By: González of El Paso, Sanford, Bernal, Meyer H.B. No. 2244

Substitute the following for H.B. No. 2244:

By: Talarico

C.S.H.B. No. 2244

A BILL TO BE ENTITLED

1 AN ACT

- 2 relating to speech protections for student media publications in
- 3 public schools.
- 4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
- 5 SECTION 1. Subchapter Z, Chapter 25, Education Code, is
- 6 amended by adding Section 25.903 to read as follows:
- 7 Sec. 25.903. STUDENT MEDIA PUBLICATIONS. (a) In this
- 8 section:
- 9 (1) "Protected speech" means speech protected by the
- 10 First Amendment to the United States Constitution or by Section 8,
- 11 Article I, Texas Constitution. The term does not include speech
- 12 that:
- 13 <u>(A) is obscene;</u>
- 14 (B) is defamatory, libelous, or slanderous;
- 15 (C) constitutes a clear, unwarranted invasion of
- 16 privacy;
- 17 (D) violates a federal or state law to the extent
- 18 that law conforms to the United States Constitution or the Texas
- 19 <u>Constitution;</u>
- (E) advertises or promotes the purchase of a
- 21 product or service that is unlawful for purchase by minors;
- 22 (F) is intended to incite the imminent commission
- 23 of a crime or violation of school policy and is likely to produce
- 24 that result; or

1 (G) substantially disrupts a school's operation. (2) "Student media publication" means any material 2 that is primarily prepared, written, published, or broadcast by 3 students enrolled at a school district campus who are under the 4 5 direction of a student media publication advisor if the material is distributed or generally made available to students enrolled at the 6 The term does not include material intended for 7 distribution only in the classroom in which the material is 8 produced. 9 "Student media publication advisor" means an 10 (3) individual employed or designated by a school district or a campus 11 12 of the district to supervise or provide instruction relating to student media publications. 13

- 14 (b) A student is entitled to exercise freedom of speech and 15 freedom of the press in producing any student media publication, including by determining the content of the publication so long as 16 17 the content constitutes protected speech, regardless of whether the publication is produced using the school district's money, 18 19 equipment, or facilities or in conjunction with any class in which the student is enrolled. A student may not be disciplined for 20 acting in accordance with this subsection. 21
- (c) Subsection (b) may not be construed to prohibit a student media publication advisor from teaching professional standards of English and journalism to students.
- 25 <u>(d) A student media publication advisor may not be subjected</u>
 26 <u>to disciplinary action or any other form of punishment or</u>
 27 <u>retaliation for acting to protect or refusing to infringe on a</u>

- 1 student's rights as provided by this section.
- 2 (e) The content of a student media publication may not be
- 3 construed as the policy or position of the campus at which the
- 4 publication is produced or the school district in which the campus
- 5 is located.
- 6 (f) A school district, a student media publication advisor
- 7 of a district campus, or any employee of the district is not liable
- 8 in any civil or criminal action for the content of a student media
- 9 publication produced by students enrolled at a district campus
- 10 unless the district, advisor, or employee acted with wilful or
- 11 wanton misconduct in permitting the publication to be produced.
- 12 (g) The board of trustees of a school district shall adopt a
- 13 written policy establishing rules regarding students' right to
- 14 exercise freedom of speech and freedom of the press in producing any
- 15 <u>student media publication.</u>
- 16 (h) The policy adopted under Subsection (g) may include:
- 17 (1) reasonable restrictions on the time, place, and
- 18 manner of student expression in a student media publication if
- 19 those restrictions:
- 20 (A) are necessary to further a compelling school
- 21 district interest and are the least restrictive means of furthering
- 22 that interest;
- (B) employ clear, published, content-neutral,
- 24 and viewpoint-neutral criteria; and
- (C) leave open ample alternative means of
- 26 expression; and
- 27 (2) limitations on speech that is not protected

- 1 speech, including speech the board of trustees defines as profane,
- 2 harassing, threatening, or intimidating.
- 3 (i) A school administrator shall:
- 4 (1) interpret the policy adopted under Subsection (g)
- 5 in accordance with law; and
- 6 (2) determine whether a student media publication
- 7 <u>includes speech that is not protected.</u>
- 8 <u>(j) A student, individually or through the student's parent</u>
- 9 or person standing in parental relation to the student, whose
- 10 freedom of speech, freedom of the press, or expressive rights have
- 11 been violated under this section or a student media publication
- 12 advisor may bring an action for injunctive relief to compel the
- 13 school district to comply with this section.
- 14 (k) In addition to the injunctive relief under Subsection
- 15 (j), a person whose freedom of speech, freedom of the press, or
- 16 expressive rights are affected by a policy adopted by a school
- 17 district under this section may file suit against the district for
- 18 declaratory judgment in the manner provided by Chapter 37, Civil
- 19 Practice and Remedies Code.
- SECTION 2. Section 12.104(b), Education Code, as amended by
- 21 Chapters 324 (S.B. 1488), 522 (S.B. 179), and 735 (S.B. 1153), Acts
- 22 of the 85th Legislature, Regular Session, 2017, is reenacted and
- 23 amended to read as follows:
- 24 (b) An open-enrollment charter school is subject to:
- 25 (1) a provision of this title establishing a criminal
- 26 offense; and
- 27 (2) a prohibition, restriction, or requirement, as

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    applicable, imposed by this title or a rule adopted under this
   title, relating to:
 2
 3
                          the Public Education Information Management
    System (PEIMS) to the extent necessary to monitor compliance with
 4
 5
    this subchapter as determined by the commissioner;
 6
                     (B)
                          criminal history records under Subchapter C,
 7
    Chapter 22;
8
                     (C)
                          reading instruments and accelerated reading
    instruction programs under Section 28.006;
 9
10
                     (D)
                          accelerated
                                        instruction
                                                       under
                                                               Section
    28.0211;
11
12
                     (E)
                          high school graduation requirements under
    Section 28.025;
13
14
                     (F)
                          special education programs under Subchapter
15
   A, Chapter 29;
                     (G)
                          bilingual education under
16
                                                        Subchapter
                                                                    В,
17
    Chapter 29;
                          prekindergarten programs under Subchapter E
18
                     (H)
19
    or E-1, Chapter 29;
                          extracurricular activities under
20
                     (I)
                                                               Section
21
    33.081;
                          discipline management practices or behavior
22
                     (J)
23
    management techniques under Section 37.0021;
24
                     (K)
                          health and safety under Chapter 38;
25
                     (L)
                          public
                                   school
                                             accountability
26
    Subchapters B, C, D, F, G, and J, Chapter 39, and Chapter 39A;
27
                     (M)
                          the requirement under Section 21.006
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- 1 report an educator's misconduct;
- 2 (N) intensive programs of instruction under
- 3 Section 28.0213;
- 4 (O) the right of a school employee to report a
- 5 crime, as provided by Section 37.148; [and]
- 6 (P) bullying prevention policies and procedures
- 7 under Section 37.0832;
- 8 (Q) the right of a school under Section 37.0052
- 9 to place a student who has engaged in certain bullying behavior in a
- 10 disciplinary alternative education program or to expel the student;
- 11 [and]
- 12 (R) the right under Section 37.0151 to report to
- 13 local law enforcement certain conduct constituting assault or
- 14 harassment;
- 15 $\underline{\text{(S)}}$ [$\frac{\text{(P)}}{\text{)}}$] a parent's right to information
- 16 regarding the provision of assistance for learning difficulties to
- 17 the parent's child as provided by Sections 26.004(b)(11) and
- 18 26.0081(c) and (d); and
- 19 <u>(T)</u> speech protections for student media
- 20 publications under Section 25.903.
- 21 SECTION 3. This Act applies beginning with the 2019-2020
- 22 school year.
- 23 SECTION 4. To the extent of any conflict, this Act prevails
- 24 over another Act of the 86th Legislature, Regular Session, 2019,
- 25 relating to nonsubstantive additions to and corrections in enacted
- 26 codes.
- 27 SECTION 5. This Act takes effect immediately if it receives

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- 1 a vote of two-thirds of all the members elected to each house, as
- 2 provided by Section 39, Article III, Texas Constitution. If this
- 3 Act does not receive the vote necessary for immediate effect, this
- 4 Act takes effect September 1, 2019.