ASSEMBLY BILL NO. 245–ASSEMBLYMEN TORRES, MARZOLA, GONZÁLEZ, KASAMA; BILBRAY-AXELROD, BROWN-MAY, D'SILVA, DURAN, HAFEN, MCARTHUR, C.H. MILLER, NEWBY, NGUYEN, PETERS, SUMMERS-ARMSTRONG, TAYLOR AND WATTS

MARCH 3, 2023

JOINT SPONSOR: SENATOR KRASNER

Referred to Committee on Education

SUMMARY—Revises provisions governing education. (BDR 34-818)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 1)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets **[**~~omitted material~~**]** is material to be omitted.

AN ACT relating to education; requiring the board of trustees of each school district to enter into a memorandum of understanding with an organization that assists victims of sexual misconduct; revising provisions governing the SafeVoice Program; creating the Commission on Higher Education Campus Safety; revising provisions governing certain programming related to sexual misconduct which institutions in the Nevada System of Higher Education may be required to provide to students and employees; abolishing the Task Force on Sexual Misconduct at Institutions of Higher Education; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Board of Regents of the University of Nevada to require an institution within the Nevada System of Higher Education to enter into a memorandum of understanding with an organization that assists persons involved in sexual misconduct. (NRS 396.147) **Section 1** of this bill similarly requires the

board of trustees of each school district to enter into a memorandum of understanding with an organization that assists victims of sexual misconduct, and sets forth the provisions that may be included in such a memorandum of understanding. **Section 2** of this bill makes a conforming change to indicate the proper placement of **section 1** in the Nevada Revised Statutes.

Existing law requires the establishment of the SafeVoice Program within the Office for a Safe and Respectful Learning Environment within the Department of Education. That Program allows a person to make an anonymous report to a support center regarding dangerous, violent or unlawful activity that is conducted, or threatened to be conducted, on property of a public school or in certain other circumstances related to public schools. (NRS 388.1455) **Section 3** of this bill requires the SafeVoice Program to include methods and procedures to ensure that a pupil who is a victim of sexual misconduct may obtain a referral to an organization that assists victims of sexual misconduct. **Section 3** authorizes the Director of the Office for a Safe and Respectful Learning Environment to enter into agreements on behalf of the SafeVoice Program with state and local agencies and community-based organizations to facilitate the referral of pupils and other persons for certain services and authorizes the sharing of information and provision of services between agencies and organizations that are party to such an agreement.

Existing law creates the Task Force on Sexual Misconduct at Institutions of Higher Education and prescribes the duties of the Task Force. **Section 9** of this bill abolishes the Task Force. **Section 4** of this bill creates the Commission on Higher Education Campus Safety and prescribes the membership of the Commission. **Sections 6 and 7** of this bill transfer the duties of the Task Force to the Commission. **Section 5** of this bill makes a conforming change to indicate the proper placement of **section 4** in the Nevada Revised Statutes.

Existing law authorizes the Board of Regents to require an institution to provide programming on awareness and prevention of sexual misconduct to all students and employees and establishes requirements for the programming if required by the Board of Regents. (NRS 396.153) **Section 8** of this bill provides that, if an institution provides such programming, the institution must require each student to attend the programming at least once in his or her first two regular academic semesters after enrollment and an employee to attend such programming at least once every 3 years. **Section 8** authorizes the programming on awareness and prevention of sexual misconduct that is provided to students to be incorporated into a course for which a student may receive academic credit and authorizes an institution to condition the award of a degree or certificate upon the completion of such a course. **Section 8** requires an institution, if it provides the programming on awareness and prevention of sexual misconduct to employees, to: (1) require the programming to be provided and attended in person, except under certain limited circumstances; (2) require the syllabus for the programming to include resources on how to obtain certain information; and (3) make a copy of the syllabus and any instructional materials available for viewing at all times by interested employees.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district shall enter into a memorandum of understanding with a community-based

organization that assists victims of sexual misconduct. The memorandum of understanding may, without limitation:

(a) Allow for cooperation and training between the school district and the community-based organization that assists victims of sexual misconduct to establish an understanding of the:

(1) Responsibilities that the school district and the community-based organization that assists victims of sexual misconduct have in responding to a report or disclosure of an alleged incident of sexual misconduct; and

(2) Procedures of the school district for providing support and services to pupils and employees.

(b) Require a community-based organization that assists victims of sexual misconduct to:

(1) Assist with developing policies, programming or training for the school district regarding sexual misconduct;

(2) Provide an alternative for a pupil or employee of the school district to receive free counseling, advocacy or crisis services related to an alleged incident of sexual misconduct, including, without limitation, access to a health care provider who specializes in forensic medical examinations;

(3) Assist with the development and implementation of education and prevention programs for pupils enrolled at a public school in the school district; and

(4) Assist with the development and implementation of training and prevention curriculum for employees of the school district.

(c) Include a fee structure for any services provided by the community-based organization that assists victims of sexual misconduct.

2. As used in this section:

(a) "Forensic medical examination" has the meaning ascribed to it in NRS 217.300.

(b) "Sexual misconduct" has the meaning ascribed to it in NRS 396.134.

Sec. 2. NRS 388.121 is hereby amended to read as follows:

388.121 As used in NRS 388.121 to 388.1395, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 388.1215 to 388.127, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 388.1455 is hereby amended to read as follows:

388.1455 1. The Director shall establish the SafeVoice Program within the Office for a Safe and Respectful Learning Environment. The Program must enable any person to report to the Program any dangerous, violent or unlawful activity which is being conducted, or is threatened to be conducted, on school property, at

an activity sponsored by a public school, on a school bus of a public school or by a pupil enrolled at a public school. Any information relating to any such dangerous, violent or unlawful activity, or threat thereof, received by the Program is confidential and, except as otherwise authorized pursuant to subsection 2 and NRS 388.1458, must not be disclosed to any person.

2. The SafeVoice Program must include, without limitation, methods and procedures to ensure that:

(a) Information reported to the Program is promptly forwarded to the appropriate public safety agencies, the Department and other appropriate state agencies, school administrators and other school employees, including, without limitation, the teams appointed pursuant to NRS 388.14553;

(b) The identity of a person who reports information to the Program may remain anonymous, unless the policies established and regulations adopted pursuant to subsection 6 require the identity of such a person to be disclosed; ~~[and]~~

(c) The appropriate public safety agencies may access personally identifiable information concerning a pupil:

(1) To take the appropriate action in response to an activity or threat reported pursuant to this section;

(2) Twenty-four hours a day; and

(3) Subject to the confidentiality required pursuant to this section ~~[.]~~ ***; and***

(d) A pupil who is a victim of sexual misconduct may obtain a referral to a community-based organization that assists victims of sexual misconduct.

3. On behalf of the SafeVoice Program, the Director or his or her designee shall establish and operate a support center that meets the requirements of NRS 388.14557, which includes, without limitation, a hotline, Internet website, mobile telephone application and text messaging application or enter into an agreement with an organization that the Director determines is appropriately qualified and experienced, pursuant to which the organization will establish and operate such a support center, which includes, without limitation, a hotline, Internet website, mobile telephone application and text messaging application. The support center shall receive initial reports made to the Program through the hotline, Internet website, mobile telephone application and text messaging application and forward the information contained in the reports in the manner required by subsection 2.

4. The Director shall provide training regarding:

(a) The Program to employees and volunteers of each public safety agency, public safety answering point, board of trustees of a school district, governing body of a charter school and any other

entity whose employees and volunteers the Director determines should receive training regarding the Program.

(b) Properly responding to a report received from the support center, including, without limitation, the manner in which to respond to reports of different types of dangerous, violent and unlawful activity and threats of such activity, to each member of a team appointed pursuant to NRS 388.14553.

(c) The procedure for making a report to the support center using the hotline, Internet website, mobile telephone application and text messaging application and collaborating to prevent dangerous, violent and unlawful activity directed at teachers and other members of the staff of a school, pupils, family members of pupils and other persons.

5. The Director shall:

(a) Post information concerning the SafeVoice Program on an Internet website maintained by the Director;

(b) Provide to each public school educational materials regarding the SafeVoice Program, including, without limitation, information about the telephone number, address of the Internet website, mobile telephone application, text messaging application and any other methods by which a report may be made; and

(c) On or before July 1 of each year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Joint Interim Standing Committee on Education a report containing a summary of the information reported to the Director pursuant to NRS 388.14557 during the immediately preceding 12 months and any other information that the Director determines would assist the Committee to evaluate the SafeVoice Program.

6. The Department shall establish policies and adopt regulations pursuant to subsection 2 relating to the disclosure of the identity of a person who reports information to the Program. The regulations must include, without limitation, the disclosure of the identity of a person who reported information to the Program:

(a) To ensure the safety and well-being of the person who reported information to the Program;

(b) To comply with the provisions of NRS 388.1351; or

(c) If the person knowingly reported false information to the Program.

7. ***On behalf of the SafeVoice Program, the Director may enter into one or more agreements with state and local agencies and community-based organizations to facilitate the referral of pupils and other persons for wrap-around services or services related to the prevention of domestic violence or assistance for victims of domestic violence. An agreement entered into pursuant to this subsection may provide for the sharing of information and***

provision of services between agencies and community-based organizations with which the Director has entered into an agreement pursuant to this subsection to the extent not prohibited by other law.

8. As used in this section:

(a) "Public safety agency" has the meaning ascribed to it in NRS 239B.020.

(b) "Public safety answering point" has the meaning ascribed to it in NRS 707.500.

(c) "Sexual misconduct" has the meaning ascribed to it in NRS 396.134.

(d) "Wrap-around services" means community-based intervention services provided to children and youth with intensive mental or behavioral health needs and their families, including, without limitation, mobile crisis response and stabilization. As used in this paragraph, "youth" means a person under 25 years of age.

Sec. 4. Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby created the Commission on Higher Education Campus Safety consisting of 7 members as follows:

(a) The Chancellor of the System, or his or her designee;

(b) One member appointed by the Majority Leader of the Senate;

(c) One member appointed by the Minority Leader of the Senate;

(d) One member appointed by the Speaker of the Assembly;

(e) One member appointed by the Minority Leader of the Assembly;

(f) One member who is a student enrolled at an institution within the System, appointed by the Nevada Student Alliance or its successor organization; and

(g) One member who is a representative of a community-based organization that assists victims of sexual misconduct, appointed by the Chancellor.

2. Each appointed member serves a term of 2 years. Members may be reappointed for additional terms of 2 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Commission must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

3. The Commission shall, at its first meeting and each odd-numbered year thereafter, elect a Chair from among its members.

4. The Commission shall meet at least once each calendar quarter and at other times at the call of the Chair or a majority of its members.

5. A majority of the members of the Commission constitutes a quorum, and a quorum may exercise all the power and authority conferred on the Commission.

6. Members of the Commission serve without compensation, except that for each day or portion of a day during which a member of the Commission attends a meeting of the Commission or is otherwise engaged in the business of the Commission, and within the limits of available money, the member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

7. Each member of the Commission who is an officer or employee of the State or a local government must be relieved from his or her duties without loss of his or her regular compensation so that the member may prepare for and attend meetings of the Commission and perform any work necessary to carry out the duties of the Commission in the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Commission to make up the time the member is absent from work to carry out his or her duties as a member, and shall not require the member to take annual vacation or compensatory time for the absence.

Sec. 5. NRS 396.125 is hereby amended to read as follows:

396.125 As used in NRS 396.125 to 396.1595, inclusive, ***and section 4 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 396.126 to 396.138, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 396.1415 is hereby amended to read as follows:

396.1415 1. The ~~[Task Force on Sexual Misconduct at Institutions of Higher Education]~~ ***Commission on Higher Education Campus Safety*** created by ~~[NRS 396.141]~~ ***section 4 of this act*** shall:

(a) Review the results of any climate survey on sexual misconduct administered at an institution within the System; and

(b) Each year, hold a meeting open to the public to provide recommendations to the Board of Regents on how to address sexual misconduct at institutions within the System.

2. A meeting held pursuant to subsection 1 is not subject to the provisions of chapter 241 of NRS.

Sec. 7. NRS 396.142 is hereby amended to read as follows:

396.142 1. To the extent that money is available, the Board of Regents may appoint researchers employed at one or more institutions within the System to develop a climate survey on sexual

misconduct designed to be administered at institutions within the System. The climate survey on sexual misconduct must:

(a) Gather institution-specific data regarding the prevalence of gender-based harassment and discrimination;

(b) Be fair and unbiased;

(c) Be scientifically valid and reliable; and

(d) Meet the highest standards of survey research.

2. If appointed to develop a climate survey on sexual misconduct, the researchers shall:

(a) Use best practices from peer-reviewed research;

(b) Consult with persons with expertise in the development and use of climate surveys on sexual misconduct at institutions of higher education;

(c) Consult with a student government association;

(d) Review climate surveys on sexual misconduct which have been developed and implemented by institutions of higher education, including, without limitation, institutions in other states;

(e) Provide opportunity for written comment from organizations that assist victims of sexual misconduct to ensure the adequacy and appropriateness of any proposed content of the climate survey on sexual misconduct;

(f) Consult with institutions within the System on strategies for optimizing the effectiveness of the climate survey on sexual misconduct; and

(g) Account for the diverse needs and differences of the institutions within the System.

3. If a climate survey on sexual misconduct is developed, the climate survey must request information on topics related to sexual misconduct. The topics may include, without limitation:

(a) The estimated number of alleged incidents of sexual misconduct, both reported and not reported, at an institution within the System, if a student taking the survey has knowledge of such information;

(b) When and where an alleged incident of sexual misconduct occurred;

(c) Whether an alleged incident of sexual misconduct was perpetrated by a student, faculty member, staff member of an institution within the System, third party vendor or another person;

(d) Awareness of a student of the policies and procedures related to sexual misconduct at an institution;

(e) Whether a student reported an alleged incident of sexual misconduct and:

(1) If the incident was reported, to which campus resource or law enforcement agency a report was made; and

(2) If the incident was not reported, the reason the student chose not to report the incident;

(f) Whether a student who reported an alleged incident of sexual misconduct was:

(1) Offered supportive measures by an institution;

(2) Informed of, aware of or referred to campus, local or state resources for support for victims, including, without limitation, appropriate medical care and legal services; and

(3) Informed of the prohibition against retaliation for reporting an alleged incident of sexual misconduct;

(g) Contextual factors in an alleged incident of sexual misconduct, such as the involvement of force, incapacitation or coercion;

(h) Demographic information that could be used to identify at-risk groups, including, without limitation, the gender, race, ethnicity, national origin, economic status, disability, gender identity or expression, immigration status and sexual orientation of the student taking the climate survey on sexual misconduct;

(i) Perceptions a student has of campus safety;

(j) Whether a student has confidence in the ability of the institution to protect against and respond to alleged incidents of sexual misconduct;

(k) Whether a student chose to withdraw or take a leave of absence from the institution or transfer to another institution because the student is the complainant or respondent in an alleged incident of sexual misconduct;

(l) Whether a student withdrew from any classes or was placed on academic probation, disciplinary probation or otherwise disciplined as a result of an alleged incident of sexual misconduct;

(m) Whether a student experienced any financial impact as a result of an alleged incident of sexual misconduct;

(n) Whether a student experienced any negative health impacts as a result of an alleged incident of sexual misconduct, including, without limitation, post-traumatic stress disorder, anxiety, depression, chronic pain or an eating disorder;

(o) The perception of the participants in the survey of the attitudes of the community toward sexual misconduct, including, without limitation, the willingness of a person to intervene in an ongoing incident of sexual misconduct as a bystander; and

(p) Any other questions as determined necessary by the researchers.

4. The climate survey on sexual misconduct must provide an option for students to decline to answer a question.

5. The climate survey on sexual misconduct must be provided to the ~~[Task Force on Sexual Misconduct at Institutions of Higher~~

~~Education~~] ***Commission on Higher Education Campus Safety*** created pursuant to ~~[NRS 396.141]~~ ***section 4 of this act*** for comment.

Sec. 8. NRS 396.153 is hereby amended to read as follows:

396.153 1. The Board of Regents may require an institution within the System to provide programming on awareness and prevention of sexual misconduct to all students and employees of the institution. If the Board of Regents requires an institution to provide programming on awareness and prevention of sexual misconduct, the programming must include, without limitation:

(a) An explanation of consent as it applies to a sexual act or sexual conduct with another person;

(b) The manner in which drugs and alcohol may affect the ability of a person to consent to a sexual act or sexual conduct with another person;

(c) Information on options for reporting an alleged incident of sexual misconduct, the effects of each option and the method to file a report under each option, including, without limitation, a description of the confidentiality and anonymity, as applicable, of a report;

(d) Information on the grievance process of the institution for addressing a report of an alleged incident of sexual misconduct, including, without limitation, a policy on sexual misconduct adopted pursuant to NRS 396.145;

(e) The range of sanctions or penalties the institution may impose on a student or employee found responsible for an incident of sexual misconduct;

(f) If an advocate is designated pursuant to NRS 396.148, the name, contact information and role of the advocate;

(g) Strategies for intervention by bystanders;

(h) Strategies for reduction of the risk of sexual misconduct; and

(i) Any other opportunities for additional programming on awareness and prevention of sexual misconduct.

2. If an institution provides programming on awareness and prevention of sexual misconduct pursuant to subsection 1, the institution:

(a) Shall coordinate with the Title IX coordinator of the institution;

(b) May coordinate with a law enforcement agency and, if the institution entered into a memorandum of understanding with an organization that assists persons involved in sexual misconduct pursuant to NRS 396.147, that organization; and

(c) Shall require ~~[students or employees]~~ ***:***

(1) A student to attend the programming on the awareness and prevention of sexual misconduct ~~[.]~~ ***at least once during his or her first two regular academic semesters after enrollment; and***

(2) An employee to attend the programming on the awareness and prevention of sexual misconduct not less than once every 3 years.

3. If an institution provides programming on awareness and prevention of sexual misconduct pursuant to subsection 1, the programming may be culturally responsive and address the unique experiences and challenges faced by students based on the race, ethnicity, national origin, economic status, disability, gender identity or expression, immigration status and sexual orientation of a student.

4. If an institution provides programming on awareness and prevention of sexual misconduct to students pursuant to subsection 1, the institution may:

(a) Incorporate the programming into one or more courses for which a student may receive credit toward the course work required of the student for the award of an associate's degree, baccalaureate degree or certificate at any university, state college or community college.

(b) Condition the award of an associate's degree, baccalaureate degree or certificate upon the completion of a course described in paragraph (a).

5. If an institution provides programming on awareness and prevention of sexual misconduct to employees pursuant to subsection 1, the institution shall:

(a) Require the programming to be provided and attended in person, except during a period in which a state of emergency or declaration of disaster has been proclaimed by the Governor or the Legislature pursuant to NRS 414.070 in the geographic area in which the institution is located.

(b) Require a syllabus for the programming that includes resources about how to obtain information on:

(1) Options for reporting an alleged incident of sexual misconduct, the effects of each option and the method to file a report under each option;

(2) Counseling services available on a campus of the institution and through local community resources;

(3) Medical and legal services available on or off a campus of the institution;

(4) Available supportive measures;

(5) The grievance process of the institution and that the grievance process is not a substitute for the system of criminal justice; and

(6) A policy on sexual misconduct adopted by the institution pursuant to NRS 396.145.

(c) Make a copy of the syllabus and any instructional materials for the programming available for viewing at all times by any interested employee.

Sec. 9. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 10. NRS 396.141 is hereby repealed.

Sec. 11. This act becomes effective on July 1, 2023.

TEXT OF REPEALED SECTION

396.141 Task Force on Sexual Misconduct at Institutions of Higher Education: Creation; members; meetings.

1. There is hereby created the Task Force on Sexual Misconduct at Institutions of Higher Education consisting of 12 members as follows:

(a) The Chancellor of the System, or his or her designee;

(b) The Chief General Counsel of the System, or his or her designee; and

(c) Ten members appointed by the Board of Regents as follows:

(1) One representative of a state college;

(2) One representative of a community college;

(3) One representative of a university;

(4) One Title IX coordinator from an institution within the System;

(5) One student, appointed in consultation with a student government association, who represents a group or organization that focuses on multiculturalism, diversity or advocacy at a state college or community college;

(6) One student, appointed in consultation with a student government association, who represents a group or organization that focuses on multiculturalism, diversity or advocacy at a university;

(7) One researcher with experience in the development of climate surveys on sexual misconduct;

(8) One researcher of statistics, data analytics or econometrics with experience in survey analysis in higher education;

(9) One medical professional from the University of Nevada, Las Vegas, School of Medicine or the University of Nevada, Reno, School of Medicine; and

(10) One person who serves as a victim's advocate, as defined in NRS 49.2545, at an institution within the System.

2. After the initial terms, each appointed member of the Task Force serves a term of 2 years and may be reappointed to one additional 2-year term following his or her initial term. A vacancy must be filled in the same manner as the original appointment.

3. The Task Force shall, at its first meeting and each odd-numbered year thereafter, elect a Chair from among its members.

4. The Task Force shall meet at least once annually and may meet at other times upon the call of the Chair or a majority of the members of the Task Force.

5. A majority of the members of the Task Force constitutes a quorum, and a quorum may exercise all the power and authority conferred on the Task Force.

6. Members of the Task Force serve without compensation, except that for each day or portion of a day during which a member of the Task Force attends a meeting of the Task Force or is otherwise engaged in the business of the Task Force, and within the limits of available money, the member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

7. Each member of the Task Force who is an officer or employee of the State or a local government must be relieved from his or her duties without loss of his or her regular compensation so that the member may prepare for and attend meetings of the Task Force and perform any work necessary to carry out the duties of the Task Force in the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Task Force to make up the time the member is absent from work to carry out his or her duties as a member, and shall not require the member to take annual vacation or compensatory time for the absence.

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