

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 909

AN ACT

To repeal section 160.2500, RSMo, and to enact in lieu thereof one new section relating to personal expression at public schools.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 160.2500, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.2500, to read as follows:

160.2500. 1. This section shall be known and may be cited as the "Missouri [Student Religious Liberties] Safeguarding Personal Expression at K-12 Schools (SPEAKS) Act".

2. A public school district shall not discriminate against any person on the basis of a religious, political, or ideological viewpoint or religious, political, or ideological expression. A school district shall treat a student's voluntary expression of a religious, political, or ideological viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and shall not discriminate against the student based on a religious, political, or ideological viewpoint expressed by the student on an otherwise permissible subject.

3. Students in public schools may express their religious, political, or ideological beliefs [about religion] in homework, artwork, and other written and oral assignments free from discrimination based on the religious, political, or ideological content of their submissions.

Homework and classroom assignments shall be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school district. Students shall not be penalized or rewarded on account of the religious, political, or ideological content of their work. If an assignment requires a student's viewpoints to be expressed in course work, artwork or other written or oral assignments, a public school district shall not penalize or reward a student on the basis of religious, political, or ideological content or a religious, political, or ideological viewpoint. In such an assignment, a student's academic work that expresses a religious, political, or ideological viewpoint shall be evaluated based on ordinary academic standards of substance and relevance to the course curriculum or requirements of the course work or assignment.

4. Students in public schools may pray or engage in religious, political, or ideological activities or religious, political, or ideological expression before, during and after the school day in the same manner and to the same extent that students may engage in [nonreligious] other activities or expression, provided that such religious, political, or ideological expression or religious, political, or ideological activities are not disruptive of scheduled instructional time or other educational activities and do not impede access to school facilities or mobility on school premises. Students may organize prayer groups[,]; religious, political, or ideological clubs[,]; or other religious, political, or ideological gatherings before, during and after school to the same extent that students are permitted to organize other noncurricular student activities and groups.

Religious, political, or ideological groups shall be given

the same access to school facilities for assembling as is given to other noncurricular groups without discrimination based on the religious, political, or ideological content of the student's expression. If student groups that meet for nonreligious activities are permitted to advertise or announce meetings of the groups, the school district shall not discriminate against groups that meet for prayer or other religious, political, or ideological speech. A school district may disclaim school sponsorship of noncurricular groups and events in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious, political, or ideological speech.

5. A public school shall not discriminate against a student club because of:

- (1) The religious, political, or ideological viewpoints expressed by the students or the organization; or
- (2) Any requirement that the leaders or members of the club affirm and adhere to the organization's sincerely held beliefs, comply with the organization's standards of conduct, or further the organization's mission or purpose, as defined by the student organization.

6. Students in public schools may wear clothing, accessories and jewelry that display religious, political, or ideological messages or religious, political, or ideological symbols in the same manner and to the same extent that other types of clothing, accessories and jewelry that display messages or symbols are permitted, as specified in subsection 7 of section 167.166.

[6.] 7. (1) To ensure that the school district does not discriminate against a student's publicly stated voluntary expression of a religious, political, or ideological viewpoint, if any, and to eliminate any actual or perceived affirmative school sponsorship or attribution

to the district of a student's expression of a religious, political, or ideological viewpoint, if any, a school district shall adopt a policy, which shall include the establishment of a limited public forum for student speakers at all school events at which a student is to publicly speak. The policy regarding the limited public forum shall also require the school district to:

(a) Provide the forum in a manner that does not discriminate against a student's voluntary expression of a religious, political, or ideological viewpoint, if any, on an otherwise permissible subject;

(b) Provide a method, based on neutral criteria, for the selection of student speakers at school events and graduation ceremonies;

(c) Ensure that a student speaker does not engage in obscene, vulgar, offensively lewd or indecent speech; and

(d) State, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position or expression of the district.

(2) The school district disclaimer required by paragraph (d) of subdivision (1) of this subsection shall be provided at all graduation ceremonies. The school district shall also continue to provide the disclaimer at any other event in which a student speaks publicly for as long as a need exists to dispel confusion over the district's nonsponsorship of the student's speech.

(3) Student expression on an otherwise permissible subject shall not be excluded from the limited public forum because the subject is expressed from a religious, political, or ideological viewpoint.

(4) All public school districts shall adopt and implement a local policy regarding a limited public forum

and voluntary student expression of religious, political, or ideological viewpoints.

[7.] 8. The provisions of this section shall not be construed to authorize this state or any of its political subdivisions to either:

- (1) Require any person to participate in prayer or in any other religious, political, or ideological activity; or
- (2) Violate the constitutional rights of any person.

[8.] 9. The provisions of this section shall not be construed to limit the authority of any public school to do any of the following:

- (1) Maintain order and discipline on the campus of the public school in a content and viewpoint neutral manner;
- (2) Protect the safety of students, employees and visitors of the public school;
- (3) Adopt and enforce policies and procedures regarding student speech at school, provided that the policies and procedures do not violate the rights of students as guaranteed by law.

10. The provisions of this section shall not be construed to limit the authority of any public school to prohibit, limit, or restrict any of the following:

(1) Expression that the First Amendment to the Constitution of the United States does not protect, such as true threats, obscenity, or expression directed to provoke imminent lawless actions and likely to produce such actions;

(2) Expression that is unwelcome and so severe, pervasive, and subjectively and objectively offensive that a student is effectively denied equal access to educational opportunities or benefits provided by the school; or

(3) Conduct that intentionally, materially, and substantially disrupts:

- (a) The operations of the school; or

(b) The expressive activity of another individual if that activity is occurring in a campus space reserved for that activity under the exclusive use or control of a particular student, group of students, or club.

11. Any person or student organization who is harmed by a violation of this section or whose rights under this section are violated shall have a private cause of action against the public school for declaratory and injunctive relief, monetary damages, reasonable attorney's fees and costs, and any other appropriate relief. A person or student organization shall be required to bring suit for violation of this section not later than two years after the day the cause of action accrues. For purposes of calculating the two-year limitation period, each day that the violation persists and each day that a policy in violation of this section remains in effect shall constitute a new day that the cause of action has accrued. If a court should find a violation of this section, it shall issue an award to the prevailing party of at least five thousand dollars.

12. Any person or student organization aggrieved by a violation of this section may assert such violation as a defense or counterclaim in any disciplinary action or in any civil or administrative proceeding brought against such person or student organization.

13. Nothing in this section shall be construed to limit any other remedies available to any student or student organization.

14. The state waives immunity and consents to be sued in federal court for claims arising under this section. A public school that violates this section is not immune from suit or liability for the violation.

[9.] 15. The provisions of section 1.140 are applicable to this section.