

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

REVISED

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

LLS NO. 21-0257.01 Michael Dohr x4347

SENATE BILL 21-017

SENATE SPONSORSHIP

Hisey and Zenzinger, Bridges, Cooke, Coram, Gardner, Kirkmeyer, Lundeen, Priola,
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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.

HOUSE
Amended 2nd Reading
May 3, 2021

SENATE
3rd Reading Unamended
March 2, 2021

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, 22-30.5-110.5,
3 **amend** (2)(a)(II) and (7)(a); and **add** (7)(c) and (10) as follows:

4 **22-30.5-110.5. Background investigation - charter school**
5 **employees - information provided to department - definitions.** (2) The
6 background investigation of an applicant, at a minimum, must include:

7 (a) An inquiry by the charter school to the department to
8 determine whether the applicant:

9 (II) Has been dismissed by, or has resigned from, a school district
10 as a result of any allegation, including but not limited to unlawful sexual
11 behavior OR AN ALLEGATION OF A SEXUAL ACT INVOLVING A STUDENT
12 WHO IS EIGHTEEN YEARS OF AGE OR OLDER, REGARDLESS OF WHETHER THE
13 STUDENT CONSENTED TO THE SEXUAL ACT, that was supported by a
14 preponderance of the evidence according to information provided to the
15 department pursuant to section 22-32-109.7 (3) or subsection (7) of this
16 section and confirmed by the department pursuant to section 22-2-119
17 (1)(b);

18 (7) (a) If an employee of a charter school is dismissed or resigns
19 as a result of an allegation of unlawful behavior involving a child,
20 including unlawful sexual behavior, that is supported by a preponderance
21 of the evidence, the governing board of the charter school shall notify the
22 department and provide any information requested by the department
23 concerning the circumstances of the dismissal or resignation. The charter
24 school shall also notify the employee that information concerning the
25 employee's dismissal or resignation is being forwarded to the department.

1 ~~unless the notice would conflict with the confidentiality requirements of~~
2 ~~the "Child Protection Act of 1987", part 3 of article 3 of title 19, C.R.S.~~

3 (c) IF AN EMPLOYEE OF A CHARTER SCHOOL IS DISMISSED OR
4 RESIGNS AS A RESULT OF AN ALLEGATION OF A SEXUAL ACT INVOLVING A
5 STUDENT WHO IS EIGHTEEN YEARS OF AGE OR OLDER, REGARDLESS OF
6 WHETHER THE STUDENT CONSENTED TO THE SEXUAL ACT, THAT IS
7 SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE, THE GOVERNING
8 BOARD OF THE CHARTER SCHOOL SHALL NOTIFY THE DEPARTMENT AND
9 PROVIDE ANY INFORMATION REQUESTED BY THE DEPARTMENT
10 CONCERNING THE CIRCUMSTANCES OF THE DISMISSAL OR RESIGNATION.
11 THE CHARTER SCHOOL SHALL ALSO NOTIFY THE EMPLOYEE THAT
12 INFORMATION CONCERNING THE EMPLOYEE'S DISMISSAL OR RESIGNATION
13 IS BEING FORWARDED TO THE DEPARTMENT. A CHARTER SCHOOL SHALL
14 NOT ENTER INTO A SETTLEMENT AGREEMENT THAT WOULD RESTRICT THE
15 CHARTER SCHOOL FROM SHARING ANY RELEVANT INFORMATION RELATED
16 TO AN ALLEGATION OF A SEXUAL ACT INVOLVING A STUDENT WHO IS
17 EIGHTEEN YEARS OF AGE OR OLDER, REGARDLESS OF WHETHER THE
18 STUDENT CONSENTED TO THE SEXUAL ACT, THAT IS SUPPORTED BY A
19 PREPONDERANCE OF THE EVIDENCE PERTAINING TO THE EMPLOYEE WITH
20 THE DEPARTMENT, ANOTHER SCHOOL DISTRICT, OR CHARTER SCHOOL
21 PERTAINING TO THE INCIDENT UPON WHICH THE DISMISSAL OR
22 RESIGNATION IS BASED. THIS SUBSECTION (7)(c) DOES NOT AUTHORIZE A
23 CHARTER SCHOOL TO ENTER INTO A SETTLEMENT AGREEMENT THAT
24 WOULD PROHIBIT THE CHARTER SCHOOL FROM SHARING ANY OTHER
25 INFORMATION REQUIRED BY LAW TO BE AVAILABLE TO THE DEPARTMENT,
26 ANOTHER SCHOOL DISTRICT, OR A CHARTER SCHOOL.

27 (10) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT

1 OTHERWISE REQUIRES:

2 (a) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,
3 OR SEXUAL PENETRATION AS THOSE TERMS ARE DEFINED IN SECTION
4 18-3-401.

5 (b) "STUDENT" MEANS ANY PERSON ENROLLED AT THE SCHOOL
6 WHERE THE EMPLOYEE IS EMPLOYED, BUT DOES NOT INCLUDE ANOTHER
7 STUDENT.

8 **SECTION 2.** In Colorado Revised Statutes, 22-32-109.7, **amend**
9 (1)(b) and (3); and **add** (5) as follows:

10 **22-32-109.7. Board of education - specific duties - employment**
11 **of personnel - definitions.** (1) Prior to the employment of any person by
12 a school district, the board of education shall make an inquiry concerning
13 such person to the department of education for the purpose of
14 determining:

15 (b) Whether such person has been dismissed by, or has resigned
16 from, a school district as a result of an allegation of unlawful behavior
17 involving a child, including unlawful sexual behavior OR AN ALLEGATION
18 OF A SEXUAL ACT INVOLVING A STUDENT WHO IS EIGHTEEN YEARS OF AGE
19 OR OLDER, REGARDLESS OF WHETHER THE STUDENT CONSENTED TO THE
20 SEXUAL ACT, which was supported by a preponderance of the evidence
21 according to information provided to the department by a school district
22 pursuant to subsection (3) of this section and confirmed by the department
23 pursuant to the provisions of section 22-2-119 (1)(b);

24 (3) (a) If an employee of a school district is dismissed or resigns
25 as a result of an allegation of unlawful behavior involving a child,
26 including unlawful sexual behavior, which is supported by a
27 preponderance of the evidence, within ten business days after the

1 dismissal or resignation, the board of education of the school district shall
2 notify the department of education and provide any information requested
3 by the department concerning the circumstances of the dismissal or
4 resignation. The district shall also notify the employee that information
5 concerning the employee's dismissal or resignation is being forwarded to
6 the department of education. ~~unless the notice would conflict with the~~
7 ~~confidentiality requirements of the "Child Protection Act of 1987", part~~
8 ~~3 of article 3 of title 19. C.R.S.~~ A public school district or charter school
9 shall not enter into a settlement agreement that would restrict the school
10 district or charter school from sharing any relevant information related to
11 a conviction for child abuse or a sexual offense against a child as defined
12 by section 13-80-103.9 (1)(c) ~~C.R.S.~~, pertaining to the employee with the
13 department, another school district, or charter school pertaining to the
14 incident upon which the dismissal or resignation is based. THIS
15 SUBSECTION (3)(a) DOES NOT AUTHORIZE A PUBLIC SCHOOL DISTRICT OR
16 CHARTER SCHOOL TO ENTER INTO A SETTLEMENT AGREEMENT THAT
17 WOULD PROHIBIT THE PUBLIC SCHOOL DISTRICT OR CHARTER SCHOOL
18 FROM SHARING ANY OTHER INFORMATION REQUIRED BY LAW TO BE
19 AVAILABLE TO THE DEPARTMENT, ANOTHER SCHOOL DISTRICT, OR A
20 CHARTER SCHOOL.

21 (b) IF AN EMPLOYEE OF A SCHOOL DISTRICT IS DISMISSED OR
22 RESIGNS AS A RESULT OF AN ALLEGATION OF A SEXUAL ACT INVOLVING A
23 STUDENT WHO IS EIGHTEEN YEARS OF AGE OR OLDER, REGARDLESS OF
24 WHETHER THE STUDENT CONSENTED TO THE SEXUAL ACT, THAT IS
25 SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE, THE SCHOOL
26 DISTRICT SHALL NOTIFY THE DEPARTMENT AND PROVIDE ANY
27 INFORMATION REQUESTED BY THE DEPARTMENT CONCERNING THE

1 CIRCUMSTANCES OF THE DISMISSAL OR RESIGNATION. THE SCHOOL
2 DISTRICT SHALL ALSO NOTIFY THE EMPLOYEE THAT INFORMATION
3 CONCERNING THE EMPLOYEE'S DISMISSAL OR RESIGNATION IS BEING
4 FORWARDED TO THE DEPARTMENT. A SCHOOL DISTRICT SHALL NOT ENTER
5 INTO A SETTLEMENT AGREEMENT THAT WOULD RESTRICT THE SCHOOL
6 DISTRICT FROM SHARING ANY RELEVANT INFORMATION RELATED TO AN
7 ALLEGATION OF A SEXUAL ACT INVOLVING A STUDENT WHO IS EIGHTEEN
8 YEARS OF AGE OR OLDER, REGARDLESS OF WHETHER THE STUDENT
9 CONSENTED TO THE SEXUAL ACT, THAT IS SUPPORTED BY A
10 PREPONDERANCE OF THE EVIDENCE PERTAINING TO THE EMPLOYEE WITH
11 THE DEPARTMENT, ANOTHER SCHOOL DISTRICT, OR CHARTER SCHOOL
12 PERTAINING TO THE INCIDENT UPON WHICH THE DISMISSAL OR
13 RESIGNATION IS BASED. THIS SUBSECTION (3)(b)(I) DOES NOT AUTHORIZE
14 A SCHOOL DISTRICT TO ENTER INTO A SETTLEMENT AGREEMENT THAT
15 WOULD PROHIBIT THE SCHOOL DISTRICT FROM SHARING ANY OTHER
16 INFORMATION REQUIRED BY LAW TO BE AVAILABLE TO THE DEPARTMENT,
17 ANOTHER SCHOOL DISTRICT, OR A CHARTER SCHOOL.

18 (5) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT
19 OTHERWISE REQUIRES:

20 (a) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,
21 OR SEXUAL PENETRATION AS THOSE TERMS ARE DEFINED IN SECTION
22 18-3-401.

23 (b) "STUDENT" MEANS ANY PERSON ENROLLED AT THE SCHOOL
24 WHERE THE EMPLOYEE IS EMPLOYED, BUT DOES NOT INCLUDE ANOTHER
25 STUDENT.

26 **SECTION 3.** In Colorado Revised Statutes, 22-60.50-107,
27 **amend** (4) and (8) as follows:

1 **22-60.5-107. Grounds for denying, annulling, suspending, or**
2 **revoking license, certificate, endorsement, or authorization -**
3 **definitions.** (4) (a) The department of education may deny, annul,
4 suspend, or revoke any license, certificate, endorsement, or authorization
5 if the state board finds and determines that the applicant or holder thereof
6 is professionally incompetent or guilty of unethical behavior.

7 (b) THE STATE BOARD OF EDUCATION SHALL PROMULGATE
8 APPROPRIATE RULES DEFINING THE STANDARDS OF UNETHICAL BEHAVIOR
9 AND PROFESSIONAL INCOMPETENCY. UNETHICAL BEHAVIOR MUST INCLUDE
10 CONDUCT INVOLVING A SEXUAL ACT BETWEEN AN APPLICANT OR HOLDER
11 AND A STUDENT, INCLUDING A STUDENT WHO IS EIGHTEEN YEARS OF AGE
12 OR OLDER, REGARDLESS OF WHETHER THE STUDENT CONSENTED TO THE
13 SEXUAL ACT.

14 (c) FOR PURPOSES OF THIS SUBSECTION (4), UNLESS THE CONTEXT
15 OTHERWISE REQUIRES:

16 (I) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,
17 OR SEXUAL PENETRATION AS THOSE TERMS ARE DEFINED IN SECTION
18 18-3-401.

19 (II) "STUDENT" MEANS ANY PERSON ENROLLED AT THE SCHOOL
20 WHERE THE EMPLOYEE IS EMPLOYED, BUT DOES NOT INCLUDE ANOTHER
21 STUDENT.

22 (8) When an applicant's or holder's license is denied, annulled,
23 suspended, or revoked pursuant to ~~the provisions of subsection (2.5), or~~
24 (2.6), OR (4) of this section, the department of education shall post the
25 name of the person and basis for the denial, annulment, suspension, or
26 revocation on its website.

27 **SECTION 4. Act subject to petition - effective date -**

1 **applicability.** (1) This act takes effect September 15, 2021; except that,
2 if a referendum petition is filed pursuant to section 1 (3) of article V of
3 the state constitution against this act or an item, section, or part of this act
4 within the ninety-day period after final adjournment of the general
5 assembly, then the act, item, section, or part will not take effect unless
6 approved by the people at the general election to be held in November
7 2022 and, in such case, will take effect on the date of the official
8 declaration of the vote thereon by the governor.

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