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**SUBSTITUTE HOUSE BILL 1307**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** House Committee on Judiciary (originally sponsored by Representatives Upthegrove, Lantz, Williams, O'Brien, Sells, McCoy, Appleton, Darneille, Lovick, Dunshee, Takko, Pedersen, Simpson, Dickerson, Moeller, McIntire, Schual-Berke, Quall, Springer and Morrell)

READ FIRST TIME 02/05/07.

1 AN ACT Relating to freedom of student press and speech; adding a  
2 new section to chapter 28A.600 RCW; adding a new section to chapter  
3 28B.10 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that freedom of  
6 expression and freedom of the press are fundamental principles in our  
7 democratic society granted to every citizen of this state and the  
8 nation by the First Amendment of the United States Constitution and by  
9 Article 1, section 5 of the state Constitution. These freedoms provide  
10 all citizens, including students, with the right to engage in robust  
11 and uninhibited discussion of issues. The legislature finds that court  
12 decisions have not provided adequate protection for the free speech and  
13 free press rights of students. The legislature intends to ensure free  
14 speech and free press protections for both high school and college  
15 students in the state in order to encourage students to become  
16 educated, informed, and responsible members of society.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.600  
18 RCW to read as follows:

1 (1) Except as provided in subsection (3) of this section, public  
2 high school students have the right to exercise freedom of speech and  
3 of the press in school-sponsored media, whether or not the media are  
4 supported financially by the school or by use of school facilities, or  
5 are produced in conjunction with a class.

6 (2) Student editors of school-sponsored media are responsible for  
7 determining the news, opinion, feature content, and advertising content  
8 of the media subject to the limitations of subsection (3) of this  
9 section. This subsection does not prevent a student media adviser from  
10 teaching professional standards of English and journalism to the  
11 student journalists. A student media adviser may not be terminated,  
12 transferred, removed, or otherwise disciplined for refusing to suppress  
13 the protected free expression rights of student journalists.

14 (3) Nothing in this section may be interpreted to authorize  
15 expression by students that:

16 (a) Is obscene as to minors;

17 (b) Is libelous or slanderous as defined by state law;

18 (c) Constitutes an unwarranted invasion of privacy as defined by  
19 state law;

20 (d) So incites students as to create a clear and present danger of:

21 (i) The commission of unlawful acts on school premises;

22 (ii) The violation of lawful school regulations; or

23 (iii) The material and substantial disruption of the orderly  
24 operation of the school. A school official must base a forecast of  
25 material and substantial disruption on specific facts, including past  
26 experience in the school and current events influencing student  
27 behavior, and not on undifferentiated fear or apprehension; or

28 (e) Violates the federal communications act or any rule or  
29 regulation of the federal communications commission.

30 (4) Any student, individually or through his or her parent or  
31 guardian, enrolled in a public high school may commence a civil action  
32 to obtain appropriate injunctive and declaratory relief as determined  
33 by a court for a violation of subsection (1) of this section. Upon a  
34 motion, a court may award attorneys' fees to a prevailing plaintiff in  
35 a civil action brought under this section.

36 (5) Expression made by students in school-sponsored media is not  
37 the expression of school policy. Neither a school official nor the  
38 governing board of the school or school district may be held

1 responsible in any civil or criminal action for any expression made or  
2 published by students in school-sponsored media unless school officials  
3 or the governing board have interfered with or altered the content of  
4 the student expression.

5 (6) Each school district that includes a high school shall adopt  
6 regulations in the form of a written student freedom of expression  
7 policy in accordance with this section. The policy shall include  
8 reasonable provisions for the time, place, and manner of student  
9 expression.

10 (7) This section does not apply to correctional institution  
11 education programs under chapter 28A.193 RCW or to residential  
12 education programs under chapter 28A.190 RCW operating in department of  
13 social and health services facilities for the confinement and  
14 rehabilitation of juveniles committed by the courts.

15 (8) For the purposes of this section:

16 (a) "Obscene as to minors" means material that the average person,  
17 applying community standards, finds as a whole appeals to a minor's  
18 prurient interest in sex, and that depicts or describes in an offensive  
19 way sexual conduct or sexual acts, and that lacks serious literary,  
20 artistic, political, or scientific value.

21 (b) "School-sponsored media" means any matter that is prepared,  
22 substantially written, published, or broadcast by students, that is  
23 distributed or generally made available, either free-of-charge or for  
24 a fee, to members of the student body, and that is prepared under the  
25 direction of a student media adviser. "School-sponsored media" does  
26 not include media that is intended for distribution or transmission  
27 solely in the classrooms in which they are produced.

28 (c) "Student journalist" means a student who gathers, compiles,  
29 writes, edits, photographs, records, or prepares information for  
30 dissemination in school-sponsored media.

31 (d) "Student media adviser" means a person who is employed,  
32 appointed, or designated by the school to supervise, or provide  
33 instruction relating to, school-sponsored media.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.10 RCW  
35 to read as follows:

36 (1) All school-sponsored media produced primarily by students at a  
37 public institution of higher education are public forums for expression

1 by the student journalists and editors at the particular institution.  
2 Student media, whether school-sponsored or nonschool-sponsored, are not  
3 subject to prior review by school administrators.

4 (2) Student editors of school-sponsored media are responsible for  
5 determining the news, opinion, feature content, and advertising content  
6 of the media. This subsection (2) does not prevent a student media  
7 adviser from teaching professional standards of English and journalism  
8 to the student journalists. A student media adviser may not be  
9 terminated, transferred, removed, or otherwise disciplined for refusing  
10 to suppress the protected free expression rights of student  
11 journalists.

12 (3) Any student enrolled in a public institution of higher  
13 education may commence a civil action to obtain appropriate injunctive  
14 and declaratory relief as determined by a court for a violation of  
15 subsection (1) of this section by the public institution of higher  
16 education. Upon a motion, a court may award attorneys' fees to a  
17 prevailing plaintiff in a civil action brought under this section.

18 (4) Expression made by students in school-sponsored media is not  
19 the expression of school policy. Neither a school official nor the  
20 governing board of any public institution of higher education may be  
21 held responsible in any civil or criminal action for any expression  
22 made or published by students in school-sponsored media unless school  
23 officials or the governing board have interfered with or altered the  
24 content of the student expression.

25 (5) This section does not apply to educational programs operated by  
26 institutions of higher education in adult correctional institutions or  
27 in secure facilities operated by the department of social and health  
28 services under chapter 71.09 RCW.

29 (6) Nothing in this section may be interpreted to authorize  
30 expression by students that violates the federal communications act or  
31 any rule or regulation of the federal communications commission.

32 (7) For the purposes of this section:

33 (a) "School-sponsored media" means any matter that is prepared,  
34 substantially written, published, or broadcast by students, that is  
35 distributed or generally made available, either free of charge or for  
36 a fee, to members of the student body, and that is prepared under the  
37 direction of a student media adviser. "School-sponsored media" does

1 not include media that is intended for distribution or transmission  
2 solely in the classrooms in which they are produced.

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

6 (c) "Student media adviser" means a person who is employed,  
7 appointed, or designated by the school to supervise, or provide  
8 instruction relating to, school-sponsored media.

9 NEW SECTION. **Sec. 4.** If any provision of this act or its  
10 application to any person or circumstance is held invalid, the  
11 remainder of the act or the application of the provision to other  
12 persons or circumstances is not affected.

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