

1 TO THE HONORABLE SENATE:

2 The Committee on Education to which was referred Senate Bill No. 18  
3 entitled “An act relating to freedom of expression for students” respectfully  
4 reports that it has considered the same and recommends that the bill be  
5 amended by striking out all after the enacting clause and inserting in lieu  
6 thereof the following:

7 Sec. 1. 16 V.S.A. chapter 42 is added to read:

8 CHAPTER 42. STUDENT RIGHTS

9 § 1623. FREEDOM OF EXPRESSION

10 (a) Findings.

11 (1) The General Assembly finds that freedom of expression and  
12 freedom of the press are fundamental principles in our democratic society  
13 granted to every citizen of the nation by the First Amendment to the  
14 U.S. Constitution and to every resident of this State by Vt. Const. Ch. I,  
15 Art. 13.

16 (2) These freedoms provide all citizens, including students, with the  
17 right to engage in robust and uninhibited discussion of issues.

18 (3) The General Assembly intends to ensure free speech and free press  
19 protections for both high school students and students at institutions of higher  
20 education in this State in order to encourage students to become educated,  
21 informed, and responsible members of society.

1        (b) Definitions. As used in this chapter:

2            (1) “Media adviser” means an individual employed, appointed, or  
3        designated by a school or its governing body to supervise or provide  
4        instruction relating to school-sponsored media.

5            (2) “School” means a public school operating in the State.

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

11           (4) “Student journalist” means a student enrolled at a school who  
12        gathers, compiles, writes, edits, photographs, records, or prepares information  
13        for dissemination in school-sponsored media.

14           (5) “Student supervisor” is a student who is responsible for editing  
15        school-sponsored media.

16           (c)(1) Subject to subsection (e) of this section, a student journalist may  
17        exercise freedom of speech and freedom of the press in school-sponsored  
18        media.

19           (2) Subdivision (1) of this subsection shall not be construed to be  
20        limited by the fact that the school-sponsored media are:

1           (A) supported financially by a school or its governing body, or by use  
2           of facilities owned by the school; or

3           (B) produced in conjunction with a class in which the student  
4           journalist is enrolled.

5           (d)(1) Subject to subsection (e) of this section, the student supervisors of  
6           school-sponsored media are responsible for determining the content of their  
7           respective media.

8           (2) Subject to subdivision (1) of this subsection, a media adviser may  
9           teach professional standards of English and journalism to student journalists.

10          (e) This section shall not be construed to authorize or protect content of  
11          school-sponsored media that:

12           (1) is libelous or slanderous;

13           (2) constitutes an unwarranted invasion of privacy;

14           (3) may be defined as obscene, gratuitously profane, threatening, or  
15           intimidating;

16           (4) may be defined as harassment, hazing, or bullying under 16 V.S.A.  
17           § 11;

18           (5) violates federal or State law; or

19           (6) creates the imminent danger of materially or substantially disrupting  
20           the ability of the school to perform its educational mission.

1        (f) A school is prohibited from subjecting school-sponsored media, other  
2        than that listed in subsection (e) of this section, to prior restraint. A school  
3        may restrain the distribution of content in student media described in  
4        subsection (e), provided that the school’s administration shall have the burden  
5        of providing lawful justification without undue delay. Content shall not be  
6        suppressed solely because it involves political or controversial subject matter,  
7        or is critical of the school or its administration.

8        (g) A student journalist may not be disciplined for acting in accordance  
9        with this section.

10       (h) A media adviser may not be dismissed, suspended, disciplined,  
11       reassigned, or transferred for:

12           (1) taking reasonable and appropriate action to protect a student  
13       journalist for engaging in conduct protected by this section; or

14           (2) refusing to infringe on conduct that is protected by this section, by  
15       the first amendment to the U.S. Constitution, or by the Vermont Constitution.

16       (i) Each school or its governing body shall adopt a written policy consistent  
17       with the provisions of this section.

18       (j) No expression made by students in school-sponsored media shall be  
19       deemed to be an expression of school policy.

20       Sec. 2. 16 V.S.A. § 180 is added to read:

21       § 180. STUDENT RIGHTS—FREEDOM OF EXPRESSION

1        (a) Findings.

2                (1) The General Assembly finds that freedom of expression and  
3 freedom of the press are fundamental principles in our democratic society  
4 granted to every citizen of the nation by the First Amendment to the  
5 U.S. Constitution and to every resident of this State by Vt. Const. Ch. I,  
6 Art. 13.

7                (2) These freedoms provide all citizens, including students, with the  
8 right to engage in robust and uninhibited discussion of issues.

9                (3) The General Assembly intends to ensure free speech and free press  
10 protections for both high school students and students at institutions of higher  
11 education in this State in order to encourage students to become educated,  
12 informed, and responsible members of society.

13        (b) Definitions. As used in this chapter:

14                (1) “Media adviser” means an individual employed, appointed, or  
15 designated by a school or its governing body to supervise or provide  
16 instruction relating to school-sponsored media.

17                (2) “School” means a public postsecondary school operating in the  
18 State.

19                (3) “School-sponsored media” means any material that is prepared,  
20 written, published, or broadcast as part of a school-supported program or  
21 activity by a student journalist and is distributed or generally made available as

1 part of a school-supported program or activity to an audience beyond the  
2 classroom in which the material is produced.

3 (4) “Student journalist” means a student enrolled at a school who  
4 gathers, compiles, writes, edits, photographs, records, or prepares information  
5 for dissemination in school-sponsored media.

6 (5) “Student supervisor” is a student who is responsible for editing  
7 school-sponsored media.

8 (c)(1) Subject to subsection (e) of this section, a student journalist may  
9 exercise freedom of speech and freedom of the press in school-sponsored  
10 media.

11 (2) Subdivision (1) of this subsection shall not be construed to be  
12 limited by the fact that the school-sponsored media are:

13 (A) supported financially by a school or its governing body, or by use  
14 of facilities owned by the school; or

15 (B) produced in conjunction with a class in which the student  
16 journalist is enrolled.

17 (d)(1) Subject to subsection (e) of this section, the student supervisors of  
18 school-sponsored media are responsible for determining the content of their  
19 respective media.

20 (2) Subject to subdivision (1) of this subsection, a media adviser may  
21 teach professional standards of English and journalism to student journalists.

1       (e) This section shall not be construed to authorize or protect content of  
2       school-sponsored media that:

3           (1) is libelous or slanderous;

4           (2) constitutes an unwarranted invasion of privacy;

5           (3) may be defined as obscene, gratuitously profane, threatening, or  
6       intimidating;

7           (4) may be defined as harassment, hazing, or bullying under 16 V.S.A.  
8       § 11;

9           (5) violates federal or State law; or

10          (6) creates the imminent danger of materially or substantially disrupting  
11       the ability of the school to perform its educational mission.

12          (f) Absent a showing that a particular publication will cause direct,  
13       immediate, and irreparable harm that would warrant the issuance of a prior  
14       restraint order against the private media, school officials are not authorized to  
15        censor or subject to prior restraint the content of school-sponsored media.

16       Content shall not be suppressed solely because it involves political or  
17       controversial subject matter, or is critical of the school or its administration.

18          (g) A student journalist may not be disciplined for acting in accordance  
19       with this section.

20          (h) A media adviser may not be dismissed, suspended, disciplined,  
21       reassigned, or transferred for:

1           (1) taking reasonable and appropriate action to protect a student  
2 journalist for engaging in conduct protected by this section; or

3           (2) refusing to infringe on conduct that is protected by this section, by  
4 the first amendment to the U.S. Constitution, or by the Vermont Constitution.

5           (i) Each school or its governing body shall adopt a written policy consistent  
6 with the provisions of this section.

7           (j) No expression made by students in school-sponsored media shall be  
8 deemed to be an expression of school policy.

9       Sec. 3. EFFECTIVE DATE

10       This act shall take effect on July 1, 2017.

11

12

13       (Committee vote: \_\_\_\_\_)

14

\_\_\_\_\_

15

Senator \_\_\_\_\_

16

FOR THE COMMITTEE