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HOUSE BILL NO. 36

Offered January 8, 2020

Prefiled November 19, 2019

A *BILL to amend the Code of Virginia by adding sections numbered 22.1-203.4 and 23.1-401.2, relating to student journalists; freedom of speech and the press.*

Patrons—Hurst, Roem, Samirah and Keam

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 22.1-203.4 and 23.1-401.2 as follows:

§ 22.1-203.4. Student journalists; freedom of speech and the press.

A. As used in this section:

"School-sponsored media" means any material that is prepared, substantially written, published, or broadcast by a student journalist at a public middle school or high school under the direction of a student media adviser and distributed or generally made available to members of the student body. "School-sponsored media" does not include any media intended for distribution or transmission solely in the classroom in which the media is produced.

"Student journalist" means a public middle school or high school student who gathers, compiles, writes, edits, photographs, records, or prepares information for inclusion in school-sponsored media.

"Student media adviser" means a school board employee who is appointed, designated, or employed to supervise or provide instruction relating to school-sponsored media.

B. Except as provided in subsection C, a student journalist has the right to exercise freedom of speech and the press in school-sponsored media, including determining the news, opinion, feature, and advertising content of school-sponsored media, regardless of whether the media is supported financially by the school board, supported through the use of school facilities in the school division, or produced in conjunction with a course or class in which the student is enrolled. Nothing in this subsection shall be construed to prevent a student media adviser from teaching professional standards of English language usage and journalism to student journalists.

C. No student journalist has the right to exercise freedom of speech or the press in school-sponsored media when such media:

1. Is libelous or slanderous;
2. Constitutes an unwarranted invasion of privacy;
3. Violates federal or state law; or

4. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of school board policy, or the material and substantial disruption of the orderly operation of the school.

D. No school board shall authorize any prior restraint of any school-sponsored media except when such media:

1. Is libelous or slanderous;
2. Constitutes an unwarranted invasion of privacy;
3. Violates federal or state law; or

4. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of school board policies, or the material and substantial disruption of the orderly operation of the school.

E. No school board shall sanction a student who operates as a journalist in a manner that is independent from any school-sponsored media or student media adviser.

F. Each school board shall adopt a written policy for the exercise of the right of student journalists to freedom of speech and the press in school-sponsored media in accordance with this section. Each such policy shall include reasonable provisions relating to the time, place, and manner of the exercise of such rights. Any such policy may include limitations on school-sponsored media that is profane, harassing, threatening, or intimidating.

G. No student media adviser shall be dismissed, suspended, disciplined, reassigned, or transferred for (i) taking reasonable and appropriate action to protect a student journalist who engages in conduct that is protected by subsection B or (ii) refusing to infringe on conduct by a student journalist that is protected by subsection B, the First Amendment to the United States Constitution, or the Constitution of Virginia.

59 **§ 23.1-401.2. Student journalists; freedom of speech and the press.**

60 A. As used in this section:

61 "School-sponsored media" means any material that is prepared, substantially written, published, or
62 broadcast by a student journalist at a public institution of higher education under the direction of a
63 student media adviser and distributed or generally made available to members of the student body.
64 "School-sponsored media" does not include any media intended for distribution or transmission solely in
65 the course in which the media is produced.

66 "Student journalist" means a student enrolled at a public institution of higher education who gathers,
67 compiles, writes, edits, photographs, records, or prepares information for inclusion in school-sponsored
68 media.

69 "Student media adviser" means an employee of a public institution of higher education who is
70 appointed, designated, or employed to supervise or provide instruction relating to school-sponsored
71 media.

72 B. Except as provided in subsection C, a student journalist has the right to exercise freedom of
73 speech and the press in school-sponsored media, including determining the news, opinion, feature, and
74 advertising content of school-sponsored media, regardless of whether the media is supported financially
75 by the governing board of the institution, supported through the use of campus facilities, or produced in
76 conjunction with a course in which the student is enrolled. Nothing in this subsection shall be construed
77 to prevent a student media adviser from teaching professional standards of English language usage and
78 journalism to student journalists.

79 C. No student journalist has the right to exercise freedom of speech or the press in school-sponsored
80 media when such media:

81 1. Is libelous or slanderous;

82 2. Constitutes an unwarranted invasion of privacy;

83 3. Violates federal or state law; or

84 4. So incites students as to create a clear and present danger of the commission of an unlawful act,
85 the violation of institution policy, or the material and substantial disruption of the orderly operation of
86 the institution.

87 D. No student media adviser shall be dismissed, suspended, disciplined, reassigned, or transferred
88 for (i) taking reasonable and appropriate action to protect a student journalist who engages in conduct
89 that is protected by subsection B or (ii) refusing to infringe on conduct by a student journalist that is
90 protected by subsection B, the First Amendment to the United States Constitution, or the Constitution of
91 Virginia.