

2024 Regular Session

HOUSE BILL NO. 121

BY REPRESENTATIVES CREWS, AMEDEE, EDMONSTON, FIRMENT,  
MCCORMICK, AND SCHAMERHORN

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 (6) However, the United States Supreme Court has also recognized "it can  
10 hardly be argued that either students or teachers shed their constitutional rights to  
11 freedom of speech of expression at the schoolhouse gate. This has been the  
12 unmistakable holding of this Court for almost 50 years. *Tinker v. Des Moines Indep.*  
13 *Cnty. Sch. Dist.*, 393 U.S. 503, 506 (1969).

14 (7) And under the First Amendment, "the government may not compel a  
15 person to speak its own preferred messages. Nor does it matter whether the  
16 government seeks to compel a person to speak its message when he would prefer to  
17 remain silent or to force an individual to include other ideas with his own speech that  
18 he would prefer not to include." *303 Creative LLC v. Elenis*, 600 U.S. 570, 586  
19 (2023).

20 (B) It is the intent of the legislature that the public education system uphold  
21 the constitutional and long-recognized rights of parents, students, and teachers within  
22 the context of public education.

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

24 §2122. Pronouns and names; biological sex; parental permission; policies

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

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

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

1           (3) "Sex" means a person's immutable biological sex, either female or male,  
2           as may be evidenced on his original birth certificate issued at or near the time of  
3           birth.

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

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

12          (4) "Student" means a person enrolled at a public school on a full-time or  
13          part-time basis.

14          B.(1)(a) An employee shall not knowingly and intentionally address a  
15          student by a name other than the student's legal name, or a derivative thereof,  
16          without the written permission of the student's parent or guardian, unless the student  
17          is a legal adult or emancipated.

18          (b) An employee shall not be subject to adverse employment action for  
19          declining to do the following:

20                (i) Address a person using a name other than the person's legal name, or a  
21                derivative thereof, or by a pronoun that is inconsistent with the person's sex.

22                (ii) Identify his own pronouns.

23          (c) A student shall not be subject to disciplinary action by a public school for  
24          declining to do the following:

25                (i) Address a person using a name other than the person's legal name, or a  
26                derivative thereof, or by a pronoun that is inconsistent with the person's sex.

27                (ii) Identify his own pronouns.



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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 121 Reengrossed

2024 Regular Session

Crews

**Abstract:** Provides relative to the use of certain names and pronouns for public school students.

Proposed law prohibits a school employee from knowingly and intentionally addressing a student by a name other than the student's legal name, or a derivative thereof, unless granted written permission by parents to do otherwise.

Proposed law exempts an employee from adverse employment action and exempts a student from disciplinary action for declining to do the following:

- (1) Address a person using a name other than his legal name or a derivative thereof or by a pronoun inconsistent with his sex.
- (2) Identify his own pronouns.

Authorizes parents to request a transfer to another class if a teacher declines to use a name other than a student's legal name or a derivative thereof or a pronoun for a student that is consistent with the student's sex.

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 may be evidenced on his original birth certificate, either female or male.

Proposed law further provides:

- (1) 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. Requires such action to be brought within two years of the violation.
- (2) That each public school governing authority is required to adopt policies for proposed law implementation and provide such policies to employees.

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.

The House Floor Amendments to the engrossed bill:

1. Exempt students from disciplinary action for declining to address a person with a name other than his legal name or a derivative thereof or pronoun inconsistent with his sex.
2. Require public school governing authorities to provide its policies to employees.
3. Remove provision that an employee is not required to use pronouns for any person differing from the pronouns reflecting the sex indicated on the person's birth certificate if doing so violates the employee's sincerely held religious beliefs.
4. Authorize parents to request a transfer to another *class* if a teacher declines to use a certain name or pronoun for a student instead of authorizing a request for transfer to another *teacher* if a teacher objects to using certain pronouns.
5. Remove provision that a school employee shall not be held liable if administration fails to provide information relative to a parent's request relative to a student's name or pronouns.
6. Exempt employees and students from disciplinary actions for declining to identify their own pronouns.