

# SENATE BILL 764

F1, F2

(6lr0867)

## ENROLLED BILL

— *Education, Health, and Environmental Affairs/Appropriations* —

Introduced by **Senators Raskin and Rosapepe**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Education – Student Journalists – Freedom of Speech and Freedom of the Press**

3 FOR the purpose of authorizing certain student journalists to exercise freedom of speech  
4 and freedom of the press in school–sponsored media; making certain student  
5 journalists responsible for determining certain content of school–sponsored media;  
6 providing for the construction of certain provisions of this Act; prohibiting certain  
7 student media advisors from using their position to influence a student journalist to  
8 promote certain positions; prohibiting a county board of education from exercising  
9 prior restraint, except under certain circumstances; specifying that the  
10 administration of a certain public school will have the burden of proving certain  
11 justification under certain circumstances; prohibiting the discipline of certain  
12 student journalists and certain media advisors under certain circumstances;  
13 requiring certain county boards and certain institutions of higher education to adopt  
14 certain policies; defining certain terms; and generally relating to the freedom of

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 speech and the freedom of the press for student journalists in  
2 school-sponsored media.

3 BY adding to  
4 Article – Education  
5 Section 7–121 and 15–119  
6 Annotated Code of Maryland  
7 (2014 Replacement Volume and 2015 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
9 That the Laws of Maryland read as follows:

10 **Article – Education**

11 **7–121.**

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
13 INDICATED.

14 (2) (I) “SCHOOL–SPONSORED MEDIA” MEANS ANY MATERIAL THAT  
15 IS:

16 1. PREPARED, WRITTEN, PUBLISHED, OR BROADCAST  
17 BY A STUDENT JOURNALIST AT A PUBLIC SCHOOL;

18 2. DISTRIBUTED OR GENERALLY MADE AVAILABLE TO  
19 MEMBERS OF THE STUDENT BODY; AND

20 3. PREPARED UNDER THE DIRECTION OF A STUDENT  
21 MEDIA ADVISOR.

22 (II) “SCHOOL–SPONSORED MEDIA” DOES NOT INCLUDE  
23 MATERIAL THAT IS INTENDED FOR DISTRIBUTION OR TRANSMISSION SOLELY IN THE  
24 CLASSROOM IN WHICH THE MATERIAL IS PRODUCED.

25 (3) “STUDENT JOURNALIST” MEANS A PUBLIC SCHOOL STUDENT WHO  
26 GATHERS, COMPILES, WRITES, EDITS, PHOTOGRAPHS, RECORDS, OR PREPARES  
27 INFORMATION FOR DISSEMINATION IN SCHOOL–SPONSORED MEDIA.

28 (4) “STUDENT MEDIA ADVISOR” MEANS AN INDIVIDUAL EMPLOYED,  
29 APPOINTED, OR DESIGNATED BY A COUNTY BOARD OR A PUBLIC SCHOOL TO  
30 SUPERVISE OR PROVIDE INSTRUCTION RELATING TO SCHOOL–SPONSORED MEDIA.

1           **(B) (1) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A STUDENT**  
2 **JOURNALIST MAY EXERCISE FREEDOM OF SPEECH AND FREEDOM OF THE PRESS IN**  
3 **SCHOOL-SPONSORED MEDIA.**

4           **(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED**  
5 **TO BE LIMITED BY THE FACT THAT THE SCHOOL-SPONSORED MEDIA IS:**

6                   **(I) SUPPORTED FINANCIALLY BY THE LOCAL SCHOOL SYSTEM,**  
7 **OR BY THE PUBLIC SCHOOL, OR BY USE OF FACILITIES OWNED BY THE COUNTY**  
8 **BOARD; OR**

9                   **(II) PRODUCED IN CONJUNCTION WITH A CLASS IN WHICH THE**  
10 **STUDENT JOURNALIST IS ENROLLED.**

11           **(C) (1) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A STUDENT**  
12 **JOURNALIST IS RESPONSIBLE FOR DETERMINING THE NEWS, OPINION, FEATURE,**  
13 **AND ADVERTISING CONTENT OF SCHOOL-SPONSORED MEDIA.**

14           **(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED**  
15 **TO PREVENT A STUDENT MEDIA ADVISOR FROM TEACHING PROFESSIONAL**  
16 **STANDARDS OF ENGLISH AND JOURNALISM TO STUDENT JOURNALISTS.**

17           **(D) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE OR PROTECT**  
18 **CONTENT OF SCHOOL-SPONSORED MEDIA BY A STUDENT JOURNALIST THAT:**

19                   **(1) IS LIBELOUS OR SLANDEROUS;**

20                   **(2) CONSTITUTES AN UNWARRANTED INVASION OF PRIVACY;**

21                   **(3) VIOLATES FEDERAL OR STATE LAW; OR**

22                   **(4) INCITES STUDENTS TO CREATE A CLEAR AND PRESENT DANGER**  
23 **OF THE COMMISSION OF AN UNLAWFUL ACT, THE VIOLATION OF COUNTY BOARD**  
24 **POLICIES, OR THE MATERIAL AND SUBSTANTIAL DISRUPTION OF THE ORDERLY**  
25 **OPERATION OF THE PUBLIC SCHOOL.**

26           **(E) A STUDENT MEDIA ADVISOR MAY NOT USE THE ADVISOR'S POSITION TO**  
27 **INFLUENCE A STUDENT JOURNALIST TO PROMOTE AN OFFICIAL POSITION OF A**  
28 **COUNTY BOARD OR A PUBLIC SCHOOL.**

29           ~~**(E)**~~ **(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
30 **SUBSECTION, A COUNTY BOARD MAY NOT EXERCISE PRIOR RESTRAINT OF ANY**  
31 **SCHOOL-SPONSORED MEDIA.**

1           **(2) A COUNTY BOARD MAY EXERCISE PRIOR RESTRAINT OF**  
 2 **SCHOOL-SPONSORED MEDIA DESCRIBED UNDER SUBSECTION (D) OF THIS SECTION.**

3           ~~(F)~~ **(G) THE ADMINISTRATION OF A PUBLIC SCHOOL SHALL HAVE THE**  
 4 **BURDEN OF PROVING JUSTIFICATION WITHOUT UNDUE DELAY BEFORE AN ACTION**  
 5 **IS TAKEN UNDER SUBSECTION ~~(E)(2)~~ (F)(2) OF THIS SECTION.**

6           ~~(G)~~ **(H) (1) A STUDENT JOURNALIST MAY NOT BE DISCIPLINED FOR**  
 7 **ACTING IN ACCORDANCE WITH SUBSECTIONS (B) OR (C) OF THIS SECTION.**

8           **(2) A STUDENT MEDIA ADVISOR MAY NOT BE DISMISSED, SUSPENDED,**  
 9 **DISCIPLINED, REASSIGNED, TRANSFERRED, OR OTHERWISE RETALIATED AGAINST**  
 10 **FOR:**

11           **(I) ACTING TO PROTECT A STUDENT JOURNALIST ENGAGED IN**  
 12 **CONDUCT UNDER SUBSECTIONS (B) OR (C) OF THIS SECTION; OR**

13           **(II) REFUSING TO INFRINGE ON CONDUCT THAT IS PROTECTED**  
 14 **BY SUBSECTIONS (B) OR (C) OF THIS SECTION, THE FIRST AMENDMENT TO THE**  
 15 **UNITED STATES CONSTITUTION, OR ARTICLE 40 OF THE MARYLAND DECLARATION**  
 16 **OF RIGHTS.**

17           ~~(H)~~ **(I) (1) EACH COUNTY BOARD SHALL ADOPT A WRITTEN POLICY**  
 18 **CONCERNING THE PROVISIONS OF THIS SECTION.**

19           **(2) THE POLICY ADOPTED UNDER PARAGRAPH (1) OF THIS**  
 20 **SUBSECTION:**

21           **(I) SHALL INCLUDE REASONABLE PROVISIONS FOR THE TIME,**  
 22 **PLACE, AND MANNER OF EXPRESSION BY A STUDENT JOURNALIST IN**  
 23 **SCHOOL-SPONSORED MEDIA; AND**

24           **(II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (B)**  
 25 **AND (C) OF THIS SECTION, MAY INCLUDE LIMITATIONS ON LANGUAGE THAT MAY BE**  
 26 **DEFINED AS PROFANE, ~~HARASSING, THREATENING, OR INTIMIDATING~~ VULGAR,**  
 27 **LEWD, OR OBSCENE, OR LANGUAGE THAT HAS THE INTENT TO HARASS, THREATEN,**  
 28 **OR INTIMIDATE.**

29 **15-119.**

30           **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**  
 31 **INDICATED.**

1                   (2) (I) "SCHOOL-SPONSORED MEDIA" MEANS ANY MATERIAL THAT  
2 IS:

3                               1. PREPARED, WRITTEN, PUBLISHED, OR BROADCAST  
4 BY A STUDENT JOURNALIST AT A PUBLIC INSTITUTION OF HIGHER EDUCATION;

5                               2. DISTRIBUTED OR GENERALLY MADE AVAILABLE TO  
6 MEMBERS OF THE STUDENT BODY; AND

7                               3. PREPARED UNDER THE DIRECTION OF A STUDENT  
8 MEDIA ADVISOR.

9                               (II) "SCHOOL-SPONSORED MEDIA" DOES NOT INCLUDE  
10 MATERIAL THAT IS INTENDED FOR DISTRIBUTION OR TRANSMISSION SOLELY IN THE  
11 CLASSROOM IN WHICH THE MATERIAL IS PRODUCED.

12                   (3) "STUDENT JOURNALIST" MEANS A STUDENT AT A PUBLIC  
13 INSTITUTION OF HIGHER EDUCATION WHO GATHERS, COMPILES, WRITES, EDITS,  
14 PHOTOGRAPHS, RECORDS, OR PREPARES INFORMATION FOR DISSEMINATION IN  
15 SCHOOL-SPONSORED MEDIA.

16                   (4) "STUDENT MEDIA ADVISOR" MEANS AN INDIVIDUAL EMPLOYED,  
17 APPOINTED, OR DESIGNATED BY A PUBLIC INSTITUTION OF HIGHER EDUCATION TO  
18 SUPERVISE OR PROVIDE INSTRUCTION RELATING TO SCHOOL-SPONSORED MEDIA.

19                   (B) (1) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A STUDENT  
20 JOURNALIST MAY EXERCISE FREEDOM OF SPEECH AND FREEDOM OF THE PRESS IN  
21 SCHOOL-SPONSORED MEDIA.

22                               (2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED  
23 TO BE LIMITED BY THE FACT THAT THE SCHOOL-SPONSORED MEDIA IS:

24                                       (I) SUPPORTED FINANCIALLY BY THE PUBLIC INSTITUTION OF  
25 HIGHER EDUCATION OR BY USE OF FACILITIES OWNED BY THE INSTITUTION; OR

26                                       (II) PRODUCED IN CONJUNCTION WITH A CLASS IN WHICH THE  
27 STUDENT JOURNALIST IS ENROLLED.

28                   (C) (1) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A STUDENT  
29 JOURNALIST IS RESPONSIBLE FOR DETERMINING THE NEWS, OPINION, FEATURE,  
30 AND ADVERTISING CONTENT OF SCHOOL-SPONSORED MEDIA.

1           **(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED**  
2 **TO PREVENT A STUDENT MEDIA ADVISOR FROM TEACHING PROFESSIONAL**  
3 **STANDARDS OF ENGLISH AND JOURNALISM TO STUDENT JOURNALISTS.**

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6           **(1) IS LIBELOUS OR SLANDEROUS;**

7           **(2) CONSTITUTES AN UNWARRANTED INVASION OF PRIVACY;**

8           **(3) VIOLATES FEDERAL OR STATE LAW; OR**

9           **(4) INCITES STUDENTS TO CREATE A CLEAR AND PRESENT DANGER**  
10 **OF THE COMMISSION OF AN UNLAWFUL ACT, THE VIOLATION OF POLICIES OF THE**  
11 **PUBLIC INSTITUTION OF HIGHER EDUCATION, OR THE MATERIAL AND SUBSTANTIAL**  
12 **DISRUPTION OF THE ORDERLY OPERATION OF THE INSTITUTION.**

13           **(E) A STUDENT MEDIA ADVISOR MAY NOT USE THE ADVISOR'S POSITION TO**  
14 **INFLUENCE A STUDENT JOURNALIST TO PROMOTE AN OFFICIAL POSITION OF A**  
15 **PUBLIC INSTITUTION OF HIGHER EDUCATION.**

16           ~~**(F)**~~ **(1) A STUDENT JOURNALIST MAY NOT BE DISCIPLINED FOR**  
17 **ACTING IN ACCORDANCE WITH SUBSECTIONS (B) OR (C) OF THIS SECTION.**

18           **(2) A STUDENT MEDIA ADVISOR MAY NOT BE DISMISSED, SUSPENDED,**  
19 **DISCIPLINED, REASSIGNED, TRANSFERRED, OR OTHERWISE RETALIATED AGAINST**  
20 **FOR:**

21           **(I) ACTING TO PROTECT A STUDENT JOURNALIST ENGAGED IN**  
22 **CONDUCT UNDER SUBSECTIONS (B) OR (C) OF THIS SECTION; OR**

23           **(II) REFUSING TO INFRINGE ON CONDUCT THAT IS PROTECTED**  
24 **BY SUBSECTIONS (B) OR (C) OF THIS SECTION, THE FIRST AMENDMENT TO THE**  
25 **UNITED STATES CONSTITUTION, OR ARTICLE 40 OF THE MARYLAND DECLARATION**  
26 **OF RIGHTS.**

27           ~~**(G)**~~ **(1) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION SHALL**  
28 **ADOPT A WRITTEN POLICY CONCERNING THE PROVISIONS OF THIS SECTION.**

29           **(2) THE POLICY ADOPTED UNDER PARAGRAPH (1) OF THIS**  
30 **SUBSECTION:**

1 (I) SHALL INCLUDE REASONABLE PROVISIONS FOR THE TIME,  
2 PLACE, AND MANNER OF EXPRESSION BY A STUDENT JOURNALIST IN  
3 SCHOOL-SPONSORED MEDIA; AND

4 (II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (B)  
5 AND (C) OF THIS SECTION, MAY INCLUDE LIMITATIONS ON LANGUAGE THAT ~~MAY BE~~  
6 ~~DEFINED AS PROFANE, HARASSING, THREATENING, OR INTIMIDATING VULGAR,~~  
7 ~~LEWD, OR OBSCENE, OR LANGUAGE THAT HAS THE INTENT TO HARASS, THREATEN,~~  
8 OR INTIMIDATE AN INDIVIDUAL.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2016.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.