**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “STUDENT AND FACULTY FREEDOM OF RELIGIOUS SPEECH ACT” BY ADDING SECTION 59‑1‑437 SO AS TO PROVIDE SCHOOL DISTRICTS SHALL ADOPT POLICIES TO ESTABLISH LIMITED PUBLIC FORUMS FOR STUDENT SPEAKERS AT SCHOOL EVENTS AT WHICH STUDENTS MAY PUBLICLY SPEAK, TO PROVIDE SPECIFIC REQUIREMENTS FOR THESE POLICIES, TO PROVIDE STUDENT EXPRESSION ON OTHERWISE PERMISSIBLE SUBJECTS MAY NOT BE EXCLUDED FROM THESE LIMITED PUBLIC FORUMS BECAUSE THE SUBJECTS ARE EXPRESSED FROM A RELIGIOUS VIEWPOINT, AND TO PROVIDE THE STATE BOARD OF EDUCATION SHALL ADOPT A RELATED MODEL POLICY; BY ADDING SECTION 59‑1‑439 SO AS TO PROVIDE PUBLIC SCHOOL FACULTY AND EMPLOYEES MAY ENGAGE IN CERTAIN RELIGIOUS‑RELATED ACTIVITIES IN THE COURSE OF THEIR EMPLOYMENT, AND TO DEFINE RELATED TERMINOLOGY; AND TO PROVIDE FOR THE CONSTRUCTION OF THIS ACT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act must be known and may be cited as the “Student and Faculty Freedom of Religious Speech Act”.

SECTION 2. Article 5, Chapter 1, Title 59 of the 1976 Code is amended by adding:

“Section 59‑1‑437. (A)(1) To ensure that a school district does not discriminate against a student’s publicly stated voluntary expression of a religious 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 viewpoint, if any, a school district shall adopt and implement a policy that mustinclude the establishment of a limited public forum for student speakers at all school events at which a student may publicly speak. This policy also must 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 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) School district disclaimers provided in item (1)(d) must be provided at all graduation ceremonies. The school district also must 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.

(B) Student expression on an otherwise permissible subject may not be excluded from the limited public forum because the subject is expressed from a religious viewpoint.

(C) The State Board of Education shall develop a model policy on limited public forum rights provided in this section upon which a school district may base its policy. A school district that voluntarily adopts and follows this model policy must be considered to be in compliance with the provisions of this section.”

SECTION 3. Article 5, Chapter 1, Title 59 of the 1976 Code is amended by adding:

“Section 59‑1‑439. (A) During contract time, faculty and employees at public schools may:

(1) engage in religious expression and discussions and share religious materials with other faculty and employees at the same times and in the same manner that faculty and employees are permitted to engage in nonreligious expression and discussions;

(2) discuss religious topics and use religious materials in the classroom when presented in a neutral manner that serves a valid and secular educational purpose;

(3) serve as a sponsor of student religious clubs and assist the students in planning meetings, activities, and events to the same extent that faculty sponsors of nonreligious clubs are permitted;

(4) permit and be present for student‑initiated, student‑led religious expression;

(5) participate in voluntary student‑initiated, student‑led prayer, such as prayer before a sporting event, when invited to do so by the students, provided that his participation is in his personal capacity and not as a representative of the school;

(6) wear religious clothing, symbols, or jewelry, provided that such items otherwise comply with any dress code implemented by the public elementary or secondary school; and

(7) decorate his desk and other personal space in their office or classroom with items that reflect their religious beliefs to the same extent that other faculty and employees are permitted to decorate their desk and other personal space.

(B) During noncontract time, faculty and employees at public elementary and secondary schools may engage in religious expression and share religious materials to the same extent that other individuals are permitted to do so.

(D) For purposes of this section, ‘contract time’ means time when a faculty member or employee is required to be on campus or at another designated location for the purpose of fulfilling the duties of their employment, or when a faculty or employee is otherwise acting as a designated representative of the public elementary or secondary school.”

SECTION 4. (A) This action may not be construed to authorize this State or any of its political subdivisions to:

(1) require any person to participate in prayer or any other religious activity; or

(2) violate the constitutional rights of any person.

(B) This act may not be construed to limit the authority of any public school to:

(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; or

(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 the United States Constitution, federal law, and the Constitution and laws of this State.

SECTION 5. This act takes effect beginning with the 2021‑2022 School Year.

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