

HOUSE BILL ANALYSIS

HB 1230

Title: *An act relating to students' rights.*

Brief Description: *Protecting students' religious rights.*

Sponsors: *Representatives Backlund, Johnson, Lambert, Carrell, Sherstad, D. Schmidt, Thompson, Boldt and Pennington.*

HOUSE COMMITTEE ON EDUCATION

Meeting Date: *January 31, 1997.*

Bill Analysis Prepared by: *Pat Shellely (786-7149).*

Background: Both the Washington State Constitution and the Federal Constitution protect the right of free speech and the right to practice religion. The Washington Constitution also prohibits spending public money for religious worship, exercise, or instruction, or the support of any religious establishment. The Washington Constitution also specifically provides that all public schools must be free from sectarian control or influence. The inherent tension between these principles has spawned substantial litigation about what is permissible expression of religious views or practices in schools.

A student has a right **not** to express his or her religious beliefs. The First Amendment protects a student from official compulsion to adopt or verbalize any particular political or personal philosophy, including religion. The Washington administrative code partially reflects this by providing that No written or oral test, questionnaire, survey, or examination, shall be used to elicit the personal beliefs or practices of a student or his parents as to sex or religion except with the written consent of the parent or guardian.— WAC 180.52.030.

Several of the cases involving the tension between the right to free speech and the right to practice religion involve the issue of whether the free expression by one student or set of students under the auspices of school authority results in violating other students' rights by subjecting a captive audience— to certain religious beliefs or programs. When public money is arguably spent to promote or support a religious program, then the issue is even more complicated.

Our Washington Supreme Court has held that our constitution is far stricter than the federal constitution because the state Constitution has a specific prohibition against using public funds to maintain or support any school which is under sectarian control or influence.

In one case, the Washington Supreme court found that the practice of distributing cards and other promotional materials for a religious program in which students participated during release time– violated the constitution. The practice had the effect of influencing the pupils, while assembled in the classrooms as a captive audience, to participate in a religious program. The Ninth Circuit has held that a school policy permitting students to organize and include prayers in school assemblies or commencement exercises violates the Establishment Clause. However, not all mention of religion is prohibited in public schools. Students are not prohibited from praying on their initiative, either singly or in groups. In addition, the U.S. Supreme Court has held that if a school creates an open forum– for other groups, then religious groups may not be excluded. That ruling was codified in the federal Equal Access Act. The Ninth Circuit has held that any public school that receives federal assistance must comply with the Equal Access Act, even if that means violating the Washington State Constitution.

Summary of Bill: The Legislature recognizes that federal and state constitutional rights of free speech and religion extend fully to students enrolled in common schools.

Students may freely express and incorporate the student’s religious beliefs and opinions where relevant and appropriate in class work, homework, evaluations, or tests, extracurricular activities, or other activities under the sponsorship of the school district, without retribution or penalty to the standing, evaluation, or privilege of the student.

The provision is not intended to limit the exchange of ideas in common schools. However, no officer, employee, agent, or contractor of a school district may solicit, suggest, or prompt students, either directly or indirectly, to express their religious beliefs.

Fiscal Note: *Not requested.*

Effective Date: *Ninety days after adjournment of session in which bill is passed.*