

**SUBJECT:** Constitutionally prohibiting state limits on religious services

**COMMITTEE:** State Affairs — committee substitute recommended

**VOTE:** 10 ayes — Paddie, Hernandez, Deshotel, Harless, P. King, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

2 absent — Hunter, Lucio

1 present not voting — Howard

**WITNESSES:** For —Charles Flowers, Faith Outreach Center International; Shawn Hall Lecuona, Lecuona Law PLLC, dba Lecuona Life Ministries, and Burning For Quote; Ted Thevaos, LifeShare Church; Donald Garner, Texas Faith and Freedom Coalition; Jonathan Saenz, Texas Values; Mary Castle and Jonathan Covey, Texas Values Action; Sylvia Coulson; Linda Randall; Denise Seibert; Kathy Turner; John Zerr; (*Registered, but did not testify:* Jason Niesing and Stephanie Niesing, Church Outside the Box; Michelle Davis, Convention of States; Dr. Rodney Hargrove, Global Harvest Ministry; Pastor Jorge Tovar, Jordan River Church and Texas Values; Tom Nobis, Republican Party of Texas; Mia McCord, Texas Conservative Coalition; David Welch, Texas Pastor Council; Gregory McCarthy, Texas Values Action; Jason Vaughn, Texas Young Republicans; Jennifer Allmon, The Texas Catholic Conference of Bishops; David Covey, Texas Republican County Chair Association; Shelia Franklin and Fran Rhodes, True Texas Project; and 33 individuals)

Against — Lee Kleinman, City of Dallas; Bryan Register; Dora Smith; (*Registered, but did not testify:* Matt Simpson, ACLU of Texas; and nine individuals)

On — Jonathan Cook

**DIGEST:** CSHJR 72 would amend the Texas Constitution to prohibit the state or a

political subdivision from enacting, adopting, or issuing a statute, order, proclamation, decision, or rule that prohibited or limited religious services, including religious services conducted in churches, congregations, and places of worship, in this state by a religious organization established to support and serve the propagation of a sincerely held religious belief.

The ballot proposal would be presented to voters at an election on November 2, 2021, and would read: "The constitutional amendment to prohibit this state or a political subdivision of this state from prohibiting or limiting religious services of religious organizations."

**SUPPORTERS  
SAY:**

CSHJR 72 would help guarantee people of faith could freely exercise their religious beliefs by prohibiting state or local officials from taking action that prohibited or limited religious services. This proposed state constitutional amendment would prevent public officials from using a disaster declaration to close houses of worship 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 right to the free exercise of religion. Churches and other religious institutions are most needed during times of crisis and stress. However, 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.

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 and their congregants can be trusted to make reasonable and appropriate decisions about whether they should be open

or closed. Religious rights are protected in the Texas and U.S. Constitutions, and church services should not be treated the same as secular gatherings.

CRITICS  
SAY:

CSHJR 72 could put all Texans at risk by allowing places of worship to remain open during a pandemic. The proposed constitutional amendment would restrict the ability of public officials to issue emergency orders that limited in-person religious services during a disaster, even if the orders were treating religious services the same as other gatherings.

Worship and religious activity can be done safely during a public health emergency without large public gatherings. The ability of state and local officials to balance public safety with religious freedom is recognized in other areas, such as fire and building safety codes that churches must follow.

NOTES:

HB 3596, the enabling legislation for CSHJR 72 by Leach, was referred to the House Committee on State Affairs on March 22.

The Senate companion joint resolution, SJR 27 by Hancock, was passed by the Senate on March 25 by a vote of 28-2 (Eckhardt, Johnson) and referred to the House Committee on State Affairs on April 6. The enabling legislation for SJR 27, SB 1681 by Hancock, was referred to the Senate Committee on State Affairs on March 24.

According to the fiscal note, the cost to the state for publication of the resolution would be \$178,333.