

1 HOUSE BILL NO. 349

2 INTRODUCED BY M. HOPKINS, D. BEDEY, J. FULLER, J. READ

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO FREEDOM OF
5 ASSOCIATION AND FREEDOM OF SPEECH ON CAMPUSES OF PUBLIC POSTSECONDARY
6 INSTITUTIONS; PROVIDING PROTECTIONS FOR FREE ASSOCIATION ON PUBLIC POSTSECONDARY
7 INSTITUTION CAMPUSES; PROHIBITING DISCRIMINATION AGAINST STUDENT ORGANIZATIONS;
8 REQUIRING PUBLIC POSTSECONDARY INSTITUTIONS TO ADOPT ANTI-HARASSMENT POLICIES;
9 PROVIDING RESTRICTIONS ON POLICIES PERTAINING TO THE EXPULSION OF A STUDENT; AND
10 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 NEW SECTION. **Section 1. Discrimination against student organizations prohibited.** (1) A public
15 postsecondary institution may not deny a religious, political, or ideological student organization a benefit or
16 privilege available to other student organizations or otherwise discriminate against a student organization based
17 on the student organization's expressive activity, including any requirement of the student organization that a
18 leader or member:

- 19 (a) affirm and adhere to the student organization's sincerely held beliefs;
- 20 (b) comply with the student organization's standards of conduct; or
- 21 (c) further the student organization's mission or purpose, as defined by the student organization.
- 22 (2) As used in [section 2] and this section, the following definitions apply:
- 23 (a) "Benefit or privilege" means any type of advantage, including but not limited to:
- 24 (i) recognition;
- 25 (ii) registration;
- 26 (iii) the use of facilities of the public postsecondary institution for meetings or speaking purposes;
- 27 (iv) the use of channels of communication; and
- 28 (v) funding sources that are otherwise available to other student organizations at the public

1 postsecondary institution.

2 (b) "Public postsecondary institution" means:

3 (i) a unit of the Montana university system as defined in 20-25-201; or

4 (ii) a Montana community college, defined and organized as provided in 20-15-101.

5 (c) "Student organization" means an officially recognized group or a group seeking official recognition
6 at a public postsecondary institution that is comprised of students who receive or are seeking to receive a
7 benefit through the public postsecondary institution.

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9 **NEW SECTION. Section 2. Freedom ANTI-HARASSMENT AND FREEDOM of speech protections for**
10 **students. (1) A PUBLIC POSTSECONDARY INSTITUTION SHALL ADOPT A POLICY PROHIBITING STUDENT-ON-STUDENT**
11 **DISCRIMINATORY HARASSMENT. A public postsecondary institution may not ~~expel~~ ENFORCE THE POLICY BY**
12 **DISCIPLINING a student for a behavioral violation of harassment or a similar charge stemming from AN ALLEGED**
13 **VIOLATION OF THE POLICY FOR speech or expression unless:**

14 (A) the speech or expression is unwelcome and is so severe, pervasive, and subjectively and
15 objectively offensive that a student is effectively denied equal access to educational opportunities or benefits
16 provided by the public postsecondary institution; OR

17 (B) THE SPEECH OR EXPRESSION EXPLICITLY OR IMPLICITLY CONDITIONS A STUDENT'S PARTICIPATION IN AN
18 EDUCATION PROGRAM OR ACTIVITY OR BASES AN EDUCATIONAL DECISION ON THE STUDENT'S SUBMISSION TO
19 UNWELCOME SEXUAL ADVANCES OR REQUESTS FOR SEXUAL FAVORS.

20 (2) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A PUBLIC POSTSECONDARY INSTITUTION FROM
21 PROHIBITING, LIMITING, OR RESTRICTING SPEECH OR EXPRESSION THAT IS NOT PROTECTED BY THE FIRST AMENDMENT
22 OF THE UNITED STATES CONSTITUTION OR ARTICLE II, SECTION 7, OF THE MONTANA CONSTITUTION.

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24 **NEW SECTION. Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified
25 as an integral part of Title 20, chapter 25, part 5, and the provisions of Title 20, chapter 25, part 5, apply to
26 [sections 1 and 2].

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28 **NEW SECTION. Section 4. Severability.** If a part of [this act] is invalid, all valid parts that are

1 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
2 the part remains in effect in all valid applications that are severable from the invalid applications.

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4 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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