

By: Representatives Wells-Smith, Chism, Creel, Davis, Eakes, Ellington, Fillingane, Formby, Howell, Janus, Ketchings, Lott, Martinson, Masterson, Montgomery (74th), Moore (60th), Robertson, Robinson (84th), Rogers, Rotenberry, Smith (35th), Smith (59th), Snowden, Weathersby, Woods

To: Public Health and Welfare

HOUSE BILL NO. 1480

1 AN ACT TO PROHIBIT THE USE OF PUBLIC FUNDS FOR ABORTIONS WITH  
 2 LIMITED EXCEPTIONS; TO PROVIDE THAT CERTAIN PROVISIONS OF THE ACT  
 3 WILL SUPERSEDE OTHER PROVISIONS OF THE ACT IF CERTAIN  
 4 CONTINGENCIES OCCUR; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** (1) Notwithstanding any other provision of law  
 7 to the contrary, no public funds that are made available to any  
 8 institution, board, commission, department, agency, official, or  
 9 employee of the State of Mississippi, or of any local political  
 10 subdivision of the state, whether those funds are made available  
 11 by the government of the United States, the State of Mississippi,  
 12 or a local governmental subdivision, or from any other public  
 13 source, shall be used in any way for, to assist in, or to provide  
 14 facilities for abortion, except when the abortion is medically  
 15 necessary to prevent the death of the mother.

16 (2) Notwithstanding any other provision of law to the  
 17 contrary, no public funds that are made available to any  
 18 institution, board, commission, department, agency, official, or  
 19 employee of the State of Mississippi, or of any local political  
 20 subdivision of the state, whether those funds are made available  
 21 by the government of the United States, the State of Mississippi,  
 22 or a local governmental subdivision, or from any other public  
 23 source, shall be used in any way for, to assist in, or to provide  
 24 facilities for abortion, except for any of the following:

25 (a) Whenever the abortion is necessary to save the life  
 26 of the mother.



27           (b) Whenever the abortion is being sought to terminate  
28 a pregnancy resulting from an alleged act of rape and all of the  
29 requirements of subsection (6) of this section are met.

30           (c) Whenever the abortion is being sought to terminate  
31 a pregnancy resulting from an alleged act of incest and all of the  
32 requirements of subsection (6) of this section are met.

33           (3) The State Board of Health and the Executive Director of  
34 the Division of Medicaid shall promulgate rules and regulations to  
35 insure that no funding of any abortion will be made based upon a  
36 claim of rape or incest until the applicable requirements of  
37 subsection (6) of this section have been complied with and written  
38 verification has been obtained from the physician performing the  
39 abortion and from the law enforcement official to whom the report  
40 is made, if applicable.

41           (4) Subsection (1) of this section shall be superseded and  
42 subsections (2), (3) and (6) of this section shall become  
43 effective only when the circumstances described in subparagraph  
44 (a)(i) or subparagraph (b)(i) occur.

45           (a) (i) A decision or order of a court of competent  
46 jurisdiction is rendered declaring the provisions of subsection  
47 (1) of this section unconstitutional, inconsistent with federal  
48 law, or otherwise unenforceable based on inconsistency with the  
49 Hyde Amendment, or enjoins the state or any of its officials from  
50 enforcing subsection (1) of this section while at the same time  
51 accepting federal funds under Title XIX, as modified by the Hyde  
52 Amendment, and then only if and when a stay pending all appeals of  
53 the decision or order is denied, or, if a stay is granted, the  
54 stay expires or is no longer effective.

55           (ii) If such a decision or order is rendered, the  
56 state Attorney General, on behalf of the state, shall vigorously  
57 and expeditiously pursue judicial remedies seeking to obtain a  
58 stay pending all appeals of the decision or order and seeking its  
59 reversal.



60           (b)   (i)   An order or decision of a court of competent  
61 jurisdiction is rendered affirming a finding of the administrator  
62 of the Health Care Financing Administration or the Centers for  
63 Medicare and Medicaid Services of the United States Department of  
64 Health and Human Services that subsection (1) of this section  
65 fails to substantially comply with the Hyde Amendment, or denying  
66 a stay of the funding of the administrator, and then only if and  
67 when the state receives formal notification from the administrator  
68 that Medicaid funds, including, but not limited to, the federal  
69 percentage of Medicaid assistance payments under 42 USCS 1396 et  
70 seq. allocated to the state from the United States government,  
71 will be withheld or terminated on a specified date.

72           (ii)   If the administrator finds that the state is  
73 in noncompliance with the Hyde Amendment as it relates to funding  
74 certain abortions, the Governor, the Attorney General, the State  
75 Department of Health and the Division of Medicaid, on behalf of  
76 the state, shall vigorously and expeditiously pursue  
77 administrative and judicial remedies to obtain a stay of the  
78 finding and its reversal.

79           (iii)  If such a decision or order is rendered by a  
80 court, the Attorney General, on behalf of the state, shall  
81 vigorously and expeditiously pursue judicial remedies seeking to  
82 obtain a stay of the decision or order and seeking its reversal.

83           (5)   If subsections (2), (3) and (6) of this section become  
84 effective, and subsequently the federal requirement for acceptance  
85 of Medicaid funds, that public funds be made available for  
86 abortions resulting from pregnancy due to rape or incest, is no  
87 longer applicable to the State of Mississippi, then on that same  
88 day, the provisions of subsections (2), (3) and (6) of this  
89 section shall be superseded, and the provisions of subsection (1)  
90 of this section shall be effective to the fullest extent allowed  
91 by law.



92           (6) (a) Whenever an abortion is being sought to terminate a  
93 pregnancy resulting from an alleged act of rape, before the  
94 abortion may be performed, all of the following requirements shall  
95 be met:

96                   (i) The rape victim shall report the rape to a law  
97 enforcement official, unless the treating physician certifies in  
98 writing that in the physician's professional opinion, the victim  
99 was too physically and psychologically incapacitated to report the  
100 rape.

101                   (ii) The victim certifies that the pregnancy is  
102 the result of rape, which certificate shall be witnessed by the  
103 treating physician.

104           (b) Whenever an abortion is being sought to terminate a  
105 pregnancy resulting from an alleged act of incest, before the  
106 abortion may be performed, all of the following requirements shall  
107 be met:

108                   (i) The victim of incest shall report the act of  
109 incest to a law enforcement official, unless the treating  
110 physician certifies in writing that in the physician's  
111 professional opinion the victim was too physically or  
112 psychologically incapacitated to report the incest.

113                   (ii) The victim certifies that the pregnancy is  
114 the result of incest, which certificate shall be witnessed by the  
115 treating physician.

116           (c) The failure of the victim to comply with paragraph  
117 (a) or (b), as applicable, shall not subject the victim to  
118 penalties.

119           (d) Whenever an abortion is being sought to terminate a  
120 pregnancy resulting from an alleged act of rape or incest, the  
121 victim may receive spiritual counseling before the performance of  
122 the abortion.

123           **SECTION 2.** This act shall take effect and be in force from  
124 and after July 1, 2002.

