

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 18-0399.04 Jerry Barry x4341

HOUSE BILL 18-1391

HOUSE SPONSORSHIP

Duran and Winter,

SENATE SPONSORSHIP

Martinez Humenik and Kerr,

House Committees

Education

Senate Committees

Judiciary

Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE PREVENTION OF SEXUAL MISCONDUCT ON HIGHER**
102 **EDUCATION CAMPUSES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires each institution of higher education (institution) to adopt, periodically review, and update a policy on sexual misconduct (policy). The bill establishes minimum requirements for the policies, including reporting options, procedures for investigations and adjudications, and protections for involved persons. Institutions are to promote the policy by posting information on their websites and annually

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unamended
April 18, 2018

HOUSE
Amended 2nd Reading
April 17, 2018

distributing the policy and information.

Institutions are required to provide training on awareness and prevention of sexual misconduct, the policy, and resources available to discuss such misconduct.

The bill requires institutions to report to the department of higher education (department) on their policies and training, and the department posts information on the reports on its website.

The department is to host biennial summits on sexual misconduct on institution campuses to facilitate communication, share information, and hear from experts. The bill identifies the membership of the planning committee for the summits. The planning committees are to report to specified committees of the general assembly on the summits.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 23-5-146 as
3 follows:

4 **23-5-146. Sexual misconduct - policies - confidential resources**
5 **- training - reports - definitions.** (1) AS USED IN THIS SECTION, UNLESS
6 THE CONTEXT OTHERWISE REQUIRES:

7 (a) "CLERY ACT" MEANS THE FEDERAL "JEANNE CLERY
8 DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME
9 STATISTICS ACT" OR "CLERY ACT", 20 U.S.C. SEC. 1092(f).

10 (b) "COMPLAINANT" MEANS A PERSON WHO IS SUBJECT TO
11 ALLEGED SEXUAL MISCONDUCT UNDER AN INSTITUTION'S SEXUAL
12 MISCONDUCT POLICY.

13 (c) "DEPARTMENT" MEANS THE DEPARTMENT OF HIGHER
14 EDUCATION CREATED AND EXISTING PURSUANT TO SECTION 24-1-114.

15 (d) "INSTITUTION OF HIGHER EDUCATION" OR "INSTITUTION"
16 MEANS A STATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN
17 SECTION 23-18-102 (10)(b), OR ANY ACCREDITED CAMPUS OF A STATE
18 INSTITUTION OF HIGHER EDUCATION; A PARTICIPATING PRIVATE
19 INSTITUTION OF HIGHER EDUCATION, AS DEFINED BY SECTION 23-18-102

1 (8); A LOCAL DISTRICT COLLEGE, AS DEFINED BY SECTION 23-71-102
2 (1)(a); AND AN AREA TECHNICAL COLLEGE, AS DEFINED BY SECTION
3 23-60-103 (1).

4 (e) "REPORTING PARTY" MEANS AN INDIVIDUAL WHO REPORTS AN
5 ALLEGED INCIDENT OF SEXUAL MISCONDUCT UNDER AN INSTITUTION'S
6 SEXUAL MISCONDUCT POLICY.

7 (f) "RESPONDING PARTY" MEANS AN INDIVIDUAL WHO HAS BEEN
8 ACCUSED OF SEXUAL MISCONDUCT UNDER AN INSTITUTION'S SEXUAL
9 MISCONDUCT POLICY.

10 (g) "TITLE IX" MEANS TITLE IX OF THE FEDERAL EDUCATION
11 AMENDMENTS OF 1972, AS AMENDED, 20 U.S.C. SECS. 1681 TO 1688.

12 (h) "VIOLENCE AGAINST WOMEN ACT" MEANS THE ACT CODIFIED
13 AT 42 U.S.C. SECS. 13701 TO 14040.

14 (2) ON OR BEFORE AUGUST 1, 2019, EACH INSTITUTION OF HIGHER
15 EDUCATION SHALL ADOPT A SEXUAL MISCONDUCT POLICY FOR ENROLLED
16 STUDENTS. THE POLICY MUST BE PERIODICALLY REVIEWED AND UPDATED.

17 (3) AT A MINIMUM, EACH POLICY MUST INCLUDE:

18 (a) DEFINITIONS OF FORMS OF SEXUAL MISCONDUCT CONSISTENT
19 WITH FEDERAL LAW AND POLICY, SUCH AS TITLE IX, THE CLERY ACT, AND
20 THE VIOLENCE AGAINST WOMEN ACT;

21 (b) CONFIDENTIAL AND NONCONFIDENTIAL REPORTING OPTIONS
22 FOR SEXUAL MISCONDUCT;

23 (c) AN EXPLANATION OF THE ROLE OF THE INSTITUTION IN THE
24 RESPONSE TO:

25 (I) A VIOLATION OF THE SEXUAL MISCONDUCT POLICY; OR

26 (II) A REPORT OF AN INCIDENT OF SEXUAL MISCONDUCT;

27 (d) EXCEPT AS PROVIDED IN SUBSECTION (3)(e) OF THIS SECTION.

1 PROCEDURES FOR INVESTIGATING REPORTS OF SEXUAL MISCONDUCT,
2 WHICH MUST:

3 (I) BE FAIR, IMPARTIAL, AND PROMPT, AND THE INSTITUTION MUST
4 MAKE A GOOD FAITH EFFORT TO COMPLETE AN INVESTIGATION OR
5 ADJUDICATIVE PROCESS, EXCLUDING ANY APPEALS, WITHIN AN AVERAGE
6 OF SIXTY TO NINETY DAYS, WITHOUT JEOPARDIZING THE RIGHTS OF A
7 COMPLAINANT OR RESPONDING PARTY. THE PROCEDURE MAY INCLUDE A
8 PROCESS THAT ALLOWS FOR THE EXTENSION OF THESE TIME FRAMES FOR
9 GOOD CAUSE WITH PRIOR WRITTEN NOTICE OF THE DELAY AND THE
10 REASON FOR THE DELAY TO THE COMPLAINANT AND THE RESPONDING
11 PARTY.

12 (II) SPECIFY EITHER THE PREPONDERANCE OF THE EVIDENCE OR
13 CLEAR AND CONVINCING EVIDENCE AS THE EVIDENTIARY STANDARD;

14 (III) OUTLINE THE PROCEDURES TO BE FOLLOWED IN THE
15 INVESTIGATION AND ADJUDICATION PROCESS, WHICH MUST SPECIFY THAT
16 ALL QUESTIONS GO THROUGH THE OFFICIAL INDIVIDUAL OR INDIVIDUALS
17 CONDUCTING OR PARTICIPATING IN THE INVESTIGATION PROCESS;

18 (IV) PROVIDE THE COMPLAINANT AND THE RESPONDING PARTY
19 WITH THE SAME OPPORTUNITIES TO HAVE AN ADVISOR OR OTHER PERSON
20 PRESENT DURING ANY PART OF THE PROCEEDING; EXCEPT THAT THE
21 ADVISOR OR OTHER PERSON IS NOT ALLOWED TO SPEAK ON BEHALF OF THE
22 COMPLAINANT OR RESPONDING PARTY DURING THE COURSE OF THE
23 PROCEEDINGS;

24 (V) PROVIDE REGULAR WRITTEN UPDATES ON THE STATUS OF THE
25 INVESTIGATION OR PROCEEDING TO THE COMPLAINANT AND RESPONDING
26 PARTY THROUGHOUT THE PROCESS UNTIL CONCLUSION; AND

27 (VI) PROVIDE FOR CONCURRENT NOTIFICATION OF THE OUTCOME

1 OF THE INVESTIGATION OR PROCEEDING TO THE COMPLAINANT AND THE
2 RESPONDING PARTY;

3 (e) IF THE POTENTIAL PUNISHMENT FOR A VIOLATION OF THE
4 POLICY INCLUDES EXPULSION OR SUSPENSION OF ONE SEMESTER OR
5 LONGER, THAT THE FOLLOWING PROCEDURES APPLY INSTEAD OF
6 SUBSECTIONS (3)(d)(II) TO (3)(d)(IV) OF THIS SECTION:

7 (I) CLEAR AND CONVINCING EVIDENCE AS THE EVIDENTIARY
8 STANDARD IF THE FACT FINDING IS PERFORMED BY A SINGLE PERSON OR
9 PREPONDERANCE OF THE EVIDENCE AS THE EVIDENTIARY STANDARD IF
10 THE FACT FINDER IS A PANEL;

11 (II) OUTLINING THE PROCEDURES TO BE FOLLOWED IN THE
12 INVESTIGATION, ADJUDICATORY HEARING, AND APPELLATE PROCESSES
13 INCLUDING:

14 (A) SEPARATING INDIVIDUALS OR PANELS FOR THE INVESTIGATION,
15 ADJUDICATORY HEARING, AND APPELLATE PROCESSES WHO SHALL NOT BE
16 INVESTED IN THE OUTCOME OF A PREVIOUS STAGE OF THE PROCESS;

17 (B) PROVIDING THE COMPLAINANT AND THE RESPONDING PARTY
18 WITH THE SAME OPPORTUNITIES TO HAVE AN ADVISOR OR OTHER PERSON,
19 INCLUDING AN ATTORNEY, PRESENT DURING ANY PART OF THE
20 INVESTIGATION WHO MAY PARTICIPATE AT ALL STAGES OF THE
21 INVESTIGATION, ADJUDICATORY HEARING, AND APPELLATE PROCESSES;
22 AND

23 (C) DURING THE ADJUDICATORY HEARING, THE ISSUANCE OF ANY
24 NECESSARY AND APPROPRIATE PROTECTIVE ORDERS FOR THE BENEFIT OF
25 THE COMPLAINANT OR ANY WITNESS, WHICH MAY INCLUDE, BUT ARE NOT
26 LIMITED TO, PROVISIONS FOR THE QUESTIONING OF THE COMPLAINANT
27 OUTSIDE THE PRESENCE OF THE RESPONDENT; AND

1 (D) IF AN ADJUDICATORY HEARING PANEL IS USED, THE
2 AVAILABILITY OF A LEGAL ADVISOR WHO IS A LICENSED ATTORNEY TO
3 ADVISE THE PANEL.

4 (f) PROHIBITIONS ON:

5 (I) THE CONSIDERATION OF PRIOR SEXUAL CONDUCT, EXCEPT THAT
6 WHICH IS RELEVANT TO A MATERIAL AND SUBSTANTIVE ISSUE IN THE
7 ADJUDICATORY PROCESS AND WHERE THE PROBATIVE VALUE OUTWEIGHS
8 ANY PREJUDICIAL VALUE; AND

9 (II) ANY ACTION THAT WOULD BE RETALIATORY UNDER TITLE IX;

10 (g) PROTECTION FROM DISCIPLINARY ACTION AGAINST A
11 COMPLAINANT, REPORTING PARTY, OR WITNESS FOR HIS OR HER TRUTHFUL
12 PARTICIPATION IN THE REPORT OR INVESTIGATION AND FROM POLICY
13 VIOLATIONS RELATED TO THE INCIDENT, SUCH AS, AT A MINIMUM,
14 PERSONAL CONSUMPTION OF ALCOHOL OR DRUGS; AND

15 (h) THAT ALL PROVISIONS OF THE SEXUAL MISCONDUCT POLICY,
16 INCLUDING ANY APPEAL PROCESS THAT MAY BE PROVIDED, BE APPLIED
17 EQUALLY TO BOTH THE COMPLAINANT AND THE RESPONDING PARTY.

18 (4) (a) EACH INSTITUTION SHALL PROVIDE INFORMATION TO
19 STUDENTS ON HOW TO ACCESS AN INDIVIDUAL OR INDIVIDUALS FOR THE
20 PURPOSE OF PROVIDING SUPPORT REGARDING SEXUAL MISCONDUCT. THE
21 INSTITUTION MAY DESIGNATE FACULTY OR STAFF MEMBERS TO FILL THIS
22 ROLE; EXCEPT THAT THE INSTITUTION'S TITLE IX COORDINATOR SHALL
23 NOT BE SUCH AN INDIVIDUAL. AN INSTITUTION MAY ALSO DESIGNATE AN
24 OUTSIDE ENTITY OR SERVICE TO SERVE THIS PURPOSE. IF AN INSTITUTION
25 USES AN OUTSIDE ENTITY OR SERVICE, IT SHALL MAKE ITS SEXUAL
26 MISCONDUCT POLICY AVAILABLE TO THE ENTITY OR SERVICE. AN
27 INSTITUTION THAT ENROLLS FEWER THAN ONE THOUSAND STUDENTS MAY

1 PARTNER WITH ANOTHER INSTITUTION IN THE REGION OR WITHIN THE
2 STATE TO PROVIDE SERVICES PURSUANT TO THIS SUBSECTION (4).

3 (b) IF AN INDIVIDUAL DESCRIBED IN SUBSECTION (4)(a) OF THIS
4 SECTION MEETS THE REQUIREMENTS OF SECTION 13-90-107 (1)(k)(II) OR
5 SECTION 12-43-218, THE INDIVIDUAL HAS THE PROTECTIONS FOR
6 CONFIDENTIALITY OR PRIVILEGES ESTABLISHED PURSUANT TO THOSE
7 SECTIONS.

8 (5)(a) EACH INSTITUTION OF HIGHER EDUCATION SHALL PROMOTE:

9 (I) AWARENESS AND PREVENTION OF SEXUAL MISCONDUCT; AND

10 (II) THE INSTITUTION'S SEXUAL MISCONDUCT POLICY; AND

11 (b) EACH INSTITUTION SHALL PROMOTE THE INFORMATION
12 DESCRIBED IN SUBSECTION (5)(a) OF THIS SECTION BY:

13 (I) PROMINENTLY DISPLAYING ON ITS WEBSITE:

14 (A) THE INSTITUTION'S SEXUAL MISCONDUCT POLICY; AND

15 (B) THE TELEPHONE NUMBER AND WEBSITE FOR AN
16 INSTITUTIONAL, LOCAL, STATE, OR NATIONAL TWENTY-FOUR-HOUR
17 HOTLINE THAT PROVIDES INFORMATION ON SEXUAL MISCONDUCT.

18 (II) ANNUALLY DISTRIBUTING THROUGH ELECTRONIC OR OTHER
19 MEANS OF COMMUNICATION THE INSTITUTION'S SEXUAL MISCONDUCT
20 POLICY.

21 (6) (a) EACH INSTITUTION OF HIGHER EDUCATION SHALL OFFER
22 TRAINING:

23 (I) TO PROMOTE AWARENESS AND PREVENTION OF SEXUAL
24 MISCONDUCT; AND

25 (II) ON THE INSTITUTION'S SEXUAL MISCONDUCT POLICY.

26 (b) THE TRAINING MUST BE OFFERED ANNUALLY TO ALL INCOMING
27 STUDENTS AND NEWLY EMPLOYED FACULTY AND STAFF AND, WHEN

1 APPLICABLE, TO ALL STUDENTS, FACULTY, AND STAFF IF THE SEXUAL
2 MISCONDUCT POLICY IS SUBSTANTIALLY UPDATED. ANY INDIVIDUAL
3 DESIGNATED AS RESPONSIBLE FOR INVESTIGATING OR ADJUDICATING
4 COMPLAINTS UNDER THE SEXUAL MISCONDUCT POLICY SHALL BE TRAINED
5 ON THE POLICY IN EFFECT AT THE TIME OF THE INVESTIGATION OR
6 ADJUDICATION.

7 (c) THE TRAINING REQUIRED BY THIS SUBSECTION (6) MAY
8 INCLUDE BUT IS NOT LIMITED TO:

9 (I) HOW TO PROMOTE AWARENESS AND PREVENTION OF SEXUAL
10 MISCONDUCT;

11 (II) AN EXPLANATION OF THE INSTITUTION'S SEXUAL MISCONDUCT
12 POLICY;

13 (III) AN EXPLANATION OF RELEVANT STATE AND FEDERAL LAWS
14 CONCERNING SEXUAL MISCONDUCT;

15 (IV) AN EXPLANATION OF TYPES OF CONDUCT THAT WOULD
16 CONSTITUTE A VIOLATION OF THE INSTITUTION'S SEXUAL MISCONDUCT
17 POLICY;

18 (V) THE ROLE OF THE INSTITUTION [REDACTED] IN ENSURING A
19 COORDINATED RESPONSE TO AN ALLEGATION OF SEXUAL MISCONDUCT;

20 (VI) THE DEFINITION OF "CONSENT" IN THE CONTEXT OF SEXUAL
21 ACTIVITY;

22 (VII) OPTIONS FOR BYSTANDER INTERVENTION;

23 (VIII) OPTIONS FOR INVOLVING LAW ENFORCEMENT IN
24 RESPONDING TO SEXUAL MISCONDUCT;

25 (IX) THE IMPORTANCE OF TREATING AND HOW TO TREAT OTHERS
26 WITH DIGNITY AND RESPECT; AND

27 (X) THE EFFECTS OF TRAUMA ON REPORTING PARTIES OR

1 COMPLAINTS WHO HAVE EXPERIENCED SEXUAL MISCONDUCT THAT MAY
2 INCLUDE:

3 (A) INFORMATION ON WORKING WITH AND INTERVIEWING PERSONS
4 WHO HAVE EXPERIENCED SEXUAL MISCONDUCT;

5 (B) WAYS TO COMMUNICATE SENSITIVELY AND COMPASSIONATELY
6 WITH A REPORTING PARTY OR COMPLAINANT; AND

7 (C) INFORMATION REGARDING HOW SEXUAL MISCONDUCT MAY
8 IMPACT STUDENTS WITH DEVELOPMENTAL OR INTELLECTUAL DISABILITIES.

9 (7) (a) ON OR BEFORE JANUARY 1, 2019, EACH INSTITUTION OF
10 HIGHER EDUCATION SHALL PROVIDE TO THE DEPARTMENT, TO BE POSTED
11 ON THE DEPARTMENT'S WEBSITE:

12 (I) A COPY OF THE INSTITUTION'S SEXUAL MISCONDUCT POLICY;
13 AND

14 (II) A DESCRIPTION OF THE SEXUAL MISCONDUCT TRAINING
15 PROVIDED BY THE INSTITUTION AS REQUIRED BY SUBSECTION (6) OF THIS
16 SECTION.

17 (b) ON OR BEFORE JANUARY 1, 2020, AND ON OR BEFORE EACH
18 JANUARY 1 THEREAFTER, EACH INSTITUTION OF HIGHER EDUCATION SHALL
19 PROVIDE TO THE DEPARTMENT, TO BE POSTED ON THE DEPARTMENT'S
20 WEBSITE:

21 (I) A COPY OF ANY UPDATED INSTITUTIONAL SEXUAL MISCONDUCT
22 POLICY ADOPTED DURING THE PREVIOUS CALENDAR YEAR; AND

23 (II) A DESCRIPTION OF THE SEXUAL MISCONDUCT TRAINING
24 PROVIDED BY THE INSTITUTION AS REQUIRED BY SUBSECTION (6) OF THIS
25 SECTION.

26 (8) (a) SUBJECT TO AVAILABLE APPROPRIATIONS, THE
27 DEPARTMENT SHALL HOST BIENNIAL SUMMITS ON SEXUAL MISCONDUCT ON

1 INSTITUTION CAMPUSES FOR STAKEHOLDERS, ADVOCATES, STUDENTS,
2 FACULTY, AND OTHER INTERESTED PERSONS TO FACILITATE
3 COMMUNICATION, SHARE INFORMATION, AND HEAR FROM EXPERTS, AND
4 OTHER EFFORTS TO PROMOTE AWARENESS AND PREVENTION OF SEXUAL
5 MISCONDUCT ON COLORADO'S INSTITUTION CAMPUSES.

6 (b) PRIOR TO EACH BIENNIAL SUMMIT, THE DEPARTMENT SHALL
7 CONVENE A PLANNING COMMITTEE COMPOSED OF:

8 (I) A REPRESENTATIVE OF A PUBLIC FOUR-YEAR INSTITUTION,
9 APPOINTED BY THE GOVERNING BOARDS OF PUBLIC FOUR-YEAR
10 INSTITUTIONS;

11 (II) A REPRESENTATIVE OF A PUBLIC TWO-YEAR COLLEGE,
12 APPOINTED BY THE GOVERNING BOARDS OF PUBLIC TWO-YEAR COLLEGES;

13 (III) A REPRESENTATIVE OF A PUBLIC RURAL COLLEGE, AS DEFINED
14 BY THE DEPARTMENT, APPOINTED BY THE GOVERNING BOARDS OF PUBLIC
15 RURAL COLLEGES;

16 (IV) A REPRESENTATIVE OF A PUBLIC AREA TECHNICAL COLLEGE,
17 APPOINTED BY THE GOVERNING BOARDS OF PUBLIC AREA TECHNICAL
18 COLLEGES;

19 (V) A REPRESENTATIVE OF A PRIVATE FOUR-YEAR INSTITUTION,
20 APPOINTED BY THE GOVERNING BOARDS OF THE PRIVATE FOUR-YEAR
21 INSTITUTIONS;

22 (VI) TWO STUDENTS, ONE FROM A PUBLIC FOUR-YEAR INSTITUTION
23 AND ONE FROM A PUBLIC TWO-YEAR COLLEGE, APPOINTED BY A
24 STATEWIDE ORGANIZATION OF PUBLIC STUDENT GOVERNMENTS;

25 (VII) A REPRESENTATIVE OF A CAMPUS-BASED ORGANIZATION
26 THAT REPRESENTS VICTIMS OF SEXUAL MISCONDUCT FROM AN INSTITUTION
27 NOT OTHERWISE REPRESENTED ON THE COMMITTEE, APPOINTED BY THE

1 EXECUTIVE DIRECTOR OF THE DEPARTMENT;

2 (VIII) A REPRESENTATIVE OF A STATEWIDE COMMUNITY-BASED
3 ADVOCACY ORGANIZATION THAT REPRESENTS VICTIMS OF SEXUAL
4 MISCONDUCT, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE
5 DEPARTMENT; AND

6 (IX) A VICTIM OF SEXUAL MISCONDUCT AT AN INSTITUTION,
7 APPOINTED JOINTLY BY THE REPRESENTATIVES APPOINTED PURSUANT TO
8 SUBSECTIONS (8)(b)(VII) AND (8)(b)(VIII) OF THIS SECTION.

9 (c) THE PLANNING COMMITTEE MAY COLLABORATE WITH OTHER
10 INTERESTED PARTIES, INCLUDING COMMUNITY PARTNERS, TO DEVELOP THE
11 MOST EFFECTIVE EVENT TO FACILITATE THE PURPOSES OF THE SUMMIT AS
12 DESCRIBED IN SUBSECTION (8)(a) OF THIS SECTION.

13 (d) (I) ON OR BEFORE JANUARY 15 OF THE YEAR FOLLOWING THE
14 SUMMIT, THE PLANNING COMMITTEE SHALL SUBMIT A REPORT TO THE
15 EDUCATION COMMITTEES OF THE SENATE AND THE HOUSE OF
16 REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, INCLUDING A
17 SUMMARY OF THE EVENTS, ATTENDEES, OUTCOMES, AND
18 RECOMMENDATIONS.

19 (II) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136
20 (11)(a)(I), THE REQUIREMENT FOR THE REPORT IN SUBSECTION (8)(d)(I) OF
21 THIS SECTION CONTINUES INDEFINITELY.

22 **SECTION 2. Act subject to petition - effective date.** This act
23 takes effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly (August
25 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
26 referendum petition is filed pursuant to section 1 (3) of article V of the
27 state constitution against this act or an item, section, or part of this act

1 within such period, then the act, item, section, or part will not take effect
2 unless approved by the people at the general election to be held in
3 November 2018 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.