

1-1 By: Middleton, et al. S.B. No. 1396
 1-2 (In the Senate - Filed March 1, 2023; March 16, 2023, read
 1-3 first time and referred to Committee on Education; April 12, 2023,
 1-4 reported adversely, with favorable Committee Substitute by the
 1-5 following vote: Yeas 10, Nays 2; April 12, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14		X		
1-15		X		
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20	X			

1-21 COMMITTEE SUBSTITUTE FOR S.B. No. 1396 By: Flores

1-22 A BILL TO BE ENTITLED
 1-23 AN ACT

1-24 relating to a period of prayer and reading of the Bible or other
 1-25 religious text in public schools.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Subchapter C, Chapter 25, Education Code, is
 1-28 amended by adding Section 25.0823 to read as follows:

1-29 Sec. 25.0823. PERIOD OF PRAYER AND READING OF BIBLE OR OTHER
 1-30 RELIGIOUS TEXT. (a) The board of trustees of a school district or
 1-31 the governing body of an open-enrollment charter school that is not
 1-32 operated by or affiliated with a religious organization may by
 1-33 record vote adopt a policy requiring every campus of the district or
 1-34 school to provide students and employees with an opportunity to
 1-35 participate in a period of prayer and reading of the Bible or other
 1-36 religious text on each school day in accordance with this section.

1-37 (b) A policy adopted under Subsection (a) must prohibit:

1-38 (1) a student or employee of the school district or
 1-39 open-enrollment charter school from being permitted to participate
 1-40 in the period of prayer and reading of the Bible or other religious
 1-41 text unless the employee or parent or guardian of the student
 1-42 submits to the district a signed consent form that includes:

1-43 (A) an acknowledgment that the student or
 1-44 employee has a choice as to whether to participate in the period of
 1-45 prayer and reading of the Bible or other religious text;

1-46 (B) a statement that the person has no objection
 1-47 to the student's or employee's participation in or hearing of the
 1-48 prayers or readings offered during the period; and

1-49 (C) an express waiver of the person's right to
 1-50 bring a claim under state or federal law arising out of the adoption
 1-51 of a policy under this section, including a claim under the
 1-52 Establishment Clause of the First Amendment to the United States
 1-53 Constitution or a related state or federal law, releasing the
 1-54 district or school and district or school employees from liability
 1-55 for those claims brought in state or federal court; and

1-56 (2) the provision of a prayer or reading of the Bible
 1-57 or other religious text over a public address system.

1-58 (c) An employee or parent or guardian of a student may
 1-59 revoke the person's consent provided under Subsection (b)(1) by
 1-60 informing the appropriate school administrator, as determined by

2-1 the school district or open-enrollment charter school. An employee
2-2 or student for whom consent has been revoked under this subsection:

2-3 (1) may not participate in the period of prayer and
2-4 reading of the Bible or other religious text until the employee or
2-5 parent or guardian of the student submits to the district or school
2-6 a new consent form under Subsection (b)(1); and

2-7 (2) remains bound by the waiver described by
2-8 Subsection (b)(1)(C).

2-9 (d) A policy adopted under Subsection (a):

2-10 (1) must include provisions ensuring a prayer or
2-11 reading of the Bible or other religious text is not provided in the
2-12 physical presence of, within the hearing of, or in another manner
2-13 which would constitute an injury in fact within the meaning of the
2-14 United States or Texas Constitution on a person for whom a signed
2-15 consent form has not been submitted under Subsection (b)(1) or has
2-16 been revoked under Subsection (c); and

2-17 (2) in order to comply with this subsection, may
2-18 require that the period of prayer and reading of the Bible or other
2-19 religious text be provided:

2-20 (A) before normal school hours;

2-21 (B) only in classrooms or other areas in which a
2-22 consent form under Subsection (b)(1) has been submitted for every
2-23 employee and student, which may include an entire district or
2-24 school campus if a consent form has been submitted for each employee
2-25 and student at the campus; or

2-26 (C) by any other method recommended by the
2-27 attorney general or legal counsel for the district or school.

2-28 (e) The attorney general, on request from the board of
2-29 trustees of a school district or the governing body of an
2-30 open-enrollment charter school, shall:

2-31 (1) provide advice on best methods for a district or
2-32 school to comply with the requirements of this section;

2-33 (2) provide a model consent form that may be used for
2-34 purposes of providing consent under Subsection (b)(1); and

2-35 (3) defend the district or school in a cause of action
2-36 arising out of the adoption of a policy under Subsection (a).

2-37 (f) If the attorney general defends a district or school
2-38 under Subsection (e)(3), the state is liable for the expenses,
2-39 costs, judgments, or settlements of the claims arising out of the
2-40 representation. The attorney general may settle or compromise any
2-41 and all claims under this subsection. The state may not be liable
2-42 for any expenses, costs, judgments, or settlements of any claims
2-43 arising out of the adoption of a policy under Subsection (a) against
2-44 a district or school not being represented by the attorney general.

2-45 SECTION 2. Section 25.901, Education Code, is amended to
2-46 read as follows:

2-47 Sec. 25.901. EXERCISE OF CONSTITUTIONAL RIGHT TO PRAY. A
2-48 public school student has an absolute right to individually,
2-49 voluntarily, and silently pray or meditate in school in a manner
2-50 that does not disrupt the instructional or other activities of the
2-51 school. A person may not require~~[, encourage,]~~ or coerce a student
2-52 to engage in or refrain from such prayer or meditation during any
2-53 school activity.

2-54 SECTION 3. Each board of trustees of a school district and
2-55 each governing body of an open-enrollment charter school shall take
2-56 a record vote not later than six months after the effective date of
2-57 this Act on whether to adopt a policy requiring every campus of the
2-58 district or school to provide a period of prayer and reading of the
2-59 Bible or other religious text under Section 25.0823, Education
2-60 Code, as added by this Act.

2-61 SECTION 4. This Act applies beginning with the 2023-2024
2-62 school year.

2-63 SECTION 5. This Act takes effect immediately if it receives
2-64 a vote of two-thirds of all the members elected to each house, as
2-65 provided by Section 39, Article III, Texas Constitution. If this
2-66 Act does not receive the vote necessary for immediate effect, this
2-67 Act takes effect September 1, 2023.

2-68 * * * * *