

## **REVISED SILENT REFLECTION AND STUDENT PRAYER ACT REQUIRED MOMENT OF SILENCE: AN OVERVIEW**

(P.A. [P.A. 95-0680](#), eff. 10/11/07)

SB 1463, adopted by a legislative override vote of the Governor's earlier veto this summer, amends the current *Illinois Silent Reflection and Student Prayer Act* (105 ILCS 20/0.01 *et seq.*) ("Act") to mandate that classroom teachers observe a "brief period of silence" with students at the opening of every school day. Previously, such moments of silence were merely optional at the discretion of the teacher in charge. The law is immediately in effect.

### **1. How long must the moment of silence last?**

The law only requires silence for a "brief period." Although some of the more than three dozen states with such laws have set aside up to five minutes, it seems that the brief period could be as short as "a fraction of a second." *Senate Transcript*, March 21, 2007, p. 87 (statement of Senator Cronin).

### **2. Is this really a mandate for required prayer in schools?**

Although students are free to use the time for prayer, the law specifically forbids the moment of silence from being used as a religious exercise. The current *School Code* provision still states that the time shall be an "opportunity for silent prayer or for silent reflection on the anticipated activities of the day." Because the United States Supreme Court has struck down mandatory school prayer laws, teachers and administrators should be careful to couch this time as a moment for focus or reflection, as opposed to a time for prayer or religious meditation. Further, as required under another existing provision of the Act, school personnel must avoid violating the right of any student to engage in or refrain from "individually initiated, non-disruptive prayer" (105 ILCS 20/5).

### **3. What may the teacher and students do during the brief period of silence?**

Beyond observing silence, teachers and students are not required or prohibited by the law from engaging in any specific activity except the conducting of a religious exercise. Thus, teachers could theoretically grade papers or sit with their heads bowed. Students could complete workbook pages, fold their hands in prayer, or close their eyes and put their heads down on the desks. The legislative debates indicate that the time could be used for the "neutral" acts of meditation, reflection, and taking a "deep breath" before the activities of the day. *Senate Transcript*, March 21, 2007, p. 86-89.

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**4. Can this moment of silence take place as part of morning announcements?**

Yes. Although the law says that, “in each public school classroom *the teacher in charge* shall observe a brief period of silence,” it is likely that a school-wide moment of silence led by a principal or other administrator over a public-address system would also meet the requirements of the law. We suggest that the announcer clearly indicate during the commentary when the period of silence, or reflection, or meditation begins and then pause for a brief period before moving into the daily announcement routine.

**5. What happens if individual students or teachers refuse to comply?**

The law contains no provision for enforcement. Thus, school districts will have to determine the appropriate disciplinary action within the confines of their current student discipline and personnel policies. We urge caution, however, in imposing discipline without seeking legal advice first. We would anticipate that the new mandate may lead to legal disputes with parents who do not believe their child should have to observe a moment of silence or believe that the law does not authorize any penalties. Additionally, unions are likely to take a strong stance against any discipline that might follow a teacher’s refusal to adhere to the required mandate, although the bill’s legislative history indicates that the new requirement was “an effort to create uniformity across the State in all of our schools. *Senate Transcript*, March 21, 2007, p. 88 (statement of Senator Lightford, the sponsor). It is also probable that individuals may seek to challenge the law as unconstitutional under the First Amendment’s freedom of religion guarantee.