

State of Wisconsin



2023 Senate Bill 333

Date of enactment: **March 22, 2024**

Date of publication*: **March 23, 2024**

2023 WISCONSIN ACT 200

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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

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

3. A conviction for a violation of s. 942.09 (2) if the person depicted in the representation is a child.

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

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

948.098 Sexual misconduct by a school staff person or volunteer. (1) In this section:

(a) “Physical contact of a sexual nature” means any of the following types of intentional touching, whether direct or through clothing:

1. Intentional touching by the actor or, upon the actor’s instruction, by another person, by the use of any body part or object, if the purpose of the intentional touching is any of the following:

a. To sexually degrade or sexually humiliate the pupil.

b. To sexually degrade or sexually humiliate the actor.

c. To sexually arouse or sexually gratify the pupil.

d. To sexually arouse or sexually gratify the actor.

2. Intentional touching by the pupil, by the use of any body part or object, of the actor or, if done upon the actor’s instructions, another person, if the purpose of the intentional touching is any of the following:

a. To sexually degrade or sexually humiliate the pupil.

b. To sexually degrade or sexually humiliate the actor.

c. To sexually arouse or sexually gratify the pupil.

d. To sexually arouse or sexually gratify the actor.

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

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

(d) “Sexual misconduct” means verbal conduct of a sexual nature or physical contact of a sexual nature. “Sexual misconduct” includes conduct directed by a person at another person of the same or opposite gender.

(e) “Verbal conduct of a sexual nature” means communications made intentionally for any of the following purposes:

1. Sexually degrading or sexually humiliating the pupil

2. Sexually degrading or sexually humiliating the actor.

3. Sexually arousing or sexually gratifying the pupil.

3. Sexually arousing or sexually gratifying the actor.

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

(2) Any school staff member or volunteer who commits an act of sexual misconduct against a pupil enrolled in the school is guilty of a Class I felony.

(3) A law enforcement officer who receives a report of an alleged violation of sub. (2) shall notify the department of public instruction of the alleged violation including the name of the person alleged and the name of the school district or school at which the person works or volunteers.