

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 17-0170.01 Jane Ritter x4342

SENATE BILL 17-062

SENATE SPONSORSHIP

Neville T., Baumgardner, Cooke, Crowder, Grantham, Holbert, Jahn, Lundberg, Marble, Priola, Scott, Sonnenberg, Tate

HOUSE SPONSORSHIP

Humphrey and Bridges, Catlin, Everett, Leonard, Lundeen, Neville P., Saine, Van Winkle, Williams D., Wilson

Senate Committees
Education

House Committees
State, Veterans, & Military Affairs

A BILL FOR AN ACT

101 **CONCERNING THE RIGHT TO FREE SPEECH ON CAMPUSES OF PUBLIC**
102 **INSTITUTIONS OF HIGHER EDUCATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

The bill prohibits public institutions of higher education from restricting a student's constitutional right to speak in any way in a public forum, including speaking verbally, holding a sign, or distributing flyers or materials. Additionally, a public institution of higher education shall not impose unreasonable restrictions on the time, place, and manner of student speech that occurs in a public forum and is protected by the first

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
March 17, 2017

SENATE
Amended 3rd Reading
February 13, 2017

SENATE
Amended 2nd Reading
February 10, 2017

amendment. Court actions for violations of the provisions of the bill are allowed and include recovery of reasonable court costs and attorney fees. Public institutions of higher education are prohibited from designating any area on campus as a free speech zone.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 23-5-144 as
3 follows:

4 **23-5-144. Students' right to speak in a public forum -**
5 **legislative declaration - definitions - violations - court actions - free**
6 **speech zones. (1) (a) THE FIRST AMENDMENT OF THE UNITED STATES**
7 **CONSTITUTION AND ARTICLE II, SECTION 10 OF THE COLORADO**
8 **CONSTITUTION EACH PROTECT THE RIGHT TO FREE SPEECH, INCLUDING THE**
9 **SPEECH OF STUDENTS ENROLLED AT PUBLIC INSTITUTIONS OF HIGHER**
10 **EDUCATION. THE GENERAL ASSEMBLY DECLARES THAT IT IS A MATTER OF**
11 **STATEWIDE INTEREST TO PROTECT THE RIGHTS OF STUDENTS TO EXERCISE**
12 **THEIR FREEDOM OF SPEECH ON THE CAMPUSES OF PUBLIC INSTITUTIONS OF**
13 **HIGHER EDUCATION, WHILE RECOGNIZING THE RIGHT OF THOSE**
14 **INSTITUTIONS OF HIGHER EDUCATION TO ENACT REASONABLE TIME, PLACE,**
15 **AND MANNER RESTRICTIONS THAT PRESERVE THEIR ABILITY TO FULFILL**
16 **THEIR EDUCATIONAL MISSIONS. AT THE SAME TIME, THE GENERAL**
17 **ASSEMBLY DECLARES THAT STUDENT EXPRESSION ON THE CAMPUSES OF**
18 **INSTITUTIONS OF HIGHER EDUCATION IS A VITAL COMPONENT OF THE**
19 **EDUCATIONAL ENVIRONMENT AT THESE INSTITUTIONS OF HIGHER**
20 **EDUCATION AND THAT PROMOTING THE FREE AND UNFETTERED EXCHANGE**
21 **OF IDEAS IN THIS MARKETPLACE OF IDEAS IS ONE WAY IN WHICH THESE**
22 **INSTITUTIONS OF HIGHER EDUCATION FULFILL THEIR EDUCATIONAL**
23 **MISSIONS.**

1 (b) THEREFORE, IT IS THE INTENT OF THE GENERAL ASSEMBLY
2 THAT THE PROVISIONS OF SUBSECTIONS (2) TO (6) OF THIS SECTION BE
3 CONFINED TO AND APPLY ONLY TO STUDENT EXPRESSION IN A STUDENT
4 FORUM AT AN INSTITUTIONS OF HIGHER EDUCATION, AS DEFINED HEREIN.

5 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
6 REQUIRES:

7 (a) "EXPRESSION" MEANS ANY LAWFUL VERBAL OR WRITTEN
8 MEANS BY WHICH INDIVIDUALS MAY COMMUNICATE IDEAS TO ONE
9 ANOTHER, INCLUDING ALL FORMS OF PEACEFUL ASSEMBLY, PROTESTS,
10 SPEAKING VERBALLY, HOLDING SIGNS, CIRCULATING PETITIONS, AND
11 DISTRIBUTING WRITTEN MATERIALS. "EXPRESSION" INCLUDES VOTER
12 REGISTRATION ACTIVITIES BUT DOES NOT INCLUDE SPEECH THAT IS
13 PRIMARILY FOR A COMMERCIAL PURPOSE, INCLUDING THE PROMOTION,
14 SALE, OR DISTRIBUTION OF ANY PRODUCT OR SERVICE.

15 (b) "INSTITUTION OF HIGHER EDUCATION" MEANS A PUBLIC
16 POSTSECONDARY INSTITUTION.

17 (c) "STUDENT" MEANS A PERSON WHO IS ENROLLED FOR
18 EDUCATIONAL PURPOSES AT AN INSTITUTION OF HIGHER EDUCATION.

19 (d) "STUDENT FORUM" MEANS, AS APPLIED TO STUDENTS, ANY
20 GENERALLY ACCESSIBLE, OPEN, OUTDOOR AREA ON THE CAMPUS OF AN
21 INSTITUTION OF HIGHER EDUCATION, AS WELL AS ANY NONACADEMIC AND
22 PUBLICLY OPEN PORTION OF A FACILITY THAT THE INSTITUTION OF HIGHER
23 EDUCATION HAS TRADITIONALLY MADE AVAILABLE TO STUDENTS FOR
24 EXPRESSIVE PURPOSES.

25 (3) (a) AN INSTITUTION OF HIGHER EDUCATION SHALL NOT LIMIT
26 OR RESTRICT A STUDENT'S EXPRESSION IN A STUDENT FORUM, INCLUDING
27 SUBJECTING A STUDENT TO DISCIPLINARY ACTION RESULTING FROM HIS OR

1 HER EXPRESSION, BECAUSE OF THE CONTENT OR VIEWPOINT OF THE
2 EXPRESSION OR BECAUSE OF THE REACTION OR OPPOSITION BY LISTENERS
3 OR OBSERVERS TO SUCH EXPRESSION.

4 (b) NOTHING IN THIS SECTION GRANTS STUDENTS, FACULTY, OR
5 STAFF OF THE COLLEGE OR UNIVERSITY THE RIGHT TO MATERIALLY
6 DISRUPT PREVIOUSLY SCHEDULED OR RESERVED ACTIVITIES IN A PORTION
7 OR SECTION OF THE STUDENT FORUM AT THAT SCHEDULED TIME.

8 (c) NOTHING IN THIS SECTION SHALL BE INTERPRETED AS
9 PREVENTING AN INSTITUTION OF HIGHER EDUCATION FROM PROHIBITING,
10 LIMITING, OR RESTRICTING EXPRESSION THAT IS NOT PROTECTED UNDER
11 THE FIRST AMENDMENT AND ARTICLE II, SECTION 10 OF THE COLORADO
12 CONSTITUTION.

13 (4) AN INSTITUTION OF HIGHER EDUCATION SHALL NOT DESIGNATE
14 ANY AREA ON CAMPUS AS A FREE SPEECH ZONE OR OTHERWISE CREATE
15 POLICIES IMPLYING THAT ITS STUDENTS' EXPRESSIVE ACTIVITIES ARE
16 RESTRICTED TO PARTICULAR AREAS OF CAMPUS. AN INSTITUTION OF
17 HIGHER EDUCATION SHALL NOT, EXCEPT FOR THE PURPOSE OF ENACTING
18 TIME, PLACE, AND MANNER RESTRICTIONS PERMITTED PURSUANT TO
19 SUBSECTION (5) OF THIS SECTION, RESTRICT THE RIGHT OF STUDENTS TO
20 ENGAGE IN EXPRESSION IN A STUDENT FORUM.

21 (5) AN INSTITUTION OF HIGHER EDUCATION SHALL NOT IMPOSE
22 RESTRICTIONS ON THE TIME, PLACE, AND MANNER OF STUDENT
23 EXPRESSION IN A STUDENT FORUM UNLESS THE RESTRICTIONS:

24 (a) ARE REASONABLE;

25 (b) ARE JUSTIFIED WITHOUT REFERENCE TO THE CONTENT OF THE
26 SPEECH;

27 (c) ARE NARROWLY TAILORED TO SERVE A SIGNIFICANT

1 GOVERNMENTAL INTEREST; AND

2 (d) LEAVE OPEN AMPLE ALTERNATIVE CHANNELS FOR
3 COMMUNICATION OF THE INFORMATION OR MESSAGE.

4

5 (6) ANY STUDENT WHO HAS BEEN DENIED ACCESS TO A STUDENT
6 FORUM FOR EXPRESSIVE PURPOSES PROTECTED BY THIS SECTION MAY
7 BRING AN ACTION IN A COURT OF COMPETENT JURISDICTION TO ENJOIN ANY
8 VIOLATION OF THIS SECTION OR TO RECOVER REASONABLE COURT COSTS
9 AND ATTORNEY FEES.

10

11 (7) IN AN ACTION BROUGHT PURSUANT TO SUBSECTION (6) OF THIS
12 SECTION, IF THE COURT FINDS THAT A VIOLATION OCCURRED, THE COURT
13 SHALL AWARD THE AGGRIEVED PARTY INJUNCTIVE RELIEF FOR THE
14 VIOLATION AND SHALL AWARD REASONABLE COURT COSTS AND ATTORNEY
15 FEES.

16 (8) A STUDENT SHALL BRING AN ACTION PURSUANT TO THIS
17 SECTION WITHIN ONE CALENDAR YEAR AFTER THE DATE THAT THE
18 VIOLATION OCCURRED.

19 **SECTION 2. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

- 1 November 2018 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.