



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-3325/1
EAW&CMH:cdc/klm/wlj

2023 SENATE BILL 333

June 14, 2023 - Introduced by Senators JAMES, AGARD, BALLWEG, FELZKOWSKI, HESSELBEIN, SPREITZER, STROEBEL, TOMCZYK and WANGGAARD, cosponsored by Representatives SPIROS, MCGUIRE, OHNSTAD, ALLEN, C. ANDERSON, ANDRACA, BEHNKE, BILLINGS, BINSFELD, BRANDTJEN, DRAKE, GOEBEN, GUNDRUM, GUSTAFSON, HURD, MAXEY, MURPHY, MURSAU, NEDWESKI, O'CONNOR, ORTIZ-VELEZ, ROZAR, SCHRAA, SINICKI, STEFFEN, STUBBS and SUBECK. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to renumber and amend* 115.31 (2g); *to amend* 115.31 (2r) (a); and *to*
2 *create* 48.981 (3d), 115.31 (2g) (c), 115.31 (2r) (c) and 948.098 of the statutes;
3 **relating to:** sexual misconduct against a pupil by a school staff member or
4 volunteer and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes it a Class I felony for a person who works or volunteers at an elementary school, secondary school, or tribal school to commit sexual misconduct against a pupil who is enrolled at that school. Under the bill, a school staff member or volunteer is guilty of sexual misconduct if the school staff member or volunteer knowingly engaged in sexual misconduct that substantially interfered with a pupil's academic performance or created an intimidating, hostile, or offensive school environment. Under the bill, if a law enforcement officer or a county department of social or human services, the Department of Children and Families in a county of 750,000 or more, or a child welfare agency under contract with DCF receives a report of alleged sexual misconduct against a pupil, the law enforcement officer, county department, DCF, or child welfare agency must notify the Department of Public Instruction of the violation, including the name of the person alleged and the school district or school at which that person works or volunteers.

Under current law, there are certain offenses for which if a person who is licensed by DPI is convicted will result in an automatic revocation of that person's license. Under current law, a person's license may be reinstated after six years for certain offenses if the person shows, by clear and convincing evidence, that he or she

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is entitled to reinstatement. This bill adds certain crimes to the automatic revocation provision and adds a lifetime bar on reinstatement for certain crimes. Under current law, a person's license is automatically revoked if he or she is convicted of a Class H felony or higher that is a crime against life or bodily security or a crime against a child. This bill adds that a person's license is automatically revoked if he or she is convicted of certain crimes against children that are Class I felonies, including sexual misconduct, certain crimes against privacy, and theft of property from a school. Under the bill, a person's license may not be reinstated if the person is convicted of a crime against a child that is a Class H felony or higher, sexual misconduct against a pupil, and certain crimes against privacy.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.981 (3d) of the statutes is created to read:

2 48.981 **(3d)** NOTIFICATION OF A REPORT. An agency that receives a report under
3 sub. (3) of conduct that constitutes a violation of s. 948.098 shall notify the
4 department of public instruction of the alleged violation including the name of the
5 person alleged and the name of the school district or school at which the person works
6 or volunteers.

7 **SECTION 2.** 115.31 (2g) of the statutes is renumbered 115.31 (2g) (intro.) and
8 amended to read:

9 115.31 **(2g)** (intro.) Notwithstanding subch. II of ch. 111, the state
10 superintendent shall revoke a license granted by the state superintendent, without
11 a hearing, if the licensee is convicted of any of the following:

12 (a) A Class A, B, C, or D felony under ch. 940 or 948, except ss. 940.08 and
13 940.205, for a violation that occurs on or after September 12, 1991, ~~or any~~.

14 (b) A Class E, F, G, or H felony under ch. 940 or 948, except ss. 940.08 and
15 940.205, for a violation that occurs on or after February 1, 2003.

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1 **SECTION 3.** 115.31 (2g) (c) of the statutes is created to read:

2 115.31 **(2g)** (c) Any of the following, if the violation occurs on or after the
3 effective date of this paragraph [LRB inserts date]:

4 1. A violation of s. 942.08, 942.09 (2), 948.098, 948.10, or 948.11 (2) (a).

5 2. A felony violation of s. 943.20 if the property belonged to the school district.

6 3. A violation of federal law or the law of any other state or jurisdiction that
7 would be a violation of subd. 1. or 2. or par. (a) or (b) if committed in this state.

8 **SECTION 4.** 115.31 (2r) (a) of the statutes is amended to read:

9 115.31 **(2r)** (a) Except as provided under ~~par.~~ pars. (b) and (c), the state
10 superintendent may not reinstate a license revoked under sub. (2g) for 6 years
11 following the date of the conviction, and may reinstate a license revoked under sub.
12 (2g) only if the licensee establishes by clear and convincing evidence that he or she
13 is entitled to reinstatement.

14 **SECTION 5.** 115.31 (2r) (c) of the statutes is created to read:

15 115.31 **(2r)** (c) The state superintendent may not reinstate a license revoked
16 under sub. (2g) if the license was revoked for any of the following:

17 1. A felony conviction for a violation of ch. 948 described in sub. (2g) (a) or (b).

18 2. A felony conviction for a violation of s. 942.08 or 948.098.

19 3. A conviction for a violation of s. 942.09 if the person depicted in the
20 representation is a child.

21 4. A conviction for the violation of federal law or the law of any other state or
22 jurisdiction that would be a violation of subd. 1., 2., or 3. if committed in this state.

23 **SECTION 6.** 948.098 of the statutes is created to read:

24 **948.098 Sexual misconduct by a school staff person or volunteer. (1)**

25 In this section:

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1 (a) “Physical contact of a sexual nature” means any of the following types of
2 intentional touching, whether direct or through clothing, if that intentional touching
3 is for the purpose of either sexually degrading or sexually humiliating the pupil or
4 sexually arousing or sexually gratifying the actor:

5 1. Intentional touching by the actor or, upon the actor’s instruction, by another
6 person, by the use of any body part or object.

7 2. Intentional touching by the pupil, by the use of any body part or object, of
8 the actor or, if done upon the actor’s instructions, another person.

9 (b) “School” means a public or private elementary or secondary school, or a
10 tribal school, as defined in s. 115.001 (15m).

11 (c) “School staff member” means any person who provides services to a school
12 or a school board, including an employee of a school or a school board and a person
13 who provides services to a school or a school board under a contract. “School staff
14 member” includes a bus driver.

15 (d) “Sexual misconduct” means sexual advances, requests for sexual favors, or
16 physical contact of a sexual nature. “Sexual misconduct” includes conduct directed
17 by a person at another person of the same or opposite gender.

18 (e) “Volunteer” means a person, other than a school staff member, who provides
19 services to a school without compensation.

20 **(2)** Any school staff member or volunteer who commits an act of sexual
21 misconduct against a pupil enrolled in the school is guilty of a Class I felony if all of
22 the following apply:

23 (a) The staff member or volunteer knew or should have known that his or her
24 conduct was sufficiently severe to substantially interfere with a pupil’s academic
25 performance or create an intimidating, hostile, or offensive school environment.

