

By Senator Polsky

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1 A bill to be entitled
2 An act relating to education; amending ss. 1001.03 and
3 1001.706, F.S.; deleting definitions; repealing a
4 requirement that the State Board of Education and the
5 Board of Governors, respectively, require each Florida
6 College System (FCS) institution and state university
7 to conduct an annual assessment of intellectual
8 freedom and viewpoint diversity; repealing a
9 prohibition on the state board and Board of Governors
10 shielding students, faculty, or staff at FCS
11 institutions and state universities from free speech;
12 amending s. 1004.097, F.S.; deleting the definition of
13 the term "shield"; repealing a prohibition on FCS
14 institutions and state universities shielding
15 students, faculty, or staff from expressive
16 activities; repealing provisions authorizing a student
17 to record certain video or audio; repealing
18 authorization for a person injured by certain
19 violations to bring an action against a person who has
20 published certain video or audio; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (19) of section 1001.03, Florida
26 Statutes, is amended to read:

27 1001.03 Specific powers of State Board of Education.-
28 ~~(19) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY~~
29 ~~ASSESSMENT.~~

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

31 ~~1. "Intellectual freedom and viewpoint diversity" means the~~
32 ~~exposure of students, faculty, and staff to, and the~~
33 ~~encouragement of their exploration of, a variety of ideological~~
34 ~~and political perspectives.~~

35 ~~2. "Shield" means to limit students', faculty members', or~~
36 ~~staff members' access to, or observation of, ideas and opinions~~
37 ~~that they may find uncomfortable, unwelcome, disagreeable, or~~
38 ~~offensive.~~

39 ~~(b) The State Board of Education shall require each Florida~~
40 ~~College System institution to conduct an annual assessment of~~
41 ~~the intellectual freedom and viewpoint diversity at that~~
42 ~~institution. The State Board of Education shall select or create~~
43 ~~an objective, nonpartisan, and statistically valid survey to be~~
44 ~~used by each institution which considers the extent to which~~
45 ~~competing ideas and perspectives are presented and members of~~
46 ~~the college community, including students, faculty, and staff,~~
47 ~~feel free to express their beliefs and viewpoints on campus and~~
48 ~~in the classroom. The State Board of Education shall annually~~
49 ~~compile and publish the assessments by September 1 of each year,~~
50 ~~beginning on September 1, 2022. The State Board of Education may~~
51 ~~adopt rules to implement this paragraph.~~

52 ~~(c) The State Board of Education may not shield students,~~
53 ~~faculty, or staff at Florida College System institutions from~~
54 ~~free speech protected under the First Amendment to the United~~
55 ~~States Constitution, Art. I of the State Constitution, or s.~~
56 ~~1004.097.~~

57 Section 2. Subsection (13) of section 1001.706, Florida
58 Statutes, is amended to read:

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59 1001.706 Powers and duties of the Board of Governors.-

60 ~~(13) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY~~

61 ASSESSMENT.-

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

63 1. ~~"Intellectual freedom and viewpoint diversity" means the~~
64 ~~exposure of students, faculty, and staff to, and the~~
65 ~~encouragement of their exploration of, a variety of ideological~~
66 ~~and political perspectives.~~

67 2. ~~"Shield" means to limit students', faculty members', or~~
68 ~~staff members' access to, or observation of, ideas and opinions~~
69 ~~that they may find uncomfortable, unwelcome, disagreeable, or~~
70 ~~offensive.~~

71 ~~(b) The Board of Governors shall require each state~~
72 ~~university to conduct an annual assessment of the intellectual~~
73 ~~freedom and viewpoint diversity at that institution. The Board~~
74 ~~of Governors shall select or create an objective, nonpartisan,~~
75 ~~and statistically valid survey to be used by each state~~
76 ~~university which considers the extent to which competing ideas~~
77 ~~and perspectives are presented and members of the university~~
78 ~~community, including students, faculty, and staff, feel free to~~
79 ~~express their beliefs and viewpoints on campus and in the~~
80 ~~classroom. The Board of Governors shall annually compile and~~
81 ~~publish the assessments by September 1 of each year, beginning~~
82 ~~on September 1, 2022.~~

83 ~~(c) The Board of Governors may not shield students,~~
84 ~~faculty, or staff at state universities from free speech~~
85 ~~protected under the First Amendment to the United States~~
86 ~~Constitution, Art. I of the State Constitution, or s. 1004.97.~~

87 Section 3. Paragraph (f) of subsection (2), paragraphs (f)

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88 and (g) of subsection (3), and subsection (4) of section
89 1004.097, Florida Statutes, are amended to read:

90 1004.097 Free expression on campus.—

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

92 ~~(f) "Shield" means to limit students', faculty members', or~~
93 ~~staff members' access to, or observation of, ideas and opinions~~
94 ~~that they may find uncomfortable, unwelcome, disagreeable, or~~
95 ~~offensive.~~

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

97 ~~(f) A Florida College System institution or a state~~
98 ~~university may not shield students, faculty, or staff from~~
99 ~~expressive activities.~~

100 ~~(g) Notwithstanding s. 934.03 and subject to the~~
101 ~~protections provided in the Family Educational Rights and~~
102 ~~Privacy Act of 1974, 20 U.S.C. s. 1232g, and ss. 1002.22 and~~
103 ~~1002.225, a student may record video or audio of class lectures~~
104 ~~for their own personal educational use, in connection with a~~
105 ~~complaint to the public institution of higher education where~~
106 ~~the recording was made, or as evidence in, or in preparation~~
107 ~~for, a criminal or civil proceeding. A recorded lecture may not~~
108 ~~be published without the consent of the lecturer.~~

109 (4) CAUSE OF ACTION.—A person injured by a violation of
110 this section may bring an action±

111 ~~(a)~~ against a public institution of higher education based
112 on the violation of the individual's expressive rights in a
113 court of competent jurisdiction to obtain declaratory and
114 injunctive relief and may be entitled to damages plus court
115 costs and reasonable attorney fees, which may only be paid from
116 nonstate funds.

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117 ~~(b) Against a person who has published video or audio~~
118 ~~recorded in a classroom in violation of paragraph (3)(g) in a~~
119 ~~court of competent jurisdiction to obtain declaratory and~~
120 ~~injunctive relief and may be entitled to damages plus court~~
121 ~~costs and reasonable attorney fees, with the total recovery not~~
122 ~~to exceed \$200,000.~~

123 Section 4. This act shall take effect July 1, 2022.