

(Including Amendments to Resolve Conflicts)

## B-Engrossed Senate Bill 48

Ordered by the House June 1  
Including Senate Amendments dated April 16 and House Amendments  
dated June 1

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Education and General Government)

### SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Prohibits Teacher Standards and Practices Commission from licensing or registering person who engages in sexual conduct with student.]* Requires *[commission]* **Teacher Standards and Practices Commission** to revoke license of person who engages in sexual conduct with student.

Specifies when education provider may disclose disciplinary record of current or former school employee who engaged in sexual conduct with student.

Declares emergency, effective on passage.

### A BILL FOR AN ACT

1  
2 Relating to sexual offenses involving students; creating new provisions; amending ORS 339.375 and  
3 342.175; repealing section 4, chapter 93, Oregon Laws 2009 (Enrolled House Bill 2062), and sec-  
4 tion 1, chapter \_\_\_\_\_, Oregon Laws 2009 (Enrolled Senate Bill 47); and declaring an emer-  
5 gency.

6 **Be It Enacted by the People of the State of Oregon:**

7 **SECTION 1.** ORS 339.375 is amended to read:

8 339.375. (1) Any school employee having reasonable cause to believe that any child with whom  
9 the employee comes in contact has suffered abuse by another school employee, or that another  
10 school employee with whom the employee comes in contact has abused a child, shall immediately  
11 report the information to:

12 (a) A supervisor or other person designated by the school board; and

13 (b) A law enforcement agency, the Department of Human Services or a designee of the depart-  
14 ment as required by ORS 419B.010 and 419B.015.

15 (2) A supervisor or other person designated by the school board who receives a report under  
16 subsection (1) of this section, shall follow the procedures required by the policy adopted by the  
17 school board under ORS 339.372.

18 (3) Except as provided in subsection (4) of this section, when an education provider receives a  
19 report of suspected child abuse by one of its employees, and the education provider's designee de-  
20 termines that there is reasonable cause to support the report, the education provider shall place the  
21 school employee on paid administrative leave until either:

22 (a) The Department of Human Services or a law enforcement agency determines that the report  
23 is unfounded or that the report will not be pursued; or

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (b) The Department of Human Services or a law enforcement agency determines that the report  
2 is founded and the education provider takes the appropriate disciplinary action against the school  
3 employee.

4 (4) If the Department of Human Services or a law enforcement agency is unable to determine,  
5 based on a report of suspected child abuse, whether child abuse occurred, an education provider  
6 may reinstate a school employee placed on paid administrative leave under subsection (3) of this  
7 section or may take the appropriate disciplinary action against the employee.

8 (5) Upon request from a law enforcement agency, the Department of Human Services or the  
9 Teacher Standards and Practices Commission, a school district shall provide the records of investi-  
10 gations of suspected child abuse by a school employee or former school employee.

11 *[(6) The disciplinary records of a school employee or former school employee convicted of a crime*  
12 *listed in ORS 342.143 are not exempt from disclosure under ORS 192.501 or 192.502. If a school em-*  
13 *ployee is convicted of a crime listed in ORS 342.143, the education provider that is the employer of the*  
14 *employee shall disclose the disciplinary records of the employee to any person upon request. If a former*  
15 *school employee is convicted of a crime listed in ORS 342.143, the education provider that was the*  
16 *employer of the former employee when the crime was committed shall disclose the disciplinary records*  
17 *of the former employee to any person upon request.]*

18 **(6)(a) The disciplinary records of a school employee or former school employee are not**  
19 **exempt from disclosure under ORS 192.501 or 192.502 if the employee or former school em-**  
20 **ployee was:**

21 **(A) Convicted of a crime listed in ORS 342.143; or**

22 **(B) Found by the commission to have engaged in conduct with a student in grade 12 or**  
23 **below that would constitute a crime under ORS 163.355, 163.365, 163.375, 163.385, 163.395,**  
24 **163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.432, 163.433, 163.435 or 163.445, regardless**  
25 **of any age requirements related to the victim as provided by ORS 163.355, 163.365, 163.375,**  
26 **163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.427, 163.432, 163.433, 163.435 or 163.445.**

27 **(b) Disciplinary records described in paragraph (a) of this subsection shall be disclosed**  
28 **as follows:**

29 **(A) For a current school employee, the education provider that is the employer of the**  
30 **employee shall disclose the disciplinary records of the employee to any person upon request.**

31 **(B) For a former school employee, the education provider that was the employer of the**  
32 **former employee at the time of the commission of the crime or the conduct shall disclose**  
33 **the disciplinary records of the former employee to any person upon request.**

34 (7) Prior to disclosure of a disciplinary record under subsection (6) of this section, an education  
35 provider shall remove any personally identifiable information from the record that would disclose  
36 the identity of a child, a crime victim or a school employee or former school employee who is not  
37 the subject of the disciplinary record.

38 **SECTION 2. If House Bill 2062 becomes law, section 4, chapter 93, Oregon Laws 2009**  
39 **(Enrolled House Bill 2062) (amending ORS 339.375), is repealed and ORS 339.375, as amended**  
40 **by section 1 of this 2009 Act, is amended to read:**

41 339.375. (1)(a) *[Any]* **A** school employee having reasonable cause to believe that *[any]* **a** child  
42 with whom the employee comes in contact has suffered abuse by another school employee, or that  
43 another school employee with whom the employee comes in contact has abused a child, shall im-  
44 mediately report the information to:

45 *[(a)]* **(A)** A supervisor or other person designated by the school board; and

1        [(b)] **(B)** A law enforcement agency, the Department of Human Services or a designee of the  
2 department as required by ORS 419B.010 and 419B.015.

3        **(b) A school employee having reasonable cause to believe that a student with whom the**  
4 **employee comes in contact has been subjected to sexual conduct by another school employee,**  
5 **or that another school employee with whom the employee comes in contact has engaged in**  
6 **sexual conduct, shall immediately report the information to a supervisor or other person**  
7 **designated by the school board.**

8        (2) A supervisor or other person designated by the school board who receives a report under  
9 subsection (1) of this section, shall follow the procedures required by the policy adopted by the  
10 school board under ORS 339.372.

11        (3)(a) Except as provided in subsection (4) of this section, when an education provider receives  
12 a report of suspected child abuse **or sexual conduct** by one of its employees, and the education  
13 provider's designee determines that there is reasonable cause to support the report, the education  
14 provider:

15        **(A) In the case of suspected child abuse,** shall place the school employee on paid adminis-  
16 trative leave; **or**

17        **(B) In the case of suspected sexual conduct,** may place the school employee on paid ad-  
18 ministrative leave or in a position that does not involve direct, unsupervised contact with  
19 children.

20        **(b) A school employee who is placed on paid administrative leave under paragraph (a)(A)**  
21 **of this subsection shall remain on administrative leave until [either]:**

22        [(a)] **(A)** The Department of Human Services or a law enforcement agency determines that the  
23 report [is unfounded] **cannot be substantiated** or that the report will not be pursued; or

24        [(b)] **(B)** The Department of Human Services or a law enforcement agency determines that the  
25 report is [founded] **substantiated** and the education provider takes the appropriate disciplinary  
26 action against the school employee.

27        (4) [If the Department of Human Services or a law enforcement agency is unable to determine,  
28 based on a report of suspected child abuse, whether child abuse occurred,] An education provider may  
29 reinstate a school employee placed on paid administrative leave **for suspected child abuse as**  
30 **provided** under subsection (3) of this section or may take the appropriate disciplinary action against  
31 the employee[.] **if the Department of Human Services or a law enforcement agency is unable**  
32 **to determine, based on a report of suspected child abuse, whether child abuse occurred.**

33        (5) **If, following an investigation, an education provider determines that the report of**  
34 **suspected child abuse or sexual conduct is a substantiated report, the education provider**  
35 **shall:**

36        (a) **Inform the school employee that the education provider has determined that the re-**  
37 **port has been substantiated.**

38        (b) **Provide the school employee with information about the appropriate appeal process**  
39 **for the determination made by the education provider. The appeal process may be the pro-**  
40 **cess provided by a collective bargaining agreement or a process administered by a neutral**  
41 **third party and paid for by the school district.**

42        (c) **Following notice of a school employee's decision not to appeal the determination or**  
43 **following the determination of an appeal that sustained the substantiated report, create a**  
44 **record of the substantiated report and place the record in the personnel file of the school**  
45 **employee. Records created pursuant to this paragraph are confidential and are not public**

1 records as defined in ORS 192.410. An education provider may use the record as a basis for  
2 providing the information required to be disclosed under section 8, chapter 93, Oregon Laws  
3 2009 (Enrolled House Bill 2062).

4 (d) Inform the school employee that information about substantiated reports may be  
5 disclosed to a potential employer as provided by subsection (7) of this section and section 8,  
6 chapter 93, Oregon Laws 2009 (Enrolled House Bill 2062).

7 [(5)] (6) Upon request from a law enforcement agency, the Department of Human Services or the  
8 Teacher Standards and Practices Commission, a school district shall provide the records of investi-  
9 gations of suspected child abuse by a school employee or former school employee.

10 [(6)(a)] (7)(a) The disciplinary records of a school employee or former school employee are not  
11 exempt from disclosure under ORS 192.501 or 192.502 if the employee or former school employee  
12 was:

13 (A) Convicted of a crime listed in ORS 342.143; or

14 (B) Found by the commission to have engaged in conduct with a student in grade 12 or below  
15 that would constitute a crime under ORS 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.408,  
16 163.411, 163.415, 163.425, 163.427, 163.432, 163.433, 163.435 or 163.445, regardless of any age require-  
17 ments related to the victim as provided by ORS 163.355, 163.365, 163.375, 163.385, 163.395, 163.405,  
18 163.408, 163.411, 163.415, 163.427, 163.432, 163.433, 163.435 or 163.445.

19 (b) Disciplinary records described in paragraph (a) of this subsection shall be disclosed as fol-  
20 lows:

21 (A) For a current school employee, the education provider that is the employer of the employee  
22 shall disclose the disciplinary records of the employee to any person upon request.

23 (B) For a former school employee, the education provider that was the employer of the former  
24 employee at the time of the commission of the crime or the conduct shall disclose the disciplinary  
25 records of the former employee to any person upon request.

26 [(7)] (8) Prior to disclosure of a disciplinary record under subsection [(6)] (7) of this section, an  
27 education provider shall remove any personally identifiable information from the record that would  
28 disclose the identity of a child, a crime victim or a school employee or former school employee who  
29 is not the subject of the disciplinary record.

30 **SECTION 3. If House Bill 2062 becomes law, the amendments to ORS 339.375 by section**  
31 **2 of this 2009 Act become operative July 1, 2010.**

32 **SECTION 4.** ORS 342.175 is amended to read:

33 342.175. (1) The Teacher Standards and Practices Commission may suspend or revoke the license  
34 or registration of a teacher or administrator, discipline a teacher or administrator or suspend or  
35 revoke the right of any person to apply for a license or registration if the person has held a license  
36 or registration at any time within five years prior to issuance of the notice of charges under ORS  
37 342.176 based on the following:

38 (a) Conviction of a crime not listed in ORS 342.143 (3);

39 (b) Gross neglect of duty;

40 (c) Any gross unfitness;

41 (d) Conviction of a crime for violating any law of this or any state or of the United States in-  
42 volving the illegal use, sale or possession of controlled substances;

43 (e) Any false statement knowingly made in an application for issuance, renewal or reinstatement  
44 of a license or registration; or

45 (f) Failure to comply with any condition of reinstatement under subsection (3) of this section or

1 any condition of probation under ORS 342.177 (3)(b).

2 (2) Notwithstanding ORS 670.280, the commission shall revoke any license or registration and  
3 shall revoke the right of any person to apply for a license or registration if the person has held a  
4 license or registration at any time within five years prior to issuance of the notice of charges under  
5 ORS 342.176 when the holder or *[person]* **applicant** has been:

6 (a) Convicted of any crime described in ORS 342.143 (3)[.]; **or**

7 (b) **Found by the commission to have engaged in conduct with a student in grade 12 or**  
8 **below that would constitute a crime under ORS 163.355, 163.365, 163.375, 163.385, 163.395,**  
9 **163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.432, 163.433, 163.435 or 163.445, regardless**  
10 **of any age requirements related to the victim as provided by ORS 163.355, 163.365, 163.375,**  
11 **163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.427, 163.432, 163.433, 163.435 or 163.445.**

12 (3) Except for *[convictions for crimes]* **the conviction for a crime listed in ORS 342.143 (3) or**  
13 **the finding by the commission of conduct described in subsection (2)(b) of this section** and  
14 subject to subsection (4) of this section, any person whose license or registration has been suspended  
15 or revoked or whose privilege to apply for a license or registration has been revoked may apply to  
16 the commission for reinstatement of the license or registration after one year from the date of the  
17 suspension or revocation. The commission may require an applicant for reinstatement to furnish  
18 evidence satisfactory to the commission of good moral character, mental and physical health and  
19 such other evidence as the commission may consider necessary to establish the applicant's fitness.  
20 The commission may impose a probationary period and such conditions as it considers necessary  
21 upon approving an application for reinstatement.

22 (4) The commission shall reconsider immediately a license or registration suspension or revoca-  
23 tion or the situation of a person whose privilege to apply for a license or registration has been re-  
24 voked, upon application therefor, when the license or registration suspension or revocation or the  
25 privilege revocation is based on a criminal conviction that is reversed on appeal.

26 (5) Violation of rules adopted by the commission relating to competent and ethical performance  
27 of professional duties shall be admissible as evidence of gross neglect of duty or gross unfitness.

28 (6) A copy of the record of conviction, certified to by the clerk of the court entering the con-  
29 viction, shall be conclusive evidence of a conviction described in this section.

30 **SECTION 5. If Senate Bill 47 becomes law, section 1, chapter \_\_, Oregon Laws 2009**  
31 **(Enrolled Senate Bill 47) (amending ORS 342.175), is repealed and ORS 342.175, as amended**  
32 **by section 4 of this 2009 Act, is amended to read:**

33 342.175. (1) The Teacher Standards and Practices Commission may suspend or revoke the license  
34 or registration of a teacher or administrator, discipline a teacher or administrator or suspend or  
35 revoke the right of any person to apply for a license or registration if the *[person]* **licensee, regis-**  
36 **trant or applicant** has held a license or registration at any time within five years prior to issuance  
37 of the notice of charges under ORS 342.176 based on the following:

38 (a) Conviction of a crime not listed in ORS 342.143 (3);

39 (b) Gross neglect of duty;

40 (c) Any gross unfitness;

41 (d) Conviction of a crime for violating any law of this or any state or of the United States in-  
42 volving the illegal use, sale or possession of controlled substances;

43 (e) Any false statement knowingly made in an application for issuance, renewal or reinstatement  
44 of a license or registration; or

45 (f) Failure to comply with any condition of reinstatement under subsection [(3)] (4) of this sec-

1 tion or any condition of probation under ORS 342.177 (3)(b).

2 **(2) If a person is enrolled in an approved teacher education institution or program under**  
3 **ORS 342.147, the commission may issue a public reprimand or suspend or revoke the right**  
4 **to apply for a license or registration based on the following:**

5 **(a) Conviction of a crime listed in ORS 342.143 (3) or a crime described by the commission**  
6 **by rule;**

7 **(b) Conviction of a crime for violating any law of this or any state or of the United States**  
8 **involving the illegal use, sale or possession of controlled substances; or**

9 **(c) Any conduct that may cause the commission to suspend or revoke the license or**  
10 **registration of a teacher.**

11 [(2)] **(3)** [Notwithstanding ORS 670.280,] The commission shall revoke any license or registration  
12 and shall revoke the right of any person to apply for a license or registration if the person has held  
13 a license or registration at any time [within five years prior to issuance of the notice of charges under  
14 ORS 342.176 when] **and** the holder or applicant has been:

15 (a) Convicted of any crime described in ORS 342.143 (3); or

16 (b) Found by the commission to have engaged in conduct with a student in grade 12 or below  
17 that would constitute a crime under ORS 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.408,  
18 163.411, 163.415, 163.425, 163.427, 163.432, 163.433, 163.435 or 163.445, regardless of any age require-  
19 ments related to the victim as provided by ORS 163.355, 163.365, 163.375, 163.385, 163.395, 163.405,  
20 163.408, 163.411, 163.415, 163.427, 163.432, 163.433, 163.435 or 163.445.

21 [(3)] **(4)** Except for the conviction for a crime listed in ORS 342.143 (3) or the finding by the  
22 commission of conduct described in subsection [(2)(b)] **(3)(b)** of this section and subject to subsection  
23 [(4)] **(5)** of this section, any person whose license or registration has been suspended or revoked or  
24 whose privilege to apply for a license or registration has been revoked may apply to the commission  
25 for reinstatement of the license or registration after one year from the date of the suspension or  
26 revocation. The commission may require an applicant for reinstatement to furnish evidence satis-  
27 factory to the commission of good moral character, mental and physical health and such other evi-  
28 dence as the commission may consider necessary to establish the applicant's fitness. The commission  
29 may impose a probationary period and such conditions as it considers necessary upon approving an  
30 application for reinstatement.

31 [(4)] **(5)** The commission shall reconsider immediately a license or registration suspension or  
32 revocation or the situation of a person whose privilege to apply for a license or registration has  
33 been revoked, upon application therefor, when the license or registration suspension or revocation  
34 or the privilege revocation is based on a criminal conviction that is reversed on appeal.

35 [(5)] **(6)** Violation of rules adopted by the commission relating to competent and ethical per-  
36 formance of professional duties shall be admissible as evidence of gross neglect of duty or gross  
37 unfitness.

38 [(6)] **(7)** A copy of the record of conviction, certified to by the clerk of the court entering the  
39 conviction, shall be conclusive evidence of a conviction described in this section.

40 **SECTION 6. If Senate Bill 47 becomes law, the amendments to ORS 342.175 by section 5**  
41 **of this 2009 Act become operative July 1, 2009.**

42 **SECTION 7. This 2009 Act being necessary for the immediate preservation of the public**  
43 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**  
44 **on its passage.**