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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 164  
133<sup>rd</sup> General Assembly

## Bill Analysis

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**Version:** As Passed by the House

**Primary Sponsor:** Rep. Ginter

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### SUMMARY

- Requires public schools to give students who wish to meet for the purpose of religious expression the same access to school facilities given to secular student groups, without regard to the content of the expression.
- Removes a current provision that permits a school district to limit the exercise or expression of religion to lunch periods or other noninstructional time periods.
- Authorizes students enrolled in public schools to engage in religious expression before, during, and after school hours in the same manner and to the same extent that a student may engage in secular activities or expression before, during, and after school hours.
- Prohibits public schools from restricting a student from engaging in religious expression in the completion of homework, artwork, or other assignments.
- Prohibits public schools from rewarding or penalizing a student based on the religious content of the student's homework, artwork, or other assignments.
- Designates the bill's provisions regarding religious expression as the "Ohio Student Religious Liberties Act of 2019."

### DETAILED ANALYSIS

#### **Access to school facilities by religious student groups**

The bill requires a public school (school district, community school, STEM school, and college-preparatory boarding school) to give students who wish to conduct a meeting for the

purpose of engaging in religious expression the same access to school facilities as student secular groups, without regard to the content of a student's or group's expression.<sup>1</sup>

## **Religious expression at school**

Current law prohibits a school district board of education from adopting any policy or rule respecting or promoting an establishment of religion or prohibiting any student from the exercise or expression of the student's religious beliefs. The bill removes a provision of that law permitting a school district to limit the exercise or expression of a student's religious beliefs to lunch period or other noninstructional time periods when students are free to associate.<sup>2</sup>

The bill also enacts a separate new provision stating that a student enrolled in any public school may engage in religious expression "before, during, and after school hours in the same manner and to the same extent that a student is permitted to engage in secular activities or expression before, during, and after school hours."<sup>3</sup>

The bill further prohibits public schools from restricting a student from engaging in religious expression in the completion of homework, artwork, or other written or oral assignments. Grades and scores for those assignments must be calculated using ordinary academic standards of substance and relevance, including any legitimate pedagogical concerns. Moreover, it expressly prohibits public schools from penalizing or rewarding a student based on the religious content of the student's work.<sup>4</sup>

For purposes of its provisions, the bill defines "religious expression" as including any of the following:

1. Prayer;
2. Religious gatherings, including, but not limited to, prayer groups, religious clubs, "see you at the pole" gatherings, or other religious gatherings;
3. Distribution of written materials or literature of a religious nature;
4. Any other activity of a religious nature, including wearing symbolic clothing or expression of a religious viewpoint, provided that the activity is not obscene, vulgar, offensively lewd, or indecent.<sup>5</sup>

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<sup>1</sup> R.C. 3320.02(B). See also R.C. 3314.03, 3326.11, and 3328.24 for conforming changes.

<sup>2</sup> R.C. 3313.601.

<sup>3</sup> R.C. 3320.02(A).

<sup>4</sup> R.C. 3320.03.

<sup>5</sup> R.C. 3320.01(B).

## Title

The bill states that its substantive provisions regarding access and religious expression are to be collectively known as the “Ohio Student Religious Liberties Act of 2019.”<sup>6</sup>

## Intent statement

The bill states that the bill is not intended nor shall it be construed to limit or abrogate religious expression of students already guaranteed under the Ohio Constitution and the United States Constitution.<sup>7</sup>

## Background on current statutory law

Current statutory law expressly permits a district board of education to “provide for a moment of silence each school day for prayer, reflection, or meditation upon a moral, philosophical, or patriotic theme.” However, no student may be required to participate in the moment of silence.

That law also specifies that a district board may not prohibit a classroom teacher from providing in the classroom reasonable periods of time for activities of a moral, philosophical, or patriotic theme. Similarly, no student may be required to participate in the activities, if the activities are contrary to the religious convictions of the student or the student’s parents or guardians.<sup>8</sup>

Neither of these provisions applies to community schools, STEM schools, or college-preparatory boarding schools.

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## HISTORY

Action	Date
Introduced	03-25-19
Reported, H. Primary & Secondary Education	06-27-19
Passed House (61-31)	11-13-19

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<sup>6</sup> R.C. 3320.01(A).

<sup>7</sup> Section 4.

<sup>8</sup> R.C. 3313.601.