

SENATE BILL 764

F1, F2

6lr0867
CF 6lr3239

By: **Senators Raskin and Rosapepe**

Introduced and read first time: February 5, 2016

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted with floor amendments

Read second time: March 17, 2016

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
15 speech and the freedom of the press for student journalists in
16 school–sponsored media.

17 BY adding to

18 Article – Education

19 Section 7–121 and 15–119

20 Annotated Code of Maryland

21 (2014 Replacement Volume and 2015 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

23 That the Laws of Maryland read as follows:

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.



Article – Education

7-121.

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

(2) (I) “SCHOOL-SPONSORED MEDIA” MEANS ANY MATERIAL THAT IS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 **(2) THE POLICY ADOPTED UNDER PARAGRAPH (1) OF THIS**
13 **SUBSECTION:**

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

17 **(II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (B)**
18 **AND (C) OF THIS SECTION, MAY INCLUDE LIMITATIONS ON LANGUAGE THAT MAY BE**
19 **DEFINED AS PROFANE, HARASSING, THREATENING, OR INTIMIDATING.**

20 **15-119.**

21 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
22 **INDICATED.**

23 **(2) (I) "SCHOOL-SPONSORED MEDIA" MEANS ANY MATERIAL THAT**
24 **IS:**

25 **1. PREPARED, WRITTEN, PUBLISHED, OR BROADCAST**
26 **BY A STUDENT JOURNALIST AT A PUBLIC INSTITUTION OF HIGHER EDUCATION;**

27 **2. DISTRIBUTED OR GENERALLY MADE AVAILABLE TO**
28 **MEMBERS OF THE STUDENT BODY; AND**

29 **3. PREPARED UNDER THE DIRECTION OF A STUDENT**
30 **MEDIA ADVISOR.**

1 **(II) “SCHOOL-SPONSORED MEDIA” DOES NOT INCLUDE**
2 **MATERIAL THAT IS INTENDED FOR DISTRIBUTION OR TRANSMISSION SOLELY IN THE**
3 **CLASSROOM IN WHICH THE MATERIAL IS PRODUCED.**

4 **(3) “STUDENT JOURNALIST” MEANS A STUDENT AT A PUBLIC**
5 **INSTITUTION OF HIGHER EDUCATION WHO GATHERS, COMPILES, WRITES, EDITS,**
6 **PHOTOGRAPHS, RECORDS, OR PREPARES INFORMATION FOR DISSEMINATION IN**
7 **SCHOOL-SPONSORED MEDIA.**

8 **(4) “STUDENT MEDIA ADVISOR” MEANS AN INDIVIDUAL EMPLOYED,**
9 **APPOINTED, OR DESIGNATED BY A PUBLIC INSTITUTION OF HIGHER EDUCATION TO**
10 **SUPERVISE OR PROVIDE INSTRUCTION RELATING TO SCHOOL-SPONSORED MEDIA.**

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

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

16 **(I) SUPPORTED FINANCIALLY BY THE PUBLIC INSTITUTION OF**
17 **HIGHER EDUCATION OR BY USE OF FACILITIES OWNED BY THE INSTITUTION; OR**

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

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

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

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

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

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

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 11 **DISCIPLINED, REASSIGNED, TRANSFERRED, OR OTHERWISE RETALIATED AGAINST**
 12 **FOR:**

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

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

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

21 **(2) THE POLICY ADOPTED UNDER PARAGRAPH (1) OF THIS**
 22 **SUBSECTION:**

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

26 **(II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (B)**
 27 **AND (C) OF THIS SECTION, MAY INCLUDE LIMITATIONS ON LANGUAGE THAT MAY BE**
 28 **DEFINED AS PROFANE, HARASSING, THREATENING, OR INTIMIDATING.**

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