

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

INTRODUCED

LLS NO. 17-0170.01 Jane Ritter x4342

SENATE BILL 17-062

SENATE SPONSORSHIP

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HOUSE SPONSORSHIP

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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.

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 - court**
5 **actions - definitions - violations - court actions - free speech zones.**

6 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
7 REQUIRES:

8 (a) "INSTITUTION OF HIGHER EDUCATION" MEANS A PUBLIC
9 POSTSECONDARY INSTITUTION.

10 (b) "PUBLIC FORUM" INCLUDES BOTH A TRADITIONAL PUBLIC
11 FORUM, WHICH IS ANY OPEN, OUTDOOR AREA ON THE CAMPUS OF AN
12 INSTITUTION OF HIGHER EDUCATION, AND A DESIGNATED PUBLIC FORUM,
13 WHICH IS ANY FACILITY, BUILDING, OR PART OF A BUILDING THAT THE
14 INSTITUTION OF HIGHER EDUCATION HAS OPENED TO STUDENTS OR
15 STUDENT ORGANIZATIONS FOR EXPRESSION.

16 (2) AN INSTITUTION OF HIGHER EDUCATION SHALL NOT RESTRICT
17 A STUDENT'S CONSTITUTIONAL RIGHT TO SPEAK IN A PUBLIC FORUM. A
18 STUDENT'S RIGHT TO SPEAK INCLUDES SPEAKING VERBALLY, HOLDING A
19 SIGN, OR DISTRIBUTING FLYERS OR OTHER MATERIALS.

20 (3) AN INSTITUTION OF HIGHER EDUCATION SHALL NOT DESIGNATE
21 ANY AREA ON CAMPUS AS A FREE SPEECH ZONE. A FREE SPEECH ZONE THAT
22 EXISTS ON CAMPUS AS OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE
23 CONVERTED TO A MONUMENT OR MEMORIAL.

1 (4) AN INSTITUTION OF HIGHER EDUCATION SHALL NOT IMPOSE
2 RESTRICTIONS ON THE TIME, PLACE, AND MANNER OF STUDENT SPEECH
3 THAT:

4 (a) OCCURS IN A PUBLIC FORUM; AND

5 (b) IS PROTECTED BY THE FIRST AMENDMENT TO THE UNITED
6 STATES CONSTITUTION, UNLESS THE RESTRICTIONS:

7 (I) ARE REASONABLE;

8 (II) ARE UNRELATED TO THE SUPPRESSION OF FREE EXPRESSION;

9 (III) ARE JUSTIFIED WITHOUT REFERENCE TO THE CONTENT OF THE
10 REGULATED SPEECH;

11 (IV) ARE NARROWLY TAILORED TO SERVE A SIGNIFICANT
12 GOVERNMENTAL INTEREST; AND

13 (V) LEAVE OPEN AMPLE ALTERNATIVE CHANNELS FOR
14 COMMUNICATION OF THE INFORMATION OR MESSAGE.

15 (5) THE FOLLOWING PERSONS MAY BRING AN ACTION IN A COURT
16 OF COMPETENT JURISDICTION TO ENJOIN ANY VIOLATION OF THIS SECTION
17 OR TO RECOVER REASONABLE COURT COSTS AND ATTORNEY FEES:

18 (a) THE STATE ATTORNEY GENERAL OR APPROPRIATE DISTRICT
19 ATTORNEY; AND

20 (b) A STUDENT WHOSE RIGHT TO SPEECH WAS VIOLATED.

21 (6) IN AN ACTION BROUGHT PURSUANT TO SUBSECTION (5) OF THIS
22 SECTION, IF THE COURT FINDS THAT A VIOLATION OCCURRED, THE COURT
23 SHALL AWARD THE AGGRIEVED PARTY INJUNCTIVE RELIEF FOR THE
24 VIOLATION AND SHALL AWARD REASONABLE COURT COSTS AND ATTORNEY
25 FEES.

26 (7) A PERSON SHALL BRING AN ACTION PURSUANT TO THIS SECTION
27 WITHIN ONE CALENDAR YEAR AFTER THE DATE THAT THE VIOLATION

1 OCCURRED. FOR THE PURPOSES OF CALCULATING THE ONE-YEAR
2 LIMITATION PERIOD, EACH DAY THAT THE VIOLATION PERSISTS OR EACH
3 DAY THAT A POLICY IN VIOLATION OF THIS SECTION REMAINS IN EFFECT
4 CONSTITUTES A NEW VIOLATION OF THIS SECTION AND IS CONSIDERED A
5 DAY THAT THE CAUSE OF ACTION HAS OCCURRED.

6 **SECTION 2. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly (August
9 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within such period, then the act, item, section, or part will not take effect
13 unless approved by the people at the general election to be held in
14 November 2018 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.