

## **SB 155 -7, -8 STAFF MEASURE SUMMARY**

### **Senate Committee On Education**

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**Sub-Referral To:** Senate Committee On Judiciary

**Meeting Dates:** 2/4, 3/25

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#### **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 new job if the person knows or has probable cause to believe the school employee engaged in abuse or sexual conduct. Requires education provider to notify employees of the prohibition. 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 and makes other personnel record changes.

Requires school boards to provide employees, volunteers, agents, contractors training on preventing, identifying, and reporting abuse and sexual conduct and appropriate electronic communications with students. 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:**

- Current process for investigating abuse and sexual conduct involving school personnel
- Need to coordinate investigations among school districts, licensing agencies, law enforcement and Department of Human Services (DHS)
- Minimizing the impact of investigations on the alleged victims
- Portland Public School's new policy manual and training materials
- Small and rural schools' capacity to conduct investigations
- Issues related to including volunteers in the legislation
- Benefits and costs of expanded background checks
- School districts' responsibility to investigate reports of abuse and sexual conduct
- DHS reports of suspected abuse that involve school personnel and the "closed at screening" practice
- Licensed administrators' role in receiving and investigating reports
- Timeliness of investigations
- Definition of sexual conduct

**EFFECT OF AMENDMENT:**

-7 Eliminates provisions related to Teacher Standards and Practices investigation timelines and procedures. Defines agent, contractor, and volunteer as person working for an education provider and who has direct, unsupervised contact with students. Removes agent, contractor, and volunteer from definition of school employee. Excludes Oregon Youth Authority (OYA), Department of Corrections (DOC), and ODE from definition of education provider. Provides exception if ODE is functioning as school district. Modifies definition of school board. Removes conduct that is considered abuse from definition of sexual conduct. Exempts certain job duties from definition of sexual conduct, if there is no sexual intent.

Requires school employees to report suspected sexual abuse or conduct by another school employee, agent, contract, or volunteer to the designated, licensed administrator. Requires education provider to follow investigation procedures, as specified. Clarifies that, for reports of abuse, an education provider may only remove an employee from administrative leave if DHS or law enforcement has substantiated the report and the education provider has taken appropriate disciplinary action or DHS or law enforcement determines that the report cannot be substantiated or is not abuse. Clarifies that, for reports of sexual conduct, the education provider may only remove an employee from administrative leave if the education provider takes appropriate disciplinary action or the report cannot be substantiated or is not sexual conduct. Prohibits requiring employees to use accrued leave during paid administrative leave.

Requires education provider to investigate all reports of abuse and sexual conduct. Requires investigation even if school employee changes or leaves position. Permits education provider to suspend investigation at the request of DHS, law enforcement, or TSPC. Requires education provider to make a final determination on a report of abuse or sexual conduct within 60 calendar days of receiving initial report. Provides exception for good cause, including request to suspend investigation by DHS, law enforcement, or TSPC. Prohibits disclosing information that may result in self-incrimination.

Permits education provider to immediately dismiss contractor, agent, or volunteer who is subject to a report of abuse or sexual conduct. Requires education provider to prohibit contractor, agent or volunteer from providing services if report is supported. Prohibits reinstatement, as specified. Clarifies that nothing in the act establishes an employment relationship or confers employment rights to contractors, agents, or volunteers.

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Provides that failure to disclose required, applicant information within 20 days may be considered gross neglect of duty. Provides that unlawfully assisting people who engage in abuse or sexual conduct to obtain new jobs shall be considered gross neglect of duty.

Removes provisions related to mandatory reporting laws.

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Permits education provider to immediately dismiss contractor, agent, or volunteer who is subject to a report of abuse or sexual conduct. Requires education provider to prohibit contractor, agent or volunteer from providing services if report is supported. Prohibits reinstatement, as specified. Clarifies that nothing in the act establishes an employment relationship or confers employment rights to contractors, agents, or volunteers.

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### 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

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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 until DHS or law enforcement has made a determination on the report. For reports of sexual conduct, school districts may place an employee on administrative leave or in positions that do not involve direct, unsupervised contact with children. 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.