

A-Engrossed
Senate Bill 48

Ordered by the Senate April 16
Including Senate Amendments dated April 16

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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.

[Provides that person is incapable of consenting to sexual act if person is student in grade 12 or below and other person involved in sexual act is school employee or person in position of authority over student.]

[Expands certain sexual offenses to include school employee or person in position of authority over student, regardless of age of student.]

Prohibits Teacher Standards and Practices Commission from licensing or registering person who engages in sexual conduct with student. Requires 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,
3 342.143 and 342.175; and declaring an emergency.

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

5 **SECTION 1.** ORS 342.143 is amended to read:

6 342.143. (1) No teaching, personnel service or administrative license shall be issued to any per-
7 son until the person has attained the age of 18 years and has furnished satisfactory evidence of
8 proper educational training.

9 (2) The Teacher Standards and Practices Commission may require an applicant for a teaching,
10 personnel service or administrative license or for registration as a public charter school teacher or
11 administrator to furnish evidence satisfactory to the commission of good moral character, mental
12 and physical health, and such other evidence as it may deem necessary to establish the applicant's
13 fitness to serve as a teacher or administrator.

14 (3) Without limiting the powers of the Teacher Standards and Practices Commission under sub-
15 section (2) of this section and notwithstanding ORS 670.280:

16 (a) No teaching, personnel service or administrative license or registration as a public charter
17 school teacher or administrator shall be issued to any person who:

18 (A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185, 163.235, 163.355,
19 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.432, 163.433,
20 163.435, 163.445, 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement Part),
21 163.680 (1993 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415, 166.005, 166.087,
22 167.007, 167.012, 167.017, 167.054, 167.057, 167.062, 167.075, 167.080, 167.090, 475.848, 475.852, 475.858,

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.

1 475.860, 475.862, 475.864 (4), 475.868, 475.872, 475.878, 475.880, 475.882, 475.888, 475.890, 475.892,
2 475.904 or 475.906;

3 (B) Has been convicted under ORS 161.405 of an attempt to commit any of the crimes listed in
4 subparagraph (A) of this paragraph; [or]

5 (C) Has been convicted in another jurisdiction of a crime that is substantially equivalent, as
6 defined by rule, to any of the crimes listed in subparagraphs (A) and (B) of this paragraph[.]; or

7 **(D) Has engaged in conduct with a student in grade 12 or below that, notwithstanding the**
8 **age requirements of ORS 163.355, 163.385, 163.408 or 163.415, would constitute a crime under**
9 **ORS 163.355, 163.385, 163.408 or 163.415.**

10 (b) The Teacher Standards and Practices Commission may refuse to issue a license or registra-
11 tion to any person who has been convicted of a crime involving the illegal use, sale or possession
12 of controlled substances.

13 (4) In denying the issuance of a license or registration under this section, the commission:

14 (a) Shall follow the procedure set forth in ORS 342.176 and 342.177.

15 **(b) May make the denial for conduct described in subsection (3)(a)(D) of this section only**
16 **upon making a finding based on the preponderance of the evidence.**

17 (5) The Department of Education shall provide school districts and public charter schools a copy
18 of the list contained in subsection (3) of this section.

19 **SECTION 2. The amendments to ORS 342.143 by section 1 of this 2009 Act apply to con-**
20 **duct occurring on or after the effective date of this 2009 Act.**

21 **SECTION 3.** ORS 339.375 is amended to read:

22 339.375. (1) Any school employee having reasonable cause to believe that any child with whom
23 the employee comes in contact has suffered abuse by another school employee, or that another
24 school employee with whom the employee comes in contact has abused a child, shall immediately
25 report the information to:

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

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

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

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

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

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

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

45 (5) Upon request from a law enforcement agency, the Department of Human Services or the

1 Teacher Standards and Practices Commission, a school district shall provide the records of investi-
2 gations of suspected child abuse by a school employee or former school employee.

3 *[(6) The disciplinary records of a school employee or former school employee convicted of a crime*
4 *listed in ORS 342.143 are not exempt from disclosure under ORS 192.501 or 192.502. If a school em-*
5 *ployee is convicted of a crime listed in ORS 342.143, the education provider that is the employer of the*
6 *employee shall disclose the disciplinary records of the employee to any person upon request. If a former*
7 *school employee is convicted of a crime listed in ORS 342.143, the education provider that was the*
8 *employer of the former employee when the crime was committed shall disclose the disciplinary records*
9 *of the former employee to any person upon request.]*

10 **(6) The disciplinary records of a school employee or former school employee convicted**
11 **of a crime listed in ORS 342.143 or found by the commission to have engaged in conduct that**
12 **would constitute a crime as provided in ORS 342.143 (3)(a)(D) are not exempt from disclosure**
13 **under ORS 192.501 or 192.502 and shall be disclosed as follows:**

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

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

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

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

24 342.175. (1) The Teacher Standards and Practices Commission may suspend or revoke the license
25 or registration of a teacher or administrator, discipline a teacher or administrator or suspend or
26 revoke the right of any person to apply for a license or registration if the person has held a license
27 or registration at any time within five years prior to issuance of the notice of charges under ORS
28 342.176 based on the following:

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

30 (b) Gross neglect of duty;

31 (c) Any gross unfitness;

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

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

36 (f) Failure to comply with any condition of reinstatement under subsection (3) of this section or
37 any condition of probation under ORS 342.177 (3)(b).

38 (2) Notwithstanding ORS 670.280, the commission shall revoke any license or registration and
39 shall revoke the right of any person to apply for a license or registration if the person has held a
40 license or registration at any time within five years prior to issuance of the notice of charges under
41 ORS 342.176 when the holder or person has been convicted of any crime described in ORS 342.143
42 **(3) or when the holder or person has engaged in conduct that would constitute a crime as**
43 **provided in ORS 342.143 (3)(a)(D). A revocation based on conduct described in ORS 342.143**
44 **(3)(a)(D) may be made only upon a finding of the commission based upon a preponderance**
45 **of the evidence.**

1 (3) Except for [*convictions for crimes*] **the conviction for a crime** listed in ORS 342.143 (3) or
2 **the finding by the commission of conduct that would constitute a crime as provided in ORS**
3 **342.143 (3)(a)(D)** and subject to subsection (4) of this section, any person whose license or regis-
4 tration has been suspended or revoked or whose privilege to apply for a license or registration has
5 been revoked may apply to the commission for reinstatement of the license or registration after one
6 year from the date of the suspension or revocation. The commission may require an applicant for
7 reinstatement to furnish evidence satisfactory to the commission of good moral character, mental
8 and physical health and such other evidence as the commission may consider necessary to establish
9 the applicant's fitness. The commission may impose a probationary period and such conditions as it
10 considers necessary upon approving an application for reinstatement.

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

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

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

19 **SECTION 5. This 2009 Act being necessary for the immediate preservation of the public**
20 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
21 **on its passage.**

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