

## HB 4164 -3 STAFF MEASURE SUMMARY

### House Committee On Higher Education

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**Prepared By:** Ellen O'Brien, LPRO Analyst

**Meeting Dates:** 2/8

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#### WHAT THE MEASURE DOES:

The measure modifies the provisions adopted in House Bill 3456 (2023). It defines students seeking to enroll. It requires members of the Sexual Misconduct Survey Council to receive reimbursement. It permits the Sexual Misconduct Council to identify and distribute an existing federal survey that the council determines is substantively similar. It prohibits publishing data that contains 10 or fewer reports of sexual misconduct at an institution. It clarifies that certified advocates are eligible to receive tuition benefits. It removes the requirement that an advocacy agency assist in developing an institution's policies and programs. It modifies the requirement for institutions to distribute contact information for certified advocates. It clarifies eligibility for waivers for academic requirements and limits the employees who can grant them. It aligns definitions of sexual misconduct and modifies annual reporting requirements. It extends the date of the Sexual Misconduct Council's first base survey to the start of the 2025-26 academic year. The measure declares an emergency and is effective on passage.

*REVENUE: May have revenue impact, but no statement yet issued.*

*FISCAL: May have fiscal impact, but no statement yet issued.*

#### Detailed Summary:

**Section 1:** Modifies the definition of "student" by removing individuals who are seeking to enroll and including any student who has contacted an institution requesting information on admissions. Modifies the definition of "trauma-informed response" to include an understanding of sexual assault and related trauma, and to remove an understanding of perpetration methodology.

**Section 2:** Requires members of the Sexual Misconduct Survey Council to be reimbursed for expenses related to their official duties.

**Section 3:** Removes requirement that institutions offer the sexual misconduct survey to students on a leave of absence. Requires institutions to offer the survey to students who have been enrolled at the institution within the last academic year. Exempts the Sexual Misconduct Survey Council from developing a survey under ORS 350.337 if it instead identifies an existing federal survey that is substantively similar.

**Section 4:** Permits institutions to substitute a survey developed under ORS 350.337 with a substantively similar survey approved by the Sexual Misconduct Survey Council and distributed in accordance with the federal survey requirements.

**Section 5:** Prohibits the Higher Education Coordinating Commission from publishing data if an institution received 10 or fewer reports of sexual misconduct.

**Section 6:** Clarifies that a certified advocate, who may not be a student of the institution, remains eligible to receive tuition benefits as an employee.

**Section 7:** Removes the requirement that a community-based domestic and sexual violence advocacy agency who has entered into a memorandum of understanding with an institution assist in developing that institution's policies and programming. Retains the requirement that the advocacy agency assist in developing training

*This summary has not been adopted or officially endorsed by action of the committee.*

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regarding sexual misconduct.

**Section 8:** Replaces the requirement that the sexual misconduct prevention and awareness training administered by an institution include the name, contact information, and role of a certified advocate. Requires the training to instead include contact information for the office charged with handling complaints and information on how to reach a certified advocate confidentially.

**Section 9:** Specifies that waivers for the academic requirements of institution-sponsored programs or activities are available for participants who have experienced sexual misconduct, specifically while enrolled at the institution. Limits the employees who may grant such a waiver to a certified advocate or Title IX coordinator at the institution. Replaces the term "required accommodations" with "supportive measures."

**Section 10:** Aligns the definition of sexual misconduct in ORS 350.345 with the definition given in ORS 350.335. Removes the requirement that institutions report the number of students who took a leave of absence, transferred, or withdrew within the last academic year. Requires institutions to report the number of students or employees who reported sexual misconduct but chose not to pursue an investigation. Requires institutions to report the number of ongoing investigations into an accusation of sexual misconduct. Prohibits the publication of a report from an institution that received 10 or fewer reports of sexual misconduct.

**Section 11:** Extends the deadline for the Sexual Misconduct Survey Council to develop a survey to the start of the 2025-2026 academic year.

**Section 12:** Declares an emergency, effective on passage.

### ISSUES DISCUSSED:

#### EFFECT OF AMENDMENT:

-3 The amendment replaces the measure. It modifies the provisions adopted in House Bill 3456 (2023).

#### Detailed Summary:

**Section 1:** Removes individuals who are seeking to enroll from the definition of "student." Specifies that the definition of "student" includes individuals who have taken a leave of absence within the past two academic years. Modifies the definition of "trauma-informed response" to include an understanding of sexual assault and related trauma, and to remove an understanding of perpetration methodology.

**Section 2:** Removes requirement that institutions offer the sexual misconduct survey to students on a leave of absence. Requires institutions to offer the survey to students who have been enrolled at the institution within the last academic year.

**Section 3:** Creates an annual process by which institutions can receive a waiver for the requirement to employ at least one certified advocate. Permits a certified advocate to be a graduate students at the institution. Clarifies that a certified advocate remains eligible to receive tuition benefits as an employee.

**Section 4:** Removes the requirement that a community-based domestic and sexual violence advocacy agency who has entered into a memorandum of understanding with an institution assist in developing that institution's policies and programming. Retains the requirement that the advocacy agency assist in developing training regarding sexual misconduct. Requires institutions to apply annually to renew a waiver for the requirement to enter a memorandum of understanding with a community-based domestic and sexual violence advocacy agency.

**Section 5:** Requires the sexual misconduct prevention and awareness training administered by an institution to include, to the best of its ability, the name, contact information, and role of a certified advocate. In addition,

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requires the training to include contact information for the office charged with handling complaints and information on how to reach a certified advocate confidentially.

**Section 6:** Specifies that waivers for the academic requirements of institution-sponsored programs or activities are available for participants who have experienced sexual misconduct, specifically while enrolled at the institution. Limits the employees who may grant such a waiver to a certified advocate or Title IX coordinator at the institution.

**Section 7:** Aligns the definition of sexual misconduct in ORS 350.345 with the definition given in ORS 350.335. Requires institutions to report the number of students or employees who reported sexual misconduct but chose not to pursue an investigation. Requires institutions to report the number of ongoing investigations into an accusation of sexual misconduct.

**Section 8:** Extends the deadline for the Sexual Misconduct Survey Council to develop a survey to the start of the 2025-2026 academic year.

**Section 9:** Declares an emergency, effective on passage.

### BACKGROUND:

[House Bill 3456 \(2023\)](#) created a Sexual Misconduct Survey Council to develop a standard statewide sexual misconduct climate survey. It also implemented specific requirements for how institutions of higher education should address sexual misconduct on campus, including collecting and reporting certain data, providing prevention and awareness training to students and employees, and offering certain services to students who report experiencing sexual misconduct. The requirements, codified in ORS 350.335 to 350.346, are in addition to provisions passed in [Senate Bill 759 \(2015\)](#) and [House Bill 3415 \(2019\)](#) that require institutions of higher education to adopt a written protocol and written policies concerning sexual violence and misconduct. Requirements for those policies and protocols are codified in ORS 350.253 and ORS 350.255.

As of 2023, six other states, including New Hampshire, Massachusetts, Connecticut, Illinois, Nevada, and Maine, have passed laws to create a statewide sexual misconduct climate survey. While some laws were limited to creating a climate survey, other states also enacted some elements of House Bill 3456 (2023). Nevada Senate Bill 347 (2021), for example, authorized the state's Board of Regents to require institutions to adopt sexual misconduct policies and enter into a memorandum of understanding with service providers.

The federal [Violence Against Women Act \(VAWA\) Reauthorization Act of 2022](#), among other provisions, required the Secretary of Education to develop a standardized survey to collect information on student experiences of sexual violence and misconduct in higher education. In 2023, the [U.S. Department of Justice](#) awarded a \$899,825 grant for the purposes of designing and testing this survey tool.