

Introduced by

Senators Rust, Luick, Oban

Representatives Devlin, Schreiber-Beck, Mock

1 A BILL for an Act to amend and reenact sections 15-10-55 and 15.1-19-25 of the North Dakota  
2 Century Code, relating to the freedom of expression of student journalists.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 15-10-55 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **15-10-55. Student journalists - Freedom of expression - Civil remedy.**

7 1. As used in this section:

8 a. "School-sponsored media" means any material that is prepared, substantially  
9 written, published, or broadcast by a student journalist at ~~an institution under the~~  
10 supervision of the state board ~~a public or private institution~~ of higher education,  
11 distributed or generally made available to members of the student body, and  
12 prepared under the direction of a student media adviser. The term does not  
13 include any media intended for distribution or transmission solely in the  
14 classroom in which the media is produced.

15 b. "Student journalist" means a student of ~~an institution under the supervision of the~~  
16 state board ~~a public or private institution~~ of higher education who gathers,  
17 compiles, writes, edits, photographs, records, or prepares information for  
18 dissemination in school-sponsored media.

19 c. "Student media adviser" means an individual employed, appointed, or designated  
20 by ~~an institution under the supervision of the state board~~ a public or private  
21 institution of higher education to supervise or provide instruction relating to  
22 school-sponsored media.

23 2. Except as provided in subsection 3, a student journalist has the right to exercise  
24 freedom of speech and of the press in school-sponsored media, regardless of whether

1 the media is supported financially by the institution or by use of facilities of the  
2 institution or produced in conjunction with a class in which the student is enrolled.  
3 Subject to subsection 3, a student journalist is responsible for determining the news,  
4 opinion, feature, and advertising content of school-sponsored media. This subsection  
5 may not be construed to prevent a student media adviser from teaching professional  
6 standards of English and journalism to student journalists. A student media adviser  
7 may not be dismissed, suspended, or disciplined for acting to protect a student  
8 journalist engaged in a protected activity or for refusing to infringe on a protected  
9 activity.

10 3. This section does not authorize or protect expression by a student that:

- 11 a. Is libelous or slanderous;
- 12 b. Constitutes an unwarranted invasion of privacy;
- 13 c. Violates federal or state law; or
- 14 d. So incites students as to create a clear and present danger of the commission of  
15 an unlawful act, the violation of institution or state board of higher education  
16 policies, or the material and substantial disruption of the orderly operation of the  
17 institution.

18 4. An expression of free speech or freedom of the press made by a student journalist  
19 under this section may not be construed as an expression of school policy. A school  
20 official, employee, or parent or legal guardian of a student journalist may not be liable  
21 in any civil or criminal action for an expression of free speech or freedom of the press  
22 made by a student journalist, except in the case of willful or wanton misconduct by the  
23 individual.

24 **SECTION 2. AMENDMENT.** Section 15.1-19-25 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **15.1-19-25. Student journalists - Freedom of expression - Civil remedy.**

27 1. As used in this section:

- 28 a. "School-sponsored media" means any material that is prepared, substantially  
29 written, published, or broadcast by a student journalist at a public school,  
30 distributed or generally made available to members of the student body, and  
31 prepared under the direction of a student media adviser. The term does not

- 1 include any media intended for distribution or transmission solely in the  
2 classroom in which the media is produced.
- 3 b. "Student journalist" means a public school student who gathers, compiles, writes,  
4 edits, photographs, records, or prepares information for dissemination in  
5 school-sponsored media.
- 6 c. "Student media adviser" means an individual employed, appointed, or designated  
7 by a school district to supervise or provide instruction relating to  
8 school-sponsored media.
- 9 2. Except as provided in subsection 3, a student journalist has the right to exercise  
10 freedom of speech and of the press in school-sponsored media, regardless of whether  
11 the media is supported financially by the school district, by use of facilities of the  
12 school district, or produced in conjunction with a class in which the student is enrolled.  
13 Subject to subsection 3, a student journalist is responsible for determining the news,  
14 opinion, feature, and advertising content of school-sponsored media. This subsection  
15 may not be construed to prevent a student media adviser from teaching professional  
16 standards of English and journalism to student journalists. A student media adviser  
17 may not be dismissed, suspended, or disciplined for acting to protect a student  
18 journalist engaged in a protected activity or for refusing to infringe on a protected  
19 activity.
- 20 3. This section does not authorize or protect expression by a student that:  
21 a. Is libelous or slanderous;  
22 b. Constitutes an unwarranted invasion of privacy;  
23 c. Violates federal or state law; or  
24 d. So incites students as to create a clear and present danger of the commission of  
25 an unlawful act, the violation of school district policy, or the material and  
26 substantial disruption of the orderly operation of the school.
- 27 4. A school district may not authorize any prior restraint of any school-sponsored media  
28 except when the media:  
29 a. Is libelous or slanderous;  
30 b. Constitutes an unwarranted invasion of privacy;  
31 c. Violates federal or state law; or

- 1           d.    So incites students as to create a clear and present danger of the commission of  
2                    an unlawful act, the violation of school district policies, or the material and  
3                    substantial disruption of the orderly operation of the school.
- 4        5.    A school district may not sanction a student operating as an independent journalist.
- 5        6.    Each school district shall adopt a written student freedom of expression policy in  
6                    accordance with this section. The policy must include reasonable provisions for the  
7                    time, place, and manner of student expression. The policy may also include limitations  
8                    to language that may be defined as profane, harassing, threatening, or intimidating. An  
9                    expression of free speech or freedom of the press made by a student journalist under  
10                   this section may not be construed as an expression of school policy. A school official,  
11                   employee, or parent or legal guardian of a student journalist may not be liable in any  
12                   civil or criminal action for an expression of free speech or freedom of the press made  
13                   by a student journalist, except in the case of willful or wanton misconduct by the  
14                   individual.