

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SJR 1104

INTRODUCER: Senator Massullo

SUBJECT: Religious Expression in Public Schools

DATE: February 9, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SJR 1104 proposes a constitutional amendment to protect students, parents, and school personnel against discrimination on the basis of their religious viewpoint or religious expression. The proposed amendment also requires public schools and participating high schools to allow specified religious expression and practices in school and school-related settings. The proposed amendment places provisions in the State Constitution which currently exist in the Florida Statutes.

The proposed amendment:

- Requires public schools to allow student religious expression in coursework, artwork, oral assignments, and attire and to allow student prayer and student-organized religious gatherings on the same terms as comparable secular expression and activities.
- Authorizes school personnel to participate in student-initiated religious activities on school grounds at reasonable times before or after the school day. The activities must be voluntary and not conflict with the school personnel’s responsibilities or assignments.
- Requires a daily moment of silence at the beginning of the school day and requires, upon request, an opportunity for brief opening remarks at high school championship contests or series, which may include student-led or school personnel-led prayer subject to specified limitations.

The proposed amendment, if approved, will become effective on the first Tuesday after the first Monday in January after the election.

II. Present Situation:

Constitutional Amendment Process

A joint resolution proposing a constitutional amendment must be approved by three-fifths of the membership of each house of the Legislature.¹ A proposed amendment must be submitted to the electors at the next general election held more than 90 days after the joint resolution is filed, unless a special election is called for that purpose.² An amendment generally becomes effective on the first Tuesday after the first Monday in January following the election, unless the amendment specifies otherwise.³ An amendment proposed by joint resolution must receive approval by at least 60 percent of the electors voting on the measure.⁴

Federal and State Protections of Religious Freedom and Speech

The First Amendment to the U.S. Constitution provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, ...”⁵ Similarly, the State Constitution provides “There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof” and “Every person may speak, write and publish sentiments on all subjects but shall be responsible for the abuse of that right.”⁶ These provisions simultaneously prevent a government from establishing a religion while also protecting citizens from a government’s impermissible intrusion into personal religious expressions.

Student and Employee Freedom of Speech and Religious Expression in Public Schools

A public school student retains First Amendment free speech protections at school, and school officials may restrict student speech at school only under recognized constitutional standards. For example, when students wore black armbands on their sleeves to express their disapproval of the war in Viet Nam, the local school district sought to prohibit the wearing of the armbands and suspend students who refused to remove them. The U.S. Supreme Court held that unless the school authorities could have reasonably believed that the wearing of armbands would have disrupted or materially interfered with school activities, the regulation was an unconstitutional denial of the students’ right to express their opinions.⁷

Students may engage in private religious expression during noninstructional time to the same extent the school permits comparable private secular expression, subject to content-neutral time, place, and manner limits.⁸

¹ FLA. CONST. art. XI, s. 1.

² FLA. CONST. art. XI, s. 5(a).

³ FLA. CONST. art. XI, s. 5(e).

⁴ FLA. CONST. art. XI, s. 5(e).

⁵ U.S. CONST. amend I.

⁶ FLA. CONST. art. 1, ss. 3 and 4.

⁷ *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969).

⁸ U.S. Department of Education, *Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools* (Jan. 14, 2025), <https://www.ed.gov/laws-and-policy/laws-preschool-grade-12-education/preschool-grade-12-policy-documents/guidance-on-constitutionally-protected-prayer-and-religious-expression-in-public-elementary-and-secondary-schools> (last visited Feb. 5, 2026).

Public schools remain subject to constitutional limits on school-sponsored religious activity. A public school may not organize, sponsor, or coerce participation in prayer in connection with school-sponsored events in a manner that violates the Establishment Clause.⁹ At the same time, public school employees may have protections for private religious exercise and expression, depending on context, coercion risk, and whether the employee is acting within official duties.¹⁰ In a 2022 U.S. Supreme Court decision, the Court determined that a school district burdened a football coach's Free Exercise rights when it suspended him for quietly praying at midfield after a football game ended. Saying that the coach's prayers were private speech, not government speech that could be attributable to the school district, the school district's suspension of the coach could not be justified as an act essential to avoid violating the Establishment Clause.¹¹

More recently, a Florida case made its way through the federal court system raising religious expression issues. A private Christian high school sued the Florida High School Athletic Association because the Association denied the school's request for permission to conduct a joint pregame prayer over the Association's public address system during a high school football championship game. The game was played at a neutral site, not on the field of either school. The school alleged that the Association violated the school's rights under the Free Speech and Free Exercise Clauses of both the U.S. and Florida Constitutions. The Eleventh Circuit Court of Appeals ultimately held in favor of the Association concluding that the Association, as a state actor, was restraining *its own expression of speech*, government speech, when it barred the school from using the public address system at the Association's playoff game. It, therefore, did not violate the Free Exercise Clause. The school appealed to the U.S. Supreme Court, but the Court declined to accept the case for review.¹²

In May, 2023, the Legislature adopted legislation that required the Association to adopt policies "or procedures that provide each school participating in a high school championship contest or series of contests under the direction and supervision of the association the opportunity to make brief opening remarks, if requested by the school, using the public address system at the event."¹³ The Association adopted a policy consistent with the statute that now permits schools participating in state championship games to make brief opening remarks on the public address system. As required by statute, the remarks may not exceed two minutes per school and may not be derogatory, rude or threatening. Before the remarks are made an announcement must be made stating that the remarks are not endorsed by the Association and do not reflect its views or opinions.¹⁴

Florida Statutory Provisions Addressing Religious Expression in Public Schools

In 2017, the Legislature adopted the "Florida Student and School Personnel Religious Liberties Act. (the Act)" The Act contains provisions addressing religious expression in public schools.

⁹ *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000).

¹⁰ *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507 (2022).

¹¹ *Id.*

¹² *Cambridge Christian School, Inc. v. Florida High School Athletic Association, Inc.*, 115 F. 4th 1266 (2024).

¹³ Ch. 2023-97, s. 6, Laws of Fla, now codified at s. 1006.185, F.S.

¹⁴ Florida High School Athletic Association, 2023-24 *FHSAA Handbook*, 60, Administrative Policy 10.7 (2024), https://fhsaa.com/documents/2023/7/13//2324_handbook.pdf?id=4394.

The Act provides that a school district may not discriminate against a student, parent, or school personnel based on religious viewpoint or expression, and a student's voluntary expression of a religious viewpoint must be treated in the same manner that the school district treats a student's voluntary expression of a secular viewpoint.¹⁵ Florida law also recognizes student religious expression in coursework, artwork, and attire and recognizes student prayer and religious activities before, during, and after the school day on the same terms as secular activities.¹⁶

An additional statute requires a daily moment of silence in public schools. In relevant part, the first-period teacher must set aside at least one minute and not more than two minutes for silent reflection, and the teacher may not make suggestions as to the nature of the reflection.¹⁷

As discussed above, Florida law also addresses "opening remarks" at certain high school athletic contests and limitations on the role of the athletic association in controlling content.¹⁸

III. Effect of Proposed Changes:

SJR 1104 proposes a constitutional amendment that protects the religious viewpoint and expression of students, parents, and school personnel in public schools. The proposed amendment places protections in the State Constitution which currently exist in the Florida Statutes. A joint resolution must be approved by three-fifths vote of the membership of each House before it may be submitted to the electors at the next general election, or at an earlier special election authorized for that purpose. An amendment to the State Constitution must be approved by 60 percent of the electors voting on the measure to pass and be added to the Constitution.

The proposed amendment places into the State Constitution, the nondiscrimination and equal-treatment provisions currently found in s. 1002.206(2), F.S. As found in the statute, the amendment prohibits a school district from discriminating against a student, a parent, or school personnel based on religious viewpoint or religious expression. The amendment also requires a school district to treat a student's voluntary expression of a religious viewpoint on an otherwise permissible subject in the same manner as the district treats a student's voluntary expression of a secular viewpoint.

The proposed amendment requires each public school to allow the following student and school personnel religious expression on the same terms as comparable secular expression:

- A student to express religious beliefs in coursework, artwork, and other written or oral assignments without discrimination, with evaluation based on expected academic standards tied to the course curriculum and requirements, and without penalty or reward based on religious content when the assignment requires the student to express a viewpoint.
- A student to wear clothing, accessories, and jewelry displaying religious messages or symbols in the same manner and to the same extent as secular clothing, accessories, and jewelry displaying messages or symbols.

¹⁵ Section 1002.206(2), F.S.

¹⁶ Section 1002.206(3) and (4), F.S.

¹⁷ Section 1003.45, F.S.

¹⁸ Section 1006.185, F.S.

- A student to pray or engage in religious activities or expression before, during, and after the school day, and to organize prayer groups, religious clubs, and other religious gatherings, in the same manner and to the same extent as the student may engage in and organize comparable secular activities or groups.
- School personnel to participate in student-initiated religious activities on school grounds at reasonable times before or after the school day, if the activities are voluntary and participation does not conflict with the personnel's responsibilities or assignments.

The amendment, consistent with s. 1003.45, F.S., requires public schools to provide specified opportunities for reflection and opening remarks at certain school events by requiring:

- Each public school, without supporting or discouraging student prayer, to direct first-period classroom teachers in all grades to set aside a daily moment of silence of at least 1 minute but not more than 2 minutes, during which a student may not interfere with other students' participation.
- Each high school that participates in a championship contest or series of contests to have the opportunity, upon the school's request, to make brief opening remarks using the public address system at the event, with remarks that may include student-led or school personnel-led prayer. Remarks may not be derogatory, rude, or threatening, and may not exceed two minutes per school.

The joint resolution requires that a ballot title and ballot summary be placed on the ballot for the proposed constitutional amendment. The ballot summary is as follows:

CONSTITUTIONAL AMENDMENT
ARTICLE X, SECTION 33

PROTECTING RELIGIOUS EXPRESSION IN PUBLIC SCHOOLS.—
Proposing an amendment to the State Constitution to provide protections from discrimination for student and school personnel religious expression in public schools, including the expression of religious beliefs in a student's school work or attire, prayer, activities and religious expressions, moments of silence, and opening remarks at high school championship contest or series of contests.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Amendments to the Florida Constitution

Article XI, s. 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. Article XI, s. 5(a) of the Florida Constitution requires the amendment be placed before the electors at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose.¹⁹ Ballot summaries of proposed constitutional amendments submitted to the electors must be printed in clear and unambiguous language on the ballot.²⁰

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held.

Article XI, s. 5(e) of the Florida Constitution requires approval by 60 percent of voters voting on a measure for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.

Prayer at Public School Events

A public school may impose content-neutral time, place, and manner limits on student expression and may restrict student speech only when the speech would materially and substantially disrupt school operations or invade the rights of others.²¹ When a public school opens a limited public forum for student or community speech, the school may not exclude otherwise permissible speech solely because the viewpoint is religious.²²

A public school may not adopt a policy that results in prayer delivered over a public address system at school-sponsored football games in a way that makes the message attributable to the school.²³ A public school may not discipline a school employee for brief, personal religious observance that is not part of the employee's official duties and that does not coerce students.²⁴

¹⁹ Section 97.021(17), F.S., defines "general election" as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

²⁰ Section 101.161(1), F.S.

²¹ *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 509 (1969).

²² *Good News Club v. Milford Central School.*, 533 U.S. 98 (2001).

²³ *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 301–17 (2000).

²⁴ *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 2421–33 (2022).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published in the 10th week and again in the 6th week immediately preceding the week the election is held.

The Division of Elections (division) within the Department of State pays for publication costs to advertise all constitutional amendments in both English and Spanish,²⁵ typically paid from non-recurring General Revenue funds. Accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are obtained from newspapers.

There is an unknown additional cost for the printing and distributing of the constitutional amendments, in poster or booklet form, in English and Spanish, for each of the 67 Supervisors of Elections to post or make available at each polling room or each voting site, as required by s. 101.171, F.S. Historically, the division has printed and distributed booklets that include the ballot title, ballot summary, text of the constitutional amendment, and, if applicable, the financial impact statement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This resolution creates section 33 in Article X of the Florida Constitution.

²⁵ Pursuant to Section 203 of the Voting Rights Act (52 U.S.C.A. § 10503).

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
