

BILL ANALYSIS

Senate Research Center
87R8061 TYPED

S.B. 26
By: Paxton et al.
State Affairs
3/2/2021
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The coronavirus public health emergency has caused action by the executive branch across the country through emergency powers to protect public health.

One area of concern within the coronavirus response is the use of executive orders that limit religious assemblies and activities. The executive decisions made during the public health emergency and state disaster declaration along with judicial decisions related to the interpretation of these emergency actions leads to a need for state legislative action to protect the rights of freedom of religion and freedom of assembly in the event of future executive orders.

S.B. 26 seeks to protect the freedom of religious activities by preventing the future closure of places of worship through the use of emergency powers.

As proposed, S.B. 26 amends current law relating to prohibited suspension of laws protecting religious freedom and prohibited closure of places of worship.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 110.001(a), Civil Practices and Remedies Code, by adding Subdivisions (3) and (4) to define "place of worship" and "public official."

SECTION 2. Amends Section 110.002, Civil Practices and Remedies Code, as follows:

Sec. 110.002. APPLICATION. (a)-(c) Makes no changes to these subdivisions.

(d) Provides that, for purposes of a disaster as defined by Section 418.004 (Definitions), Government Code, Chapter 110 (Religious Freedom) is not considered a regulatory statute, and prohibits a provision of Chapter 110 from being suspended.

SECTION 3. Amends Chapter 110, Civil Practices and Remedies Code, by adding Section 110.0031, as follows:

Sec. 110.0031. PROHIBITION ON CLOSING PLACES OF WORSHIP. Prohibits a government agency or public official from issuing an order that closes or has the effect of closing places of worship in the state or in a geographic area of the state.

SECTION 4. Amends Section 110.004, Civil Practices and Remedies Code, as follows:

Sec. 110.004. DEFENSE. Authorizes a person whose free exercise of religion has been substantially burdened in violation of Section 110.003 (Religious Freedom Protected) and 110.0031 to assert that violation as a defense in a judicial or administrative proceeding

without regard to whether the proceeding is brought in the name of the state or by any other person.

SECTION 5. Makes application of Chapter 110, Civil Practices and Remedies Code, as added by this Act, prospective.

SECTION 6. Effective date: upon passage or September 1, 2021.