relating to a period of prayer in public schools and at school-sponsored athletic events.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 25.082, Education Code, is amended to read as follows:

Sec. 25.082. PLEDGES OF ALLEGIANCE; MINUTE OF SILENCE; PERIOD OF PRAYER; BIBLE READING.

SECTION 2. Section 25.082, Education Code, is amended by amending Subsections (c) and (d) and adding Subsections (e) and (f) to read as follows:

(c) On written request from a student’s parent or guardian, a school district or open-enrollment charter school shall excuse the student from reciting a pledge of allegiance under Subsection (b).

(d) The board of trustees of each school district and the governing board of each open-enrollment charter school shall provide for the observance of one minute of silence at each campus following the recitation of the pledges of allegiance to the United States and Texas flags under Subsection (b). During the one-minute period, each student may, as the student chooses, reflect, pray, meditate, or engage in any other silent activity that is not likely to interfere with or distract another student. Each teacher or other school employee in charge of students during that period
shall ensure that each of those students remains silent and does not act in a manner that is likely to interfere with or distract another student.

(e) The board of trustees of a school district or the governing body of an open-enrollment charter school that is not operated by or affiliated with a religious organization may by record vote adopt a policy requiring every campus of the district or school to provide a period of prayer and readings from the Bible each day. A policy adopted under this Subsection must comply with the requirements of Subsections (f), (g), (h), and (i).

(f) No student, teacher, or school employee may participate in the period of prayer and readings from the Bible unless that individual has executed and submitted to school officials a signed consent form that:

(1) Acknowledges that the signatory has a free choice in whether to hear or participate in the period of prayer and readings from the Bible;

(2) States that the signatory has no objections to hearing or participating in the period of prayer and readings from the Bible; and

(3) Expressly waives any constitutional claims that the signatory might assert against the school district or school officials under the United States Supreme Court's interpretations of the Establishment Clause, Article I, section 7 of the Texas Constitution, or article VII, section 5(c) of the Texas Constitution, and forever releases the school district and all school officials from any such claims that the signatory might
assert in state or federal court.

(g) An individual who submits the consent form described in this subsection may revoke that consent at any time by informing school officials.

(h) Under no circumstance may a period of prayer and readings from the Bible authorized by this Section be conducted over a public address system, or in the presence or in the hearing of any student, teacher, or school employee who has not submitted the signed consent form described in Subsection (f), or who has revoked their consent form under subsection (g).

(i) A policy adopted under Subsection (e) must ensure that every student, teacher, and school employee who has not submitted the signed consent form described in Subsection (f), or who has revoked their consent form under Subsection (g), is protected from anything that would inflict "injury in fact" under Article III of the Constitution. This can be accomplished by:

(1) Holding the period of prayer and readings from the Bible before the official start of each school day;

(2) Allowing the period of prayer and readings from the Bible to occur only in classrooms where each student, teacher, and school employee has submitted the signed consent form described in Subsection (f);

(3) Obtaining unanimous consent from every student, teacher, and employee at that school under Subsection (f); or

(4) Any other method recommended by the Attorney General or by legal counsel.

(j) The attorney general, on request from the board of
trustees of a school district or the governing body of an
open-enrollment charter school, shall provide advice regarding
compliance with this section, including drafts of the consent forms
described in Subsection (f), and shall defend the district or
school in a cause of action arising out of the adoption of a policy
providing for a period of prayer and readings from the Bible under
Subsection (e). If the attorney general defends a district or
school under this subsection, the state is liable for the expenses,
costs, judgments, or settlements of the claims arising out of the
representation. The attorney general may settle or compromise any
and all claims under this subsection. The state may not be liable
for any expenses, costs, judgments, or settlements of any claims
arising out of the adoption of a policy providing for a period of
prayer under Subsection (e) against a district or school not being
represented by the attorney general.

(k) Any person, entity, lawyer, or law firm bringing a cause
of action arising out of the adoption of a policy providing for a
period of prayer under Subsection (e) against a district or school,
in any state or federal court, or that represents any litigant
seeking such relief in any state or federal court, shall be jointly
and severally liable to pay the costs and attorneys' fees of the
prevailing party or parties, notwithstanding any other provision of
law.

(l) A litigant shall be deemed a "prevailing party" under
this section if a state or federal court dismisses any claim or
cause of action brought against it that seeks the relief described
in subsection (k), regardless of the reason for such dismissal, or
if a state or federal court enters judgment in its favor on any such
claim or cause of action.

(m) A prevailing party under this section may bring a civil
action to recover costs and attorneys' fees against a person,
entity, lawyer, or law firm that sought declaratory or injunctive
relief described in subsection (a) within three (3) years of the
date on which the dismissal or judgment described in subsection (b)
becomes final upon the conclusion of appellate review, or within
three (3) years of the date on which the time for seeking appellate
review expires, regardless of whether the prevailing party sought
to recover costs or attorneys' fees in the underlying action. It
shall not be a defense that the prevailing party failed to seek
recovery of costs or attorneys' fees in the underlying action, and
it shall not be a defense that the court in the underlying action
deprecated to recognize or enforce the requirements of this section.

(n) An award of costs and attorneys' fees under this section
shall include interest.

(o) Notwithstanding any other law, a school district and
open-enrollment charter school shall have governmental immunity,
and every trustee of a school district, every member of a governing
body of an open-enrollment charter school, and every school
employee shall have official immunity, in any in any action, claim
or counterclaim, or any type of legal or equitable action that
challenges the validity or enforcement of any policy authorized by
Subsection (e), on constitutional grounds or otherwise, and no
court of this state shall have jurisdiction to consider any action,
claim or counterclaim, or any type of legal or equitable action that
challenges the validity or enforcement of any policy authorized by Subsection (e).

(p) Notwithstanding any other law, no provision of state law may be construed to waive or abrogate an immunity described by Subsection (o) unless it explicitly repeals Subsection (o) with specific reference to that subsection.

SECTION 3. Section 25.901, Education Code, is amended to read as follows:

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

SECTION 4. Each board of trustees of a school district and each governing body of an open-enrollment charter school shall take a record vote not later than six months after the effective date of this Act on whether to adopt a policy requiring every campus of the district or school to provide a period of prayer under Section 25.082(e), Education Code, as added by this Act.

SECTION 5. This Act applies beginning with the 2021-2022 school year.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this
1 Act takes effect September 1, 2021.