

**EDUCATIONAL UPDATE FROM  
THE SOUTHEAST LAW INSTITUTE™, INC.**

**To: Interested Persons**  
**Date: May 2026**  
**From: A. Eric Johnston**  
**RE: Report and Comment on the 2026 Alabama Legislature Regular Session**

**PLEDGE OF ALLEGIANCE AND STUDENT INITIATED PRAYER.** HB-511 is a proposed Constitutional Amendment (Act #2026-379 CA) filed by Representative Reed Ingram. Unfortunately, many public schools do not require students to recognize important historical privilege, and in this case, the Pledge of Allegiance to our country, and the right of free exercise of religion. In the 1990's, we litigated student prayer in public schools, and it was established by the Eleventh Court of Appeals that student-initiated prayer is constitutional. Of course, pledging allegiance to our country has never been questioned as a constitutional privilege. We will provide more information on this proposed constitutional amendment when we know it is going to be on the ballot.

**SEX EDUCATION.** SB-209 filed by Senator Shay Shelnett and in the House by Representative Susan DuBose is a much-needed update of requirements related to sex education for students in public school grades 5-12. The emphasis is on "sexual risk avoidance." Existing sex education was from liberal organizations which did not discourage sexual activity, and in fact, explained to students how to do it. Under the new law, no materials may introduce sexual concepts to students in kindergarten through the fourth grade. Abortion would be discouraged by the new law and informs students that it is a criminal act. The new law is very detailed in its protection of students by sex avoidance. It goes into effect upon the Governor's signing. This law was four years in the making and it is a job well done by its supporters.

**DISPLAY TEN COMMANDMENTS AND OTHER DOCUMENTS IN PUBLIC SCHOOLS.** SB99 introduced by Senator Keith Kelley and in the House by Representative Mark Gidley requires local boards of education of public schools to display the Ten Commandments, the Mayflower Compact, the Northwest Ordinance of 1787, and the Declaration of Independence in an appropriate framed document in certain areas of public schools. The funding for the posters will not be by the state. The Bill provides detailed historical context of these documents and the need for students to be aware of them. The recent supreme Court case of *Kennedy v. Bremerton*, etc, overruled the prior case of *Lemon v Kurtzman*, permitting a re-examination of how religious history is to be examined and permitted. See November 2024 Educational Update. *Lemon* was the basis for moving much religious commentary from the public square. Cases in Louisiana and Texas are currently matriculating through federal courts on the constitutionality of the historical posting of the documents referenced above. The Fifth Circuit Court of Appeals just upheld the similar Louisiana law. SCOTUS has yet to rule again on the posting of the Ten Commandments and similar documents post *Lemon*. We believe this new Alabama law will be constitutional, though there could be a court test. Following up on this, we are recommending that Alabama pass an additional law similar to one recently passed in Utah which actually requires historical teaching of these documents and the historical facts surrounding them in the foundations of America. We will provide more information on that possibility in a later Educational Update.

**CHOOSE ACT RECIPIENT PROTECTION FROM DISCRIMINATION BY THE AHSAA.** The Alabama High School Association recently declared that if a student takes state funds under the CHOOSE Act for non-public education, it would be considered a scholarship, and the student would be disqualified from participating in high school sports. The CHOOSE Act passed last year provides specifically that taking the state funds would not disqualify students from athletic participation. Nevertheless, the AHSAA violated that law. This bill, SB342, by Senator Clyde Chambliss and Representative Danny Garrett puts enforcement mechanisms into the CHOOSE Act to allow parents to sue the AHSAA for violating the act. As we have reported earlier, the AHSAA frequently tramples on the rights of non-public students. See October 2025 Educational Update. For many families, local public schools do not provide an adequate education. Non-public schools are a necessary alternative. Many families cannot afford nonpublic educational options. To date, 49,000 applications have been made for CHOOSE Act funds. It is obviously very popular and successful. It will provide better educated Alabama citizens.

**CHURCH INVASION.** When a church in Minnesota was recently invaded by protesters doing physical and personal harm to worshipers, the Federal FACE law was enforced resulting in many arrests. Across the country, we are seeing more and more protester demonstrations that are far beyond free speech rights. SLI drafted a law in Alabama to accomplish the same thing the federal law does. See February 2026 Educational Update. Bill HB363 was sponsored by Representative Gregory Barnes and Senator Chris Elliot. It would provide injunctive and monetary relief for any invasion on church property of any church meeting or service by protesters. Unfortunately, Democrats forcefully opposed the Bill. That does not stand to reason, but it happened. The Bill made it completely through the process to the Senate but failed in the last hours on the last day. We will ask members to bring it back again next year. It is important to protect the sanctity of religions assemblies.

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