



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT to create** 118.129 of the statutes; **relating to:** religious expression in  
2           public schools.

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***Analysis by the Legislative Reference Bureau***

This bill creates the “Wisconsin Public Schools Religious Liberties Act.” The bill expressly prohibits a school board from discriminating against a student, a parent of a student, or a school board employee based on his or her religious viewpoint or belief. Specifically, the bill provides that a school board may not discriminate against a student for any of the following:

1. Wearing clothing, accessories, and jewelry that display a religious message or symbol.
2. Praying or engaging in religious activities or religious expression before, during, and after the school day.
3. Organizing prayer groups, religious clubs, and other religious gatherings before, during, and after the school day.
4. Expressing the student’s religious beliefs in coursework, artwork, and other written and oral assignments.

The bill expressly provides that a school board may not discriminate against a school board employee for doing any of the following while the school board employee is acting in his or her official capacity:

1. Engaging in religious expression and discussions and sharing religious materials with other school employees in the same manner that school employees are allowed to engage in nonreligious expression and discussions.

2. Discussing religious topics and using religious materials in the classroom if they are presented in a neutral manner and serve a valid, nonreligious educational purpose.

3. Serving as a sponsor of a religious club and assisting students in planning meetings, activities, and events that include prayer or religious expression.

4. Participating in a prayer or other religious activity on school grounds if certain conditions are satisfied.

5. Wearing religious clothing, symbols, or jewelry, if it otherwise complies with any dress code implemented by the school board.

6. Decorating the school employee's desk and other personal space in his or her office or classroom with items that reflect the school employee's religious beliefs.

The bill also requires each school board to adopt a limited public forum policy that applies to school-sponsored events at which a student is invited to speak publicly. In general, the term "limited public forum" refers to a forum that the government has created for certain groups or for the discussion of certain topics. In a limited public forum, restrictions must be viewpoint-neutral and reasonable in light of the forum's purpose. Under the bill, a school board's limited public forum policy must include the following:

1. That the school board is prohibited from discriminating against a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject.

2. A method, based on neutral criteria, for selecting student speakers for school events and graduation ceremonies.

3. That the school board is allowed to state, in writing or orally, or both, that a student's speech does not reflect the endorsement, sponsorship, position, or expression of the school board.

4. If the school-sponsored event is a graduation, that the school board must include a statement that student speeches do not reflect the endorsement, sponsorship, position, or expression of the school board.

5. That the school board must periodically review its programs and policies for compliance with the Wisconsin Public Schools Religious Liberties Act and must investigate, report, and respond to noncompliance with the act.

Finally, the bill specifies that the Wisconsin Public Schools Religious Liberties Act is to be construed in a manner that does not violate the constitutional rights of any individual and does not limit current law that prohibits discrimination against students and teachers.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 118.129 of the statutes is created to read:

2           **118.129 Religious liberties in public schools. (1) SHORT TITLE.** This section  
3 may be cited as the "Wisconsin Public Schools Religious Liberties Act."

1           **(2) DEFINITION.** In this section, “school employee” means any individual  
2 employed by a school board.

3           **(3) RELIGIOUS EXPRESSION; GENERAL PROVISIONS.** (a) A school board may not  
4 discriminate against a pupil, pupil’s parent, or school employee on the basis of the  
5 pupil’s, parent’s, or school employee’s religious viewpoint or religious expression.

6           (b) A school board shall treat a pupil’s voluntary expression of a religious  
7 viewpoint on an otherwise permissible subject in the same manner that the school  
8 board treats a pupil’s voluntary expression of a nonreligious viewpoint.

9           (c) A school board shall provide the same access to school facilities that is  
10 provided to nonreligious groups to religious groups without discrimination based on  
11 the religious content of the religious group’s expression. The school board shall allow  
12 a religious group that meets for prayer or other religious speech to advertise or  
13 announce its meetings in the same manner and to the same extent that it allows a  
14 nonreligious group to advertise or announce its meetings.

15           **(4) RELIGIOUS EXPRESSION; PUPILS.** (a) A school board shall allow a pupil to do  
16 all of the following:

17           1. Wear clothing, accessories, and jewelry that display a religious message or  
18 symbol in the same manner and to the same extent that the school board allows  
19 pupils to wear clothing, accessories, and jewelry that display nonreligious messages  
20 or symbols.

21           2. Pray or engage in religious activities or religious expression before, during,  
22 and after the school day in the same manner and to the same extent that the school  
23 board allows pupils to engage in nonreligious activities or expression.

1           3. Organize prayer groups, religious clubs, and other religious gatherings  
2 before, during, and after the school day in the same manner and to the same extent  
3 that the school board allows pupils to organize nonreligious activities and groups.

4           (b) A school board shall ensure all of the following:

5           1. That a pupil may express his or her religious beliefs in coursework, artwork,  
6 and other written and oral assignments free from discrimination.

7           2. That a pupil's homework and classroom assignments are evaluated,  
8 regardless of their religious content, based on expected academic standards relating  
9 to the course curriculum and requirements.

10          3. That a pupil is not penalized or rewarded based on the religious content of  
11 his or her work if the coursework, artwork, or other written or oral assignments  
12 require a pupil's viewpoint to be expressed.

13          **(5) RELIGIOUS EXPRESSION; SCHOOL EMPLOYEES.** (a) In this subsection, "contract  
14 time" means any time during which a school employee is acting in his or her official  
15 capacity as an employee of the school board or otherwise acting as a designated  
16 representative of the school board.

17          (b) During contract time, a school employee may do all of the following:

18          1. Engage in religious expression and discussions and share religious materials  
19 with other school employees at the same times and in the same manner that school  
20 employees are permitted to engage in nonreligious expression and discussions.

21          2. Discuss religious topics and use religious materials in the classroom if they  
22 are presented in a neutral manner and serve a valid, nonreligious educational  
23 purpose.

24          3. Serve as a sponsor of a religious club and assist pupils in planning meetings,  
25 activities, and events that include prayer or religious expression to the same extent

1 that school employees are permitted to serve as a sponsor of a nonreligious club and  
2 are permitted to assist pupils in planning meetings, activities, and events that do not  
3 include prayer or religious expression.

4 4. Participate in a prayer or other religious activity on school grounds if all of  
5 the following apply:

6 a. The religious activity is initiated by a pupil.

7 b. The religious activity is held at a reasonable time before or after the school  
8 day.

9 c. The religious activity is voluntary.

10 d. The religious activity does not conflict with the responsibilities or  
11 assignments of the school employee.

12 e. A pupil invites the school employee to participate in the religious activity.

13 5. Wear religious clothing, symbols, or jewelry, if the clothing, symbols, or  
14 jewelry otherwise complies with any dress code implemented by the school board.

15 6. Decorate the school employee's desk and other personal space in his or her  
16 office or classroom with items that reflect the school employee's religious beliefs to  
17 the same extent that school employees are permitted to decorate their desks and  
18 other personal space with nonreligious items.

19 (c) During time that is not contract time, a school employee may engage in  
20 religious expression and share religious materials to the same extent that an  
21 individual who is not a school employee is permitted to do so under state and federal  
22 law.

23 **(6) LIMITED PUBLIC FORUM; SCHOOL BOARD POLICY.** Each school board shall adopt  
24 a policy that establishes a limited public forum for pupil speakers that applies to all

1 school-sponsored events at which a pupil is invited to speak publicly. The school  
2 board shall include in the policy at least all of the following:

3 (a) That the school board may not discriminate against a pupil's voluntary  
4 expression of a religious viewpoint, if any, on an otherwise permissible subject.

5 (b) A method, based on neutral criteria, for selecting pupil speakers for school  
6 events and graduation ceremonies.

7 (c) That the school board may state in writing or orally, or both, that a pupil's  
8 speech does not reflect the endorsement, sponsorship, position, or expression of the  
9 school board.

10 (d) If the school-sponsored event is a graduation, that the school board shall  
11 include a statement described under par. (c).

12 (e) That the school board shall periodically review school district programs and  
13 policies for compliance with this section and shall investigate, report, and respond  
14 to noncompliance with this section.

15 **(7) CONSTRUCTION.** (a) This section may not be construed to authorize the state  
16 or a school board to do any of the following:

- 17 1. Require any individual to participate in prayer or any other religious activity.  
18 2. Violate the constitutional rights of any individual.

19 (b) This section may not be construed to limit a school board's authority to do  
20 any of the following:

21 1. Maintain order and discipline on school grounds in a content-neutral and  
22 viewpoint-neutral manner.

23 2. Protect the safety of pupils, school employees, and individuals who visit a  
24 public school.

