

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

866Z0256

HOUSE BILL NO. 1242

Introduced by: Representatives Smith, Ahlers, Bordeaux, Jamison, Mickelson, Reed, and Schoenfish and Senators Maher, Kennedy, Killer, and Nesiba

1 FOR AN ACT ENTITLED, An Act to provide for freedom of expression for students in school-
2 sponsored media.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That the code be amended by adding a NEW SECTION to read:

5 Terms used in the Act mean:

6 (1) "School," a public elementary or secondary school operating in the state;

7 (2) "School-sponsored media," any material that is prepared, written, published, or
8 broadcast by a student journalist at a school as part of a school-supported program
9 or activity and is distributed or generally made available to an audience beyond the
10 classroom in which the material is produced;

11 (3) "Student journalist," a student enrolled at a school who gathers, compiles, writes,
12 edits, photographs, records, or prepares information for dissemination in school-
13 sponsored media;

14 (4) "Student media adviser," a person employed, appointed, or designated by a school or
15 school district to supervise or provide instruction relating to school-sponsored media.



1 Section 2. That the code be amended by adding a NEW SECTION to read:

2 Except as provided in section 3 of this Act, a student journalist may exercise freedom of
3 expression in school-sponsored media. The freedom provided in this section is not limited by
4 the fact that the school-sponsored media is supported financially by a school or school district
5 or by use of facilities owned by the school district or if the media is produced in conjunction
6 with a class in which the student journalist is enrolled.

7 Section 3. That the code be amended by adding a NEW SECTION to read:

8 The freedom of expression provided in section 2 of this Act does not authorize or protect
9 any school-sponsored media that:

- 10 (1) Is libelous or slanderous;
- 11 (2) Constitutes an unwarranted invasion of privacy;
- 12 (3) Violates a federal or state law; or
- 13 (4) Creates the imminent danger of inciting students to violate a law or a school rule, or
14 to materially and substantially disrupt the orderly operation of the school.

15 Section 4. That the code be amended by adding a NEW SECTION to read:

16 No school district employee may be dismissed, suspended, disciplined, reassigned,
17 transferred, or otherwise retaliated against solely for acting to protect a student engaged in
18 conduct authorized by this Act or refusing to infringe upon conduct that is protected by this Act,
19 by S.D. Const., Art. VI, or by the First Amendment to the United States Constitution. No
20 student journalist may be disciplined for engaging in any conduct authorized by this Act.

21 Section 5. That the code be amended by adding a NEW SECTION to read:

22 Nothing in this Act authorizes the prior restraint of any school-sponsored media. However,
23 a school may restrain the distribution of content in school-sponsored media if the content is
24 determined to be in conflict with section 3 of this Act, and if the school administration provides

- 1 lawful justification for the restraint without undue delay.