

# B-Engrossed Senate Bill 197

Ordered by the House June 1  
Including Senate Amendments dated April 30 and House Amendments  
dated June 1

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Extends applicability of education policies related to teen dating violence, domestic violence and sexual harassment to private schools.

Authorizes person to bring action for injunction compelling private school to comply with certain laws related to sexual conduct or related to abuse of children. Establishes private cause of action if private school does not comply with court order compelling compliance.

## A BILL FOR AN ACT

1  
2 Relating to lawsuits; creating new provisions; and amending ORS 339.366, 339.368 and 342.704.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) A person may bring an action for an injunction compelling a private**  
5 **school to comply with the provisions of any of the following laws:**

6 (a) **ORS 339.366 and 339.368 (policies on teen dating violence and domestic violence);**

7 (b) **ORS 339.370 to 339.400 (reporting of suspected abuse and suspected sexual conduct);**

8 (c) **ORS 342.704 (policy on sexual harassment); and**

9 (d) **ORS 419B.005 to 419B.050 (reports on child abuse).**

10 (2) **A court may enter an order compelling compliance and may prescribe the require-**  
11 **ments and timelines for satisfaction of the order. When a court enters an order under this**  
12 **subsection, the court may award reasonable attorney fees and costs to the prevailing**  
13 **plaintiff.**

14 (3) **If a private school does not satisfy an order entered as provided by subsection (2) of**  
15 **this section, a student, or the parent or guardian of a student, may bring a civil action and**  
16 **recover damages for the greater of \$1,000 or the total amount for special and general dam-**  
17 **ages, including damages for emotional distress. A court may award reasonable attorney fees**  
18 **and costs to the prevailing plaintiff in an action under this subsection.**

19 **SECTION 2. ORS 339.366 is amended to read:**

20 **339.366. (1) As used in this section:**

21 (a) **“Dating” or “dating relationship” means an ongoing social relationship of a romantic or in-**  
22 **timiate nature between two persons. “Dating” or “dating relationship” does not include a casual re-**  
23 **lationship or ordinary fraternization between two persons in a business or social context.**

24 (b) **“Domestic violence” means abuse as defined in ORS 107.705 between family and household**  
25 **members, as those terms are defined in ORS 107.705.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (c) "Teen dating violence" means:

2 (A) A pattern of behavior in which a person uses or threatens to use physical, mental or emo-  
3 tional abuse to control another person who is in a dating relationship with the person, where one  
4 or both persons are 13 to 19 years of age; or

5 (B) Behavior by which a person uses or threatens to use sexual violence against another person  
6 who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age.

7 (2) Each school district board **or private school** shall adopt a policy that **contains the fol-**  
8 **lowing:**

9 (a) States that teen dating violence is unacceptable and is prohibited and that each student has  
10 the right to a safe learning environment[;].

11 (b) Incorporates age-appropriate education about teen dating violence and domestic violence into  
12 new or existing training programs for students in grades 7 through 12 and school employees as re-  
13 commended by the school officials identified under paragraph (d) of this subsection[;].

14 (c) Establishes procedures for the manner in which employees of a school are to respond to in-  
15 cidents of teen dating violence that take place at the school, on school grounds, at school-sponsored  
16 activities or in vehicles used for school-provided transportation[;].

17 (d) Identifies by job title the school officials who are responsible for receiving reports related  
18 to teen dating violence[, *which*]. **For public schools, the school officials identified under this**  
19 **paragraph** shall be the same school officials identified in the policy adopted by a school district  
20 under ORS 339.356[; *and*].

21 (e) Notifies students and parents of the teen dating violence and domestic violence policies  
22 adopted by the board **or school**.

23 (3) **Except for private schools**, the policy adopted under subsection (2) of this section must be  
24 included in and consistent with the policy adopted by a school district under ORS 339.356.

25 **SECTION 3.** ORS 339.368 is amended to read:

26 339.368. (1) The Department of Education shall provide school districts **and, upon request,**  
27 **private schools** with posters containing information in both English and Spanish regarding domestic  
28 violence and at least one toll-free hotline telephone number that a student may call to obtain in-  
29 formation and help regarding domestic violence.

30 (2) **A private school may choose to not request posters under subsection (1) of this sec-**  
31 **tion. If a private school chooses to not request posters under subsection (1) of this section,**  
32 **the private school must create or use posters that:**

33 (a) **Are written in plain language that is easy to understand;**

34 (b) **Include at least one toll-free hotline telephone number that a student may call to**  
35 **obtain information and help regarding domestic violence; and**

36 (c) **Use print that is of a color, size and font that allows the poster to be easily read.**

37 [(2)] (3) Each school district board **and private school** shall adopt policies that require posting  
38 of the posters in clearly visible locations on school campuses. **The policies adopted by the school**  
39 **district board must be** in accordance with rules adopted by the [*department*] **State Board of Ed-**  
40 **ucation.**

41 [(3)] (4) The [*department*] **State Board of Education** shall adopt rules to implement the pro-  
42 visions of this section **in relation to school districts.**

43 **SECTION 4.** ORS 342.704 is amended to read:

44 342.704. (1) As used in this section, "district" includes a school district, an education service  
45 district and a public charter school.

1 (2)(a) The State Board of Education shall adopt by rule minimum requirements for district pol-  
2 icies on:

3 (A) Sexual harassment of students by staff members and other students.

4 (B) **Sexual harassment of staff members by students and other staff members.**

5 (C) **Sexual harassment of persons described in subsection (5)(b) of this section by staff**  
6 **members and students.**

7 (b) **A private school shall adopt policies on:**

8 (A) **Sexual harassment of students by staff members and other students.**

9 (B) **Sexual harassment of staff members by students and other staff members.**

10 (C) **Sexual harassment of persons described in subsection (5)(b) of this section by staff**  
11 **members and students.**

12 (c) **Rules adopted by the State Board of Education and policies adopted by private schools**  
13 **must comply with the requirements of this section.**

14 (3) A [*district policy must include, but not be limited to,*] **policy on sexual harassment of stu-**  
15  **dents by staff members and other students must include** requirements that:

16 (a) All staff members and students are subject to the policies.

17 (b) Sexual harassment of students includes:

18 (A) A demand or request for sexual favors in exchange for benefits;

19 (B) Unwelcome conduct of a sexual nature that is physical, verbal or nonverbal and that inter-  
20 feres with a student's educational program or activity or that creates an intimidating, offensive or  
21 hostile educational environment; and

22 (C) Assault when sexual contact occurs without a student's consent because the student is under  
23 the influence of drugs or alcohol, is unconscious or is pressured through physical force, coercion  
24 or explicit or implied threats.

25 (c) When a student or, if applicable, the student's parents file a complaint alleging behavior that  
26 may violate the policy, the student or student's parents shall receive a written notification as de-  
27 scribed in subsection [(5)] (6) of this section.

28 (d) When a staff member becomes aware of behavior that may violate the policy, the staff  
29 member shall report to [*a district official*] **an official of the district or private school** so that the  
30 [*district*] official and the staff member may coordinate efforts to take any action necessary to ensure  
31 the student is protected and to promote a nonhostile learning environment, including:

32 (A) Providing resources for support measures to the student; and

33 (B) Taking any actions that are necessary to remove potential future impact on the student, but  
34 that are not retaliatory against the student or the staff member who reported to the [*district*] official  
35 **of the district or private school.**

36 (e) All complaints about behavior that may violate the policy shall be investigated.

37 (f) The initiation of a complaint, and the participation in an investigation, in good faith about  
38 behavior that may violate the policy may not adversely affect the educational assignments or any  
39 terms or conditions of employment or of work or educational environment of the person who initi-  
40 ated the complaint or who participated in the investigation.

41 (g) The person who initiated the complaint and, if applicable, the student's parents shall be no-  
42 tified:

43 (A) When the investigation is initiated and concluded; and

44 (B) As to whether a violation of the policy was found to have occurred, to the extent allowable  
45 under state and federal student confidentiality laws.

1        [(3)] (4) [*The State Board of Education shall adopt by rule minimum requirements for district*  
2 *policies*] **A policy** on sexual harassment of staff members by students and other staff members[. A  
3 *district policy must include, but not be limited to,*] **must include** requirements that:

4        (a) All staff members and students are subject to the policies.

5        (b) Sexual harassment of staff members includes:

6        (A) A demand or request for sexual favors in exchange for benefits;

7        (B) Unwelcome conduct of a sexual nature that is physical, verbal or nonverbal and that inter-  
8 feres with a staff member's ability to perform the job or that creates an intimidating, offensive or  
9 hostile work environment; and

10       (C) Assault when sexual contact occurs without a staff member's consent because the staff  
11 member is under the influence of drugs or alcohol, is unconscious or is pressured through physical  
12 force, coercion or explicit or implied threats.

13       (c) When a staff member files a complaint alleging behavior that may violate the policy, the staff  
14 member shall receive a written notification as described in subsection [(5)] (6) of this section.

15       (d) When another staff member becomes aware of behavior that may violate the policy, the other  
16 staff member shall report to [*a district official*] **an official of the district or private school** so that  
17 the [*district*] official may take any action necessary to ensure the staff member is protected and to  
18 promote a nonhostile work environment, including:

19       (A) Providing resources for support measures to the staff member; and

20       (B) Taking any actions that are necessary to remove potential future impact on the staff mem-  
21 ber, but that are not retaliatory against the staff member or the other staff member who reported  
22 to the [*district*] official **of the district or private school**.

23       (e) All complaints about behavior that may violate the policy shall be investigated.

24       (f) The initiation of a complaint, and the participation in an investigation, in good faith about  
25 behavior that may violate the policy may not adversely affect the educational assignments or any  
26 terms or conditions of employment or of work or educational environment of the person who initi-  
27 ated the complaint or participated in the investigation.

28       (g) The person who initiated the complaint shall be notified:

29       (A) When the investigation is initiated and concluded; and

30       (B) As to whether a violation of the policy was found to have occurred, to the extent allowable  
31 under state and federal student confidentiality laws.

32       [(4)] (5) [*The State Board of Education shall adopt by rule minimum requirements for district*  
33 *policies*] **A policy** on sexual harassment of persons described in paragraph (b) of this subsection by  
34 staff members and students[. A *district policy must include, but not be limited to,*] **must include** re-  
35 quirements that:

36       (a) All staff members and students are subject to the policies.

37       (b) The policies apply to persons who:

38       (A) Are on or immediately adjacent to school grounds or **school or** district property;

39       (B) Are at any school-sponsored or district-sponsored activity or program; or

40       (C) Are off school or district property, if a student or staff member acts toward the person in  
41 a manner that creates a hostile environment for the person while at school or a school-sponsored  
42 or district-sponsored activity or program.

43       (c) Sexual harassment of persons described in paragraph (b) of this subsection includes:

44       (A) A demand or request for sexual favors in exchange for benefits;

45       (B) Unwelcome conduct of a sexual nature that is physical, verbal or nonverbal and that creates

1 an intimidating, offensive or hostile environment; and

2 (C) Assault when sexual contact occurs without a person's consent because the person is under  
3 the influence of drugs or alcohol, is unconscious or is pressured through physical force, coercion  
4 or explicit or implied threats.

5 (d) When a person who may have been subjected to behavior in violation of the policy or, if  
6 applicable, the person's parents file a complaint alleging behavior that may violate the policy, the  
7 person or person's parents shall receive a written notification as described in subsection [(5)] **(6)**  
8 of this section.

9 (e) When a staff member becomes aware of behavior that may violate the policy, the staff  
10 member shall report to [*a district official*] **an official of the district or private school** so that the  
11 [*district*] official and the staff member may coordinate efforts to take any action necessary to ensure  
12 the person who was subjected to the behavior is protected and to promote a nonhostile environment,  
13 including:

14 (A) Providing resources for support measures to the person who was subjected to the behavior;  
15 and

16 (B) Taking any actions that are necessary to remove potential future impact on the person, but  
17 that are not retaliatory against the person or the staff member who reported to the [*district*] official  
18 **of the district or private school.**

19 (f) All complaints about behavior that may violate the policy shall be investigated.

20 (g) The initiation of a complaint, and the participation in an investigation, in good faith about  
21 behavior that may violate the policy may not adversely affect the educational assignments or any  
22 terms or conditions of employment or of work or educational environment of the person who initi-  
23 ated the complaint or who participated in the investigation.

24 (h) The person who initiated the complaint and, if applicable, the person's parents shall be no-  
25 tified:

26 (A) When the investigation is initiated and concluded; and

27 (B) As to whether a violation of the policy was found to have occurred, to the extent allowable  
28 under state and federal student confidentiality laws.

29 [(5)(a)] **(6)(a)** The written notification required under subsections [(2)(c), (3)(c) and (4)(d)] **(3)(c),**  
30 **(4)(c) and (5)(d)** of this section must set forth:

31 (A) The rights of the student, student's parents, staff member, person or person's parents who  
32 filed the complaint.

33 (B) Information about the internal complaint processes available through the school or district  
34 that the student, student's parents, staff member, person or person's parents who filed the complaint  
35 may pursue, including the person designated for the school or district for receiving complaints.

36 (C) Notice that civil and criminal remedies that are not provided by the school or district may  
37 be available to the student, student's parents, staff member, person or person's parents through the  
38 legal system and that those remedies may be subject to statutes of limitation.

39 (D) Information about services available to the student or staff member through the school or  
40 district, including any counseling services, nursing services or peer advising.

41 (E) Information about the privacy rights of the student, staff member or person and legally re-  
42 cognized exceptions to those rights for internal complaint processes and services available through  
43 the school or district.

44 (F) Information about, and contact information for, state and community-based services and re-  
45 sources that are available to persons who have experienced sexual harassment.

1 (G) Notice that students who report information about possible prohibited conduct and students  
2 who participate in an investigation under a policy adopted as provided by this section may not be  
3 disciplined for violations of the district's drug and alcohol policies that occurred in connection with  
4 the reported prohibited conduct and that were discovered as a result of a prohibited conduct report  
5 or investigation unless the student gave another person alcohol or drugs without the person's  
6 knowledge and with the intent of causing the person to become incapacitated and vulnerable to the  
7 prohibited conduct.

8 (b) The written notification required by this subsection must:

9 (A) Be written in plain language that is easy to understand;

10 (B) Use print that is of a color, size and font that allow the notification to be easily read; and

11 (C) Be made available to students, students' parents, staff members and members of the public  
12 at each school office, at the district office and on the website of the school or district.

13