



Rep. Juliana Stratton

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10000HB5597ham001

LRB100 20683 SLF 38077 a

1 AMENDMENT TO HOUSE BILL 5597

2 AMENDMENT NO. _____. Amend House Bill 5597 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 2012 is amended by
5 changing Section 11-9.2 as follows:

6 (720 ILCS 5/11-9.2)

7 Sec. 11-9.2. Custodial sexual misconduct.

8 (a) A person commits custodial sexual misconduct when: (1)
9 he or she is an employee of a penal system and engages in
10 sexual conduct or sexual penetration with a person who is in
11 the custody of that penal system; ~~or~~ (2) he or she is an
12 employee of a treatment and detention facility and engages in
13 sexual conduct or sexual penetration with a person who is in
14 the custody of that treatment and detention facility; or (3) he
15 or she is an employee of a law enforcement agency and engages
16 in sexual conduct or sexual penetration with a person who is in

1 the custody of a law enforcement agency or employee.

2 (b) A probation or supervising officer, surveillance
3 agent, or aftercare specialist commits custodial sexual
4 misconduct when the probation or supervising officer,
5 surveillance agent, or aftercare specialist engages in sexual
6 conduct or sexual penetration with a probationer, parolee, or
7 releasee or person serving a term of conditional release who is
8 under the supervisory, disciplinary, or custodial authority of
9 the officer or agent or employee so engaging in the sexual
10 conduct or sexual penetration.

11 (c) Custodial sexual misconduct is a Class 3 felony.

12 (d) Any person convicted of violating this Section
13 immediately shall forfeit his or her employment with a law
14 enforcement agency, a penal system, treatment and detention
15 facility, or conditional release program.

16 (e) In ~~For purposes of~~ this Section, the consent of the
17 probationer, parolee, releasee, ~~or~~ inmate in custody of the
18 penal system or person detained or civilly committed under the
19 Sexually Violent Persons Commitment Act, or person in the
20 custody of a law enforcement agency or employee shall not be a
21 defense to a prosecution under this Section. A person is deemed
22 incapable of consent, for purposes of this Section, when he or
23 she is a probationer, parolee, releasee, ~~or~~ inmate in custody
24 of a penal system or person detained or civilly committed under
25 the Sexually Violent Persons Commitment Act, or a person in the
26 custody of a law enforcement agency or employee.

1 (f) This Section does not apply to:

2 (1) Any employee, probation or supervising officer,
3 surveillance agent, or aftercare specialist who is
4 lawfully married to a person in custody if the marriage
5 occurred before the date of custody.

6 (2) Any employee, probation or supervising officer,
7 surveillance agent, or aftercare specialist who has no
8 knowledge, and would have no reason to believe, that the
9 person with whom he or she engaged in custodial sexual
10 misconduct was a person in custody.

11 (g) In this Section:

12 (0.5) "Aftercare specialist" means any person employed
13 by the Department of Juvenile Justice to supervise and
14 facilitate services for persons placed on aftercare
15 release.

16 (1) "Custody" means:

17 (i) pretrial incarceration or detention;

18 (ii) incarceration or detention under a sentence
19 or commitment to a State or local penal institution;

20 (iii) parole, aftercare release, or mandatory
21 supervised release;

22 (iv) electronic monitoring or home detention;

23 (v) probation;

24 (vi) detention or civil commitment either in
25 secure care or in the community under the Sexually
26 Violent Persons Commitment Act; ~~or~~

1 (vii) detained or under arrest by a law enforcement
2 agency or employee.

3 (2) "Penal system" means any system which includes
4 institutions as defined in Section 2-14 of this Code or a
5 county shelter care or detention home established under
6 Section 1 of the County Shelter Care and Detention Home
7 Act.

8 (2.1) "Treatment and detention facility" means any
9 Department of Human Services facility established for the
10 detention or civil commitment of persons under the Sexually
11 Violent Persons Commitment Act.

12 (2.2) "Conditional release" means a program of
13 treatment and services, vocational services, and alcohol
14 or other drug abuse treatment provided to any person
15 civilly committed and conditionally released to the
16 community under the Sexually Violent Persons Commitment
17 Act;

18 (3) "Employee" means:

19 (i) an employee of any governmental agency of this
20 State or any county or municipal corporation that has
21 by statute, ordinance, or court order the
22 responsibility for the care, control, or supervision
23 of pretrial or sentenced persons in a penal system or
24 persons detained or civilly committed under the
25 Sexually Violent Persons Commitment Act;

26 (ii) a contractual employee of a penal system as

1 defined in paragraph (g) (2) of this Section who works
2 in a penal institution as defined in Section 2-14 of
3 this Code;

4 (iii) a contractual employee of a "treatment and
5 detention facility" as defined in paragraph (g) (2.1)
6 of this Code or a contractual employee of the
7 Department of Human Services who provides supervision
8 of persons serving a term of conditional release as
9 defined in paragraph (g) (2.2) of this Code; or -

10 (iv) an employee of a law enforcement agency.

11 (4.5) "Law enforcement agency" means an agency of the
12 State or of a unit of local government charged with
13 enforcement of State, county, or municipal laws or with
14 managing custody of detained persons in the State, but not
15 including a State's Attorney.

16 (4) "Sexual conduct" or "sexual penetration" means any
17 act of sexual conduct or sexual penetration as defined in
18 Section 11-0.1 of this Code.

19 (5) "Probation officer" means any person employed in a
20 probation or court services department as defined in
21 Section 9b of the Probation and Probation Officers Act.

22 (6) "Supervising officer" means any person employed to
23 supervise persons placed on parole or mandatory supervised
24 release with the duties described in Section 3-14-2 of the
25 Unified Code of Corrections.

26 (7) "Surveillance agent" means any person employed or

1 contracted to supervise persons placed on conditional
2 release in the community under the Sexually Violent Persons
3 Commitment Act.

4 (Source: P.A. 100-431, eff. 8-25-17.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.".