

RANDOLPH XIE

Florida House Bill 1557 and LGBTQ+ Controversy

ABSTRACT. Since the 1960s, when legal and social initiatives of the LGBTQ+ rights movement first rose to prominence, issues surrounding the LGBTQ+ community have inspired some of the most prevalent political and social discussions today. Despite significant advancements having been made in the interests of promoting justice, LGBTQ+ communities still face considerable political, legal, and social inequalities. In March of 2022, the Florida State legislature passed House Bill 1557 (HB 1577), which imposes legal restrictions on educational practices relating to sexual orientation and gender identity in kindergarten through grade three statewide. Infamously characterized by many prominent media outlets as the “Don’t Say Gay” bill, HB 1557 has garnered insurmountable headlines and public attention in the past months, ultimately becoming one of the most controversial pieces of recent state legislation by receiving criticism and discussion at a national level. This article reviews the constitutional basis and legality of HB 1557, finding that the focal point of this bill—the prohibition on the scope of teacher’s instruction in the classroom—should be considered unconstitutional. Given that HB 1557 also reveals critical implications about the remaining legal challenges the LGBTQ+ community faces, this article recommends several courses of action for legislators to further remove the legal barriers from equality maintained by LGBTQ+ communities and individuals. In concluding remarks, this article demonstrates the significance of this issue and the need for rigorous change to be made for the future of the United States society.

AUTHOR. Randolph Xie is a third year student at UCSD pursuing a major in Political Science—International Relations and a minor in Business. He is excited to graduate next spring and looks forward to attending law school next fall. He would like to thank the Editorial Board, professor Glenn Smith, and his editor Valentina for their support throughout the drafting and editing process. Eventually, he hopes to pursue a career in business law and intellectual property.

INTRODUCTION

The goal of regulating educational systems is to improve the quality of education for American citizens. However, legislations made to the education system have been characterized by more controversy than approval in the past years. Accordingly, the most recent bill passed by the Florida State Senate, HB 1557,¹ has escalated significant public debate and criticism.

HB 1557's general aim is to increase parental oversight on student education. Essentially, the bill includes more opportunities for parental involvement in areas such as student support mechanisms, mental health proctoring, and a number of other areas critical for student development. However, concerns about HB 1557 stem from its new guidelines on classroom discussions concerning sexual orientation and gender identity. Namely, the text of the bill only allows instruction on the topics of sexual orientation and gender identity to occur under "age appropriate and developmentally appropriate settings" that coincide with the "state standard of education," finding grades including kindergarten through third and corresponding classroom environments as age inappropriate or developmentally inappropriate.² After several rounds of revision, HB 1557 was passed in the Florida House of Representatives with a vote of 69 to 47 and in the Florida State Senate with a majority vote of 22 to 17. Afterward, it was officially signed into the Florida State law by Gov. Ron DeSantis.³ Soon after the bill was approved, it took over media headlines with massive criticism, claiming that the imposed regulations on education curriculum enhanced existing social inequalities of the LGBTQ+⁴ communities and challenged the freedom of speech of teachers.

Historically, freedom of speech regarding LGBTQ+ communities has been one of the most controversial matters in the United States.⁵ LGBTQ+ rights and inequality

¹ Fla. C.S. / C.S. / H.B. 1557 (2022): Parental Rights in Education.

² *Id.*

³ Elizabeth Bibi, *Florida Senate Passes "Don't Say Gay or Trans" Bill, Legislation Heads to DeSantis' Desk for Signature or Veto*, HUMAN RIGHTS CAMPAIGN (Mar. 8, 2022), <https://www.hrc.org/news/florida-senate-passes-dont-say-gay-or-trans-bill-legislation-heads-to-desantis-desk-for-signature-or-veto> (last visited Apr. 8, 2022).

⁴ The term LGBTQ+ collectively refers to individuals identifying as lesbian, gay, bisexual, transgender, and queer as their sexual identity or gender identity. *LGBTQ*, Random House Unabridged Dictionary (2022).

⁵ *LGBTQ Rights Milestones Fast Facts*, CNN (Aug. 11, 2022), <https://www.cnn.com/2015/06/19/us/lgbt-rights-milestones-fast-facts/index.html> (last visited June 5, 2022).

are one of the most highly discussed topics among political scientists, scholars, social activists, and politicians. As more people in the LGBTQ+ community acknowledge and assert their sexual orientation or gender identity, it seems inevitable to see growing antagonism between LGBTQ+ groups and political institutions that have generally been unaccepting or hesitant to address the legal and political aspects of LGBTQ+ inequality issues. States differ drastically in terms of their laws associated with LGBTQ+ equal rights and legal protections. The general public also maintains different degrees of acceptance regarding LGBTQ+ gender identifications. As the conflict continues to escalate and the narrative of LGBTQ+ justice acquires more profound momentum, Florida HB 1557 has become one of the most pervasive subject matters in U.S. society soon after its finalization and authorization.⁶

I. EFFECTS AND INTERPRETATIONS OF FLORIDA HOUSE BILL 1557

Florida HB 1557 took effect on July 1st, 2022.⁷ The bill's several main effects are described in the following section.

The criticism of HB 1557 has been mostly built against its controversial provision on teacher speech and expression. In essence, HB 1557 legally prohibits classroom instruction, discussion, or any type of involvement with topics regarding sexual orientation and gender identity from kindergarten to third grade. With everything considered, HB 1557 was passed in a Republican-led House and Senate, aligning a recent tendency of political conservatism to limit LGBTQ+ rights and liberties. In 2020, for example, four anti-LGBTQ+ bills were submitted to Florida legislative bodies, which included repealing gender-affirming healthcare and repealing LGBTQ anti-discrimination measures.⁸

Aside from this, HB 1557 instituted a number of other legal provisions. Firstly, it increased the degree of parental oversight with respect to children's education,⁹ making

⁶ Andrew Atterbury, *Florida's fight over 'Don't Say Gay' is getting more heated. And it hasn't even gone into effect yet*, POLITICO (May 17, 2022), <https://www.politico.com/news/2022/05/17/florida-fight-dont-say-gay-00032512> (last visited June 17, 2022).

⁷ Fla. C.S. / C.S. / H.B. 1557 (2022): Parental Rights in Education.

⁸ Tim Fitzsimons, *Florida Republicans submit 4 anti-gay bills on last day to file*, NBC NEWS (Jan. 15, 2020), <https://www.nbcnews.com/feature/nbc-out/florida-republicans-file-4-anti-gay-bills-last-day-session-n1116256> (last visited June 21, 2022).

⁹ Fla. C.S. / C.S. / H.B. 1557 (2022): Parental Rights in Education.

it mandatory for schools to notify parents about children’s mental health status and acquire parental consent before implementation of any school-provided mental health services, treatments, or therapeutic support to their children. Secondly, HB 1557 introduced training regulations at the state level for student support practitioners,¹⁰ and parents were granted the rights of consent and the right of knowledge about the training protocols and the school’s mental health support practices. Thirdly, the bill established a series of adjustments for schools and academic institutions to adopt.¹¹ Schools would be responsible for addressing all disputes or complaints that are brought against them until parents are satisfied with an accepted resolution. Parents have the right to initiate legal proceedings against the school if they fail to comply with any of the requirements identified above on a procedural basis, requirement basis, legal basis, or a perceptual basis that seeks to institute any inappropriate, unfavorable, or questionable actions.¹² Significantly, all costs and expenses instigated from the legal process as a result of these reasons would be paid and financially covered by the school district.

II. CONSTITUTIONALITY: IS IT TOO VAGUE?

HB 1557 has undergone enormous debate from a legal standpoint. The legal conversation predominantly focuses on whether or not the focal point of this bill—prohibition on education of sexual orientation and gender identity—is a constitutional matter. This article suggests that HB 1557 should be considered unconstitutional because the centerpiece of the bill poses a clear challenge to the Void for Vagueness Doctrine that resides in the Due Process Clause of the Fifth and Fourteenth Amendments of the United States Constitution.

The Vagueness Doctrine, residing in the Fifth and Fourteenth Amendment, suggests that “[A] statute may be unconstitutionally vague because the statute is worded in a standardless way that invites arbitrary enforcement” where “sufficient definiteness [is required to ensure] that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement”.¹³ In short, a statute or a legislation is considered unconstitutionally

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ U.S. Const. Amdt. 5.4.8 Void for Vagueness Doctrine.

vague if its phrasing could be subject to various interpretations due to a lack of specificity that can lead to conflicting legal interpretations of enforcement.

Florida HB 1557 challenges the Void for Vagueness Doctrine and promotes arbitrary prosecution. The terminology used to describe the provision of the bill on teachers' speech and expression is vague and ambiguous. For instance, it fails to concretely define key definitions such as "sexual orientation," "gender identity," "developmental appropriateness," and other terms that are pivotal to its implementation. Instead, the bill leaves these broad terms open to interpretation at a rather concerning degree. This means legal enforcement practitioners could interpret the provisions of the bill differently, where every phrase in the bill is subjected to arbitrary interpretations that would introduce legal inconsistency. One school official or parent may perceive a curriculum subject as inappropriate under HB 1557 while other parties may find it perfectly suitable. This ultimately can lead to heightened legal conflict and difficulty for schools to comply. Furthermore, it leaves room for manipulation from certain interests; schools could unlawfully fire teachers and punish their staff members with obscure foundations, while parents could also victimize teachers in the same manner with little secure reasoning. This bill lacks the basic clarity to establish what constitutes an inappropriate setting for sexual orientation, what is considered as instruction on "sexual orientation" or "gender identity," what suggests developmental appropriateness, and several other aspects which are all crucial to the arbitrations of the bill.

Similar legal foundations for vagueness are found in Supreme Court cases *Johnson v. United States* and *Keyishian v. Board of Regents of Univ. of State of N. Y.* In *Johnson*, the main legal debate revolved around the question of whether the definition of "violent felony" as used in the disputed provision was considered to be unconstitutionally vague. In this case, the defendant was held under an enhanced imprisonment up to fifteen years due to a previous felony conviction that was expected to increase his charge under the new provision of the American Career Criminal Act (ACCA). The lower court determined that his previous felony charge was considered a "violent felony" that would enhance the sentence. However, the Supreme Court overturned the lower court's decision because the provision of ACCA failed to determine what specific type of conduct would be considered as "conduct that presents a serious potential risk of physical injury to another", and failed to determine which specific type of criminal conduct is punishable and constitutes a "violent felony." Therefore, *Johnson* found that "[J]udicial precedent has held that laws that do not give ordinary people fair notice of what conduct is punished or can be enforced arbitrarily

violate the Due Process Clause of the Fifth Amendment.” Thus, the identified phrase in the provision was found to be unconstitutionally vague. In a similar manner, *Keyishian v. Board of Regents of Univ. of State of N. Y* suggests that “[T]he government could only regulate First Amendment rights with narrow specificity.” In *Keyishian*, the executive board of the State University of New York required all of its teaching staff to declare renouncement from communism in order to earn eligibility to resign for employment, because they figured such a requirement would prevent “the intent to overthrow the government” growing among teachers and staff members. However, the Supreme Court of the United States has decided that such a requirement on “declaration of communist non-affiliation” to prevent “subversiveness” is unconstitutional since establishing such a requirement to spot rebelliousness is a violation of the Void for Vagueness Doctrine. The Supreme Court indicated that while the logical and legal relationship of communism involvement to overthrowing the government lacks further connection, while most indeed hinders the teacher’s constitutional rights to freedom of speech.

Compared to HB 1557, this bill’s provision on teacher’s freedom of speech and expression is unconstitutionally vague, and its legal foundation should be challenged on grounds similar to the legal precedents established by *Johnson* and *Keyishian*. This is because HB 1557 fails to specify a number of essential measures. First, the unclarity of “sexual orientation” and “gender identity” could very much reside in whether it is illegal for teachers to teach students about general knowledge on gender identity or whether it is illegal to resolve a gender identity related student conflict. The bill fails to present objective notions that specify which type of action revolving around gender identity matters are allowed and which are not, resulting in arbitrary persecution since legal practitioners will not have a clear idea of what type of conduct is punishable. Thus, according to the legal precedents set forth by *Johnson*, HB 1557’s provision on teacher freedom speech and expression is unconstitutionally vague, violating the Due Process Clause established by the Fifth and Fourteenth Amendments of the United States. Secondly, aside from the notion that HB 1557 fails to specify its phraseology, it also restrains teachers’ freedom of speech and expression because the provision would allow less breadth and magnitude of speech in public schools teacher’s working environment. Consequently, according to the legal foundation from *Keyishian*, HB 1557’s provision on teacher freedom of speech and expression should be considered unconstitutional because it is not only unconstitutionally vague but also a violation of the teachers’ constitutional rights. Thirdly, the vagueness issue is exacerbated by the fact that HB 1557 does not only restrict instruction to grade levels kindergarten

through third. It specifically states that education on gender identity shall not transpire under grades kindergarten through third nor in any developmentally inappropriate manner, which means it has the potential to be applied to all grade levels. The term “developmental and age-appropriate instruction” in addition to the vagueness in “gender identity” and “sexual orientation” adds another layer of vagueness to the provision of the bill that has the potentiality of being used in a highly inconsistent manner or in an abusive manner. Some would argue that education on gender identity shall not happen at all grade levels because they maintain that it is considered inappropriate for student development. As a result, HB 1557 is unconstitutional because it is a firm violation of the Void for Vagueness doctrine, supported by legal precedents set in *Johnson and Keyishian*.

On the other hand, legal foundations in defense of the constitutionality of HB 1557 should be noted. With everything considered, HB 1557’s provision mainly targets the First Amendment right to freedom of speech. Chiefly, it is commonly acknowledged that it is indisputably unconstitutional and a clear violation of the First Amendment if and only if a state were to prohibit parents, family, or the private sectors from any types of expression regarding sexual orientation or gender identity matters. However, HB 1557’s legal prohibition of speech resides within public school teachers and staff members, which are considered as government employees or the public sector. The parameters that determine the constitutional guidelines and legal establishment of the public sector freedom of speech remain indecisive, and teachers have historically and constitutionally obtained less freedom and less capacity of speech and expression compared to other governmental sectors over the course of the past decades.¹⁴

A legal foundation for limiting public sector speech can be found in the Supreme Court’s decision in *Garcetti v. Ceballos*,¹⁵ which seems to parallel the legislative basis of HB 1557. In *Garcetti*, a 5-4 decision and the majority opinion proposed by Justice Kennedy indicates that “[T]he speech by a public official is only protected [by the constitution] if it is engaged in as a private citizen, not if it is expressed as part of the official’s public duties.”¹⁶ This means that the freedom of speech is only protected as a constitutional right if and only if the public official is making an expression from a standpoint that has no association with its public duty, but not protected if the public

¹⁴ *Editorial: Silencing teachers over current events violates free speech*, THE SHORTHORN (Sept. 2, 2020), https://www.theshorthorn.com/opinion/editorial-silencing-teachers-over-current-events-violates-free-speech/article_6b3948c8-ecc6-11ea-9c84-8b18ade6358d.html (last visited May 25, 2022).

¹⁵ *Garcetti v. Ceballos*, 547 U.S. 410 (2006).

¹⁶ *Garcetti v. Ceballos*, OYEZ, <https://www.oyez.org/cases/2005/04-473> (last visited June 21, 2022).

official's speech resides in the practice of responsibilities due for their position. As a result, *Garcetti* suggests a similar idea compared to the legislative measurement of HB 1557, that the speech and expression of public officials in terms of fulfilling their public duties—in the case of HB 1557, being public school teachers fulfilling a public duty of education—is not protected by the First Amendment of the United States. Thus, according to the legal precedents established by *Garcetti v. Ceballos*, it is perfectly legal and constitutional for the state of Florida to restrict the freedom of speech and expression for public school teachers on certain topics.

Despite the legal measures of HB 1557's provision on teachers' speech and expression being rather unclear at this given moment, this bill should remain unconstitutional because its violation of the Void for Vagueness doctrine is not addressed by this argument and ultimately remains unconstitutional. Even if issues of freedom of speech are not a threat to HB 1557's constitutionality, the vagueness of the legislation still means that the bill may be interpreted and enforced on an inconsistent basis, which is problematic for any piece of legislation. Since this feature of the bill is proven to be unconstitutional, the bill as a whole should be considered unconstitutional.

III. LEGAL CONTROVERSY

Since Florida HB 1557 was signed into law by State Gov. Ron DeSantis, it has taken over social media, press platforms, and news agencies with insurmountable attention.¹⁷ Shortly after HB 1557 was officially amended into the Florida State Constitution, massive protests, public objections, and criticisms from different social sectors against the bill took hold all over the country. HB 1557 instantly became an extremely controversial matter not only from a legal standpoint but also a sociopolitical standpoint. The amount of attention, debate, and criticism the bill has received has only grown so much that the state of Florida is currently undergoing an unprecedented period of tension and antagonism.

As examined previously, the reason why the state of Florida is facing such pressure is in part due to the fact that HB 1557's provision on teachers' speech and expression curtailed their First Amendment rights. Compared to other public sectors and the

¹⁷ Elizabeth Bibi, *Florida Senate Passes "Don't Say Gay or Trans" Bill, Legislation Heads to DeSantis' Desk for Signature or Veto*, HUMAN RIGHTS CAMPAIGN (Mar. 8, 2022), <https://www.hrc.org/news/florida-senate-passes-dont-say-gay-or-trans-bill-legislation-heads-to-desantis-desk-for-signature-or-veto> (last visited Apr. 8, 2022).

private sector, HB 1557 nonetheless reduced teachers' capacity of expression in classroom environments, leaving them with less freedom of speech. Despite the legal debate of such a provision remains rather unsettled, it most indeed hinders the freedom of speech for teachers on an observable constitutional parameter. Teachers are restricted from speaking on certain content, where others have more freedom to express, which is one of the most controversial aspects of the bill and essentially why the state is facing such negative media attention. As stated before, it is obvious that the implementation of HB 1557 would hinder the freedom of speech for teachers.

Overall, the legal controversy of this bill revolves around the idea that both the state of Florida and its associated school districts share a common incentive to execute this provision of this bill. As for the state, Florida has a strong incentive to fully execute and implement the provision of the bill not only to uphold the new law, but also it is in their interest to minimize the pressure and negative attention from the public along with other potential future backlash. To explain, the political consideration in this case is that it hinders the image and likeness of Florida as a federal state in the eyes of the public when there are controversial news reports on this issue consistently taking headlines. The negative public image from HB 1557's ongoing situation has already dealt damage to their reputation. The pressure they currently hold is nonetheless a heavy burden and they demand to reduce such antagonism in the future. Preventing *any* mention of sexual orientation or gender identity as prohibited by HB 1557 in the first place would avoid adding to the media frenzy around HB 1557 in the case that moving to charge a teacher for doing so indeed adds other momentum to the controversy. The state would like to minimize their future exposure under the media for this reason and diminish the challenges to public confidence that they currently face. If a parent-school legal controversy is exposed to the media as a result of violating amenities of the bill, the amount of pressure and negative attention would be built up again and create more complications that are clearly out of the state's interest. Consequently, the State of Florida indeed has an incentive to avoid further controversy, and thus there is a strong demand for them to carry out the provision of House Bill 1557 and push for its effectuation.

On the other hand, the school districts also maintain a compelling interest to comply under the bill because they would suffer financial sanctions from escalated legal expenses if and only if any legal proceedings or confrontations are initiated. As it is stated in HB 1557, school districts are responsible to cover all the financial expenses for any parent-school conflict. Thus, public institutions and school districts are likely to make a supreme effort to enforce HB 1557 to avoid financial liabilities, which would

indeed harm teachers and staff members because the focal point of the bill curtails their freedom of speech. Paired with the vagueness of the bill, it almost certainly means that schools districts and public institutions would be willing to intensively crack down on the provisions of the bill, and try to cover all bases in order to avoid financial sanctions at the expense of suffering teachers' freedom of speech to a dramatic extent. Whereas if one of the two involved parties—school and the state—lacks this shared interest, teacher's freedom of speech will not be curtailed as much. Thus, the conflict of interest between the state and school districts would further deteriorate the rights of teachers, creating a legal norm that stresses the inferiority of the public sector, menial to the private sector's rights and protections.

Yet, this legal norm of the public sector's inferiority to the private sector is not entirely new. The government speech doctrine¹⁸ provides a legal foundation similar to this conflict of interest, where "[T]he government has its own rights as a speaker who is immune from freedom of speech challenges." In essence, this doctrine issues a legal clause for the government to restrict and regulate speech of government representatives, controlling the content of their expression. However, there lacks any legal causality to impose any control for citizens and expressions in the private context. Thus, the presence of the "government speech doctrine" limits the freedom of speech for teachers. Relating to Florida House Bill 1557, it provides a legal basis for the state to impose a limitation on teachers, who are considered government personnel, to prohibit the instruction of sexual orientation and gender identity that diminishes their First Amendment rights without posing a clear threat to the Constitution. This unexpressed superiority of citizens' right's intactness over government officials coincides with the "government speech doctrine" and the legal substratum of House Bill 1557, where the incentive to restrict governmental speech for the collective interest of the society at the expense of public sector's freedom of speech is unwritten but valid. Therefore, the conflict of interest maintained by the school and the state of Florida to implement and execute the provision of HB 1557 would most definitely hinder the freedom of speech for teachers, and intensify the legal norm that places private sector's rights over public sector's rights.

¹⁸ David L. Hudson Jr., *Government Speech Doctrine*, THE FIRST AMENDMENT ENCYCLOPEDIA (2009), <https://www.mtsu.edu/first-amendment/article/962/government-speech-doctrine#:~:text=Hudson%20Jr.&text=Under%20the%20government%20speech%20doctrine,Amendment%20claims%20of%20viewpoint%20discrimination>. (last visited June 20, 2022).

IV. WHAT THIS BILL MEANS FOR LGBTQ+ INEQUALITIES

As it is commonly acknowledged by scholars, politicians, and sociologists in the United States, the disparities endured by LGBTQ+ communities have been an active issue for decades.¹⁹ Namely, LGBTQ+ rights as a socio-political issue are characterized by historical inequalities. For the past centuries, members of the community have experienced both *de jure* and *de facto* segregation. Despite the fact that the situation has gotten a lot better with the effort of extraordinary social activism and many adjustments made from the legal system, the LGBTQ+ inequality issue remains one of the most predominant challenges in the current society both socio-politically and legally.

LGBTQ+ topics and related discussions remain a highly taboo subject matter in many American households. Some parents still do not want their children to be exposed to the topic of sexual orientation or gender identity, especially at early ages. It is suggested that sexual orientation and gender identity, despite being accepted today as scientifically valid diverse parts of life, are by nature delicate and for many families, “unsuitable” topics for children to learn about. It is a predominant concern that their child might misinterpret the message or others believe that it is a shameful and a dishonorable thing to talk about sexual orientation. Fundamentally, people still possess a significant ideological barrier that LGBTQ+ conversations are dangerous, sensitive, and threatening to the well-being and development of their children, despite knowing the presence of different sexual orientations and gender identities are completely justified from a biological and psychological standpoint.

The presence of Florida House Bill 1557 indicated that the current law makers are still seeking to escape from tackling the task of addressing LGBTQ+ inequality from a legal standpoint. Despite knowing for a fact it is rather inevitable to confront LGBTQ+ inequalities within the legislative system, they still attempt to postpone this battle by setting up laws and policies that would suppress public controversy from escalating, instead of making an effort to address inequalities with their legal power. Legislators have always lacked the true incentive to resolve the disparities faced by

¹⁹ *LGBTQ Rights Milestones Fast Facts*, CNN (Aug. 11, 2022), <https://www.cnn.com/2015/06/19/us/lgbt-rights-milestones-fast-facts/index.html> (last visited June 5, 2022).

LGBTQ+ groups with comprehensive policies,²⁰ and the utmost effort to provide a solution that is founded upon constitutional rights which indeed requires insurmountable dedication from all levels of the institution. Instead, they continue to evade this issue and allow inequalities to prevail, legally preventing people from talking about it while refusing to use their power and legal capacity to provide LGBTQ+ communities with a cohesive solution. Florida House Bill 1557 is just another example of how current lawmakers and legislators are refraining the effort to address LGBTQ+ inequality, taking on the easier approach to suppress and conceal it with a bill maintaining rather debatable constitutionality.

For this reason, Florida House Bill 1557 is an illustration of how current lawmakers, legislators, and representatives still refuse to dedicate sincere efforts in resolving social inequalities and addressing the long-standing discrimination endeavored by LGBTQ+ communities from a legal standpoint. Although such actions and ideological reimbursement would take a tremendous amount of time and effort to make substantial difference, the hesitation to produce any sincere solution from the legal society will continue to burden the United States society for decades.

V. RECOMMENDATIONS

Florida House Bill 1557 sheds light on the greater disparity faced by LGBTQ+ communities in the United States society. We provide the following suggestions and potential solutions to resolve the vagueness of the bill as examined previously and promote LGBTQ+ equality, ultimately addressing the ongoing controversy of HB 1557.

Firstly, it is suggested that the state of Florida should address the unconstitutional aspect of House Bill 1557 with a more comprehensive law that is free from vagueness challenges, with respect to a higher level of specificity in its provision on teachers' speech that will not allow arbitrary interpretation or inconsistent enforcement of the bill. As the examinations incorporated in this article indicated, vagueness and failure to ensure clarity in lawmaking would introduce serious legal and social consequences. In the case of HB 1557, maintaining words like "gender identity" and "developmental appropriateness" without providing further detail on what specifically these terms are

²⁰ Dustin Jones et al., *Not just Florida. More than a dozen states propose so-called 'Don't Say Gay' bills*, NPR (Apr. 10, 2022), <https://www.npr.org/2022/04/10/1091543359/15-states-dont-say-gay-anti-transgender-bills> (last visited June 4, 2022).

referring to would result in arbitrary enforcement, inconsistent legal interpretation, and opportunities for abusive use that would all cause severe harm to those targeted groups and individuals. Thus, laws as vague as Florida House Bill 1557 need to be revised and reconsidered by eliminating or replacing vague terminologies with precision and explicitness, while incorporating objective standards, detailed guidance, and circumstantial explanation on how to enforce this provision. In addition, the clarity of law making and preciseness of amendment in legislation should be further reinforced at both the state and the federal level. As a part of the Due Process Clause under the Fifth and the Fourteenth Amendment of the United States Constitution, the absence of vagueness and unclarity are critical aspects to the American legal society and the rule of law in general. As illustrated in HB 1557, failures in ensuring the clarity and preciseness in lawmaking would hinder the development of United States society to a profound extent. Most importantly, clarity and preciseness in the phrasing of law reduces the chance of the media taking advantage of vagueness to generate publicity stunts, where outlets maintain a profound tendency to distort the original meaning of the law and create huge headlines that mislead the public for profit.

Secondly, it is suggested that the State of Florida should reconsider HB 1557's affiliation with teachers' speech because of its threat to the First Amendment's protection. As previously noted, HB 1557's provision on teacher's instruction of sexual orientation and gender identity challenges the freedom of speech protection that is given to public school teachers. Despite its constitutionality being rather debatable at this moment, the presence of HB 1557 indeed curtailed the rights and protection given to public school teachers as United States citizens. Thus, it is suggested that Florida State legislation should reevaluate HB 1557's provision on teachers' speech and re-examine the necessity to incorporate such a provision into the legislation. Nevertheless, the principal goal of HB 1557 is to proctor students' mental health and reinforce student support mechanisms. Hypothetically, the absence of this provision on teachers' speech will not undermine the overall purpose of the bill when other amenities remain valid, such as requesting parental consent and increasing parental oversight. However, incorporating a law that prevents people from certain forms of expression will be controversial because it diminishes the freedom of speech that should be given to all United States citizens in equal terms, especially when an observable constitutional measure is identifiable. Thus, legally challenging the right to freedom of speech in the name of protecting the students would introduce severe backlash and social instability, especially when the effectiveness of using such practice as an approach to protect students' well-being remains questionable. Despite its

debatable constitutionality and legal foundation, the legal causality behind Florida House Bill 1557's provision on sexual orientation and gender identity requires further research and consensus from the political, social, and scientific society. Yet, one potential solution is to preserve HB 1557 at the dismemberment of its provisions on teachers' speech and expression, ultimately making this bill free from First Amendment controversies and other constitutional challenges.

Finally, it is advised for institutions and legislatures on the state level to provide protection and establish standards that allow topics of gender identity and sexual orientation to take place in classroom settings if and only if they are built upon scientific or intellectual foundation, refraining from making laws and policies identical to HB 1557 that create social and legal controversy. As previously pointed out, HB 1557's provision that restrict teachers' speech and expression on topics of gender identity and sexual orientation is considered a firm violation against LGBTQ+ communities and individuals. Its sociopolitical consequences are prodigious and it would incentivize huge backlash and public resentment. Fundamentally, instruction of gender identity and sexual orientation should transpire in classroom settings as nonetheless factual aspects of natural science and human knowledge rather than information that would hinder the development of children. Entirely eliminating the presence of gender identity and sexual orientation in classroom would only introduce more unfavorable outcomes and social controversy, which neither contribute to social stability nor making the next generation more knowledgeable about life and science. As a result, it is advised that states should establish standards that allow the education of gender identity and sexual orientation to take place in classroom settings if and only if they are built upon scientific or intellectual foundation. Doing so would reduce the legal challenges faced by state legislatures, minimize the damage made to teachers' speech protections, and prevent the intensification of LGBTQ+ related issues that resulted from HB 1557's legal controversy. Under sincere efforts made by the American legal society, disparities would be settled and LGBTQ+ social controversies would be resolved with the fullness of time.

CONCLUSION

Florida House Bill 1557 is one of the most controversial legislative subjects of the past months, and it is a crystallization of the LGBTQ+ inequality issues that have prevailed in the United States for decades. The implementation of House Bill 1557 in the Florida State legislature would introduce several negative legal consequences in the

FLORIDA HOUSE BILL 1557 AND LGBTQ+ CONTROVERSY

society, and it is unfavorable to most interest groups that are involved with the controversy.

Essentially, Florida House Bill 1557's provision on teachers' speech and expression is unconstitutional. The provision of the bill undermines the Void for Vagueness Doctrine that resides in the due process clause of the Fifth and Fourteenth Amendments of the United States Constitution. The infringement of constitutional rights and the excessive vagueness have ultimately made the focal point of Florida House Bill 1557 unconstitutional and one of the most controversial matters from a legislative perspective. Moreover, it further institutes the legal norm that introduces more harm than good, further hindering the power of public education and its influence.

In summary, LGBTQ+ communities in the United States have been facing some of the worst social disparities.²¹ It is not only an urgency but also an obligation for lawmakers to find solutions to address this issue from a *de jure* standpoint. It is a reality that the inability of the legislature to make any difference in the past decades has introduced serious consequences to the United States today, and the common society must acknowledge that it is a tremendously difficult mission for any group to make an impact. However, more hesitation would result in a heavier burden that the next generation would nonetheless take on. Future legal reforms and solutions have to be made in contemplation to the rule of law, well-being, and proper functionality of the United States society in the future.

²¹ *LGBTQ Rights Milestones Fast Facts*, CNN (Aug. 11, 2022), <https://www.cnn.com/2015/06/19/us/lgbt-rights-milestones-fast-facts/index.html> (last visited June 5, 2022).