

SECOND REGULAR SESSION

# HOUSE BILL NO. 2284

99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE DOHRMAN.

6065H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 173.1550, RSMo, and to enact in lieu thereof one new section relating to campus free expression.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 173.1550, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 173.1550, to read as follows:

173.1550. 1. **For purposes of this section, the following terms or phrases mean:**

(1) **"Constitutional time, place, and manner restrictions", restrictions on the time, place, and manner of free speech that do not violate the First Amendment to the United States Constitution or Article I, Sections 8 and 9, of the Constitution of Missouri that are reasonable, content- and viewpoint-neutral, narrowly tailored to satisfy a significant institutional interest, and leave open ample alternative channels for the communication of the information or message to its intended audience;**

(2) **"Faculty" or "faculty member", any person, whether the person is compensated by a public institution of higher education, and regardless of political affiliation, who is tasked with providing scholarship, academic research, or teaching. The term "faculty" shall include tenured and non-tenured professors, adjunct professors, visiting professors, lecturers, graduate student instructors, and those in comparable positions, however titled. "Faculty" shall not include persons whose primary responsibilities are administrative or managerial;**

(3) **"Free speech", speech, expression, or assemblies protected by the First Amendment to the United States Constitution or Article I, Sections 8 and 9, of the Constitution of Missouri, verbal or written including, but not limited to, all forms of**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **peaceful assembly, protests, demonstrations, rallies, vigils, marches, public speaking,**  
19 **distribution of printed materials, carrying signs, displays, or circulating petitions. "Free**  
20 **speech" does not include the promotion, sale, or distribution of any product or service;**

21 **(4) "Institution", any public institution of higher education in this state;**

22 **(5) "Student":**

23 **(a) An individual currently enrolled in a course of study at the institution; and**

24 **(b) An organization that is comprised entirely of individuals currently enrolled in**  
25 **a course of study at the institution, that is registered with an institution in accordance with**  
26 **institutional rules.**

27 **2.** The provisions of this section shall be known and cited as the "Campus Free  
28 Expression Act". Expressive activities protected under the provisions of this section include, but  
29 are not limited to, all forms of peaceful assembly, protests, speeches, distribution of literature,  
30 carrying signs, and circulating petitions.

31 ~~[2-]~~ **3.** The outdoor areas of campuses of public institutions of higher education in this  
32 state shall be deemed traditional public forums. Public institutions of higher education may  
33 maintain and enforce ~~reasonable~~ **constitutional** time, place, and manner restrictions in service  
34 of a significant institutional interest only when such restrictions employ clear, published, content,  
35 and viewpoint-neutral criteria, and provide for ample alternative means of expression. Any such  
36 restrictions shall allow for members of the university community to spontaneously and  
37 contemporaneously assemble.

38 ~~[3-]~~ **4.** Any person who wishes to engage in noncommercial expressive activity on  
39 campus shall be permitted to do so freely, as long as the person's conduct is not unlawful and  
40 does not materially and substantially disrupt the functioning of the institution subject to the  
41 requirements of subsection ~~[2]~~ **3** of this section.

42 ~~[4-]~~ **5.** Nothing in this section shall be interpreted as limiting the right of student  
43 expression elsewhere on campus.

44 ~~[5-]~~ **6.** **The governing board of each public institution of higher education in this**  
45 **state shall develop and adopt a policy on free expression prior to January 1, 2019, that**  
46 **includes, but is not limited to, the following principals of free speech, which are the public**  
47 **policy of this state:**

48 **(1) Students have a fundamental constitutional right to free speech;**

49 **(2) An institution shall be committed to giving students the broadest possible**  
50 **latitude to speak, write, listen, challenge, learn, and discuss any issue subject to the**  
51 **provisions of subsection 11 of this section;**

52 **(3) An institution shall be committed to maintaining a campus as a marketplace of**  
53 **ideas for all students and all faculty in which the free exchange of ideas is not to be**

54 **suppressed because ideas put forth are thought by some or even by most members of the**  
55 **institution's community to be offensive, unwise, disagreeable, conservative, liberal,**  
56 **traditional, or radical;**

57 **(4) It is for an institution's individual students and faculty to make judgments**  
58 **about ideas for themselves, and to act on those judgments not by seeking to suppress free**  
59 **speech, but by openly contesting the ideas that they oppose;**

60 **(5) It is not the proper role of an institution to attempt to shield individuals from**  
61 **free speech, including ideas and opinions they find offensive, unwise, disagreeable,**  
62 **conservative, liberal, traditional, or radical;**

63 **(6) Although an institution should greatly value civility and mutual respect,**  
64 **concerns about civility and mutual respect shall never be used by an institution as a**  
65 **justification for closing off the discussion of ideas no matter how offensive, unwise,**  
66 **disagreeable, conservative, liberal, traditional, or radical those ideas may be to some**  
67 **students or faculty;**

68 **(7) Although all students and all faculty are free to state their own views about and**  
69 **contest the views expressed on campus and to state their own views about and contest**  
70 **speakers who are invited to express their views on the institution's campus, they may not**  
71 **substantially obstruct or otherwise substantially interfere with the freedom of others to**  
72 **express views they reject or even loathe. To this end, an institution has the responsibility**  
73 **to promote a lively and fearless freedom of debate and deliberation and to protect that**  
74 **freedom;**

75 **(8) An institution shall be committed to providing an atmosphere that is most**  
76 **conducive to speculation, experimentation, and creation by all students and all faculty, who**  
77 **shall always remain free to inquire, to study and to evaluate, and to gain new**  
78 **understanding;**

79 **(9) The primary responsibility of faculty is to engage an honest, courageous, and**  
80 **persistent effort to search out and communicate the truth that lies in the areas of their**  
81 **competence;**

82 **(10) Although faculty are free in the classroom to discuss subjects within areas of**  
83 **their competence, faculty shall be cautious in expressing personal views in the classroom**  
84 **to persuade rather than illustrate or illuminate, and faculty shall be careful not to**  
85 **introduce controversial matters that have no relationship to the subject taught, especially**  
86 **matters in which they have no special competence or training; provided that, no faculty**  
87 **shall face adverse employment action for classroom speech unless it is not reasonably**  
88 **germane to the subject matter of the class as broadly construed and comprises a substantial**  
89 **portion of classroom instruction;**

90 (11) An institution shall maintain the generally accessible, open, outdoor areas of  
91 its campus as traditional public forums for free speech by students;

92 (12) An institution shall not restrict students' free speech only to particular areas  
93 of the campus, sometimes known as "free speech zones";

94 (13) An institution shall not deny student activity fee funding to a student  
95 organization based on the viewpoints that the student organization advocates;

96 (14) An institution shall not establish permitting requirements that prohibit  
97 spontaneous outdoor assemblies or outdoor distribution of literature, although an  
98 institution may maintain a policy that grants members of the college or university  
99 community the right to reserve certain outdoor spaces in advance;

100 (15) An institution shall not charge students security fees based on the content of  
101 their speech, the content of the speech of guest speakers invited by students, or the  
102 anticipated reaction or opposition of listeners to speech;

103 (16) An institution shall allow all students and all faculty to invite guest speakers  
104 to campus to engage in free speech regardless of the views of the guest speakers; and

105 (17) An institution shall not disinvite a speaker invited by a student, student  
106 organization, or faculty member because the speaker's anticipated speech may be  
107 considered offensive, unwise, disagreeable, conservative, liberal, traditional, or radical by  
108 students, faculty, administrators, government officials, or members of the public.

109 7. The policy required under subsection 6 of this section shall be made available to  
110 students and faculty annually through one or more of the following methods:

111 (1) Published annually in the institution's student handbook and faculty handbook,  
112 whether paper or electronic;

113 (2) Made available to students and faculty by way of a prominent notice on the  
114 institution's internet site other than through the electronic publication of the policy in the  
115 student handbook or faculty handbook;

116 (3) Sent annually to students and employees to their institutionally-provided email  
117 address; or

118 (4) Addressed by the institution in orientation programs for new students and new  
119 faculty.

120 8. Nothing contained in subsections 6 and 7 of this section shall be interpreted as  
121 granting students the right to disrupt previously scheduled or reserved activities occurring  
122 in a traditional public forum.

123 9. With respect to disciplining students for their speech, expression, or assemblies,  
124 an institution shall adopt a policy on "student-on-student harassment" defining the term  
125 consistent with, and no more expansively than, unwelcome conduct directed toward a

126 **person that is discriminatory on a basis provided by federal, state, or local law and that is**  
127 **so severe, pervasive, and objectively offensive that it effectively bars the victim's access to**  
128 **an educational opportunity or benefit.**

129 **10. An institution shall not impose costs on students or student organizations on the**  
130 **basis of the anticipated reaction or opposition to a person's speech by listeners.**

131 **11. Nothing contained in this section shall be interpreted as prohibiting an**  
132 **institution from imposing measures or prohibiting or limiting speech, expression, or**  
133 **assemblies that do not violate the First Amendment to the United States Constitution or**  
134 **Article I, Sections 8 and 9, of the Constitution of Missouri, or from imposing content**  
135 **restrictions on speech that are reasonably related to a legitimate pedagogical purpose, such**  
136 **as classroom rules enacted by faculty.**

137 **12.** The following persons may bring an action in a court of competent jurisdiction to  
138 enjoin any violation of this section or to recover compensatory damages, reasonable court costs,  
139 and attorney fees:

140 (1) The attorney general;

141 (2) Persons whose expressive rights were violated through the violation of this section.

142 ~~[6-]~~ **13.** In an action brought under subsection ~~[5]~~ **12** of this section, if the court finds a  
143 violation, the court shall award the aggrieved persons no less than five hundred dollars for the  
144 initial violation, plus fifty dollars for each day the violation remains ongoing.

145 ~~[7-]~~ **14.** A person shall be required to bring suit for violation of this section not later than  
146 one year after the day the cause of action accrues. For purposes of calculating the one-year  
147 limitation period, each day that the violation persists, and each day that a policy in violation of  
148 this section remains in effect, shall constitute a new violation of this section and, therefore, a new  
149 day that the cause of action has accrued.

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