

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 465 Postsecondary Education Students

SPONSOR(S): Temple and others

TIED BILLS: None. **IDEN./SIM. BILLS:** SB 470

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Postsecondary Education & Workforce Subcommittee	11 Y, 4 N	Wolff	Kiner
2) Higher Education Appropriations Subcommittee			
3) Education & Employment Committee			

SUMMARY ANALYSIS

Current law, at both the Federal and State level, is designed to prevent the provision of material support to designated terror organizations. The bill's purpose is to curtail promotion of these terror organizations at Florida's postsecondary institutions.

To this end, the bill defines a "foreign terrorist organization" as an organization designated by the United States Department of State as a foreign organization that engages in or has the capability and intent to engage in terrorist activity and threatens the defense, foreign relations, or economic interests of the United States. The bill specifies that this includes, but is not limited to, Hamas and Palestine Islamic Jihad.

The bill provides that any student at a Florida College System (FCS) or State University System (SUS) institution that promotes a foreign terrorist organization during any term of his or her enrollment is not eligible for in-state tuition and is not eligible for any fee waiver contained in s. 1009.26, F.S., during that term or any subsequent term of enrollment. Additionally, the bill provides that any student at a FCS, SUS, or private postsecondary institution that promotes a foreign terrorist organization during any term of his or her enrollment may not be awarded any institutional or state grants, financial aid, scholarships, or tuition assistance under ch. 1009, F.S., during that term and any subsequent term of enrollment.

The bill requires that a public postsecondary institution must report, through the Student and Exchange Visitor Program of the United States Department of Homeland Security, any student who is attending the institution on an F-1 student visa, if that student promotes any foreign terrorist organization.

The bill has an indeterminate fiscal impact.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal and State Anti-terrorism Laws

Two federal material support statutes sit at the heart of the United States (U.S.) Department of Justice's terrorist prosecution efforts.¹ One provision outlaws providing material support for the commission of certain designated offenses that might be committed by terrorists.² The other outlaws providing material support to certain designated terrorist organizations.³ The two sections share a virtually identical definition of the term "material support."⁴ Material support excludes medicine and religious materials, but includes:

- currency or monetary instruments or financial securities;
- financial services;
- lodging;
- training;
- expert advice or assistance;
- safehouses;
- false documentation or identification;
- communications equipment, facilities;
- weapons;
- lethal substances;
- explosives;
- personnel; and
- transportation.⁵

Providing material support is only a crime if the known beneficiary is a foreign terrorist organization. That is, the government must show either that (1) the defendant knows that the organization has been designated a foreign terrorist organization or (2) the defendant knows that the organization is or has engaged in "terrorism" or in "terrorist activities."⁶

The process under which the Secretary of State designates an entity a foreign terrorist organization is authorized in the Immigration and Nationality Act.⁷ Under the procedure, the Secretary may designate an entity if he finds that it is (A) a foreign organization; (B) that "engages in terrorist activity or terrorism, or retains the capacity and intent to engage in terrorist activity or terrorism"; and (C) "the terrorist activity or terrorism" of the entity "threatens the security of United States nationals or the national security of the United States."⁸ An organization may challenge its designation,⁹ and the Secretary may revoke the designation.¹⁰ The organization may appeal the Secretary's decision to the United States Court of Appeals for the District of Columbia.¹¹ The current list of designated Foreign Terrorist

¹ 18 U.S.C. § 2339A and § 2339B; see generally Congressional Research Service, *Terrorist Material Support: An Overview of 18 U.S.C. § 2339A and § 2339B*, available at <https://crsreports.congress.gov/product/pdf/R/R41333>.

² 18 U.S.C. § 2339A.

³ 18 U.S.C. § 2339B.

⁴ 18 U.S.C. § 2339A(b)(1) and 18 U.S.C. § 2339B(g)(4). Section 2339B has a more explicit description of the "personnel" covered by its proscription, which confines the term to those provided to a foreign terrorist organization to direct its activities or to work under its direction or control. 18 U.S.C. § 2339B(h)

⁵ 18 U.S.C. § 2339A(b)(1) and 18 U.S.C. § 2339B(g)(4).

⁶ 18 U.S.C. § 2339B(a).

⁷ 8 U.S.C. § 1189.

⁸ 8 U.S.C. § 1189(a)(1).

⁹ 8 U.S.C. § 1189(a)(4)(B).

¹⁰ 8 U.S.C. § 1189(a)(6).

¹¹ 8 U.S.C. § 1189(c).

Organizations is available on the Department of State website and it has included HAMAS and the Palestine Islamic Jihad since its inception in October 1997.¹²

HAMAS is the largest and most capable militant group in the Palestinian territories and one of the territories' two major political parties. The group is committed to armed resistance against Israel and the creation of an Islamic Palestinian state in Israel's place. HAMAS has been the de facto governing body in the Gaza Strip since 2007, when it ousted the Palestinian Authority from power.¹³

The Palestine Islamic Jihad (PIJ) is a militant group seeking to establish an Islamist Palestinian state that is committed to the destruction of Israel. It is the second-largest militant group in the Gaza Strip and the West Bank. PIJ sometimes operates in coordination with HAMAS, although the groups have had a tense relationship because PIJ occasionally disagrees with HAMAS's strategy for confronting Israel.¹⁴

In 2017,¹⁵ the Legislature adopted a counter-terrorism statute mirroring the above federal provisions.¹⁶ The statute includes two criminal provisions analogous to the federal law¹⁷ and included substantially similar definitions.¹⁸ The Legislature explicitly stated its intent that these provisions be interpreted in a manner consistent with the federal law¹⁹ and tasked the Florida Department of Law Enforcement with creating guidelines for law enforcement investigations conducted pursuant to the newly created section of law.²⁰

International Student Visas

For nonimmigrant students seeking an education in the United States, there are three primary student visa types:

- F-1 Student Visa: for study at an accredited U.S. college or university or to study English at an English language institute;
- J-1 Exchange Visa: for participation in an exchange program, including high school and university study;
- M-1 Student Visa: for non-academic or vocational study or training in the United States.²¹

Valid student visas are required to apply to the Department of Homeland Security for admission into the United States at the port of entry. Students' Form I-20 document (F and M visas) or DS-2019 document (J visas), that are issued by their institution, is what allows them to maintain student status in the United States even if a visa expires during their studies.²² To issue I-20 or DS-2019 documentation for student visas, U.S. institutions must be certified by the Department of Homeland Security SEVP (Student and Exchange Visitor Program) (F, M visas) or designated by the Department of State Bureau of Educational and Cultural Affairs (J visas), respectively.²³

Two separate U.S. government agencies manage international student arrival and status while studying in the United States. The U.S. Department of State is responsible for the initial visa application process

¹² Department of State, *Foreign Terrorist Organizations*, <https://www.state.gov/foreign-terrorist-organizations/> (last visited Jan 15, 2024).

¹³ Office of the Director of National Intelligence, *Foreign Terrorist Organizations HAMAS*, https://www.dni.gov/nctc/ftos/hamas_fto.html (last visited Jan. 14, 2024).

¹⁴ Office of the Director of National Intelligence, *Foreign Terrorist Organizations Palestine Islamic Jihad*, https://www.dni.gov/nctc/ftos/pij_fto.html (last visited Jan. 14, 2024).

¹⁵ Section 4, ch. 2017-37, L.O.F.

¹⁶ Section 775.33, F.S.

¹⁷ Section 775.33(2) and (3), F.S.

¹⁸ Section 775.33(1), F.S.

¹⁹ Section 775.33(7), F.S.

²⁰ Section 775.33(8), F.S.

²¹ Department of State, EducationUSA, *International Student Visas*, <https://educationusa.state.gov/foreign-institutions-and-governments/understanding-us-higher-education/international-student> (last visited Jan. 16, 2024).

²² *Id.*

²³ *Id.*

and issuance. Once a visa holder arrives in the United States, the U.S. Department of Homeland Security then acts as the responsible agency for granting entry into the country, as well as enforcing immigration regulations that affect international students once they are in the United States.²⁴

Institutions are required to comply with regulations issued by the Department of Homeland Security in order to be certified for attendance by nonimmigrant students.²⁵ Part of this certification process includes recordkeeping and reporting requirements for the institution.²⁶ Institutions are required to report any change in the students status, within 21 days, including, but not limited to, any disciplinary action taken by the school against the student as a result of the student being convicted of a crime.²⁷

Freedom of Speech

The First Amendment of the United States Constitution promotes the free exchange of ideas and information by prohibiting the government from restricting speech or expressive conduct because of the message expressed.²⁸ Content-based restrictions are presumptively invalid.²⁹ To justify a content-based regulation of speech, the government must show that the regulation is (1) necessary to serve a compelling state interest, and (2) narrowly drawn to further that interest. Prohibitions on hate speech may not be content based and designed to punish certain viewpoints. For instance, a law that bans only words or expressions derogatory of race, religion, or gender violates the First Amendment.³⁰ The government may increase applicable criminal penalties for defendants who select a victim based on race or other characteristics.³¹ However, during sentencing, a court may generally not take into consideration a defendant's abstract beliefs, however abhorrent.³²

The Florida Constitution provides analogous protection for the freedom of speech and Florida courts have interpreted Florida's constitutional provisions guaranteeing the freedom of speech in accordance with federal First Amendment jurisprudence.³³

Florida Postsecondary Tuition and Student Financial Aid

In-state and Out-of-State Tuition

Under Florida law, 'tuition' is defined as the basic fee charged to a student for instruction provided by a public postsecondary educational institution in the state.³⁴ A student who is classified as a "resident for tuition purposes" is a student who qualifies for the in-state tuition rate.³⁵

The statutory resident undergraduate tuition rate at a state university is \$105.07 per credit hour.³⁶ For baccalaureate degree programs offered at a Florida College System institution, the statutory resident tuition rate is \$91.79 per credit hour.³⁷

²⁴ *Id.*

²⁵ 8 C.F.R. § 214.3.

²⁶ 8 C.F.R. § 214.3(g).

²⁷ 8 C.F.R. § 214.3(g)(2)(ii)(D).

²⁸ *See, e.g., Texas v. Johnson*, 491 U.S. 397 (1989); *State v. T.B.D.*, 656 So. 2d 479 (Fla. 1995).

²⁹ *See, e.g., Police Dep't of Chicago v. Mosley*, 408 U.S. 92 (1972).

³⁰ *R.A.V. v. City of St. Paul, Minn.*, 505 U.S. 377 (1992).

³¹ *Wisconsin v. Mitchell*, 508 U.S. 476 (1993); *see T.B.D.*, 656 So. 2d 479 (holding that a Florida statute which prohibited cross burning did not infringe upon First Amendment liberties).

³² *See generally* Daniel E. Katz, *Speak No Evil, Think No Evil: The Florida Hate Crime Law*, 44 U. Fla. L. Rev. 695 (1992); Susan Gellman, *Sticks and Stones Can Put You in Jail, But Can Words Increase Your Sentence? Constitutional and Policy Dilemmas of Ethnic Intimidation Laws*, 39 U.C.L.A. L. Rev. 333 (1991); Eric D. Rosenberg, Note, *Hate Crimes, Hate Speech and Free Speech – Florida's Bias-Intended Crime Statute*, 17 Nova L. Rev. 597 (1992).

³³ *See Dep't of Educ. v. Lewis*, 416 So. 2d 455, 461 (Fla. 1982).

³⁴ Section 1009.01(1), F.S. Additionally, the definition states that "[a] charge for any other purpose shall not be included within this fee."

³⁵ Section 1009.21(1)(g), F.S.

³⁶ Section 1009.24(4)(a), F.S.

³⁷ Section 1009.23(3)(b), F.S.

An 'out-of-state fee' is the additional fee for instruction provided by a public postsecondary education institution in the state, and is charged to a student who does not qualify for the in-state tuition rate.³⁸ Across the State University System, for the 2023-24 academic year, the average out-of-state tuition and out-of-state fees was \$570.01, per credit hour.³⁹ Across the Florida College System, for the 2022-23 academic year, the weighted average of out-of-state fees for lower level credit programs is \$240.24, per credit hour.⁴⁰ Residents for tuition purposes are charged the statutory rates for tuition while non-residents pay out-of-state fees in addition to tuition, unless these costs are exempted or waived.⁴¹

Tuition and Fee Waivers

Current law provides a number of mandatory and discretionary tuition and fee waivers. Mandatory fee waivers include, but are not limited to, the following:

- Congressman C.W. "Bill" Young Veteran Tuition Waiver Program;⁴²
- Active duty military personnel;⁴³
- High-performing out-of-state students who have a Florida resident grandparent,⁴⁴
- Child or spouse of deceased first responder employed by the state or political subdivisions;⁴⁵
- Purple Heart recipients;⁴⁶
- Online Free Seat Program;⁴⁷
- Programs of Strategic Emphasis Waiver;⁴⁸ and
- The wrongfully incarcerated.⁴⁹

Discretionary tuition and fee waivers include, but are not limited to, the following:

- Student Intern Supervisors;⁵⁰
- University Employees;⁵¹
- State Resident Seniors;⁵²
- Non-degree Seeking Out-of-State Students;⁵³
- Classroom Teachers;⁵⁴ and
- Student Athletes.⁵⁵

State Scholarships and Grants

The state offers a number of scholarships and grants for students seeking to further their education at one of Florida's postsecondary institutions, including, but not limited to, the following:

- Benacquisto Scholarship Program;⁵⁶

³⁸ Section 1009.01(2), F.S. Adding that "[a] charge for any other purpose shall not be included within this fee."

³⁹ Florida Board of Governors, *State University System, Tuition and Required Fees, 2023-24*, at 4, available at <https://www.flbog.edu/wp-content/uploads/2023/07/2023-2024-SUS-Tuition-and-Fees-Report-PDF-1.pdf>.

⁴⁰ Florida Department of Education, Florida College System, *Reports*, <https://www.fldoe.org/accountability/data-sys/CCTCMIS/reports.stml>, (link to 2023 Fact Book, worksheet FB 7.9T within the Excel file).

⁴¹ Sections 1009.23(2)(a) and 1009.24(2), F.S.

⁴² Section 1009.26(13), F.S.

⁴³ Section 1009.26(14), F.S.

⁴⁴ Section 1009.26(20), F.S.

⁴⁵ Section 112.19(3), F.S.

⁴⁶ Section 1009.26(8), F.S.

⁴⁷ Section 1009.26(19), F.S.

⁴⁸ Section 1009.26(18), F.S.

⁴⁹ Section 961.06(1)(b), F.S.

⁵⁰ Section 1009.26(2), F.S.

⁵¹ Section 1009.26(3), F.S.

⁵² Section 1009.26(4), F.S.

⁵³ Section 1009.26(6), F.S.

⁵⁴ Section 1009.26(10), F.S.

⁵⁵ Section 1009.26(21), F.S.

⁵⁶ Section 1009.893, F.S.; see Florida Department of Education, Office of Student Financial Assistance, *Benacquisto Scholarship Program*, available at <https://www.floridastudentfinancialaidsg.org/PDF/factsheets/BSP.pdf>.

- Bright Futures Scholarship;⁵⁷
- William L. Boyd, IV, Effective Access to Student Education Program;⁵⁸
- Florida Student Assistance Grant Program;⁵⁹
- First Generation Matching Grant Program;⁶⁰ and
- Mary McLeod Bethune Scholarship Program.⁶¹

Effect of Proposed Changes

The bill defines a “foreign terrorist organization” as an organization designated by the United States Department of State as a foreign organization that engages in or has the capability and intent to engage in terrorist activity and threatens the defense, foreign relations, or economic interests of the United States. The bill specifies that this includes, but is not limited to, Hamas and Palestine Islamic Jihad.

The bill provides that any student at a Florida College System (FCS) or State University System (SUS) institution that promotes a foreign terrorist organization during any term of his or her enrollment is not eligible for in-state tuition and is not eligible for any fee waiver contained in s. 1009.26, F.S., during that term or any subsequent term of enrollment. Additionally, the bill provides that any student at a FCS, SUS, or private postsecondary institution that promotes a foreign terrorist organization during any term of his or her enrollment may not be awarded any institutional or state grants, financial aid, scholarships, or tuition assistance under ch. 1009, F.S., during that term and any subsequent term of enrollment.

The bill requires that a public postsecondary institution must report, through the Student and Exchange Visitor Program of the United States Department of Homeland Security, any student who is attending the institution on an F-1 student visa, if that student promotes any foreign terrorist organization.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 1006.61, F.S.; requiring public postsecondary educational institutions to report certain student information to the United States Department of Homeland Security; defining the term "foreign terrorist organization."
- Section 2:** Amends s. 1009.01, F.S.; defining the term "foreign terrorist organization."
- Section 3:** Amends s. 1009.23, F.S.; requiring a Florida College System institution to assess the out-of-state fee for students who promote a foreign terrorist organization.
- Section 4:** Amends s. 1009.24, F.S.; requiring a state university to assess the out-of-state fee for students who promote a foreign terrorist organization.
- Section 5:** Amends s. 1009.26, F.S.; providing that students who promote a foreign terrorist organization are ineligible for specified fee waivers.
- Section 6:** Creates s. 1009.8963, F.S.; providing that students who promote a foreign terrorist organization are ineligible for any institutional or state grants, financial aid, scholarships, or tuition assistance.

⁵⁷ Sections 1009.53-1009.538, F.S.

⁵⁸ Sections 1109.521 and 1009.89, F.S.; see Florida Department of Education, Office of Student Financial Assistance, *William L. Boyd, IV, Effective Access to Student Education Program*, available at <https://www.floridastudentfinancialaids.org/PDF/factsheets/EASE.pdf>.

⁵⁹ Sections 1009.50-1009.52, F.S.; see Florida Department of Education, Office of Student Financial Assistance, *Florida Student Assistance Grant Program*, available at <https://www.floridastudentfinancialaids.org/PDF/factsheets/FSAG.pdf>.

⁶⁰ Section 1009.701, F.S.; see Florida Department of Education, Office of Student Financial Assistance, *First Generation Matching Grant Program*, available at <https://www.floridastudentfinancialaids.org/PDF/factsheets/FGMG.pdf>.

⁶¹ Section 1009.73, F.S.; see Florida Department of Education, Office of Student Financial Assistance, *Mary McLeod Bethune Scholarship Program*, available at <https://www.floridastudentfinancialaids.org/PDF/factsheets/MMB.pdf>.

Section 7: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill has an indeterminate fiscal impact as it is unclear how its provisions related to student receipt of scholarships, grant, and tuition and fee waivers will impact enrollment.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.