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## *Detailed Fiscal Analysis*

This bill states that a state university or college (as defined under section 3345.12 of the Revised Code), including the board of trustees of a community college, the managing authority of a university branch, or the board of trustees of a technical college or any employees of the above listed institutions, cannot adopt or enforce any rule, regulation or policy that would subject a student to disciplinary action based solely in his/her speech (or other expression protected from restrictions) when it takes place off school premises.

However, this does not apply to any speech or expression:

1. That is defamatory speech under civil law;
2. That poses a substantial risk of disorder creating a threat to public health or safety, that substantially interferes with the appropriate discipline required for the operation of the state university or college, or that invades the rights of others;
3. That is obscene;
4. That is personally abusive or insulting to the hearer and that is used in an abusive manner in a situation that presents an actual danger that the speech or expression will cause breach of the peace;
5. That violates division (A) of section 2917.11 of the Revised Code.

The bill defines "hate violence" as an act of physical intimidation or physical harassment, physical force or physical violence, or the threat of physical force or physical violence, that is directed against a person or group of persons, or the property of a person or group of persons, because of ethnicity, race, national origin, religion, sex, sexual orientation, disability, or political or religious beliefs of that person or group. Therefore, speech alone will not be considered "hate violence" unless all of the following apply:

1. The speech itself threatens violence against a specific person or group of persons;
2. The person or group of persons against whom the threat is directed reasonably fears that the violence will be committed because of the speech; and
3. The person threatening violence had the apparent ability to carry out the threat.

Any student who is subject to a rule, regulation or policy that violates these provisions can commence a civil action against the institution or board in the court of common pleas of the county in which the school is located. The student can seek an injunction to prohibit the rules enforcement and can recover reasonable attorney's fees. This bill does not provide for any compensatory or punitive damages to be awarded.

The institutions or boards are still allowed to adopt rules, regulations, or policies regarding discipline for harassment, threats, or intimidation; that are designed to prevent hate violence against students and employees; that set reasonable time and place restrictions on student speech and expression, as long as they are content neutral. These rules, regulations, and policies must conform with the standards of the U.S. and state constitutions.

## **State-Assisted Colleges and Universities**

Colleges and universities may not have increased costs with this bill. Although the bill provides that a student may bring a civil action against an institution in the court of common pleas, there is no provision for punitive or compensatory damages. In addition, a student may currently bring civil action against an institution.

The state-assisted colleges and universities are already bound by the First Amendment of the Constitution. Spokespeople from both the Inter-University Council of Ohio and the Ohio Association of Community Colleges stated that the current policies and procedures at the public institutions would not conflict with the provisions of the bill.

## **Fiscal Impact on County Courts**

There would be an increased burden on the county courts when and if a civil action did commence against a state college or university. At the same time, the courts would see increased revenue resulting from subsequent court costs. However, this revenue would not offset the increased costs. Few cases are expected as a result of this bill. Any net costs would be minimal.

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