

SB 155 -1 STAFF MEASURE SUMMARY

Senate Committee On Education

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Sub-Referral To: Senate Committee On Judiciary

Meeting Dates: 2/4

WHAT THE MEASURE DOES:

Requires education providers to investigate all reports of abuse and sexual conduct by a school employee and to immediately provide all reports to TSPC. Establishes investigation procedures. Establishes prohibitions against current school employee assisting another school employee to find a new job if the person knows or has probable cause to believe the school employee engaged in abuse or sexual conduct. Prohibits education providers from entering into termination agreements that will impair or suppress information relating to reports or investigations of abuse or sexual conduct.

Requires Teacher Standards and Practices Commission (TSPC) to immediately investigate reports suspected abuse or sexual conduct by a school employee. Requires TSPC to complete the investigation within 90 days, unless an extension is necessary for good cause. Establishes investigation and hearing procedures for these reports. Establishes confidentiality rules for investigation materials. Allows TSPC to adopt rules to impose penalties of up to \$1,000 per violation if education provider does not cooperate with investigation. Directs TSPC to establish a database of substantiated reports and make this database available to education providers.

Requires TSPC to establish a registry for all nonlicensed school personnel who have direct, unsupervised access to students. Directs school districts to require school personnel who supervise students to be registered or have completed a recent background check under ORS 326.603 or 326.607. Requires school employees employed by more than one education provider to be registered. Permits TSPC to deny registration based on background check. Authorizes TSPC to adopt rules to establish requirements for registry. Makes the registration valid for three years, and renewable upon application.

Defines students as prek-12 students, students under the age of 21 who receive education services, or students previously known by a school employee and who left school within 90 days of the sexual conduct. Expands definition of school employee to include contractors, agents and volunteers who have direct, unsupervised access to students. Expands definition of sexual conduct to include electronic communication. Removes requirement that sexual conduct unreasonably interfere with school performance and create a hostile school environment. Defines substantiated reports of abuse or sexual conduct to include reports that an education provider, law enforcement agency, DHS or TSPC reasonably believe are founded. Removes requirement that reports be sufficiently serious to be documented in a personnel file or student record.

Requires school boards to provide employees and students with a policy and training on appropriate electronic communications. Adds members of school board or public charter school governing bodies to list of mandatory reporters for suspected abuse or sexual conduct. Requires DHS or law enforcement to notify TSPC if they receive a report of child abuse that involves a school employee and permits law enforcement to share related records and reports. Declares an emergency, effective July 1, 2019.

ISSUES DISCUSSED:

This summary has not been adopted or officially endorsed by action of the committee.

EFFECT OF AMENDMENT:

-1 Clarifies good cause includes investigations pending in another forum. Replaces term "designated person" with "licensed administrator" for purposes of district reporting policies. Replaces the term "immediately" with "30 days" for purposes of reporting. Removes requirement that TSPC establish registry for unlicensed personnel. Requires districts to report any substantiated reports of abuse or sexual conduct involving classified staff, contractors, volunteers, and vendors to TSPC. Permits TSPC to impose a civil penalty on an education provider or their agent for failure to report. Requires TSPC to maintain a database of all reports of abuse and sexual conduct, investigation finding, and any commission actions. Allows TSPC to adopt rules for process and parameters for reporting and allowing education providers access to online database. Requires districts to check TSPC report database before hiring. Revises the definition of sexual conduct to align with the TSPC regulatory definition. Exempts certain job duties from definition of sexual conduct, if there is no sexual intent. Requires a nationwide background check for unlicensed school employees, contractors or agents who have direct, unsupervised contact with students. Requires an Oregon background check for volunteers who have direct, unsupervised contact with students. Requires school districts to conduct a nationwide background check on unlicensed school personnel, contractors, agents or volunteers who are under investigation for sexual conduct or abuse. Clarifies that nothing in the act establishes an employment relationship or confers employment rights to contractors, agents and volunteers.

BACKGROUND:

School districts employ approximately 68,000 teachers, administrators, specialists and support staff during a school year. Under Oregon law, the responsibility to report and investigate allegations of abuse and sexual conduct by school employees is shared by school districts, school employees, licensing boards, the Department of Human Services (DHS) and law enforcement. As mandatory reporters, school employees are required to report suspected cases of child abuse by any person to DHS or law enforcement. School districts must require school employees to report suspected abuse and sexual conduct by another school employee to the school district's "designated person" and to DHS or law enforcement. School districts are required to place employees on administrative leave for reports of abuse and administrative leave or in non-supervisory positions for reports of sexual conduct until DHS or law enforcement has made a determination on the report. Law enforcement investigates criminal activity involving child abuse, and DHS receives and investigates reports of child abuse. In addition, DHS must notify Teacher Standards and Practices Commission (TSPC) if a teacher or school administrator is identified as an alleged perpetrator in a child abuse report. However, DHS does not investigate reports of child abuse that occur by third parties, such as school personnel and coaches, if the perpetrator no longer has access to the child and the parents are willing to keep the child safe. TSPC is responsible for disciplining, suspending, or revoking licenses, registrations or certificates for teachers, administrators, school counselors, school social workers, school psychiatrists and school nurses. TSPC must investigate all reports of sexual conduct or abuse involving TSPC licensed personnel that it receives from the public or school districts. TSPC does not have the authority to investigate allegations involving non-licensed school personnel. In addition to Oregon law, the federal Every Student Succeeds Act (ESSA) prohibits school districts, the Oregon Department of Education, school employees, contractors, or agents from assisting individuals investigated for sexual misconduct from obtaining a new job unless certain reporting requirements are met. At this time, Oregon law is not fully aligned with the federal law.