

SENATE BILL 3444

By Southerland

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 6, Part 22, relative to parental choice in education.

WHEREAS, as to the place and scope of religion in the textbooks of the public schools, the Tennessee legislature makes specific findings on “religious neutrality” as follows:

(1) Federal law requires that state governments and national government be neutral in matters of religious theory, doctrine and practice;

(2) Federal law requires that government not be hostile to any religion or to the advocacy of non-religion; and

(3) Federal law requires governmental neutrality between religion and religion, and between religion and non-religion; and

WHEREAS, as to the place and scope of religion in the textbooks of the public schools, the Tennessee legislature makes specific findings on “fundamental parental rights” as follows:

(1) Federal law states that the parents’ right to instruct their children clearly takes precedence over the state’s regulatory interest unless the public safety is endangered;

(2) Federal law states that the custody, care, and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder;

(3) Federal law states that it is the fundamental interest of parents, as contrasted with that of the state, to guide the religious future and education of their children;

(4) Federal law states that the primary role of the parents in the upbringing of their children is now established beyond debate as an enduring tradition; and

(5) Federal law states that a state's interest in universal education, however highly it is ranked by the government, is not totally free from a balancing process when it impinges on fundamental rights and interests, such as those specifically protected by the Free Exercise Clause of the First Amendment, and the traditional interest of parents with respect to the religious upbringing of their children; and

WHEREAS, as to the place and scope of religion in the textbooks of the public schools, the Tennessee legislature makes specific findings on school textbooks as follows:

(1) That the textbooks commonly in use in today's public schools are not neutral toward religion, but are instead increasingly hostile toward religion;

(2) That textbooks which are silent, or which completely ignore, religion or religious principles are themselves religious in nature, in that the absence of religion, whether through the principles of atheism, agnosticism, or one or more varieties of humanism, is itself a religious view;

(3) That the manner in which textbooks are chosen for use in today's public schools do not recognize the fundamental right of parents to have a voice in the religious upbringing of their children, thereby hindering the parent in the exercise of a fundamental right where the school textbook is hostile toward religion;

(4) That the state is currently infringing on the rights of those parents who favor a secular education which incorporates the principles of religion;

(5) That quality textbooks are widely available which do not infringe upon the rights of those parents who favor a secular education which is rooted in a religious foundation; and

(6) That the public schools can easily, and without any danger to the public, make such textbooks available to the student according to the selection of the student's parent or guardian; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-6-2202(a), is amended by adding the following at the end of the subsection:

As part of the aforementioned list of four (4) books in each subject and grade, the commission shall include at least one (1) book in the subjects of history, science, health, government, economics, and reading/literature which inculcates the principles of religion within the study of a secular education. By means of illustration, but not recommendation, the commission should consider books such as those published by A Beka Books or BJU Press.

SECTION 2. Tennessee Code Annotated, Section 49-6-2207(a), is amended by adding the following as a new subdivision:

(3)

(A) Where a school has more than one (1) section of each elementary grade, or more than one (1) section of a middle school class, junior high school class, or high school class, then upon the election of the custodial parents or guardians of at least twenty-five percent (25%) of the students within any specific grade level or class of each school, the local school board shall adopt and supply to that school and to the electing parents or guardians a textbook for the use of the student which inculcates the principles of religion within the study of a secular education, such as was included in the list of approved textbooks pursuant to § 49-6-2202. It is anticipated that a separate classroom will be formed for the benefit of those students whose parents or guardians have elected a course and textbook which inculcates religion or religious principles within the particular subject matter.

(B) Where a school has only one (1) section of each elementary grade, or one (1) section of a middle school class, junior high school class, or high school class, then

upon the election of the custodial parents or guardians of at least fifty percent (50%) of the students within any specific grade level or class of each school, the local school board shall adopt and supply to that school and to the electing parents or guardians a textbook for the use of the student which inculcates the principles of religion within the study of a secular education, such as was included in the list of approved textbooks pursuant to § 49-6-2202. Where only one (1) class exists in the school and a second class cannot be justified because of fiscal constraints, space constraints or other justifiable constraint or restriction, it is anticipated that parental/guardian majority rule will prevail on the issue of course and textbook selection for that school.

SECTION 3. This act shall take effect July 1, 2012, the public welfare requiring it.