

BILL ANALYSIS

Senate Research Center
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S.B. 11
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

With *Kennedy v. Bremerton School District*, the Supreme Court of the United States affirmed the free exercise of religion in a school setting, abandoning the *Lemon* test. The Free Exercise and Free Speech Clauses of the First Amendment protect an individual's right to freely engage in religious observance. S.B. 11 seeks to expand protections of religious liberties in our public schools.

S.B. 11 outlines the framework that a school district or open-enrollment charter school may use when establishing a policy to provide for a period of prayer and reading of the Bible or other religious texts. The framework closely tracks existing caselaw on the subject and would require a consent form to participate. Further, a policy adopted under this bill must ensure that an established period for prayer and the reading of the Bible or other religious texts is not in the physical presence or within the hearing of a person for whom a signed consent form has not been submitted. Additionally, the bill clarifies that a period for prayer and the reading of the Bible or other religious texts established may not be a substitute for instructional time.

Finally, the bill requires the Attorney General of Texas, on request from the governing body of a school district or open-enrollment charter school, to provide advice on the best methods for compliance, a model consent form that may be used, and defend the school district or open-enrollment charter school in a cause of action arising from the adoption of a policy.

As proposed, S.B. 11 amends current law relating to a period of prayer and reading of the Bible or other religious text in public schools.

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 Subchapter C, Chapter 25, Education Code, by adding Section 25.0823, as follows:

Sec. 25.0823. PERIOD OF PRAYER AND READING OF BIBLE OR OTHER RELIGIOUS TEXT. (a) Authorizes 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 to by record vote on a resolution described by Subsection (a-1) to 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.

(a-1) Sets forth the required language of a resolution to adopt a policy under Subsection (a).

(b) Requires that a policy adopted under Subsection (a):

(1) prohibit 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 or school 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 to the student's or employee's participation in or hearing of the prayers or readings offered during the period; and

(C) 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 this section, including a claim under the Establishment Clause of the First Amendment to the United States Constitution or a related state or federal law, releasing the district or school and district or school employees from liability for those claims brought in state or federal court;

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

(3) specify that a period of prayer or reading of the Bible or other religious text is prohibited from being a substitute for instructional time.

(c) Authorizes an employee or a parent or guardian of a student to revoke the person's consent provided under Subsection (b)(1) by informing the appropriate school administrator, as determined by the school district or open-enrollment charter school. Provides that an employee or student for whom consent has been revoked under this subsection:

(1) is prohibited from participating in the period of prayer and reading of the Bible or other religious text until the employee or parent or guardian of the student submits to the district or school a new consent form under Subsection (b)(1); and

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

(d) Provides that a policy adopted under Subsection (a) is:

(1) required 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 under Subsection (b)(1) or has been revoked under Subsection (c); and

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

(A) before normal school hours;

(B) only in classrooms or other areas in which a consent form under Subsection (b)(1) has been submitted for every employee and student, which is authorized to include an entire school district

or open-enrollment charter school campus if a consent form has been submitted for each employee and student at the campus; or

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

(e) Requires the attorney general, on request from the board of trustees of a school district or the governing body of an open-enrollment charter school, to:

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

(2) provide a model consent form that is authorized to be used for purposes of providing consent under Subsection (b)(1); and

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

(f) Provides that, if the attorney general defends a school district or open-enrollment charter school under Subsection (e)(3), the state is liable for the expenses, costs, judgments, or settlements of the claims arising out of the representation. Authorizes the attorney general to settle or compromise any and all claims under this subsection. Prohibits the state from being liable for any expenses, costs, judgments, or settlements of any claims arising out of the adoption of a policy under Subsection (a) against a district or school not being represented by the attorney general.

(g) Provides that, regardless of whether the board of trustees of a school district or the governing body of an open-enrollment charter school adopts a policy under Subsection (a), this section 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.

SECTION 2. Amends Section 25.901, Education Code, as follows:

Sec. 25.901. EXERCISE OF CONSTITUTIONAL RIGHT TO PRAY. Deletes existing text prohibiting a person from encouraging a student to engage in or refrain from such prayer or meditation during any school activity.

SECTION 3. Requires each board of trustees of a school district and each governing body of an open-enrollment charter school, not later than six months after the effective date of this Act, to take a record vote on whether to adopt a resolution described by Section 25.0823(a-1), Education Code, as added by this Act.

SECTION 4. Provides that this Act applies beginning with the 2025–2026 school year.

SECTION 5. Effective date: upon passage or September 1, 2025.