

BILL ANALYSIS

Senate Research Center
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S.B. 9
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 9 would require Texas public elementary and secondary schools to display the Ten Commandments in each classroom. At present, Texas public schools have no such requirement, and this legislation only became legally feasible with the United States Supreme Court's opinion last year in *Kennedy v. Bremerton School District*, 142 S. Ct. 2407 (2022), which overturned the *Lemon* test under the Establishment Clause (found in *Lemon v. Kurtzman*, 403 U.S. 602 (1971)) and instead provided a test of whether a governmental display of religious content comports with America's history and tradition.

Stone v. Graham, 449 U.S. 39 (1980), had held that the *Lemon* test prohibited public schools' display of the Ten Commandments; but, with the end of *Lemon*, *Stone v. Graham* is no longer applicable. Many public schools prior to *Stone v. Graham* did display the Ten Commandments, as a part of America's history and tradition. See *American Legion v. American Humanist Association*, 139 S. Ct. 2067, 2083 (2019) (noting that the Fraternal Order of Eagles used to distribute copies of the Ten Commandments to school groups).

Religious liberty was a bedrock of America's founding. For the last several decades, expression of that liberty has been restricted. However, thanks to this recent SCOTUS opinion, those restrictions have been lifted. S.B. 9 restores those liberties that were lost, and reminds students all across Texas of the importance of a fundamental foundation of American and Texas law—the Ten Commandments.

As proposed, S.B. 9 amends current law relating to the display of the Ten Commandments in public school classrooms.

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. Amends Chapter 1, Education Code, by adding Section 1.0041, as follows:

Sec. 1.0041. DISPLAY OF TEN COMMANDMENTS. (a) Requires a public elementary or secondary school to display in a conspicuous place in each classroom of the school a durable poster or framed copy of the Ten Commandments that meets the requirements of Subsection (b).

(b) Requires that a poster or framed copy of the Ten Commandments described by Subsection (a):

(1) include the text of the Ten Commandments as provided by Subsection (c) in a size and typeface that is legible to a person with average vision from anywhere in the classroom in which the poster or framed copy is displayed; and

(2) be at least 16 inches wide and 20 inches tall.

(c) Sets forth the language required to be included on the poster or framed copy of the Ten Commandments described by Subsection (a).

(d) Requires a public elementary or secondary school in which each classroom does not include a poster or framed copy of the Ten Commandments as required by Subsection (a) to:

(1) accept any offer of a privately donated poster or framed copy of the Ten Commandments provided that the poster or copy:

(A) meets the requirements of Subsection (b); and

(B) does not contain any additional content; and

(2) display the poster or framed copy as specified in Subsection (a).

(e) Authorizes a public elementary or secondary school, if the school has a poster or framed copy of the Ten Commandments in each classroom that does not meet the requirements of Subsection (b), to replace the posters or copies with posters or copies that meet the requirements of Subsection (b) using public funds or by accepting a private donation.

(f) Requires a public elementary or secondary school to offer a poster or framed copy of the Ten Commandments described by Subsection (a) in the school's possession that is not needed for display in a classroom as a donation to another public elementary or secondary school.

SECTION 2. Provides that this Act applies beginning with the 2023–2024 school year.

SECTION 3. Effective date: upon passage or the 91st day after the last day of the legislative session.