personally*
24 *identifying information withheld.*

25 (c) For purposes of this section, the appropriate law enforcement
26 agency shall be a campus law enforcement agency if one has been
27 established on the campus where the report was made. If no campus
28 law enforcement agency has been established, the report shall be
29 immediately, or as soon as practicably possible, forwarded to a
30 local law enforcement agency.

31 (d) For purposes of this section:

32 (1) “Hate crime” means any offense as described in Section
33 422.55 of the Penal Code.

34 (2) “Local law enforcement agency” means a city or county law
35 enforcement agency with operational responsibilities for police
36 services in the community in which a campus is located.

37 (3) “On or off campus” means the campus and any noncampus
38 building or property as defined in Section 668.46 of Title 34 of
39 the Code of Federal Regulations, as that section existed on May
40 15, 2014.

(4) “Part 1 violent crime” means willful homicide, forcible rape, robbery, or aggravated assault, as defined in the Uniform Crime Reporting Handbook of the Federal Bureau of Investigation.

(5) “Sexual assault” includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or the threat of any of these.

(e) The requirements of this section shall not constitute a waiver of, or exception to, any law providing for the confidentiality of information.

~~SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.~~

~~SEC. 4.~~

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure student safety by requiring the effective reporting of Part 1 violent crimes and hate crimes at the earliest possible time, it is necessary that this act take effect immediately.