



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 264

131st General Assembly  
(As Introduced)

Rep. Barnes

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## BILL SUMMARY

- Requires each state institution of higher education to adopt a policy with regard to dating violence, domestic violence, sexual assault, stalking, and rape on campus, which must include a procedure for reporting, and the consequences for committing, such incidents.
- Requires each state institution of higher education to keep a record of all reports of incidents that it receives.
- Requires each state institution of higher education annually to provide a copy of the institution's policy to every student and to post copies of the policy in multiple, prominent locations across campus.
- Designates the month of April as "Respect Your Date Month" to increase public awareness of dating violence, domestic violence, sexual assault, stalking, and rape on college campuses.
- Entitles the act the "Respect Your Date Act."
- Declares an emergency.

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## CONTENT AND OPERATION

### Policy on dating violence and rape on college campuses

The bill requires each state institution of higher education to adopt a policy with regard to dating violence, domestic violence, sexual assault, stalking, and rape on

campus and to keep a record of all reports of such incidents that it receives.<sup>1</sup> It also permits each institution to include other related incidents in the policy.

The adopted policy must include all of the following:

- (1) The procedure for reporting such incidents;
- (2) The institutional plan for investigating and responding to such incidents; and
- (3) A description of the consequences for committing such an incident, including the institution's disciplinary proceedings and possible penalties.

The bill further specifies that each institution's policy be developed with the goal of enhancing due process and to better define the protocols provided for under both (1) the federal "Clery Act," which requires institutions to have policies for reporting and responding to reports of criminal activities on campus, including sex offenses, and (2) Title IX, which prohibits discrimination based upon sex and requires institutions to prevent and respond to sexual harassment. (See "**Background on federal law**," below).

### **Terms used in the policy**

For purposes of the policy, the bill specifies that "dating violence," "domestic violence," "sexual assault," and "stalking" have the same meanings as under the federal "Violence Against Women Act."<sup>2</sup> Additionally, for the purpose of these definitions and the definition of rape,<sup>3</sup> under the policy, the bill specifies that "consent" must have the same meaning as in the federal Uniform Code of Military Justice.<sup>4</sup> Under the latter, consent is a "freely given agreement to the conduct at issue by a competent person." The federal statute goes on to state that a sleeping, unconscious, or incompetent person cannot consent. It also states that the lack of consent may be inferred from the circumstances.

Each institution may expand upon the bill's definitions to address additional situations and instances related to the policy.<sup>5</sup>

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<sup>1</sup> R.C. 3345.43(A).

<sup>2</sup> See 42 United States Code (U.S.C.) 13925(a)(8), (10), (29), and (30).

<sup>3</sup> See R.C. 2907.02, not in the bill.

<sup>4</sup> See 10 U.S.C. 920(g)(8).

<sup>5</sup> R.C. 3345.43(D).



These definitions must be prominently displayed on each copy of the policy posted on campus.

### **Distribution of policy**

Under the bill, each institution must annually provide a copy of the policy to each student enrolled in the institution. Specifically, not later than one year after the bill's effective date, the institution must include a copy in the packet of documents that students are required to sign upon enrollment at the institution or during student orientation.<sup>6</sup>

Moreover, each institution must post copies of the policy in multiple, prominent locations across campus. At a minimum, copies must be posted during the month of April to coincide with "Respect Your Date Month," as designated by the bill.<sup>7</sup>

### **Acknowledgement of receiving or providing policy**

The bill requires each student to sign an acknowledgement verifying that the student received a copy of the policy. Alternatively, in lieu of this requirement, the institution's president or designee may sign a statement, to be filed with the registrar's office, confirming that all students received a copy of the policy.<sup>8</sup>

### **Designation of month**

The bill designates the month of April as "Respect Your Date Month" to increase public awareness of dating violence, domestic violence, sexual assault, stalking, and rape on college campuses.<sup>9</sup>

### **Background on federal law**

#### **Clery Act**

The federal Clery Act requires institutions of higher education that receive federal aid to have policies in place for receiving and responding to reports of criminal activities on campus. The law also requires those institutions to submit to the U.S. Justice Department statistics on "sex offenses, forcible or nonforcible," and other crimes

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<sup>6</sup> R.C. 3345.43(B)(1).

<sup>7</sup> R.C. 3345.43(C).

<sup>8</sup> R.C. 3345.43(B)(2).

<sup>9</sup> R.C. 5.2298.



that are reported to campus or local police.<sup>10</sup> The statistics indicate the number of offenses of different types that are *reported*, not the number of arrests or convictions.

## **Title IX**

Title IX of the Education Amendments of 1972 specifies that "no person . . . on the basis of sex, [may] be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."<sup>11</sup> Accordingly, Title IX requires schools to prevent and respond to sexual harassment. Sexual assault, in at least some cases, might be a form of sexual harassment. Federal implementing regulations further provide that recipients of federal funding must have in place "grievance procedures providing for prompt and equitable resolution of student and employee complaints" alleging acts that are not permitted under Title IX.<sup>12</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	06-17-15

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<sup>10</sup> 20 U.S.C. 1092(f).

<sup>11</sup> 20 U.S.C. 1681.

<sup>12</sup> 34 Code of Federal Regulations 106.8.

