

SECOND REGULAR SESSION

SENATE BILL NO. 909

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR HUDSON.

4431S.02I

KRISTINA MARTIN, Secretary

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Section A. Section 160.2500, RSMo, is repealed and one
2 new section enacted in lieu thereof, to be known as section
3 160.2500, to read as follows:

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

5 2. A public school district shall not discriminate
6 against any person on the basis of a religious, **political,**
7 **or ideological** viewpoint or religious, **political, or**
8 **ideological** expression. A school district shall treat a
9 student's voluntary expression of a religious, **political, or**
10 **ideological** viewpoint, if any, on an otherwise permissible
11 subject in the same manner the district treats a student's
12 voluntary expression of a secular or other viewpoint on an
13 otherwise permissible subject and shall not discriminate
14 against the student based on a religious, **political, or**
15 **ideological** viewpoint expressed by the student on an
16 otherwise permissible subject.

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 3. Students **in public schools** may express their
18 **religious, political, or ideological** beliefs [about
19 religion] in homework, artwork, and other written and oral
20 assignments free from discrimination based on the religious,
21 **political, or ideological** content of their submissions.
22 Homework and classroom assignments shall be judged by
23 ordinary academic standards of substance and relevance and
24 against other legitimate pedagogical concerns identified by
25 the school district. Students shall not be penalized or
26 rewarded on account of the religious, **political, or**
27 **ideological** content of their work. If an assignment
28 requires a student's viewpoints to be expressed in course
29 work, artwork or other written or oral assignments, a public
30 school district shall not penalize or reward a student on
31 the basis of religious, **political, or ideological** content or
32 a religious, **political, or ideological** viewpoint. In such
33 an assignment, a student's academic work that expresses a
34 religious, **political, or ideological** viewpoint shall be
35 evaluated based on ordinary academic standards of substance
36 and relevance to the course curriculum or requirements of
37 the course work or assignment.

38 4. Students in public schools may pray or engage in
39 religious, **political, or ideological** activities or
40 religious, **political, or ideological** expression before,
41 during and after the school day in the same manner and to
42 the same extent that students may engage in [nonreligious]
43 **other** activities or expression, provided that such
44 religious, **political, or ideological** expression or
45 religious, **political, or ideological** activities are not
46 disruptive of scheduled instructional time or other
47 educational activities and do not impede access to school
48 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**

144 true threats, obscenity, or expression directed to provoke
145 imminent lawless actions and likely to produce such actions;

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

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

152 (a) The operations of the school; or

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

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

173 12. Any person or student organization aggrieved by a
174 violation of this section may assert such violation as a
175 defense or counterclaim in any disciplinary action or in any

176 civil or administrative proceeding brought against such
177 person or student organization.

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

181 14. The state waives immunity under the Eleventh
182 Amendment to the United States Constitution and consents to
183 be sued in federal court for claims arising under this
184 section. A public school that violates this section is not
185 immune from suit or liability for the violation.

186 [9.] 15. The provisions of section 1.140 are
187 applicable to this section.

✓