

By the Committee on Education; and Senator Baxley

581-02905-18

20181234c1

1 A bill to be entitled
2 An act relating to free expression on campus;
3 providing a short title; creating s. 1004.097, F.S.;
4 defining terms; providing applicability; authorizing a
5 public institution of higher education to create and
6 enforce certain restrictions relating to expressive
7 activities on campus; providing for a cause of action
8 against a public institution of higher education for
9 violations of the act; providing for damages;
10 providing a statute of limitations; amending s.
11 1009.24, F.S.; requiring student government
12 associations to provide specified information to
13 recognized student organizations that request funding;
14 requiring the organizations to maintain and
15 prominently display on their websites certain
16 information regarding such funding requests; providing
17 an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. This act may be cited as the "Campus Free
22 Expression Act."

23 Section 2. Section 1004.097, Florida Statutes, is created
24 to read:

25 1004.097 Free expression on campus.—

26 (1) DEFINITIONS.—

27 (a) "Free speech zone" means a designated area on a public
28 institution of higher education's campus for the purpose of
29 political protesting.

581-02905-18

20181234c1

30 (b) "Outdoor areas of campus" means generally accessible
31 areas of the campus where members of the campus community are
32 commonly allowed, including grassy areas, walkways, or other
33 similar common areas. The term does not include outdoor areas
34 where access is restricted.

35 (c) "Public institution of higher education" means any
36 public technical center, state university, law school, medical
37 school, dental school, or Florida College System institution as
38 defined in s. 1000.21.

39 (2) RIGHT TO FREE SPEECH ACTIVITIES.-

40 (a) Expressive activities protected under this section
41 include, but are not limited to, any lawful verbal or written
42 means by which an individual may communicate ideas to others,
43 including all forms of peaceful assembly, protests, speeches,
44 and guest speakers; distributing literature; carrying signs;
45 circulating petitions; and the recording and publication,
46 including Internet publication, of video or audio recorded in
47 outdoor areas of campus of public institutions of higher
48 education.

49 (b) A person who wishes to engage in an expressive activity
50 in the outdoor areas of campus of a public institution of higher
51 education may do so freely, spontaneously, and contemporaneously
52 as long as the person's conduct is lawful and does not
53 materially and substantially disrupt the functioning of the
54 public institution of higher education.

55 (c) The outdoor areas of campus of a public institution of
56 higher education that accept federal funding are considered
57 traditional public forums. A public institution of higher
58 education may create and enforce restrictions that are

581-02905-18

20181234c1

59 reasonable and content-neutral on time, place, and manner of
60 expression and that are narrowly tailored to a significant
61 institutional interest. Restrictions must be clear, be
62 published, and provide for ample alternative means of
63 expression.

64 (d) A public institution of higher education may not
65 designate any area of campus as a free speech zone or otherwise
66 create policies restricting expressive activities to a
67 particular area of campus.

68 (e) Students, faculty, or staff of a public institution of
69 higher education may not materially disrupt previously scheduled
70 or reserved activities on campus occurring at the same time.

71 (3) CAUSE OF ACTION; DAMAGES.—

72 (a) If a public institution of higher education or an
73 individual acting on behalf of a public institution of higher
74 education willfully violates a person's expressive rights by an
75 action prohibited under this section, the Attorney General or
76 the person may bring an action in a court of competent
77 jurisdiction against the public institution of higher education
78 to recover compensatory damages plus court costs and a
79 reasonable attorney fee. If the court finds that a violation of
80 this section occurred, the court shall award the aggrieved party
81 at least \$500 for each violation or shall award compensatory
82 damages.

83 (b) Excluding reasonable court costs and attorney fees, the
84 total compensatory damages available to a plaintiff in a case
85 arising from a single violation of this section may not exceed
86 \$100,000. If there are multiple plaintiffs, the court shall
87 divide the damages equally among the plaintiffs until the

581-02905-18

20181234c1

88 maximum award is exhausted.

89 (4) STATUTE OF LIMITATIONS.—A person aggrieved by a
90 violation of this section must bring suit no later than 1 year
91 after the date the cause of action accrues. For the purpose of
92 calculating the 1-year limitation period, each day that a
93 violation of this section persists or each day that a policy in
94 violation of this section remains in effect constitutes a new
95 violation and, therefore, a new day that the cause of action
96 accrues.

97 Section 3. Paragraphs (c) and (d) are added to subsection
98 (10) of section 1009.24, Florida Statutes, to read:

99 1009.24 State university student fees.—

100 (10)

101 (c) In the interest of preserving viewpoint neutrality in
102 the allocation of activity and service fees, a student
103 government organization that receives a request for activity and
104 service fee funding from a recognized student organization must
105 provide a written explanation to the recognized student
106 organization regarding its funding determination.

107 (d) Each student government association shall maintain on
108 its website an organized record of the funding requests and
109 awards it receives and disburses. The record must contain the
110 name of each organization that requested funds, the amount the
111 organization requested, the amount the organization received,
112 and the written explanation required in paragraph (c). The
113 record must be displayed prominently on the student government
114 association's website.

115 Section 4. This act shall take effect July 1, 2018.