

January 18, 2022

DELIVERED VIA EMAIL

Chair Joe Gruters
Education Committee
415 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: ACLU FL Written Testimony in Opposition to SB 148, Government
Censorship of Race and Gender Discussions

Dear Chair Gruters and members of the Education Committee:



The ACLU of Florida is a nonpartisan organization whose mission is to protect, defend, strengthen, and promote the constitutional rights and civil liberties of all people in Florida. On behalf of our 180,000 members and supporters in Florida, we write in opposition to SB 148/HB 7, and respectfully request that you vote “No” on these harmful bills. Additionally, we request that this written testimony be included in the record of the meeting.

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Kirk Bailey
Political Director

Kara Gross
Legislative Director

SB 148/HB 7 chill protected speech in the workplace and in the classroom. The bill’s vague prohibitions constitute government overreach and censorship that will chill speech and critical discourse in employment and education. Moreover, the bill seeks to erase America’s complex and painful history of racism, oppression and gender discrimination, which continues to impact our country, our institutions, and our culture.

What the Bill Does

Among other things:

- SB 148/HB 7 make it an unlawful employment practice for any employer to engage in discussions, instruction, or training about race, gender, national origin, and the impacts of slavery and patriarchal systems.
- The bills allow an employee to file a claim of discrimination against an employer engaging in such trainings or discussions and empower the Attorney General to enforce such actions.
- Additionally, the bills eliminate instruction on mental and emotional health for K-12 (under current Florida Statutes, mental and emotional health topics are required to be taught); and
- The bills censor schools and educators from teaching their students about race, gender, national origin, and the impacts of slavery and patriarchal systems.

This Bill Is Harmful to the Public and Costly to the State:

This government censorship bill significantly restricts employers, employees, educators, public school teachers and students from learning and talking about

race and gender in the workplace and in the classroom. Proponents of the bill are attempting to censor difficult and uncomfortable conversations about American history, chill speech, and shut down debates on race and sex. This contradictory and ill-defined bill undoubtedly will lead to confusion over what can and cannot be taught.

The government cannot silence educators and trainers from teaching that systemic racial injustice exists in Florida. That is a fact of life and has led to long-term inequalities in educational outcomes, incarceration rates, economic advancement and health outcomes. Facing the truth of our history head-on and learning from the mistakes of our past will help move us all forward toward realizing our ideal that all people are created equal.



Banning the right of educators and employers to initiate conversations about race and gender and the long-term impacts of slavery and patriarchy on current social, economic, and political realities, would not only censor employers and educators, but would negate the lived experiences of marginalized groups in classrooms and workplaces. SB 148/HB 7 essentially seek to erase the factual history of the U.S. from being discussed and acknowledged in workplaces and schools and prevent employees and students from receiving informative trainings that could improve the culture and habits of workplace and classroom environments.

Additionally, it forces educators and employers to instead promote a skewed, sanitized version of history that teaches people to presume that their current societal status is due to their individual merit alone and not based on any embedded and systemic preference or privilege.

These bills are not designed to further a legitimate educational interest. Moreover, they do nothing to address racial and sexual discrimination in employment or education. The goal of these bills is to prevent inclusive and in-depth discussions about American history.

This bill makes a mockery of Florida's Civil Human Rights Act by providing that it's "unlawful discrimination" to teach and instruct on slavery, racial and gender discrimination, patriarchal systems, and their long-term societal, social, political, and economic impacts. Finally, it would expose businesses to increased liability as they would no longer be able to provide racial diversity and inclusion trainings that have long been relied upon by businesses to support an affirmative defense to claims of discrimination.

This Bill is Unnecessary and Unconstitutional:

SB 148/HB 7 are dangerous bills which seek to silence important conversations about race and gender equity. The teaching, training, and discussing of racial and gender oppression is protected under the First Amendment. The First Amendment protects the right of individuals to share ideas and receive information and any government attempts to censor such information are unconstitutional. It is beyond

worrisome when the Government censors and dictates what information can be shared and received. That is not a democracy.

The bill is confusing and contradictory and threatens to censor a broad range of instruction and conversation in the classroom and in the workplace. It fails to provide individuals with a clear understanding of what speech is and is not allowed, and thus is overly broad and vague.

These bills not only chill employers', employees', students' and educators' First Amendment right to learn and talk about these issues, but they also prevent students and employees from having an open and complete dialogue about American history — one that includes the experiences and viewpoints of all historically marginalized communities in this country.



The proponents of SB 148/HB 7 are trying to use the power of our state to shut down the marketplace of ideas because they do not trust people to think critically about crucial topics like implicit bias, white privilege, reparations, and patriarchy. It simply is not enough for us to acknowledge the racism and sexism that plagued this country's past. We must take steps to examine how these past issues have affected current society and perpetuated further discrimination. All people deserve to learn an accurate and inclusive history, free from government censorship. SB 148/HB 7 is an unlawful intrusion by politicians into the workplace and the classroom.

The bill's vague, overbroad, and viewpoint discriminatory provisions leave trainers and other educators with an impossible and unconstitutional choice: avoid topics related to race and sex or risk violating the law. This will undoubtedly chill speech and result in self-censorship.

Conclusion

For all the above reasons, we urge you to vote "No" on SB 148/HB 7. Please do not hesitate to contact Kara Gross, Legislative Director of the ACLU Florida, at kgross@aclufl.org, if you have any questions or would like any additional information.

Sincerely,

A handwritten signature in black ink that reads "Kara Gross".

Kara Gross
Legislative Director &
Senior Policy Counsel

Cc: Kirk Bailey, Political Director, ACLU FL