

## **BILL ANALYSIS**

Senate Research Center  
86R3124 KJE-F

S.B. 514  
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Education  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Courts have held that public school student journalists face certain restrictions. This has resulted in cases where students have been prevented from publishing information that was in the public interest. In response, 14 states, including Arkansas and Pennsylvania, have passed laws that protect student journalism; in 2019, at least 11 other states, including Missouri, Nebraska, and Indiana, are considering similar legislation.

S.B. 514 supports the development of student journalism in the state of Texas by making clear that, with the supervision of an adviser, students should not be prevented from reporting information that is in the public interest. S.B. 514 maintains prohibitions on publishing material that is libelous, and also recognizes that schools are unique settings where the First Amendment rights of students in school are not the same as the rights of individuals outside of school. School officials are expected to ensure safety and order, and S.B. 514 allows school officials to restrict student speech that causes a material and substantial disruption of normal school activities.

Some measure of journalistic independence is essential for students to learn media law, which is required coursework for journalism and other English Language Arts. Work subject to arbitrary or random administrative control does not provide this opportunity. Students also must have professional oversight to support their education in this area. Because of that, the bill also includes a retaliation clause protecting school employees who protect or refuse to infringe on free student speech from disciplinary action.

Texas has the largest state scholastic press association in the country, and S.B. 514 represents an opportunity to support these students and educators.

As proposed, S.B. 514 amends current law relating to speech protections for student publications in public schools.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the board of trustees of a school district in SECTION 1 (Section 25.903, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Section 25.903, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter Z, Chapter 25, Education Code, by adding Section 25.903, as follows:

Sec. 25.903. STUDENT PUBLICATIONS. (a) Defines "protected speech."

(b) Requires the board of trustees of a school district (board) to adopt a written policy establishing rules regarding students' right to exercise freedom of the press at school. Prohibits the board from imposing greater restrictions on publications produced using the district's money, equipment, or facilities than those imposed on publications not produced using those requirements.

(c) Requires the policy to:

(1) permit students, under the guidance of a journalism or student publication advisor employed by the school district, to determine the content of the publication, so long as the content constitutes protected speech;

(2) prohibit the school district or any employee of the district from censoring protected speech or from punishing a student for engaging in protected speech; and

(3) limit the scope and duration of a district employee's review of the publication before being published only to what is reasonably necessary to determine whether the publication contains content other than protected speech and, if appropriate, remove content other than protected speech from the publication.

(d) Prohibits the publication of a student publication from being unreasonably delayed for purposes of conducting a review described by Subsection (c)(3).

(e) Prohibits an employee of a school district from being subjected to disciplinary action or any other form of punishment or retaliation for acting to protect or refusing to infringe upon a student's rights as provided by this section.

(f) Requires the commissioner of education to adopt rules as necessary to implement this section, including rules establishing a process for a student to appeal a school district employee's removal of content from a student publication.

SECTION 2. Reenacts Section 12.104(b), Education Code, as amended by Chapters 324 (S.B. 1488), 522 (S.B. 179), and 735 (S.B. 1153), Acts of the 85th Legislature, Regular Session, 2017, to conform to the changes made by Chapter 324 (S.B. 1488), Acts of the 85th Legislature, Regular Session, 2017, and amends it as follows:

(b) Establishes that an open-enrollment charter school is subject to:

(1) makes no changes to this subsection;

(2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title relating to:

(A)-(N) makes no changes to these paragraphs;

(O) makes a nonsubstantive change to this paragraph;

(P) makes no change to this paragraph;

(Q)-(R) makes nonsubstantive changes to these paragraphs;

(S) redesignates Paragraph (P) as Paragraph (S) and makes a nonsubstantive change; and

(T) speech protections for student publications under Section 25.903.

SECTION 3. Provides that this Act applies beginning with the 2019–2020 school year.

SECTION 4. Provides that, to the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 5. Effective date: upon passage or September 1, 2019.