

Senate Bill 1572

Sponsored by Senators WAGNER, GELSER BLOUIN; Representative KROPP (at the request of Oregon Attorney General's Sexual Assault Task Force) (Pre-session filed.)

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 **as introduced**.

Requires institutions of higher education in Oregon to adopt specified policies to combat sexual harassment, dating violence, domestic violence, sexual assault or stalking.

Requires institutions to biennially conduct campus climate surveys in specified manner to analyze sexual harassment, dating violence, domestic violence, sexual assault or stalking. Requires data from survey to be placed on website of institution.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to higher education; creating new provisions; amending ORS 350.253; and declaring an
3 emergency.

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

5 **SECTION 1. As used in this section, ORS 350.253 and sections 3 and 4 of this 2022 Act:**

6 (1) **“Anti-oppression,” “culturally responsive,” “gender-responsive” and “trauma-**
7 **informed” shall be defined by each institution of higher education in consultation with the**
8 **recognized student government of the institution.**

9 (2) **“Awareness programs” means programs that:**

10 (a)(A) **Are available to any individual who is either enrolled at or employed by the insti-**
11 **tution of higher education; or**

12 (B) **Are targeted toward a specific group of individuals either enrolled at or employed by**
13 **the institution of higher education;**

14 (b) **Increase knowledge of the prevalence and dynamics of sexual harassment, dating vi-**
15 **olence, domestic violence, sexual assault or stalking; and**

16 (c) **Distribute information and resources to prevent violence, promote safety and reduce**
17 **the perpetration of violence.**

18 (3) **“Bystander intervention” means safe and positive options that could be carried out**
19 **by an individual or individuals to prevent harm or intervene when there is a risk of sexual**
20 **harassment, dating violence, domestic violence, sexual assault or stalking and includes:**

21 (a) **Recognizing and identifying situations that may serve as a precursor to sexual**
22 **harassment, dating violence, domestic violence, sexual assault or stalking;**

23 (b) **Understanding institutional structures and cultural conditions that facilitate violence;**

24 (c) **Overcoming personal barriers to intervening;**

25 (d) **Identifying safe and effective intervention options; and**

26 (e) **Taking action to intervene.**

27 (4) **“Institution of higher education” means:**

28 (a) **A public university listed in ORS 352.002;**

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 (b) Oregon Health and Science University;

2 (c) A community college operated under ORS chapter 341; or

3 (d) An Oregon-based private university or college.

4 (5) "Prevention programs" means programs, strategies or initiatives that:

5 (a) Are intended to stop sexual harassment, dating violence, domestic violence, sexual
6 assault and stalking before they occur;

7 (b) Promote positive and healthy behaviors that foster healthy, mutually respectful re-
8 lationships and sexuality;

9 (c) Increase an individual's skills to prevent violence;

10 (d) Address the societal and cultural foundations that allow violence to occur in com-
11 munities;

12 (e) Encourage safe bystander intervention; and

13 (f) Seek to positively change behavior and social norms in healthy and safe directions.

14 (6) "Student status" means the certificate or degree program in which a student is en-
15 rolled at the institution of higher education, including a certificate, an associate degree, a
16 bachelor's degree, a master's degree or a doctoral degree.

17 (7) "Supportive measures" means nondisciplinary and nonpunitive individualized services
18 that are:

19 (a) Offered as appropriate, as reasonably available and without any fee or charge to the
20 parties; and

21 (b) Designed to restore or preserve equal access to the party's education program or
22 activity, protect the safety of parties or deter behavior prohibited by law or by the institu-
23 tion.

24 **SECTION 2.** ORS 350.253 is amended to read:

25 350.253. (1) In addition to the written protocol adopted under ORS 350.255, each institution of
26 higher education shall adopt written policies concerning sexual harassment, sexual assault, domestic
27 violence, dating violence and stalking that occur both on and off campus.

28 (2) Written policies adopted under this section must include:

29 (a) **Provisions clarifying that the institution of higher education is required to offer par-**
30 **ties appropriate supportive measures when sexual harassment, sexual assault, domestic vi-**
31 **olence, dating violence or stalking is reported. Supportive measures required under this**
32 **paragraph must be offered even if a reporting party does not wish to initiate or participate**
33 **in a grievance process.**

34 [(a)] (b) The adoption of the **following** definition of sexual harassment: "Sexual harassment is
35 unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances,
36 requests for sexual favors, or other verbal, nonverbal or physical conduct of a sexual nature where
37 such conduct is sufficiently severe or pervasive that it has the effect, intended or unintended, of
38 unreasonably interfering with an individual's work or academic performance or it has created an
39 intimidating, hostile or offensive environment and would have such an effect on a reasonable
40 person."

41 (c) **The adoption of the following definition of consent: "Consent is a knowing, voluntary**
42 **and mutual decision among all participants to engage in sexual activity. Consent can be given**
43 **by words or actions, as long as those words or actions create clear permission regarding**
44 **willingness to engage in the sexual activity. Silence or lack of resistance, by itself, does not**
45 **demonstrate consent. Consent does not vary based upon a participant's sex, sexual orien-**

1 **tation, gender identity or gender expression. Consent to any sexual act or prior consensual**
 2 **sexual activity between or with any party does not constitute consent to any other sexual**
 3 **act. Consent may be initially given but withdrawn at any time.”**

4 [(b)] (d) Procedures to address sexual harassment.

5 [(c)] (e) Provisions clarifying that the institution of higher education is required to conduct an
 6 initial inquiry, or to make contact with named parties, whenever a designated responsible employee
 7 has actual knowledge, or in the exercise of reasonable care should know, that possible sexual
 8 harassment, sexual assault, domestic violence, dating violence or stalking has occurred.

9 **(f) Provisions clarifying that the institution of higher education is required to provide:**

10 **(A) Introductory prevention programs and awareness programs for all incoming students**
 11 **and new employees; and**

12 **(B) Continuing prevention programs and awareness programs for all enrolled students**
 13 **and current employees.**

14 **(g) Provisions clarifying that the institution of higher education is required to assess the**
 15 **impact of sexual harassment, sexual assault, domestic violence, dating violence and stalking**
 16 **at least once during every two-year period.**

17 [(d)] (h) A jurisdictional statement explaining that the institution will analyze and may have an
 18 obligation to respond to any complaint received by the institution, regardless of whether the inci-
 19 dent occurred on the campus of the institution or elsewhere, that relates to:

20 (A) Sexual harassment;

21 (B) Sexual assault;

22 (C) Domestic violence;

23 (D) Dating violence; or

24 (E) Stalking.

25 (3) Written policies adopted under subsection (2) of this section must:

26 (a) Be written in plain language;

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

28 (c) Be made available to students:

29 (A) When sexual harassment, sexual assault, domestic violence, dating violence or stalking is
 30 reported;

31 (B) During student orientation; and

32 (C) On the Internet website of the institution of higher education.

33 (4) In addition to the written policies adopted under subsection (2) of this section, each institu-
 34 tion of higher education shall require that all Title IX coordinators, hearing officers, process advi-
 35 sors, institution investigators, third-party contracted investigators, campus security officers and any
 36 other individual who works at the institution who may be required to assist in conducting an in-
 37 vestigation that is subject to Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 to
 38 1688, as amended, participate in annual training. The training required by this subsection must in-
 39 clude:

40 (a) The relevant definitions and dynamics of sexual harassment, sexual assault, domestic vi-
 41 olence, dating violence and stalking;

42 (b) The prevalence of sexual harassment, sexual assault, domestic violence, dating violence and
 43 stalking both overall and, to the extent relevant data exists, within the educational and employment
 44 contexts;

45 (c) Trauma-informed best practices for how to serve reporting and responding students, including

1 utilizing trauma-informed principles of support or student-centered frameworks;

2 (d) Best practices for addressing bias and increasing accessibility for students through the use
3 of an anti-oppression framework; and

4 (e) For investigators, how to conduct effective interviews, including best practices for inter-
5 viewing sexual assault survivors.

6 (5) In addition to containing the material described in subsection (4) of this section, training
7 plans and materials required by this section shall:

8 (a) Include principles related to providing trauma-informed and culturally responsive processes,
9 procedures and victim services;

10 (b) Be gender-responsive, but not reliant on gender stereotypes; and

11 (c) Recognize and account for the unique needs of individuals who identify as lesbian, gay,
12 bisexual, transgender, gender nonconforming or gender nonbinary.

13 *[(6) As used in this section:]*

14 *[(a) “Anti-oppression,” “culturally responsive,” “gender-responsive” and “trauma-informed” shall*
15 *be defined by each institution of higher education in consultation with the recognized student govern-*
16 *ment of the institution.]*

17 *[(b) “Institution of higher education” means:]*

18 *[(A) A public university listed in ORS 352.002;]*

19 *[(B) Oregon Health and Science University;]*

20 *[(C) A community college operated under ORS chapter 341; or]*

21 *[(D) An Oregon-based private university or college.]*

22 **SECTION 3. (1) In addition to the written protocol adopted under ORS 350.255 and the**
23 **written policies adopted under ORS 350.253, each institution of higher education shall pro-**
24 **vide:**

25 **(a) Introductory prevention programs and awareness programs for all incoming students**
26 **and new employees; and**

27 **(b) Continuing prevention programs and awareness programs for all enrolled students**
28 **and current employees.**

29 **(2) Prevention programs and awareness programs required under this section must:**

30 **(a) Be culturally relevant;**

31 **(b) Be inclusive of diverse communities and identities;**

32 **(c) Be sustainable in a manner that allows the programs to continue to benefit campus**
33 **communities;**

34 **(d) Be responsive to community needs;**

35 **(e) Be informed by the campus climate survey data collected by the institution of higher**
36 **education under section 4 of this 2022 Act;**

37 **(f) Be informed by research and current best practices;**

38 **(g) Include principles related to providing trauma-informed and culturally responsive ed-**
39 **ucation;**

40 **(h) Be informed by stakeholders representative of the student body, staff and faculty at**
41 **the institution of higher education;**

42 **(i) Be gender-responsive in a manner that does not rely on gender stereotypes;**

43 **(j) Recognize and account for the unique needs of individuals who identify as lesbian, gay,**
44 **bisexual, transgender, gender nonconforming or gender nonbinary;**

45 **(k) Be reviewed for effectiveness and relevance to the institution of higher education on**

1 an annual basis, by a committee that is composed of institutional stakeholders including:

2 (A) Students at the institution of higher education;

3 (B) Staff at the institution of higher education who are tasked with coordinating and fa-
4 cilitating prevention programs on behalf of the institution;

5 (C) The Title IX coordinator at the institution of higher education;

6 (D) Faculty at the institution of higher education; and

7 (E) Other stakeholders as determined by the institution of higher education; and

8 (L) Be published on the Internet website of the institution of higher education in a
9 manner that includes:

10 (A) The comprehensive violence prevention plan of the institution of higher education for
11 the academic year, comprising the prevention programs, awareness programs and written
12 policies of the institution;

13 (B) A list of student organizations and stakeholder groups that informed the development
14 of the comprehensive violence prevention plan described in subparagraph (A) of this para-
15 graph; and

16 (C) The contact information for departments responsible for contributing to violence
17 prevention strategies at the institution of higher education, including the facilitation, plan-
18 ning and evaluation of prevention programs and awareness programs.

19 **SECTION 4.** (1) At least once during every two-year period, each institution of higher
20 education shall conduct a campus climate survey.

21 (2) Each campus climate survey conducted under this section shall:

22 (a) Assess a statistically representative sample of students enrolled at the institution of
23 higher education on the basis of:

24 (A) Age;

25 (B) Gender identity;

26 (C) Sexual orientation;

27 (D) Race; and

28 (E) Student status;

29 (b) Limit the type of information solicited from enrolled students to information that can
30 be collected and aggregated on an anonymous basis;

31 (c) Be collected in a manner that allows for publication of the aggregate survey data in
32 its entirety;

33 (d) Incorporate a survey design based on recognized current best practices, including
34 trauma-informed survey design and administration; and

35 (e) Incorporate questions that measure the effect of sexual harassment, sexual assault,
36 dating violence, domestic violence and stalking, including questions that assess:

37 (A) Victimization;

38 (B) Perpetration;

39 (C) Usage of campus resources, such as Title IX reporting structures, confidential advo-
40 cates and campus safety;

41 (D) Willingness of enrolled students to utilize campus resources; and

42 (E) Barriers to accessing campus resources.

43 (3) Within 60 calendar days of completing each campus climate survey required under
44 this section, each institution of higher education shall make publicly available on the Inter-
45 net website of the institution:

- 1 **(a) Each question contained in the campus climate survey; and**
- 2 **(b) The aggregate responses to each question contained in the campus climate survey.**

3 **SECTION 5. Sections 1, 3 and 4 of this 2022 Act and the amendments to ORS 350.253 by**
4 **section 2 of this 2022 Act first apply to the 2022-2023 academic year.**

5 **SECTION 6. This 2022 Act being necessary for the immediate preservation of the public**
6 **peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect**
7 **on its passage.**

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