**South Carolina General Assembly**

124th Session, 2021-2022

**H. 4799**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. May, Fry, Bailey, Bennett, Burns, Bustos, Chumley, B. Cox, Dabney, Forrest, Gilliam, Hiott, Hixon, Huggins, Jones, Long, Magnuson, McCabe, McGarry, T. Moore, Morgan, Nutt, Oremus, G.R. Smith, Thayer, Wooten and Hill

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Introduced in the House on January 13, 2022

Currently residing in the House Committee on **Education and Public Works**

Summary: Critical Race Theory

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/13/2022 House Introduced and read first time

1/13/2022 House Referred to Committee on **Education and Public Works**

1/26/2022 House Member(s) request name added as sponsor: Hill

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**VERSIONS OF THIS BILL**

[1/13/2022](file:///p:\pprever\2021-22\4799_20220113.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 35 TO TITLE 1 SO AS TO DEFINE TERMS, PROHIBIT THE STATE, ALL POLITICAL SUBDIVISIONS, ALL PUBLIC SCHOOL DISTRICTS, PUBLIC SCHOOLS, AND PUBLIC INSTITUTIONS OF HIGHER EDUCATION FROM AFFIRMING, ADOPTING, ADHERING TO, OR INSTRUCTING ANY OF THE TENETS OF “CRITICAL RACE THEORY”; TO PROHIBIT THE UTILIZATION OR REQUIREMENT OF ADHERENCE TO THE TENETS OF CRITICAL RACE THEORY AS A CONDITION OF EMPLOYMENT; TO PROHIBIT THE UTILIZATION OR REQUIREMENT OF ADHERENCE TO THE TENETS OF CRITICAL RACE THEORY WHEN SPENDING PUBLIC MONEY PURSUANT TO THE SOUTH CAROLINA CONSOLIDATED PROCUREMENT CODE; TO PROHIBIT THE CONSIDERATION OF THE TENETS OF CRITICAL RACE THEORY WHEN ADOPTING POLICIES AND PROCEDURES; TO PROHIBIT THE UTILIZATION OR REQUIREMENT OF ADHERENCE TO THE TENETS OF CRITICAL RACE THEORY BY ENTITIES RECEIVING FUNDS APPROPRIATED BY THE GENERAL ASSEMBLY; TO PROHIBIT THE STATE, INCLUDING ALL POLITICAL SUBDIVISIONS, FROM OFFERING TAX INCENTIVES TO ENTITIES UTILIZING OR REQUIRING ADHERENCE TO THE TENETS OF CRITICAL RACE THEORY; AND TO PROVIDE WHISTLEBLOWER PROTECTIONS; BY ADDING ARTICLE 5 TO CHAPTER 29, TITLE 59 SO AS TO DEFINE TERMS, PROVIDE TEACHERS AND STUDENTS OF CIVICS AND RELATED COURSEWORK IN PUBLIC SCHOOLS MAY NOT BE COMPELLED TO DISCUSS CERTAIN TOPICS OR AFFIRM CERTAIN BELIEFS; TO PROHIBIT CREDIT FROM BEING AWARDED FOR CERTAIN STUDENT LOBBYING ACTIVITIES; TO PROHIBIT THE USE OF PRIVATE FUNDING FOR CURRICULUM OR TEACHER TRAINING CONCERNING CIVICS AND RELATED COURSEWORK; TO PROHIBIT CERTAIN CONCEPTS FROM INCLUSION IN CURRICULUM OR INSTRUCTION; TO PROVIDE PUBLIC SCHOOL WEBSITES MUST INCLUDE CERTAIN INFORMATION AND MEANS OF PROVIDING RELATED FEEDBACK CONCERNING INSTRUCTIONAL MATERIALS AND CURRICULA IN USE; TO PROVIDE RELATED REPORTING REQUIREMENTS OF THE STATE DEPARTMENT OF EDUCATION AND SCHOOL DISTRICTS; TO PROHIBIT THE TEACHING, USE, OR PROMOTION OF THE 1619 PROJECT OR CERTAIN OTHER TENETS; TO PROVIDE FOR THE WITHHOLDING OF FUNDING FOR NONCOMPLIANCE WITH CERTAIN PROVISIONS OF THIS ACT; TO PROVIDE REQUIREMENTS FOR PUBLIC SCHOOLS THAT SEEK OR RECEIVE FEDERAL GRANTS RELATED TO HISTORY OR SOCIAL STUDIES EDUCATION; TO ESTABLISH THAT INSTRUCTIONAL MATERIALS AND CURRICULA ARE NOT EXEMPT FROM THE FREEDOM OF INFORMATION ACT; TO PROVIDE WHISTLEBLOWER PROTECTIONS; AND TO ESTABLISH CONSEQUENCES TO NONCOMPLIANCE WITH THIS ACT; AND BY ADDING SECTION 10‑1‑220 SO AS TO PROHIBIT FLAGS AND BANNERS THAT INTEND TO PROMOTE A SOCIAL OR POLITICAL CAUSE FROM BEING FLOWN FROM PUBLIC SCHOOLS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 1 of the 1976 Code is amended by adding:

“CHAPTER 35

Critical Race Theory

Section 1‑35‑10. For purposes of this chapter, ‘critical race theory’ means any of the following tenets:

(1) any sex, race, ethnicity, religion, color, or national origin is inherently superior or inferior;

(2) individuals should be adversely treated on the basis of their sex, race, ethnicity, religion, color, or national origin;

(3) individuals, by virtue of sex, race, ethnicity, religion, color, or national origin, are inherently responsible for actions committed in the past by other members of the same sex, race, ethnicity, religion, color, or national origin;

(4) individuals, by virtue of sex, race, ethnicity, religion, color, or national origin, are inherently racist, sexist, or oppressive, whether consciously or unconsciously; or

(5) fault, blame, or bias should be assigned to individuals, by virtue of sex, race, ethnicity, religion, color, or national origin, solely or partly because of their sex, race, ethnicity, religion, color, or national origin.

(6) the advent of slavery in the territory that is now the United States constituted the true founding of the United States;

(7) with respect to their relationship to American values, slavery and racism are anything other than deviations from, betrayals of, or failures to live up to, the authentic founding principles of the United States, which include liberty and equality; or

(8) that equity is a concept that is superior to or supplants the concept of equality, equality before the law, and the role of equality in the Constitution and American jurisprudence.

Section 1‑35‑20. Public school districts, public schools, and public institutions of higher learning may not:

(1) direct or otherwise compel teachers or students to personally affirm, adopt, or adhere to the tenets of critical race theory; or

(2) introduce a course of instruction or unit of study that teaches any of the tenets of critical race theory.

Section 1‑35‑30. The State, all political subdivisions, and all public school districts, public schools, and public institutions of higher education may not:

(1) utilize or require adherence to the tenets of critical race theory as a condition of employment or advancement in employment; or

(2) provide or encourage attendance to training, workshops, forums, or similar programming relating to the tenets of critical race theory to employees.

Section 1‑35‑40. Notwithstanding another provision of law, the State, all political subdivisions, and all public school districts, public schools, and public institutions of higher education may not utilize or require adherence to the tenets of critical race theory when spending public money pursuant to the South Carolina Consolidated Procurement Code of Chapter 35, Title 11.

Section 1‑35‑50. The State, all political subdivisions, and all public school districts, public schools, and public institutions of higher learning may not consider the tenets of critical race theory when adopting policies and procedures.

Section 1‑35‑60. (A) Any entity receiving funds appropriated by the General Assembly may not:

(1) utilize or require adherence to the tenets of critical race theory; or

(2) provide training, workshops, forums, or similar programming relating to the tenets of critical race theory to employees or members of the general public.

(B) Any entity receiving funds appropriated by the General Assembly must pledge that it will not engage in the activities prohibited by subsection (A).

(C) If an entity receiving funds appropriated by the General Assembly is found to be engaging in the activities prohibited by subsection (A):

(1) it must return funding to the Office of the State Treasurer; and

(2) it will be precluded from receiving additional funds for that fiscal year and the following ten fiscal years.

Section 1‑35‑70. The State, including all political subdivisions, is prohibited from offering tax incentives to any entity which utilizes or requires adherence to the tenets of critical race theory.

Section 1‑35‑80. Any employee reporting a violation of this chapter made by an employer is entitled to the same protections and remedies as are public employees who report violations of state or federal law or regulation pursuant to Chapter 27, Title 8.

Section 1‑35‑90. If a public school violates any provisions of this chapter, all students in the school district are entitled to attend any public or private school in the State and the home district must transfer an amount equal to the base student cost to the school the student chooses to attend.”

SECTION 2. Chapter 29, Title 59 of the 1976 Code is amended by adding:

“Article 5

Academic Integrity

Section 59‑29‑610. (A) For purposes of this article, ‘critical race theory’ means any of the following tenets:

(1) any sex, race, ethnicity, religion, color, or national origin is inherently superior or inferior;

(2) individuals should be adversely treated on the basis of their sex, race, ethnicity, religion, color, or national origin;

(3) individuals, by virtue of sex, race, ethnicity, religion, color, or national origin, are inherently responsible for actions committed in the past by other members of the same sex, race, ethnicity, religion, color, or national origin;

(4) individuals, by virtue of sex, race, ethnicity, religion, color, or national origin, are inherently racist, sexist, or oppressive, whether consciously or unconsciously;

(5) fault, blame, or bias should not be assigned to individuals, by virtue of sex, race, ethnicity, religion, color, or national origin, solely or partly because of their sex, race, ethnicity, religion, color, or national origin;

(6) the advent of slavery in the territory that is now the United States constituted the true founding of the United States;

(7) with respect to their relationship to American values, slavery and racism are anything other than deviations from, betrayals of, or failures to live up to, the authentic founding principles of the United States, which include liberty and equality; or

(8) that equity is a concept that is superior to or supplants the concept of equality, equality before the law, and the role of equality in the United States Constitution and American jurisprudence.

(B) Public school districts, public schools, and public institutions of higher learning may not direct or otherwise compel employees or students to personally affirm, adopt, or adhere to the tenets of critical race theory.

(C) A teacher, administrator, or other employee in a state agency, school district, charter school, or school administration may not approve for use, make use of, or carry out, standards, curricula, lesson plans, textbooks, instructional materials, or instructional practices that affirm, adopt, or adhere to the tenets of critical race theory.

Section 59‑29‑620. (A) A teacher or student of history, civics, U.S. government and politics, social studies, or similar subject areas, whether for regular credit or advanced placement credit, may not be compelled by a policy of a state agency, school district, or school administration to discuss current events or widely debated and currently controversial issues of public policy or social affairs.

(B) In a course on history, civics, U.S. government and politics, social studies, or similar subject areas, whether for regular credit or advanced placement credit, no school may require, make part of such course, or award course grading or credit to:

(1) student work for, affiliation with, or service learning in association with, an organization engaged in lobbying for legislation at the local, state, or federal level, or in social or public policy advocacy; or

(2) lobbying for legislation at the local, state, or federal level, or a practicum, or like activity, involving social or public policy advocacy.

(C) Private funding may not be accepted by state agencies or school districts for curriculum development, purchase or choice of curricular materials, teacher training, professional development, or continuing teacher education pertaining to courses on history, civics, U.S. government and politics, social studies, or similar subject areas, whether for regular credit or advanced placement credit, that affirms, adopts, or adheres to the tenets of critical race theory as defined in Section 59‑29‑12(A). State agencies or school districts may not accept or use materials for curriculum development, purchase or choice of curricular materials, teacher training, professional development of continuing teacher education pertaining to courses on history, U.S. government and politics, social studies or similar subject areas, whether for regular credit or advanced placement credit that affirms, adopts, or adheres to the tenets of critical race theory as defined in Section 59‑29‑12(A).

(D) A teacher or student may not be compelled by a policy of a state agency, school district, or school administration to affirm a belief in anything characterized as the systemic nature of racism, or like ideas, or in anything characterized as the multiplicity or fluidity of gender identities, or like ideas, against the sincerely held religious or philosophical convictions of the teacher.

Section 59‑29‑630. (A)(1) Beginning with the 2022‑2023 School Year, each public school must include and maintain a link on the homepage of its website that provides a detailed list of instructional materials and curricula used in the school. For the purposes of this section, the information included on the list of instructional materials includes, but is not limited to, the title, author, creator, and publisher of any book, periodical, treatise, article, recording, software, webpage, or paper.

(2) Each school must review instructional materials of each course it offers and update the instructional materials online as needed to include additions or deletions from the list of materials used before the course may be offered.

(3) The department must withhold one percent of a district’s Education Finance Act funds for each class in the district that fails to publish or update a list of instructional materials within five business days after the beginning of a course as required in items (1) and (2).

(B) The information required by subsection (A) must be:

(1) accessible from the school’s Internet website homepage by use of no more than three links;

(2) searchable by keywords and phrases; and

(3) accessible to the public without requiring registration or use of a user name, password, or other user identification.

(C) In addition to the requirements of subsection (A), each public school must include and maintain on its website:

(1) a phone number and e‑mail address for parents, legal guardians, and the public to contact appropriate personnel at the school and district office to ask questions, voice concerns, or make recommendations regarding instructional materials and curricula to the schools and districts;

(2) a phone number and e‑mail address for parents, legal guardians, and the public to contact appropriate personnel at the State Department of Education to ask questions, voice concerns, make recommendations, or provide other information concerning instructional materials and curricula used in a district to the department; and

(3) an electronic form, created by the school or district, for submission of complaints regarding instructional materials and curricula to both the school and district.

(D) Each school must report the number of complaints and disposition of complaints regarding curricula and instructional materials that it receives to the department pursuant to subsections (A) and (C) before August 1, 2023, and annually thereafter. The department must report the number of such complaints and the disposition of complaints received by each school to the General Assembly before September 1, 2023, and annually thereafter.

(E) The Governor’s School for the Arts and Humanities, the Governor’s School for Agriculture at John de la Howe, the Special School of Science and Mathematics, also referred to as the Governor’s School for Science and Mathematics, and the Wil Lou Gray Opportunity School must follow the reporting requirements of this section. Before July 1, 2023, and annually thereafter, a school must surrender to the State Treasurer an amount equivalent of one percent of its state general fund appropriation for each class that fails to update its instructional materials list.

Section 59‑29‑640. For purposes of this article:

(1) ‘1619 Project’ means the 1619 Project Initiative of the New York Times.

(2) ‘Public school’ means a school, career and technical education center, or vocational center that is under the authority of a local public school board or charter school authorizer. A ‘public school’ also includes the:

(a) Governor’s School for the Arts and Humanities;

(b) Governor’s School for Agriculture at John de la Howe;

(c) Special School of Science and Mathematics, also referred to as the Governor’s School for Science and Mathematics; and

(d) Wil Lou Gray Opportunity School.

Section 59‑29‑650. (A) A public school must not teach, use, or provide for use by any pupil the 1619 Project as part of any curriculum, course materials, or instruction in any course. Schools may not teach, affirm, or promote as an accurate account or representation of the founding and history of the United States of America any of the claims, views, or opinions presented in the 1619 Project as part of any curriculum, course materials, or instruction in any course given in such school.

(B) The department must withhold one percent of a district’s Education Finance Act funds for each class that uses all, or part of, the 1619 Project instructional materials or curriculum.

(C) The Governor’s School for the Arts and Humanities, the Governor’s School for Agriculture at John de la Howe, the Special School of Science and Mathematics, also referred to as the Governor’s School for Science and Mathematics, and the Wil Lou Gray Opportunity School must surrender to the State Treasurer before July 1, 2023, and annually thereafter, an amount equivalent to one percent of its state general fund appropriation for each class that uses all, or part of, the 1619 Project instructional materials or curriculum.

Section 59‑29‑660. (A) A public school that applies for and receives a grant from the United States Department of Education after March 1, 2021, relating to history or civics education must provide the following information to the State Department of Education no later than thirty days of being notified that the grant will be, or was, rewarded. The report must contain:

(1) a copy of the complete application including supporting documents that was sent to the United States Department of Education;

(2) the amount of funding to be received from the United States Department of Education; and

(3) a complete listing of curricula and instructional materials to be used.

(B) The State Department of Education must provide a report to the General Assembly by August 1, 2023, and annually thereafter, of all schools or school personnel who applied for and received a grant as defined in subsection (A). The department must make the application and supporting information available to the public.

(C) Upon receipt of a grant as identified in subsection (A), the school must inform parents and legal guardians of the curricula and instructional materials to be used and must provide in printed or electronic form at the parent or guardian’s request.

Section 59‑29‑670. (A) Information regarding instructional materials and curricula used in public schools is subject to the Freedom of Information Act and is not considered proprietary material exempted from disclosure.

(B) The cost for information described in subsection(A) may not exceed twenty cents per page.

Section 59‑29‑680. Each public school must provide to the State Department of Education a list of externally created surveys purchased with state funds that do not directly measure the efficacy of tests and exams. The State Department of Education must provide a report to the General Assembly by August 1, 2023, and annually thereafter, of all externally created surveys purchased with state funds that do not directly measure the efficacy of tests and exams.

Section 59‑29‑690. Any employee reporting a violation of this article made by an employer is entitled to the same protections and remedies as are public employees who report violations of state or federal law or regulation pursuant to Chapter 27, Title 8.

Section 59‑29‑700. If a public school violates any provisions of this article, all students in the school district are entitled to attend any public or private school in the State and the home district must transfer an amount equal to the base student cost to the school the student chooses to attend.”

SECTION 3. Chapter 1, Title 10 of the 1976 Code is amended by adding:

“Section 10‑1‑220. (A) Except where otherwise authorized by law, no flag or banner may be flown from buildings or property owned or operated by a school district that intends to promote a social or political cause. This prohibition does not apply to any flag or banner promoting the government of the United States, this State, any political subdivision of this State, or a school district, including any branch or department of any such government, such as the United States Armed Forces and law enforcement. This section does not prohibit a private individual from wearing as a part of his clothing or carrying or displaying any other flag or banner while in the building or on the property.

(B) If a school district violates the provisions of this section, the Department of Education shall withhold all disbursements for that school district for the remainder of the fiscal year and the following fiscal year.”

SECTION 4. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 5. This act takes effect upon approval by the Governor.

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