

SB 1540 A STAFF MEASURE SUMMARY**Carrier:** Sen. Gelser**Senate Committee On Human Services****Action Date:** 02/06/18**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 4-0-1-0**Yeas:** 4 - Gelser, Linthicum, Monnes Anderson, Wagner**Exc:** 1 - Knopp**Fiscal:** Fiscal impact issued**Revenue:** No revenue impact**Prepared By:** Jamie Hinsz, LPRO Analyst**WHAT THE MEASURE DOES:**

Exempts from the definition of “abuse” any sexual contact or intercourse between a child over age 12 and a person under age 21 if: 1) the person is not three years older than the child, and 2) sexual contact is not the result of force, intimidation, or coercion. Authorizes the Department of Human Services (Department) or law enforcement agency to conduct abuse investigations on school premises. Requires Department or agency conducting the investigation to present adequate identification to school staff members. Requires school staff members to cooperate with investigation and, at a minimum, allow Department or agency conducting the investigation access to the child and a private space to interview the child. Prohibits school administrators and staff from notifying any person of the investigation, other than Department, law enforcement, and school employees necessary to enable the investigation. Clarifies that information obtained during the investigation is not part of the child's school record. Expands definition of “adult” to include a person who is receiving mental health treatment in a community program, facility, or state hospital for treatment of substance abuse or mental illness. Includes in the definition of “community program” providers whose services are paid for, directly or indirectly, by the Oregon Health Authority.

ISSUES DISCUSSED:

- Child abuse investigations of children on school premises
- Protections for mental health patients
- Technical fix of measure
- Need for abuse investigations at the Oregon State Hospital
- Mandatory reporting of consensual sexual activity among teenagers
- Behaviors included under sexual activity
- Basis for changing age from 14 to 12

EFFECT OF AMENDMENT:

Changes age for child involved in sexual contact or intercourse, for purpose of exemption from definition of "abuse," from age 14 to age 12. Authorizes the Department of Human Services (Department) or law enforcement agency to conduct abuse investigations on school premises. Requires Department or agency conducting the investigation to present adequate identification to school staff members. Requires school staff members to cooperate with investigation and, at a minimum, allow Department or agency conducting the investigation access to the child and a private space to interview the child. Prohibits school administrators and staff from notifying any person of the investigation, other than Department, law enforcement, and school employees necessary to enable the investigation. Clarifies that information obtained during the investigation is not part of the child's school record.

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BACKGROUND:

The Centers for Disease Control and Prevention estimates that 41 percent of U.S. high schoolers are sexually active. School district officials and teachers are required by Oregon's mandatory reporting law to report suspected child abuse and neglect, including non-consensual sex. An Oregon school district recently instructed teachers and staff to report child abuse for any sexual contact between students, understanding the mandatory reporting law to assert that children and youth under the age of 18 cannot consent to sexual activity. Senate Bill 1540 A modifies the mandatory reporting law by excluding from the definition of abuse consensual sexual contact between teenagers over the age of 12 and under the age of 21, unless there is a difference of three or more years in age.

During the 2017 Regular Session, SB 101 became law, which authorized child abuse investigations on school premises. The new provisions in this bill created some confusion among school district staff regarding the authority of agencies to conduct child abuse investigations. SB 1540 A clarifies that the Department and law enforcement agencies have authority to conduct child abuse investigations on school premises and requires school staff members to cooperate with investigations by allowing the Department or agency conducting the investigation access to the child and a private space to interview the child. SB 1540 A also prohibits school administrators and staff from notifying any person of the investigation, other than Department, law enforcement, and school employees necessary to enable the investigation, and clarifies that information obtained during the investigation is not part of the child's school record.

Adults receiving treatment for severe and persistent mental health illnesses and adults receiving treatment for substance use disorders do not have the same protections against adult abuse as do people with intellectual, developmental, or physical disabilities. Recent changes in Oregon's health care delivery system have left gaps in adult abuse protection laws, which currently cover some adults receiving treatment depending on where the treatment is delivered. SB 1540 A includes adults with persistent and severe mental illnesses and adults with substance use disorders who are receiving treatments funded by the Oregon Health Authority in the definitions of adults who are protected against abuse for the purpose of mandatory reporting and investigations. SB 1540 A also expands the definition of sexual abuse for the purpose of reporting and investigating adult abuse by including consensual sex between a recipient of mental health or substance abuse treatment and the provider of the treatment.