

HB 4164 A STAFF MEASURE SUMMARY

Senate Committee On Education

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Meeting Dates: 2/22, 2/27

WHAT THE MEASURE DOES:

The measure modifies statutes regarding Oregon's Sexual Misconduct Survey Council and requirements for institutions of higher education to provide support services for victims of sexual misconduct.

FISCAL: Minimal fiscal impact

REVENUE: No revenue impact

HOUSE VOTE: Ayes, 53; Nays, 1; Excused, 6

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 without an institution-based qualified victim services program or with fewer than 1,000 enrolled students living on campus can receive a waiver for the requirement to partner with a local victim advocacy organization to provide on-campus advocacy services. Permits a certified advocate to be a graduate student 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 that 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 each certified advocate employed by the institution. In addition, 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

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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 reporting requirement in ORS 350.345 with the definition of sexual misconduct 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.

ISSUES DISCUSSED:

- Implementation of House Bill 3456 (2023)
- Annual waiver process for institutions to assess resources

EFFECT OF AMENDMENT:

No amendment.

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, at least 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.