

Requested by JOINT COMMITTEE ON WAYS AND MEANS

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 912**

1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” delete the
2 rest of the line and line 3 and insert “339.396; and declaring an
3 emergency.”.

4 Delete lines 5 through 17 and delete pages 2 through 6 and insert:

5 **“SECTION 1. Section 2 of this 2019 Act is added to and made a part**
6 **of ORS 339.370 to 339.396.**

7 **“SECTION 2. (1) As used in this section, ‘student nonconsensual**
8 **sexual conduct’ means:**

9 **“(a) Conduct that constitutes teen dating violence, as that term is**
10 **defined in ORS 339.366; or**

11 **“(b) Any verbal or physical conduct or verbal, written or electronic**
12 **communications by a student that:**

13 **“(A) Is sexual in nature;**

14 **“(B) Involves another student; and**

15 **“(C) Has the effect of unreasonably interfering with the other**
16 **student’s educational performance or of creating an intimidating,**
17 **hostile or offensive educational environment.**

18 **“(2) A private school must adopt policies on the reporting of sus-**
19 **pected student nonconsensual sexual conduct. The policies shall:**

20 **“(a) Specify that student nonconsensual sexual conduct is not tol-**
21 **erated.**

1 **“(b) Specify that all school employees and students of the private**
2 **school are subject to the policies.**

3 **“(c) Require all school employees who have reasonable cause to**
4 **believe that a student has engaged in student nonconsensual sexual**
5 **conduct to report:**

6 **“(A) To the administrator designated as provided by paragraph (d)**
7 **of this subsection all incidents of suspected student nonconsensual**
8 **sexual conduct; and**

9 **“(B) To a law enforcement agency, the Department of Human Ser-**
10 **vices or a designee of the department as required by ORS 419B.010 and**
11 **419B.015 all incidents of student nonconsensual sexual conduct that**
12 **may constitute abuse, in addition to any report made as required un-**
13 **der subparagraph (A) of this paragraph.**

14 **“(d) Designate an administrator to receive reports of suspected**
15 **student nonconsensual sexual conduct and specify the procedures to**
16 **be followed by the administrator upon receipt of a report.**

17 **“(e) Specify the procedures to be followed after a report of sus-**
18 **pected student nonconsensual sexual conduct is received, including**
19 **providing notification that:**

20 **“(A) All suspected student nonconsensual sexual conduct that may**
21 **constitute abuse will be reported to a law enforcement agency, the**
22 **Department of Human Services or a designee of the department for**
23 **investigation;**

24 **“(B) The private school will conduct an investigation of all reports**
25 **not investigated as provided by subparagraph (A) of this paragraph and**
26 **may conduct an investigation of reports investigated as provided by**
27 **subparagraph (A) of this paragraph; and**

28 **“(C) The private school will take necessary actions to ensure a**
29 **student’s safety after a report is received.**

30 **“(f) Require the posting in each school building of:**

1 “(A) The name and contact information for the administrator des-
2 igned to receive reports of suspected student nonconsensual sexual
3 conduct and the procedures the administrator will follow upon receipt
4 of a report; and

5 “(B) The contact information for making a report to a law
6 enforcement agency, the Department of Human Services or a designee
7 of the department as required by ORS 419B.010 and 419B.015 and a
8 statement that the duty to report conduct that may constitute abuse
9 is in addition to any requirement to make a report to an administra-
10 tor.

11 “(g) Specify that the initiation of a report in good faith about sus-
12 pected student nonconsensual sexual conduct may not adversely affect
13 any terms or conditions of employment or the work environment of
14 the person who initiated the report.

15 “(h) Specify that the private school or any school employee will not
16 discipline a student for the initiation of a report in good faith about
17 suspected student nonconsensual sexual conduct.

18 “(i) Require notification, as allowed by state and federal law, by the
19 private school to the person who was subjected to the suspected stu-
20 dent nonconsensual sexual conduct about any actions taken by the
21 private school based on the report.

22 “(j) Require the private school to furnish to a school employee at
23 the time of hire a description of conduct that may constitute student
24 nonconsensual sexual conduct.

25 “(k) Specify and make available to students and school employees
26 a policy of appropriate electronic communications.

27 “(3) The policies adopted under subsection (2) of this section must,
28 to the greatest extent practicable, align with the requirements of ORS
29 339.372 and 339.388.

30 “SECTION 3. ORS 339.396 is amended to read:

1 **“339.396. (1) Except as provided in subsections (2) and (3) of this**
2 **section, nothing in ORS 339.370 to 339.400 creates a new public or private**
3 **cause of action or precludes an existing cause of action.**

4 **“(2)(a) A student at a private school, or the parent or guardian of**
5 **a student at a private school, may bring a civil action and recover**
6 **damages for the greater of \$1,000 or the total amount for special and**
7 **general damages, including damages for emotional distress, if:**

8 **“(A) A school employee at a private school who is required to make**
9 **a report under ORS 339.388 (1)(b) fails to make the report; and**

10 **“(B) The student is subjected to conduct for which a report is re-**
11 **quired under ORS 339.388 (1)(b) and the conduct:**

12 **“(i) Is by another school employee at the private school about whom**
13 **the school employee should have had a reasonable cause to believe had**
14 **previously engaged in conduct for which a report is required under**
15 **ORS 339.388 (1)(b); and**

16 **“(ii) Occurred after the school employee should have had a reason-**
17 **able cause to believe that the other school employee had previously**
18 **engaged in conduct for which a report is required under ORS 339.338**
19 **(1)(b).**

20 **“(b) A court may award reasonable attorney fees to the prevailing**
21 **plaintiff in an action under this subsection.**

22 **“(3)(a) A student at a private school, or the parent or guardian of**
23 **a student at a private school, may bring a civil action and recover**
24 **damages for the greater of \$1,000 or the total amount for special and**
25 **general damages, including damages for emotional distress, if:**

26 **“(A) A school employee at a private school who is required to make**
27 **a report under ORS 339.388 (1)(b) or section 2 of this 2019 Act fails to**
28 **make the report; and**

29 **“(B) The student is subjected to conduct for which a report is re-**
30 **quired under ORS 339.388 (1)(b) or section 2 of the 2019 Act and the**

1 **conduct:**

2 “(i) Is by another student at the private school about whom the
3 school employee should have had a reasonable cause to believe had
4 previously engaged in conduct for which a report is required under
5 ORS 339.388 (1)(b) or section 2 of this 2019 Act; and

6 “(ii) Occurred after the school employee should have had a reason-
7 able cause to believe that the other student had engaged in the con-
8 duct.

9 “(b) A court may award reasonable attorney fees to the prevailing
10 plaintiff in an action under this subsection.

11 **“SECTION 4.** The amendments to ORS 339.396 by section 3 of this
12 2019 Act apply to causes of action arising on or after the effective date
13 of this 2019 Act.

14 **“SECTION 5.** (1) The Department of Education shall evaluate
15 criminal records checks that were made under ORS 326.603 by the de-
16 partment from January 1, 2009, until January 1, 2019, for the purpose
17 of determining:

18 “(a) Which private schools, as defined in ORS 339.370, requested a
19 criminal records check; and

20 “(b) The number of criminal records checks requested by each
21 school identified under paragraph (a) of this subsection.

22 “(2) The department shall report the results of the evaluation, and
23 may include recommendations for legislation, to an interim committee
24 of the Legislative Assembly related to education no later than Sep-
25 tember 15, 2020.

26 **“SECTION 6.** This 2019 Act being necessary for the immediate
27 preservation of the public peace, health and safety, an emergency is
28 declared to exist, and this 2019 Act takes effect July 1, 2019.”.

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