

Senate Bill 288
Proponent Letter to the Committee
June 9, 2020

Chair Lehner, Vice Chair Brenner, Ranking Member Fedor, and Members of the Senate Education Committee:

My name is Michael McGuire, and I am a recent graduate from The Ohio State University Moritz College of Law, as well as a founding member and former president of the Saint Thomas More Society at Moritz. Today, I write to express my support for Senate Bill 288, because it affirms and asserts that student athletes' religious apparel is protected religious expression in the State of Ohio.

The Saint Thomas More Society (STMS) is the first legal society of its kind at Moritz: an ecumenical association of Catholics and other Christians interested in promoting and defending religious liberty and religious expression. The student organization espouses the Catechism and values of the Roman Catholic Church, and its mission is to create opportunities for law students to examine the intersection of faith, reason, and the law. Over the last two years, STMS hosted a number of events at the law school that explored different elements of religious liberty, such as an interdenominational discussion on religious expression in the workplace, and an expert panel on religious liberty policies and statutory defenses.

In October of 2019, while I was president of STMS, I was made aware that high school athlete Noor Abukaram had been disqualified from a cross country meet as penalty for failing to obtain a waiver from the Ohio High School Athletic Association to wear her hijab during the competition.¹ The decision to bar Ms. Abukaram from officially participating in the school-sponsored extracurricular activity was the result of blind adherence to a bureaucratic process which effectively demoted her religious expression to a secondary consideration. I believed then as I do now that this treatment of religious expression is wrong. The law ought to protect Ms. Abukaram's rights, and it should prevent this injustice from happening to other students.

A student athlete's religious convictions expressed in the form of religious apparel should not be subjected to bureaucratic approval. The right to religious expression assured by the First Amendment is one of our most cherished and venerated freedoms.² The legal standard articulated by the courts for Constitutionally-protected student speech requires that the speech not be school-sponsored, not contain lewd, vulgar, obscene, or plainly offensive speech, and not cause a material disruption or is likely to do so.³ For example, in 1969, the Supreme Court found that students wearing black armbands to protest the Vietnam War did not cause a material disruption.⁴ Despite the broadness and relative clarity of this standard, new rules and red tape restricting student religious expression – like requiring waivers to wear religious apparel to extracurricular functions – continue to crop up. Approval processes for religious apparel impose an unfair burden on student athletes to request and receive special consent to live their religious convictions.

¹ S. Amjad Hussain, *Banning hijab in athletic competition is travesty, stupidity*, Toledo Blade, Oct. 30, 2019, available at <https://www.toledoblade.com/opinion/columnists/2019/10/30/banning-hijab-ohiotrack-and-field-athletic-competition-travesty-stupidity/stories/20191030016>

² U.S. Const. Amend. I

³ *Nixon v. Northern Local School Dist. Bd. of Educ.*, 383 F. Supp. 2d 965 (S.D. Ohio 2005)

⁴ *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 89 S.Ct. 733 (1969)

S.B. 288 affirms and asserts that student athletes' religious apparel is protected religious expression in the State of Ohio. A Catholic's crucifix, a Jew's yarmulke, a Sikh's dastār, a Muslim's headscarf – these items are more than mere fashion choices, they are the outward, physical manifestations of religious belief and identity. No student athlete should be forced to choose between religious convictions or participating in extracurricular competitions.

This legislation is critical for protecting the free speech rights of religious student athletes and preventing injustice like that experienced by Ms. Abukaram.

Thank you for your time and consideration, and I urge you to support the bill.

Sincerely,

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