

By the Committees on Appropriations; and Education; and Senator Rodrigues

576-03046-21

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1 A bill to be entitled
2 An act relating to higher education; amending s.
3 1001.03, F.S.; defining terms; requiring the State
4 Board of Education to require each Florida College
5 System institution to conduct an annual assessment
6 related to intellectual freedom and viewpoint
7 diversity; providing criteria relating to such
8 assessment; requiring the State Board of Education to
9 annually publish such assessments by a specified date;
10 authorizing the State Board of Education to adopt
11 rules; prohibiting the State Board of Education from
12 shielding Florida College System institution students
13 from certain speech; amending s. 1001.706, F.S.;
14 defining terms; requiring the Board of Governors to
15 require each state university to conduct an annual
16 assessment related to intellectual freedom and
17 viewpoint diversity; providing criteria relating to
18 such assessment; requiring the Board of Governors to
19 annually publish such assessments by a specified date;
20 prohibiting the Board of Governors from shielding
21 state university students from certain speech;
22 amending s. 1004.097, F.S.; defining the term
23 "shield"; providing that certain faculty
24 communications are protected expressive activity;
25 prohibiting specified entities from shielding
26 students, faculty, or staff from certain speech;
27 authorizing students at public postsecondary
28 institutions to record video and audio in classrooms
29 for specified purposes; prohibiting the publication of

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30 certain video or audio recordings; providing an
31 exception; revising available remedies for certain
32 causes of action to include damages; providing that
33 such damages and specified costs and fees must be paid
34 from nonstate funds; providing a cause of action
35 against a person who publishes certain video or audio
36 recordings; providing a limitation on the amount that
37 can be recovered; amending s. 1004.26, F.S.; providing
38 that state university student governments are subject
39 to all applicable federal and state laws and
40 regulations and the policies of the Board of Governors
41 of the State University System and of the university;
42 providing an effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

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46 Section 1. Subsection (19) is added to section 1001.03,
47 Florida Statutes, to read:

48 1001.03 Specific powers of State Board of Education.—

49 (19) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY

50 ASSESSMENT.—

51 (a) For the purposes of this subsection, the term:

52 1. "Intellectual freedom and viewpoint diversity" means the
53 exposure of students to, and the encouragement of students'
54 exploration of, a variety of ideological and political
55 perspectives.

56 2. "Shield" means to limit students' access to or
57 observation of ideas and opinions they may find uncomfortable,
58 unwelcome, disagreeable, or offensive.

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59 (b) The State Board of Education shall require each Florida
60 College System institution to conduct an annual assessment of
61 the intellectual freedom and viewpoint diversity at that
62 institution. The state board shall select or create an
63 objective, nonpartisan, and statistically valid survey to be
64 used by each institution which considers the extent to which
65 competing ideas and perspectives are presented and members of
66 the college community feel free to express their beliefs and
67 viewpoints on campus and in the classroom. The state board shall
68 annually compile and publish the assessments by September 1 of
69 each year, beginning on September 1, 2022. The state board may
70 adopt rules to implement this paragraph.

71 (c) The state board may not shield students at Florida
72 College System institutions from free speech protected under the
73 First Amendment to the United States Constitution and Art. I of
74 the State Constitution.

75 Section 2. Subsection (13) is added to section 1001.706,
76 Florida Statutes, to read:

77 1001.706 Powers and duties of the Board of Governors.—

78 (13) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY
79 ASSESSMENT.—

80 (a) For the purposes of this subsection, the term:

81 1. "Intellectual freedom and viewpoint diversity" means the
82 exposure of students to, and the encouragement of students'
83 exploration of, a variety of ideological and political
84 perspectives.

85 2. "Shield" means to limit students' access to or
86 observation of ideas and opinions they may find uncomfortable,
87 unwelcome, disagreeable, or offensive.

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88 (b) The Board of Governors shall require each state
89 university to conduct an annual assessment of the intellectual
90 freedom and viewpoint diversity at that institution. The Board
91 of Governors shall select or create an objective, nonpartisan,
92 and statistically valid survey to be used by each state
93 university which considers the extent to which competing ideas
94 and perspectives are presented and members of the university
95 community feel free to express their beliefs and viewpoints on
96 campus and in the classroom. The Board of Governors shall
97 annually compile and publish the assessments by September 1 of
98 each year, beginning on September 1, 2022.

99 (c) The Board of Governors may not shield students at state
100 universities from free speech protected under the First
101 Amendment to the United States Constitution and Art. I of the
102 State Constitution.

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

107 1004.097 Free expression on campus.—

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

109 (f) "Shield" means to limit students', faculty members', or
110 staff members' access to, or observation of, ideas and opinions
111 they may find uncomfortable, unwelcome, disagreeable, or
112 offensive.

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

114 (a) Expressive activities protected under the First
115 Amendment to the United States Constitution and Art. I of the
116 State Constitution include, but are not limited to, any lawful

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117 oral or written communication of ideas, including all forms of
118 peaceful assembly, protests, and speeches; distributing
119 literature; carrying signs; circulating petitions; faculty
120 research, lectures, writings, and commentary, whether published
121 or unpublished; and the recording and publication, including the
122 Internet publication, of video or audio recorded in outdoor
123 areas of campus. Expressive activities protected by this section
124 do not include defamatory or commercial speech.

125 (f) A Florida College System institution or a state
126 university may not shield students, faculty, or staff from
127 expressive activities.

128 (g) Notwithstanding s. 934.03 and subject to the
129 protections provided in the Family Educational Rights and
130 Privacy Act of 1974, 20 U.S.C. s. 1232g and ss. 1002.22 and
131 1002.225, a student may record video or audio of class lectures
132 for their own personal educational use, in connection with a
133 complaint to the public institution of higher education where
134 the recording was made, or as evidence in, or in preparation
135 for, a criminal or civil proceeding. A recorded lecture may not
136 be published without the consent of the lecturer.

137 (4) CAUSE OF ACTION.—A person injured by a violation of
138 ~~whose expressive rights are violated by an action prohibited~~
139 ~~under~~ this section may bring an action:

140 (a) Against a public institution of higher education based
141 on the violation of the individual's expressive rights in a
142 court of competent jurisdiction to obtain declaratory and
143 injunctive relief and may be entitled to damages plus court
144 costs and reasonable attorney fees, which may only be paid from
145 nonstate funds, reasonable court costs, and attorney fees.

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

152 Section 4. Subsection (1) of section 1004.26, Florida
153 Statutes, is amended to read:

154 1004.26 University student governments.—

155 (1) A student government is created on the main campus of
156 each state university. In addition, each university board of
157 trustees may establish a student government on any branch campus
158 or center. Each student government is a part of the university
159 at which it is established and is subject to all applicable
160 federal and state laws and regulations and the policies of the
161 Board of Governors of the State University System and of the
162 university.

163 Section 5. This act shall take effect July 1, 2021.