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HOUSE BILL NO. 36**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Joint Conference Committee
on March 7, 2020)

(Patron Prior to Substitute—Delegate Hurst)

A *BILL to amend the Code of Virginia by adding a section numbered 23.1-401.2, relating to public institutions of higher education; student journalists; freedom of speech and the press.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 23.1-401.2 as follows:

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

A. As used in this section:

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

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

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

B. Except as provided in subsection C, a student journalist has the right to exercise freedom of speech and the press in institution-sponsored student media, including determining the news and opinion content of institution-sponsored student media, regardless of whether the media is supported financially by the governing board of the institution, supported through the use of campus facilities, or produced in conjunction with a course in which the student is enrolled.

C. No student journalist has the right to exercise freedom of speech or the press in institution-sponsored student 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 institution policy, or the material and substantial disruption of the orderly operation of the institution.

D. 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.