

SUBJECT: Prohibiting government disaster orders from closing places of worship

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter,
P. King, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

1 absent — Lucio

WITNESSES: For — Pastor Cody Haynes, Faith Christian Cowboy Outreach Ministries; Michelle Taylor, GLAD Mission; Pastor Jorge Tovar, Jordan River Church and Texas Values; Donald Garner, Texas Faith & Freedom Coalition; Jonathan Saenz, Texas Values; Mary Castle and Jonathan Covey, Texas Values Action; Carolyn McClugage; Denise Seibert; (*Registered, but did not testify*: Rob Kohler, Christian Life Commission of the Baptist General Convention; Jason Niesing and Stephanie Niesing, Church Outside The Box; Chris Hill, Collin County; Michelle Davis, Convention of States; Charles Flowers, Faith Outreach Center International; Dr. Rodney Hargrove, Global Harvest Ministry; James Lennon and Robin Lennon, Kingwood TEA Party, Inc.; Theodore Thevaos, LifeShare Church; Tom Nobis, Republican Party of Texas; Ruth York, Tea Party Patriots of Eastland County and Texas Family Defense Committee; Mia McCord, Texas Conservative Coalition; David Welch, Texas Pastor Council; Kevin Roberts, Texas Public Policy Foundation; Gregory McCarthy, Texas Values Action; Jason Vaughn, Texas Young Republicans; Jennifer Allmon, The Texas Catholic Conference of Bishops; LaMoyne Davis, Tree of Life Church; Cody Jones, Tree of Life Church-New Braunfels, TX; Shelia Franklin, True Texas Project; and 47 individuals)

Against — Lee Kleinman, City of Dallas; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; TJ Patterson, City of Fort Worth; and 10 individuals)

On — Kevin Stuart, Austin Institute For the Study of Family & Culture;
Paul Hodson; (*Registered, but did not testify*: Thomas Parkinson)

DIGEST:

CSHB 1239 would prohibit a government agency or public official from issuing an order that closed or had the effect of closing places of worship in Texas or in a geographic area of the state. A place of worship would mean a building or grounds where religious activities are conducted. A public official would be any elected or appointed officer, employee, or agent of the state or any political subdivision, board, commission, bureau, or other public body established by law.

The bill would specify that the religious freedom statute under Civil Practice and Remedies Code ch. 110 was not considered a regulatory statute for purposes of a state of disaster declared under Government Code ch. 418. A provision of ch. 110 could not be suspended.

A person whose free exercise of religion had been substantially violated by a government order prohibited under the bill could assert that violation as a defense in a judicial or administrative proceeding without regard to whether the proceeding was brought in the name of the state or by any other person. The bill would apply only to a claim or defense that accrued on or after the bill's effective date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS
SAY:

CSHB 1239 would ensure that houses of worship, which provide essential spiritual, mental, and physical support to Texans, remained open when they were most needed. The bill would prevent public officials from using a disaster declaration to close a church as happened in 2020 during the COVID-19 pandemic.

The unprecedented closure of churches, mosques, and synagogues last year negatively impacted many who were struggling with isolation and stress during the pandemic. Closing places where Texans gather to

worship not only eliminated critical ministries and services but violated the religious freedoms guaranteed by our laws and Constitution.

At a time when businesses, including liquor stores, were deemed essential and allowed to remain open, churches were closed and some were even subjected to police patrols. While many churches offered online worship services, others were not able to use technology to reach their congregations.

The past year of social isolation led to increased reports of depression, anxiety, substance abuse, and even suicide. Allowing places where the faithful can find community and solace is critical to saving lives during future disasters.

While some say that public officials should retain the ability to include houses of worship in disaster-related orders to protect the common good, churches themselves can be trusted to make reasonable and appropriate decisions whether to be open or closed. Religious rights are protected in the U.S. Constitution, and church services should not be treated the same as secular gatherings.

The bill would not prevent a public entity such as a school district that leased a facility to a house of worship from closing the building during a disaster in accordance with a lease agreement.

**CRITICS
SAY:**

CSHB 1239 could put all Texans at risk by allowing places of worship to remain open during a pandemic. The bill would restrict the ability of the governor and state and local officials to issue emergency orders that limit in-person religious services, even if the orders were treating religious services the same as all other gatherings. This would apply during any disaster, including hurricanes, floods, and fires.

Public officials who issued orders that closed churches early in the pandemic did so to prevent the spread of a highly communicable disease, not to prohibit religious expression. The bill could tie the hands of public officials in future disasters from enforcing health and safety codes. They

could be prevented from closing a facility that had been damaged by a hurricane and was unsafe for public occupation.