

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0794.01 Jacob Baus x2173

HOUSE BILL 22-1206

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HOUSE SPONSORSHIP

Williams,

SENATE SPONSORSHIP

(None),

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House Committees  
Judiciary

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING PROHIBITING DISCRIMINATORY PRACTICES IN PUBLIC  
102 SCHOOLS.

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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 teaching or using instructional materials at public schools that promote discrimination.

The bill prohibits public schools from certain discriminatory practices based on a student's, student's family, or teacher's race or ethnicity.

The bill creates a \$25,000 fine to be paid by the school district of

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

the public school, or by the state charter school institute in the case of an institute charter school, to the state education fund if the commissioner of education finds that a public school knowingly violates a prohibition.

The bill waives sovereign immunity and creates a civil action against a public school and the school district or board of cooperative services or the state charter school institute that violates a prohibition.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 22-1-104.8 as  
3 follows:

4 **22-1-104.8. Teaching of discrimination and discriminatory**  
5 **practices prohibited - cause of action permitted - definition.**

6 (1)(a) EACH SCHOOL DISTRICT, EACH BOARD OF COOPERATIVE SERVICES,  
7 AND THE STATE CHARTER INSTITUTE SHALL PROHIBIT THE TEACHING OR  
8 USE OF INSTRUCTIONAL MATERIALS THAT PROMOTE DISCRIMINATION AT  
9 ITS SCHOOLS.

10 (b) A PUBLIC SCHOOL SHALL NOT TEACH OR USE INSTRUCTIONAL  
11 MATERIALS THAT PROMOTE DISCRIMINATION.

12 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
13 REQUIRES, "DISCRIMINATION" MEANS ANY OF THE FOLLOWING:

14 (a) ONE RACE, ETHNICITY, OR SEX IS INHERENTLY SUPERIOR TO  
15 ANOTHER RACE, ETHNICITY, OR SEX;

16 (b) AN INDIVIDUAL, BY VIRTUE OF THE INDIVIDUAL'S RACE,  
17 ETHNICITY, OR SEX, IS INHERENTLY PRIVILEGED, RACIST, SEXIST, OR  
18 OPPRESSIVE, EITHER CONSCIOUSLY OR SUBCONSCIOUSLY;

19 (c) AN INDIVIDUAL SHOULD RECEIVE ADVERSE TREATMENT  
20 BECAUSE OF THE INDIVIDUAL'S RACE, ETHNICITY, OR SEX;

21 (d) AN INDIVIDUAL'S MORAL CHARACTER IS DETERMINED BY THE  
22 INDIVIDUAL'S RACE, ETHNICITY, OR SEX;

1 (e) AN INDIVIDUAL, BY VIRTUE OF THE INDIVIDUAL'S RACE,  
2 ETHNICITY, OR SEX, BEARS RESPONSIBILITY FOR ACTIONS COMMITTED IN  
3 THE PAST BY MEMBERS OF THE INDIVIDUAL'S SAME RACE, ETHNICITY, OR  
4 SEX;

5 (f) AN INDIVIDUAL SHOULD FEEL DISCOMFORT, GUILT, ANGUISH, OR  
6 PSYCHOLOGICAL DISTRESS BECAUSE OF THE INDIVIDUAL'S RACE,  
7 ETHNICITY, OR SEX;

8 (g) A MERITOCRACY IS INHERENTLY RACIST OR SEXIST, OR  
9 DESIGNED BY A PARTICULAR RACE, ETHNICITY, OR SEX TO OPPRESS  
10 MEMBERS OF ANOTHER RACE, ETHNICITY, OR SEX;

11 (h) COLORADO AND THE UNITED STATES ARE FUNDAMENTALLY  
12 AND IRREDEEMABLY RACIST OR SEXIST AND THE VIOLENT OVERTHROW OF  
13 THE COLORADO OR THE UNITED STATES GOVERNMENT IS JUSTIFIED;

14 (i) PROMOTION OF THE DIVISION BETWEEN OR RESENTMENT OF A  
15 RACE, ETHNICITY, SEX, RELIGION, POLITICAL AFFILIATION, SOCIAL CLASS,  
16 OR ANY CLASS OF INDIVIDUALS IS JUSTIFIED; OR

17 (j) CHARACTER TRAITS, VALUES, MORAL CODES, ETHICAL CODES,  
18 PRIVILEGES, OR BELIEFS ARE ATTRIBUTED TO A RACE, ETHNICITY, OR SEX,  
19 OR TO AN INDIVIDUAL BECAUSE OF THE INDIVIDUAL'S RACE, ETHNICITY, OR  
20 SEX.

21 (3) (a) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, A  
22 PUBLIC SCHOOL MAY TEACH OR USE INSTRUCTIONAL MATERIALS  
23 CONCERNING THE:

24 (I) HISTORY OF A RACIAL OR ETHNIC GROUP, OR SEX;

25 (II) IMPARTIAL DISCUSSION OF CONTROVERSIAL COMPONENTS OF  
26 HISTORY; OR

27 (III) IMPARTIAL INSTRUCTION OF HISTORICAL OPPRESSION OF A

1 PARTICULAR GROUP OF PEOPLE BASED ON RACE, ETHNICITY, SEX, CLASS,  
2 NATIONALITY, RELIGION, OR GEOGRAPHY.

3 (b) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, A PUBLIC  
4 SCHOOL MAY TEACH FROM OR USE HISTORICAL DOCUMENTS RELEVANT TO  
5 SUBSECTION (3)(a) OF THIS SECTION.

6 (4) SCHOOL DISTRICTS, BOARDS OF COOPERATIVE SERVICES,  
7 PUBLIC SCHOOLS, AND THE STATE CHARTER INSTITUTE SHALL NOT:

8 (a) SEGREGATE STUDENTS BASED ON RACE, ETHNICITY, OR SEX FOR  
9 THE PURPOSE OF SEPARATE INSTRUCTION; EXCEPT THAT STUDENTS MAY BE  
10 SEPARATED BASED ON SEX FOR HUMAN SEXUALITY INSTRUCTION;

11 (b) SEGREGATE EMPLOYEES BASED ON RACE, ETHNICITY, OR SEX  
12 FOR THE PURPOSE OF SEPARATE TRAINING OR MENTORING;

13 (c) ASSIGN DIFFERENT WORK TO STUDENTS ON THE BASIS OF THE  
14 STUDENT'S RACE, ETHNICITY, OR SEX;

15 (d) EVALUATE STUDENT WORK DIFFERENTLY ON THE BASIS OF THE  
16 STUDENT'S RACE, ETHNICITY, OR SEX;

17 (e) CREATE DIFFERENT TESTING CONDITIONS FOR STUDENTS ON  
18 THE BASIS OF THE STUDENT'S RACE, ETHNICITY, OR SEX;

19 (f) OFFER DIFFERENT COUNSELING, MENTORING, OR ASSISTANCE  
20 SERVICES TO STUDENTS ON THE BASIS OF THE STUDENT'S RACE, ETHNICITY,  
21 OR SEX; OR

22 (g) PERMIT ANY SCHOOL-SPONSORED ACTIVITIES THAT EXCLUDE,  
23 DISCOURAGE, OR DISSUADE STUDENTS OR THEIR FAMILIES FROM  
24 PARTICIPATING ON THE BASIS OF THE STUDENT'S OR FAMILY MEMBERS'  
25 RACE, ETHNICITY, OR SEX.

26 (5) IF THE COMMISSIONER OF EDUCATION FINDS THAT A PUBLIC  
27 SCHOOL KNOWINGLY VIOLATES THIS SECTION, THE SCHOOL DISTRICT OF

1 THE PUBLIC SCHOOL OR, IN THE CASE OF AN INSTITUTE CHARTER SCHOOL,  
2 THE STATE CHARTER SCHOOL INSTITUTE, SHALL PAY A FINE OF  
3 TWENTY-FIVE THOUSAND DOLLARS TO THE STATE TREASURER, WHO SHALL  
4 CREDIT THE MONEY RECEIVED TO THE STATE EDUCATION FUND CREATED  
5 IN SECTION 17(4) OF ARTICLE IX OF THE STATE CONSTITUTION.

6 (6) (a) (I) A PARENT OR LEGAL GUARDIAN OF A MINOR STUDENT ON  
7 BEHALF OF THE STUDENT, OR THE STUDENT IF THE STUDENT IS EIGHTEEN  
8 YEARS OF AGE OR OLDER, WHO SUFFERS AN INJURY AS A RESULT OF BEING  
9 SUBJECTED TO A VIOLATION DESCRIBED BY THIS SECTION MAY BRING A  
10 CIVIL ACTION FOR DAMAGES AGAINST A PUBLIC SCHOOL AND THE SCHOOL  
11 DISTRICT OR BOARD OF COOPERATIVE SERVICES OF THE PUBLIC SCHOOL OR,  
12 IN THE CASE OF AN INSTITUTE CHARTER SCHOOL, THE STATE CHARTER  
13 SCHOOL INSTITUTE, THAT VIOLATED THIS SECTION.

14 (II) A PARENT OR LEGAL GUARDIAN OF A MINOR FAMILY MEMBER  
15 OF THE STUDENT'S FAMILY ON BEHALF OF THE MINOR FAMILY MEMBER, OR  
16 A MEMBER OF THE STUDENT'S FAMILY IF THE FAMILY MEMBER IS EIGHTEEN  
17 YEARS OF AGE OR OLDER, WHO SUFFERS AN INJURY AS A RESULT OF BEING  
18 SUBJECTED TO A VIOLATION DESCRIBED BY SUBSECTION (4)(g) OF THIS  
19 SECTION MAY BRING A CIVIL ACTION FOR DAMAGES AGAINST A PUBLIC  
20 SCHOOL AND THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES  
21 OF THE PUBLIC SCHOOL OR, IN THE CASE OF AN INSTITUTE CHARTER  
22 SCHOOL, THE STATE CHARTER SCHOOL INSTITUTE, THAT VIOLATED  
23 SUBSECTION (4)(g) OF THIS SECTION.

24 (III) AN EMPLOYEE WHO SUFFERS AN INJURY AS A RESULT OF  
25 BEING SUBJECTED TO A VIOLATION DESCRIBED BY SUBSECTION (4)(b) OF  
26 THIS SECTION MAY BRING A CIVIL ACTION FOR DAMAGES AGAINST A PUBLIC  
27 SCHOOL AND THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES

1 OF THE PUBLIC SCHOOL OR, IN THE CASE OF AN INSTITUTE CHARTER  
2 SCHOOL, THE STATE CHARTER SCHOOL INSTITUTE, THAT VIOLATED  
3 SUBSECTION (4)(b) OF THIS SECTION.

4 (b) A CIVIL ACTION DESCRIBED IN THIS SECTION IS IN ADDITION TO,  
5 AND DOES NOT LIMIT OR AFFECT, OTHER ACTIONS AVAILABLE BY STATUTE  
6 OR COMMON LAW, AND MUST BE PLEADED AS A SEPARATE CLAIM FOR  
7 RELIEF IF A COMPLAINT ALSO ASSERTS A COMMON LAW COMPLAINT FOR  
8 RELIEF.

9 (c) NOTWITHSTANDING ANY STATE LAW THAT PROHIBITS CIVIL  
10 ACTIONS AGAINST A PUBLIC SCHOOL, SCHOOL DISTRICT, BOARD OF  
11 COOPERATIVE SERVICES, OR THE CHARTER SCHOOL INSTITUTE, A PERSON  
12 MAY BRING A CLAIM ALLEGING LIABILITY FOR DAMAGES ARISING FROM  
13 PROHIBITED CONDUCT PURSUANT TO THIS SECTION.

14 **SECTION 2.** In Colorado Revised Statutes, 24-10-106, **amend**  
15 (1)(i) and (1)(j); and **add** (1)(k) as follows:

16 **24-10-106. Immunity and partial waiver.** (1) A public entity  
17 shall be immune from liability in all claims for injury which lie in tort or  
18 could lie in tort regardless of whether that may be the type of action or the  
19 form of relief chosen by the claimant except as provided otherwise in this  
20 section. Sovereign immunity is waived by a public entity in an action for  
21 injuries resulting from:

22 (i) An action brought pursuant to section 13-21-128; ~~or~~

23 (j) An action brought pursuant to part 12 of article 20 of title 13,  
24 whether the conduct alleged occurred before, on, or after January 1, 2022;

25 OR

26 (k) AN ACTION BROUGHT PURSUANT TO SECTION 22-1-104.8 (6).

27 **SECTION 3. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the  
2 ninety-day period after final adjournment of the general assembly; except  
3 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
4 of the state constitution against this act or an item, section, or part of this  
5 act within such period, then the act, item, section, or part will not take  
6 effect unless approved by the people at the general election to be held in  
7 November 2022 and, in such case, will take effect on the date of the  
8 official declaration of the vote thereon by the governor.