

118TH CONGRESS
1ST SESSION

H. R. 5187

To provide for a cause of action to remedy prohibitions on personal prayer
in schools.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 11, 2023

Mr. GAETZ (for himself, Mr. ROSENDALE, Mr. BIGGS, Mr. GOOD of Virginia,
and Mr. CRANE) introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To provide for a cause of action to remedy prohibitions
on personal prayer in schools.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protect Prayer in
5 Schools Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

8 (1) The United States of America is a nation
9 under God.

1 (2) The Declaration of Independence makes
2 clear that our nation was blessed by the “Supreme
3 Judge of the world” and our laws are derived from
4 “Laws of Nature” and “Nature’s God.”

5 (3) At the time of the First Amendment’s
6 drafting, many states observed state religions and
7 referred to God in their constitutions—thus, the 1st
8 Amendment was never intended to contrast with the
9 existence and veneration of God throughout our
10 states.

11 (4) The intent of the Constitution was never to
12 render the United States a secular country;

13 (5) Our Founding Fathers would be appalled to
14 learn the Establishment Clause of the 1st Amend-
15 ment was being weaponized not to prevent the estab-
16 lishment of a state religion, but to suppress religion
17 in schools across the states, contrary to the Free
18 Exercise Clause.

19 (6) John Adams said in 1789, while addressing
20 the Massachusetts Militia, “Our constitution was
21 made only for a moral and religious people. It is
22 wholly inadequate to the government of any other.”

23 (7) On June 28, 1813, John Adams wrote to
24 Thomas Jefferson saying, “The general Principles,
25 on which the Fathers Atchieved Independence, were

1 the only Principles in which, that beautiful Assembly
2 of young Gentlemen could Unite, and these Prin-
3 ciples only could be intended by them in their Ad-
4 dress, or by me in my Answer. And what were these
5 general Principles? I answer, the general Principles
6 of Christianity. . .”

7 (8) James Madison wrote in 1785 in his Memo-
8 rial and Remonstrance Against Religious Assess-
9 ments “It is the duty of every man to render to the
10 Creator such homage. Before any man can be con-
11 sidered as a member of Civil Society, he must be
12 considered as a subject of the Governor of the Uni-
13 verse.”

14 (9) Alexander Hamilton wrote to James Bayard
15 in 1802: “I now offer you the outline of the plan
16 they have suggested. Let an association be formed to
17 be denominated”The Christian Constitutional Soci-
18 ety,“ its object to be first: The support of the Chris-
19 tian religion. Second: The support of Constitution of
20 the United States.”

21 (10) George Washington, on October 3rd in
22 1789 at a National Day of Thanksgiving, wrote
23 “. . . it is the duty of all nations to acknowledge the
24 providence of Almighty God, to obey His will, to be

1 grateful for His benefits, and humbly to implore His
2 protection and favor .”

3 (11) On May 9, 1833 Chief Justice John Mar-
4 shall wrote to Jasper Adams: “The American popu-
5 lation is entirely Christian, and with us Christianity
6 and Religion are identified. It would be strange in-
7 deed, if with such a people, our institutions did not
8 presuppose Christianity, and did not often refer to
9 it, and exhibit relations with it.”

10 (12) On March 28, 1787, Dr. Benjamin Rush
11 wrote an open letter “To the citizens of Philadel-
12 phia: A Plan for Free Schools”, saying, “Let the
13 children . . . be carefully instructed in the principles
14 and obligations of the Christian religion. This is the
15 most essential part of education. The great enemy of
16 the salvation of man, in my opinion, never invented
17 a more effectual means of extirpating Christianity
18 from the world than by persuading mankind that it
19 was improper to read the Bible at schools . . .” The
20 only foundation for a useful education in a republic
21 is to be laid in religion. Without this there can be
22 no virtue, and without virtue there can be no liberty.

23 (13) The Same Congress that passed the 1st
24 Amendment, also drafted Article 3 of the Northwest
25 Ordinance which contained the following language:

1 “Religion, Morality and knowledge being necessary
2 to good government and the happiness of mankind,
3 Schools and the means of education shall be forever
4 encouraged.”

5 (14) While the founders did not wish to estab-
6 lish state religion, they sought to encourage and pro-
7 tect religion throughout the United States.

8 (15) The Supreme Court of the United States
9 held in *Kennedy v. Bremerton School District* that
10 the Free Exercise and Free Speech Clauses of the
11 First Amendment protect an individual engaging in
12 a personal religious observance from government re-
13 prisal.

14 (16) The Constitution neither mandates nor
15 permits the government to suppress such religious
16 expression.

17 **SEC. 3. CIVIL ACTION.**

18 Every person who, under color of any statute, ordi-
19 nance, regulation, custom, or usage, subjects, or causes
20 to be subjected, any citizen of the United States or other
21 person within the jurisdiction thereof to any limitation on
22 the ability of that person to engage in personal prayer in
23 public elementary and secondary schools shall be liable to
24 the party injured in an action at law, suit in equity, or
25 other proper proceeding for redress, except that in any ac-

1 tion brought against a judicial officer for an act or omis-
2 sion taken in such officer's judicial capacity, injunctive re-
3 lief shall not be granted unless a declaratory decree was
4 violated or declaratory relief was unavailable. For pur-
5 poses of this section, the terms "elementary school" and
6 "secondary school" have the meanings given those terms
7 in section 8101 of the Elementary and Secondary Edu-
8 cation Act of 1965 (20 U.S.C. 7801).

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