



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB5314

Introduced 1/31/2022, by Rep. Joyce Mason

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.83 new

105 ILCS 5/22-85.5

105 ILCS 5/34-18.78 new

720 ILCS 5/11-1.20

was 720 ILCS 5/12-13

Amends the School Code. Provides that within 7 days after receiving information that a public school employee is charged with a sex offense, the school board shall notify, in writing, the parents or guardians of the school's students. Provides that a school district, charter school, or nonpublic school shall begin an investigation upon any indication of a sexual relationship between a student and a school-based employee. Provides that if at any point during or after the investigation it is determined that the school-based employee had a sexual relationship with a student, then the school-based employee may be terminated. Amends the Criminal Code of 2012. Provides that a person commits criminal sexual assault if that person commits an act of sexual penetration and is a school-based employee and the victim is a student. Varied effective date.

LRB102 25470 CMG 34757 b

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by adding Sections  
5 10-20.83 and 34-18.78 and by changing Section 22-85.5 as  
6 follows:

7 (105 ILCS 5/10-20.83 new)

8 Sec. 10-20.83. Notice of sex offense charge against an  
9 employee. Within 7 days after receiving information that a  
10 school employee is charged with a sex offense, as defined  
11 under the Sex Offender Registration Act, the school board  
12 shall notify, in writing, the parents or guardians of the  
13 school's students.

14 (105 ILCS 5/22-85.5)

15 Sec. 22-85.5. Sexual misconduct in schools.

16 (a) This Section applies beginning on July 1, 2022.

17 (b) The General Assembly finds that:

18 (1) the success of students in school relies on safe  
19 learning environments and healthy relationships with  
20 school personnel;

21 (2) it is important for staff to maintain a  
22 professional relationship with students at all times and

1 to define staff-student boundaries to protect students  
2 from sexual misconduct by staff and staff from the  
3 appearance of impropriety;

4 (3) many breaches of staff-student boundaries do not  
5 rise to the level of criminal behavior but do pose a  
6 potential risk to student safety;

7 (4) repeated violations of staff-student boundaries  
8 can indicate the grooming of a student for sexual abuse;

9 (5) it is necessary to uphold the State Board of  
10 Education's Code of Ethics for Illinois Educators and for  
11 each school district, charter school, or nonpublic school  
12 to have an employee code of professional conduct policy;

13 (6) each school district, charter school, or nonpublic  
14 school must have the ability to discipline educators for  
15 breaches of its employee code of professional conduct  
16 policy;

17 (7) each school district, charter school, or nonpublic  
18 school must have the ability to know if any of its  
19 educators have violated professional staff-student  
20 boundaries in previous employment; and

21 (8) as bystanders, educators may have knowledge of  
22 concerning behaviors that no one else is aware of, so they  
23 need adequate training on sexual abuse, the employee code  
24 of professional conduct policy, and federal and State  
25 reporting requirements.

26 (c) In this Section: 7

1       "School-based employee" means a teacher, a principal,  
2 office staff, or any person who works on school grounds.

3       "Sexual ~~sexual~~ misconduct" means any act, including, but  
4 not limited to, any verbal, nonverbal, written, or electronic  
5 communication or physical activity, by an employee or agent of  
6 the school district, charter school, or nonpublic school with  
7 direct contact with a student that is directed toward or with a  
8 student to establish a romantic or sexual relationship with  
9 the student. Such an act includes, but is not limited to, any  
10 of the following:

11           (1) A sexual or romantic invitation.

12           (2) Dating or soliciting a date.

13           (3) Engaging in sexualized or romantic dialog.

14           (4) Making sexually suggestive comments that are  
15 directed toward or with a student.

16           (5) Self-disclosure or physical exposure of a sexual,  
17 romantic, or erotic nature.

18           (6) A sexual, indecent, romantic, or erotic contact  
19 with the student.

20       (d) To prevent sexual misconduct with students, each  
21 school district, charter school, or nonpublic school shall  
22 develop an employee code of professional conduct policy that  
23 addresses all of the following:

24           (1) Incorporates the Code of Ethics for Illinois  
25 Educators.

26           (2) Incorporates the definition of "sexual misconduct"

1 in this Section.

2 (3) Identifies the expectations for employees and  
3 agents of the school district, charter school, or  
4 nonpublic school regarding how to maintain a professional  
5 relationship with students, including the expectations for  
6 staff-student boundaries, recognizing the age and  
7 developmental level of the students served, and  
8 establishes guidelines for all of the following  
9 situations:

10 (A) Transporting a student.

11 (B) Taking or possessing a photo or a video of a  
12 student.

13 (C) Meeting with a student or contacting a student  
14 outside of the employee's or agent's professional  
15 role.

16 (4) References the employee reporting requirements  
17 required under the Abused and Neglected Child Reporting  
18 Act and under Title IX of the federal Education Amendments  
19 of 1972.

20 (5) References required employee training that is  
21 related to child abuse and educator ethics that are  
22 applicable under State and federal law.

23 (e) The employee code of professional conduct policy must  
24 be posted on the website, if any, of each school district,  
25 charter school, or nonpublic school and must be included in  
26 any staff, student, or parent handbook provided by the school

1 district, charter school, or nonpublic, nonsectarian  
2 elementary or secondary school.

3 (f) A violation of the employee code of professional  
4 conduct policy may subject an employee to disciplinary action  
5 up to and including dismissal from employment. Failure to  
6 report a violation of the employee code of professional  
7 conduct policy may subject an employee to disciplinary action  
8 up to and including dismissal from employment.

9 (g) A school district, charter school, or nonpublic school  
10 shall begin an investigation upon any indication of a sexual  
11 relationship between a student and a school-based employee.  
12 The investigation may be made by internal district or school  
13 staff and law enforcement personnel. If at any point during or  
14 after the investigation it is determined that the school-based  
15 employee had a sexual relationship with a student, then the  
16 school-based employee may be terminated.

17 (Source: P.A. 102-676, eff. 12-3-21.)

18 (105 ILCS 5/34-18.78 new)

19 Sec. 34-18.78. Notice of sex offense charge against an  
20 employee. Within 7 days after receiving information that a  
21 school employee is charged with a sex offense, as defined  
22 under the Sex Offender Registration Act, the board shall  
23 notify, in writing, the parents or guardians of the school's  
24 students.

1 Section 10. The Criminal Code of 2012 is amended by  
2 changing Section 11-1.20 as follows:

3 (720 ILCS 5/11-1.20) (was 720 ILCS 5/12-13)

4 Sec. 11-1.20. Criminal sexual assault.

5 (a) A person commits criminal sexual assault if that  
6 person commits an act of sexual penetration and:

7 (1) uses force or threat of force;

8 (2) knows that the victim is unable to understand the  
9 nature of the act or is unable to give knowing consent;

10 (3) is a family member of the victim, and the victim is  
11 under 18 years of age; ~~or~~

12 (4) is 17 years of age or over and holds a position of  
13 trust, authority, or supervision in relation to the  
14 victim, and the victim is at least 13 years of age but  
15 under 18 years of age; or.

16 (5) is a school-based employee, as defined in Section  
17 22-85.5 of the School Code, and the victim is a student.

18 (b) Sentence.

19 (1) Criminal sexual assault is a Class 1 felony,  
20 except that:

21 (A) A person who is convicted of the offense of  
22 criminal sexual assault as defined in paragraph (a) (1)  
23 or (a) (2) after having previously been convicted of  
24 the offense of criminal sexual assault or the offense  
25 of exploitation of a child, or who is convicted of the

1 offense of criminal sexual assault as defined in  
2 paragraph (a)(1) or (a)(2) after having previously  
3 been convicted under the laws of this State or any  
4 other state of an offense that is substantially  
5 equivalent to the offense of criminal sexual assault  
6 or to the offense of exploitation of a child, commits a  
7 Class X felony for which the person shall be sentenced  
8 to a term of imprisonment of not less than 30 years and  
9 not more than 60 years, except that if the person is  
10 under the age of 18 years at the time of the offense,  
11 he or she shall be sentenced under Section 5-4.5-105  
12 of the Unified Code of Corrections. The commission of  
13 the second or subsequent offense is required to have  
14 been after the initial conviction for this paragraph  
15 (A) to apply.

16 (B) A person who has attained the age of 18 years  
17 at the time of the commission of the offense and who is  
18 convicted of the offense of criminal sexual assault as  
19 defined in paragraph (a)(1) or (a)(2) after having  
20 previously been convicted of the offense of aggravated  
21 criminal sexual assault or the offense of predatory  
22 criminal sexual assault of a child, or who is  
23 convicted of the offense of criminal sexual assault as  
24 defined in paragraph (a)(1) or (a)(2) after having  
25 previously been convicted under the laws of this State  
26 or any other state of an offense that is substantially



1 equivalent to the offense of aggravated criminal  
2 sexual assault or the offense of predatory criminal  
3 sexual assault of a child shall be sentenced to a term  
4 of natural life imprisonment. The commission of the  
5 second or subsequent offense is required to have been  
6 after the initial conviction for this paragraph (B) to  
7 apply. An offender under the age of 18 years at the  
8 time of the commission of the offense covered by this  
9 subparagraph (B) shall be sentenced under Section  
10 5-4.5-105 of the Unified Code of Corrections.

11 (C) A second or subsequent conviction for a  
12 violation of paragraph (a) (3) or (a) (4) or under any  
13 similar statute of this State or any other state for  
14 any offense involving criminal sexual assault that is  
15 substantially equivalent to or more serious than the  
16 sexual assault prohibited under paragraph (a) (3) or  
17 (a) (4) is a Class X felony.

18 (Source: P.A. 99-69, eff. 1-1-16.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law, except that Section 10 takes effect on January  
21 1, 2023.