

USA: Florida's new anti-gay bill aims to limit and punish protected free speech

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SB 1780 would make it defamation to accuse someone of homophobia, transphobia, racism or sexism and punishable by fine

By day two of Florida's legislative session, which started last month, lawmakers had introduced nearly 20 anti-gay or anti-trans bills. One such bill, [SB 1780](#), would make accusing someone of being homophobic, transphobic, racist or sexist, even if the accusation is true, equivalent to defamation, and punishable by a fine of at least \$35,000. If passed, the bill would severely limit and punish constitutionally protected free speech in the state.

Though SB 1780 is not likely to survive past higher courts, its introduction is indicative of a wider conservative strategy to stifle criticism of racist, sexist and homophobic behavior. The bill, critics argue, is being introduced to test the waters and see how far, legally, lawmakers can go until they are able to silence detractors.

"That's the pattern here in [Florida](#)," said Sharon Austin, a professor of political science at the University of Florida. "They introduce a bill that many of us find to be really extreme. When we start to protest, eventually they take out some of the provisions and sort of water it down a little bit, but in the end it ends up getting passed."

Austin notes that similar bills, such as SB 266, which severely limits diversity, equity and inclusion (DEI) efforts, and HB7, "the stop woke act", which regulates how race and race issues can be taught in schools, were ultimately passed after lawmakers made the bills slightly less extreme.

Understanding the landscape that legislators in the state are attempting to construct is crucial, said Howard Simon, the executive director of the ACLU of Florida. "This session is probably going to be known as the 'gay bigotry legislative session'," he said. "They're on track to spend the [two-month legislative session] exercising their bigotry and hostility to the gay community in Florida."

During last year's legislative session, multiple anti-gay bills were introduced, including the infamous "don't say gay" bill, which has been challenged multiple times since it was signed into law. Florida taxpayers have [footed the costs](#) for a number of lawsuits in the last several years, totaling well into the millions.

Simon and Austin both argue that by crafting bills that specifically target LGBTQ+ people, DEI efforts and free speech, conservative legislators are trying to push those who do not fit the mold of what they believe Florida should look like out of the state.

"Whether you like it or not, if someone wants to accuse you of being racist or sexist or homophobic, they have a right to do that," said Austin. "It's protected speech. There are attempts to intimidate and bully educators and individuals by letting them know that if you say something that's unpopular, that offends conservatives, then we will come after you, then we will punish you."

‘It’s a frightening time’

The passage of SB 1780 would have sweeping implications for free speech, as the bill’s restrictions apply to everything from print and television to online social media posts. The bill would not only make it virtually impossible to prove accusations of racism, sexism, homophobia or transphobia, but it would also make it so that the victim of discriminatory statements is responsible for damages to the offender. If enough people were charged under the bill, Simon said, it would likely intimidate others from coming forward about discrimination, effectively silencing victims of hate crimes or other forms of bigotry. Austin likens the bill and others like it to McCarthyism.

“That’s the level of paranoia we’re coming to. It’s a frightening time,” she said. “It makes you wonder if we’re going back to ... that type of society in which you’re almost afraid to say anything for fear of offending conservatives who are really trying to destroy you if you say something that they don’t like.”

SB 1780 also would have implications for journalists: if passed, the bill would remove the ability for reporters to keep sources anonymous. Journalists who report on discrimination would be particularly vulnerable to lawsuits, as the bill stipulates that “a statement by an anonymous source is presumptively false for purposes of a defamation action”. Austin believes that this is a further attempt to control the media.

A similar, more sweeping bill, HB 991, explicitly made it [easier to sue journalists](#) and passed the civil justice subcommittee last year. Though it died in the judiciary committee, SB 1780 is a second attempt to get the law through.

“I have to hope that members of the Florida legislature will have enough sense not to pass this,” Simon said. “But, if it does, I don’t think the courts will have a hard time seeing the unconstitutional restrictions on free speech that are throughout.”

Adria R Walker

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