

Floor Amendment to SB 572-FN

1 Amend the bill by replacing all after the enacting clause with the following:

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3 1 New Paragraph; Sexual Assault and Related Offenses; Definitions. Amend RSA 632-A:1 by  
4 inserting after paragraph V the following new paragraph:

5 V-a. "Student" means an individual who is enrolled or participating in any class or program  
6 from preschool through grade 12, or any "adult student" as specified in Ed 1102.01(f)(1) at any school  
7 or education institution except as otherwise provided in the department of education administrative  
8 rules for the education of children with disabilities.

9 2 Aggravated Felonious Sexual Assault. Amend RSA 632-A:2, I(n) to read as follows:

10 (n) When the actor is in a position of authority over the victim and uses this authority to  
11 coerce the victim to submit under any of the following circumstances:

12 (1) When the actor has direct supervisory, disciplinary, or other authority authorized  
13 by law over, or direct responsibility for maintaining detention of, the victim by virtue of the victim  
14 being detained or incarcerated in a correctional institution, the secure psychiatric unit, a juvenile  
15 detention facility, or any other setting in which the victim is not free to leave; ~~or~~

16 (2) When the actor is a probation or parole officer or a juvenile probation and parole  
17 officer who has direct supervisory or disciplinary authority over the victim while the victim is on  
18 parole or probation or under juvenile probation; *or*

19 (3) *When the actor is an employee, volunteer, or contractor at a primary or*  
20 *secondary educational institution and is in a position of authority over the victim, who is a*  
21 *student at the same educational institution.*

22 Consent of the victim under any of the circumstances set forth in subparagraph (n) shall not be  
23 considered a defense.

24 3 Felonious Sexual Assault. Amend RSA 632-A:3, IV to read as follows:

25 IV.(a) Engages in sexual contact with the person, or causes the person to engage in sexual  
26 contact on himself or herself in the presence of the actor, when the actor is in a position of authority  
27 over the person and uses that authority to coerce the victim to submit under any of the following  
28 circumstances:

29 (1) When the actor has direct supervisory or disciplinary authority over the victim by  
30 virtue of the victim being incarcerated in a correctional institution, the secure psychiatric unit, or  
31 juvenile detention facility where the actor is employed; ~~or~~

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1           (2) When the actor is a probation or parole officer or a juvenile probation and parole  
2 officer who has direct supervisory or disciplinary authority over the victim while the victim is on  
3 parole or probation or under juvenile probation; *or*

4           (3) *When the actor is an employee, volunteer, or contractor at a primary or*  
5 *secondary educational institution and is in a position of authority over the victim, who is a*  
6 *student at the same educational institution.*

7           (b) Consent of the victim under any of the circumstances set forth in this paragraph  
8 shall not be considered a defense.

9           (c) For the purpose of this paragraph, "sexual contact" means the intentional touching  
10 *whether directly, through clothing, or otherwise*, of the [person's] *victim's or actor's* sexual or  
11 intimate parts, including genitalia, *emissions of seminal or vaginal fluid, tongue*, anus, breasts,  
12 and buttocks, where such contact, or the causing of such contact, can reasonably be construed as  
13 being for the purpose of sexual arousal or gratification of the person in the position of authority, or  
14 the humiliation of the person being touched.

15       4 Sexual Assault. Amend RSA 632-A:4, III(c) to read as follows:

16           (c) For the purpose of this paragraph, "sexual contact" means the intentional *touching*  
17 *whether directly, through clothing, or otherwise*, of the [person's] *victim's or actor's* sexual or  
18 intimate parts, including genitalia, *emissions of seminal or vaginal fluid, tongue*, anus, breasts,  
19 and buttocks, where such contact, or the causing of such contact, can reasonably be construed as  
20 being for the purpose of sexual arousal or gratification of the person in the position of authority, or  
21 the humiliation of the person being touched.

22       5 Effective Date. This act shall take effect January 1, 2021.

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AMENDED ANALYSIS

This bill inserts a definition of "student" in the sexual assault statutes and amends the circumstances that constitute sexual contact by a person in a position of authority for the purpose of sexual assault.