

# Is It Okay to Help Students Pray?

A Constitutional Analysis of Chaplains in Public Schools

Lea Tarzy



“Joseph Kennedy lost his job as a high school football coach because he knelt at midfield after games to offer a **quiet prayer of thanks.**”





“He offered his prayers quietly while his students were otherwise occupied.”

# Kennedy v. Bremerton (2022)



- Public high school football coach, Joseph Kennedy, received attention for praying after games at the 50-yard line
- He was often joined by his players
- Bremerton District became concerned with potential religious establishment issue
- Kennedy's contract was not renewed; he then sued for infringement of his First Amendment rights
- 6 of 9 Supreme Court justices ruled in Kennedy's favor

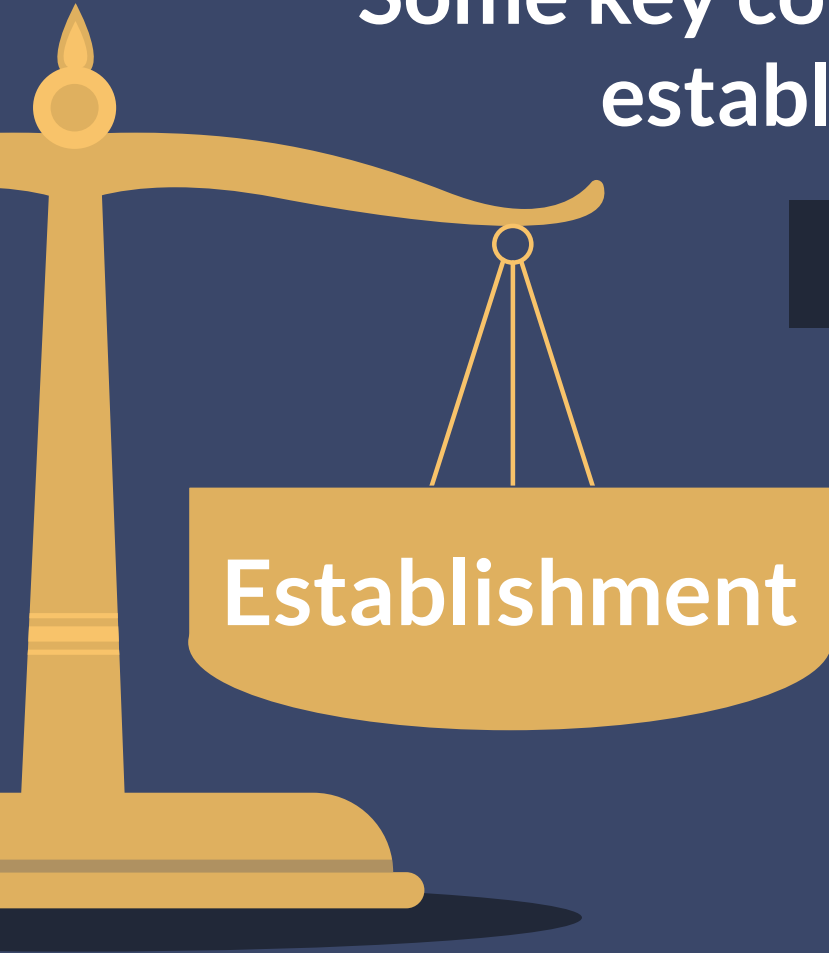
“Congress shall make no law...



respecting an establishment of religion, or prohibiting the free exercise thereof.”

Separation of church & state

# Some key concepts considered in establishment cases



Purpose

Coercion

Public Funds

Neutrality

## Purpose

Important to have a clear secular purpose as a driving force behind legislation in question

## Coercion

Government may not impose any religious beliefs/behavior, so policies cannot coerce individuals in effect

## Public Funds

Using taxpayer dollars to directly aid religious efforts has historically been considered unconstitutional

## Neutrality

Must be neutral between different religions, and between religion & non-religion

# Recent decisions ➤ resulting new bills




- *Kennedy v. Bremerton* decision is reflective of a new era of the contemporary Court... one that tilts heavily in favor of free exercise
- In the same month, the Court ruled on *Carson v. Makin*, effectively allowing public funds to be used in support of religious education
  - Previously been disallowed in countless Supreme Court decisions
- Decisions emboldened lobbyists & lawmakers to propose certain bills that would have previously been rejected on the spot – many involving religion & public schools

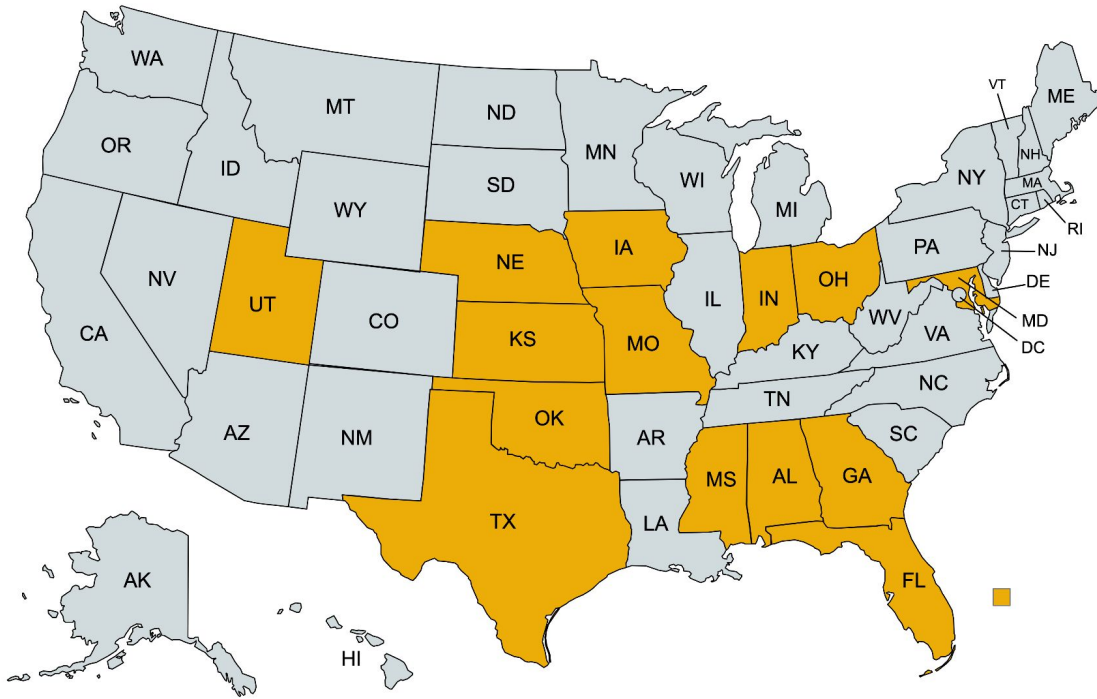






# New Bills: School & Religion

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- ❖ Some examples include requiring classrooms to display the Ten Commandments, mandating a daily moment of silence, and permitting teachers to pray in front of – and even with – students
  - ❖ Perhaps one of the most interesting developments is the recent effort to use **chaplains in public schools** as school counselors
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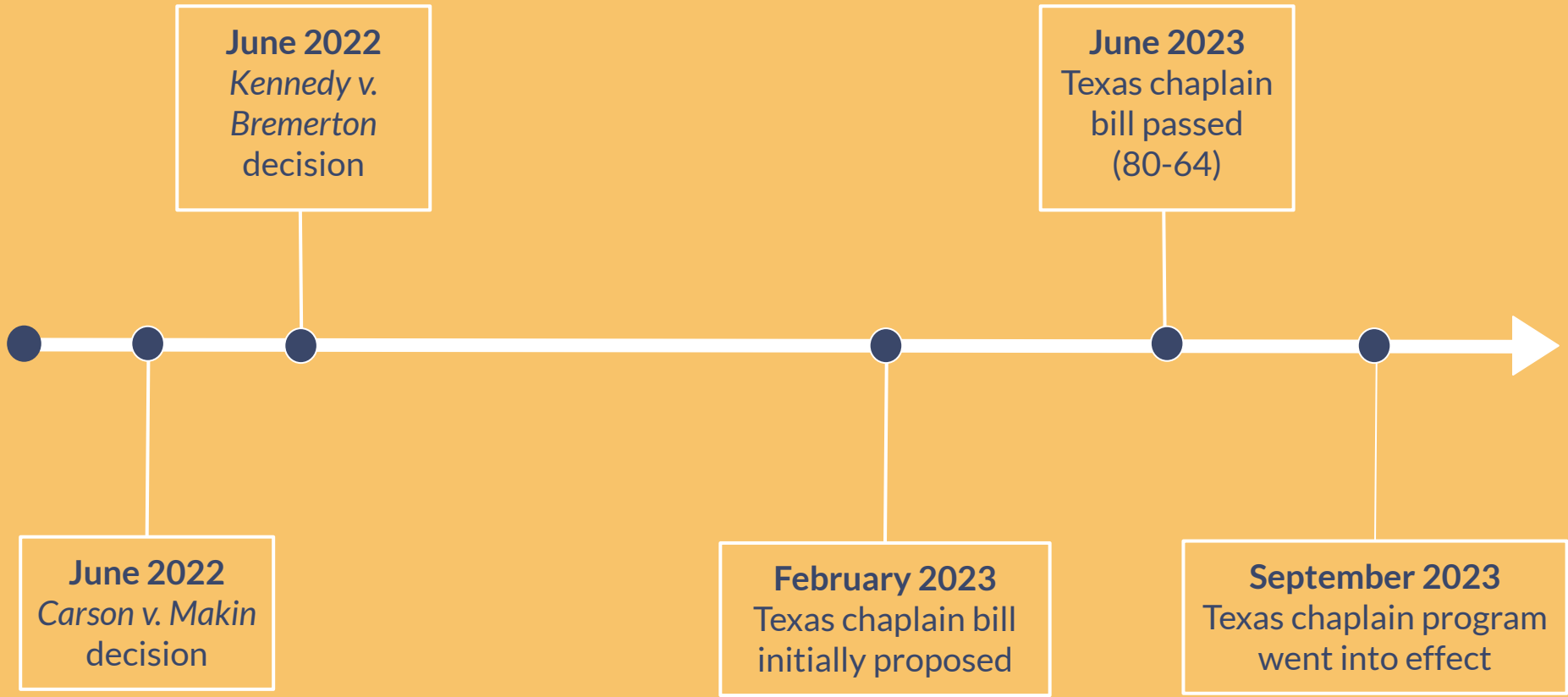


Began with the Texas bill

Since then, similar bills from 13 other states:

- Florida
- Alabama
- Georgia
- Indiana
- Iowa
- Kansas
- Maryland
- Mississippi
- Missouri
- Nebraska
- Ohio
- Oklahoma
- Utah

\*\* For the purposes of this presentation, I will focus solely on the original Texas bill



# All About the Texas Bill (SB-763)

Stipulates that each Texas school district must vote on 1 of 3 choices about allowing chaplains in their schools:

- 1) Hire chaplains to perform the duties of a school counselor,
- 2) Accept chaplains on a volunteer basis, or
- 3) Reject the use of chaplains in its schools altogether

## Rejected amendments:

- Requiring school chaplains to have similar credentials to those in the military or prisons
- Banning chaplains from proselytizing to students
- Requiring parental consent prior to children meeting with chaplains
- Providing chaplains of any faith requested by the students

# Constitutional Analysis

**SB-763**



To evaluate constitutionality, the Court considers a combination of the key elements discussed previously:

01

Purpose

Purpose of SB-763

03

Public funds

Use of public funding in SB-763

02

Coercion

Coercion involved with SB-763

04

Neutrality

Issues of neutrality with SB-763



01

# Purpose

Where did this legislation come from?  
What purpose is it intended to achieve?



# What purpose is this intended to achieve?

Despite certain claims of a **secular purpose**, it is evident there is a **predominant religious motive** at play here.

Advocates initially presented this bill as a means of **connecting students to resources**, pointing out that 48 of the 50 states have less than the recommended number of counselors in schools.

However, this is not a program the schools wanted – in fact, **all 25** of Texas's largest districts fully **rejected the use** of this program.



# So where did this come from?

- Not from the schools – rather, the result of the heavy involvement between the **National School Chaplain Association (NSCA)** & some members of the Texas House of Representatives
- Part of a **larger movement** to insert religion in schools nationwide
- From its origin, this bill was closely tied to **Rocky Malloy**, CEO of NSCA

The logo for the National School Chaplain Association (NSCA) is displayed on a black rectangular background. The letters "NSCA" are in a large, bold, white sans-serif font. A yellow triangle is positioned to the left of the letter "N". Below "NSCA", the words "NATIONAL SCHOOL" and "CHAPLAIN ASSOCIATION" are stacked in a smaller, bold, yellow sans-serif font.

**NSCA**  
**NATIONAL SCHOOL**  
**CHAPLAIN ASSOCIATION**



## Rocky Malloy

NATIONAL SCHOOL CHAPLAIN ASSOCIATION

When speaking to the Senate Committee on Education about this bill, Malloy stated:






**“Chaplains are not working to convert people to religion... chaplains have no other agenda other than to be present in relationships, care for individuals and to make sure everybody on campus is seen and heard.”**

# About Rocky Malloy & the NSCA


However, for decades , Rocky Malloy spearheaded another group – called **Mission Generation** – which overtly advocates using school chaplains as a means of evangelizing to youth.



That group openly stated its plans to proselytize in schools through chaplains in its mission statement... until recently, when the website was taken down & redirected straight to the NSCA's homepage.



While initially proposed as an attempt to increase resources available to students, it is more reasonable to view this as an effort to use public schools to promote Christianity... which undeniably violates the establishment clause.





02

# Coercion

Does this legislation allow for coercion?  
How would school-age children be impacted?






# Coercion

Involves inappropriate influence & use of power





# Potential for coercion in schools

- The way this bill is set up, chaplains have **authority** as adults working within the school system & are thus in a **position to potentially coerce** students
  - Chaplains in schools are **fundamentally different** from chaplains in other contexts
    - The Court has historically dealt with cases involving school-age children with a **higher standard** in mind due to the **impressionable nature** of young minds
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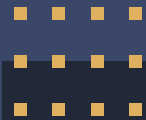


# Chaplains in other contexts

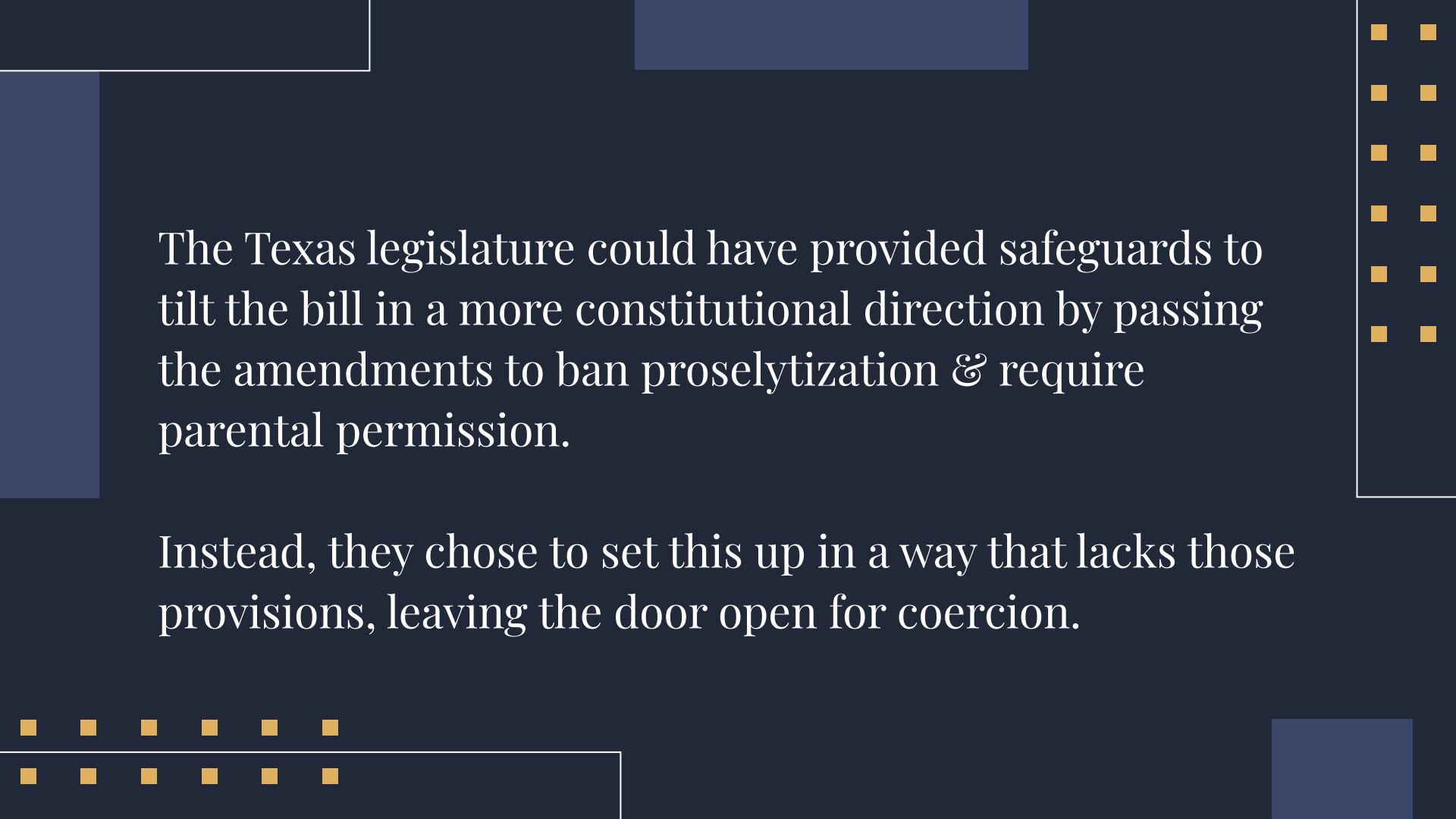
Chaplains in prisons, hospitals, and the military generally deal with adults (difference in age and life experience) with limited access to the free world.

These examples actually allow for the free exercise of prisoners, hospital patients, and military members.

Schoolchildren, by contrast, go home each day to their families & have other, more appropriate environments in which they can develop their faith – apart from the influence of government-sponsored authority figures.







The Texas legislature could have provided safeguards to tilt the bill in a more constitutional direction by passing the amendments to ban proselytization & require parental permission.

Instead, they chose to set this up in a way that lacks those provisions, leaving the door open for coercion.





03


# Public funding

Are taxpayer dollars being used appropriately?  
Does this legislation directly aid religion?

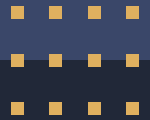





# Public funding



The issue of **public funding** in this case is straightforward:

- Using public funds to pay chaplains further blurs the line between church & state in a way that has been **prohibited** in the past
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This could have been avoided by only allowing chaplains on a **volunteer basis** – but by allowing public schools to **directly fund a clergy member's salary**, this bill goes a step further in violating the establishment clause





04

# Neutrality

Does this achieve neutrality in practice?  
Is this policy neutral between different religions?



# Neutrality

It is uncertain that this program would achieve neutrality between different religions

In practice, will a school realistically be able to identify & sponsor a chaplain from every religious faith of the families in its district?

- If not, this bill could result in privileging the religion of the masses & failing to remain neutral between different religions



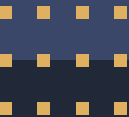
One of the rejected amendments would have required schools to provide chaplains of any faith requested by students



In conclusion, SB-763 is not constitutional.



...but why does this  
matter?



By maximizing free exercise of individuals while minimizing potential establishment concerns, the Court has set a dangerous precedent.



This has led to new bills and practices – such as the Texas chaplain bill – that contradict the Constitution & undermine the very principles this country was founded upon.

