

**SB 1540 A -A4, -A5, -A7, -A8 STAFF MEASURE SUMMARY**

**House Committee On Human Services and Housing**

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**Meeting Dates:** 2/20, 2/22

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**WHAT THE MEASURE DOES:**

Modifies the definition of "abuse" for purpose of mandatory reporting of child abuse to not include any sexual contact or intercourse between a child over age 12 and a person under 21 if: 1) the person is not three years older than the child, and 2) sexual contact is not the result of force, intimidation, or coercion; includes provisions related to child abuse investigations conducted on school premises; and modifies definitions of "adult", "community health program", and "sexual abuse" for the purposes of abuse reporting for adults with mental illness or development disabilities.

Modifies the definition of "abuse" for mandatory reporting of child abuse to not include any sexual contact or intercourse between a child over age 12 and a person under age 21 if: 1) the person is not three years older than the child, and 2) sexual contact is not the result of force, intimidation, or coercion.

Authorizes the Department of Human Services (DHS) or law enforcement agency to conduct abuse investigations on school premises. Requires DHS or law enforcement agency conducting the investigation to present adequate identification to school staff members. Requires school staff members to cooperate with investigation and, at a minimum, allow DHS or law enforcement agency conducting the investigation access to the child and a private space to interview the child. Prohibits school administrators and staff from notifying any person of the investigation, other than DHS, law enforcement, and school employees necessary to enable the investigation. Clarifies that information obtained during the investigation is not part of the child's school record.

Expands definition of "adult" within abuse reporting for adults with mental illness or developmental disabilities to include a person who is receiving mental health treatment in a community program, facility, or state hospital for treatment of substance abuse or mental illness. Includes in the definition of "community program" providers whose services are paid for, directly or indirectly, by the Oregon Health Authority. Clarifies the definition of "sexual abuse"

Declares emergency, effective upon passage.

*Fiscal Impact: Indeterminate*

*Revenue Impact: No impact*

*Senate Floor Vote: 16 Aye - 11 Nay - 3 excused*

**ISSUES DISCUSSED:**

**EFFECT OF AMENDMENT:**

-A4 Replaces the measure. Specifies requirements for Department of Human Services to improve management of child welfare services, improve recruitment and retention of foster parents, and address staffing issues. Makes changes to the Cigarette Tax Act to appropriate money to DHS to carry out specified requirements.

Establishes a floor tax imposed upon cigarette dealers at the rate of 15 mills for each cigarette in possession of or under the control of the dealer. Imposes a floor tax and cigarette adjustment indicia tax upon every distributor in the amount of 37.5 cents for specific Oregon cigarette tax stamps. Requires distributors to inventory all packages of cigarettes with affixed Oregon cigarette tax stamps and file a report with specified data to the Department of Revenue (DOR).

## SB 1540 A -A4, -A5, -A7, -A8 STAFF MEASURE SUMMARY

Establishes a tax to consumers on the retail sale of inhalant-form nicotine at 5 cents for containers with a volume of two milliliters or less. Imposes a 10 cent tax upon wholesalers of inhalant nicotine and inhalant delivery systems. Specifies collection and filing return requirements for taxes collected by inhalant wholesalers or nicotine retailers. Specifies procedures for failure to remit taxes collected to DOR. Specifies procedures for excess tax paid by nicotine retailer. Requires DOR to administer and enforce specified tax provisions. Appropriates money collected to DHS to carry out specified requirements.

Effective 91st day following sine die.

-A5 Creates new provisions to the measure.

Specifies requirements for Department of Human Services to improve management of child welfare services, improve recruitment and retention of foster parents, and address staffing issues. Makes changes to the Cigarette Tax Act to appropriate money to DHS to carry out specified requirements.

-A7 Changes the age for consensual sexual contact from 12 years of age to 14 years of age. Includes physicians and nurses within exemption from duty to report if communication by a person is privileged under state law.

-A8 Removes definition modifications for the term "abuse" for mandatory reporting of child abuse.

### **BACKGROUND:**

The Centers for Disease Control and Prevention estimates that 41 percent of U.S. high schoolers are sexually active. School district officials and teachers are required by Oregon's mandatory reporting law to report suspected child abuse and neglect, including non-consensual sex. An Oregon school district recently instructed teachers and staff to report child abuse for any sexual contact between students, understanding the mandatory reporting law to assert that children and youth under the age of 18 cannot consent to sexual activity. Senate Bill 1540-A modifies the mandatory reporting law for children by excluding from the definition of abuse consensual sexual contact between teenagers over the age of 12 and under the age of 21, unless there is a difference of three or more years in age.

During the 2017 Regular Session, Senate Bill 101 became law, which authorized child abuse investigations on school premises. The new provisions in this bill created some confusion among school district staff regarding the authority of agencies to conduct child abuse investigations. Senate Bill 1540-A clarifies that DHS and law enforcement agencies have the authority to conduct child abuse investigations on school premises. The measure requires school staff members to cooperate with investigations by allowing DHS or the law enforcement agency conducting the investigation access to the child and a private space to interview the child. Senate Bill 1540-A also prohibits school administrators and staff from notifying any person other than DHS, law enforcement, and school employees necessary to enable the investigation. The measure additionally clarifies that information obtained during the investigation is not part of the child's school record.

Adults receiving treatment for severe and persistent mental health illnesses and adults receiving treatment for substance use disorders do not have the same protections against adult abuse as do people with intellectual, developmental, or physical disabilities. Recent changes in Oregon's health care delivery system have left gaps in adult abuse protection laws, which currently cover some adults receiving treatment depending on where the treatment is delivered. Senate Bill 1540-A includes adults with persistent and severe mental illnesses and adults with substance use disorders who are receiving treatments funded by the Oregon Health Authority in the definitions of adults who are protected against abuse for the purpose of mandatory reporting and investigations. Senate Bill 1540-A also clarifies the definition of sexual abuse for the purpose of reporting and investigating adult abuse by including consensual sex between a recipient of mental health or substance abuse treatment and the provider of the treatment.