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To: Education

HOUSE BILL NO. 1112

1 AN ACT TO BE KNOWN AS THE "SCHOOLCHILDREN'S RELIGIOUS
2 LIBERTIES ACT"; TO PROHIBIT LOCAL SCHOOL DISTRICTS FROM
3 DISCRIMINATING AGAINST STUDENTS BASED ON THEIR EXPRESSION OF
4 RELIGIOUS PERSPECTIVES ON OTHERWISE PERMISSIBLE SUBJECTS; TO
5 REQUIRE SCHOOL DISTRICTS TO ADOPT A POLICY THAT ESTABLISHES A
6 LIMITED PUBLIC FORUM FOR STUDENT SPEAKERS AT SCHOOL EVENTS AND TO
7 REQUIRE SCHOOL DISTRICTS TO PUBLISH A DISCLAIMER STATING THAT THE
8 STUDENTS' VIEWS DO NOT REFLECT THOSE OF THE DISTRICT; TO CLARIFY
9 THAT STUDENTS MAY EXPRESS THEIR BELIEFS ABOUT RELIGION IN
10 HOMEWORK, ARTWORK AND OTHER ASSIGNMENTS; TO AUTHORIZE STUDENTS TO
11 ORGANIZE PRAYER GROUPS, RELIGIOUS CLUBS AND OTHER RELIGIOUS
12 GATHERINGS TO THE SAME EXTENT THAT STUDENTS ARE PERMITTED TO
13 ORGANIZE OTHER NONCURRICULAR STUDENT ACTIVITIES AND GROUPS; TO
14 REQUIRE SCHOOL DISTRICTS TO ADOPT A POLICY REGARDING LIMITED
15 PUBLIC FORUMS AND VOLUNTARY EXPRESSION OF RELIGIOUS PERSPECTIVES;
16 TO PROVIDE A MODEL POLICY ON STUDENT EXPRESSION OF RELIGIOUS
17 PERSPECTIVES AND STUDENT SPEAKERS WHICH SCHOOL DISTRICTS MAY
18 ADOPT; TO AMEND SECTION 37-13-4.1, MISSISSIPPI CODE OF 1972, IN
19 CONFORMITY TO THE PROVISIONS OF THIS ACT; TO BRING FORWARD SECTION
20 37-13-4, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT TEACHERS
21 AND SCHOOL ADMINISTRATORS MAY PERMIT THE VOLUNTARY PARTICIPATION
22 BY STUDENTS IN PRAYER, FOR PURPOSES OF POSSIBLE AMENDMENT; TO
23 BRING FORWARD SECTION 37-13-161, MISSISSIPPI CODE OF 1972, WHICH
24 PROVIDES THAT LOCAL SCHOOL BOARDS MAY ALLOW REFERENCES TO RELIGION
25 IN THE PUBLIC SCHOOLS WHEN THE REFERENCES DO NOT CONSTITUTE AID TO
26 ANY RELIGIOUS SECT OR A SECTARIAN PURPOSE, FOR PURPOSES OF
27 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:



29 **SECTION 1.** Sections 1 through 7 of this act shall be known
30 and may be cited as the "Schoolchildren's Religious Liberties
31 Act."

32 **SECTION 2.** Each school district shall treat a student's
33 voluntary expression of a religious perspective on an otherwise
34 permissible subject in the same manner that the district treats a
35 student's voluntary expression of a secular or other perspective
36 on an otherwise permissible subject. A school district may not
37 discriminate against a student based on a religious perspective
38 expressed by the student on an otherwise permissible subject.

39 **SECTION 3.** (1) To ensure that local school districts do not
40 discriminate against a student's publicly stated voluntary
41 expression of a religious perspective and to eliminate any actual
42 or perceived affirmative school sponsorship or attribution to a
43 school district of a student's expression of a religious
44 perspective, the school board of each school district shall adopt
45 a policy establishing a limited public forum for student speakers
46 at all school events at which a student is to publicly speak. The
47 policy regarding the limited public forum must require the school
48 district to:

49 (a) Provide the forum in a manner that does not
50 discriminate against a student's voluntary expression of a
51 religious perspective on an otherwise permissible subject;



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

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

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

60 (2) The school district disclaimer required by subsection
61 (1)(d) must be provided at all graduation ceremonies. The school
62 district also must provide the disclaimer at any other event in
63 which a student speaks publicly for so long as a need exists to
64 dispel any confusion over the district's nonsponsorship of the
65 student's speech.

66 (3) Student expression on an otherwise permissible subject
67 may not be excluded from a limited public forum because the
68 subject is expressed from a religious perspective.

69 **SECTION 4.** Students may express their beliefs about religion
70 in homework, artwork and other written and oral assignments free
71 from discrimination based on the religious content of their
72 submissions. Homework and classroom assignments must be judged by
73 ordinary academic standards of substance and relevance and against
74 other legitimate pedagogical concerns identified by the school
75 district. Students may not be penalized or rewarded on account of
76 the religious content of their work.



77 **SECTION 5.** Students may organize prayer groups, religious
78 clubs, "see you at the pole" gatherings or other religious
79 gatherings before, during and after school to the same extent that
80 students are permitted to organize other noncurricular student
81 activities and groups. School districts must provide religious
82 groups the same access to school facilities for assembling that is
83 given to other noncurricular groups without discrimination based
84 on the religious content of the students' expression. If student
85 groups that meet for nonreligious activities are permitted to
86 advertise or announce meetings of the groups, the school district
87 may not discriminate against any group that meets for prayer or
88 other religious speech. A school district may disclaim school
89 sponsorship of noncurricular groups and events in a manner that
90 neither favors nor disfavors groups that meet to engage in prayer
91 or religious speech.

92 **SECTION 6.** The school board of each school district shall
93 adopt and implement a policy regarding a limited public forum and
94 voluntary student expression of religious perspectives. If a
95 school district adopts and follows the model policy governing
96 voluntary religious expression in public schools provided by
97 Section 7 of this act, the district shall be presumed to be in
98 compliance with those provisions of this chapter which are
99 addressed by the model policy.



124 (d) Any additional events designated by the district,
125 which may include, but is not necessarily limited to, assemblies
126 and pep rallies.

127 The forum must be limited in the manner provided by this
128 article.

129 Except as otherwise provided in this article, eligibility to
130 use the limited public forum is limited to students who hold one
131 (1) of the following positions of honor based on neutral criteria:
132 class officers of the highest grade level in the school; and
133 student council officers, captains of the football team and other
134 students holding positions of honor designated by the school board
135 in the highest two (2) grade levels of the school.

136 Each school shall notify all eligible students of their
137 eligibility to use the limited public forum. A student who wishes
138 to participate as an introducing speaker shall submit the
139 student's name to the student council or other designated body
140 during a specified period, which period may not be less than three
141 (3) days. The specified period may be at the beginning of the
142 school year, at the end of the preceding school year so that
143 student speakers are in place for the new year, or, if the
144 selection process will be repeated each semester, at the beginning
145 of each semester or at the end of the preceding semester so
146 speakers are in place for the next semester. The names of the
147 volunteering student speakers shall be randomly drawn until all
148 names have been selected, and the names shall be listed in the



149 order drawn. Each participating student will be matched
150 chronologically to the event for which the student will be giving
151 the introduction. Student speakers may speak for one (1) week at
152 a time for all introductions of events that week, at a single
153 speaking event or in such other manner as determined by the school
154 district. The list of student speakers shall be repeated
155 chronologically, as needed, in the same order. The district may
156 repeat the selection process each semester rather than once a
157 year.

158 The subject of the student introductions must be related to
159 the purpose of the event and to the purpose of marking the opening
160 of the event, honoring the occasion, participants and those in
161 attendance, bringing the audience to order and focusing the
162 audience on the purpose of the event. The subject must be
163 designated, a student must stay on the subject and the student may
164 not engage in obscene, vulgar, offensively lewd or indecent
165 speech. The school district shall treat a student's voluntary
166 expression of a religious perspective on an otherwise permissible
167 subject in the same manner that the district treats a student's
168 voluntary expression of a secular or other perspective on an
169 otherwise permissible subject. The school district may not
170 discriminate against the student based on a religious perspective
171 expressed by the student on an otherwise permissible subject.

172 For as long as there is a need to dispel confusion over the
173 nonsponsorship of the student's speech, at each event in which a



174 student will deliver an introduction, a disclaimer shall be stated
175 in written or oral form, or both, such as, "The student giving the
176 introduction for this event is a volunteering student selected on
177 neutral criteria to introduce the event. The content of the
178 introduction is the private expression of the student and does not
179 reflect the endorsement, sponsorship, position or expression of
180 the school district."

181 The school district recognizes that certain students who have
182 attained special positions of honor in a school traditionally have
183 addressed school audiences from time to time as a tangential
184 component of their achieved positions of honor, such as the
185 captains of various sports teams, student council officers, class
186 officers, homecoming kings and queens, prom kings and queens, and
187 the like, based on neutral criteria. Nothing in this policy
188 eliminates the continuation of the practice of having these
189 students, irrespective of grade level, address school audiences in
190 the normal course of their respective positions. The school
191 district shall create a limited public forum for the speakers and
192 shall treat a student's voluntary expression of a religious
193 perspective on an otherwise permissible subject in the same manner
194 that the district treats a student's voluntary expression of a
195 secular or other perspective on an otherwise permissible subject.
196 The school district may not discriminate against the student based
197 on a religious perspective expressed by the student on an
198 otherwise permissible subject.



199 ARTICLE III

200 STUDENT SPEAKERS AT GRADUATION CEREMONIES

201 There is created a limited public forum consisting of an
202 opportunity for a student to speak to begin graduation ceremonies
203 and another student to speak to end graduation ceremonies. For
204 each speaker, the district shall set a maximum time limit
205 reasonable and appropriate to the occasion.

206 The forum shall be limited in the manner provided by this
207 article.

208 Only students who are graduating and who hold one (1) of the
209 following neutral criteria positions of honor are eligible to use
210 the limited public forum: student council officers; class
211 officers of the graduating class; the top three (3) academically
212 ranked graduates; or a shorter or longer list of student leaders
213 as the school district may designate. A student who has a
214 speaking role in the graduation ceremonies is ineligible to give
215 the opening and closing remarks. The names of the eligible
216 volunteering students will be drawn randomly. The student whose
217 name is drawn first will give the opening remarks, and the student
218 whose name is drawn second will give the closing remarks.

219 The topic of the opening and closing remarks must be related
220 to the purpose of the graduation ceremony and to the purpose of
221 marking the opening and closing of the event, honoring the
222 occasion, the participants, and those in attendance, bringing the



223 audience to order, and focusing the audience on the purpose of the
224 event.

225 In addition to the students giving the opening and closing
226 remarks, certain other students who have attained special
227 positions of honor based on neutral criteria, including, but not
228 necessarily limited to, the valedictorian, will have speaking
229 roles at graduation ceremonies. For each speaker, the school
230 district shall set a maximum time limit reasonable and appropriate
231 to the occasion and to the position held by the speaker. For this
232 purpose, the district creates a limited public forum for these
233 students to deliver the addresses. The subject of the addresses
234 must be related to the purpose of the graduation ceremony, marking
235 and honoring the occasion, honoring the participants and those in
236 attendance, and the student's perspective on purpose, achievement,
237 life, school, graduation and looking forward to the future.

238 The subject must be designated for each student speaker, the
239 student must stay on the subject and the student may not engage in
240 obscene, vulgar, offensively lewd or indecent speech. The school
241 district shall treat a student's voluntary expression of a
242 religious perspective on an otherwise permissible subject in the
243 same manner that the district treats a student's voluntary
244 expression of a secular or other perspective on an otherwise
245 permissible subject. The school district may not discriminate
246 against the student based on a religious perspective expressed by
247 the student on an otherwise permissible subject.



248 A written disclaimer shall be printed in the graduation
249 program that states, "The students speaking at the graduation
250 ceremony were selected based on neutral criteria to deliver
251 messages of each student's own choice. The content of each
252 student speaker's message is the private expression of the
253 individual student and does not reflect any position or expression
254 of the school district, the school board, the district's
255 administration or employees of the district or the views of any
256 other graduate. The contents of these messages were prepared by
257 the student volunteers, and the district refrained from any
258 interaction with student speakers regarding the student speakers'
259 perspectives on permissible subjects."

260 ARTICLE IV

261 RELIGIOUS EXPRESSION IN CLASS ASSIGNMENTS

262 A student may express the student's beliefs about religion in
263 homework, artwork and other written and oral assignments free from
264 discrimination based on the religious content of the student's
265 submission. Homework and classroom work must be judged by
266 ordinary academic standards of substance and relevance and against
267 other legitimate pedagogical concerns identified by the school
268 district. Students may not be penalized or rewarded on account of
269 religious content. If a teacher's assignment involves writing a
270 poem, the work of a student who submits a poem in the form of a
271 prayer (for example, a psalm) must be judged on the basis of
272 academic standards, including literary quality, and the student



273 may not be penalized or rewarded on account of the poem's
274 religious content.

275 ARTICLE V

276 FREEDOM TO ORGANIZE RELIGIOUS GROUPS AND ACTIVITIES

277 Students may organize prayer groups, religious clubs, "see
278 you at the pole" gatherings and other religious gatherings before,
279 during and after school to the same extent that students are
280 permitted to organize other noncurricular student activities and
281 groups. Religious groups must be given the same access to school
282 facilities for assembling as other noncurricular groups, without
283 discrimination based on the religious content of the group's
284 expression. If student groups that meet for nonreligious
285 activities are permitted to advertise or announce the groups'
286 meetings by advertising in a student newspaper, putting up
287 posters, making announcements on a student activities bulletin
288 board or public address system, or handing out leaflets, the
289 school district may not prohibit any group that meets for prayer
290 or other religious speech from announcing or advertising its
291 meetings in similar manners. The school district may disclaim
292 sponsorship of noncurricular groups and events if the disclaimer
293 is administered in a manner that does not favor or disfavor groups
294 that meet to engage in prayer or other religious speech.

295 **SECTION 8.** The provisions of Sections 1 through 7 of this
296 act are severable. If any part of Sections 1 through 7 of this



297 act is declared invalid or unconstitutional, that declaration
298 shall not affect the part or parts that remain.

299 **SECTION 9.** Section 37-13-4.1, Mississippi Code of 1972, is
300 amended as follows:

301 37-13-4.1. (1) The legislative intent and purpose for this
302 section is to protect the freedom of speech guaranteed by the
303 First Amendment to the United States Constitution, to define for
304 the citizens of Mississippi the rights and privileges that are
305 accorded them on public school property, other public property or
306 other property at school-related events; and to provide guidance
307 to public school officials on the rights and requirements of law
308 that they must apply. The intent and purpose of the Legislature
309 is to accommodate the free exercise of religious rights of its
310 student citizens in the public schools and at public school events
311 as provided to them by the First Amendment to the United States
312 Constitution and the judicial interpretations thereof as given by
313 the United States Supreme Court.

314 (2) On public school property, other public property or
315 other property, invocations, benedictions or nonsectarian,
316 nonproselytizing student-initiated voluntary prayer shall be
317 permitted during compulsory or noncompulsory school-related
318 student assemblies, student sporting events, graduation or
319 commencement ceremonies and other school-related student events in
320 the manner provided under the Schoolchildren's Religious Liberties
321 Act.



322 (3) This section shall not diminish the right of any student
323 or person to exercise his rights of free speech and religion,
324 including prayer, as permitted by the United States Constitution,
325 on public school property, other public property or other
326 property, at times or events other than those stated in subsection
327 (2) of this section.

328 (4) The exercise of the rights guaranteed under subsection
329 (2) of this section shall not be construed to indicate any
330 support, approval or sanction of the contents of any such prayer,
331 invocation, benediction or other activity, or be construed as an
332 unconstitutional use of any public property or other property by
333 the State of Mississippi or any agency, department, board,
334 commission, institution or other instrumentality thereof or any
335 political subdivision of the state, including any county or
336 municipality and any instrumentality thereof. The exercise of
337 these rights on public school property, other public property or
338 on other property for school-related activities, by students or
339 others, shall not be construed as the promotion or establishment
340 of any religion or religious belief.

341 (5) The provisions of this section are severable. If any
342 part of this section is declared invalid or unconstitutional, that
343 declaration shall not affect the part or parts that remain.

344 **SECTION 10.** Section 37-13-4, Mississippi Code of 1972, is
345 brought forward as follows:



346 37-13-4. It shall be lawful for any teacher or school
347 administrator in any of the schools of the state which are
348 supported, in whole or in part, by the public funds of the state,
349 to permit the voluntary participation by students or others in
350 prayer. Nothing contained in this section shall authorize any
351 teacher or other school authority to prescribe the form or content
352 of any prayer. The provisions of this section shall not be
353 construed to amend or repeal the provisions of Section 37-13-4.1
354 but shall be considered as supplemental and in addition to the
355 provisions of Section 37-13-4.1.

356 **SECTION 11.** Section 37-13-161, Mississippi Code of 1972, is
357 brought forward as follows:

358 37-13-161. Nothing in this code shall be construed to
359 prevent any local school board, in its discretion, from allowing
360 references to religion or references to or the use of religious
361 literature, history, art, music or other things having a religious
362 significance in the public schools of such school district, when
363 such references or uses do not constitute aid to any religious
364 sect or sectarian purpose and when such references or uses are
365 incidental to or illustrative of matters properly included in the
366 course of study.

367 **SECTION 12.** This act shall take effect and be in force from
368 and after July 1, 2013.

