

# House Bill 3279

Sponsored by Representative GALIZIO; Representatives BARKER, BOONE, BUCKLEY, CANNON, HUNT, NOLAN, READ, ROSENBAUM, SHIELDS, TOMEI, WITT

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that public high school student journalists have right to exercise freedom of speech and press in school-sponsored media. Allows civil cause of action by student or parent or guardian.

Provides that school-sponsored media produced primarily by students at public institution of higher education are public forums for expression by student journalists. Allows civil cause of action by student.

Directs that student journalists are responsible for determining content of school-sponsored media. Provides limitations for content determined by high school students.

Provides that school officials and governing boards are immune from civil and criminal liability based on student expression in school-sponsored media.

Declares emergency, effective July 1, 2007.

## A BILL FOR AN ACT

1  
2 Relating to student journalists; and declaring an emergency.

3       Whereas the Legislative Assembly finds that freedom of expression and freedom of the press are  
4 fundamental principles in our democratic society granted to every citizen of the nation by the First  
5 Amendment to the United States Constitution and to every resident of this state by section 8, Arti-  
6 cle I of the Oregon Constitution; and

7       Whereas these freedoms provide all citizens, including students, with the right to engage in ro-  
8 bust and uninhibited discussion of issues; and

9       Whereas court decisions have not provided adequate protection for the free speech and free  
10 press rights of students; and

11       Whereas the Legislative Assembly intends to ensure free speech and free press protections for  
12 both high school students and students at institutions of higher education in this state in order to  
13 encourage students to become educated, informed and responsible members of society; now, there-  
14 fore,

15 **Be It Enacted by the People of the State of Oregon:**

### **SECTION 1. (1) For the purposes of this section:**

16       **(a) "School-sponsored media" means materials that are prepared, substantially written,**  
17 **published or broadcast by student journalists, that are distributed or generally made avail-**  
18 **able, either free of charge or for a fee, to members of the student body and that are prepared**  
19 **under the direction of a student media adviser. "School-sponsored media" does not include**  
20 **media intended for distribution or transmission solely in the classrooms in which they are**  
21 **produced.**  
22

23       **(b) "Student journalist" means a public high school student who gathers, compiles,**  
24 **writes, edits, photographs, records or prepares information for dissemination in school-**  
25 **sponsored media.**

26       **(c) "Student media adviser" means a person who is employed, appointed or designated**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 by the school district to supervise, or provide instruction relating to, school-sponsored me-  
 2 dia.

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

7 (3) Student journalists are responsible for determining the news, opinion, feature and  
 8 advertising content of school-sponsored media subject to the limitations of subsection (4) of  
 9 this section. This subsection does not prevent a student media adviser from teaching pro-  
 10 fessional standards of English and journalism to the student journalists. A student media  
 11 adviser may not be terminated, transferred, removed or otherwise disciplined for refusing  
 12 to suppress the protected expression of student journalists.

13 (4) Nothing in this section may be interpreted to authorize expression by students that:

- 14 (a) Is libelous or slanderous;
- 15 (b) Constitutes an unwarranted invasion of privacy; or
- 16 (c) So incites students as to create a clear and present danger of:
  - 17 (A) The commission of unlawful acts on school premises;
  - 18 (B) The violation of school policies; or

19 (C) The material and substantial disruption of the orderly operation of the school. A  
 20 school official must base a forecast of material and substantial disruption on specific facts,  
 21 including past experience in the school and current events influencing student behavior, and  
 22 not on undifferentiated fear or apprehension.

23 (5) Any student, individually or through the student's parent or guardian, enrolled in a  
 24 public high school may commence a civil action to obtain appropriate injunctive or  
 25 declaratory relief as determined by a court for a violation of subsection (2) of this section.  
 26 Upon a motion, a court may award costs and attorney fees to a prevailing plaintiff in a civil  
 27 action brought under this subsection.

28 (6) Expression by student journalists in school-sponsored media is not the expression of  
 29 school policy. A school official or the school district board may not be held responsible in any  
 30 civil or criminal action for any expression published by student journalists in school-  
 31 sponsored media unless the school official or the board has interfered with or altered the  
 32 content of the student expression.

33 (7) Each school district that includes a public high school shall adopt a written student  
 34 freedom of expression policy in accordance with this section. The policy shall include rea-  
 35 sonable provisions for the time, place and manner of student expression.

36 **SECTION 2. (1) For the purposes of this section:**

- 37 (a) "Public institution of higher education" means:
  - 38 (A) A community college;
  - 39 (B) A state institution of higher education listed in ORS 352.002; and
  - 40 (C) The Oregon Health and Science University.

41 (b) "School-sponsored media" means materials that are prepared, substantially written,  
 42 published or broadcast by student journalists, that are distributed or generally made avail-  
 43 able, either free of charge or for a fee, to members of the student body and that are prepared  
 44 under the direction of a student media adviser. "School-sponsored media" does not include  
 45 media intended for distribution or transmission solely in the classrooms in which they are

1 produced.

2 (c) "Student journalist" means a student who gathers, compiles, writes, edits, photo-  
3 graphs, records or prepares information for dissemination in school-sponsored media.

4 (d) "Student media adviser" means a person who is employed, appointed or designated  
5 by a public institution of higher education to supervise, or provide instruction relating to,  
6 school-sponsored media.

7 (2) All school-sponsored media produced primarily by student journalists at a public in-  
8 stitution of higher education are public forums for expression by the student journalists at  
9 the institution. Student media, whether or not school sponsored, are not subject to review  
10 by school administrators prior to publication.

11 (3) Student journalists are responsible for determining the news, opinion, feature and  
12 advertising content of school-sponsored media. This subsection does not prevent a student  
13 media adviser from teaching professional standards of English and journalism to the student  
14 journalists. A student media adviser may not be terminated, transferred, removed or other-  
15 wise disciplined for refusing to suppress the protected expression of student journalists.

16 (4) Any student enrolled in a public institution of higher education may commence a civil  
17 action to obtain appropriate injunctive or declaratory relief as determined by a court for a  
18 violation of subsection (2) of this section by the public institution of higher education. Upon  
19 a motion, a court may award costs and attorney fees to a prevailing plaintiff in a civil action  
20 brought under this subsection.

21 (5) Expression by student journalists in school-sponsored media is not the expression of  
22 school policy. A school official or the governing board of any public institution of higher ed-  
23 ucation may not be held responsible in any civil or criminal action for any expression pub-  
24 lished by student journalists in school-sponsored media unless the school official or the  
25 governing board has interfered with or altered the content of the student expression.

26 SECTION 3. (1) Section 1 of this 2007 Act first applies to the 2007-2008 school year.

27 (2) Section 2 of this 2007 Act first applies to the academic term beginning fall 2007.

28 SECTION 4. This 2007 Act being necessary for the immediate preservation of the public  
29 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect  
30 July 1, 2007.

31