

By: Representative Young

To: Universities and
Colleges

HOUSE BILL NO. 1434

1 AN ACT TO AMEND SECTION 37-101-285, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY CERTAIN DEFINITIONS RELATING TO THE PROGRAM OF PAID
3 EDUCATIONAL LEAVE FOR THE STUDY OF CERTAIN HEALTH CARE
4 PROFESSIONS; TO AMEND SECTION 37-101-291, MISSISSIPPI CODE OF
5 1972, TO PROVIDE THAT A FINDING OF EDUCATIONAL LEAVE DEFAULT IS
6 DISCIPLINARY NOT A COLLECTION ACTION; TO AMEND SECTION 37-101-293,
7 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PERSONS WHO DEFAULT ON
8 CERTAIN CONTRACTS SHALL LOSE THEIR NURSING LICENSES; AND FOR
9 RELATED PURPOSES.

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

11 **SECTION 1.** Section 37-101-285, Mississippi Code of 1972, is
12 amended as follows:

13 37-101-285. For the purposes of Section * * * 37-101-291,
14 the following terms shall have the following meanings unless
15 context shall prescribe otherwise:

16 (1) "State health institution" or "state health
17 institutions" means all facilities operated within the Department
18 of Mental Health, mental health/mental retardation facilities
19 under the administration of a regional commission as established
20 under Section 41-19-31, that are certified by the Department of
21 Mental Health, University of Mississippi Hospital, * * * the State
22 Board of Health, * * * health care facilities operated by the
23 Department of Corrections, and any other public health care
24 facility.

25 (2) "Health care professions" means nurses, nurse
26 practitioners, speech pathologists, psychologists, occupational
27 therapists, physical therapists, and any other critical need
28 profession determined by the sponsoring state health institution.

29 **SECTION 2.** Section 37-101-291, Mississippi Code of 1972, is
30 amended as follows:



31 37-101-291. (1) In order to help alleviate the problem of
32 the shortage of health care professionals at the state health
33 institutions, there is established a program of paid educational
34 leave for the study of such health care professions as defined in
35 Section 37-101-285 and licensed practical nursing by any employee
36 who works at a state health institution and who declares an
37 intention to work in such respective health care occupation in the
38 same state health institution in which the employee was working
39 when granted educational leave, for a minimum period of time after
40 graduation.

41 (2) The paid educational leave program shall be administered
42 by the respective state health institutions.

43 (3) (a) Within the limits of the funds available to a state
44 health institution for such purpose, the institution may grant
45 paid educational leave to those applicants deemed qualified
46 therefor, upon such terms and conditions as it may impose and as
47 provided for in this section.

48 (b) In order to be eligible for paid educational leave,
49 an applicant must:

50 (i) Be working at a state health institution at
51 the time of application;

52 (ii) Attend any college or school approved and
53 designated by the state health institution; and

54 (iii) Agree to work in a health care profession as
55 defined in Section 37-101-285 or as a licensed practical nurse in
56 the same state health institution for a period of time equivalent
57 to the period of time for which the applicant receives paid
58 educational leave compensation, calculated to the nearest whole
59 month, but in no event less than two (2) years.

60 (c) (i) Before being granted paid educational leave,
61 each applicant shall enter into a contract with the state health
62 institution, which shall be deemed a contract with the State of
63 Mississippi, agreeing to the terms and conditions upon which the



64 paid educational leave shall be granted to him. The contract
65 shall include such terms and provisions necessary to carry out the
66 full purpose and intent of this section. The form of such
67 contract shall be prepared and approved by the Attorney General of
68 this state, and shall be signed by the executive director of the
69 respective state health institution and the recipient. If the
70 recipient is a minor, his minority disabilities shall be removed
71 by a chancery court of competent jurisdiction before the contract
72 is signed.

73 (ii) The state health institution shall have the
74 authority to cancel any contract made between it and any recipient
75 for paid educational leave upon such cause being deemed sufficient
76 by the executive director of such institution.

77 (iii) The state health institution is vested with
78 full and complete authority and power to sue in its own name any
79 recipient for any balance due the state on any such uncompleted
80 contract, which suit shall be filed and handled by the Attorney
81 General of the state. The state health institution may contract
82 with a collection agency or banking institution, subject to
83 approval by the Attorney General, for collection of any balance
84 due the state from any recipient. The State of Mississippi,
85 agencies of the state and the state health institution and its
86 employees are immune from any suit brought in law or equity for
87 actions taken by the collection agency or banking institution
88 incidental to or arising from their performance under the
89 contract. The state health institution, collection agency and
90 banking institution may negotiate for the payment of a sum that is
91 less than full payment in order to satisfy any balance the
92 recipient owes the state, subject to approval by the facility
93 director of the sponsoring facility within the state health
94 institution.

95 (iv) Failure to meet the terms of an educational
96 loan contract shall be grounds for revocation of the professional



97 license which was earned through the paid educational leave
98 compensation granted under this section.

99 (v) A finding by the sponsoring agency of a
100 default by the recipient shall be a finding of unprofessional
101 conduct and therefore, a basis for the revocation of the
102 professional license which was obtained through the educational
103 leave program. The finding also will be grounds for revocation of
104 any license, as defined by Section 93-11-153.

105 (vi) Notice of pending default status shall be
106 mailed to the recipient at the last known address by the
107 sponsoring agency.

108 (vii) The sponsoring agency shall conduct a
109 hearing of pending default status, make a final determination, and
110 issue an Order of Default, if appropriate.

111 (viii) Recipients may appear either personally or
112 by counsel, or both, and produce and cross-examine witnesses or
113 evidence in the recipient's behalf. The procedure of the hearing
114 shall not be bound by the Mississippi Rules of Civil Procedure and
115 Evidence.

116 (ix) If a recipient is found to be in default, a
117 copy of an Order of Default shall be forwarded to the appropriate
118 licensing agency.

119 (x) Appeals from a finding of default by the
120 sponsoring agency shall be to the Circuit Court of Hinds County.
121 Actions taken by a licensing entity in revoking a license when
122 required by this section are not actions from which an appeal may
123 be taken under the general licensing and disciplinary provisions
124 applicable to the licensing agency.

125 (xi) Rules and regulations governing hearing and
126 other applicable matters shall be promulgated by the sponsoring
127 agency.



128 (xii) A license which has been revoked pursuant to
129 this statute shall be reinstated upon a showing of proof that the
130 recipient is no longer in default.

131 (xiii) A finding by the sponsoring facility of
132 educational leave default is a disciplinary action, not a
133 collection action, and therefore shall not be affected by the
134 recipient declaring bankruptcy.

135 (4) (a) Any recipient who is granted paid educational leave
136 by a state health institution shall be compensated by the
137 institution during the time the recipient is in school, at the
138 rate of pay received by a nurse's aide employed at the respective
139 state health institution. All educational leave compensation
140 received by the recipient while in school shall be considered
141 earned conditioned upon the fulfillment of the terms and
142 obligations of the educational leave contract and this section.
143 However, no recipient of full-time educational leave shall accrue
144 personal or major medical leave while the recipient is on paid
145 educational leave. Recipients of paid educational leave shall be
146 responsible for their individual costs of tuition and books.

147 (b) Paid educational leave shall be granted only upon
148 the following conditions:

149 (i) The recipient shall fulfill his or her
150 obligation under the contract with the State of Mississippi by
151 working as a professional in a health care profession defined in
152 Section 37-101-285 or as a licensed practical nurse in a state
153 health institution; a recipient sponsored by a health institution
154 under the supervision of the Mississippi Department of Mental
155 Health may fulfill his or her obligation under the contract with
156 the State of Mississippi at another health institution under the
157 supervision of the Mississippi Department of Mental Health with
158 prior written approval of the Director of the Department of Mental
159 Health institution with which he or she originally contracted for
160 educational leave. The total compensation that the recipient was



161 paid while on educational leave shall be considered as
162 unconditionally earned on an annual pro rata basis for each year
163 of service rendered under the educational leave contract as a
164 health care professional in his respective state health
165 institution.

166 (ii) If the recipient does not work as a
167 professional in a health care profession as defined in Section
168 37-101-285 or as a licensed practical nurse in his respective
169 state health institution for the period required under subsection
170 (3)(b)(iii) of this section, the recipient shall be liable for
171 repayment on demand of the remaining portion of the compensation
172 that the recipient was paid while on paid educational leave which
173 has not been unconditionally earned, with interest accruing at ten
174 percent (10%) per annum from the recipient's date of graduation or
175 the date that the recipient last worked at that state health
176 institution, whichever is the later date. In addition, there
177 shall be included in any contract for paid educational leave a
178 provision for liquidated damages equal to Five Thousand Dollars
179 (\$5,000.00) which may be reduced on a pro rata basis for each year
180 served under such contract.

181 (iii) If any recipient fails or withdraws from
182 school at any time before completing his or her health care
183 training, the recipient shall be liable for repayment on demand of
184 the amount of the total compensation that the recipient was paid
185 while on paid educational leave, with interest accruing at ten
186 percent (10%) per annum from the date the recipient failed or
187 withdrew from school. However, the recipient shall not be liable
188 for liquidated damages, and if the recipient returns to work in
189 the same position held in the same state health institution prior
190 to accepting educational leave, the recipient shall not be liable
191 for payment of any interest on the amount owed.

192 (iv) The issuance and renewal of the professional
193 license required to work in a health care profession as defined in



194 Section 37-101-285 for which the educational leave was granted
195 shall be contingent upon the repayment of the total compensation
196 that the recipient received while on paid educational leave. No
197 license shall be granted until a contract for repayment is
198 executed. No license shall be renewed without proof of an
199 existing contract which is not in default. Failure to meet the
200 terms of an educational loan contract shall be grounds for
201 revocation of the professional license which was earned through
202 the paid educational leave compensation granted under this
203 section. Any person who receives any amount of paid educational
204 leave compensation while in school and subsequently receives a
205 professional license shall be deemed to have earned the
206 professional license through paid educational leave.

207 (v) The obligations of educational leave
208 recipients under contracts entered into before July 1, 2002, shall
209 remain unchanged. However, state health institutions may use the
210 collection or license revocation provisions of this section to
211 collect money owed under all educational leave contracts,
212 regardless of when those contracts were executed.

213 **SECTION 3.** Section 37-101-293, Mississippi Code of 1972, is
214 amended as follows:

215 37-101-293. (1) Within the limits of the funds available to
216 any state agency for such purpose, the administrative head of such
217 state agency may grant paid educational leave on a part-time or
218 full-time basis and reimburse employees for educational expenses
219 such as tuition, books and related fees to pursue undergraduate or
220 graduate level education to those applicants deemed qualified.

221 It is the intent of the Legislature that such educational
222 leave program shall be used as an incentive for employees to
223 develop job-related skills and to develop employees for
224 higher-level professional and management positions.

225 (2) In order to be eligible for paid educational leave,
226 reimbursement for educational expenses or both, an applicant must:



227 (a) Be working at a state agency for at least three (3)
228 years at the time of application or be working at a state agency
229 at the time of application for part-time graduate level education
230 in a particular profession deemed by the administrative head of
231 the state agency to meet a critical need within the state agency;

232 (b) Attend any college or school located in the State
233 of Mississippi and approved by the administrative head of such
234 agency, unless such course of study is not available at a
235 Mississippi college or school, in which case the applicant may
236 attend an out-of-state college or school;

237 (c) Agree to work as an employee in the same state
238 agency for at least three (3) full years after completion of the
239 course of study or, in the case of employees on educational leave
240 on a part-time basis or receiving reimbursement for educational
241 expenses only, to work for a time prorated based upon the total
242 amount of expenses, including leave, paid for by the agency.

243 (3) (a) Before being granted paid educational leave, or
244 being approved for reimbursement of educational expense or both,
245 each applicant shall enter into a contract with the state agency,
246 which shall be deemed a contract with the State of Mississippi,
247 agreeing to the terms and conditions upon which the paid
248 educational leave will be granted to him. The contract shall
249 include such terms and provisions necessary to implement the
250 purpose and intent of this section. The form of such contract
251 shall be prepared by the Attorney General of this state and
252 approved by the State Personnel Board, and shall be signed by the
253 administrative head of the state agency and signed by the
254 recipient. If the recipient is a minor, his minority disabilities
255 shall be removed by a chancery court of competent jurisdiction
256 before the contract is signed.

257 (b) Educational expenses for tuition, books and
258 associated fees shall be reimbursed to the employee only after the



259 employee has submitted documentation that the approved course has
260 been successfully completed.

261 (c) If the recipient does not work as an employee in
262 that state agency for the period of employment specified in the
263 contract, the recipient shall be liable for repayment on demand of
264 the remaining portion of the compensation that he or she was paid
265 while on paid educational leave and educational expenses paid,
266 with interest accruing at ten percent (10%) per annum from the
267 recipient's date of graduation, or the date that the recipient
268 last worked at that state agency, whichever is the later date. In
269 addition, there shall be included in any contract for paid
270 educational leave a provision for liquidated damages equal to Two
271 Thousand Dollars (\$2,000.00) per year for each year remaining to
272 be served under such contract.

273 (d) If any recipient fails or withdraws from school at
274 any time before completing his or her education, the recipient
275 shall be liable for repayment on demand of the amount of the total
276 compensation that he or she was paid while on paid educational
277 leave, with interest accruing at ten percent (10%) per annum from
278 the date the recipient failed or withdrew from school. However,
279 if the recipient remains or returns to work in the same position
280 he or she held in the same state agency prior to accepting
281 educational leave, he or she shall not be liable for payment of
282 any interest on the amount owed.

283 (e) The state agency shall have the authority to cancel
284 any contract made between it and any recipient for paid
285 educational leave or educational expenses or both upon such cause
286 being deemed sufficient by the administrative head of the agency.

287 (f) The state agency is vested with full and complete
288 authority and power to sue in its own name any recipient for any
289 balance due the state on any such uncompleted contract, which suit
290 shall be conducted and handled by the Attorney General of the
291 state.



292 (g) Persons who default on contracts entered into under
293 this section shall have the default determined and lose their
294 professional health care licenses under the procedures provided in
295 Section 37-101-291.

296 (4) At the discretion of the administrative head of the
297 state agency, any recipient who is granted paid educational leave
298 by the state agency, including nurses, shall be compensated by
299 such agency as prescribed by the State Personnel Board during the
300 time he or she is in school. For employees who are on educational
301 leave on a full-time basis, the State Personnel Board shall
302 establish a maximum salary amount at which any employee may be
303 paid full compensation while on educational leave and shall
304 establish a deduction ratio or reduced percentage rate of
305 compensation to be paid to all employees compensated at a salary
306 level above such maximum salary amount. No recipient of full-time
307 educational leave shall accrue personal or major medical leave
308 while he or she is on paid educational leave.

309 (5) Each state agency granting paid educational leave to
310 employees or reimbursing educational expenses or both shall file
311 an annual report with the Legislature which shall detail for each
312 recipient of paid educational leave the position of the employee,
313 the cost of the educational assistance and the degree program and
314 school attended.

315 **SECTION 4.** This act shall take effect and be in force from
316 and after July 1, 2003.

