

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0166.01 Jerry Barry x4341

SENATE BILL 20-059

SENATE SPONSORSHIP

Hisey,

HOUSE SPONSORSHIP

Larson,

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING SEXUAL ASSAULT ON A STUDENT BY AN EDUCATOR.**

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 a person who subjects a student at the school at which the person is an educator to sexual contact commits the crime of sexual assault on a student by an educator.

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 18-3-405.2 as
3 follows:

4 **18-3-405.2. Sexual assault on a student by an educator -**
5 **definitions.** (1) ANY ACTOR WHO KNOWINGLY SUBJECTS A STUDENT WHO
6 IS NOT HIS OR HER SPOUSE TO ANY SEXUAL CONTACT COMMITS SEXUAL
7 ASSAULT ON A STUDENT BY AN EDUCATOR IF THE VICTIM IS A STUDENT
8 EIGHTEEN YEARS OF AGE OR OLDER AND THE ACTOR COMMITTING THE
9 OFFENSE IS AN EDUCATOR IN THE SAME SCHOOL THAT THE STUDENT
10 ATTENDS.

11 (2) SEXUAL ASSAULT ON A STUDENT BY AN EDUCATOR IS A CLASS
12 3 FELONY IF THE ACTOR COMMITS THE OFFENSE AS A PART OF A PATTERN
13 OF SEXUAL CONTACT AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION.
14 NO SPECIFIC DATES OR TIMES NEED BE ALLEGED FOR THE PATTERN OF
15 SEXUAL CONTACT; EXCEPT THAT THE ACTS CONSTITUTING THE PATTERN
16 OF SEXUAL CONTACT, WHETHER CHARGED IN THE INFORMATION OR
17 INDICTMENT OR COMMITTED PRIOR TO OR AT ANY TIME AFTER THE
18 OFFENSE CHARGED IN THE INFORMATION OR INDICTMENT, SHALL BE
19 SUBJECT TO THE PROVISIONS OF SECTION 16-5-401 (1)(a), CONCERNING
20 SEX OFFENSES AGAINST CHILDREN. THE OFFENSE CHARGED IN THE
21 INFORMATION OR INDICTMENT SHALL CONSTITUTE ONE OF THE INCIDENTS
22 OF SEXUAL CONTACT INVOLVING A CHILD NECESSARY TO FORM A PATTERN
23 OF SEXUAL ABUSE AS DEFINED IN SECTION 18-3-401 (2.5). PROSECUTION
24 FOR ANY INCIDENT OF SEXUAL CONTACT CONSTITUTING THE OFFENSE OR
25 ANY INCIDENT OF SEXUAL CONTACT CONSTITUTING THE PATTERN OF
26 SEXUAL ABUSE MAY BE COMMENCED AND THE OFFENSES CHARGED IN AN
27 INFORMATION OR INDICTMENT IN A COUNTY WHERE AT LEAST ONE OF THE

1 INCIDENTS OCCURRED OR IN A COUNTY WHERE AN ACT IN FURTHERANCE
2 OF THE OFFENSE WAS COMMITTED.

3 (3) SEXUAL ASSAULT ON A STUDENT BY AN EDUCATOR IS A CLASS
4 FELONY IF THE OFFENSE IS NOT COMMITTED AS PART OF A PATTERN OF
5 SEXUAL ABUSE, AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

6 (4) IF A DEFENDANT IS CONVICTED OF A CLASS 3 FELONY OF
7 SEXUAL ASSAULT ON A CHILD PURSUANT TO SUBSECTION (2) OF THIS
8 SECTION, THE COURT SHALL SENTENCE THE DEFENDANT IN ACCORDANCE
9 WITH THE PROVISIONS OF SECTION 18-1.3-406.

10 (5) CONSENT BY THE STUDENT TO THE SEXUAL PENETRATION,
11 INTRUSION, OR CONTACT SHALL NOT CONSTITUTE A DEFENSE TO THE
12 OFFENSE.

13 (6) A PERSON WHO IS CONVICTED OF SEXUAL ASSAULT ON A
14 STUDENT BY AN EDUCATOR UNDER THIS SECTION, UPON CONVICTION,
15 SHALL BE ADVISED BY THE COURT THAT THE PERSON HAS NO RIGHT:

16 (a) TO NOTIFICATION OF THE TERMINATION OF PARENTAL RIGHTS
17 AND NO STANDING TO OBJECT TO THE TERMINATION OF PARENTAL RIGHTS
18 FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT
19 OFFENSE;

20 (b) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING
21 PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES, FOR A CHILD
22 CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

23 (c) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF
24 THE COMMISSION OF THAT OFFENSE; AND

25 (d) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE
26 ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF
27 THAT OFFENSE.

1 (7) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
2 REQUIRES:

3 (a) "EDUCATOR" MEANS:

4 (I) ANY PERSON EMPLOYED TO INSTRUCT STUDENTS IN ANY
5 SCHOOL IN THE STATE;

6 (II) ANY PERSON EMPLOYED TO ADMINISTER, DIRECT, OR
7 SUPERVISE THE EDUCATION INSTRUCTIONAL PROGRAM, OR A PORTION
8 THEREOF, OF A SCHOOL IN THE STATE;

9 (III) ANY PERSON WHO IS EMPLOYED TO PROVIDE HEALTH,
10 WELFARE, OR OTHER SUPPORT SERVICES TO STUDENTS IN A SCHOOL IN THE
11 STATE; AND

12 (IV) ANY PERSON WHO COACHES STUDENTS OF A SCHOOL IN THE
13 STATE.

14 (b) "STUDENT" MEANS ANY PERSON ENROLLED IN A SCHOOL OR
15 SCHOOL DISTRICT THAT SERVES PERSONS FROM ANY GRADE FROM FIRST
16 THROUGH TWELFTH FOR ANY PORTION OF A SCHOOL DAY.

17 **SECTION 2. Potential appropriation.** Pursuant to section
18 2-2-703, C.R.S., any bill that results in a net increase in periods of
19 imprisonment in state correctional facilities must include an appropriation
20 of money that is sufficient to cover any increased capital construction, any
21 operational costs, and increased parole costs that are the result of the bill
22 for the department of corrections in each of the first five years following
23 the effective date of the bill. Because this act may increase periods of
24 imprisonment, this act may require a five-year appropriation.

25 **SECTION 3. Act subject to petition - effective date -**
26 **applicability.** (1) This act takes effect September 1, 2020; except that,
27 if a referendum petition is filed pursuant to section 1 (3) of article V of

1 the state constitution against this act or an item, section, or part of this act
2 within the ninety-day period after final adjournment of the general
3 assembly, then the act, item, section, or part will not take effect unless
4 approved by the people at the general election to be held in November
5 2020 and, in such case, will take effect on the date of the official
6 declaration of the vote thereon by the governor.

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