

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 21-0257.01 Michael Dohr x4347

SENATE BILL 21-017

SENATE SPONSORSHIP

Hisey,

HOUSE SPONSORSHIP

(None),

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING SEXUAL CONTACT BETWEEN A STUDENT AND AN**
102 **EDUCATOR IN VIOLATION OF THE PUBLIC TRUST.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, a secondary school teacher who has sexual contact with a student who is 18 years of age or older may not have committed a crime. The bill provides that an educator who subjects a secondary school student who is at least 18 years of age to sexual contact commits the crime of abuse of public trust by an educator if the educator is at least 4 years older than the student. Abuse of public trust by an

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
Amended 2nd Reading
March 1, 2021

educator is a class 1 misdemeanor. Consent by the student is not a defense to the crime.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 18-8-410 as follows:

3 **18-8-410. Abuse of public trust by an educator - definitions.**

4 (1) ANY EDUCATOR WHO KNOWINGLY SUBJECTS A STUDENT TO ANY
5 SEXUAL CONTACT COMMITS ABUSE OF PUBLIC TRUST BY AN EDUCATOR IF
6 THE STUDENT IS AT LEAST EIGHTEEN YEARS OF AGE AND THE EDUCATOR
7 IS MORE THAN FOUR YEARS OLDER THAN THE STUDENT AND IS NOT THE
8 STUDENT'S SPOUSE.

9 (2) ABUSE OF PUBLIC TRUST BY AN EDUCATOR IS A CLASS 1
10 MISDEMEANOR SUBJECT TO THE MODIFIED SENTENCING RANGE SPECIFIED
11 IN SECTION 18-1.3-501 (3).

12 (3) CONSENT BY THE STUDENT TO THE SEXUAL CONTACT DOES NOT
13 CONSTITUTE A DEFENSE TO THE OFFENSE.

14 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
15 REQUIRES:

16 (a) "CONSENT" HAS THE SAME MEANING AS SET FORTH IN SECTION
17 18-3-401 (1.5).

18 (b) (I) "EDUCATOR" MEANS A PERSON EMPLOYED AT THE SAME
19 SCHOOL THE STUDENT ATTENDS AT THE TIME OF THE SEXUAL CONTACT
20 AND WHO:

21 (A) INSTRUCTS STUDENTS AT THAT SCHOOL;

22 (B) ADMINISTERS, DIRECTS, OR SUPERVISES THE EDUCATIONAL
23 INSTRUCTION PROGRAM OR A PORTION THEREOF;

24 (C) PROVIDES HEALTH OR EDUCATIONAL SUPPORT SERVICES
25 DIRECTLY TO STUDENTS OF THE SCHOOL; OR

1 (D) COACHES STUDENTS OF THE SCHOOL.

2 (II) "EDUCATOR" DOES NOT INCLUDE ANOTHER STUDENT AT THE
3 SCHOOL WHERE THE EDUCATOR IS EMPLOYED.

4 (c) "SCHOOL" MEANS ANY INSTITUTION THAT INSTRUCTS PERSONS
5 IN ANY OF GRADES PRESCHOOL THROUGH TWELVE BUT DOES NOT INCLUDE
6 ANY POSTSECONDARY SCHOOL.

7 (d) "SEXUAL CONTACT" HAS THE SAME MEANING AS SET FORTH IN
8 SECTION 18-3-401 (4).

9 (e) "STUDENT" MEANS ANY PERSON ENROLLED IN A SCHOOL.

10 (5) SCHOOLS SHALL ADVISE ALL EMPLOYEES OF THE PROHIBITIONS
11 IN THIS SECTION.

12 **SECTION 2. In Colorado Revised Statutes, 18-1.3-501, amend**
13 **(3)(b)(VI) and (3)(b)(VII); and add (3)(b)(VIII) as follows:**

14 **18-1.3-501. Misdemeanors classified - drug misdemeanors and**
15 **drug petty offenses classified - penalties - legislative intent -**
16 **definitions. (3) (b) Misdemeanors that present an extraordinary risk of**
17 **harm to society shall include the following:**

18 **(VI) Misdemeanor invasion of privacy for sexual gratification, as**
19 **described in section 18-3-405.6; and**

20 **(VII) False reporting of an emergency, as described in section**
21 **18-8-111; AND**

22 **(VIII) ABUSE OF PUBLIC TRUST BY AN EDUCATOR, AS DESCRIBED**
23 **IN SECTION 18-8-410.**

24 **SECTION 3. Act subject to petition - effective date -**
25 **applicability. (1) This act takes effect September 1, 2021; except that,**
26 **if a referendum petition is filed pursuant to section 1 (3) of article V of**
27 **the state constitution against this act or an item, section, or part of this act**

1 within the ninety-day period after final adjournment of the general
2 assembly, then the act, item, section, or part will not take effect unless
3 approved by the people at the general election to be held in November
4 2022 and, in such case, will take effect on the date of the official
5 declaration of the vote thereon by the governor.

6 (2) This act applies to offenses committed on or after the
7 applicable effective date of this act.