

SSB 5064 - H COMM AMD
By Committee on Judiciary

ADOPTED AND ENGROSSED 3/2/18

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that freedom of
4 expression through school-sponsored media is a fundamental principle
5 in our democratic society granted by the First Amendment to the
6 United States Constitution and by Article I, section 5 of the state
7 Constitution. It is the intent of the legislature to protect freedom
8 of expression through school-sponsored media for both public school
9 students and students at public institutions of higher education in
10 this state in order to encourage students to become educated,
11 informed, and responsible members of society.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.600
13 RCW to read as follows:

14 (1) Student editors of school-sponsored media are responsible for
15 determining the news, opinion, feature, and advertising content of
16 the media subject to the limitations of subsection (2) of this
17 section. This subsection does not prevent a student media adviser
18 from teaching professional standards of English and journalism to the
19 student journalists. A student media adviser may not be terminated,
20 transferred, removed, or otherwise disciplined for complying with
21 this section.

22 (2) School officials may only prohibit student expression that:

23 (a) Is libelous or slanderous;

24 (b) Is an unwarranted invasion of privacy;

25 (c) Violates federal or state laws, rules, or regulations;

26 (d) Incites students to violate federal or state laws, rules, or
27 regulations;

28 (e) Violates school district policy or procedure related to
29 harassment, intimidation, or bullying pursuant to RCW 28A.300.285 or
30 the prohibition on discrimination pursuant to RCW 28A.642.010;

1 (f) Inciting of students so as to create a clear and present
2 danger of:

3 (i) The commission of unlawful acts on school premises;

4 (ii) The violation of lawful school district policy or procedure;
5 or

6 (iii) The material and substantial disruption of the orderly
7 operation of the school. A school official must base a forecast of
8 material and substantial disruption on specific facts, including past
9 experience in the school and current events influencing student
10 behavior, and not on undifferentiated fear or apprehension; or

11 (g) Is in violation of the federal communications act or
12 applicable federal communication commission rules or regulations.

13 (3) Political expression by students in school-sponsored media
14 shall not be deemed the use of public funds for political purposes,
15 for purposes of the prohibitions of RCW 42.17A.550.

16 (4) Any student, individually or through his or her parent or
17 guardian, enrolled in a public high school may file an appeal of any
18 alleged violation of subsection (1) of this section pursuant to
19 chapter 28A.645 RCW.

20 (5) Expression made by students in school-sponsored media is not
21 necessarily the expression of school policy. Neither a school
22 official nor the governing board of the school or school district may
23 be held responsible in any civil or criminal action for any
24 expression made or published by students in school-sponsored media.

25 (6) Each school district that includes a high school shall adopt
26 a written student freedom of expression policy in accordance with
27 this section. The policy may include reasonable provisions for the
28 time, place, and manner of student expression.

29 (7) The definitions in this subsection apply throughout this
30 section unless the context clearly requires otherwise.

31 (a) "School-sponsored media" means any matter that is prepared,
32 substantially written, published, or broadcast by student
33 journalists, that is distributed or generally made available, either
34 free of charge or for a fee, to members of the student body, and that
35 is prepared under the direction of a student media adviser. "School-
36 sponsored media" does not include media that is intended for
37 distribution or transmission solely in the classrooms in which they
38 are produced.

1 (b) "Student journalist" means a student who gathers, compiles,
2 writes, edits, photographs, records, or prepares information for
3 dissemination in school-sponsored media.

4 (c) "Student media adviser" means a person who is employed,
5 appointed, or designated by the school to supervise, or provide
6 instruction relating to, school-sponsored media.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.10
8 RCW to read as follows:

9 (1) Students at institutions of higher education have the right
10 to exercise freedom of speech and of the press in school-sponsored
11 media, whether or not the media are supported financially by the
12 school or by use of school facilities, or are produced in conjunction
13 with a class. All school-sponsored media produced primarily by
14 students at an institution of higher education are public forums for
15 expression by the student journalists and student editors at the
16 particular institution. Student media, whether school-sponsored or
17 nonschool sponsored, are not subject to mandatory prior review by
18 school officials.

19 (2) Student editors of school-sponsored media are responsible for
20 determining the news, opinion, feature, and advertising content of
21 the media. This subsection does not prevent a student media adviser
22 from teaching professional standards of English and journalism to the
23 student journalists. A student media adviser may not be terminated,
24 transferred, removed, or otherwise disciplined for refusing to
25 suppress the protected free expression rights of student journalists.

26 (3) Nothing in this section may be interpreted to authorize
27 expression by students that:

- 28 (a) Is libelous or slanderous;
- 29 (b) Constitutes an unwarranted invasion of privacy;
- 30 (c) Violates the federal communications act or any rule or
31 regulation of the federal communications commission; or
- 32 (d) So incites students as to create a clear and present danger
33 of:

- 34 (i) The commission of unlawful acts on school premises;
- 35 (ii) The violation of lawful school regulations, policies, or
36 procedures; or
- 37 (iii) The material and substantial disruption of the orderly
38 operation of the school. A school official must base a forecast of
39 material and substantial disruption on specific facts, including past

1 experience in the school and current events influencing student
2 behavior, and not on undifferentiated fear or apprehension.

3 (4) Any student enrolled in an institution of higher education
4 may commence a civil action to obtain appropriate injunctive and
5 declaratory relief as determined by a court for a violation of
6 subsection (1) of this section by the institution of higher
7 education. Upon a motion, a court may award reasonable attorneys'
8 fees to a prevailing plaintiff in a civil action brought under this
9 section.

10 (5) Expression made by students in school-sponsored media is not
11 the expression of school policy. Neither a school official nor the
12 governing board of any institution of higher education may be held
13 responsible in any civil or criminal action for any expression made
14 or published by students in school-sponsored media unless school
15 officials or the governing board have interfered with or altered the
16 content of the student expression.

17 (6) The definitions in this subsection apply throughout this
18 section unless the context clearly requires otherwise.

19 (a) "School-sponsored media" means any matter that is prepared,
20 substantially written, published, or broadcast by student
21 journalists, that is distributed or generally made available, either
22 free of charge or for a fee, to members of the student body, and that
23 is prepared under the direction of a student media adviser. "School-
24 sponsored media" does not include media that is intended for
25 distribution or transmission solely in the classrooms in which they
26 are produced.

27 (b) "Student journalist" means a student who gathers, compiles,
28 writes, edits, photographs, records, or prepares information for
29 dissemination in school-sponsored media.

30 (c) "Student media adviser" means a person who is employed,
31 appointed, or designated by the school to supervise, or provide
32 instruction relating to, school-sponsored media.

33 NEW SECTION. **Sec. 4.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected."

1 Correct the title.

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