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## Kelly Coghlan: Religion gets equal treatment

Law justifiably protects students' rights to voluntary expression

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The best kept secret of the anti-God faction is this: The Supreme Court has never held all public prayer over a school microphone is unconstitutional; only government prayer is illegal.

In school prayer issues, the word "voluntarily" makes all the difference. Prayer is the expression of a religious viewpoint, and when done voluntarily, it is the student's individual expression and constitutionally protected speech.

Gov. [Rick Perry](#) recently signed the Religious Viewpoints Antidiscrimination Act, also known as the Schoolchildren's Religious Liberties Act, which applies to all 1,040 [Texas](#) school districts and their 4.5 million students.

This legislation protects the voluntary expression of schoolchildren's religious viewpoints to the same degree as secular and other viewpoints on the same subjects. Thus, if it would be impermissible to shout "I hate gays" from a secular viewpoint, it would be equally impermissible from a religious viewpoint. The "subjects" for discourse are set by the school. Once a subject is permitted, a school may not selectively discriminate against the religious viewpoint.

This law was necessary due to children being forbidden from using words like "Merry Christmas" in December, "Jesus" at [Easter](#), "St. Valentines Day" in February, or from handing out candy canes because of their religious message. Valedictorians were being told to eliminate any references to God at graduations. One superintendent told students "if they prayed they would be disciplined the same as if they had cursed" and then banned "prayers, blessings, invocations and any reference to a deity."

Student's rights were being violated and lawsuits were costing schools hundreds of thousands in legal fees. Schools needed legal direction. Thus this law was passed – 108-28 in the House and 27-3 in the Senate.

Some argue the new law will cause lawsuits. That is unlikely as long as schools adopt and follow the law and its guidelines, which were researched, tested and vetted more than any other Texas law this session.

Before being introduced as a bill, the proposal underwent seven years of scrutiny by constitutional scholars and field-tests in public schools from Texas to [Illinois](#). Superintendents testifying in Austin pointed to not a single instance of student abuse of a speaking opportunity, a complaint by a parent or

student, a lawsuit or a demand letter.

This antidiscrimination act codifies existing Supreme Court precedent. In *Good News Club vs. Milford*, the court held that "speech discussing otherwise permissible subjects cannot be excluded from a limited public forum on the grounds that the subject is discussed from a religious viewpoint ... [Excluding a] religious perspective constitutes unconstitutional viewpoint discrimination." The new Texas law tracks this language.

The First Amendment does not turn schools into religion-free zones, school officials into prayer police, or religious students into criminals. The Constitution assures freedom of religion; not freedom from religion.

Most objections to the antidiscrimination law come from anti-faith groups fearing that, if students are permitted to say "Jesus," it will lead to baptisms in the school's natatorium. This is irrational.

First, we don't know if any student will ever say anything of a religious nature. The law does not require, presume, anticipate or even suggest that students pray or express any type of religious viewpoint; it just protects them if they do.

Second, if a student does express a religious view on an otherwise permissible subject, it's simply one student's opinion. It has no endorsement from the school. The required disclaimers will make that clear. Since it is not government speech, there is no "captive audience" argument to be made; it is simply one student's opinion expressed to others with no imprimatur of the government. Students are free to ignore each other's opinions and often do.

The law does not give religious students special protection, just equal protection; not extra rights, just equal rights; not preferential treatment, just equal treatment; not an advantage, just a level playing field. That's fair.

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