

By: Representatives Fillingane, Wells-Smith, Akins, Aldridge, Barnett, Beckett, Carlton, Chism, Davis, Denny, Ellington, Formby, Gunn, Hudson, Janus, Lott, Martinson, Mayhall, Mims, Moore, Nicholson, Parker, Reed, Reeves, Rotenberry, Simpson, Staples, Turner, Zuber, Peranich

To: Judiciary B

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1625

1 AN ACT ENTITLED THE "MISSISSIPPI HEALTH CARE RIGHTS OF  
2 CONSCIENCE ACT"; TO PROVIDE THAT A HEALTH CARE PROVIDER OR HEALTH  
3 CARE INSTITUTION OR HEALTH CARE PAYER SHALL NOT BE REQUIRED TO  
4 PARTICIPATE IN A HEALTH CARE SERVICE THAT VIOLATES HIS OR HER  
5 CONSCIENCE; TO PROVIDE IMMUNITY FOR SUCH ACTION; TO PROHIBIT  
6 DISCRIMINATION FOR SUCH ACTION; TO PROHIBIT DENIAL OF ASSISTANCE  
7 PAYMENTS DUE TO SUCH ACTION; TO PROVIDE CIVIL REMEDIES FOR  
8 VIOLATION OF THIS ACT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1. Title.**

11 This act may be known and cited as the "Mississippi Abortion  
12 Procedure Rights of Conscience Act."

13 **SECTION 2. Definitions.** As used in this act:

14 (a) "Health care service" means any phase of patient  
15 medical care, treatment or procedure, including, but not limited  
16 to, the following: patient referral, counseling, therapy,  
17 testing, diagnosis or prognosis, research, instruction,  
18 prescribing, dispensing or administering any device, drug, or  
19 medication, surgery, or any other care or treatment rendered by  
20 health care providers or health care institutions.

21 (b) "Health care provider" means any individual who may  
22 be asked to participate in any way in a health care service,  
23 including, but not limited to: a physician, physician's  
24 assistant, nurse, nurses' aide, medical assistant, hospital  
25 employee, clinic employee, nursing home employee, pharmacist,  
26 pharmacy employee, researcher, medical or nursing school faculty,  
27 student or employee, counselor, social worker or any professional,  
28 paraprofessional, or any other person who furnishes, or assists in  
29 the furnishing of, an abortion procedure.

30           (c) "Health care institution" means any public or  
31 private organization, corporation, partnership, sole  
32 proprietorship, association, agency, network, joint venture, or  
33 other entity that is involved in providing health care services,  
34 including, but not limited to: hospitals, clinics, medical  
35 centers, ambulatory surgical centers, private physician's offices,  
36 pharmacies, nursing homes, university medical schools and nursing  
37 schools, medical training facilities, or other institutions or  
38 locations where abortion procedures are provided to any person.

39           (d) "Health care payer" means any entity or employer  
40 that contracts for, pays for, or arranges for the payment of, in  
41 whole or in part, a health care service, including, but not  
42 limited to, health maintenance organizations, health plans,  
43 insurance companies or management services organizations.

44           (e) "Employer" means any individual or entity that pays  
45 for or provides health benefits or health insurance coverage as a  
46 benefit to its employees, whether through a third party, a health  
47 maintenance organization, a program of self-insurance, or some  
48 other means.

49           (f) "Participate" in a health care service means to  
50 counsel, advise, provide, perform, assist in, refer for, admit for  
51 purposes of providing, or participate in providing, any health  
52 care service or any form of such service.

53           (g) "Pay" or "payment" means pay, contract for, or  
54 otherwise arrange for the payment of, in whole or in part.

55           (h) "Conscience" means the religious, moral or ethical  
56 principles held by a health care provider, the health care  
57 institution or health care payer. For purposes of this act, a  
58 health care institution or health care payer's conscience shall be  
59 determined by reference to its existing or proposed religious,  
60 moral or ethical guidelines, mission statement, constitution,  
61 bylaws, articles of incorporation, regulations or other relevant  
62 documents.

63           **SECTION 3. Rights of Conscience of Health Care Providers.**

64           (1) **Rights of Conscience.** A health care provider has the  
65 right not to participate, and no health care provider shall be  
66 required to participate in a health care service that violates his  
67 or her conscience.

68           (2) **Immunity from Liability.** No health care provider shall  
69 be civilly, criminally, or administratively liable for declining  
70 to participate in a health care service that violates his or her  
71 conscience.

72           (3) **Discrimination.** It shall be unlawful for any person,  
73 health care provider, health care institution, public or private  
74 institution, public official, or any board which certifies  
75 competency in medical specialties to discriminate against any  
76 health care provider in any manner based on his or her declining  
77 to participate in a health care service that violates his or her  
78 conscience. For purposes of this act, discrimination includes,  
79 but is not limited to: termination, transfer, refusal of staff  
80 privileges, refusal of board certification, adverse administrative  
81 action, demotion, loss of career specialty, reassignment to a  
82 different shift, reduction of wages or benefits, refusal to award  
83 any grant, contract, or other program, refusal to provide  
84 residency training opportunities, or any other penalty,  
85 disciplinary or retaliatory action.

86           **SECTION 4. Rights of Conscience of Health Care Institutions.**

87           (1) **Rights of Conscience.** A health care institution has the  
88 right not to participate, and no health care institution shall be  
89 required to participate in a health care service that violates its  
90 conscience.

91           (2) **Immunity from Liability.** A health care institution that  
92 declines to provide or participate in a health care service that  
93 violates its conscience shall not be civilly, criminally or  
94 administratively liable if the institution provides a consent form  
95 to be signed by a patient before admission to the institution

96 stating that it reserves the right to decline to provide or  
97 participate in a health care service that violates its conscience.

98       (3) **Discrimination.** It shall be unlawful for any person,  
99 public or private institution, or public official to discriminate  
100 against any health care institution, or any person, association,  
101 corporation, or other entity attempting to establish a new health  
102 care institution or operating an existing health care institution,  
103 in any manner, including, but not limited to, any denial,  
104 deprivation or disqualification with respect to licensure, any aid  
105 assistance, benefit or privilege, including staff privileges, or  
106 any authorization, including authorization to create, expand,  
107 improve, acquire, or affiliate or merge with any health care  
108 institution, because such health care institution, or person,  
109 association, or corporation planning, proposing, or operating a  
110 health care institution, declines to participate in a health care  
111 service which violates the health care institution's conscience.

112       (4) **Denial of Aid or Benefit.** It shall be unlawful for any  
113 public official, agency, institution, or entity to deny any form  
114 of aid, assistance, grants or benefits, or in any other manner to  
115 coerce, disqualify or discriminate against any person,  
116 association, corporation or other entity attempting to establish a  
117 new health care institution or operating an existing health care  
118 institution because the existing or proposed health care  
119 institution declines to participate in a health care service  
120 contrary to the health care institution's conscience.

121       **SECTION 5. Rights of Conscience of Health Care Payers.**

122       (1) **Rights of Conscience.** A health care payer has the right  
123 to decline to pay, and no health care payer shall be required to  
124 pay for or arrange for the payment of a health care service that  
125 violates its conscience.

126       (2) **Immunity from Liability.** No health care payer and no  
127 person, association, corporation or other entity that owns,  
128 operates, supervises or manages a health care payer shall be

129 civilly or criminally liable by reason of the health care payer's  
130 declining to pay for or arrange for the payment of a health care  
131 service that violates its conscience.

132 (3) **Discrimination.** It shall be unlawful for any person,  
133 public or private institution, or public official to discriminate  
134 against any health care payer, or any person, association,  
135 corporation, or other entity (a) attempting to establish a new  
136 health care payer, or (b) operating an existing health care payer,  
137 in any manner, including, but not limited to, any denial,  
138 deprivation, or disqualification with respect to licensure, aid,  
139 assistance, benefit, privilege or authorization, including, but  
140 not limited to, any authorization to create, expand, improve,  
141 acquire, affiliate or merge with any health care payer, because a  
142 health care payer, or a person, association, corporation or other  
143 entity planning, proposing or operating a health care payer  
144 declines to pay for or arrange for the payment of any health care  
145 service that violates its conscience.

146 (4) **Denial of Aid or Benefits.** It shall be unlawful for any  
147 public official, agency, institution or entity to deny any form of  
148 aid, assistance, grants, or benefits or in any other manner  
149 coerce, disqualify or discriminate against any health care payer,  
150 or any person, association, corporation or other entity attempting  
151 to establish a new health care payer or operating an existing  
152 health care payer because the existing or proposed health care  
153 payer declines to pay for, or arrange for the payment of, any  
154 health care service that is contrary to its conscience.

155 **SECTION 6. Civil Remedies.**

156 (1) A civil action for damages or injunctive relief, or  
157 both, may be brought for the violation of any provision of this  
158 act. It shall not be a defense to any claim arising out of the  
159 violation of this act that such violation was necessary to prevent  
160 additional burden or expense on any other health care provider,  
161 health care institution, individual or patient.

162           (2) **Damage Remedies.** Any individual, association,  
163 corporation, entity or health care institution injured by any  
164 public or private individual, association, agency, entity or  
165 corporation by reason of any conduct prohibited by this act may  
166 commence a civil action. Upon finding a violation of this act,  
167 the aggrieved party shall be entitled to recover threefold the  
168 actual damages, including pain and suffering, sustained by such  
169 individual, association, corporation, entity or health care  
170 institution, the costs of the action, and reasonable attorney's  
171 fees; but in no case shall recovery be less than Five Thousand  
172 Dollars (\$5,000.00) for each violation in addition to costs of the  
173 action and reasonable attorney's fees. These damage remedies  
174 shall be cumulative, and not exclusive of other remedies afforded  
175 under any other state or federal law.

176           (3) **Injunctive Remedies.** The court in such civil action may  
177 award injunctive relief, including, but not limited to, ordering  
178 reinstatement of a health care provider to his or her prior job  
179 position.

180           **SECTION 7. Severability.**

181           The provisions of this act are declared to be severable, and  
182 if any provision, word, phrase or clause of this act or the  
183 application thereof to any person shall be held invalid, such  
184 invalidity shall not affect the validity of the remaining portions  
185 of this act.

186           **SECTION 8.** This act shall take effect and be in force from  
187 and after July 1, 2004.