



## **House Joint Resolution 595**

# **Consensual Sexual Conduct between School Personnel and Students 18 Years of Age or Older**

**November 14, 2013**

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# Overview



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# House Joint Resolution 595



- HJR 595 was introduced by Delegate Loupassi during the 2013 General Assembly Session.
- The resolution has two distinct parts.

# House Joint Resolution 595



- The first part deals with legal, consensual sexual activity between adult high school students (18 years or older) and school personnel.
  - The policy issue at hand is whether or not such conduct should be made illegal.

# Methodology



- In order to address the study mandates, staff:
  - Collected available data from relevant agencies;
  - Surveyed public school superintendents and private school principals; and,
  - Completed a legal overview.

# Background



- There are approximately 1.2 million students enrolled in Virginia public schools.
  - Va. Department of Education, Fall Membership 2013.
- The total number of students enrolled that are 18 years of age or older varies during the course of the school year, ranging from 23,839 to 88,407.
  - Va. Department of Education, October 2012 and June 2013 figures.

# Background



- There are 132 public school divisions in Virginia which include approximately 325 high schools.
  - Va. Department of Education.
- There are approximately 220 private schools that can potentially enroll students over the age of 18.
  - Va. Council for Private Education.
- There were 158,454 individuals with an active Virginia teaching/education license as of May 30, 2013.
  - Va. Department of Education.

# Survey Results



- Staff surveyed all public school superintendents and all private school principals that would have students 18 years of age or older enrolled.
- Response rate:
  - 77% (101 of 132) of Public School Division Superintendents
  - 44% (98 of 222) of Private School Principals.



# Survey Results



- Both surveys asked for the total number of incidents occurring over the past 5 academic years.
- If there was an incident reported, respondents were asked to indicate:
  - The year of the reported incident,
  - The type of school employee involved (teacher, substitute teacher, coach, etc.),
  - How the incident was resolved (suspended, forced to resign, fired, etc.); and,
  - Whether the teacher lost their license.

# Survey Results



- Schools were also asked whether they:
  - Had a written policy that regulates relationships between school employees and students;
  - Whether it was required that such incidents be reported to them (either as superintendent or principal); and,
  - To what degree they suspected that such incidents were not being reported to them.

# Survey Results



- **Public Schools:**
  - **11** superintendents reported that at least one incident occurred in their school division over the past 5 academic years.
- **Private Schools:**
  - **None** of the private school principals reported any incidents of sexual relations between school employees and students 18 years of age or older over the past 5 academic years.

# Survey Results



- In the 11 public school divisions, there were 14 incidents involving a school employee and student 18 years of age or older.
  - 7 involved a teacher
    - 2 were fired, 3 were forced to resign, 1 resigned, and 1 retired.
    - 4 lost their license.
  - 4 involved a coach
    - 3 were fired, 1 did not indicate how resolved.
  - 2 involved other staff/employee
    - Both were fired.
  - 1 involved a substitute teacher
    - Individual was fired.

# Survey Results



- Of the 14 incidents involving school personnel and students 18 years of age or older:
  - 8 were fired;
  - 3 were forced to resign;
  - 1 resigned;
  - 1 retired; and,
  - 1 did not indicate how resolved.

# Written Policy



- 74% (73 of 99) of responding superintendents and 87% (81 of 93) of private school principals indicated that they had a written policy that regulates relationships between school employees and students.
  - Of those with written policies, the policy applied to all school employees.

# Written Policy



- 93% (90 of 97) of superintendents reported that principals are required to report such incidents to them.
- 89% (79 of 89) of private school principals reported that school employees are required to report such incidents to them.
- The vast majority of superintendents (97%) and private school principals (100%) believe that it is “unlikely” to “very unlikely” that such incidents are not being reported to them.

# Legal Overview



- Va. Code § 18.2-370.1 punishes as a Class 6 felony the taking of indecent liberties with a minor under the age of 18 by a person who maintains a custodial or supervisory relationship over the child.
- Under Va. law, it is currently legal for consensual sexual conduct to take place between school employees and students 18 years of age or older.



# Legal Overview



- At least 11 states, however, have made sexual conduct between secondary school teachers and adult students illegal.
  - Arkansas (if student is less than 21), Connecticut, Iowa, Kansas, Michigan (if student is special needs and less than 26), North Carolina, Oklahoma (if student is less than 20), Ohio, South Carolina, Texas (if more than a 3 year age difference or relationship started after teacher began job), and Washington (if student is less than 21 and offender is more than 5 years older).
- In all cases where these criminal statutes have been challenged, they have been upheld.
  - Exception was Arkansas; the original statute was struck down, Paschal v. State, 388 S.W.3d 429 (2012), but has since been re-written by the legislature. The new statute has not yet been challenged.

# Summary



- Study mandate focused on consensual sexual conduct between school personnel and students who are 18 years of age or older.
- Such conduct is not illegal under current Virginia law.
- At least 11 states have been identified where such conduct has been made illegal.
- Based on survey results, *at least* 14 incidents have occurred in Virginia public school divisions over the past 5 years.
- Approximately 25% of superintendents reported NOT having a policy that addresses relationships between school employees and students.

# Policy Options



- Should sexual conduct between school employees and students who are 18 years of age or older be made illegal?
- Should schools be required to have a written policy that regulates relationships between school employees and students?

# Acknowledgements



- Private School Principals
- Public School Division Superintendents
- Va. Council for Private Education
- Va. Department of Education



## **Discussion**

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