

ADOPTED

Representative Ehrhart of the 36th offers the following substitute to SB 71:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated,
2 relating to definitions, so as to provide for the manner of reporting and investigation of
3 certain crimes by officials and employees of postsecondary institutions in this state; to
4 provide for a definition; to provide for penalties for violations; to provide for exceptions; to
5 provide an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to
9 definitions, is amended by designating the existing text as Part 1 and adding a new part to
10 read as follows:

11 "Part 2

12 20-3-10.

13 (a) As used in this part, the term 'postsecondary institution' means a school which is:

14 (1) A unit of the University System of Georgia;

15 (2) A branch of the Technical College System of Georgia;

16 (3) A private independent nonproprietary postsecondary institution eligible for tuition
17 equalization grants in accordance with the provisions of subparagraph (A) of
18 paragraph (2) of Code Section 20-3-411; or

19 (4) A private proprietary postsecondary institution eligible for tuition equalization grants
20 in accordance with the provisions of subparagraph (B) of paragraph (2) of Code
21 Section 20-3-411.

22 (b) Every postsecondary institution in this state that receives information, other than
23 information provided to an employee privileged under the laws of this state, which would
24 lead such institution to reasonably believe that a crime which is a felony under the laws of

25 this state has been committed by a student enrolled in such postsecondary institution or in
26 or on the campus of such postsecondary institution shall promptly report such crime to the
27 campus law enforcement agency or other appropriate law enforcement agency. If the
28 felony involves an alleged sexual assault, no information which specifically identifies the
29 victim shall be provided in the report without the consent of the victim. Such law
30 enforcement agency shall then determine whether to investigate such alleged criminal
31 offense and whether to report such findings to the appropriate prosecutor's office. No
32 criminal investigation of such matter shall be undertaken by the postsecondary institution
33 unless such investigation is done by a campus law enforcement agency staffed by law
34 enforcement officers who are certified peace officers by the Georgia Peace Officer
35 Standards and Training Council. Nothing contained in this subsection shall require a
36 victim of an alleged sexual assault to cooperate with law enforcement in any investigation
37 or to participate in any subsequent prosecution.

38 (c) Separate from any criminal investigations, prosecutions, or adjudications occurring in
39 accordance with subsection (b) of this Code section, each postsecondary institution is
40 expected to meet its duty of care to protect the campus community as required by law. The
41 postsecondary institution may pursue interim measures necessary to meet its duty of care.
42 The postsecondary institution may pursue formal disciplinary actions, against any student
43 for any violation of its code of conduct pursuant to the postsecondary institution's general
44 disciplinary process for students. However, no student shall be subject to any interim
45 discipline, suspension, or expulsion for any violation of the postsecondary institution's code
46 of conduct pursuant to the postsecondary institution's general disciplinary process for
47 students arising from the same acts or occurrences which are the basis for any criminal
48 investigations, prosecutions, or adjudications occurring in accordance with subsection (b)
49 of this Code section without being provided the opportunity of a hearing affording due
50 process protections to the accused student. No disciplinary investigation shall obstruct or
51 prejudice an ongoing criminal investigation. No postsecondary institution shall require a
52 victim of an alleged sexual assault to cooperate in any disciplinary investigation or to
53 participate in any subsequent disciplinary proceedings.

54 (d) This Code section shall not supersede federal statutes or properly promulgated federal
55 regulations to the contrary but shall supersede in the case of federal guidance letters and
56 other expressions of opinion regarding policies by federal agencies.

57 (e) Notwithstanding anything to the contrary in this Code section, no official or employee
58 of a postsecondary institution shall be required to include any information or statements
59 in any report to the appropriate law enforcement agency or district attorney which is an
60 admission or communication excluded from evidence pursuant to Code Sections 24-5-501,
61 24-2-502, and 24-5-509."

62 **SECTION 2.**

63 This Act shall become effective on August 1, 2017.

64 **SECTION 3.**

65 All laws and parts of laws in conflict with this Act are repealed.