

# House Bill 2937

Sponsored by Representative BYNUM, Senator FREDERICK, Representative ALONSO LEON (at the request of Andre Miller) (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**.

Provides that student who experiences incident of harassment, discrimination or intimidation based on student's race, color, religion, gender identity, sexual orientation, disability or national origin, has cause of action against school district and perpetrator of incident.

Requires school district to report incident of harassment, discrimination or intimidation based on student's race, color, religion, gender identity, sexual orientation, disability or national origin, to hate crimes hotline and school safety tip line.

Directs school district to approve transfer request when student has experienced incident of harassment, discrimination or intimidation based on student's race, color, religion, gender identity, sexual orientation, disability or national origin.

Modifies crimes of bias crime in the second degree and bias crime in the first degree.

## A BILL FOR AN ACT

1  
2 Relating to incidents of bias; creating new provisions; and amending ORS 166.155 and 166.165.

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

4 **SECTION 1. (1) A student of a school district who has experienced during school or a**  
5 **school-sponsored activity, or on school-provided transportation, an incident of harassment,**  
6 **discrimination or intimidation motivated, in part, by the perpetrator's perception of the**  
7 **student's race, color, religion, gender identity, sexual orientation, disability or national ori-**  
8 **gin, may bring a claim against the school district under ORS 30.260 to 30.300 for negligently**  
9 **failing to prevent the incident.**

10 (2)(a) A student who has experienced during school or a school-sponsored activity, or on  
11 school-provided transportation, an incident of harassment, discrimination or intimidation  
12 motivated, in part, by the perpetrator's perception of the student's race, color, religion,  
13 gender identity, sexual orientation, disability or national origin, may bring a civil claim  
14 against the perpetrator of the incident as provided in this subsection.

15 (b) Upon prevailing in an action under this subsection, the plaintiff may recover, per oc-  
16 currence of harassment, discrimination or intimidation, the greater of \$7,500 or actual dam-  
17 ages, including damages for emotional distress.

18 (c) The court shall award reasonable attorney fees to the prevailing plaintiff in an action  
19 under this subsection.

20 (d) The parent, parents or legal guardian of an unemancipated minor shall be liable for  
21 any judgment recovered against such minor under this subsection, in an amount not to ex-  
22 ceed \$7,500.

23 (3) As used in this section, "gender identity" has the meaning give that term in ORS  
24 166.155.

25 **SECTION 2. A school district that receives a report of an incident of harassment, dis-**  
26 **crimination or intimidation against a student that was motivated, in part, by the**

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 perpetrator's perception of the student's race, color, religion, gender identity, sexual orien-  
2 tation, disability or national origin, shall immediately report the incident to:

3 (1) The staffed hate crimes hotline established by the Department of Justice under ORS  
4 147.380; and

5 (2) If applicable, the tip line established by the Department of State Police under ORS  
6 339.329.

7 **SECTION 3.** (1) When a school district confirms that a student has experienced during  
8 school or a school-sponsored activity, or on school-provided transportation, an incident of  
9 harassment, discrimination or intimidation that is motivated, in part, by the perpetrator's  
10 perception of the student's race, color, religion, gender identity, sexual orientation, disability  
11 or national origin, the school district must:

12 (a) Notify the student's parents of the provisions of this section; and

13 (b) Immediately grant any request made by the student's parents to transfer the student  
14 to another school of the school district.

15 (2)(a) A school district must provide transportation for a student who transfers to an-  
16 other school of the school district as provided by this section. The school district may:

17 (A) Require the student to use existing bus routes and transportation services of the  
18 district; or

19 (B) Provide a stipend that does not exceed the district's average cost per student for  
20 transportation.

21 (b) Costs incurred for transportation provided under this subsection are considered ap-  
22 proved transportation costs under ORS 327.013.

23 (3) For the purposes of interscholastic activities, a student who transfers to another  
24 school as provided by this section shall be considered to be residing within the attendance  
25 boundaries of the school to which the student transferred. The transfer shall be considered  
26 immediate and the student may not be subjected to any waiting periods.

27 (4) A student who transfers to another school as provided by this section shall be entitled  
28 to the same rights and privileges as other students attending the school.

29 **SECTION 4.** ORS 166.155 is amended to read:

30 166.155. (1) A person commits a bias crime in the second degree if the person:

31 (a) Tamper or interferes with property, having no right to do so nor reasonable ground to be-  
32 lieve that the person has such right, with the intent to cause substantial inconvenience to another  
33 person because of the person's perception of the other person's race, color, religion, gender identity,  
34 sexual orientation, disability or national origin;

35 (b) Intentionally subjects another person to offensive physical contact because of the person's  
36 perception of the other person's race, color, religion, gender identity, sexual orientation, disability  
37 or national origin; or

38 (c) Intentionally, because of the person's perception of race, color, religion, gender identity,  
39 sexual orientation, disability or national origin of another person or of a member of the other  
40 person's family, subjects the other person to alarm by threatening:

41 (A) To inflict [*serious*] physical injury upon or to commit a felony affecting the other person, or  
42 a member of the other person's family; or

43 (B) To cause substantial damage to the property of the other person or of a member of the other  
44 person's family.

45 (2) A bias crime in the second degree is a Class A misdemeanor.

1 (3) As used in this section and ORS 166.165:

2 (a) "Gender identity" means an individual's gender-related identity, appearance, expression or  
3 behavior, regardless of whether the identity, appearance, expression or behavior differs from that  
4 associated with the gender assigned to the individual at birth.

5 (b) "Property" means any tangible personal property or real property.

6 **SECTION 5.** ORS 166.165 is amended to read:

7 166.165. (1) A person commits a bias crime in the first degree if the person:

8 (a) Intentionally, knowingly or recklessly causes physical injury to another person because of  
9 the person's perception of the other person's race, color, religion, gender identity, sexual orientation,  
10 disability or national origin;

11 (b) With criminal negligence causes physical injury to another person by means of a deadly  
12 weapon because of the person's perception of the other person's race, color, religion, gender identity,  
13 sexual orientation, disability or national origin; or

14 (c) Intentionally, because of the person's perception of another person's race, color, religion,  
15 gender identity, sexual orientation, disability or national origin, places another person in fear of  
16 imminent [*serious*] physical injury.

17 (2) A bias crime in the first degree is a Class C felony.

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