



August 22<sup>nd</sup>, 2023

**Testimony on Senate Bill 333**

*Relating to: sexual misconduct against a pupil by a school staff member or volunteer and providing a penalty*

Thank you, Chairman Wanggaard and members of the committee for hearing this important legislation today. Under current state law, there are prohibitions against sexual contact with a minor and sexual harassment in the workplace between co-workers. However, what about situations where a teacher is verbally degrading a student with sexual comments? Common sense would tell us that the teacher should be charged in some way for his/her actions. Unfortunately, they would not be charged with either sexual contact, since there is no physical touch, or with sexual harassment, since student-teacher relationships do not qualify as co-workers. This gray area in state statute requires a new categorization – sexual misconduct.

Sexual misconduct can be anything from sexual advances, physically or verbally, to requests for sexual favors directed at another person of the same or opposite gender. This bill would create a clear statute prohibiting sexual misconduct against pupils by school staff members and volunteers.

To give you some more background, this bill stemmed from a case in Kenosha where a staff member repeatedly made sexual advances towards a student. For example, the staff member asked about her private parts in a sexual way and made other inappropriate comments causing a drop not just in the student's academic performance, but in her mental health. In this case, according to state statute, no laws were broken by the staff member since no physical touch was involved and because current harassment laws do not apply to student-teacher relationships.

Now I understand there may be some who are concerned this bill goes too far and might accidentally penalize a teacher or staff member who make a joke in poor taste or who are falsely accused of inappropriate behavior. However, sexual misconduct goes beyond that, and this bill sets a clear threshold that needs to be met. It requires not only that the accused staff member must have knowingly engaged in sexual behavior, but the behavior to have “substantially interfered” with the student's academic performance too.

Advances like this should never be happening in our schools, and I was saddened to hear that this student in Kenosha had to endure such harassment by someone she is told to respect and look up to. I've had discussions with some my colleagues in law enforcement, and they've indicated that they have trouble charging teachers who make sexual advances towards students unless physical touch was involved. Anyone, no matter the profession, needs to be held accountable for sexual misconduct, and we believe this bill will help close some of the loopholes in current statute.

Thank you for the opportunity to testify on this bill, and I will happily take any questions you might have.

Respectfully,

Senator Jesse James  
23rd Senate District

August 22, 2023

Testimony on Senate Bill 333

Good Morning Chairman Wanggaard and members of the Senate Committee on Judiciary and Public Safety, and thank you for hearing my testimony this morning on Senate Bill 333. This bipartisan bill addresses a loophole in Wisconsin law that does not allow sexual misconduct in a school setting to be charged as a crime.

Under current law, Wisconsin prohibits both sexual contact with a minor and sexual harassment in the workplace. However, sexual harassment is not the same as sexual misconduct. Under the bill, sexual misconduct is defined as sexual advances, requests for sexual favors, or physical contact of a sexual nature.

Sexual misconduct in schools is not uncommon. About 10% of students will experience educator sexual misconduct by the time they graduate high school. Verbal comments of a sexual nature are the most common form of educator sexual misconduct reported.

Senate Bill 333 combats these disturbing numbers by making committing an act of sexual misconduct against a pupil a Class I felony. To meet the threshold, two things must be true: 1) the school staff member knew or should have known that the conduct would interfere with a pupil's academic performance or create an intimidating, hostile, or offensive school environment, and 2) the conduct did in fact interfere with a pupil's academic performance or create an intimidating, hostile, or offensive school environment.

The bill also requires law enforcement, the Department of Children and Families, a county department of social or human services, or a child welfare agency under contract with DCF to report any violation they receive to the Department of Public Instruction. This report to DPI must include the name of the person alleged and the school district or school at which that person works or volunteers.

Lastly, the Senate Bill 333 adds sexual misconduct to the list of crimes for automatic DPI license revocation. The bill also adds that a person's license is automatically revoked if he or she is convicted of certain crimes, including sexual misconduct. Additionally, the bill adds that a person's license is automatically, permanently revoked if he or she is convicted of a Class H felony or higher that is a crime against life or bodily security or a crime against a child. The

person's license may not be reinstated if the person is convicted of a crime against a child that is a Class H felony or higher, sexual misconduct against a pupil, and certain crimes against privacy.

The intent of this bill is simple: to ensure that Wisconsin's students have a safe place to learn. No school staff member should ever make a child feel uncomfortable. You will soon hear testimony from instances where this loophole in statute has been exploited, and understand the importance of this bill.

Again, thank you Chairman Wanggaard and committee members for hearing my testimony on Senate Bill 333. I urge you to support this bipartisan bill and look forward to answering any questions you may have.



# TIP MCGUIRE

## WISCONSIN STATE REPRESENTATIVE

August 22, 2023

*Senate Committee on Judiciary and Public Safety*

*2023 Senate Bill 333*

*Representative Tip McGuire*

Thank you Chairman Wanggaard and committee members for taking the time to consider Senate Bill 333, which is a bipartisan effort to make Wisconsin schools safer for our students.

I want to thank my colleagues Senator James, Representative Spiros, and Representative Ohnstad for their work in addressing sexual misconduct in schools.

And most importantly, I want to recognize and thank Kerri Pingel, who reached out to our office and shared her story in order to demonstrate the flaw that exists in current Wisconsin law. Unfortunately, Kerri was a victim of sexual misconduct by a school administrator. However, when Kerri reported the conduct to the police, she was told that the conduct, while vile and reprehensible, did not apply to existing sexual assault and harassment laws.

Senate Bill 333 criminalizes sexual misconduct that substantially interferes with a pupil's academic performance or creates an intimidating, hostile, or offensive school environment. At DPI's request, this legislation also improves communication between law enforcement and the agency so that DPI's investigations and license revocation processes can begin faster and so revocations can last longer.

It is my sincere hope that with this committee's support, we can strengthen our existing laws and make it clear that no level of sexual misconduct against students is allowable in Wisconsin schools.



**Tod Ohnstad**

STATE REPRESENTATIVE

---

August 22<sup>nd</sup>, 2023

Senate Committee on Judiciary and Public Safety

Testimony on Senate Bill 333

Thank you Chairman Wanggaard and members of the committee for hearing this bill today. I'm pleased to have introduced this bipartisan bill with Senator James, Representative Spiros, and Representative McGuire.

Wisconsin's conventional sexual harassment laws do not apply to students in public or private schools, and this bill would give Wisconsin a clear state statute relating to sexual misconduct against pupils. Current sexual harassment laws in Wisconsin govern relationships between employees, supervisors, and coworkers, but not student and school employees.

Accountability is critical when addressing sexual misconduct against pupils. Under SB 333, school staff members and volunteers who engage in such actions will face a Class I Felony if found guilty of sexual misconduct. Furthermore, SB 333 would require mandatory reporting to DPI of suspected cases of sexual misconduct, ensuring transparency and accountability. Lastly, SB 333 proposes automatic license revocation and a lifetime bar on reinstatement if convicted of certain crimes against children, ensuring those who commit sexual misconduct or other crimes against children are not allowed to work in educational settings.

Every child has the right to a safe learning environment regardless of what type of school they attend. Protecting children from sexual misconduct is a shared responsibility of the community, schools, lawmakers, and law enforcement. We all are aware of the long-lasting negative effects on academic performance and emotional well-being victims of sexual misconduct face. By establishing a clear statute, Wisconsin can take a crucial step towards ensuring a conducive learning environment for all pupils.

I want to thank all those involved for their work in crafting this bill over the past year, especially Kerri Pingel for being the inspiration behind such an important bill and sharing her story to create change.

Thank you. I'm happy to answer any questions.

Good morning, my name is Kerri Pingel. Thank you for the opportunity to testify in support of SB 333.

I'd like to thank Chairman Wanggaard and members of the committee for hearing this bill today, and also for the Chairman for being a cosponsor. I also want to thank Senator Jesse James and Representative John Spiros for authoring this bill.

I'd like to give a content warning for what I am going to share.

I attended a private school in Wisconsin my last two years of high school. An administrator I went to with questions about my faith soon pulled me out of class for being "impure." He required me to reveal details of sexual experiences I had with my boyfriend who was 20 at the time, I was 16. He instructed me to describe my part in the sexual acts to him from beginning, middle, to end in sexually graphic detail-all while staring at me in an intimidating and objectifying way. He eventually isolated me from other staff, students, my parents, boyfriend, friends, and counselor - claiming he was preparing me for God's Kingdom. As punishment for "confessing" to intimacy with my boyfriend, I was placed at an isolated desk for my last semester, requiring daily check-ins with this administrator.

Here are some examples of what this educator said to me as a child:

- He described his genitalia to me like its size or hair by it and said things like he had a "party in his pants" with me in his office.
- He asked me how many times my boyfriend "stuck his penis" in me.
- He made degrading comments to me like my boyfriend knew he could call me when he wanted to be pleased sexually or my boyfriend "had me on a leash."
- He wrote me letters, kept frequent contact, and made comments on my social media directly focused on my sexual purity after I graduated.

If this disturbs you or makes you uncomfortable to hear as adults, imagine what it was like to hear as a child at school from my educator on a regular basis. These details are partly censored and less extreme than others, but I left some quotes to not minimize the subject of this hearing.

Sexual misconduct to a student by an educator is not currently a crime in the state of Wisconsin. That is why we are here today.

As a child, I did not understand predatory or grooming behavior and the extreme power imbalance in this. As a child, I thought this was all my fault. As a child, I did not understand he should have mandate reported statutory rape if had concerns for me instead of punitively harassed me about it. As a child, I did not understand this educator took advantage of my vulnerability for his sexual gratification without my consent.

One of the saddest parts to me is I genuinely looked up to and trusted this man as an educator. It took several years to come to terms with the abuse. This is why laws and systems exist to protect child victims. Wisconsin laws and systems deeply failed me.

Little to no justice was available because Wisconsin lacks adequate laws protecting children from sexual misconduct. The detective assigned to my case was adamant that no law was broken because

this man never touched me and I was not his employee. He stated the most relatable charge for this behavior is disorderly conduct, but the 88-page investigation concluded "no crime occurred." The DOJ agreed in 2021. The closest civil case I had was a personal injury case, but I only had 3 years to file it as extended statutes for crimes against children do not apply without physical contact in Wisconsin.

Yet I'd be within statutes today for criminal and civil justice in multiple states.

Due to this law void and Title IV exemption, this school board faced only a moral choice when my family and I were defenseless before them 4 years ago. Most church and school leaders do protect children voluntarily, but this board proved what can happen when adequate laws are not in place to motivate decisions to sexual misconduct involving children. Please see my press conference statement for details regarding this school board and accreditation board responses.

If an educator did this to a child you know - could you accept from law enforcement and every reasonable authority in the state it did not matter because the educator did not touch this child? Could you watch the school and its affiliates willfully entertain the predator around more children in their care and legally get away with it? Could you ignore the severe trauma, betrayal, and humiliation this child endured from every part of this and not try everything to stop it from happening to someone else?

My answer to these questions is no. I spent 4 years trying to hold this man and school accountable. This bill was inspired by my story. This law could have changed everything.

I am a licensed counselor in Wisconsin now. The children in my office have remained my strongest motivation to keep going on this journey. I work with children who have experienced trauma, abuse, or neglect. It is hard to imagine any child in my position as a child without strong legal protections or justice. This will be the case for every child in every Wisconsin school until this law changes.

This man can legally work or volunteer with your children today.

The problem is greater than just me, just this man, and just this school. This bill creates the justice that should have been in place for Wisconsin children all along. Many states already recognize criminal conduct with children does not begin with touching them.

It is Wisconsin's turn.

Please vote in favor of this bill. Thank you.

**TO:** Members, Senate Committee on Judiciary and Public Safety  
**FROM:** Samantha L. Goldstein, Legislative and Policy Intern at the U.S. House of Representatives  
**DATE:** August 17, 2023  
**RE:** Testimony in Support of Senate Bill 333

---

Chair Wanggaard, Vice-Chair Jacque, and members of the Senate Committee on Judiciary and Public Safety: thank you for hearing Senate Bill 333, relating to protecting students from sexual misconduct from educators.

I am Sam Goldstein, a recent UW-Madison graduate and MPP student at American University. I testify today as an experienced education and criminal justice legislative/policy analyst, a student, a friend, and someone who has seen the effects of sexual misconduct firsthand. I drafted the initial language of this bill and have been working with Representatives Ohnstad, McGuire, Kerri Pingel, and the attorneys in LRB toward the final language. I have had the privilege of getting to know Kerri and understand her case, which is why we are here today.

Children are our future, and we are responsible for protecting them as adults. While current Wisconsin law addresses most forms of sexual abuse and harassment, it does not explicitly address sexual misconduct by educators. This legislation does exactly that: it closes the loophole between sexual abuse and sexual harassment in state statutes, includes legal protections to receive justice, and creates a safer learning environment for children. According to studies completed by the Department of Education, 10 percent (or more) of public and private school children experience sexual maltreatment by school personnel, though it is extremely underreported.<sup>1</sup> Of the incidents that are reported, fewer than one in five reports are prosecuted.<sup>2</sup> I believe this legislation will protect and serve vulnerable youth, changes the law to be in line with nationwide best practices, and continues statewide collaborative efforts against sexual misconduct.

These incidents stretch across our state – an educator requesting sexual favors from a 14-year-old student in Milwaukee, child sexual abuse charges dismissed against a teacher in Green Bay, a teacher starting a romantic relationship with a 17-year-old in Two Rivers, and so on. The most important work we do as citizens and legislators is to protect the safety and well-being of our children.

---

<sup>1</sup> United States Commission to Eliminate Child Abuse and Neglect Fatalities. (2016). *Within our reach: A national strategy to eliminate child abuse and neglect fatalities*. Washington, DC: Government Printing Office.

<sup>2</sup> Stephanie D. Block, Ph.D., Linda M. Williams, Ph.D. (2019) “The Prosecution of Child Sexual Abuse: A Partnership to Improve Outcomes.” National Criminal Justice Reference Service.



Sexual abuse of students occurs within the context of schools, where students are taught to trust teachers. Schools are also where teachers are more often believed than students, and a power and status differential privileges teachers and other educators<sup>3</sup>. While we know very little about the contexts in which adults in schools sexually abuse students, newspaper data and interview studies suggest that – like sexual predators anywhere – sexual abusers in schools use various strategies to trap students. They lie to them, isolate them, make them feel complicit, and manipulate them into sexual contact. Often teachers target vulnerable or marginal students who are grateful for the attention. Students that adults regard as marginal are also unlikely to be accepted as credible complainants against a celebrated teacher<sup>4</sup>.

Sexual abuse can alter a victim's life and cause everlasting trauma. The grooming, a pattern of behavior by an individual with either authority or influence who engaged in a course of behavior designed to normalize unwanted sexual advances or contact, Kerri experienced controlled her and others' perceptions of her. For these reasons, SB 333 is necessary, as it offers further protection and justice for children and will better allow prosecutors to obtain justice for victims.

Throughout the policymaking process, we dove deep into Title IX, which prohibits sex-based discrimination in any educational program that receives federal funding. Kerri's situation deals with a private religious school in Wisconsin. Educational institutions that do not receive federal funding do not have to comply with Title IX. However, that does not mean that any student should be the victim of educator sexual misconduct just because their institution does not accept federal funding. Every single child across the state in public, private, religious, tribal, elementary, or secondary school deserves to feel safe at school and not subject to sexual misconduct by those who have authority.

Educator sexual misconduct is a widespread issue and has gained attention in the media. A statutory analysis completed by Mia Abboud in the Criminal Justice Policy Review discusses the importance of statutory provisions regarding sexual misconduct. It explains how nearly half of the United States does not have specific legislation targeting sexual misconduct by educators and why they should. "Educators are one of the main representations of authority children encounter, beyond their parents. An established age of consent, as we see delineated throughout the states, maintains the line between a student and someone who is in a position of authority. Teachers and school staff are assumed to have power over students, no matter what age, and therefore the ability of the relatively powerless student to give consent is assumed to be impaired in such relationships."<sup>5</sup>

---

<sup>3</sup> Charol Shakeshaft and Audrey Cohan (1995, March). "Sexual abuse of students by school personnel." *Phi Delta Kappan*, 76 (7) 513-520.

<sup>4</sup> Charol Shakeshaft (2003) "Educator sexual abuse." *Hofstra Horizons*, Spring, 10-13.

<sup>5</sup> Abboud, M. et al., "Educator Sexual Misconduct: A Statutory Analysis." *Criminal Justice Policy Review*, 2020. Vol.31 (1) 133-153.

This analysis by Abboud demonstrates the clear need for this law in Wisconsin. Senate Bill 333 stipulates that conduct that substantially interferes with the pupil's academic performance or creates an intimidating, hostile, or offensive educational environment – the same language in Title VII needed to bring a case of workplace sexual harassment to court. The promise of our state's anti-harassment laws has not been fully realized because our current enforcement and legal system have failed to face the fundamental power imbalance between pupils and their educators.

Sexual misconduct is among the few places in the legal system where victims feel more on trial than the accused perpetrator. Victims face intense scrutiny and are blamed for being a victim. It is clear, without a doubt, that the ability of people to find new ways of sex and sexual misconduct as a means of power and control is abominable and evil – especially when it comes to children.

While I recognize that this legislation may not be able to account for each scenario before it happens, I believe the intention of this Legislature is clear. The loophole must be closed immediately. As I have said, we have a duty to clarify that these heinous acts will *not* be tolerated in Wisconsin. I implore everyone to vote to pass SB 333. Thank you again.