



March 7, 2022

SUMMARY OF BILL AS AMENDED (014925): Declares that a teacher or other employee of a public school or LEA is not: required to use a student's preferred pronoun if it is not consistent with the student's biological sex; civilly liable for using a pronoun consistent with the biological sex of the student; and subject to adverse employment action for not using a student's preferred pronoun that is not consistent with the student's biological sex. Declares that a public school or LEA is not civilly liable if a teacher or employee uses a pronoun consistent with a student's biological sex.

FISCAL IMPACT OF BILL AS AMENDED:

Other Fiscal Impact – If found in violation of federal law, this legislation could jeopardize federal funding in FY22-23 and subsequent years.

Assumptions for the bill as amended:

- Title IX of the Education Amendments Act of 1972 (Title IX) prohibits recipients of federal financial assistance from discriminating based on sexual orientation and gender identity in their education programs and activities.
- On February 22, 2017 the U.S Department of Justice and Education rescinded an issued joint letter "Dear Colleague Letter" with prior guidance under Title IX that stated a school must treat students consistent with their gender identity even if their education records or identification documents indicate a different sex.
- On June 16, 2021, the U.S. Department of Education did not address the rescinded letter in regard to using pronouns, but did issue a "Notice of Interpretation" letter to make clear that the Department interprets Title IX's prohibition on sex discrimination to encompass discrimination based on sexual orientation and gender identity, which includes individuals being treated differently because of their sexual orientation or gender identity.
- In June, 2021 the U.S. Department of Education issued a fact sheet entitled "Supporting Transgender Youth in School", which highlights schools "adopting policies that respect all students' gender identities—such as the use of the name a student goes by, which may be different from their legal name, and pronouns that reflect a student's gender identity—and implementing policies to safeguard students' privacy—such as maintaining the confidentiality of a student's birth name or sex assigned at birth if the student wishes to keep this information private, unless the disclosure is legally required."

- Based on information provided by the Department of Education (DOE) this legislation could limit the TN Department of Education Office for Civil Rights ability to develop corrective action plans that compel schools to require their staff to use students' preferred pronouns.
- According to DOE, the requirements of this legislation could be in violation of Title IX and U.S. Department of Education policies and could jeopardize annual federal funding. The FY21-22 federal awards totaled \$5,385,248,493.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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