

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2429

By: Kern

AS INTRODUCED

An Act relating to schools; creating the Student Freedom of Religious Expression in Schools Act; stating legislative findings; stating purpose of the Freedom of Religious Expression in Schools Act; providing for definitions; limiting right to carry out certain religious activities; listing religious activities a student is permitted to carry out in public schools; providing administrative remedy; prohibiting civil actions until administrative remedy is exhausted; limiting effect of act on certain rights and federal, state, or local law; requiring the State Department of Education to send copies of the act to school districts annually; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-101 of Title 70, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Student Freedom of Religious Expression in Schools Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-102 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Legislature finds the following:

1. Judicial decisions concerning religion, free speech, and public education are widely misunderstood and misapplied;

2. Confusion surrounding these decisions has caused some to be less accommodating of the religious liberty and free speech rights of students than permitted under the First Amendment to the United States Constitution;

3. Confusion surrounding these decisions has resulted in needless conflicts and litigation;

4. The Supreme Court of the United States has ruled that the establishment clause of the First Amendment to the United States Constitution requires that public schools neither advance or inhibit religion. Public schools should be neutral in matters of faith and should treat religion with fairness and respect;

5. Neutrality to religion does not require hostility to religion. The establishment clause does not prohibit reasonable accommodation of religion, nor does the clause prohibit appropriate teaching about religion;

6. Accommodation of religion is required by the free speech and free exercise clauses of the First Amendment to the United States Constitution; and

7. Setting forth the religious liberty rights of students in a statute would assist students and parents in the enforcement of the religious liberty rights of students and would provide impetus to efforts in public schools to accommodate religious belief in feasible cases.

B. The purpose of the Freedom of Religious Expression in Schools Act is to create a safe harbor for schools desiring to avoid litigation and to allow the free speech and religious liberty rights of students to the extent permissible under the establishment clause.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-103 of Title 70, unless there is created a duplication in numbering, reads as follows:

As used in the Freedom of Religious Expression in Schools Act, unless the context requires otherwise:

1. "Establishment clause" means the portion of the First Amendment to the United States Constitution that forbids laws respecting an establishment of religion;

2. "Free exercise clause" means the portion of the First Amendment to the United States Constitution that forbids laws prohibiting the free exercise of religion;

3. "Free speech clause" means the portion of the First Amendment to the United States Constitution that forbids laws abridging the freedom of speech;

4. "Public school" means a public school as defined in Section 1-106 of Title 70 of the Oklahoma Statutes; and

5. "Student" means an individual enrolled in and attending a public school.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-104 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. A student shall have the right to carry out an activity described in paragraphs 1 through 5 of subsection B of this section, if the student does not:

1. Infringe on the rights of the school to:

- a. maintain order and discipline,
- b. prevent disruption of the educational process, and
- c. determine educational curriculum and assignments; or

2. Coerce other persons to participate in the activity.

B. Subject to the provisions of subsection A of this section, a student shall be permitted to voluntarily:

1. Pray in a public school, vocally or silently, alone or with other students to the same extent and under the same circumstances as a student is permitted to vocally or silently reflect, meditate, or speak on nonreligious matters alone or with other students in the public school;

2. Express religious viewpoints in a public school to the same extent and under the same circumstances as a student is permitted to express viewpoints on nonreligious topics or subjects in the school;

3. Speak to and attempt to discuss religious viewpoints with other students in a public school to the same extent and under the same circumstances as a student is permitted to speak to and attempt to share nonreligious viewpoints with other students;

4. Distribute religious literature in a public school, subject to reasonable time, place, and manner restrictions to the same extent and under the same circumstances as a student is permitted to distribute literature on nonreligious topics or subjects in the school; and

5. Be absent, in accordance with Section 10-105 of Title 70 of the Oklahoma Statutes and the school district attendance policy, from a public school to observe religious holidays and participate in other religious practices to the same extent and under the same circumstances as a student is permitted to be absent from a public school for nonreligious purposes.

C. No action may be maintained under the Freedom of Religious Expression in Schools Act unless the student has exhausted the following administrative remedies:

1. The student or the parent or guardian of the student shall state the complaint to the principal of the school. The principal shall investigate and take appropriate action to ensure the rights of the student are resolved within seven (7) days of the date of the complaint;

2. If the concerns of the student are not resolved, then the student or the parent or guardian of the student shall make a complaint in writing to the superintendent with the specific facts of the alleged violation;

3. The superintendent shall investigate and take appropriate action to ensure that the rights of the student are resolved within thirty (30) days of the date of the written complaint; and

4. Only after the investigation and action by the superintendent may a student or the parent or legal guardian of the student pursue any civil action.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-105 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Nothing in the Freedom of Religious Expression in Schools Act shall be construed to affect, interpret, or in any way address the establishment clause.

B. The specification of religious liberty or free speech rights in the Freedom of Religious Expression in Schools Act shall not be construed to exclude or limit religious liberty or free speech rights otherwise protected by federal, state, or local law.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-107 of Title 70, unless there is created a duplication in numbering, reads as follows:

When distributing other information to school districts, the State Department of Education shall send copies of the Freedom of Religious Expression in Schools Act to each school district board of education in Oklahoma on an annual basis.

SECTION 7. This act shall become effective November 1, 2006.

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