

By: Howard of Fort Bend

H.B. No. 3678

A BILL TO BE ENTITLED

AN ACT

1
2 relating to voluntary student-initiated expression of religious
3 viewpoints in public schools.

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

5 SECTION 1. Subchapter Z, Chapter 25, Education Code, is
6 amended by adding Section 25.904 to read as follows:

7 Sec. 25.904. STUDENT EXPRESSION OF RELIGIOUS VIEWPOINTS.

8 (a) A school district shall treat student expression of
9 religious viewpoints in the same manner as the district treats
10 student expression of secular or other viewpoints, without
11 discrimination.

12 (b) To assure non-discrimination against a student's
13 publicly stated voluntary expression of a religious viewpoint (if
14 any), and to eliminate any actual or perceived affirmative school
15 sponsorship or attribution to the school district of a student's
16 voluntary expression of a religious viewpoint (if any), a school
17 district shall establish a limited public forum for student
18 speakers at school events in which students are to publicly speak.

19 The school district must:

20 (1) provide the limited public forums in a manner that
21 do not discriminate against a student's voluntary expression of a
22 religious viewpoint (if any) on otherwise permissible
23 subjects/topics;

24 (2) provide a method, based on neutral criteria, for

1 selection of student speakers for school events and for
2 graduations; and

3 (3) provide that a student speaker may not engage in
4 obscene, vulgar, offensively lewd, or indecent speech.

5 (4) state that the student's speech does not reflect
6 the endorsement, sponsorship, position, or expression of the school
7 district, and continue to do so for as long as there is a need to
8 dispel confusion over the non-sponsorship of the student's speech.

9 (c) Student expression concerning permissible
10 subjects/topics, as determined by school district policy, may not
11 be excluded on the basis that the subject/topic is expressed from a
12 religious viewpoint.

13 (d) Students may express their beliefs about religion in
14 homework, artwork, and other written and oral assignments free from
15 discrimination based on the religious content of their submissions.
16 Students shall neither be penalized nor rewarded on account of
17 religious content. Such home and classroom work shall be judged by
18 ordinary academic standards of substance and relevance and against
19 other legitimate pedagogical concerns identified by the school.

20 (e) Students may organize prayer groups, religious clubs,
21 "see you at the pole" and other religious gatherings before,
22 during, and after school to the same extent that students are
23 permitted to organize other non-curricular student activities and
24 groups. Such groups must be given the same access to school
25 facilities for assembling as is given to other non-curricular
26 groups, without discrimination because of the religious content of
27 their expression. Where student groups that meet for nonreligious

1 activities are permitted to advertise or announce their meetings,
2 school authorities may not discriminate against groups who meet for
3 prayer or other religious speech. School authorities may disclaim
4 sponsorship of non-curricular groups and events, provided they
5 administer such disclaimers in a manner that neither favors nor
6 disfavors groups that meet to engage in prayer or religious speech.

7 (f) A school district shall adopt and implement a local
8 policy regarding the limited public forums and implementation of
9 the other provisions of this Act. If a school district voluntarily
10 adopts and follows the Model Policy Governing Voluntary Religious
11 Expression in Public Schools ("Model Policy"), the district shall
12 be deemed to be in compliance with the provisions of this Act
13 covered by the Model Policy.

14 (g) Definitions.

15 (1) "Model Policy Governing Voluntary Religious
16 Expression in Public Schools" means a local policy passed by the
17 district containing the following provisions:

18 Student Speakers at Non-Graduation Events:

19 The district hereby creates a limited public forum consisting
20 of an opportunity for a student to speak to introduce school events
21 such as sports events, assemblies, opening announcements/greetings
22 for the school day, pep-rallies, and other school events, as
23 determined by the district. For each speaker, the district shall
24 set a maximum time limit reasonable and appropriate to the
25 occasion.

26 The forum shall be limited in the following manner: (a) Only
27 those students in the highest two grade levels of the school and who

1 hold one of the following positions of honor based on neutral
2 criteria shall be eligible to use the limited public forum: student
3 council officers, class officers of the highest grade level in the
4 school, captain(s) of the football team, and other students holding
5 positions of honor as the district may designate.

6 The eligible students shall be notified of their eligibility
7 and those who wish to participate as an introducing speaker shall
8 submit their names to the student council or other designated body
9 during an announced minimum 3 day period. This announced period may
10 be at the beginning of the school year, at the end of the preceding
11 school year so student speakers are in place for the new year, or,
12 if the selection process will be repeated each semester, at the
13 beginning of each semester or at the end of the preceding semester
14 so speakers are in place for the next semester. The names of the
15 volunteering student speakers shall be randomly drawn until all
16 names have been selected, and the names shall be listed in the order
17 drawn. Each selected student will be matched chronologically to
18 the event for which he/she will be giving the introduction. Each
19 student may speak for one week at a time for all introductions of
20 events that week, or rotate after each speaking event, or
21 otherwise, as the district determines. The list of student
22 speakers shall be chronologically repeated as needed, in the same
23 order. The district may repeat the selection process each semester
24 rather than once a year.

25 The subject/topic of the student introductions must be
26 related to the purpose of the event and to the purpose of marking
27 the opening of the event, honoring the occasion, the participants,

1 and those in attendance, bringing the audience to order, and
2 focusing the audience on the purpose of the event. Although the
3 subject/topic has been designated and a student must stay on the
4 subject/topic, and the student may not engage in obscene, vulgar,
5 offensively lewd, or indecent speech, the district shall treat
6 student expression of religious viewpoints, if any, in the same
7 manner as the district treats student expression of secular or
8 other viewpoints, without discrimination.

9 For as long as there is a need to dispel confusion over the
10 non-sponsorship of the student's speech, at each event in which a
11 student will deliver an introduction, a disclaimer shall be stated
12 in either written or oral form, such as, "The student giving the
13 introduction for this event is a volunteering student selected on
14 neutral criteria to introduce the event. The content of the
15 introduction is the private expression of the student and does not
16 reflect the endorsement, sponsorship, position, or expression of
17 the school district."

18 Certain students who have attained special positions of honor
19 within the school have traditionally addressed school audiences
20 from time to time as a tangential component of their achieved
21 positions of honor, such as the captain(s) of various sports teams,
22 student council officers, class officers, homecoming kings and
23 queens, prom kings and queens, and the like. Such students have
24 attained their positions based upon neutral criteria. Nothing in
25 this policy eliminates the continuation of the practice of having
26 such students, irrespective of grade level, address school
27 audiences in the normal course of their respective positions. The

1 district shall treat such students' expressions of religious
2 viewpoints, if any, in the same manner as the district would treat
3 such students' expressions of secular or other viewpoints, without
4 discrimination.

5 Student Speakers at Graduation Ceremonies:

6 The district hereby creates a limited public forum consisting
7 of an opportunity for a student to speak to begin graduation
8 ceremonies and another student to speak to end graduation
9 ceremonies. For each speaker, the district shall set a maximum time
10 limit reasonable and appropriate to the occasion.

11 The forum shall be limited in the following manner: (a) Only
12 students who are graduating who hold one of the following neutral
13 criteria positions of honor shall be eligible to use the limited
14 public forum: student council officers, class officers of the
15 graduating class, and top three academically ranked graduates (or a
16 shorter or longer list of student leaders as the district may
17 designate). Any student, however, who will otherwise have a
18 speaking role in the graduation ceremonies is ineligible to give
19 the opening and closing. The names of the eligible volunteering
20 students will be randomly drawn. The first name drawn will give the
21 opening, and the second name drawn will give the closing.

22 The topic of the opening and closing must be related to the
23 purpose of the graduation ceremonies and to the purpose of marking
24 the opening and closing of the event, honoring the occasion, the
25 participants, and those in attendance, bringing the audience to
26 order, and focusing the audience on the purpose of the event.

27 In addition to the students giving the opening and closing,

1 there are certain other students such as Valedictorians who have
2 attained special positions of honor based upon neutral criteria who
3 will have speaking roles at graduation ceremonies. For each such
4 speaker, the district shall set a maximum time limit reasonable and
5 appropriate to the occasion and to the position held by the speaker.
6 For this purpose, the district creates a limited public forum for
7 these students to deliver such addresses. The subject/topic of the
8 addresses must be related to the purpose of the graduation
9 ceremonies, marking and honoring the occasion, honoring the
10 participants and those in attendance, and the student's perspective
11 on purpose, achievement, life, school, graduation, and looking
12 forward to the future.

13 Although the subject/topic has been designated for each
14 student speaker and a student must stay on the subject/topic, and
15 the student may not engage in obscene, vulgar, offensively lewd, or
16 indecent speech, the district shall treat student expression of
17 religious viewpoints, if any, in the same manner as the district
18 treats student expression of secular or other viewpoints, without
19 discrimination.

20 A written disclaimer shall be printed in the graduation
21 program that states, "The students who will be speaking at the
22 graduation ceremonies were selected based upon neutral criteria to
23 deliver messages of their own choice. The content of each student
24 speaker's message is the private expression of the individual
25 student and does not reflect any position or expression of the
26 district, its board, administration, or employees, or necessarily
27 indicate the views of any other graduate. The contents of these

1 messages were prepared by the student volunteers, and the district
2 refrained from any interaction with student speakers regarding the
3 student speakers' viewpoints on permissible subjects/topics."

4 Religious Expression and Prayer in Class Assignments:

5 Students may express their beliefs about religion in
6 homework, artwork, and other written and oral assignments free from
7 discrimination based on the religious content of their submissions.
8 Students shall neither be penalized nor rewarded on account of
9 religious content. Such home and classroom work shall be judged by
10 ordinary academic standards of substance and relevance and against
11 other legitimate pedagogical concerns identified by the school.
12 Thus, if a teacher's assignment involves writing a poem, the work of
13 a student who submits a poem in the form of a prayer (for example, a
14 psalm) should be judged on the basis of academic standards (such as
15 literary quality) and neither penalized nor rewarded on account of
16 its religious content.

17 Organized Prayer Groups and Activities:

18 Students may organize prayer groups, religious clubs, "see
19 you at the pole" and other religious gatherings before, during, and
20 after school to the same extent that students are permitted to
21 organize other non-curricular student activities and groups. Such
22 groups must be given the same access to school facilities for
23 assembling as is given to other non-curricular groups, without
24 discrimination because of the religious content of their
25 expression. Where student groups that meet for nonreligious
26 activities are permitted to advertise or announce their
27 meetings--for example, by advertising in a student newspaper,

1 putting up posters, making announcements on a student activities
2 bulletin board or public address system, or handing out
3 leaflets--school authorities may not discriminate against groups
4 who meet for prayer or other religious speech. School authorities
5 may disclaim sponsorship of non-curricular groups and events,
6 provided they administer such disclaimers in a manner that neither
7 favours nor disfavors groups that meet to engage in prayer or other
8 religious speech.

9 SECTION 2. If any provision of this Act or its application
10 to any person or circumstance is held invalid, the invalidity shall
11 not affect other provisions or applications of this Act, and to this
12 end the provisions of this Act are severable.

13 SECTION 3. Short title. This Act may be cited as the
14 "Religious Viewpoint Anti-Discrimination Act" or "Marian's Law."

15 SECTION 4. This Act applies beginning with the 2007-2008
16 school year.

17 SECTION 5. This Act takes effect immediately if it receives
18 a vote of two thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2007.