

2023 Regular Session

HOUSE BILL NO. 81

BY REPRESENTATIVES CREWS, AMEDEE, AND GAROFALO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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)(75), 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; 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)(75) 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, whether paid or as a volunteer, including but not limited to teachers and other
17 school employees, school bus operators, extracurricular personnel, and independent
18 contractors.

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

20 (3) "Sex" means a person's biological sex as listed on his original birth
21 certificate.

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

24 B.(1)(a) An employee shall use the name, or a derivative thereof, for a
25 student that is listed on the student's birth certificate unless the student's parent
26 provides written permission to do otherwise.

27 (b) An employee shall use the pronouns for a student that align with the
28 student's sex unless the student's parent provides written permission to do otherwise.

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)]

HB 81 Reengrossed

2023 Regular Session

Crews

Abstract: Requires public school employees to use certain names and pronouns for students unless parents provide written permission to do otherwise.

Proposed law requires school employees to:

- (1) Use the name for a student that is listed on his birth certificate, or a derivative thereof, unless his parent provides written permission to do otherwise.
- (2) Use the pronoun for a student that aligns with his sex unless his parent provides written permission to do otherwise.

Proposed law provides that an employee shall not be required to use pronouns for any person that differ from the pronouns that align with that person's sex if doing so is contrary to the employee's religious or moral convictions. Authorizes parents to request a transfer to another teacher if a teacher objects to using a pronoun for a student on these grounds.

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

Proposed law further provides:

- (1) Proposed law shall not shall be construed to prohibit employees from discussing matters of public concern outside the context of their official duties.
- (2) Any individual aggrieved by an intentional violation of proposed law may seek 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.
- (3) Employees shall not discuss the application of proposed law relative to a student's preferred name and pronouns with other students.
- (4) Each public school governing authority shall adopt policies for proposed law implementation.

(Adds R.S. 17:2122 and 3996(B)(75))

Summary of Amendments Adopted by House

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

1. Allow using a derivative of the name listed on a student's birth certificate.

The House Floor Amendments to the engrossed bill:

1. Authorize parents to request a transfer to another teacher if a teacher objects to using a pronoun for a student based on religious or moral convictions.

2. Limit authority of an individual aggrieved by violations of proposed law to seek relief to intentional violations and provide that an employee shall not be held liable if the administration fails to provide information relative to a student's name or pronouns.
3. Prohibit employees from discussing the application of proposed law relative to a student's preferred name and pronouns with other students.