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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 217

01/22/2019 Authored by Kunes-Podein; Loeffler; Olson; Xiong, J.; Hassan and others
The bill was read for the first time and referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to higher education; requiring affirmative consent standards in campus
1.3 sexual assault policies; establishing a sexual violence grant program; requiring a
1.4 report; appropriating money; amending Minnesota Statutes 2018, section 135A.15,
1.5 by adding a subdivision; proposing coding for new law in Minnesota Statutes,
1.6 chapter 136A.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2018, section 135A.15, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 3a. **Affirmative consent.** The policy required under subdivision 1 shall include
1.11 a provision that establishes an affirmative consent standard. An institution's affirmative
1.12 consent standard, at a minimum, must incorporate the following elements:

1.13 (1) all parties to sexual activity must affirmatively express their consent to the activity.
1.14 Consent must be knowing and voluntary and not the result of force, coercion, or intimidation.
1.15 Consent must be active. Consent must be given by words or actions that create mutually
1.16 understandable, unambiguous permission regarding willingness to engage in, and the
1.17 conditions of, sexual activity;

1.18 (2) silence, without active indications of consent, is not consent;

1.19 (3) consent to any one form of sexual activity does not imply consent to any other forms
1.20 of sexual activity;

1.21 (4) consent may be withdrawn at any time;

1.22 (5) previous relationships or prior consent do not imply consent to future sexual acts;

1.23 and

2.1 (6) a person is deemed incapable of consenting when that person is:

2.2 (i) unable to communicate or understand the nature or extent of a sexual situation due
2.3 to mental or physical incapacitation or impairment; or

2.4 (ii) physically helpless, either due to the effects of drugs or alcohol, or because the person
2.5 is asleep.

2.6 **Sec. 2. [136A.903] SEXUAL VIOLENCE PREVENTION GRANTS.**

2.7 Subdivision 1. **Program established.** The commissioner, in consultation with the advisory
2.8 council established in subdivision 2, must award sexual violence prevention grants to
2.9 postsecondary institutions located in Minnesota.

2.10 Subd. 2. **Advisory council.** (a) The commissioner must appoint a ten-member advisory
2.11 council to evaluate applications for grants under this subdivision. The advisory council shall
2.12 consist of:

2.13 (1) one representative of the Minnesota State Colleges and Universities system;

2.14 (2) one representative of the University of Minnesota;

2.15 (3) one representative of a private postsecondary institution;

2.16 (4) one student representative from a University of Minnesota campus;

2.17 (5) one student representative from a Minnesota State Colleges and Universities campus;

2.18 (6) one student representative from a private postsecondary institution;

2.19 (7) one representative from a nonprofit organization working to prevent sexual violence
2.20 and support survivors of sexual violence;

2.21 (8) one representative from a law enforcement agency that responds to incidents of
2.22 campus sexual violence;

2.23 (9) one representative of the Office of Higher Education; and

2.24 (10) one representative of the Department of Health with expertise in sexual violence
2.25 prevention.

2.26 (b) The advisory council shall be organized and administered under section 15.059,
2.27 except that subdivision 2 shall not apply. The commissioner must appoint council members
2.28 to two-year terms and appoint one member as chair.

3.1 (c) The council must develop criteria for evaluating grant proposals and awarding grants
 3.2 under this section. The council must make public the criteria at least two months prior to
 3.3 the deadline for applications established by the commissioner.

3.4 Subd. 3. **Applications.** To receive a grant under this section, an institution must apply
 3.5 in the form and manner specified by the commissioner.

3.6 Subd. 4. **Grant amounts.** The commissioner, in consultation with the advisory council
 3.7 in subdivision 2, may decide the amount of a grant under this section based on the merits
 3.8 of a grant proposal, provided that no institution may receive a grant of more than \$100,000.

3.9 Subd. 5. **Reporting.** (a) The commissioner, in consultation with the advisory council in
 3.10 subdivision 2, must develop reporting requirements for grant recipients.

3.11 (b) By February 1 of each year beginning in 2021, the commissioner must report to the
 3.12 committees of the house of representatives and senate with jurisdiction over higher education
 3.13 and public safety on the results achieved by the grant program under this section. At a
 3.14 minimum, the report must include:

3.15 (1) a list of postsecondary institutions receiving grants under this section;

3.16 (2) the amount of grant funds received by each institution; and

3.17 (3) a description of each project funded.

3.18 **Sec. 3. APPROPRIATION; CONSENT CURRICULUM.**

3.19 \$..... in fiscal year 2020 and \$..... in fiscal year 2021 are appropriated from the general
 3.20 fund to the commissioner of education for a grant to the Sexual Violence Center for the
 3.21 creation of an age-appropriate affirmative consent curriculum to be available for voluntary
 3.22 use in middle and high schools.

3.23 **Sec. 4. APPROPRIATION; SEXUAL VIOLENCE PREVENTION GRANTS.**

3.24 \$..... in fiscal year 2020 and \$..... in fiscal year 2021 are appropriated from the general
 3.25 fund to the commissioner of higher education for sexual violence prevention grants under
 3.26 Minnesota Statutes, section 136A.903.