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HOUSE BILL 1476

By Bulso

AN ACT to amend Tennessee Code Annotated, Title 49, relative to public institutions of higher education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 7, is amended by adding Part 32 to read as follows:

49-7-3201. Short Title.

This part is known and may be cited as the "Charlie Kirk Act."

49-7-3202. Policy on freedom of expression.

(a) Notwithstanding another law to the contrary, the governing body for each public institution of higher education shall adopt a statement on freedom of expression that is identical or substantially similar to the University of Chicago's Freedom of Expression Policy and formally incorporate that statement into the institution's bylaws and post that statement on the institution's website. The statement on freedom of expression must include the following passages from the University of Chicago's statement on freedom of expression:

"The ideas of different members of the University community will often and quite naturally conflict. But it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion

of ideas, however offensive or disagreeable those ideas may be to some members of our community."

"The freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. The University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University. In addition, the University may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of the University. But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with the University's commitment to a completely free and open discussion of ideas."

"In a word, the University's fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the University community, not for the University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the University's educational mission."

"As a corollary to the University's commitment to protect and promote free expression, members of the University community must also act in conformity with the principle of free expression. Although members of the University community are free to criticize and contest the views expressed on campus, and to criticize and contest speakers who are invited to express their views on campus, they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe. To this end, the University has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it."

(b) A public institution of higher education that violates or fails to comply with this section is subject to a writ of mandamus or injunction pursuant to § 49-7-3207.

49-7-3203. Statement on public institution of higher education's role in political and social action.

(a) Notwithstanding another law to the contrary, the governing board of every public institution of higher education shall adopt a statement on the institution's role in political and social action that is identical or substantially similar to the Report on the University's Role in Political and Social Action (Kalven Report) issued by the University of Chicago in 1967 and formally incorporate the statement into the institution's bylaws and post the statement on the institution's website. The statement on the institution's role in political and social action must include the following passage from the Kalven Report:

"The instrument of dissent and criticism is the individual faculty member or the individual student. The university is the home and sponsor of critics; it is not itself the critic. It is, to go back once again to the classic phrase, a

community of scholars. To perform its mission in the society, a university must sustain an extraordinary environment of freedom of inquiry and maintain an independence from political fashions, passions, and pressures. A university, if it is to be true to its faith in intellectual inquiry, must embrace, be hospitable to, and encourage the widest diversity of views within its own community. It is a community but only for the limited, albeit great, purposes of teaching and research. It is not a club, it is not a trade association, it is not a lobby."

"Since the university is a community only for these limited and distinctive purposes, it is a community which cannot take collective action on the issues of the day without endangering the conditions for its existence and effectiveness. There is no mechanism by which it can reach a collective position without inhibiting that full freedom of dissent on which it thrives. It cannot insist that all of its members favor a given view of social policy; if it takes collective action, therefore, it does so at the price of censuring any minority who do not agree with the view adopted. In brief, it is a community which cannot resort to majority vote to reach positions on public issues."

(b) A public institution of higher education that violates or fails to comply with this section is subject to a writ of mandamus or injunction under § 49-7-3207.

49-7-3204. Invited speakers.

(a) Notwithstanding another law to the contrary, a public institution of higher education or a faculty member or agent of the institution shall not:

(1) Refuse to invite a speaker because of the viewpoints expressed or espoused by the speaker or cancel an invitation of the speaker to speak at the institution in response to threatened protests or opposition from students or faculty; or

(2) Prohibit a student organization from inviting a speaker to campus or restrict a student organization in its choice of invited speakers.

(b) A public institution of higher education that violates or fails to comply with this section is subject to a writ of mandamus or injunction pursuant to § 49-7-3207.

(c) A faculty member or agent of a public institution of higher education that violates or fails to comply with this section is subject to civil liability pursuant to § 49-7-3208.

49-7-3205. Academic freedom protected.

(a) Notwithstanding another law to the contrary, a public institution of higher education or a faculty member or agent of the institution shall not retaliate in any way or discriminate in any manner against a faculty member on account of the viewpoints expressed in the faculty member's scholarly work, or on account of any speech or writing protected by the First Amendment of the United States Constitution.

(b) A public institution of higher education that violates or fails to comply with this section is subject to a writ of mandamus or injunction pursuant to § 49-7-3207.

(c) A faculty member or agent of a public institution of higher education that violates or fails to comply with this section is subject to private civil liability pursuant to § 49-7-3208.

49-7-3206. Freedom of religion and conscience protected.

(a) Notwithstanding another law to the contrary, a public institution of higher education or a faculty member or agent of the institution shall not discriminate or retaliate against a person on account of the person's:

(1) Sincere religious beliefs; or

(2) Opposition to abortion, homosexuality, or transgender behavior, regardless of whether that opposition is motivated by religious or non-religious beliefs.

(b) A public institution of higher education or faculty member or agent of the institution shall not deny recognition to any student group, or deny any employer access to on-campus student interviews, on account of the student group's or employer's:

(1) Sincere religious beliefs;

(2) Opposition to abortion, homosexuality, or transgender behavior, regardless of whether that opposition is motivated by religious or non-religious belief; or

(3) Refusal to employ or admit into membership or leadership positions, individuals whose beliefs or lifestyle choices are incompatible with the sincere beliefs of the organization.

(c) A public institution of higher education that violates or fails to comply with this section is subject to a writ of mandamus or injunction pursuant to § 49-7-3207.

(d) A faculty member or agent of a public institution of higher education that violates or fails to comply with this section is subject to civil liability pursuant to § 49-7-3208.

49-7-3207. Mandamus or injunction for noncompliant institutions.

(a) Notwithstanding another law to the contrary, a resident, citizen, or taxpayer of this state has standing to bring and may bring a petition for writ of mandamus or injunction against a public institution of higher education that violates or fails to ensure compliance with the requirements of this part, or against the president or provost of any such institution. A court shall issue a writ of mandamus or injunction if the court finds

that the institution has violated or failed to ensure compliance with the requirements of this part.

(b) Notwithstanding another law to the contrary, sovereign, governmental, or official immunity, as applicable, as well as qualified immunity, are waived and abolished in any action for a writ of mandamus or injunction brought pursuant to this part.

(c) Notwithstanding another law to the contrary, a civil action brought pursuant to this section is not subject to any provision of the Tennessee Public Participation Act, compiled in title 20, chapter 17.

(d) Notwithstanding another law to the contrary, a person may commence an action under this section, and relief may be granted, regardless of whether the person has sought or exhausted any available administrative remedies.

49-7-3208. Private civil enforcement.

(a) Notwithstanding another law to the contrary, an invited speaker or audience member has standing to bring and may bring a civil action pursuant to this section against a person who violates the campus free speech policy adopted pursuant to § 49-7-2405 at an event the speaker or audience member attended.

(b) A speaker or student organization has standing to bring and may bring a civil action against a faculty member or agent of a public institution of higher education who violates the plaintiff's rights in § 49-7-3204.

(c) A professor or faculty member has standing to bring and may bring a civil action against a faculty member or agent of a public institution of higher education who violates the plaintiff's rights in § 49-7-3205.

(d) A person or student group has standing to bring and may bring a civil action against a faculty member or agent of a public institution of higher education who violates the plaintiff's rights in § 49-7-3206.

(e) If a claimant prevails in an action brought pursuant this section, then the court shall award:

(1) Declaratory relief;

(2) Injunctive relief sufficient to prevent the defendant from violating the applicable requirements in this part;

(3) Nominal damages;

(4) Compensatory damages if the plaintiff has suffered injury or harm from the defendant's conduct, including, but not limited to, emotional distress; and

(5) Costs and reasonable attorney's fees.

(f) Notwithstanding another law to the contrary, a person may bring an action pursuant to this section no later than six (6) years from the date on which the cause of action accrued.

(g) Notwithstanding another law to the contrary, the following are not defenses to an action brought pursuant to this section:

(1) Ignorance or mistake of law;

(2) A defendant's belief that the requirements or provisions of this part are unconstitutional;

(3) A defendant's reliance on a court decision that has been vacated, reversed, or overruled on appeal or by a subsequent court, even if that court decision had not been vacated, reversed, or overruled when the cause of action accrued;

(4) A defendant's reliance on a state or federal court decision that is not binding on the court in which the action has been brought;

(5) A defendant's reliance on a federal statute, agency rule or action, or treaty that is repealed, superseded, or declared invalid or unconstitutional, even if that federal statute, agency rule or action, or treaty had not been repealed, superseded, or declared invalid or unconstitutional when the cause of action accrued;

(6) Non-mutual issue preclusion or non-mutual claim preclusion;

(7) The consent of the plaintiff to the defendant's conduct;

(8) Contributory or comparative negligence;

(9) Assumption of risk;

(10) Sovereign immunity, governmental immunity, official immunity, or qualified immunity;

(11) The plaintiff's waiver or purported waiver of their right to sue under this section;

(12) The plaintiff's failure to exhaust administrative remedies; and

(13) A claim that the enforcement of this part or the imposition of civil liability against the defendant will violate the constitutional rights of third parties, except as provided by § 49-7-3209.

(h) This part does not impose liability on any speech or conduct protected by the First Amendment of the United States Constitution, as made applicable to the states through the United States Supreme Court's interpretation of the Fourteenth Amendment of the United States Constitution.

(i) Notwithstanding another law to the contrary, a civil action brought pursuant to this section is not subject to the Tennessee Public Participation Act, compiled in title 20, chapter 17.

(j) Notwithstanding another law to the contrary, a person may commence an action pursuant to this section and relief may be granted regardless of whether the person has sought or exhausted any available administrative remedies.

49-7-3209. Affirmative Defenses.

(a) A defendant in an action that is brought pursuant to § 49-7-3207 or § 49-7-3208 may assert as an affirmative defense to the action:

(1) That the relief sought will violate constitutional or federally protected rights that belong to the defendant personally; or

(2) That the defendant:

(A) Has standing to assert the rights of a third party under the tests for third-party standing established by the Supreme Court of the United States; and

(B) Demonstrates that the relief sought will violate constitutional or federally protected rights belonging to that third party.

(b) The defendant has the burden of proving the affirmative defense pursuant to subsection (a) by a preponderance of the evidence.

(c) This part does not limit or preclude a defendant from asserting the unconstitutionality of any provision or application of state law as a defense to liability pursuant to § 49-7-3207 or § 49-7-3208, or from asserting any other defense that might be available under another source of law.

SECTION 2. Tennessee Code Annotated, Section 49-7-2404, is amended by adding the following as a new subdivision:

(6) "Substantially obstruct or otherwise substantially interfere" includes, but is not limited to:

(A) Making noises with the intent of drowning out an invited speaker or hindering the audience from hearing the invited speaker;

(B) Standing in between an invited speaker and the audience with the intent of blocking or impeding an audience member's view of the speaker or the speaker's view of the audience members;

(C) Using signs or objects in a way to block or impede an audience member's view of an invited speaker or the speaker's view of the audience members;

(D) Staging walk-outs during an event or in the middle of an invited speaker's remarks that result in considerable disruption or distraction or the need to pause the event for any period of time, however short; and

(E) Physically obstructing an invited speaker or an audience member from entering or attending an event.

SECTION 3. Tennessee Code Annotated, Section 49-7-2405, is amended by adding the following new subsections:

(d)

(1) The disciplinary sanctions for a violation of subdivision (a)(7) must, at a minimum, include the following:

(A) If a student of the institution violates the policy, then:

(i) The student must be placed on probation for the remainder of the student's academic career at the institution for a first time violation of the policy;

(ii) The student must be suspended for not less than one (1) academic year for a second violation of the policy; and

(iii) The student must be expelled without the chance of re-enrollment for a third violation of the policy; and

(B) If a faculty member of an institution violates the policy, then:

(i) The faculty member must be suspended without pay for not less than one (1) calendar week for the faculty member's first violation of the policy;

(ii) The faculty member must be suspended without pay for not less than one (1) academic year for the faculty member's second violation of the policy; and

(iii) The faculty member must be terminated without the chance of being rehired for the faculty member's third violation of the policy.

(2) An institution that violates or fails to comply with this section is subject to a writ of mandamus or injunction pursuant to § 49-7-3207.

(3) A person who violates the campus free speech policy is subject to civil liability pursuant to § 49-7-3208.

(e) The governing body for each institution shall incorporate its campus free speech policy into the institution's bylaws and post the campus free speech policy on the institution's website.

SECTION 4. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 5. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity does not affect other provisions or

applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 6. For purposes of adopting policies, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2026, the public welfare requiring it.