

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3892

03/03/2022 Authored by Bernardy
The bill was read for the first time and referred to the Committee on Higher Education Finance and Policy

1.1 A bill for an act
1.2 relating to higher education; requiring affirmative consent standards in campus
1.3 sexual assault policies; amending Minnesota Statutes 2020, section 135A.15,
1.4 subdivision 8, by adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2020, section 135A.15, is amended by adding a subdivision
1.7 to read:

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

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

1.16 (2) silence, lack of protest, or failure to resist, without active indications of consent, is
1.17 not consent;

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

1.20 (4) consent may be withdrawn at any time;

1.21 (5) previous relationships or prior consent do not imply consent to future sexual acts;
1.22 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. Minnesota Statutes 2020, section 135A.15, subdivision 8, is amended to read:

2.7 Subd. 8. **Comprehensive training.** (a) A postsecondary institution must provide campus
 2.8 security officers and campus administrators responsible for investigating or adjudicating
 2.9 complaints of sexual assault with comprehensive training on preventing and responding to
 2.10 sexual assault in collaboration with the Bureau of Criminal Apprehension or another law
 2.11 enforcement agency with expertise in criminal sexual conduct. The training for campus
 2.12 security officers shall include a presentation on the dynamics of sexual assault,
 2.13 neurobiological responses to trauma, and best practices for preventing, responding to, and
 2.14 investigating sexual assault. The training for campus administrators responsible for
 2.15 investigating or adjudicating complaints on sexual assault shall include presentations on
 2.16 preventing sexual assault, responding to incidents of sexual assault, the dynamics of sexual
 2.17 assault, neurobiological responses to trauma, and compliance with state and federal laws
 2.18 on sexual assault.

2.19 (b) The following categories of students who attend, or will attend, one or more courses
 2.20 on campus or will participate in on-campus activities must be provided sexual assault
 2.21 training:

2.22 (1) students pursuing a degree or certificate;

2.23 (2) students who are taking courses through the Postsecondary Enrollment Options Act;
 2.24 and

2.25 (3) any other categories of students determined by the institution.

2.26 Students must complete such training no later than ten business days after the start of a
 2.27 student's first semester of classes. Once a student completes the training, institutions must
 2.28 document the student's completion of the training and provide proof of training completion
 2.29 to a student at the student's request. Students enrolled at more than one institution within
 2.30 the same system at the same time are only required to complete the training once.

2.31 The training shall include information about topics including but not limited to sexual
 2.32 assault as defined in subdivision 1a; affirmative consent as defined in ~~section 609.341,~~

3.1 ~~subdivision 4~~ subdivision 3a; preventing and reducing the prevalence of sexual assault;
3.2 procedures for reporting campus sexual assault; and campus resources on sexual assault,
3.3 including organizations that support victims of sexual assault.

3.4 (c) A postsecondary institution shall annually train individuals responsible for responding
3.5 to reports of sexual assault. This training shall include information about best practices for
3.6 interacting with victims of sexual assault, including how to reduce the emotional distress
3.7 resulting from the reporting, investigatory, and disciplinary process.