

Senate File 81 - Introduced

SENATE FILE 81

BY SALMON

A BILL FOR

1 An Act relating to racism or sexism trainings at, and
2 diversity and inclusion efforts by, governmental agencies
3 and entities, school districts, and public postsecondary
4 educational institutions, and including civil penalties.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 25A.1, subsection 1, paragraphs d and e,
2 Code 2023, are amended by striking the paragraphs.

3 Sec. 2. Section 25A.1, subsection 2, Code 2023, is amended
4 to read as follows:

5 2. Each agency, governmental entity, or governmental
6 subdivision may continue training that fosters a workplace
7 and learning environment that is respectful of all employees.
8 However, the head of an agency, governmental entity, or
9 governmental subdivision shall ensure that any mandatory staff
10 training and associated materials provided by an employee of an
11 agency, governmental entity, or governmental subdivision, or
12 by a contractor hired by the agency, governmental entity, or
13 governmental subdivision does not teach, advocate, encourage,
14 promote, or act upon ~~stereotyping, scapegoating,~~ specific
15 defined concepts or prejudice toward others on the basis of
16 demographic group membership or identity. **This subsection**
17 shall not be construed as preventing an employee or contractor
18 who provides mandatory training from responding to questions
19 regarding ~~stereotyping, scapegoating,~~ specific defined concepts
20 or prejudice raised by participants in the training.

21 Sec. 3. Section 25A.1, Code 2023, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 2A. a. An employee of an agency,
24 governmental entity, or governmental subdivision alleging a
25 violation of subsection 2 by an employee or contractor of the
26 agency, governmental entity, or governmental subdivision may
27 bring a civil action for injunctive relief against the agency,
28 governmental entity, or governmental subdivision to prohibit
29 the employee or contractor from continuing such violation.
30 b. If an employee is the prevailing party in a civil action
31 instituted pursuant to paragraph "a", the court shall award
32 reasonable court costs and attorney fees to the employee.

33 Sec. 4. Section 25A.1, subsection 4, paragraph b, Code 2023,
34 is amended to read as follows:

35 b. Create Except as provided in subsection 2A, create any

1 right or benefit, substantive or procedural, enforceable at
2 law or in equity by any party against the state of Iowa, its
3 departments, agencies, or entities, its officers, employees,
4 or agents, or any other person.

5 Sec. 5. Section 261H.8, subsection 2, Code 2023, is amended
6 to read as follows:

7 2. Each public institution of higher education may continue
8 training that fosters a workplace and learning environment that
9 is respectful of all employees and students. However, the
10 president, vice presidents, deans, department directors, or any
11 other administrator of a public institution of higher education
12 shall ensure that any mandatory staff or student training and
13 associated materials provided by an employee of the institution
14 or by a contractor hired by the institution does not teach,
15 advocate, act upon, or promote specific defined concepts. This
16 subsection shall not be construed as preventing an employee
17 or contractor who provides mandatory training from responding
18 to questions regarding specific defined concepts raised by
19 participants in the training.

20 Sec. 6. Section 261H.8, Code 2023, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 2A. *a.* An employee or student of a
23 public institution of higher education alleging a violation
24 of subsection 2 by an employee or contractor of the public
25 institution of higher education may bring a civil action
26 for injunctive relief against the public institution of
27 higher education to prohibit the employee or contractor from
28 continuing such violation.

29 *b.* If an employee or student is the prevailing party in a
30 civil action instituted pursuant to paragraph "a", the court
31 shall award reasonable court costs and attorney fees to the
32 employee or student.

33 Sec. 7. Section 261H.8, subsection 4, paragraph d, Code
34 2023, is amended to read as follows:

35 *d.* Create Except as provided in subsection 2A, create any

1 right or benefit, substantive or procedural, enforceable at
2 law or in equity by any party against the state of Iowa, its
3 departments, agencies, or entities, its officers, employees,
4 or agents, or any other person.

5 Sec. 8. Section 272.2, subsection 14, paragraph b, Code
6 2023, is amended by adding the following new subparagraph:

7 NEW SUBPARAGRAPH. (6) A court finds that the person has
8 violated section 279.74, subsection 2.

9 Sec. 9. Section 279.74, Code 2023, is amended to read as
10 follows:

11 **279.74 Training and curriculum prohibited — specific defined**
12 **concepts.**

13 1. For purposes of [this section](#), unless the context
14 otherwise requires:

15 *a.* ~~“Race or sex scapegoating”~~ “Administrator” means the same
16 as defined in [section 261H.8 272.1](#).

17 *b.* ~~“Race or sex stereotyping”~~ means the same as defined in
18 [section 261H.8](#).

19 ~~*c.*~~ *b.* “Specific defined concepts” means the same as defined
20 in [section 261H.8](#).

21 *c.* “Teacher” means the same as defined in [section 272.1](#).

22 2. *a.* Each school district may continue training that
23 fosters a workplace and learning environment that is respectful
24 of all employees and students. However, ~~the superintendent~~
25 ~~of each school district shall ensure that any curriculum or~~
26 ~~mandatory staff or student training provided by an employee~~
27 ~~of the school district or by a contractor hired by the school~~
28 ~~district does not teach, advocate, encourage, promote, or act~~
29 ~~upon specific stereotyping and scapegoating toward others~~
30 ~~on the basis of demographic group membership or identity~~
31 contractors hired by the school district and teachers or
32 administrators employed by the school district shall not
33 provide any curriculum or mandatory staff or student training,
34 or associated materials, that teaches, advocates, encourages,
35 promotes, or acts upon specific defined concepts. This

1 subsection shall not be construed as preventing ~~an employee~~
2 ~~or contractor~~ a contractor, teacher, or administrator who
3 teaches any curriculum or who provides mandatory training from
4 responding to questions regarding specific defined concepts
5 raised by participants in the training.

6 b. An administrator employed by a school district shall
7 not knowingly allow a contractor hired by the school district
8 or a teacher employed by the school district to provide
9 any curriculum or mandatory staff or student training, or
10 associated materials, that teaches, advocates, encourages,
11 promotes, or acts upon specific defined concepts.

12 3. a. A parent or guardian of a student enrolled in the
13 school district who alleges a violation of subsection 2 by
14 a contractor, teacher, or administrator may bring a civil
15 action for injunctive relief against the school district that
16 hired the contractor or employs the teacher or administrator
17 to prohibit the contractor, teacher, or administrator from
18 continuing such violation.

19 b. If a parent or guardian is the prevailing party in a
20 civil action instituted pursuant to paragraph "a", all of the
21 following shall apply:

22 (1) The court shall award reasonable court costs and
23 attorney fees to the parent or guardian.

24 (2) The court shall assess a civil penalty against the
25 school district that hired the contractor or employs the
26 teacher or administrator, in an amount not less than ten
27 thousand dollars and not more than fifty thousand dollars.
28 Moneys from the civil penalty provided in this subparagraph
29 shall be remitted to the treasurer of state for deposit in the
30 general fund of the state.

31 (3) The clerk of court shall send a copy of the court's
32 order issued pursuant to this subsection to the board of
33 educational examiners.

34 ~~3.~~ 4. School district diversity and inclusion efforts shall
35 discourage students of the school district from discriminating

1 against another by political ideology or any characteristic
2 protected under the federal Civil Rights Act of 1964, Pub. L.
3 No. 88-352, as amended, and applicable state law. Each school
4 district shall prohibit its employees from discriminating
5 against students or employees by political ideology or any
6 characteristic protected under the federal Civil Rights Act of
7 1964, Pub. L. No. 88-352, as amended, and applicable state law.

8 ~~4.~~ 5. This section shall not be construed to do any of the
9 following:

10 a. Inhibit or violate the first amendment rights of students
11 or faculty, or undermine a school district's duty to protect to
12 the fullest degree intellectual freedom and free expression.
13 The intellectual vitality of students and faculty shall not be
14 infringed under this section.

15 b. Prevent a school district from promoting racial,
16 cultural, ethnic, intellectual, or academic diversity or
17 inclusiveness, provided such efforts are consistent with the
18 provisions of this section, chapter 216, and other applicable
19 law.

20 c. Prohibit discussing specific defined concepts as part of
21 a larger course of academic instruction.

22 d. ~~Create~~ Except as provided in subsection 3, create any
23 right or benefit, substantive or procedural, enforceable at
24 law or in equity by any party against the state of Iowa, its
25 departments, agencies, or entities, its officers, employees,
26 or agents, or any other person.

27 e. Prohibit a state or federal court or agency of competent
28 jurisdiction from ordering a training or remedial action
29 containing discussions of specific defined concepts as a
30 remedial action due to a finding of discrimination, including
31 discrimination based on race or sex.

32 f. Prohibit the use of curriculum that teaches the topics
33 of sexism, slavery, racial oppression, racial segregation,
34 or racial discrimination, including topics relating to the
35 enactment and enforcement of laws resulting in sexism, racial

1 oppression, segregation, and discrimination.

2 Sec. 10. IMPLEMENTATION OF ACT. Section 25B.2, subsection
3 3, shall not apply to this Act.

4 EXPLANATION

5 The inclusion of this explanation does not constitute agreement with
6 the explanation's substance by the members of the general assembly.

7 This bill relates to racism or sexism trainings at, and
8 diversity and inclusion efforts by, governmental agencies
9 and entities, school districts, and public postsecondary
10 educational institutions.

11 Current Code section 279.74 requires the superintendent
12 of each school district to ensure that any curriculum or
13 mandatory staff or student training provided by an employee
14 of the school district or by a contractor hired by the school
15 district does not teach, advocate, encourage, promote, or act
16 upon specific stereotyping and scapegoating toward others on
17 the basis of demographic group membership or identity. The
18 bill modifies this provision to prohibit contractors, teachers,
19 and administrators from providing any curriculum, or mandatory
20 staff or student training, or associated materials, that
21 teaches, advocates, encourages, promotes, or acts upon specific
22 defined concepts. The bill also prohibits administrators
23 from knowingly allowing a contractor or a teacher to provide
24 any curriculum or mandatory staff or student training, or
25 associated materials, that teaches, advocates, encourages,
26 promotes, or acts upon specific defined concepts. The bill
27 requires the board of educational examiners (BOEE) to adopt
28 rules that require the BOEE to disqualify an applicant for a
29 license or to revoke a person's license if a court finds that a
30 person violates these provisions.

31 The bill authorizes a parent or guardian of a student
32 enrolled in a school district who alleges a violation of
33 these provisions to bring a civil action for injunctive
34 relief against the school district that hired the contractor
35 or employs the teacher or administrator to prohibit the

1 contractor, teacher, or administrator from continuing such
2 violation. The bill provides that if the parent or guardian
3 is the prevailing party in such civil action, the court shall
4 award reasonable court costs and attorney fees to the parent or
5 guardian, the court shall assess a civil penalty against the
6 school district in an amount not less than \$10,000 and not more
7 than \$50,000, and the clerk of court shall send a copy of the
8 court's order to the BOEE. The bill makes conforming changes
9 to Code section 279.74.

10 Current Code section 25A.1 requires the head of a
11 governmental entity to ensure that any mandatory staff training
12 provided by an employee of a governmental entity, or by a
13 contractor hired by the governmental entity, does not teach,
14 advocate, encourage, promote, or act upon stereotyping,
15 scapegoating, or prejudice toward others on the basis of
16 demographic group membership or identity. The bill modifies
17 this provision to require the head of a governmental entity
18 to ensure that any mandatory staff training or associated
19 materials provided by an employee of a governmental entity,
20 or by a contractor hired by the governmental entity, does not
21 teach, advocate, encourage, promote, or act upon specific
22 defined concepts or prejudice toward others on the basis of
23 demographic group membership or identity. The bill authorizes
24 an employee of a governmental entity alleging a violation
25 of Code section 25A.1 by an employee or contractor of the
26 governmental entity to bring a civil action for injunctive
27 relief against the governmental entity to prohibit the employee
28 or contractor from continuing such violation. The bill
29 provides that, if an employee is the prevailing party in the
30 civil action, the court shall award the employee reasonable
31 court costs and attorney fees. The bill makes conforming
32 changes.

33 Current Code section 261H.8 requires the president,
34 vice presidents, deans, department directors, or any other
35 administrator of a public institution of higher education to

1 ensure that any mandatory staff or student training provided
2 by an employee of the institution or by a contractor hired by
3 the institution does not teach, advocate, act upon, or promote
4 specific defined concepts. The bill modifies this provision
5 to also require such individuals to ensure that any materials
6 provided in association with the mandatory staff or student
7 training do not teach, advocate, act upon, or promote specific
8 defined concepts. The bill authorizes an employee or student
9 of an institution alleging a violation of Code section 261H.8
10 by an employee or contractor of the institution to bring a
11 civil action for injunctive relief against the institution
12 to prohibit the employee or contractor from continuing such
13 violation. The bill provides that, if an employee or student
14 is the prevailing party in the civil action, the court shall
15 award the employee or student reasonable court costs and
16 attorney fees.

17 The bill may include a state mandate as defined in Code
18 section 25B.3. The bill makes inapplicable Code section 25B.2,
19 subsection 3, which would relieve a political subdivision from
20 complying with a state mandate if funding for the cost of
21 the state mandate is not provided or specified. Therefore,
22 political subdivisions are required to comply with any state
23 mandate included in the bill.