

2024 Regular Session

HOUSE BILL NO. 121

BY REPRESENTATIVE CREWS

EDUCATION: Provides relative to the use of certain names and pronouns for students

1 AN ACT

2 To enact R.S. 17:2122 and 3996(B)(82), relative to education; to require school employees
3 to use certain names and pronouns for students unless parents have provided written
4 permission to do otherwise; to provide that a school employee shall not be required
5 to refer to any person by certain pronouns if contrary to the employee's religious or
6 moral convictions; to require each public school governing authority to adopt
7 policies; to provide for civil liability; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. This Act shall be known and may be cited as the "Given Name Act".

10 Section 2.(A) The legislature finds that:

11 (1) The Fourteenth Amendment of the Constitution of the United States of
12 America protects the right of parents to direct the care, upbringing, education, and
13 welfare of their children.

14 (2) The United States Supreme Court has held that: "[T]he Due Process
15 Clause does not permit a State to infringe on the fundamental right of parents to
16 make child rearing decisions simply because a state judge believes a 'better' decision
17 could be made". *Troxel v. Granville*, 530 U.S. 57, at 72-73 (plurality op.).

18 (3) The United States Supreme Court has explained that the liberty specially
19 protected by the Due Process Clause of the Fourteenth Amendment of the
20 Constitution of the United States of America includes the right "to direct the

1 education and upbringing of one's children". *Washington v. Glucksberg*, 521 U.S.
2 702, 720 (1997).

3 (4) In *Garcetti v. Ceballos*, 547 U.S. 410 (2006), the United States Supreme
4 Court has held that public employees do not retain First Amendment protection for
5 speech uttered in the context of their official duties as they are not speaking as public
6 citizens.

7 (5) Individuals under the age of eighteen are minors, and the courts have
8 recognized their immaturity and the unique nature of the public school setting.

9 (B) It is the intent of the legislature that the public education system uphold
10 the constitutional and long-recognized rights of parents and that appropriate
11 limitations be set on employee speech within the context of public education.

12 Section 3. R.S. 17:2122 and 3996(B)(82) are hereby enacted to read as follows:

13 §2122. Pronouns and names; biological sex; parental permission; policies

14 A. As used in this Section, the following terms have the following meanings:

15 (1) "Employee" means any individual working in any capacity at a public
16 school including but not limited to teachers and other school employees, school bus
17 operators, extracurricular personnel, and independent contractors.

18 (2) "Parent" means a student's parent or legal guardian.

19 (3) "Sex" means a person's immutable biological sex, either female or male,
20 as listed on his original birth certificate.

21 (a) "Female" means an individual whose biological reproductive system is
22 developed to produce ova and who has, had, will have, or would have, but for a
23 developmental or genetic anomaly or historical accident, the reproductive system
24 that at some point produces, transports, and utilizes eggs for fertilization.

25 (b) "Male" means an individual whose biological reproductive system is
26 developed to fertilize the ova of a female who has had, will have, or would have, but
27 for a developmental or genetic anomaly or historical accident, the reproductive
28 system that at some point produces, transports, and utilizes sperm for fertilization.

1 (4) "Student" means a public school student under the age of eighteen who
2 has not been legally emancipated.

3 B.(1)(a) An employee shall not knowingly and intentionally address a
4 student by a name other than the student's legal name, or a derivative thereof,
5 without the written permission of the student's parent or guardian.

6 (b) An employee shall not be subject to adverse employment action for
7 declining to address a student using a name other than the student's legal name, or
8 a derivative thereof, or by a pronoun or title that is inconsistent with the student's
9 sex.

10 (2) If a teacher objects to using a pronoun for a student based on the teacher's
11 religious or moral convictions, the student's parent may request a transfer to another
12 teacher.

13 (3) Nothing in this Subsection shall be construed to prohibit employees from
14 discussing matters of public concern outside the context of their official duties.

15 (4) Any individual aggrieved by an intentional violation of this Subsection
16 shall have a private cause of action for injunctive relief, monetary damages,
17 reasonable attorney's fees and costs, and any other appropriate relief. However, a
18 school employee shall not be held liable if the administration fails to provide
19 information provided in Paragraph (1) of this Subsection.

20 (5) All civil actions brought pursuant to this Section shall be initiated within
21 two years of the violation occurring.

22 C. Each public school governing authority shall adopt policies for
23 implementing the provisions of this Section.

24 D. Employees are prohibited from discussing the application of this Section
25 relative to a student's preferred name and pronouns with other students.

26 E. No employee shall be required to use pronouns for any person that differ
27 from the pronouns that reflect the sex indicated on the person's birth certificate if
28 doing so would violate the teacher or employee's sincerely held religious beliefs that
29 are protected pursuant to the Louisiana Employment Discrimination Law, Chapter

Authorizes parents to request a transfer to another teacher if a teacher objects to using a pronoun for a student on the grounds of religious or moral convictions.

Proposed law defines an "employee" as any individual working in any capacity at a public school including but not limited to teachers and other school employees, school bus operators, extracurricular personnel, and independent contractors, and defines "sex" as the immutable biological sex as listed on the person's original birth certificate, either female or male.

Proposed law further provides:

- (1) That proposed law shall not be construed to prohibit employees from discussing matters of public concern outside the context of their official duties.
- (2) That any individual aggrieved by an intentional violation of proposed law shall have a private cause of action for injunctive relief, monetary damages, reasonable attorneys fees and costs, and any other appropriate relief; however, provides that a school employee shall not be held liable if the administration fails to provide information relative to a student's name or pronouns. Requires such an action to be brought within two years of the violation.
- (3) That employees are prohibited from discussing the application of proposed law relative to a student's preferred name and pronouns with other students.
- (4) That each public school governing authority is required to adopt policies for proposed law implementation.

Proposed law applies to charter schools.

(Adds R.S. 17:2122 and 3996(B)(82))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Education to the original bill:

1. Add definitions of "female" and "male".
2. Remove volunteers from definition of "employee".
3. Expand types of relief individuals aggrieved by an intentional violation of proposed law may seek.
4. Add two-year prescription on civil actions.
5. Change proposed law regarding an employee's use of pronouns from a requirement to use the pronoun that aligns with the student's sex to an exemption from adverse employment action for refusing to address a student with a pronoun that is inconsistent with his sex.