

First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

DRAFT
1.22.07

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LLS NO. 07-0632.01 Jane Ritter

SENATE BILL

SENATE SPONSORSHIP

Schultheis,

HOUSE SPONSORSHIP

(None),

SHORT TITLE: "Public School Religious Bill Of Rights"

DEADLINES: Finalize by: 01.24.07 File by: 01.26.07

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF RELIGIOUS BILLS OF RIGHTS FOR
102 INDIVIDUALS CONNECTED TO PUBLIC SCHOOLS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Establishes the religious bill of rights for individuals connected to public schools act ("act"). Requires the state board of education ("state board") to adopt a religious bill of rights for public school students and parents and a religious bill of rights for public school teachers and employees ("religious bills of rights"). Directs the state board to distribute the religious bills of rights to school district boards of education ("local boards"). Mandates each local board to adopt policies and

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

procedures to implement the act, including the annual distribution of the religious bills of rights to students, parents, teachers, and employees of the school district. Directs local boards of education to provide opt out provisions to individuals for classes or course materials that are in conflict with the individual's religious beliefs.

Makes individual members of local boards personally liable for lawsuits brought under the act if the local board fails to adopt policies and procedures to implement the act or to ensure compliance with the act.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Title 22, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 13**

5 **Religious Bill of Rights for Individuals**

6 **Connected to Public Schools**

7 **22-13-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
8 BE CITED AS THE "RELIGIOUS BILL OF RIGHTS FOR INDIVIDUALS
9 CONNECTED TO PUBLIC SCHOOLS ACT".

10 **22-13-102. Legislative declaration.** (1) THE GENERAL
11 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

12 (a) THE UNITED STATES CONSTITUTION AND THE COLORADO
13 CONSTITUTION GUARANTEE INDIVIDUALS CERTAIN BASIC RELIGIOUS
14 RIGHTS;

15 (b) MANY INDIVIDUALS ARE UNAWARE OF THEIR CONSTITUTIONAL
16 RELIGIOUS RIGHTS AND THOSE RIGHTS ARE COMING UNDER INCREASING
17 ATTACK IN THE PUBLIC SCHOOL SYSTEM;

18 (c) PUBLIC SCHOOLS ARE FACING AN INCREASING NUMBER OF
19 LAWSUITS FROM PARENTS AND CHILDREN CHALLENGING RESTRICTIONS OR
20 PERCEIVED RESTRICTIONS ON THEIR RELIGIOUS RIGHTS. DEFENDING
21 AGAINST THESE LAWSUITS HAS COST AND WILL CONTINUE TO COST THE

1 STATE THOUSANDS OF TAXPAYERS' DOLLARS ANNUALLY;

2 (d) IT IS BENEFICIAL TO INCREASING MORALS AND OBEDIENCE
3 WITHIN THE PUBLIC SCHOOLS TO FOSTER AN ATMOSPHERE THAT
4 RECOGNIZES AND ENCOURAGES THE CONCEPT AND UNDERSTANDING OF
5 RELIGIOUS LIBERTY THAT WAS IMPORTANT TO THE FOUNDERS OF OUR
6 NATION;

7 (e) THERE IS A GROWING PERCEPTION AMONG CITIZENS THAT
8 PUBLIC SCHOOLS ARE HOSTILE TO THE EXPRESSION AND EXERCISE OF
9 RELIGIOUS BELIEFS, AND PARENTS OR GUARDIANS WHOSE CHILDREN FEEL
10 THEIR RELIGIOUS RIGHTS ARE BEING SUPPRESSED OR THREATENED ARE
11 REMOVING THEIR CHILDREN FROM PUBLIC SCHOOLS, THUS SUBSTANTIALLY
12 REDUCING THE SCHOOL DISTRICT'S PUPIL COUNT AND THEREFORE ITS
13 REVENUE; AND

14 (f) JUST AS HOSPITALS ARE NOW REQUIRED TO POST A PATIENTS'
15 BILL OF RIGHTS AND RESPONSIBILITIES AND BUSINESSES ARE REQUIRED TO
16 POST WAGE AND WORKERS' COMPENSATION RIGHTS AND RESPONSIBILITIES,
17 PUBLIC SCHOOLS SHOULD MAKE INDIVIDUALS CONNECTED TO PUBLIC
18 SCHOOLS AWARE OF THEIR CONSTITUTIONAL RELIGIOUS RIGHTS.

19 (2) THE GENERAL ASSEMBLY THEREFORE FINDS THAT IT IS IN THE
20 BEST INTEREST OF THE CITIZENS OF THE STATE OF COLORADO TO CREATE
21 A RELIGIOUS BILL OF RIGHTS FOR INDIVIDUALS CONNECTED TO PUBLIC
22 SCHOOLS AND TO REQUIRE PUBLIC SCHOOLS TO POST THE RELIGIOUS BILL
23 OF RIGHTS IN A PROMINENT PLACE IN THE SAME SIZE AND STYLE AS THOSE
24 REQUIRED FOR LABOR LAWS AND TO INFORM ALL INDIVIDUALS CONNECTED
25 TO PUBLIC SCHOOLS OF THE RELIGIOUS BILL OF RIGHTS.

26 **22-13-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
27 CONTEXT OTHERWISE REQUIRES:

1 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION
2 CREATED AND EXISTING PURSUANT TO SECTION 24-1-115, C.R.S.

3 (2) "EMPLOYEE OF A PUBLIC SCHOOL" MEANS A FULL-TIME,
4 PART-TIME, OR CONTRACTUAL EMPLOYEE OF A SCHOOL DISTRICT OR OF A
5 CHARTER SCHOOL.

6 (3) "INDIVIDUAL CONNECTED TO A PUBLIC SCHOOL" MEANS A
7 STUDENT WHO IS ENROLLED IN, TEACHER OR EMPLOYEE EMPLOYED BY, OR
8 A PARENT OR GUARDIAN OF A STUDENT ENROLLED IN A PUBLIC SCHOOL.

9 (4) "INSTRUCTIONAL TIME" MEANS ANY TIME DURING THE
10 DESIGNATED SCHOOL DAY BUT DOES NOT INCLUDE LUNCHTIME.

11 (5) "LOCAL BOARD OF EDUCATION" MEANS THE BOARD OF
12 EDUCATION OF A SCHOOL DISTRICT AS ESTABLISHED BY SECTION
13 22-32-103.

14 (6) "NON-SCHOOL-SPONSORED ACTIVITY" MEANS AN ACTIVITY
15 THAT IS NOT INITIATED BY OR WHOLLY UNDER THE CONTROL OF THE
16 PUBLIC SCHOOL.

17 (7) "PUBLIC SCHOOL" MEANS A SCHOOL THAT IS DIRECTLY FUNDED,
18 IN WHOLE OR IN PART, BY MONEYS RAISED BY A GENERAL STATE OR
19 DISTRICT TAX. FOR THE PURPOSES OF THE ARTICLE, "PUBLIC SCHOOL"
20 SHALL INCLUDE A CHARTER SCHOOL.

21 (8) "RELIGIOUS BELIEF" MEANS A BELIEF THAT IS SINCERELY HELD
22 AND IS A TENET OF AN INDIVIDUAL'S FAITH. AN INDIVIDUAL CAN PROVE
23 THE SINCERITY OF HIS OR HER BELIEFS BY SWORN AFFIRMATION.

24 (9) "SCHOOL DISTRICT" MEANS ANY SCHOOL DISTRICT ORGANIZED
25 UNDER THE LAWS OF COLORADO, EXCEPT FOR A JUNIOR COLLEGE
26 DISTRICT.

27 (10) "STATE BOARD" MEANS THE STATE BOARD OF EDUCATION

1 CREATED AND EXISTING PURSUANT TO SECTION 1 OF ARTICLE IX OF THE
2 STATE CONSTITUTION.

3 **22-13-104. State board of education - duties.** (1) IN ADDITION
4 TO ANY OTHER DUTY REQUIRED BY LAW, THE STATE BOARD SHALL HAVE
5 AND PERFORM THE FOLLOWING SPECIFIC DUTIES TO IMPLEMENT THIS
6 ARTICLE:

7 (a) NO LATER THAN JANUARY 30, 2008, THE STATE BOARD SHALL
8 ESTABLISH A RELIGIOUS BILL OF RIGHTS FOR PUBLIC SCHOOL STUDENTS
9 AND THEIR PARENTS OR GUARDIANS. THE RELIGIOUS BILL OF RIGHTS FOR
10 PUBLIC SCHOOL STUDENTS AND THEIR PARENTS OR GUARDIANS SHALL
11 INCLUDE, BUT NEED NOT BE LIMITED TO, A DECLARATION THAT A PUBLIC
12 SCHOOL STUDENT MAY:

13 (I) EXPRESS HIS OR HER RELIGIOUS BELIEFS ON A PUBLIC SCHOOL
14 CAMPUS AND AT A SCHOOL-SPONSORED EVENT TO THE SAME EXTENT AS HE
15 OR SHE MAY EXPRESS PERSONAL SECULAR VIEWPOINTS;

16 (II) PARTICIPATE IN A PRIVATE RELIGIOUS CEREMONY HELD ON A
17 PUBLIC SCHOOL CAMPUS OUTSIDE OF INSTRUCTIONAL TIME;

18 (III) EXCHANGE AN ITEM WITH A RELIGIOUS THEME WHEN
19 GREETING CARDS OR OTHER ITEMS ARE EXCHANGED AT A PUBLIC SCHOOL;

20 (IV) SING RELIGIOUS SONGS ALONG WITH SECULAR SONGS AS PART
21 OF A SCHOOL-SPONSORED OR CURRICULUM-RELATED PROGRAM;

22 (V) USE A RELIGIOUS GREETING;

23 (VI) WEAR RELIGIOUS GARB ON A PUBLIC SCHOOL CAMPUS,
24 INCLUDING BUT NOT LIMITED TO CLOTHING WITH A RELIGIOUS MESSAGE;

25 (VII) EXPRESS HIS OR HER RELIGIOUS BELIEFS IN RESPONDING TO
26 A SCHOOL ASSIGNMENT IF HIS OR HER RESPONSE FAIRLY MEETS THE
27 EDUCATIONAL PURPOSE OF THE ASSIGNMENT;

1 (VIII) SELECT RELIGIOUS MATERIAL FOR A SCHOOL ASSIGNMENT
2 IF THE MATERIAL FAIRLY MEETS THE EDUCATIONAL PURPOSE OF THE
3 ASSIGNMENT; AND

4 (IX) RECITE RELIGIOUS MATERIAL WHEN AN ORAL RECITATION IS
5 ASSIGNED IF THE RELIGIOUS MATERIAL FAIRLY MEETS THE EDUCATIONAL
6 PURPOSE OF THE ASSIGNMENT.

7 (b) NO LATER THAN JANUARY 30, 2008, THE STATE BOARD SHALL
8 ESTABLISH A RELIGIOUS BILL OF RIGHTS FOR TEACHERS AND EMPLOYEES
9 OF PUBLIC SCHOOLS. THE RELIGIOUS BILL OF RIGHTS FOR TEACHERS AND
10 EMPLOYEES OF PUBLIC SCHOOLS SHALL INCLUDE, BUT NEED NOT BE
11 LIMITED TO, A DECLARATION THAT A TEACHER OR AN EMPLOYEE OF A
12 PUBLIC SCHOOL MAY:

13 (I) TEACH A RELIGIOUS TOPIC IN PUBLIC SCHOOL FOR HISTORICAL
14 OR LITERARY PURPOSES;

15 (II) TEACH THE RELIGIOUS ORIGIN OF A HOLIDAY;

16 (III) DISPLAY RELIGIOUS MATERIALS AND ITEMS THAT RELATE TO
17 A TOPIC BEING DISCUSSED IN THE CLASSROOM, INCLUDING BUT NOT
18 LIMITED TO A CRECHE DURING CHRISTMAS OR A MENORAH DURING
19 HANUKKAH;

20 (IV) ALLOW STUDENTS TO EXCHANGE ITEMS WITH RELIGIOUS
21 THEMES WHEN GREETING CARDS OR OTHER ITEMS ARE NORMALLY
22 EXCHANGED;

23 (V) PARTICIPATE IN A NON-SCHOOL-SPONSORED ACTIVITY THAT IS
24 CONSIDERED RELIGIOUS, INCLUDING BUT NOT LIMITED TO BIBLE CLUBS
25 AND PRAYER MEETINGS;

26 (VI) ANSWER A STUDENT'S QUESTION ON A RELIGIOUS TOPIC;

27 (VII) NOT BE REQUIRED TO TEACH A TOPIC THAT VIOLATES HIS OR

1 HER RELIGIOUS BELIEFS AND NOT BE DISCIPLINED FOR REFUSING TO TEACH
2 THE TOPIC;

3 (VIII) WEAR RELIGIOUS JEWELRY; AND

4 (IX) USE A RELIGIOUS GREETING AS A RECOGNITION OF A
5 RELIGIOUS HOLIDAY.

6 (2) ON OR BEFORE JULY 1, 2009, AND ON OR BEFORE JULY 1 EACH
7 YEAR THEREAFTER, THE STATE BOARD SHALL PREPARE UPDATED
8 GUIDELINES TO THE RELIGIOUS BILLS OF RIGHTS AND DISTRIBUTE THEM TO
9 THE LOCAL BOARDS OF EDUCATION.

10 (3) ON OR BEFORE AUGUST 1, 2008, AND ON OR BEFORE AUGUST
11 1 EACH YEAR THEREAFTER, THE STATE BOARD SHALL CREATE A STANDARD
12 GRIEVANCE FORM FOR USE TO REPORT GRIEVANCES IN CONJUNCTION WITH
13 THIS ARTICLE. THE GRIEVANCE FORM MAY BE USED BY AN INDIVIDUAL
14 CONNECTED TO A PUBLIC SCHOOL AND SHALL BE FORWARDED TO THE
15 SCHOOL PRINCIPAL BY THE INDIVIDUAL COMPLETING THE FORM. THE
16 STATE BOARD SHALL MAKE THE GRIEVANCE FORM ACCESSIBLE THROUGH
17 ITS OFFICIAL WEBSITE.

18 (4) ON OR BEFORE AUGUST 1, 2008, THE STATE BOARD SHALL POST
19 THE RELIGIOUS BILLS OF RIGHTS ON ITS OFFICIAL WEBSITE.

20 **26-13-105. Local boards of education - duties.** (1) IN ADDITION
21 TO ANY OTHER DUTY REQUIRED TO BE PERFORMED BY LAW, EACH LOCAL
22 BOARD OF EDUCATION IN THE STATE SHALL HAVE AND PERFORM THE
23 FOLLOWING SPECIFIC DUTIES TO IMPLEMENT THIS ARTICLE:

24 (a) NO LATER THAN AUGUST 1, 2008, EACH LOCAL BOARD SHALL
25 ADOPT WRITTEN POLICIES AND PROCEDURES TO IMPLEMENT THE RELIGIOUS
26 BILLS OF RIGHTS AS ESTABLISHED BY THE STATE BOARD PURSUANT TO
27 SECTION 22-13-104, INCLUDING BUT NOT LIMITED TO WAYS TO:

1 (I) INFORM ANNUALLY EACH PUBLIC HIGH SCHOOL STUDENT IN
2 WRITING AT THE BEGINNING OF EACH SCHOOL YEAR OR, IN THE CASE OF A
3 NEW OR TRANSFER STUDENT, AT THE TIME OF ENROLLMENT OF THE
4 RELIGIOUS BILL OF RIGHTS. EACH PUBLIC HIGH SCHOOL SHALL KEEP ON
5 FILE A COPY OF THE STUDENT'S ACKNOWLEDGMENT OF RECEIPT OF THE
6 RELIGIOUS BILL OF RIGHTS.

7 (II) INFORM ANNUALLY EACH PARENT OR GUARDIAN OF A NEWLY
8 REGISTERED OR CONTINUING PUBLIC HIGH SCHOOL, MIDDLE SCHOOL,
9 JUNIOR HIGH SCHOOL, AND ELEMENTARY SCHOOL STUDENT IN WRITING AT
10 THE BEGINNING OF EACH SCHOOL YEAR OF THE RELIGIOUS BILL OF RIGHTS.
11 EACH MIDDLE SCHOOL, JUNIOR HIGH SCHOOL, OR ELEMENTARY SCHOOL
12 SHALL KEEP ON FILE A SIGNED DOCUMENT FROM THE PARENT OR
13 GUARDIAN THAT STATES THE PARENT OR GUARDIAN IS AWARE OF THE
14 RELIGIOUS BILL OF RIGHTS.

15 (III) PROVIDE A WRITTEN COPY OF THE RELIGIOUS BILL OF RIGHTS
16 TO EACH NEW PUBLIC SCHOOL EMPLOYEE AT HIS OR HER NEW EMPLOYEE
17 ORIENTATION AND TO EACH EXISTING EMPLOYEE BY AUGUST 1, 2008, AND
18 BY AUGUST 1 EACH YEAR THEREAFTER.

19 (IV) PROVIDE ANNUALLY EACH PUBLIC SCHOOL EMPLOYEE,
20 INCLUDING TEACHERS AND ADMINISTRATORS, WITH UPDATED GUIDELINES
21 CONCERNING THE GOAL AND USE OF THE RELIGIOUS BILL OF RIGHTS, AS
22 DEFINED BY THE STATE BOARD. EACH PUBLIC SCHOOL EMPLOYEE SHALL
23 SIGN A FORM CONFIRMING RECEIPT OF THIS INFORMATION. THE EMPLOYEE
24 SHALL RECEIVE A COPY OF THE SIGNED FORM AND A COPY SHALL BE KEPT
25 IN THE EMPLOYEE'S PERSONNEL FILE.

26 (V) PROVIDE INFORMATION TO EACH PUBLIC SCHOOL TEACHER
27 CONCERNING THE RELIGIOUS BILL OF RIGHTS THROUGH WRITTEN

1 MATERIALS AND DISCUSSIONS AT ANNUAL TEACHER IN-SERVICE MEETINGS
2 AND THROUGH ANNUAL WRITTEN COMMUNICATION TO TEACHERS WITHIN
3 ONE MONTH PRIOR TO THE START OF EACH SCHOOL YEAR.

4 (2) IN ADDITION TO THE DUTIES SET FORTH IN SUBSECTION (1) OF
5 THIS SECTION, EACH LOCAL BOARD OF EDUCATION SHALL ADOPT POLICIES
6 AND PROCEDURES ALLOWING:

7 (a) A HIGH SCHOOL STUDENT TO OPT OUT OF ANY CLASS OR THE
8 USE OF SPECIFIC COURSE MATERIAL THAT IS INCONSISTENT WITH HIS OR
9 HER RELIGIOUS BELIEFS; OR

10 (b) A PARENT OR GUARDIAN OF AN ELEMENTARY SCHOOL, MIDDLE
11 SCHOOL, OR JUNIOR HIGH SCHOOL STUDENT TO EXCUSE HIS OR HER CHILD
12 FROM ANY CLASS OR THE USE OF SPECIFIC COURSE MATERIAL THAT IS
13 INCONSISTENT WITH HIS OR HER RELIGIOUS BELIEFS.

14 (3) IF A LOCAL BOARD OF EDUCATION IS AWARE OF A CLASS OR
15 SPECIFIC COURSE MATERIAL THAT ROUTINELY ENCOUNTERS STRONG
16 RESISTANCE BY EITHER STUDENTS OR PARENTS OR GUARDIANS BECAUSE
17 OF CONFLICTS WITH RELIGIOUS BELIEFS, THE LOCAL BOARD OF EDUCATION
18 SHALL DIRECT THE PUBLIC SCHOOL ADMINISTRATION TO NOTIFY PARENTS
19 OR GUARDIANS AND STUDENTS OF THEIR ABILITY TO OPT OUT OF SUCH
20 CLASSES OR SPECIFIC COURSE MATERIALS PURSUANT TO SUBSECTION (2)
21 OF THIS SECTION.

22 (4) NO LATER THAN DECEMBER 30, 2008, AND NO LATER THAN
23 DECEMBER 30 EACH YEAR THEREAFTER, EACH LOCAL SCHOOL BOARD
24 SHALL MAKE AN ANNUAL CERTIFICATION TO THE OFFICE OF THE ATTORNEY
25 GENERAL THAT IT HAS FULLY COMPLIED WITH ALL THE PROVISIONS OF THIS
26 ARTICLE.

27 (5) EACH LOCAL SCHOOL BOARD SHALL POST THE RELIGIOUS BILLS

1 OF RIGHTS ON ITS OFFICIAL WEBSITE.

2 **22-13-106. Liability.** NOTWITHSTANDING THE PROVISIONS OF
3 ARTICLE 12 OF THIS TITLE, A MEMBER OF A LOCAL BOARD OF EDUCATION
4 SHALL BE HELD PERSONALLY LIABLE IF THE MEMBER WILFULLY AND
5 WANTONLY FAILS TO ADMINISTER HIS OR HER DUTIES WITH RESPECT TO
6 THIS ARTICLE, INCLUDING ESTABLISHING AND IMPLEMENTING POLICIES
7 AND PROCEDURES. IF A PLAINTIFF PREVAILS IN AN ACTION TO DEFEND HIS
8 OR HER RELIGIOUS RIGHTS PURSUANT TO THIS ARTICLE, MEMBERS OF THE
9 LOCAL BOARD OF EDUCATION SHALL BE PERSONALLY LIABLE FOR THE
10 PLAINTIFF'S ATTORNEY FEES AND THEY SHALL BE SUBJECT TO PERSONAL
11 LIABILITY FOR DAMAGES.

12 **22-13-107. School discipline.** NOTHING IN THIS ARTICLE SHALL
13 BE CONSTRUED TO PRECLUDE A PUBLIC SCHOOL FROM ESTABLISHING AND
14 MAINTAINING THE DISCIPLINE NECESSARY TO EXECUTE ITS EDUCATIONAL
15 MISSION AS DEFINED BY THE PUBLIC SCHOOL'S ADOPTED CURRICULUM AND
16 STATE LAW.

17 **SECTION 2.** 22-12-104, Colorado Revised Statutes, is amended
18 BY THE ADDITION OF A NEW SUBSECTION to read:

19 **22-12-104. Liability.** (4) AN EDUCATIONAL ENTITY AND ITS
20 EMPLOYEES MAY BE LIABLE FOR LAWSUITS BROUGHT PURSUANT TO THE
21 "RELIGIOUS BILL OF RIGHTS FOR INDIVIDUALS CONNECTED TO PUBLIC
22 SCHOOLS ACT", ARTICLE 13 OF THIS TITLE.

23 **SECTION 3.** 24-10-110, Colorado Revised Statutes, is amended
24 BY THE ADDITION OF A NEW SUBSECTION to read:

25 **24-10-110. Defense of public employees - payment of**
26 **judgments or settlements against public employees.** (7) THE
27 PROVISIONS OF THIS SECTION SHALL NOT EXEMPT A PUBLIC EMPLOYEE

1 FROM PERSONAL FINANCIAL LIABILITY UNDER THE "RELIGIOUS BILL OF
2 RIGHTS FOR INDIVIDUALS CONNECTED TO PUBLIC SCHOOLS ACT",
3 ARTICLE 13 OF TITLE 22, C.R.S.

4 **SECTION 4. Effective date.** This act shall take effect at 12:01
5 a.m. on the day following the expiration of the ninety-day period after
6 final adjournment of the general assembly that is allowed for submitting
7 a referendum petition pursuant to article V, section 1 (3) of the state
8 constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007);
9 except that, if a referendum petition is filed against this act or an item,
10 section, or part of this act within such period, then the act, item, section,
11 or part, if approved by the people, shall take effect on the date of the
12 official declaration of the vote thereon by proclamation of the governor.