

## SENATE AMENDMENTS TO SENATE BILL 912

By COMMITTEE ON JUDICIARY

April 22

1 On page 1 of the printed bill, delete line 3 and insert “339.372, 339.388 and 339.396; and declaring  
2 an emergency.”.

3 On page 3, line 29, after “shall” insert a colon and begin a new paragraph and insert “(a) Make  
4 a record of all reports received under subsection (1) of this section and make the record available  
5 if a claim is brought under ORS 339.396; and

6 “(b)”.

7 On page 5, delete lines 2 through 45 and delete pages 6 and 7 and insert:

8 **“SECTION 6. The amendments to ORS 339.388 by section 5 of this 2019 Act apply to re-**  
9 **ports made on or after the effective date of this 2019 Act.**

10 **“SECTION 7. ORS 339.396 is amended to read:**

11 **“339.396. (1) Except as provided in subsections (2) and (3) of this section, nothing in ORS**  
12 **339.370 to 339.400 creates a new public or private cause of action or precludes an existing cause**  
13 **of action.**

14 **“(2)(a) A student, or the parent or guardian of a student, may bring a civil action and**  
15 **recover damages for the greater of \$1,000 or the total amount for special and general dam-**  
16 **ages, including damages for emotional distress, if:**

17 **“(A) A school employee required to make a report of suspected sexual conduct fails to**  
18 **make the report as required by ORS 339.388 (1)(b);**

19 **“(B) The student is subjected to sexual conduct by another school employee about whom**  
20 **the school employee should have had a reasonable cause to believe has engaged in sexual**  
21 **conduct;**

22 **“(C) The sexual conduct described in subparagraph (B) of this paragraph occurred after**  
23 **the school employee should have had a reasonable cause to believe that the other school**  
24 **employee had engaged in sexual conduct; and**

25 **“(D) The school employee who failed to make the report cannot be subjected to discipline**  
26 **by the Teacher Standards and Practices Commission for failure to make a report.**

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

29 **“(3)(a) A student, or the parent or guardian of a student, may bring a civil action and**  
30 **recover damages for the greater of \$1,000 or the total amount for special and general dam-**  
31 **ages, including damages for emotional distress, if:**

32 **“(A) A school employee required to make a report of suspected sexual conduct fails to**  
33 **make the report as required by ORS 339.388 (1)(b);**

34 **“(B) The student is subjected to sexual conduct by another student about whom the**  
35 **school employee should have had a reasonable cause to believe has engaged in sexual con-**

1 duct;

2 “(C) The sexual conduct described in subparagraph (B) of this paragraph occurred after  
3 the school employee should have had a reasonable cause to believe that the other student  
4 had engaged in sexual conduct; and

5 “(D) The school employee who failed to make the report cannot be subjected to discipline  
6 by the Teacher Standards and Practices Commission for failure to make a report.

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

9 “SECTION 8. (1) The Department of Education shall evaluate criminal records checks  
10 that were made under ORS 326.603 by the department from 2009-2019 and that were made at  
11 the request of private schools. The evaluation shall include a determination of the percentage  
12 of the total number of criminal records checks requested by private schools that indicated  
13 a person being checked engaged in sexual conduct toward a child.

14 “(2) The department shall report the results of the evaluation, and may include recom-  
15 mendations for legislation, to an interim committee of the Legislative Assembly related to  
16 education no later than September 15, 2020.

17 “SECTION 9. Section 8 of this 2019 Act is repealed on December 31, 2020.

18 “SECTION 10. This 2019 Act being necessary for the immediate preservation of the public  
19 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect  
20 July 1, 2019.”

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