

ACT No. 680

HOUSE BILL NO. 121

BY REPRESENTATIVES CREWS, AMEDEE, EDMONSTON, FIRMENT, MCCORMICK, AND SCHAMERHORN AND SENATORS ABRAHAM, BASS, CLOUD, EDMONDS, HODGES, MIGUEZ, SEABAUGH, AND STINE

1 AN ACT

2 To enact R.S. 17:2122 and 3996(B)(82), relative to education; to provide with respect to the
3 use of certain names and pronouns for students and employees; to prohibit public
4 school governing authorities from adopting certain policies; to provide with respect
5 to school employees; to provide with respect to students; to provide for remedies and
6 corrective actions; 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
21 education and upbringing of one's children". *Washington v. Glucksberg*, 521 U.S.
22 702, 720 (1997).

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

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

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

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

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

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

22 §2122. Pronouns and names; biological sex; parental permission; policies

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

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

27 (2) "Legal name" means a person's name as may be evidenced on his
 28 original birth certificate issued at or near the time of birth.

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

1 (4) "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 (5) "Student" means a person enrolled at a public school on a full-time or
13 part-time basis.

14 B.(1) A public school governing authority shall not adopt a policy that
15 provides for an inquiry of an employee's pronouns that is inconsistent with the
16 employee's sex or provides for an inquiry of an employee's name other than the
17 employee's legal name, or a derivative thereof.

18 (2) A public school governing authority shall not adopt a policy that
19 provides for an inquiry of a student's pronouns that is inconsistent with the student's
20 sex or provides for an inquiry of a student's name other than the person's legal name,
21 or a derivative thereof.

22 C.(1)(a) An employee shall not be required to address a student by a name
23 other than the student's legal name, or a derivative thereof, and the employee shall
24 not be required to use a pronoun that is inconsistent with the student's sex.

25 (b) An employee shall not be subject to adverse employment action for
26 declining or refusing to do any of the following:

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

29 (ii) Identify his own pronouns, in violation of Subsection B of this Section.

1 (c) A student shall not be subject to disciplinary action by a public school for
2 declining or refusing to do any of the following:

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

5 (ii) Identify his own pronouns, in violation of Subsection B of this Section.

6 (2) If a school employee refers to a minor student by a pronoun that is
7 inconsistent with the student's sex or refers to the student by a name other than the
8 student's legal name, or a derivative thereof, the parent may seek corrective action
9 by the school principal so that the student will be addressed according to the
10 student's sex, as defined in Subsection A of this Section.

11 (a) If the school principal intentionally refuses to implement corrective
12 action, then the parent shall have remedies pursuant to Subsection D of this Section.

13 (b) If after the school principal implements corrective action, an employee
14 intentionally refuses to honor the corrective action, then the parent shall have
15 remedies pursuant to Subsection D of this Section.

16 D.(1) An employee, parent of a minor student, or a student who has reached
17 the age of majority aggrieved by an intentional violation of this Subsection by a
18 public school shall have a private cause of action for injunctive relief, monetary
19 damages, reasonable attorney fees and costs, and any other appropriate relief.

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

22 E. Each public school governing authority shall adopt policies for
23 implementing the provisions of this Section and provide such policies to employees.

24 F. This Section shall not be construed to permit employees to disclose
25 student information as prohibited under the Federal Education Records Privacy Act
26 (FERPA), 20 U.S.C.A. §1232(g).

27 * * *

28 §3996. Charter schools; exemptions; requirements

29 * * *

1 B. Notwithstanding any state law, rule, or regulation to the contrary and
 2 except as may be otherwise specifically provided for in an approved charter, a
 3 charter school established and operated in accordance with the provisions of this
 4 Chapter and its approved charter and the school's officers and employees shall be
 5 exempt from all statutory mandates or other statutory requirements that are
 6 applicable to public schools and to public school officers and employees except for
 7 the following laws otherwise applicable to public schools with the same grades:

8 * * *

9 (82) Names and pronouns, R.S. 17:2122.

10 * * *

11 Section 2. If any provision or item of this Act, or the application thereof, is held
 12 invalid, such invalidity shall not affect other provisions, items, or applications of the Act
 13 which can be given effect without the invalid provision, item, or application and to this end
 14 the provisions of this Act are hereby declared severable.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____