

**House File 2359 - Introduced**

HOUSE FILE 2359

BY HALL

**A BILL FOR**

1 An Act relating to sexual assault policies adopted by state and  
2 accredited private postsecondary institutions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 260C.14, subsection 18, Code 2018, is  
2 amended to read as follows:

3 18. Develop and implement a written policy, ~~which is~~  
4 concerning sexual assault as defined in section 915.40, and  
5 domestic violence, dating violence, and stalking as defined in  
6 the federal Higher Education Act of 1965, 20 U.S.C. §1092(f),  
7 involving a student, both on and off campus. The policy shall  
8 be disseminated during student registration or orientation,  
9 addressing and shall do all of the following four areas  
10 relating to sexual abuse:

11 a. Include an affirmative consent standard in the  
12 determination of whether consent was given by both parties to  
13 sexual activity. For purposes of this subsection, "affirmative  
14 consent" means affirmative, conscious, and voluntary agreement  
15 to engage in sexual activity. Under such standard, each person  
16 engaged in the sexual activity is responsible for ensuring that  
17 the person has the affirmative consent of any other person  
18 engaging in the sexual activity. Silence or lack of protest  
19 or resistance does not mean consent. Affirmative consent must  
20 be ongoing throughout a sexual activity and can be revoked at  
21 any time. The existence of a dating relationship between the  
22 persons involved, or the fact of past sexual relations between  
23 the persons, shall not by itself be assumed to be an indicator  
24 of consent.

25 b. Address the following four affected areas:

26 (1) Counseling.

27 ~~b.~~ (2) Campus security.

28 ~~c.~~ (3) Education, including prevention, protection, and the  
29 rights and duties of students and employees of the community  
30 college.

31 ~~d.~~ (4) Facilitating the The accurate and prompt reporting  
32 of sexual assault including sexual abuse, domestic violence,  
33 dating violence, and stalking to the duly constituted law  
34 enforcement authorities.

35 Sec. 2. Section 261.9, subsection 1, paragraph f, Code 2018,

1 is amended to read as follows:

2 *f.* Develops and implements a written policy, ~~which is~~  
3 concerning sexual assault as defined in section 915.40, and  
4 domestic violence, dating violence, and stalking as defined in  
5 the federal Higher Education Act of 1965, 20 U.S.C. §1092(f),  
6 involving a student, both on and off campus. The policy shall  
7 be disseminated during student registration or orientation,  
8 addressing and shall do all of the following four areas  
9 relating to sexual abuse:

10 (1) Include an affirmative consent standard in the  
11 determination of whether consent was given by both parties  
12 to sexual activity. For purposes of this paragraph "f",  
13 "affirmative consent" means affirmative, conscious, and  
14 voluntary agreement to engage in sexual activity. Under  
15 such standard, each person engaged in the sexual activity is  
16 responsible for ensuring that the person has the affirmative  
17 consent of any other person engaging in the sexual activity.  
18 Silence or lack of protest or resistance does not mean consent.  
19 Affirmative consent must be ongoing throughout a sexual  
20 activity and can be revoked at any time. The existence of a  
21 dating relationship between the persons involved, or the fact  
22 of past sexual relations between the persons, shall not by  
23 itself be assumed to be an indicator of consent.

24 (2) Address the following four affected areas:

25 (a) Counseling.

26 ~~(2)~~ (b) Campus security.

27 ~~(3)~~ (c) Education, including prevention, protection,  
28 and the rights and duties of students and employees of the  
29 institution.

30 ~~(4)~~ (d) Facilitating the The accurate and prompt reporting  
31 of sexual assault including sexual abuse, domestic violence,  
32 dating violence, and stalking to the duly constituted law  
33 enforcement authorities.

34 Sec. 3. Section 262.9, subsection 28, Code 2018, is amended  
35 to read as follows:

1 28. Develop and implement a written policy, ~~which is~~  
2 concerning sexual assault as defined in section 915.40, and  
3 domestic violence, dating violence, and stalking as defined in  
4 the federal Higher Education Act of 1965, 20 U.S.C. §1092(f),  
5 involving a student, both on and off campus. The policy shall  
6 be disseminated during registration or orientation, addressing  
7 and shall do all of the following four areas relating to sexual  
8 abuse:

9 a. Include an affirmative consent standard in the  
10 determination of whether consent was given by both parties to  
11 sexual activity. For purposes of this subsection, "affirmative  
12 consent" means affirmative, conscious, and voluntary agreement  
13 to engage in sexual activity. Under such standard, each person  
14 engaged in the sexual activity is responsible for ensuring that  
15 the person has the affirmative consent of any other person  
16 engaging in the sexual activity. Silence or lack of protest  
17 or resistance does not mean consent. Affirmative consent must  
18 be ongoing throughout a sexual activity and can be revoked at  
19 any time. The existence of a dating relationship between the  
20 persons involved, or the fact of past sexual relations between  
21 the persons, shall not by itself be assumed to be an indicator  
22 of consent.

23 b. Address the following four affected areas:

24 (1) Counseling.

25 ~~b.~~ (2) Campus security.

26 ~~c.~~ (3) Education, including prevention, protection, and the  
27 rights and duties of students and employees of the institution.

28 ~~d.~~ (4) Facilitating the The accurate and prompt reporting  
29 of sexual assault including sexual abuse, domestic violence,  
30 dating violence, and stalking to the duly constituted law  
31 enforcement authorities.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with  
34 the explanation's substance by the members of the general assembly.

35 This bill modifies the current requirement that all

1 community colleges, regents universities, and accredited  
2 postsecondary private institutions develop, implement, and  
3 disseminate a written sexual assault policy. The bill provides  
4 that the policy developed, implemented, and disseminated  
5 concerns sexual assault including sexual abuse, domestic  
6 violence, dating violence, and stalking involving a student,  
7 both on and off campus.

8 The policy must include an affirmative consent standard in  
9 the determination of whether consent was given by parties to  
10 the sexual activity. The bill defines "affirmative consent"  
11 to mean affirmative, conscious, and voluntary agreement to  
12 engage in sexual activity. Under that standard, each person  
13 involved in the sexual activity is responsible for ensuring  
14 that the person has the affirmative consent of any other person  
15 engaging in the sexual activity. Silence or lack of protest  
16 or resistance does not mean consent. Affirmative consent must  
17 be ongoing throughout a sexual activity and can be revoked at  
18 any time. The existence of a dating relationship between the  
19 persons involved, or the fact of past sexual relations between  
20 the persons, shall not by itself be assumed to be an indicator  
21 of consent.

22 The policy must also address the accurate and prompt  
23 reporting of sexual assault including sexual abuse, domestic  
24 violence, dating violence, and stalking to the duly constituted  
25 law enforcement authorities.