

HOUSE BILL NO. 400

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE "FREE TO SPEAK ACT"; PROHIBITING PUBLIC SCHOOLS OR THE STATE FROM IMPOSING DISCIPLINARY OR OTHER ADVERSE ACTIONS ON A STUDENT OR EMPLOYEE WHO REFUSES TO USE CERTAIN SPEECH; PROVIDING A CAUSE OF ACTION FOR VIOLATIONS OF THE FREE TO SPEAK ACT; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 4] may be cited as the "Free to Speak Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 4], the following definitions apply:

- (1) "Employee" means an individual who is employed or contract by a public school or the state.
- (2) "Noncharter public school" has the meaning provided in 20-6-803.
- (3) "Public charter school" has the meaning provided in 20-6-803.
- (4) (a) "Public school" means a noncharter public school, a public charter school, or a public institution of higher education.

1 (b) The term does not include a nonpublic school or home school as described in 20-5-102(2)(e).

2 (5) "Sex" has the meaning provided in 1-1-201.

3 (6) "State" means the state of Montana or a county, municipality, board, commission, department,
4 institution, or special district, or a subdivision or agency of the state of Montana or a county, municipality, board,
5 commission, department, institution, or special district.

6 (7) "Student" means an individual who is enrolled in a public school on a full-time or part-time
7 basis.

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9 **NEW SECTION. Section 3. Protection against compelled speech.** (1) A student may not be
10 subject to a disciplinary action for declining to:

11 (a) identify the student's pronouns; or

12 (b) address a person by using a name other than the person's legal name or a derivative of the
13 person's legal name or by using a pronoun or a title that is inconsistent with the person's sex.

14 (2) An employee, regardless of the scope of the employee's official duties, may not be subject to
15 an adverse employment action for declining to:

16 (a) identify the employee's pronouns while acting within the scope of employment; or

17 (b) address a person by using a name other than the person's legal name or a derivative of the
18 person's legal name or by using a pronoun or a title that is inconsistent with the person's sex.

19 (3) The state may not penalize or take an adverse action against a person because the person
20 declines to:

21 (a) identify the person's pronouns; or

22 (b) address another person by using a name other than the other person's legal name or a
23 derivative of the other person's legal name or by using a pronoun or a title that is inconsistent with the other
24 person's sex.

25

26 **NEW SECTION. Section 4. Private cause of action -- penalties -- limitation.** (1) A person who is
27 harmed by a violation of [sections 1 through 4] may bring a cause of action against a public school or the state
28 for injunctive relief, monetary damages, reasonable attorney fees and costs, and any other appropriate relief.

1 (2) A civil action brought pursuant to this section must be initiated within 2 years after the violation
2 of [sections 1 through 4] occurs.

3
4 NEW SECTION. **Section 5. Codification instruction.** [Sections 1 through 4] are intended to be
5 codified as an integral part of Title 49, chapter 1, part 1, and the provisions of Title 49, chapter 1, part 1, apply
6 to [sections 1 through 4].

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8 NEW SECTION. **Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are

9 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,

10 the part remains in effect in all valid applications that are severable from the invalid applications.

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12 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

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