

BILL ANALYSIS

Senate Research Center

H.B. 3678
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Education
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Numerous court decisions have set forth permissible ways in which students may express their religious freedom at school; however, school districts' practices and policies continue to violate the free speech rights of students.

H.B. 3678 clarifies the first amendment rights of students at school by codifying current court decisions regarding religious expression and by authorizing the school district to adopt and implement a policy that establishes a limited public forum, provides certain disclaimers, and sets forth permissible forms of religious expression by students.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the "Religious Viewpoints Antidiscrimination Act" or the "Schoolchildren's Religious Liberties Act."

SECTION 2. Amends Chapter 25, Education Code, by adding Subchapter E, as follows:

SUBCHAPTER E. STUDENT EXPRESSION OF RELIGIOUS VIEWPOINTS

Sec. 25.151. STUDENT EXPRESSION. Requires a school district to treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject. Prohibits the school district from discriminating against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

Sec. 25.152. LIMITED PUBLIC FORUM; SCHOOL DISTRICT POLICY. (a) Requires a school district to adopt a policy, which must include the establishment of a limited public forum for student speakers at all school events at which a student is to publicly speak, to ensure that the district does not discriminate against a student's publicly stated voluntary expression of a religious viewpoint, if any, and to eliminate any actual or perceived affirmative school sponsorship or attribution to the district of a student's expression of a religious viewpoint, if any. Requires the policy to also require the school district to provide the forum in a manner that does not discriminate against a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject; to provide a method, based on neutral criteria, for the selection of student speakers at school events and graduation ceremonies; to ensure that a student speaker does not engage in obscene, vulgar, offensively lewd, or indecent speech, or promote discrimination on the basis of another individual's sex, race, age, sexual preference, or religious beliefs; and to state, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the district.

(b) Requires the school district disclaimer required by Subsection (a)(4) to be provided at all graduation ceremonies. Requires the school district to also continue to provide the disclaimer at any other event in which a student speaks

publicly for as long as a need exists to dispel confusion over the district's nonsponsorship of the student's speech.

(c) Prohibits student expression on an otherwise permissible subject from being excluded from the limited public forum because the subject is expressed from a religious viewpoint.

Sec. 25.153. RELIGIOUS EXPRESSION IN CLASS ASSIGNMENTS. Authorizes students to express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of their submissions. Requires homework and classroom assignments to be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school district. Prohibits students from being penalized or rewarded on account of the religious content of their work.

Sec. 25.154. FREEDOM TO ORGANIZE RELIGIOUS GROUPS AND ACTIVITIES. Authorizes students to organize prayer groups, religious clubs, "see you at the pole" gatherings, or other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Requires religious groups to be given the same access to school facilities for assembling as is given to other noncurricular groups without discrimination based on the religious content of the students' expression. Prohibits a school district from discriminating against groups that meet for prayer or other religious speech if student groups that meet for nonreligious activities are permitted to advertise or announce meetings of the groups. Authorizes a school district to disclaim school sponsorship of noncurricular groups and events in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious speech.

Sec. 25.155. ADOPTION OF POLICY. Requires a school district to adopt and implement a local policy regarding a limited public forum and voluntary student expression of religious viewpoints. Provides that a school district, if the school district voluntarily adopts and follows the model policy governing voluntary religious expression in public schools as provided by Section 25.156, is in compliance with the provisions of this subchapter covered by the model policy.

Sec. 25.156. MODEL POLICY GOVERNING VOLUNTARY RELIGIOUS EXPRESSION IN PUBLIC SCHOOLS. Defines "model policy" and sets forth a form for such model policy.

SECTION 3. Provides that this Act applies beginning with the 2007-2008 school year.

SECTION 4. Effective date: upon passage or September 1, 2007.