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| BILL ANALYSIS |

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| S.B. 11 |
| By: Middleton |
| State Affairs |
| Committee Report (Unamended) |

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| **BACKGROUND AND PURPOSE** The bill sponsor has informed the committee that, following recent U.S. Supreme Court decisions such as *Kennedy v. Bremerton School District*, public school districts have greater clarity regarding permissible religious expression by students and employees, as these rulings clarified that voluntary religious activity in public schools, including prayer and scripture reading, may be constitutionally protected under the Free Exercise and Free Speech Clauses of the First Amendment, provided it does not coerce participation or disrupt the school environment.S.B. 11 seeks to offer districts and open-enrollment charter schools a structured and legally defensible option for allowing religious expression at school while preserving the rights of those who do not wish to participate by authorizing the board of a district or governing body of a charter school to adopt a policy by resolution, subject to specific requirements designed to protect constitutional rights and prevent coercion. The bill provides for participation to be voluntary and requires a signed consent form from employees or students' parents or guardians. The bill also requires the consent form to include a waiver of legal claims under state or federal law, including claims under the Establishment Clause, thereby releasing the school and its employees from liability.To prevent unintended exposure, the bill prohibits any prayer or reading of religious texts in the physical presence or hearing of individuals without submitted consent forms. Additionally, the bill prohibits activities conducted under this policy from replacing instructional time or from being broadcast over a public address system. The bill authorizes the office of the attorney general, on request, to be authorized to assist with implementation, including providing model forms and legal defense. |
| **CRIMINAL JUSTICE IMPACT**It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **RULEMAKING AUTHORITY** It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution. |
| **ANALYSIS**S.B. 11 amends the Education Code to authorize the board of trustees of a public school district or the governing body of an open-enrollment charter school that is not operated by or affiliated with a religious organization to, by record vote on a resolution, adopt a policy requiring every campus of the district or charter 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 the bill's provisions. The bill sets out the statement the resolution to adopt such a policy must include and requires the policy to prohibit the following: * a student or employee of the district or 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 or charter school a signed consent form that includes:
	+ 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;
	+ a statement that the person has no objection to the student's or employee's participation in or hearing of the prayers or readings offered during the period; and
	+ an express waiver of the person's right to bring a claim under state or federal law arising out of the adoption of a policy under the bill, including a claim under the Establishment Clause of the First Amendment to the U.S. Constitution or a related state or federal law, releasing the district or school and their employees from liability for those claims brought in state or federal court; and
* the provision of a prayer or reading of the Bible or other religious text over a public address system.

The bill requires the policy to specify that a period of prayer or reading of the Bible or other religious text may not be a substitute for instructional time.S.B. 11 requires an adopted policy to include provisions ensuring a prayer or reading of the Bible or other religious text is not provided in the physical presence of, within the hearing of, or in another manner which would constitute an injury in fact within the meaning of the United States or Texas Constitution on a person for whom a signed consent form has not been submitted or revoked under the bill's provisions. In order to comply with that requirement, an adopted policy may require that the period of prayer and reading of the Bible or other religious text be provided before normal school hours, only in classrooms or other areas in which a consent form has been submitted for every employee and student, which may include an entire district or charter school campus if a consent form has been submitted for each employee and student at the campus, or by any other method recommended by the attorney general or legal counsel for the district or charter school. S.B. 11 authorizes an employee or a student's parent or guardian to revoke the person's consent provided under the bill's provisions by informing the appropriate school administrator, as determined by the district or charter school. The bill prohibits an employee or student for whom consent has been revoked from participating in the period of prayer and reading of the Bible or other religious text until the employee or the student's parent or guardian submits to the district or school a new consent form and establishes that such a person remains bound by the express waiver of the person's right to bring a claim.S.B. 11 requires the attorney general, on request from the district's board of trustees or the charter school's governing body, to take the following actions:* provide advice on best methods for a district or school to comply with the bill's requirements;
* provide a model consent form that may be used for purposes of providing consent under the bill's provisions; and
* defend the district or charter school in a cause of action arising out of the adoption of a policy under the bill's provisions.

The state is liable for the expenses, costs, judgments, or settlements of the claims arising out of the representation if the attorney general defends a district or charter school in such a cause of action, and the attorney general may settle or compromise any and all claims under this provision. The bill prohibits the state from being liable for any expenses, costs, judgments, or settlements of any claims arising out of the adoption of a policy against a district or charter school not being represented by the attorney general.S.B. 11 expressly does not prohibit a student or employee of the district or school from participating in prayer or reading the Bible or other religious text during a period of the school day that is not designated as a period of prayer and reading of the Bible or other religious text, regardless of whether the district's board of trustees or the charter school's governing body adopts the policy.With respect to the prohibition in current law on a person requiring, encouraging, or coercing a student to engage in or refrain from their 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, S.B. 11 removes as prohibited conduct encouraging a student to engage in or refrain from such prayer or meditation during any school activity.S.B. 11 requires each district's board of trustees and each charter school's governing body, not later than six months after the bill's effective date, to take a record vote on whether to adopt such a resolution. S.B. 11 applies beginning with the 2025-2026 school year.  |
| **EFFECTIVE DATE** On passage, or, if the bill does not receive the necessary vote, September 1, 2025. |