

Date of Hearing: June 12, 2024

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
SB 1471 (Stern) – As Amended April 25, 2024

SENATE VOTE: 39-0

SUBJECT: Pupil instruction: quiet reflection

SUMMARY: Authorizes a certificated employee at a public school to conduct a brief period of quiet reflection, with the participation of pupils in attendance, for not more than 60 seconds at the beginning of each schoolday, and prohibits students from being required to participate.

Specifically, **this bill:**

- 1) Authorizes, in conformity with all other state and federal law, a certificated employee at a public school to conduct a brief period of quiet reflection, with the participation of pupils in attendance, for not more than 60 seconds at the beginning of each schoolday.
- 2) Prohibits a certificated employee at a public school from requiring a pupil to participate in a period of quiet reflection.
- 3) States that a pupil retains full discretion regarding participation in a brief period of quiet reflection.
- 4) Prohibits the governing board or body of a local educational agency (LEA) from requiring a certificated employee at a public school to conduct a brief period of quiet reflection.
- 5) States that a brief period of quiet reflection shall not be conducted as or construed to be a religious service or exercise, but rather as an opportunity for silent reflection on the anticipated activities of the day.
- 6) Defines, for purposes of this requirement, LEA to mean a school district, county office of education (COE), or charter school.

EXISTING LAW:

- 1) States that it is the policy of the State of California to afford all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in the Penal Code, including immigration status, equal rights, and opportunities in the educational institutions of the state. (Education Code (EC) 200)
- 2) States that no person shall be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in the Penal Code, including immigration status, in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance, or enrolls pupils who receive state student financial aid. (EC 220)

- 3) States that nothing in the Education Code shall be construed to prevent, or exclude from the public schools, references to religion or references to or the use of religious literature, dance, music, theatre, and visual arts or other things having a religious significance when such references or uses do not constitute instruction in religious principles or aid to any religious sect, church, creed, or sectarian purpose and when such references or uses are incidental to or illustrative of matters properly included in the course of study. (EC 51511)
- 4) Encourages each public elementary and secondary school to observe a moment of silence related to the September 11th Remembrance Day at an appropriate time while school is in session, when that day falls on a schoolday. (EC 37222.21)
- 5) Prohibits public money from being appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; and prohibits any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State. (California Constitution, Article 9, Section 8).

FISCAL EFFECT: This bill has been keyed non-fiscal by the Office of Legislative Counsel.

COMMENTS:

Need for the bill. The author states, “I believe SB 1471 is the key to fostering a supportive and inclusive learning environment at all schools across the state. This bill proposes to offer teachers the option to facilitate a moment of reflection at the start of each school day, inviting student participation. This simple yet powerful practice allows students and educators to pause, center themselves, and cultivate a sense of mindfulness and empathy. By providing this opportunity for reflection, we would promote emotional well-being, respect for diverse beliefs, and a sense of community within our schools. SB 1471 encourages the development of whole-child education and supports holistic growth.”

Federal guidance on “moment of silence” laws. Historically, “moment of silence” laws are closely associated with efforts to permit prayer in schools, and have been enacted to avoid the prohibition on explicit religious activity established in Supreme Court decisions (see discussion below).

In guidance issued in 2023, the U.S. Department of Education (USDOE) stated that moments of silence are permitted, provided that students are free to not pray, or pray silently, during those times. It also states that teachers, school administrators, and other school employees may not encourage or discourage private prayer or other religious activity.

Schools may hold periods of quiet reflection under existing law. Under the permissive California Education Code, schools may hold periods of quiet reflection at their discretion, provided that they are in performed accordance with state and federal law. ***The Committee may wish to consider*** whether specifically authorizing this activity, for a specified length of time at a time of day, and for a specified purpose, will imply that quiet reflection cannot be conducted at other times, for other lengths of time, and for other purposes.

Origin of “Moment of Silence” in Schools. An outstanding legal history of “moment of silence” laws in the U.S. provided by the Senate Education Committee is shown below:

“Moment of silence” laws in schools were adopted in many states following the Supreme Court’s holding that school-sponsored prayers violated the First Amendment’s Establishment Clause. The Supreme Court ruling in *Engel v. Vitale* (1962) explicitly held that school-sponsored prayer in public schools violated the First Amendment's establishment clause. Meanwhile, the next year, the Supreme Court decision in *Abington School District v. Schempp* (1963) considered two companion cases—one involving the reading of verses from the Bible, and the other involving reciting the Lord's Prayer, in public school settings—and struck down both laws on the same basis as in *Engel*, without further comment. The Schempps, who were Unitarians from Pennsylvania, had challenged both of these practices. In both cases, the Court sought to prevent either the power of government or the proclivities of politicians from unduly interfering in people's pursuit of religious belief. The “moment of silence” laws were enacted as a way to avoid the explicit religious activity prohibited by the Supreme Court.

Alabama was one of the states that adopted a “moment of silence” law, in 1978, allowing one minute of silence for meditation. This law did not impede a person's pursuit of religious belief as it did not establish state-sponsored prayer. But a second statute was added in 1981, which permitted voluntary prayer in school. The third statute, added in 1982, allowed teachers to lead a prescribed, explicitly Christian prayer with willing students. It was not until 1985, when the Alabama law was in Court following additional legislation that updated the statute.

In May 1982, Ishmael Jaffree filed a complaint against three Mobile County, Alabama public school teachers, administrators, and school board members. The complaint was filed on behalf of his three children's attendance at the school, and specifically sought an injunction against the regular religious prayer services and observances that were being held there on the basis that it violated their First Amendment rights. Jaffree sought a declaratory judgment and an injunction to stop the school from allowing such practices. During a hearing in the District Court, the primary sponsor of the 1981 statute, State Sen. Donald G. Holmes, stated that the 1981 bill's purpose was to reinstate optional prayer in Alabama's public schools. After a trial, the District Court upheld all three laws, concluding that the Establishment Clause of the First Amendment did not bar a state (as opposed to the federal government). The Court of Appeals determined that the 1981 bill and the other two statutes were constitutional, as the Establishment Clause allowed the state to establish a religion. However, the Court of Appeals reversed the lower Court's ruling regarding the other two 1981 and 1982 statutes, concluding that they violated the First Amendment and that the District Court had misapplied the Supreme Court’s existing case law.

The U.S. Supreme Court granted certiorari on the question of whether the 1981 law—permitting voluntary prayer in school—violated the Establishment Clause. The Court did not agree to consider the 1978 or 1982 law—meaning the Court agreed with the Court of Appeals that the 1978 “moment of silence” law was constitutional, and the 1982 “teacher-led prayer” law violated the Establishment Clause. The Court thus granted tacit approval of “moment of silence” laws that do not encourage or mandate prayer or other religious activity.

The case was presented before the U.S. Supreme Court on December 4, 1984. The Supreme Court found that the federal district court had incorrectly concluded that state officials were not prohibited from establishing a religion by the Establishment Clause. The Court used the Lemon test to determine whether the statutes violated the Establishment Clause. The

Supreme Court applied the Lemon test and concluded that the additions to the 1978 statute violated the principle of government neutrality towards religion, stating that the two additional changes to the 1978 statute were enacted to support school prayer at the beginning of each school day rather than for a secular purpose. The Court upheld the constitutionality of the 1978 bill but invalidated the 1982 statute using similar logic. The decision affirmed the decision of the appellate Court, leaving in place the ability to establish a moment of silence without religion.

Moment of silence laws in other states. According to the Education Commission of the States (ECS), as of 2008, thirty-four states either required or permitted prayer, moments of silence, meditation, reflection at the start of or during class. Thirteen states required all schools to participate, ten states allowed the students/teachers the option to participate, seven states gave discretion to the local district board to make the decision, and four states allowed voluntary participation by students/teachers but also authorized local districts to require participation.

Arguments in support. Savings Lives Camarillo writes, “Schools have reported that students who participate in ‘quiet moments’ have displayed improved grades in school, better behavior at home and in school, and increased respect for teachers and parents. It has decreased anxiety, bullying, disrespect, depression, crime, and drug use. As a coalition committed to reducing drug and alcohol use by youth in the community, Saving Lives Camarillo believes that A Quiet Moment can help students make healthier and safer decisions. It is also the hope that the Quiet Moment program will be recognized in communities as a positive way to enhance the mental and emotional well-being of students in a non-threatening environment”

Recommended Committee amendments. *Staff recommends that the bill be amended to:*

- 1) Delete references to a length of 60 seconds, the time of day, and the purpose of the period of quiet reflection, as these provisions would imply that a period of quiet reflection could not occur at other times and for other purposes;
- 2) State that no individual, including classified and certificated employees (to conform to federal guidance), guest speakers, and contractors of an LEA, may require a pupil to participate in a period of quiet reflection; and
- 3) Make conforming and other changes to the findings and declarations.

Related legislation. SB 254 (Borgeas), Chapter 102, Statutes of 2021, designates September 11 of each year as September 11th Remembrance Day, a day having special significance, and encourages each public elementary and secondary school to observe a moment of silence at an appropriate time while school is in session.

REGISTERED SUPPORT / OPPOSITION:

Support

Saving Lives Camarillo
1 individual

Opposition

None on file

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