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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**Contact:** Katie Bender-Olson, Principal Attorney  
Amber Otis, Senior Staff Attorney

**2023 Assembly Bill 341**

**Assembly Substitute  
Amendment 1**

### 2023 ASSEMBLY BILL 341

Assembly Bill 341 creates a new crime prohibiting sexual misconduct by a school staff member or volunteer against a pupil. The bill also adds certain crimes, including the new crime of sexual misconduct by school staff, to the list of crimes that result in automatic revocation of licenses issued by the State Superintendent of Public Instruction, and requires permanent revocation of such licenses if a licensee is convicted of certain crimes.

#### Licensing

Current law requires the State Superintendent to automatically revoke a license if a licensee is convicted of certain crimes. The bill expands the list of crimes for which a conviction results in automatic license revocation, including the new crime of sexual misconduct by school staff.

Current law also prohibits the State Superintendent from reinstating an automatically revoked license for six years following the date of conviction. The bill creates a new exception to this six-year period and requires permanent license revocation if the license was revoked for certain crimes specified in the bill.

#### Crime of Sexual Misconduct

The bill creates a new crime that prohibits any school staff member<sup>1</sup> or volunteer from committing an act of “sexual misconduct” against a pupil. Specifically, under the bill, it is a Class I felony for a school staff member or volunteer to commit an act of sexual misconduct against a pupil enrolled in the school, if all of the following conditions apply:

- The staff member or volunteer knew or should have known that his or her conduct was sufficiently severe to substantially interfere with a pupil’s academic performance or create an intimidating, hostile, or offensive school environment.
- The conduct in fact substantially interfered with a pupil’s academic performance or caused the pupil to experience an intimidating, hostile, or offensive school environment.

For purposes of the prohibited acts above, the bill defines “sexual misconduct” to mean “sexual advances, requests for sexual favors, or physical contact of a sexual nature” and specifies that “misconduct” includes conduct directed by a person at another person of the same or opposite gender.

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<sup>1</sup> The bill defines “school staff member” as “any person who provides services to a school, or 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.” The bill specifies that a “school staff member” includes a bus driver and the term “school” means a public or private elementary or secondary school, or a tribal school.

The bill defines “physical contact of a sexual nature” as any of the following types of intentional touching, whether direct or through clothing, if for the purpose of either sexually degrading or sexually humiliating the pupil or sexually arousing or sexually gratifying the actor:

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

The bill also requires a child protective services agency or law enforcement officer who receives a report of an alleged violation of the new crime of sexual misconduct by school staff to report the sexual misconduct to the Department of Public Instruction.

## **ASSEMBLY SUBSTITUTE AMENDMENT 1**

Assembly Substitute Amendment 1 generally maintains the bill’s licensing provisions,<sup>2</sup> but: (1) modifies the definition of “sexual misconduct” for purposes of the crime of sexual misconduct by school staff; and (2) eliminates certain elements of that crime requiring proof that the sexual misconduct affected the pupil’s academic performance or the school environment.

Specifically, the amendment does all of the following:

- Modifies the definition of “sexual misconduct” by replacing the phrases “sexual advances” and “requests for sexual favors” with a new phrase, “verbal conduct of a sexual nature,” defined as communications made intentionally for the purpose of sexually degrading or sexually humiliating the pupil or the actor, or sexually arousing or sexually gratifying the pupil or the actor.
- Expands the definition of “physical contact of a sexual nature” to include intentional touching for the purpose of sexually degrading or sexually humiliating the actor, or sexually arousing or sexually gratifying the pupil.
- Eliminates the elements of the crime which, under the bill, required that: (1) the staff member or volunteer knew or should have known that his or her conduct was sufficiently severe to substantially interfere with a pupil’s academic performance or create an intimidating, hostile, or offensive school environment; and (2) the conduct in fact substantially interfered with a pupil’s academic performance or caused the pupil to experience an intimidating, hostile, or offensive school environment.

In sum, under Assembly Substitute Amendment 1, 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. For purposes of this crime, “sexual misconduct” means “verbal conduct of a sexual nature,” a term created and defined in the amendment, or “physical contact of a sexual nature,” a term created and defined in the bill and expanded under the amendment.

## **BILL HISTORY**

Representative Spiros offered Assembly Substitute Amendment 1 on October 9, 2023. On January 4, 2024, the Assembly Committee on Education adopted the substitute amendment and passed Assembly Bill 341, as amended, on votes of Ayes, 13; Noes, 0.

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<sup>2</sup> The substitute amendment makes a technical change to a statutory citation relevant to permanent license revocation.

For a full history of the bill, visit the Legislature's [bill history page](#).

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