

2018 Regular Session

SENATE BILL NO. 79

BY SENATOR GATTI

CRIME/PUNISHMENT. Increases penalties for teachers who engage in sexual relationships with students. (gov sig)

1 AN ACT
2 To amend and reenact Code of Criminal Procedure Art. 571.1 and R.S. 14:81.4(B)(1), (E),
3 and (F) , relative to sex offenses; to make a first or subsequent conviction of the
4 crime of prohibited sexual conduct between educator and student a felony; to provide
5 relative to mandatory reporters of prohibited sexual conduct; to provide penalties;
6 to provide relative to the time limitation for prosecution of the offense; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Art. 571.1 is hereby amended and reenacted
10 to read as follows:

11 Art. 571.1. Time limitation for certain sex offenses

12 Except as provided by Article 572 of this Chapter, the time within which to
13 institute prosecution of the following sex offenses, regardless of whether the crime
14 involves force, serious physical injury, death, or is punishable by imprisonment at
15 hard labor shall be thirty years: attempted first degree rape, also formerly titled
16 aggravated rape (R.S. 14:27, R.S. 14:42), attempted second degree rape, also
17 formerly titled forcible rape (R.S. 14:27, R.S. 14:42.1), sexual battery (R.S. 14:43.1),

1 second degree sexual battery (R.S. 14:43.2), oral sexual battery (R.S. 14:43.3),
 2 human trafficking (R.S. 14:46.2(B)(2) or (3)), trafficking of children for sexual
 3 purposes (R.S. 14:46.3), felony carnal knowledge of a juvenile (R.S. 14:80), indecent
 4 behavior with juveniles (R.S. 14:81), pornography involving juveniles (R.S.
 5 14:81.1), molestation of a juvenile (R.S. 14:81.2), **prohibited sexual conduct**
 6 **between educator and student (R.S. 14:81.4)**, prostitution of persons under
 7 eighteen (R.S. 14:82.1), enticing persons into prostitution (R.S. 14:86), crime against
 8 nature (R.S. 14:89), aggravated crime against nature (R.S. 14:89.1), crime against
 9 nature by solicitation (R.S. 14:89.2(B)(3)), that involves a victim under seventeen
 10 years of age. This thirty-year period begins to run when the victim attains the age of
 11 eighteen.

12 Section 2. R.S. 14:81.4(B)(1), (E), and (F) are hereby amended and reenacted to read
 13 as follows:

14 §81.4. Prohibited sexual conduct between educator and student; **mandatory**
 15 **reporting**

16 * * *

17 B. As used in this Section:

18 (1) "Educator" means any administrator, coach, **athletic team manager,**
 19 **team health care provider,** instructor, paraprofessional, student aide, teacher, or
 20 ~~teacher~~ **teacher's** aide at any public or private school, assigned, employed, or
 21 working at **or for** the school or school system where the victim is enrolled as a
 22 student on a full-time, part-time, or temporary basis.

23 * * *

24 E.~~(1)~~ Whoever violates the provisions of this Section shall be ~~fin~~~~ed~~ ~~not~~ ~~more~~
 25 ~~than one thousand dollars, or imprisoned for not more than six months, or both.~~

26 ~~(2) For a second or subsequent offense, an offender may be fined not more~~
 27 ~~than five thousand dollars and shall be imprisoned, with or without hard labor, for~~
 28 ~~not less than one year nor more than five years~~ **imprisoned at hard labor for not**
 29 **less than five years nor more than forty years and, in addition, shall be required**

1 **to pay a fine of not more than fifty thousand dollars.**

2 F. (1) Notwithstanding any claim of privileged communication, any educator
3 having cause to believe that prohibited sexual conduct between an educator and
4 student **has occurred** shall immediately report such conduct to a local or state law
5 enforcement agency.

6 **(2) Any educator who knowingly and willfully fails to report prohibited**
7 **sexual conduct between an educator and student shall be fined not more than**
8 **three thousand dollars, imprisoned, with or without hard labor, for not more**
9 **than three years, or both.**

10 * * *

11 Section 3. This Act shall become effective upon signature by the governor or, if not
12 signed by the governor, upon expiration of the time for bills to become law without signature
13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
14 vetoed by the governor and subsequently approved by the legislature, this Act shall become
15 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST

SB 79 Original

2018 Regular Session

Gatti

Present law provides that the crime of prohibited sexual conduct between an educator and a student is committed when any of the following occur:

- (1) An educator has sexual intercourse with a person who is 17 years of age or older, but less than 21 years of age, where there is an age difference of greater than four years between the two persons, when the victim is not the spouse of the offender and is a student at the school where the educator is assigned, employed, or working at the time of the offense.
- (2) An educator commits any lewd or lascivious act upon a student or in the presence of a student who is 17 years of age or older, but less than 21 years of age, where there is an age difference of greater than four years between the two persons, with the intention of gratifying the sexual desires of either person, when the victim is a student at the school in which the educator is assigned, employed, or working at the time of the offense.
- (3) An educator intentionally engages in the touching of the anus or genitals of a student 17 years of age or older, but less than 21 years of age, where there is an age difference of greater than four years between the two persons, using any instrumentality or any part of the body of the educator, or the touching of the anus or genitals of the educator by a person 17 years of age or older, but less than 21 years

of age, where there is an age difference of greater than four years between the two persons, when the victim is a student at the school in which the educator is assigned, employed, or working at the time of the offense using any instrumentality or any part of the body of the student.

Proposed law retains present law.

Present law defines an "educator" as any administrator, coach, instructor, paraprofessional, student aide, teacher, or teacher aide at any public or private school, assigned, employed, or working at the school or school system where the victim is enrolled as a student on a full-time, part-time, or temporary basis.

Proposed law retains present law and adds athletic team managers and team health care providers to the definition of "educator".

Present law provides the following penalties for the crime of prohibited sexual conduct between an educator and a student:

- (1) For a first offense, a fine of up to \$1,000, imprisonment for up to six months, or both (misdemeanor).
- (2) For a second or subsequent offense, a fine of up to \$5,000, imprisonment with or without hard labor for between one year and five years, or both (felony).

Proposed law makes any offense of prohibited sexual conduct between an educator and a student a felony punishable by imprisonment at hard labor for between five and 40 years and a fine of up to \$50,000.

Present law provides that any educator having cause to believe that prohibited sexual conduct between an educator and student has occurred must immediately report such conduct to a local or state law enforcement agency.

Proposed law retains present law and adds that any educator who knowingly and willfully fails to report prohibited sexual conduct between an educator and student is to be fined up to \$3,000, imprisoned with or without hard labor for up to three years, or both.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends C.Cr.P. Art. 571.1 and R.S. 14:81.4(B)(1), (E), and (F))