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S.18

Introduced by Senators White, Balint, and Baruth

Referred to Committee on Education

Date: January 12, 2017

Subject: Education; students; freedom of expression

Statement of purpose of bill as introduced: This bill proposes to ensure that students are afforded freedom of expression within public schools, independent schools, and postsecondary schools in the State.

An act relating to freedom of expression for students

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 16 V.S.A. chapter 42 is added to read:~~

CHAPTER 42. STUDENT RIGHTS

§ 1623. FREEDOM OF EXPRESSION

(a) Definitions. As used in this chapter:

(1) "School" means a public school or independent school operating in the State.

(2) "School-sponsored media" means any material that is prepared, written, published, or broadcast by a student journalist at a school as part of a school-supported program or activity and is distributed or generally made

1 ~~available to an audience beyond the classroom in which the material is~~
2 ~~produced.~~

3 ~~(3) "Student journalist" means a student enrolled at a school who~~
4 ~~gathers, compiles, writes, edits, photographs, records, or prepares information~~
5 ~~for dissemination in school-sponsored media.~~

6 ~~(4) "Student media adviser" means an individual employed, appointed,~~
7 ~~or designated by a school or its governing body to supervise or provide~~
8 ~~instruction relating to school-sponsored media.~~

9 ~~(b)(1) Subject to subsection (d) of this section, a student journalist may~~
10 ~~exercise freedom of speech and freedom of the press in school-sponsored~~
11 ~~media.~~

12 ~~(2) Subdivision (1) of this subsection shall not be construed to be~~
13 ~~limited by the fact that the school-sponsored media are:~~

14 ~~(A) supported financially by a school or its governing body, or by~~
15 ~~use of facilities owned by the school; or~~

16 ~~(B) produced in conjunction with a class in which the student~~
17 ~~journalist is enrolled.~~

18 ~~(c)(1) Subject to subsection (d) of this section, the student supervisors of~~
19 ~~school-sponsored media are responsible for determining the content of their~~
20 ~~respective media.~~

21 ~~(2) Subdivision (1) of this subsection shall not be construed to prevent a~~

1 ~~student media adviser from teaching professional standards of English and~~
2 ~~journalism to student journalists.~~

3 ~~(d) This section shall not be construed to authorize or protect content of~~
4 ~~school-sponsored media that:~~

5 ~~(1) is libelous or slanderous;~~

6 ~~(2) constitutes an unwarranted invasion of privacy;~~

7 ~~(3) violates federal or State law; or~~

8 ~~(4) creates the imminent danger of inciting students to violate the law or~~
9 ~~school rules, or to materially and substantially disrupt the orderly operation of~~
10 ~~a school.~~

11 ~~(e) Nothing in this section shall be construed to authorize the prior restraint~~
12 ~~of any school-sponsored media, except as to content specified in subsection~~
13 ~~(d) of this section. A school may restrain the distribution of content in student~~
14 ~~media described in subsection (d), provided that the school's administration~~
15 ~~shall have the burden of providing lawful justification without undue delay.~~

16 ~~(f) A student journalist may not be disciplined for acting in accordance~~
17 ~~with this section.~~

18 ~~(g) A student media adviser may not be dismissed, suspended, disciplined,~~
19 ~~reassigned, transferred, or otherwise retaliated against for:~~

20 ~~(1) acting to protect a student journalist engaged in conduct protected by~~
21 ~~this section, or~~

1 ~~(2) refusing to infringe on conduct that is protected by this section, by~~
2 the first amendment to the U.S. Constitution, or by the Vermont Constitution.

3 (h) Each school or its governing body shall adopt a written policy
4 consistent with the provisions of this section.

5 (i) No expression made by students in school-sponsored media shall be
6 deemed to be an expression of school policy, and no school, the governing
7 body of any school, or any official, employee, or agent of any school or its
8 governing body shall be held liable in any civil or criminal action for any
9 expression made or published by students in school-sponsored media.

10 Sec. 2. 16 V.S.A. § 180 is added to read:

11 § 180. STUDENT RIGHTS—FREEDOM OF EXPRESSION

12 (a) Definitions. As used in this chapter,

13 (1) “School” means a post-secondary school that operates primarily or
14 exclusively in the State.

15 (2) “School-sponsored media” means any material that is prepared,
16 written, published, or broadcast by a student journalist at a school as part of a
17 school-supported program or activity and is distributed or generally made
18 available to an audience beyond the classroom in which the material is
19 produced.

20 (3) “Student journalist” means a student enrolled at a school who
21 gathers, compiles, writes, edits, photographs, records, or prepares information

1 for dissemination in school-sponsored media.

2 (4) "Student media adviser" means an individual employed, appointed,
3 or designated by a school or its governing body to supervise or provide
4 instruction relating to school-sponsored media.

5 (b)(1) Subject to subsection (d) of this section, a student journalist may
6 exercise freedom of speech and freedom of the press in schoolsponsored
7 media.

8 (2) Subdivision (1) of this subsection shall not be construed to be
9 limited by the fact that the school-sponsored media are:

10 (A) supported financially by a school or its governing body, or by
11 use of facilities owned by the school; or

12 (B) produced in conjunction with a class in which the student
13 journalist is enrolled.

14 (c)(1) Subject to subsection (d) of this section, the student supervisors of
15 school-sponsored media are responsible for determining the content of their
16 respective media.

17 (2) Subdivision (1) of this subsection shall not be construed to prevent a
18 student media adviser from teaching professional standards of English and
19 journalism to student journalists.

20 (d) This section shall not be construed to authorize or protect content of
21 school-sponsored media that.

- 1 (1) is libelous or slanderous;
- 2 (2) constitutes an unwarranted invasion of privacy;
- 3 (3) violates federal or State law; or
- 4 (4) creates the imminent danger of inciting students to violate the law or
5 school rules, or to materially and substantially disrupt the orderly operation of
6 a school.
- 7 (e) Nothing in this section shall be construed to authorize the prior restraint
8 of any school-sponsored media, except as to content specified in subsection
9 (d) of this section. A school may restrain the distribution of content in student
10 media described in subsection (d), provided that the school's administration
11 shall have the burden of providing lawful justification without undue delay.
- 12 (f) A student journalist may not be disciplined for acting in accordance
13 with this section.
- 14 (g) A student media adviser may not be dismissed, suspended, disciplined,
15 reassigned, transferred, or otherwise retaliated against for:
- 16 (1) acting to protect a student journalist engaged in conduct protected by
17 this section; or
- 18 (2) refusing to infringe on conduct that is protected by this section, by
19 the first amendment to the U.S. Constitution, or by the Vermont Constitution.
- 20 (h) Each school or its governing body shall adopt a written policy
21 consistent with the provisions of this section.

1 ~~(i) No expression made by students in school-sponsored media shall be~~
2 ~~deemed to be an expression of school policy, and no school, the governing~~
3 ~~body of any school, or any official, employee, or agent of any school or of its~~
4 ~~governing body shall be held liable in any civil or criminal action for any~~
5 ~~expression made or published by students in school-sponsored media.~~

6 Sec. 3. EFFECTIVE DATE

7 ~~This act shall take effect on July 1, 2017.~~

Sec. 1. 16 V.S.A. chapter 42 is added to read:

CHAPTER 42. STUDENT RIGHTS

§ 1623. FREEDOM OF EXPRESSION

(a) Findings.

(1) The General Assembly finds that freedom of expression and freedom of the press are fundamental principles in our democratic society granted to every citizen of the nation by the First Amendment to the U.S. Constitution and to every resident of this State by Vt. Const. Ch. I, Art. 13.

(2) These freedoms provide all citizens, including students, with the right to engage in robust and uninhibited discussion of issues.

(3) The General Assembly intends to ensure free speech and free press protections for both public school students and students at public institutions of higher education in this State in order to encourage students to become educated, informed, and responsible members of society.

(b) Definitions. As used in this chapter:

(1) "Media adviser" means an individual employed, appointed, or designated by a school or its governing body to supervise or provide instruction relating to school-sponsored media.

(2) "School" means a public school operating in the State.

(3) "School-sponsored media" means any material that is prepared, written, published, or broadcast as part of a school-supported program or activity by a student journalist and is distributed or generally made available as part of a school-supported program or activity to an audience beyond the

classroom in which the material is produced.

(4) "Student journalist" means a student enrolled at a school who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

(5) "Student supervisor" is a student who is responsible for editing school-sponsored media.

(c)(1) Subject to subsection (e) of this section, a student journalist may exercise freedom of speech and freedom of the press in school-sponsored media.

(2) Subdivision (1) of this subsection shall not be construed to be limited by the fact that the school-sponsored media are:

(A) supported financially by a school or its governing body, or by use of facilities owned by the school; or

(B) produced in conjunction with a class in which the student journalist is enrolled.

(d)(1) Subject to subsection (e) of this section, the student supervisors of school-sponsored media are responsible for determining the content of their respective media.

(2) Subject to subdivision (1) of this subsection, a media adviser may teach professional standards of English and journalism to student journalists.

(e) This section shall not be construed to authorize or protect content of school-sponsored media that:

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

(3) may be defined as obscene, gratuitously profane, threatening, or intimidating;

(4) may be defined as harassment, hazing, or bullying under section 11 of this title;

(5) violates federal or State law; or

(6) creates the imminent danger of materially or substantially disrupting the ability of the school to perform its educational mission.

(f) A school is prohibited from subjecting school-sponsored media, other than that listed in subsection (e) of this section, to prior restraint. A school may restrain the distribution of content in student media described in subsection (e), provided that the school's administration shall have the burden

of providing lawful justification without undue delay. Content shall not be suppressed solely because it involves political or controversial subject matter, or is critical of the school or its administration.

(g) A student journalist may not be disciplined for acting in accordance with this section.

(h) A media adviser may not be dismissed, suspended, disciplined, reassigned, or transferred for:

(1) taking reasonable and appropriate action to protect a student journalist for engaging in conduct protected by this section; or

(2) refusing to infringe on conduct that is protected by this section, by the first amendment to the U.S. Constitution, or by the Vermont Constitution.

(i) Each school or its governing body shall adopt a written policy consistent with the provisions of this section.

(j) No expression made by students in school-sponsored media shall be deemed to be an expression of school policy.

Sec. 2. 16 V.S.A. § 180 is added to read:

§ 180. STUDENT RIGHTS—FREEDOM OF EXPRESSION

(a) Findings.

(1) The General Assembly finds that freedom of expression and freedom of the press are fundamental principles in our democratic society granted to every citizen of the nation by the First Amendment to the U.S. Constitution and to every resident of this State by Vt. Const. Ch. I, Art. 13.

(2) These freedoms provide all citizens, including students, with the right to engage in robust and uninhibited discussion of issues.

(3) The General Assembly intends to ensure free speech and free press protections for both public school students and students at public institutions of higher education in this State in order to encourage students to become educated, informed, and responsible members of society.

(b) Definitions. As used in this chapter:

(1) “Media adviser” means an individual employed, appointed, or designated by a school or its governing body to supervise or provide instruction relating to school-sponsored media.

(2) “School” means a public postsecondary school operating in the State.

(3) "School-sponsored media" means any material that is prepared, written, published, or broadcast as part of a school-supported program or activity by a student journalist and is distributed or generally made available as part of a school-supported program or activity to an audience beyond the classroom in which the material is produced.

(4) "Student journalist" means a student enrolled at a school who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

(5) "Student supervisor" is a student who is responsible for editing school-sponsored media.

(c)(1) Subject to subsection (e) of this section, a student journalist may exercise freedom of speech and freedom of the press in school-sponsored media.

(2) Subdivision (1) of this subsection shall not be construed to be limited by the fact that the school-sponsored media are:

(A) supported financially by a school or its governing body, or by use of facilities owned by the school; or

(B) produced in conjunction with a class in which the student journalist is enrolled.

(d)(1) Subject to subsection (e) of this section, the student supervisors of school-sponsored media are responsible for determining the content of their respective media.

(2) Subject to subdivision (1) of this subsection, a media adviser may teach professional standards of English and journalism to student journalists.

(e) This section shall not be construed to authorize or protect content of school-sponsored media that:

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

(3) may be defined as obscene, gratuitously profane, threatening, or intimidating;

(4) may be defined as harassment, hazing, or bullying under section 11 of this title;

(5) violates federal or State law; or

(6) creates the imminent danger of materially or substantially disrupting the ability of the school to perform its educational mission.

(f) Absent a showing that a particular publication will cause direct, immediate, and irreparable harm that would warrant the issuance of a prior restraint order against the private media, school officials are not authorized to censor or subject to prior restraint the content of school-sponsored media. Content shall not be suppressed solely because it involves political or controversial subject matter, or is critical of the school or its administration.

(g) A student journalist may not be disciplined for acting in accordance with this section.

(h) A media adviser may not be dismissed, suspended, disciplined, reassigned, or transferred for:

(1) taking reasonable and appropriate action to protect a student journalist for engaging in conduct protected by this section; or

(2) refusing to infringe on conduct that is protected by this section, by the first amendment to the U.S. Constitution, or by the Vermont Constitution.

(i) Each school or its governing body shall adopt a written policy consistent with the provisions of this section.

(j) No expression made by students in school-sponsored media shall be deemed to be an expression of school policy.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2017.