

---

**HOUSE BILL 1618**

---

**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Representatives Young, Shea, and Walsh

Read first time 01/25/19. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to clarifying and protecting the Constitution's  
2 freedom of speech and guarantee of religious liberty for public  
3 employees; adding a new section to chapter 49.60 RCW; creating a new  
4 section; and prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) The Washington state Constitution provides in Article I,  
8 section 5 that, "Every person may freely speak, write and publish on  
9 all subjects, being responsible for the abuse of that right."

10 (b) The Washington state Constitution provides in Article I,  
11 section 11, in part, that, "Absolute freedom of conscience in all  
12 matters of religious sentiment, belief and worship, shall be  
13 guaranteed to every individual, and no one shall be molested or  
14 disturbed in person or property on account of religion..."

15 (c) The Washington state Constitution provides in Article XXVI  
16 that perfect toleration of religious sentiment shall be secured and  
17 that no inhabitant of this state shall ever be molested in person or  
18 property on account of his or her mode of religious worship.

19 (d) The United States Constitution, in the first amendment of the  
20 bill of rights, provides, "Congress shall make no law respecting an  
21 establishment of religion, or prohibiting the free exercise thereof;

1 or abridging the freedom of speech, or of the press; or the right of  
2 the people peaceably to assemble, and to petition the government for  
3 a redress of grievances."

4 (2) The legislature finds that defending the fundamental rights  
5 of free speech and the free exercise of religion, recognized in and  
6 protected by both the state and federal Constitutions, is a  
7 compelling state interest of the highest order. The legislature  
8 further finds that public policy must ensure these rights are  
9 safeguarded from encroachment by entities both public and private who  
10 have a lack of knowledge, a misunderstanding, or a rejection of  
11 constitutional history, the intent of those who drafted, debated, and  
12 ratified the Constitutions, the bill of rights or declaration of  
13 rights, and the plain meaning of the text of the Constitutions and  
14 amendments themselves. As the Washington state Constitution boldly  
15 declares in Article I, section 32, "A frequent recurrence to  
16 fundamental principles is essential to the security of individual  
17 right and the perpetuity of free government." John Adams, our first  
18 vice president and second president, stated, "A frequent recurrence  
19 to the fundamental principles of the Constitution, and a constant  
20 adherence to those of piety, justice, moderation, temperance,  
21 industry, and frugality, are absolutely necessary to preserve the  
22 advantages of liberty, and to maintain a free government."

23 (3) The legislature finds that the freedoms of speech and  
24 religious exercise are significant, substantial, long-valued rights  
25 that must never be considered trivial, irrelevant, or inapplicable.  
26 The legislature intends to return to these fundamental principles  
27 which made our state and this nation the most free of all states and  
28 nations in the history of the world and which are essential for  
29 maintaining the safety of individual rights and the permanency of  
30 free government.

31 (4) The legislature thus finds historic, cultural, and religious  
32 value in prayer and exercise of religious freedom for public  
33 employees of Washington and therefore intends to clarify and protect  
34 the freedom to pray in Washington state.

35 (5) Furthermore, the opening of legislative session with prayer  
36 is a long-standing tradition that has been considered by the United  
37 States supreme court to be part of the fabric of our society (*Marsh*  
38 *v. Chamber*). The United States supreme court has validated the  
39 "unique history" and constitutionality of corporate prayer in the  
40 legislature in its 1983 ruling in *Marsh v. Chamber*. The 2014 United

1 States supreme court ruling in *Town of Greece v. Galloway* affirmed  
2 the protection of public prayer and the rights of prayer givers to  
3 determine how they pray. In many cases, courts specifically approved  
4 practices in which the invocations were delivered by the elected  
5 officials.

6 (6) Whereas the United States supreme court has repeatedly  
7 validated the religious exercise of state legislative bodies and  
8 individual elected officials within the government, this legislature  
9 hereby intends to extend the same constitutional protection to the  
10 public employees of Washington. Therefore, the legislature intends to  
11 clarify a permissible exercise of religion for public employees and  
12 give protection for employees who choose to exercise their  
13 constitutionally guaranteed rights.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.60  
15 RCW to read as follows:

16 (1) Public employees may pray with and for one another, as in  
17 other public forums, without fear of prior restraint, discrimination,  
18 or censorship based on the content of their speech, or any civil or  
19 criminal liability for freely exercising such rights.

20 (2) Public employees may offer to pray with and for one another  
21 without fear of prior restraint, discrimination, or censorship based  
22 on the content of their speech, or any civil or criminal liability  
23 for freely exercising such rights.

24 (3) A governmental agency is prohibited from imposing a sanction  
25 of any kind on a public employee for exercising any of their rights  
26 recognized under subsections (1) and (2) of this section.

27 (4) Any governmental agency that complies with subsections (1)  
28 through (3) of this section is immune from any civil liability based  
29 on such compliance.

30 (5) Any governmental agency that fails to comply with subsections  
31 (1) through (3) of this section is subject to civil liability. Any  
32 public employee who alleges a violation of rights protected under  
33 subsections (1) through (3) of this section has a cause of action  
34 against the governmental agency. A prevailing plaintiff is entitled  
35 on a first violation to an award of up to twenty thousand dollars,  
36 but in no case less than ten thousand dollars; and on a second  
37 violation to an award of up to thirty thousand dollars, but in no  
38 case less than fifteen thousand dollars; and on a third and each  
39 subsequent violation to an award of up to forty thousand dollars, but

1 in no case less than twenty thousand dollars; and in all cases to  
2 costs and reasonable attorneys' fees.

3 (6) For the purposes of this section, "public employees" means  
4 employees of state and local governments.

--- **END** ---