

AMENDED IN ASSEMBLY APRIL 29, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 636

Introduced by Assembly Member Medina

February 24, 2015

An act to amend Section 67380 of the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 636, as amended, Medina. Postsecondary education: 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. Existing law requires, *as a condition of participation in a specified financial aid program*, any report by a victim of a Part 1 violent crime, sexual assault, or hate crime, as defined, received by a campus 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 after the victim has been informed of his or her right to have his or her personally identifying information withheld. Existing law prohibits a *this* report to a local law

enforcement agency from identifying the alleged assailant if the victim does not consent to being identified.

This bill would authorize the identification of the alleged assailant, even if the victim does not consent to being identified, if the institution determines *both* that the alleged assailant represents a serious ~~and or~~ ongoing threat to the safety of ~~persons~~ *students, employees, or the institution* ~~institution~~, and *that* the immediate assistance of ~~police~~ *the local law enforcement agency* is necessary to contact or detain the assailant. *In that case, the bill would require the institution, as a condition of participation in the financial aid program, to disclose the identity of the alleged assailant to the local law enforcement agency and to immediately inform the victim of that disclosure.*

This bill also would make conforming and nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: 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) Except as provided in subparagraph ~~(B)~~ (C) 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
15 violence, theft, destruction of property, illegal drugs, or alcohol
16 intoxication.

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

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

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

1 (B) Victim characteristics.

2 (C) Offender characteristics, if known.

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

17 (B) For purposes of this paragraph and subparagraph (A) of
18 paragraph (1), the campus police, campus security personnel, and
19 campus safety authorities described in subparagraph (A) of
20 paragraph (1) shall be included within the meaning of "state or
21 local police agency" and "state and local law enforcement agency,"
22 as those terms are used in subdivision (f) of Section 6254 of the
23 Government Code.

24 (4) Require the appropriate officials at each campus within their
25 respective jurisdictions to prepare, prominently post, and copy for
26 distribution on request, a campus safety plan that sets forth all of
27 the following: the availability and location of security personnel,
28 methods for summoning assistance of security personnel, any
29 special safeguards that have been established for particular facilities
30 or activities, any actions taken in the preceding 18 months to
31 increase safety, and any changes in safety precautions expected to
32 be made during the next 24 months. For purposes of this section,
33 posting and distribution may be accomplished by including relevant
34 safety information in a student handbook or brochure that is made
35 generally available to students.

36 (5) Require the appropriate officials at each campus within their
37 respective jurisdictions to report information compiled pursuant
38 to paragraph (1) relating to hate violence to the governing board,
39 trustees, board of directors, or regents, as the case may be. The
40 governing board, trustees, board of directors, or regents, as the

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

19 (6) (A) Notwithstanding subdivision (f) of Section 6254 of the
20 Government Code, require any report made by a victim or an
21 employee pursuant to Section 67383 of a Part 1 violent crime,
22 sexual assault, or hate crime, as described in Section 422.55 of the
23 Penal Code, received by a campus security authority and made by
24 the victim for purposes of notifying the institution or law
25 enforcement, to be immediately, or as soon as practicably possible,
26 disclosed to the local law enforcement agency with which the
27 institution has a written agreement pursuant to Section 67381
28 without identifying the victim, unless the victim consents to being
29 identified after the victim has been informed of his or her right to
30 have his or her personally identifying information withheld. If the
31 victim does not consent to being identified, the alleged assailant
32 shall not be identified in the information disclosed to the local law
33 enforcement agency, unless the institution determines ~~that the~~
34 ~~alleged assailant represents a serious and ongoing threat to the~~
35 ~~safety of persons or the institution and the immediate assistance~~
36 ~~of police is necessary to contact or detain the assailant.~~ *The both*
37 *of the following, in which case the institution shall disclose the*
38 *identity of the alleged assailant to the local law enforcement agency*
39 *and shall immediately inform the victim of that disclosure:*

1 (i) *The alleged assailant represents a serious or ongoing threat*
2 *to the safety of students, employees, or the institution.*

3 (ii) *The immediate assistance of the local law enforcement*
4 *agency is necessary to contact or detain the assailant.*

5 (B) *The requirements of this paragraph shall not constitute a*
6 *waiver of, or exception to, any law providing for the confidentiality*
7 *of information.*

8 ~~(B)~~

9 (C) ~~This requirement only~~ *paragraph applies only as a condition*
10 *for participation in the Cal Grant Program established pursuant to*
11 *Chapter 1.7 (commencing with Section 69430) of Part 42.*

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

19 (c) For purposes of this section:

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

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

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

33 (d) This section does not apply to the governing board of a
34 private postsecondary educational institution receiving funds for
35 student financial assistance with a full-time enrollment of less than
36 1,000 students.

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

1 (f) Notwithstanding any other provision of this section, this
2 section shall not apply to the California Community Colleges
3 unless and until the Legislature makes funds available to the
4 California Community Colleges for the purposes of this section.

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