

May 14, 2021

Via U.S. Mail and Email to bill.lee@tn.gov

The Honorable Bill Lee
Governor of the State of Tennessee
Tennessee State Capitol, 1st Floor
600 Dr. Martin Luther King Jr. Blvd.
Nashville, TN 37243

Re: Request to veto SB 623

Dear Governor Lee,

On behalf of the American Civil Liberties Union of Tennessee and its tens of thousands of members throughout the state, we write to urge you to veto SB 623. Its vague prohibitions constitute government overreach and censorship that will chill speech and critical discourse in our classrooms. Moreover, it seeks to erase America's complex and painful history of racism and oppression, which still impacts our country, our institutions, and our culture.

SB 623 is an affront to Black and Brown Tennesseans. This legislation would restrict and control classroom conversations about the history of slavery and Jim Crow and their legacy on systemic racism today. Ignoring the voices of those impacted by this legislation – many of whom have been speaking out against it – and sweeping the histories of these communities under the rug perpetuates continuing issues of racial injustice. In the wake of last summer's movement for racial justice, Tennesseans should confront and learn from our history, not ban it.

This legislation is also dangerously vague, threatening to censor a broad range of instruction and conversation in the classroom. Section 51 of this legislation outlines a series of 14 “concepts” that may not be “include[d] or promote[d]... as part of a course of instruction or in a curriculum or instructional program.” These include, for example, that “this state or the United States is fundamentally ... racist or sexist.” Does this provision bar teaching that some of America's Founding Fathers – indeed fundamental to American government and society – espoused racist views or owned slaves?

Further, the bill requires “impartial” instruction on histories of racial oppression. What is meant by “impartial?” Will students' questions about slavery, lynching, and groups like the KKK be unanswered?



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Should teachers avoid offering their perspectives or sharing those of others on slavery, policing, voting rights or racial justice? Will teachers be prohibited from providing a list of optional readings that may depart from the state’s official interpretation of history?

Your statement, “[Nathan Bedford] Forrest represents pain, suffering and brutal crimes committed against African Americans, and that pain is very real for many of our fellow Tennesseans. ... this individual, during a season of his life, significantly contributed to one of the most regretful and painful chapters in our nation’s history”¹ is one perspective on Tennessee history. It will undoubtedly be recorded in Tennessee’s historical archives. Would this legislation ban the bust of Nathan Bedford Forrest from the State Capitol?

More broadly, will certain school-based student clubs be prohibited from organizing or will teachers be unwilling to become club advisors? Which books will be banned from the shelves of public-school libraries and on what basis will those decisions be made? Will librarians be prohibited from acquiring books that do not comport with provisions of the law?

The vagueness of these mandates provides schools a straightforward incentive: avoid discussions of race and gender altogether. If teachers overstep these indeterminate boundaries – intentionally or not – they risk the state withholding funding to their LEA. This threat will prevent teachers from engaging students in challenging academic discussions.

Racial disparities abound in our society. For example, Black Tennesseans are disproportionately likely to be incarcerated,² and more likely to be killed by police.³ The first municipal police department in our country was a slave patrol intended to hunt down runaways and stifle any resistance efforts to achieve freedom.⁴ Many academic perspectives attribute the racial disparities we see in policing and incarceration today to the legacy of slavery and Jim Crow. Would this legislation prohibit the consideration of any of these academic perspectives, including critical race theory (CRT), in classroom discussion about contemporary racial disparities?

¹ <https://www.tn.gov/governor/news/2020/7/8/governor-bill-lee-addresses-the-nathan-bedford-forrest-bust.html>

² <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-tennessee.pdf>

³ <https://www.pnas.org/content/116/34/16793>

⁴ <https://time.com/4779112/police-history-origins/>



CRT is one target of SB 623. While CRT cannot be reduced to a single definition, CRT scholars maintain that race plays an important role in modern American society – “that the legacy of slavery, segregation, and the imposition of second-class citizenship on Black Americans and other people of color continue to permeate the social fabric of this nation.”⁵ To some, this may be a controversial idea. To others, this is the very knowledge required to bridge the racial divide in our state, stamp out the stain of white supremacy and build a future where all Tennesseans can prosper. Confronting our past should not be contentious but required – it is the only way to ensure that society can make progress.



SB 623 is being transmitted to your desk from the State Capitol, on which construction began in 1845. At the time, Tennessee’s leaders were enamored with the beautiful designs for this new legislative building, but expressed concerns over whether the state had the funds to finish the project. So, in search of cheap labor, the state rented from a Tennessee slaveholder “fifteen or twenty likely, active, and intelligent negro men, to be quartered on public grounds.”⁶ To build the temple of Tennessee’s democracy, the state used the labor of the enslaved.

This is our history. It is painful. But it is ours. And as you stated in your address to the State Capitol Commission, “As guardians of history, we can’t underestimate that history without understanding is quickly forgotten. ... I’ve continuously said that we should learn from our history, rather than whitewash it.”⁷ But whitewashing history is exactly what SB 623 would have us do.

Facing the truth of our history head-on and learning from the mistakes of our past is not the same as disparaging our nation, as some lawmakers have implied. In your words, “our nation is on a path, as it has been since its beginning, to become a more perfect union. It is a flawed union, and it has been from the beginning, as people in it have been from the beginning. But it is on a path of becoming a more perfect union. We are on a path of continuously striving to be a nation that

⁵ https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/civil-rights-reimagining-policing/a-lesson-on-critical-race-theory/

⁶ Gadski, Mary Ellen. “The Tennessee State Capitol: An Architectural History.” *Tennessee Historical Quarterly*, vol. 47, no. 2, 1988, pp. 67–120. *JSTOR*, www.jstor.org/stable/42626718. Accessed 7 May 2021.

⁷ <https://www.tn.gov/governor/news/2020/7/8/governor-bill-lee-addresses-the-nathan-bedford-forrest-bust.html>

lives more in unity with a bond of peace.”⁸ Acknowledging and learning from our past is part of this struggle to do better, to move us all forward toward realizing our ideal that all people are created equal.

We owe it to our children to ensure that they learn our full history, and learn *from* our history. We urge you to veto SB 623.

Sincerely,



Hedy Weinberg
Executive Director



Brandon Tucker
Policy Director

ACLU

AMERICAN CIVIL LIBERTIES UNION

Tennessee

⁸ <https://www.tennessean.com/story/news/politics/2020/07/08/tennessee-gov-bill-lee-calls-nathan-bedford-forrest-bust-moved-museum-confederate/5399801002/>