



**Oral Opposition Testimony on
SB 76, enacting the given name act
House Education Committee**

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Chair Estes and Members of the Committee,

Thank you for the opportunity to provide testimony on SB 76. Please note that in presenting this testimony we are representing the interests of our member boards, which include the boards of most Kansas public school districts and many of the state's community and tech colleges. KASB'S member-adopted permanent policies provide that "[a]s the constitutional authority charged with the management of local schools, the school board is accountable to district patrons through the electoral process and must be the final authority on local management decisions."

Similarly, our 2025 Resolution on State Issues, as approved by our membership last November, supports the following priorities relevant to this discussion.

- We support the development of relationships among local teachers, students and families without additional, restrictive legislative oversight resulting in the diversion of time and money from the classroom to bureaucratic tasks.
- We support management of public schools under locally elected boards of education.
- We support improving teacher recruitment and retention through local control of classroom content and respect for the teaching profession.
- We support legislative action that will improve student health and well-being, including increasing support for the mental health needs of students and staff.
- We support local boards' constitutional governing authority and generally oppose mandates that create clear conflicts between state and federal requirements and laws. Such conflicting mandates have negative, unintended consequences for public schools, including causing districts to divert resources from their core mission of educating students.

Please note that, while we appear in opposition to this bill, we are not opposed to the whole of its contents. Although Section 1(b) of this bill goes a step further than is presently required by law in having parents of minor students consent in writing to changes in the student's name, pronouns, or titles, our members have long supported the ability of parents to make educational decisions for their minor children, and they strive to work in partnership with parents in this regard. Furthermore, Kansas law, specifically K.S.A. 38-141, codifies parent rights to educational decision-making for their children and already provides an opportunity for parents who believe their rights have been tread upon to challenge those actions in court. K.S.A. 38-141, provides, in part, as follows.

(b) It shall be the public policy of this state that parents shall retain the fundamental right to exercise primary control over the care and upbringing of their children in their charge. It is further the public policy of this state that children shall have the right to protection from abuse and neglect...

(d) Any parent may maintain a cause of action in state court or in any court of competent jurisdiction for claims arising under the principles established in subsection (b). Any person authorized by law to act on behalf of a child may maintain a cause of action in the name of such child in any court of competent jurisdiction for claims arising under the principles established in subsection (b).

Thus, although we do not oppose Section 1(b) of this bill as a concept, we believe state law already outlines parent rights to educational decision-making, making it redundant and superfluous to address it again through this legislation.

With this said, we are appearing in opposition to this bill based on concerns with language in Section 1(c) through (e). First, these sections presuppose that a parent would not consent to a change in name, title, and pronoun of a student, when this is often not the case. Under Section 1(c), if a parent has already provided written consent to the school to call the student by a name or pronoun which is not in alignment with the child's birth certificate or biological sex, and a staff member refuses to abide by parent directives in this regard, this section would not allow the school's administration or board to deal with this staff member in a disciplinary context. So, by following the law not to discipline a staff member for acting in defiance of a parent directive, we would expose the district to liability under K.S.A. 38-141, as previously described, Section 1(e) of the bill, the Kansas Act Against Discrimination, and federal law, including, but not necessarily limited to, Title IX and the 14th Amendment of the U.S. Constitution.

Similarly, Section 1(d) would not allow a school district to discipline a student if another student's parent has directed the school to refer to the child by a different name, title, and/or pronoun, and the student elects to bully or harass the other student by not respecting those wishes. Again, our schools would then be in a position, where following this state law would have our members

in jeopardy of violating K.S.A. 38-141 and possibly other state and federal laws requiring our members to prohibit bullying and harassment and stop its occurrence, if it does happen.

In sum, the bill, as written, is incongruous in several areas, and this creates exposure for legal challenges for school entities, their boards, and their staff members.

While the 2024 Title IX Regulations, which involved discrimination on the basis of sex in programs and activities receiving federal funds, did not become effective in Kansas and are presently not in effect in other states of the United States, there is significant caselaw, including some U.S. Supreme Court cases interpreting discrimination on the basis of sex to include discrimination on the basis of one's gender identity. So, short of an act of Congress definitively defining "sex" for the purposes of Title IX, educational entities failing to accommodate parent directives on this matter regarding their minor children are at risk of legal challenge and loss in a court of law on this issue.

Please also note that it is possible for an individual to have one's birth certificate changed to reflect a name and sex other than the name and sex assigned at birth. This can generally be accomplished with the parent's permission for minor students in a courtroom process. So, there is the possibility that an individual's birth certificate and name and sex assigned at birth would be out of alignment, further complicating the compliance side of this bill.

Yet another unintended consequence of this legislation is that it would create a cause of action to be used against our members even if a student is universally called a nickname in school that has nothing to do with a student's gender-identity. If a male student with the same name as his father is consistently called "Junior" by family and friends, for example, that name would not be consistent with his name on the birth certificate or a derivative thereof. In this case, a staff member using a nickname the child is comfortable with in the school setting would subject the staff member and the school to legal liability.

In closing, we ask the committee to trust our members to work closely with their parent partners to educate minor students at school, and we urge the committee not to pass this bill out of committee for the aforementioned reasons. Thank you for your time and consideration on this matter.

***KASB is a non-profit service organization built on an abiding belief in Kansas public schools.
We have put the needs of students and K-12 leaders first since 1917.***