

SB 912 A STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Action Date: 04/09/19

Action: Do pass with amendments. Refer to Ways and Means by prior reference. (Printed A-Eng).

Vote: 7-0-0-0

Yeas: 7 - Bentz, Fagan, Gelser, Linthicum, Manning Jr, Prozanski, Thatcher

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: Channa Newell, Counsel

Meeting Dates: 4/5, 4/9

WHAT THE MEASURE DOES:

Requires school board to adopt policy requiring school employees to report abuse or sexual conduct by a school employee against a student or by a student against another student. Allows private right of action and statutory damage of \$1,000 if school employee failed to report required sexual conduct and school employee should have reasonably known that employee or other student engaged in sexual conduct and the school employee who failed to make report could not be disciplined by the Teacher Standards and Practices Commission. Allows attorney fees for prevailing plaintiff. Requires school official designated to receive reports of sexual conduct to keep record of reports received and disclose such information in claim. Requires Department of Education to evaluate number of background checks performed in private schools in prior ten years. Requires report on percentage of reports that indicated person had engaged in sexual conduct towards a child and the percentage of background checks relating to sexual conduct that were requested by private school and public schools. Require report to Legislative Assembly no later than September 15, 2020. Declares emergency, takes effect July 1, 2019.

ISSUES DISCUSSED:

- Sexual abuse and sexual harassment of students not reported or acted upon
- Need for accountability for school employees beyond disciplinary reach of Teacher Standards and Practices Commission
- Definition of sexual conduct

EFFECT OF AMENDMENT:

Adds private right of action and statutory damage of \$1,000 if school employee failed to report required sexual conduct and school employee should have reasonably known that employee or other student engaged in sexual conduct and the school employee who failed to make report could not be disciplined by the Teacher Standards and Practices Commission. Allows attorney fees for prevailing plaintiff. Requires school official designated to receive reports of sexual conduct to keep record of reports received and disclose such information in claim. Requires Department of Education to evaluate number of background checks performed in private schools in prior ten years. Requires report on percentage of reports that indicated person had engaged in sexual conduct towards a child and the percentage of background checks relating to sexual conduct that were requested by private school and public schools. Requires report to Legislative Assembly no later than September 15, 2020. Removes reports to professional licensing boards. Declares emergency, takes effect July 1, 2019.

BACKGROUND:

Each school board in Oregon is required to have policies that outline its response to sexual conduct by teachers. ORS 339.372. Policies must require all school employees who have reasonable cause to believe that another school employee has engaged in sexual conduct or abuse, or that a student has abused another student, to report the suspected abuse or sexual conduct to the Department of Human Services (DHS) or law enforcement. The

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school employee must also report to a designated person within the organization. Sexual conduct is currently defined as verbal or physical conduct by a school employee that is sexual in nature, directed at a student, has the effect of unreasonably interfering with the student's academic performance, and creates an intimidating to hostile environment; sexual conduct is not abuse.

Senate Bill 912 A requires reporting of student-to-student sexual conduct and allows a lawsuit with statutory damages against school employees who failed to report, as required, if the school employee is not subject to discipline by the Teacher Standards and Practices Commission. Additionally, SB 912 A requires the Department of Education to report to the Legislative Assembly on the number of background checks conducted by private schools in the last ten years and the percentage of such reports that indicated the person had engaged in sexual conduct.