

HOUSE BILL No. 2431

By Representatives Meyer, Oropeza and S. Ruiz

1-9

1 AN ACT concerning education; enacting the student secular bill of rights;
2 establishing statutory protections against religious coercion and
3 discrimination in public schools; providing a cause of action for
4 students and parents for violations thereof.
5

6 WHEREAS, The separation of religion and government is a
7 cornerstone of American jurisprudence recognized foremost in the First
8 Amendment to the Constitution of the United States and in all fifty of the
9 states' constitutions; and

10 WHEREAS, Protecting religious freedom and conscience rights serves
11 students of all faiths and none, ensuring that no student is compelled to
12 participate in religious exercises against their beliefs or nonbeliefs; and

13 WHEREAS, In 1802, President Thomas Jefferson, an original
14 supporter of the First Amendment, alongside primary author James
15 Madison, described the First Amendment as "building a wall of separation
16 between church and state"; and

17 WHEREAS, In 1947, the Supreme Court of the United States in the
18 case *Everson v. Board of Education* declared that, "The First Amendment
19 has erected a wall between church and state. That wall must be kept high
20 and impregnable. We could not approve the slightest breach"; and

21 WHEREAS, In the same case, the Supreme Court also declared that the
22 Establishment Clause means "at least" the following: "Neither a state nor
23 the Federal Government can set up a church. Neither can pass laws which
24 aid one religion, aid all religions, or prefer one religion over another . . .
25 No tax in any amount, large or small, can be levied to support any
26 religious activities or institutions . . . Neither a state nor the Federal
27 Government can, openly or secretly, participate in the affairs of any
28 religious organizations or groups, and vice versa. In the words of
29 Jefferson, the clause against establishment of religion by law was intended
30 to erect 'a wall of separation between Church and State'"; and

31 WHEREAS, Democrats and Republicans alike, united in dedication to
32 America's founding principles, have recognized the indispensable principle
33 of separation between church and state, with President Ronald Reagan
34 saying in 1984 that, "We establish no religion in this country. We
35 command no worship. We mandate no belief, nor will we ever. Church and
36 state are and must remain separate"; and

1 WHEREAS, All persons have the fundamental and inalienable right to
2 worship, or not, according to the dictates of their own conscience, free
3 from governmental influence or interference, so long as their practices do
4 not excuse acts of lawlessness or justify practices inconsistent with the
5 order, peace, or safety of the state, or the rights of others; and

6 WHEREAS, In the 1948 decision *McCullum v. Board of Education*, the
7 Supreme Court held that a "released time" program in public schools,
8 where religious instruction was provided by outside teachers during school
9 hours, violated the establishment clause because using public school
10 facilities and resources to "aid any or all religious faiths or sects in the
11 dissemination of their doctrines and ideals" constituted an unconstitutional
12 endorsement of religion; and

13 WHEREAS, In the 1962 decision *Engel v. Vitale*, the Supreme Court
14 held that prayer composed by the state and recited over the intercom in
15 public schools violates the Establishment Clause; and

16 WHEREAS, In the 1968 decision *Epperson v. Arkansas*, the Supreme
17 Court held that a state law prohibiting the teaching of evolution in public
18 schools violated the Establishment Clause because the law was enacted to
19 advance a particular religious viewpoint, constituting government
20 endorsement of religion; and

21 WHEREAS, In the 1980 decision *Stone v. Graham*, the Supreme Court
22 held that a law requiring the posting of privately funded Ten
23 Commandments displays in public school classrooms violated the
24 Establishment Clause because the "pre-eminent purpose for posting the
25 Ten Commandments on schoolroom walls is plainly religious in nature";
26 and

27 WHEREAS, In the 1987 decision *Edwards v. Aguillard*, the Supreme
28 Court held that a Louisiana law prohibiting the teaching of evolution
29 unless accompanied by instruction in "creation science" was
30 unconstitutional because the "preeminent purpose of the Louisiana
31 Legislature was clearly to advance the religious viewpoint that a
32 supernatural being created humankind," while an offered secular purpose
33 for the law was "a sham"; and

34 WHEREAS, In the 1992 decision *Lee v. Weisman*, the Supreme Court
35 held that public schools cannot provide even nonsectarian prayer at public
36 school events, that "preservation and transmission of religious beliefs and
37 worship is a responsibility and choice committed to the private sphere,"
38 and that it was not a remedy to simply say that students could avoid the
39 prayer by foregoing their own graduation; and

40 WHEREAS, In the 2000 decision *Santa Fe Independent School*
41 *District v. Doe*, the Supreme Court held that school-sponsored prayer at a
42 public school event violates the Constitution of the United States by
43 sending the message to nonbelievers that "they are outsiders, not full

1 members of the political community," even when those prayers are student
2 led; and

3 WHEREAS, These rulings by the Supreme Court of the United States
4 are in danger of being overturned or otherwise eroded by future rulings;
5 and

6 WHEREAS, The protection of religious and academic freedom in
7 public schools must be strengthened through statutory protections to
8 preserve the integrity of public education and ensure all students may
9 exercise their fundamental rights; and

10 WHEREAS, The Constitution of the State of Kansas provides a vehicle
11 for protecting these rights at the state level; and

12 WHEREAS, It is the state's inherent duty as sovereign to guarantee the
13 rights of its people.

14 Now, therefore:

15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. The provisions of sections 1 through 6, and amendments
17 thereto, shall be known and may be cited as the student secular bill of
18 rights.

19 Sec. 2. As used in sections 1 through 5, and amendments thereto:

20 (a) "Academic study of religion" means objective, educational
21 examination of religious traditions, texts, history or practices for secular
22 scholarly purposes when conducted in a manner that neither promotes nor
23 denigrates any particular religious belief or nonbelief.

24 (b) "Club" means an extracurricular student group recognized by the
25 school district.

26 (c) "Endorsement" means a governmental practice that a reasonable
27 observer would view as government approval, favor or disapproval of a
28 religion or a particular religious belief.

29 (d) "Nonparticipatory capacity" means presence at a student religious
30 club meeting or event solely for supervisory purposes without lecturing,
31 proselytizing, praying, preaching, planning or otherwise engaging in a
32 religious activity.

33 (e) "Official capacity" means:

34 (1) Performing official duties or furthering the work of a school
35 district; or

36 (2) acting under or with power or authority granted by virtue of
37 employment by or association with a school district.

38 (f) "Prayer" means a communication, either spoken or written,
39 directed toward a deity, deities or other supernatural or spiritual force,
40 including, but not limited to, a benediction, invocation, chant or request for
41 guidance, blessing, forgiveness or intervention.

42 (g) "Proselytizing" means attempting to convert individuals from one
43 religion, religious belief or nonbelief to another through persuasion or

1 inducement.

2 (h) "Religious activity" means any practice, observance or expression
3 intended primarily for religious purposes, including, but not limited to,
4 prayer, worship, religious instruction or proselytizing.

5 (i) "Religious display" means any visual presentation of religious
6 symbols, texts, imagery or artifacts that conveys a religious message or
7 promotes religious beliefs.

8 (j) "Religious text" means writing that is used primarily for
9 devotional, worship or proselytizing purposes rather than for legitimate
10 academic study of religion, religious history or comparative religion.

11 (k) "School district" means a school district organized and operating
12 under the laws of this state.

13 (l) (1) "School event" means any activity conducted at a school
14 district facility or sponsored, conducted or supervised by a school district
15 employee acting in such employee's official capacity. "School event"
16 includes, but is not limited to: graduation, grade-promotion ceremony,
17 award program, induction ceremony, pep rally, competition, practice,
18 performance, class instructional time or club meeting or event.

19 (2) "School event" does not include:

20 (A) A student religious club meeting or event if any school district
21 employees who are in attendance are present in a nonparticipatory
22 capacity;

23 (B) an activity at a school district facility if such activity is conducted
24 outside the presence of students and does not include any school district
25 employee who is acting in any official capacity; or

26 (C) an activity at a school district facility that is:

27 (i) Used by a third party pursuant to a standard facility use agreement
28 or by prior written permission that specifies the third-party user, the use
29 period, the facility to be used, the purpose of such use and any terms and
30 conditions of such use, and such use occurs during the agreed period;

31 (ii) consistent with use by other third-party users;

32 (iii) does not include any school district employee who is acting in
33 any official capacity; and

34 (iv) conducted outside of regular school hours.

35 (m) "School property" means any building, facility, grounds or
36 vehicle owned, leased or controlled by a school district.

37 (n) "Secular purpose" means an objective that is not primarily
38 religious in nature and serves a legitimate educational, administrative or
39 civic function.

40 Sec. 3. (a) All students enrolled in a school district shall have the
41 right to:

42 (1) Practice any religion of such student's choice on school property
43 or at school events, except that such practices shall be orderly and shall not

- 1 inhibit the operations or safety of any school district facility or infringe on
2 the rights of any other person;
- 3 (2) not practice any religion on school property or at school events;
- 4 (3) not be discriminated against based on such student's religious
5 beliefs or lack thereof;
- 6 (4) be free from school-sponsored religious teachings or practices of
7 all kinds on school property or at school events, including, but not limited
8 to:
- 9 (A) Prayer led by school district employees;
- 10 (B) prayer led by adults not employed by the school district or other
11 students if such prayer is:
- 12 (i) Sponsored by the school or school district; or
- 13 (ii) supported by the school or school district by means of marketing,
14 planning, audio-visual equipment or endorsement by any school district
15 employee or the school itself;
- 16 (C) any religious instruction as part of a school curriculum; or
- 17 (D) required or coerced reading of religious texts other than for the
18 academic study of religion;
- 19 (5) be free of school-sponsored religious displays on school property
20 or at school events, including, but is not limited to:
- 21 (A) Statements of religious doctrine;
- 22 (B) symbols of any particular religion; or
- 23 (C) depictions of holy figures, prophets or spiritual leaders for the
24 purpose of promoting religious adherence;
- 25 (6) be free from school-sponsored religious messaging on school
26 property or at school events;
- 27 (7) refuse to engage in religious discussions or otherwise reject
28 unwanted proselytizing by other students; and
- 29 (8) not be offered any type of benefit or other incentive, including,
30 but not limited to, money, food, school supplies or other items not
31 otherwise available in the school, by a school district employee to
32 participate in a religious activity during school hours that are facilitated by
33 third-party organizations.
- 34 (b) This section shall not be construed to prohibit:
- 35 (1) Religious displays that are wardrobe items of a de minimis nature,
36 including, but not limited to, necklaces, rings or headdresses;
- 37 (2) religious displays kept by a school district employee in such
38 employee's private work space, provided such work space cannot be
39 readily viewed by students and the public;
- 40 (3) student-created religious expression in individual assignments or
41 projects, provided the work on such assignments or projects addresses the
42 learning objectives required by the curriculum; or
- 43 (4) reasonable accommodation of religious practices, including, but

1 not limited to:

2 (A) Reasonable scheduling accommodations for religious
3 observances;

4 (B) dietary accommodations consistent with religious requirements;

5 (C) hairstyles or personal grooming practices consistent with
6 religious or cultural practices; or

7 (D) wearing of religious items, jewelry and regalia, including
8 indigenous traditional regalia and religious items.

9 (c) Nothing in this section shall be construed to repeal, modify or
10 otherwise supercede the provisions of K.S.A. 72-9930, and amendments
11 thereto.

12 Sec. 4. (a) The board of education of each school district shall adopt
13 policies and procedures establishing a formal grievance procedure for
14 students, parents and school district employees to report violations of
15 section 3, and amendments thereto. Such policies and procedures shall
16 provide the following:

17 (1) All reported violations shall be acknowledged in writing by
18 designated school district personnel within seven days after the report is
19 received;

20 (2) all reported violations shall be investigated by designated school
21 district personnel within 30 days after the report is received; and

22 (3) within 10 days after the conclusion of any investigation, a written
23 determination of whether a violation occurred, and an action plan, if
24 necessary, identifying specific steps necessary for remediation of any such
25 violations shall be provided to the person who reported the violation and
26 distributed to school district employees and students as needed.

27 (b) Any student or parent of a student may bring a cause of action in a
28 court of competent jurisdiction for any violation of section 4, and
29 amendments thereto, committed against such student. The plaintiff in any
30 such action may seek damages, an injunction or other equitable relief. The
31 court may award reasonable attorney fees to the prevailing party in any
32 such action. Such action shall be brought within two years after the date of
33 the alleged violation.

34 (c) No school district employee shall be subject to discipline,
35 retaliation or any other adverse action for making a good faith report of a
36 violation of section 3, and amendments thereto.

37 Sec. 5. (a) On or before October 1, 2026, the state board of education
38 shall develop and provide guidance on the implementation of the
39 provisions of the student secular bill of rights. Such guidance shall include
40 model policies and training materials for school district employees on
41 compliance with the act.

42 (b) On or before January 1, 2027, the board of education of each
43 school district shall adopt policies and procedures for the implementation

1 of the student secular bill of rights. Such policies and procedures shall be
2 modeled on the guidance provided by the state board of education and
3 shall include required training for school district employees on compliance
4 with the act.

5 Sec. 6. Sections 1 through 5, and amendments thereto, are declared
6 severable. Any provision of sections 1 through 5, and amendments thereto,
7 or the application thereof to any person or circumstance that is held to be
8 unconstitutional or invalid shall not affect the validity of any remaining
9 provisions of sections 1 through 5, and amendments thereto, or the
10 applicability of such provisions to any person or circumstance.

11 Sec. 7. This act shall take effect and be in force from and after its
12 publication in the statute book.