

By: Middleton, et al.

S.B. No. 1396

A BILL TO BE ENTITLED

AN ACT

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

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

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

Sec. 25.0823. PERIOD OF PRAYER AND READING OF BIBLE OR OTHER RELIGIOUS TEXT. (a) 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 students and employees with an opportunity to participate in a period of prayer and reading of the Bible or other religious text on each school day in accordance with this section.

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

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

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

(B) a statement that the person has no objection

1 to the student's or employee's participation in or hearing of the
2 prayers or readings offered during the period; and

3 (C) an express waiver of the person's right to
4 bring a claim under state or federal law arising out of the adoption
5 of a policy under this section, including a claim under the
6 Establishment Clause of the First Amendment to the United States
7 Constitution or a related state or federal law, releasing the
8 district or school and district or school employees from liability
9 for those claims brought in state or federal court;

10 (2) the provision of a prayer or reading of the Bible
11 or other religious text over a public address system; and

12 (3) a period of prayer or reading of the Bible or other
13 religious text may not be a substitute for instructional time.

14 (c) An employee or parent or guardian of a student may
15 revoke the person's consent provided under Subsection (b)(1) by
16 informing the appropriate school administrator, as determined by
17 the school district or open-enrollment charter school. An employee
18 or student for whom consent has been revoked under this subsection:

19 (1) may not participate in the period of prayer and
20 reading of the Bible or other religious text until the employee or
21 parent or guardian of the student submits to the district or school
22 a new consent form under Subsection (b)(1); and

23 (2) remains bound by the waiver described by
24 Subsection (b)(1)(C).

25 (d) A policy adopted under Subsection (a):

26 (1) must include provisions ensuring a prayer or
27 reading of the Bible or other religious text is not provided in the

1 physical presence of, within the hearing of, or in another manner
2 which would constitute an injury in fact within the meaning of the
3 United States or Texas Constitution on a person for whom a signed
4 consent form has not been submitted under Subsection (b)(1) or has
5 been revoked under Subsection (c); and

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

9 (A) before normal school hours;

10 (B) only in classrooms or other areas in which a
11 consent form under Subsection (b)(1) has been submitted for every
12 employee and student, which may include an entire district or
13 school campus if a consent form has been submitted for each employee
14 and student at the campus; or

15 (C) by any other method recommended by the
16 attorney general or legal counsel for the district or school.

17 (e) The attorney general, on request from the board of
18 trustees of a school district or the governing body of an
19 open-enrollment charter school, shall:

20 (1) provide advice on best methods for a district or
21 school to comply with the requirements of this section;

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

24 (3) defend the district or school in a cause of action
25 arising out of the adoption of a policy under Subsection (a).

26 (f) If the attorney general defends a district or school
27 under Subsection (e)(3), the state is liable for the expenses,

1 costs, judgments, or settlements of the claims arising out of the
2 representation. The attorney general may settle or compromise any
3 and all claims under this subsection. The state may not be liable
4 for any expenses, costs, judgments, or settlements of any claims
5 arising out of the adoption of a policy under Subsection (a) against
6 a district or school not being represented by the attorney general.

7 (g) Regardless of whether the board of trustees of a school
8 district or the governing body of an open-enrollment charter school
9 adopts a policy under Subsection (a), this section does not
10 prohibit a student or employee of the district or school from
11 participating in prayer or reading the Bible or other religious
12 text during a period of the school day that is not designated as a
13 period of prayer and reading of the Bible or other religious text.

14 SECTION 2. Section 25.901, Education Code, is amended to
15 read as follows:

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

23 SECTION 3. Each board of trustees of a school district and
24 each governing body of an open-enrollment charter school shall take
25 a record vote not later than six months after the effective date of
26 this Act on whether to adopt a policy requiring every campus of the
27 district or school to provide a period of prayer and reading of the

1 Bible or other religious text under Section 25.0823, Education
2 Code, as added by this Act.

3 SECTION 4. This Act applies beginning with the 2023-2024
4 school year.

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