



804586

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2021	.	
	.	
	.	
	.	

---

The Committee on Appropriations (Rodrigues) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 92 - 116

and insert:

Section 3. Paragraph (a) of subsection (3) and subsection (4) of section 1004.097, Florida Statutes, are amended, and paragraph (f) of is added to subsection (2), and paragraphs (f) and (g) are added to subsection (3) of that section, to read:

1004.097 Free expression on campus.—

(2) DEFINITIONS.—As used in this section, the term:



804586

11 (f) "Shield" means to limit students', faculty members', or  
12 staff members' access to, or observation of, ideas and opinions  
13 they may find uncomfortable, unwelcome, disagreeable, or  
14 offensive.

15 (3) RIGHT TO FREE-SPEECH ACTIVITIES.—

16 (a) Expressive activities protected under the First  
17 Amendment to the United States Constitution and Art. I of the  
18 State Constitution include, but are not limited to, any lawful  
19 oral or written communication of ideas, including all forms of  
20 peaceful assembly, protests, and speeches; distributing  
21 literature; carrying signs; circulating petitions; faculty  
22 research, lectures, writings, and commentary, whether published  
23 or unpublished; and the recording and publication, including the  
24 Internet publication, of video or audio recorded in outdoor  
25 areas of campus. Expressive activities protected by this section  
26 do not include defamatory or commercial speech.

27 (f) A Florida College System institution or a state  
28 university may not shield students, faculty, or staff from  
29 expressive activities.

30 (g) Notwithstanding s. 934.03 and subject to the  
31 protections provided in the Family Educational Rights and  
32 Privacy Act of 1974, 20 U.S.C. s. 1232g and ss. 1002.22 and  
33 1002.225, a student may record video or audio of class lectures  
34 for their own personal educational use, in connection with a  
35 complaint to the public institution of higher education where  
36 the recording was made, or as evidence in, or in preparation  
37 for, a criminal or civil proceeding. A recorded lecture may not  
38 be published without the consent of the lecturer.

39 (4) CAUSE OF ACTION.—A person injured by a violation of



40 ~~whose expressive rights are violated by an action prohibited~~  
41 ~~under~~ this section may bring an action:

42 (a) Against a public institution of higher education based  
43 on the violation of the individual's expressive rights in a  
44 court of competent jurisdiction to obtain declaratory and  
45 injunctive relief and may be entitled to damages plus court  
46 costs and reasonable attorney fees, which may only be paid from  
47 nonstate funds, reasonable court costs, and attorney fees.

48 (b) Against a person who has published video or audio  
49 recorded in a classroom in violation of paragraph (3)(g) in a  
50 court of competent jurisdiction to obtain declaratory and  
51 injunctive relief and may be entitled to damages plus court  
52 costs and reasonable attorney fees, with the total recovery not  
53 to exceed \$200,000.

54  
55 ===== T I T L E A M E N D M E N T =====

56 And the title is amended as follows:

57 Delete lines 23 - 30

58 and insert:

59 "shield"; providing that certain faculty  
60 communications are protected expressive activity;  
61 prohibiting specified entities from shielding  
62 students, faculty, or staff from certain speech;  
63 authorizing students at public postsecondary  
64 institutions to record video and audio in classrooms  
65 for specified purposes; prohibiting the publication of  
66 certain video or audio recordings; providing an  
67 exception; revising available remedies for certain  
68 causes of action to include damages; providing that



69       such damages and specified costs and fees must be paid  
70       from nonstate funds; providing a cause of action  
71       against a person who publishes certain video or audio  
72       recordings; providing a limitation on the amount that  
73       can be recovered; providing an