

SB 197-1
(LC 1001)
4/6/21 (HRL/ps)

Requested by SENATE COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

**PROPOSED AMENDMENTS TO
SENATE BILL 197**

1 On page 1 of the printed bill, line 2, delete “and declaring an
2 emergency” and insert “creating new provisions; and amending ORS 339.366,
3 339.368 and 342.704”.

4 Delete lines 4 through 10 and insert:

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

8 **“(a) ORS 339.366 and 339.368 (policies on teen dating violence and**
9 **domestic violence);**

10 **“(b) ORS 339.370 to 339.400 (reporting of suspected abuse and sus-**
11 **pected sexual conduct);**

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

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

14 **“(2) A court may enter an order compelling compliance and may**
15 **prescribe the requirements and timelines for satisfaction of the order.**
16 **When a court enters an order under this subsection, the court may**
17 **award reasonable attorney fees and costs to the prevailing plaintiff.**

18 **“(3) If a private school does not satisfy an order entered as provided**
19 **by subsection (2) of this section, a student, or the parent or guardian**
20 **of a student, may bring a civil action and recover damages for the**
21 **greater of \$1,000 or the total amount for special and general damages,**

1 **including damages for emotional distress. A court may award reason-**
2 **able attorney fees and costs to the prevailing plaintiff in an action**
3 **under this subsection.**

4 **“SECTION 2.** ORS 339.366 is amended to read:

5 “339.366. (1) As used in this section:

6 “(a) ‘Dating’ or ‘dating relationship’ means an ongoing social relationship
7 of a romantic or intimate nature between two persons. ‘Dating’ or ‘dating
8 relationship’ does not include a casual relationship or ordinary
9 fraternization between two persons in a business or social context.

10 “(b) ‘Domestic violence’ means abuse as defined in ORS 107.705 between
11 family and household members, as those terms are defined in ORS 107.705.

12 “(c) ‘Teen dating violence’ means:

13 “(A) A pattern of behavior in which a person uses or threatens to use
14 physical, mental or emotional abuse to control another person who is in a
15 dating relationship with the person, where one or both persons are 13 to 19
16 years of age; or

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

20 “(2) Each school district board **or private school** shall adopt a policy
21 that **contains the following**:

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

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

28 “(c) Establishes procedures for the manner in which employees of a school
29 are to respond to incidents of teen dating violence that take place at the
30 school, on school grounds, at school-sponsored activities or in vehicles used

1 for school-provided transportation[;].

2 “(d) Identifies by job title the school officials who are responsible for re-
3 ceiving reports related to teen dating violence[, *which*]. **For public schools,**
4 **the school officials identified under this paragraph** shall be the same
5 school officials identified in the policy adopted by a school district under
6 ORS 339.356[; *and*].

7 “(e) Notifies students and parents of the teen dating violence and domes-
8 tic violence policies adopted by the board **or school**.

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

12 “**SECTION 3.** ORS 339.368 is amended to read:

13 “339.368. (1) The Department of Education shall provide school districts
14 **and private schools** with posters containing information in both English
15 and Spanish regarding domestic violence and at least one toll-free hotline
16 telephone number that a student may call to obtain information and help
17 regarding domestic violence.

18 “(2) Each school district board **and private school** shall adopt policies
19 that require posting of the posters in clearly visible locations on school
20 campuses. **The policies adopted by the school district board must be** in
21 accordance with rules adopted by the [*department*] **State Board of Educa-**
22 **tion.**

23 “(3) The [*department*] **State Board of Education** shall adopt rules to
24 implement the provisions of this section.

25 “**SECTION 4.** ORS 342.704 is amended to read:

26 “342.704. (1) As used in this section, ‘district’ includes a school district,
27 an education service district and a public charter school.

28 “(2)(a) The State Board of Education shall adopt by rule minimum re-
29 quirements for district policies on:

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

1 **“(B) Sexual harassment of staff members by students and other**
2 **staff members.**

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

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

6 **“(A) Sexual harassment of students by staff members and other**
7 **students.**

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

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

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

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

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

19 “(b) Sexual harassment of students includes:

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

21 “(B) Unwelcome conduct of a sexual nature that is physical, verbal or
22 nonverbal and that interferes with a student’s educational program or ac-
23 tivity or that creates an intimidating, offensive or hostile educational envi-
24 ronment; and

25 “(C) Assault when sexual contact occurs without a student’s consent be-
26 cause the student is under the influence of drugs or alcohol, is unconscious
27 or is pressured through physical force, coercion or explicit or implied
28 threats.

29 “(c) When a student or, if applicable, the student’s parents file a com-
30 plaint alleging behavior that may violate the policy, the student or student’s

1 parents shall receive a written notification as described in subsection [(5)]
2 **(6)** of this section.

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

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

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

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

15 “(f) The initiation of a complaint, and the participation in an investi-
16 gation, in good faith about behavior that may violate the policy may not
17 adversely affect the educational assignments or any terms or conditions of
18 employment or of work or educational environment of the person who initi-
19 ated the complaint or who participated in the investigation.

20 “(g) The person who initiated the complaint and, if applicable, the
21 student’s parents shall be notified:

22 “(A) When the investigation is initiated and concluded; and

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

25 “[3] **(4)** [*The State Board of Education shall adopt by rule minimum re-*
26 *quirements for district policies*] **A policy** on sexual harassment of staff
27 members by students and other staff members[. *A district policy must in-*
28 *clude, but not be limited to,*] **must include** requirements that:

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

30 “(b) Sexual harassment of staff members includes:

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

2 “(B) Unwelcome conduct of a sexual nature that is physical, verbal or
3 nonverbal and that interferes with a staff member’s ability to perform the job
4 or that creates an intimidating, offensive or hostile work environment; and

5 “(C) Assault when sexual contact occurs without a staff member’s consent
6 because the staff member is under the influence of drugs or alcohol, is un-
7 conscious or is pressured through physical force, coercion or explicit or im-
8 plied threats.

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

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

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

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

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

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

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

30 “(A) When the investigation is initiated and concluded; and

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

3 “[~~(4)~~] (5) [*The State Board of Education shall adopt by rule minimum re-*
4 *quirements for district policies*] **A policy** on sexual harassment of persons
5 described in paragraph (b) of this subsection by staff members and
6 students[. *A district policy must include, but not be limited to,*] **must include**
7 requirements that:

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

9 “(b) The policies apply to persons who:

10 “(A) Are on or immediately adjacent to school grounds or **school or dis-**
11 **trict** property;

12 “(B) Are at any school-sponsored or district-sponsored activity or pro-
13 gram; or

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

18 “(c) Sexual harassment of persons described in paragraph (b) of this sub-
19 section includes:

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

21 “(B) Unwelcome conduct of a sexual nature that is physical, verbal or
22 nonverbal and that creates an intimidating, offensive or hostile environment;
23 and

24 “(C) Assault when sexual contact occurs without a person’s consent be-
25 cause the person is under the influence of drugs or alcohol, is unconscious
26 or is pressured through physical force, coercion or explicit or implied
27 threats.

28 “(d) When a person who may have been subjected to behavior in violation
29 of the policy or, if applicable, the person’s parents file a complaint alleging
30 behavior that may violate the policy, the person or person’s parents shall

1 receive a written notification as described in subsection [(5)] **(6)** of this sec-
2 tion.

3 “(e) When a staff member becomes aware of behavior that may violate the
4 policy, the staff member shall report to [*a district official*] **an official of the**
5 **district or private school** so that the [*district*] official and the staff member
6 may coordinate efforts to take any action necessary to ensure the person who
7 was subjected to the behavior is protected and to promote a nonhostile en-
8 vironment, including:

9 “(A) Providing resources for support measures to the person who was
10 subjected to the behavior; and

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

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

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

22 “(h) The person who initiated the complaint and, if applicable, the
23 person’s parents shall be notified:

24 “(A) When the investigation is initiated and concluded; and

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

27 “[*(5)(a)*] **(6)(a)** The written notification required under subsections [(*2*)(*c*),
28 (*3*)(*c*) and (*4*)(*d*)] **(3)(c), (4)(c) and (5)(d)** of this section must set forth:

29 “(A) The rights of the student, student’s parents, staff member, person or
30 person’s parents who filed the complaint.

1 “(B) Information about the internal complaint processes available through
2 the school or district that the student, student’s parents, staff member, per-
3 son or person’s parents who filed the complaint may pursue, including the
4 person designated for the school or district for receiving complaints.

5 “(C) Notice that civil and criminal remedies that are not provided by the
6 school or district may be available to the student, student’s parents, staff
7 member, person or person’s parents through the legal system and that those
8 remedies may be subject to statutes of limitation.

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

12 “(E) Information about the privacy rights of the student, staff member or
13 person and legally recognized exceptions to those rights for internal com-
14 plaint processes and services available through the school or district.

15 “(F) Information about, and contact information for, state and
16 community-based services and resources that are available to persons who
17 have experienced sexual harassment.

18 “(G) Notice that students who report information about possible prohib-
19 ited conduct and students who participate in an investigation under a policy
20 adopted as provided by this section may not be disciplined for violations of
21 the district’s drug and alcohol policies that occurred in connection with the
22 reported prohibited conduct and that were discovered as a result of a pro-
23 hibited conduct report or investigation unless the student gave another per-
24 son alcohol or drugs without the person’s knowledge and with the intent of
25 causing the person to become incapacitated and vulnerable to the prohibited
26 conduct.

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

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

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

