

H.705

Introduced by Representatives Priestley of Bradford and Sibilia of Dover

Referred to Committee on

Date:

Subject: Education; student rights; First Amendment; religious freedom

Statement of purpose of bill as introduced: This bill proposes to create a Student Secular Bill of Rights to protect a student's right to practice or not practice any religion the student chooses on school grounds and to be free from school-sponsored religious teachings. This bill requires the Agency of Education to develop a model student secular rights policy and school districts and schools to adopt a policy at least as stringent as the Agency's model policy. This bill also creates a private right of action for violation of the Student Secular Bill of Rights.

An act relating to the creation of the Student Secular Bill of Rights

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. SHORT TITLE

This act may be cited as the "Student Secular Bill of Rights."

Sec. 2. FINDINGS

The General Assembly finds that:

1 (1) The separation of religion and government is a cornerstone of
2 American jurisprudence, recognized foremost in the First Amendment to the
3 U.S. Constitution and in all 50 of the states' constitutions.

4 (2) Protecting religious freedom and conscience rights serves students of
5 all faiths and none, ensuring that no student is compelled to participate in
6 religious exercises against the student's beliefs or nonbeliefs.

7 (3) In 1802, President Thomas Jefferson, an original supporter of the
8 First Amendment to the U.S. Constitution, alongside primary author James
9 Madison, described the First Amendment as "building a wall of separation
10 between church and state."

11 (4) The U.S. Supreme Court declared in the 1947 case *Everson v. Board*
12 *of Education*, 330 U.S. 1, 18 (1947), that, "The First Amendment has erected a
13 wall between church and state. That wall must be kept high and impregnable.
14 We could not approve the slightest breach."

15 (5) The Supreme Court also declared in the same case that the
16 Establishment Clause "means at least this: Neither a state nor the Federal
17 Government can set up a church. Neither can pass laws which aid one
18 religion, aid all religions, or prefer one religion over another...No tax in any
19 amount, large or small, can be levied to support any religious activities or
20 institutions...Neither a state nor the Federal Government can, openly or
21 secretly, participate in the affairs of any religious organizations or groups, and

1 vice versa. In the words of Jefferson, the clause against establishment of
2 religion by law was intended to erect ‘a wall of separation between Church and
3 State.’” (Id. at 15-16).

4 (6) Democrats and Republicans alike, united in dedication to America’s
5 founding principles, have recognized the indispensable principle of separation
6 between church and state, with President Ronald Reagan saying in 1984 that,
7 “We establish no religion in this country, we command no worship, we
8 mandate no belief, nor will we ever. Church and state are, and must remain,
9 separate.”

10 (7) All persons have the fundamental and inalienable right to worship,
11 or not, according to the dictates of their own conscience, free from
12 governmental influence or interference, provided their practices do not excuse
13 acts of lawlessness, or justify practices inconsistent with the order, peace, or
14 safety of the state, or the rights of others.

15 (8) The U.S. Supreme Court has addressed the First Amendment in an
16 education context in several cases, including:

17 (A) In the 1948 decision *McCullum v. Board of Education*, 333 U.S.
18 203, 211 (1948), the Court held that a “released time” program in public
19 schools, where religious instruction was provided by outside teachers during
20 school hours, violated the Establishment Clause because using public school
21 facilities and resources to “aid any or all religious faiths or sects in the

1 dissemination of their doctrines and ideals” constituted an unconstitutional
2 endorsement of religion.

3 (B) In the 1962 decision *Engel v. Vitale*, 370 U.S. 421 (1962), the
4 Court held that prayer composed by the state and recited over the intercom in
5 public schools violates the U.S. Constitution’s Establishment Clause.

6 (C) In the 1968 decision *Epperson v. Arkansas*, 393 U.S. 97 (1968),
7 the Court held that a state law prohibiting the teaching of evolution in public
8 schools violated the Establishment Clause of the First Amendment because the
9 law was enacted to advance a particular religious viewpoint, constituting
10 government endorsement of religion.

11 (D) In the 1980 decision *Stone v. Graham*, 449 U.S. 39, 41 (1980),
12 the Court held that a law requiring the posting of privately funded Ten
13 Commandments displays in public school classrooms violated the
14 Establishment Clause because the “pre-eminent purpose for posting the Ten
15 Commandments on schoolroom walls is plainly religious in nature.”

16 (E) In 1987 decision *Edwards v. Aguillard*, 482 U.S. 578, 591
17 (1987), the Court held that a Louisiana law prohibiting the teaching of
18 evolution unless accompanied by instruction in “creation science” was
19 unconstitutional because the “preeminent purpose of the Louisiana Legislature
20 was clearly to advance the religious viewpoint that a supernatural being created
21 humankind,” while an offered secular purpose for the law was “a sham.”

1 (F) In the 1992 decision *Lee v. Weisman*, 505 U.S. 577, 589 (1992),
2 the Court held that public schools cannot provide even nonsectarian prayer at
3 public school events, that “preservation and transmission of religious beliefs
4 and worship is a responsibility and choice committed to the private sphere,”
5 and that it was not a remedy to simply say that students could avoid the prayer
6 by foregoing their own graduation.

7 (G) In the 2000 decision *Santa Fe Independent School District v.*
8 *Doe*, 530 U.S. 290, 309 (2000), the Court held that school-sponsored prayer at
9 a public school event violates the U.S. Constitution by sending the message to
10 nonbelievers that “they are outsiders, not full members of the political
11 community,” even when those prayers are student-led (quoting *Lynch v.*
12 *Donnelly*, 465 U.S. 668, 688 (1984)).

13 (9) These rulings by the U.S. Supreme Court are in danger of being
14 overturned or otherwise eroded by future rulings.

15 (10) The protection of religious and academic freedom in public schools
16 must be strengthened through statutory protections to preserve the integrity of
17 public education and ensure that all students may exercise their fundamental
18 rights.

19 (11) The Vermont Constitution provides a vehicle for protecting these
20 rights at the State level.

1 (12) It is the State’s inherent duty as sovereign to guarantee the rights of
2 its residents.

3 Sec. 3. 16 V.S.A. § 1625 is added to read:

4 § 1625. STUDENT SECULAR BILL OF RIGHTS

5 (a) Definitions. As used in this section:

6 (1) “Academic study of religion” means objective, educational
7 examination of religious traditions, texts, history, or practices for secular
8 scholarly purposes, conducted in a manner that neither promotes nor denigrates
9 any particular religious belief or nonbelief.

10 (2) “Club” means a noncurricular student group recognized by a school
11 district that meets the fair opportunity criteria of the Equal Access Act of 1984,
12 20 U.S.C. § 4071(c).

13 (3) “Coerce” means exerting direct or indirect pressure, whether through
14 official policy, practice, or conduct, that would compel a reasonable student to
15 participate in or refrain from religious exercise against the student’s
16 conscience.

17 (4) “Endorsement” means a governmental practice that a reasonable
18 observer would view as government approval, favor, or disapproval of religion
19 or particular religious beliefs.

20 (5) “Nonparticipatory capacity” means presence at a student religious
21 club meeting or event solely for supervisory purposes, consistent with the

1 Equal Access Act, 20 U.S.C. §§ 4071–4074, without lecturing, proselytizing,
2 praying, preaching, planning religious events, or otherwise engaging in
3 religious activities.

4 (6) “Official capacity” means when a person is:

5 (A) performing official duties or furthering the work of a school
6 district or school board; or

7 (B) acting under or with power or authority granted by virtue of
8 employment by or association with a school district or school board.

9 (7) “Prayer” means a communication, either spoken or written, directed
10 toward a deity, deities, or other supernatural or spiritual force, including a
11 benediction, invocation, chant, or request for guidance, blessing, forgiveness,
12 or intervention.

13 (8) “Proselytizing” means attempting to convert individuals from one
14 religion, religious belief, or nonbelief to another through persuasion or
15 inducement.

16 (9) “Public official” means any elected official, appointed official, or
17 employee of a state or local unit of government, including any employee of a
18 public school district or public school board.

19 (10) “Religious activity” means any practice, observance, or expression
20 intended primarily for religious purposes, including prayer, worship, religious
21 instruction, or proselytizing.

1 (11) “Religious display” means any visual presentation of religious
2 symbols, texts, imagery, or artifacts that conveys a religious message or
3 promotes religious beliefs.

4 (12) “Religious text” means writing that is used primarily for
5 devotional, worship, or proselytizing purposes rather than for legitimate
6 academic study of religion, religious history, or comparative religion.

7 (13) “School” means:

8 (A) any public school as that term is defined in subdivision 11(a)(7)
9 of this title; and

10 (B) any approved independent school as that term is defined in
11 subdivision 11(a)(20) of this title that is eligible to receive public tuition
12 pursuant to section 828 of this title.

13 (14) “School event” means any activity at a school facility or sponsored,
14 conducted, or supervised by a school official acting in official capacity,
15 including graduation, grade-promotion ceremony, award program, induction
16 ceremony, pep rally, competition, practice, performance, class instructional
17 time, and club meeting or event. “School event” does not include:

18 (A) a student religious club meeting or event, if all school employees
19 and agents are only present at the meeting or event in a nonparticipatory
20 capacity;

1 (B) an activity at a school facility, if it is outside the presence of
2 students and no school official acts in official capacity; or

3 (C) an activity at a school facility that is used by a third party
4 pursuant to a standard facility use agreement or advance written permission
5 that indicates the responsible third-party user, use period, facility to be used,
6 purpose of use, and conditions of use, provided such use occurs during the
7 agreed period, is on terms consistent with other third-party users, involves no
8 school official acting in official capacity, and does not take place during school
9 hours.

10 (15) “School official” means any employee, agent, or representative of a
11 public school or school district, including teachers, administrators, coaches,
12 and support staff.

13 (16) “School property” means any building, facility, grounds, or vehicle
14 owned, leased, or controlled by a school or school district.

15 (17) “Secular purpose” means an objective that is not primarily religious
16 in nature and serves a legitimate educational, administrative, or civic function.

17 (b) Rights of students. Students in all schools shall enjoy:

18 (1) The right to practice any religion they choose on school grounds or
19 at school events, provided that their practices are orderly and do not inhibit the
20 operations or safety of the school or infringe on the rights of others.

1 (2) The right to not practice any religion whatsoever, if they so choose,
2 on school property or at school events.

3 (3) The right to be free from discrimination based on their religious
4 beliefs or lack thereof.

5 (4) The right to be free from school-sponsored religious teachings or
6 practices of all kinds on school property or at school events, including:

7 (A) staff-led prayer;

8 (B) prayer led by nonstaff adults or students, when it is:

9 (i) sponsored by the school; or

10 (ii) supported by the school by means of marketing, planning,
11 audiovisual equipment, or endorsement by any member of school staff or the
12 school itself;

13 (C) any religious instruction as part of a school curriculum, including
14 creationism and intelligent design; or

15 (D) required or coerced reading of religious texts other than for the
16 academic study of religion; provided, however, that any academic study of
17 religion that includes instruction of religious perspectives shall include
18 multiple religious perspectives.

19 (5)(A) The right to be free of school-sponsored religious displays on
20 school property or at school events, including:

1 (i) the Ten Commandments and similar statements of religious
2 doctrine;

3 (ii) the Christian cross, the Star of David, the Star and Crescent of
4 Islam, and similar symbols; and

5 (iii) depictions of holy figures, prophets, or spiritual leaders for
6 the purpose of promoting religious adherence.

7 (B) This subdivision (b)(5) shall not apply to:

8 (i) de minimis wardrobe items such as necklaces, rings, or
9 headdresses; or

10 (ii) displays in a private office area, provided the display is not
11 obvious to students or the public.

12 (6) The right to be free from school-sponsored religious messaging on
13 school property or at school events, including at school assemblies and in the
14 classroom. This section shall not prohibit:

15 (A) student-created religious expression in individual assignments or
16 projects, provided the work addresses the learning objectives required by the
17 curriculum; or

18 (B) reasonable accommodation of religious practices, including:

19 (i) reasonable scheduling accommodations for religious
20 observances;

1 (ii) dietary accommodations consistent with religious
2 requirements;

3 (iii) styling of hair or personal grooming practices consistent with
4 religious or cultural practices;

5 (iv) wearing of religious items, jewelry, and regalia, including
6 Indigenous traditional regalia and religious items; and

7 (v) any personal expression of religious practices, or of nonbelief,
8 provided such practices:

9 (I) do not interfere with the rights of others or the safe and
10 normal functioning of the school; and

11 (II) are not done by school staff operating in their official
12 capacity.

13 (7) The right to refuse to engage in religious discussions or to otherwise
14 reject unwanted proselytizing by other students.

15 (8) The right to be free from incentives, offered by either the school or
16 school staff, to participate in religious activities during school hours facilitated
17 by third-party organizations, including through the offer of money, food,
18 school supplies, or other items not otherwise available in the school.

19 (c) Grievance procedures.

20 (1) Each school district and approved independent school that is eligible
21 to receive public tuition shall establish a formal grievance procedure for

1 students, parents, and staff to report violations of this section. Complaints
2 shall be acknowledged in writing within seven days following receipt.
3 Complaints shall be investigated within 30 days following receipt. A written
4 determination and an action plan identifying necessary and specific steps to
5 remediate any violations found shall be issued by the district immediately
6 following the investigation, and within 40 days following receipt the
7 complaint.

8 (2) Complainants shall have the right to appeal to the Agency of
9 Education.

10 (d) Private right of action.

11 (1) Any student or parent of a student who alleges a violation of this
12 section may bring a civil action in the Civil Division of the Superior Court for
13 damages, injunctive relief, punitive damages in the case of an intentional
14 violation, and reasonable costs and attorney's fees.

15 (2) No qualified or good-faith immunity shall apply to public officials
16 who knowingly violate the provisions of this section.

17 (3) Actions must be brought within two years following the date of the
18 alleged violation.

19 (4) For purposes of enforcing this section, any student currently enrolled
20 or who was enrolled in a school at the time of the alleged violation, or the

1 student's parent or guardian, shall have standing to bring suit, without having
2 to demonstrate any economic injury.

3 (e) Whistleblower protection. No school employee shall be subject to
4 discipline or retaliation for reporting, in good faith, a violation of this section.

5 (f) Training and guidance.

6 (1) The Agency of Education shall:

7 (A) develop and provide training materials for school districts and
8 schools regarding compliance with this section; and

9 (B) develop and from time to time update model student secular
10 rights policies and guidance documents to assist school districts and schools
11 with compliance with this section.

12 (2) School districts and schools shall:

13 (A) provide training to all school officials regarding compliance with
14 this section; and

15 (B) adopt, ensure the enforcement of, and make available in the
16 manner described under subdivision 563(1) of this title a student secular rights
17 policy that shall be at least as stringent as the model policy developed by the
18 Agency. Any school board or school that fails to adopt a policy shall be
19 presumed to have adopted the most current model policy published by the
20 Agency.

1 Sec. 4. IMPLEMENTATION

2 (a) The Agency of Education shall issue the guidance and model student
3 secular rights policy required under 16 V.S.A. § 1625(f)(1) on or before
4 September 1, 2026.

5 (b) School districts shall have 120 days from issuance of the Agency's
6 model student secular rights policy to adopt a policy consistent with the
7 requirements of 16 V.S.A. § 1625(f)(2)(B).

8 (c) School districts shall provide annual training regarding the requirements
9 of 16 V.S.A. § 1625 beginning with the 2026–2027 school year.

10 Sec. 5. EFFECTIVE DATE

11 This act shall take effect on July 1, 2026.