

By: Representatives Criswell, Boyd, Brown,
Eubanks, Foster, Hale, Hopkins

To: Constitution

HOUSE BILL NO. 985

1 AN ACT TO CREATE THE PARENTAL AUTHORITY ACT; TO PROVIDE THAT
2 THE STATE SHALL NOT INFRINGE ON THE FUNDAMENTAL RIGHT OF PARENTS
3 TO DIRECT THE UPBRINGING OF THEIR CHILDREN UNLESS THE STATE HAS A
4 COMPELLING GOVERNMENTAL INTEREST; TO ENUMERATE CERTAIN RIGHTS THAT
5 ARE RESERVED TO THE PARENTS OF A MINOR CHILD; TO REQUIRE THE BOARD
6 OF TRUSTEES OF A SCHOOL DISTRICT TO DEVELOP A POLICY TO PROMOTE
7 THE INVOLVEMENT OF PARENTS; TO PROVIDE REQUIREMENTS FOR THE POLICY
8 DEVELOPED BY THE SCHOOL DISTRICT; TO PROVIDE THAT A PARENT'S
9 CONSENT IS REQUIRED TO PERFORM A SURGICAL PROCEDURE ON A MINOR AND
10 TO PROVIDE EXCEPTIONS; TO PROVIDE THAT CONSENT IS REQUIRED BEFORE
11 PERFORMING A MENTAL HEALTH EVALUATION ON A MINOR AND TO PROVIDE
12 EXCEPTIONS; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** This act shall be known and may be cited as the
15 "Parental Authority Act."

16 **SECTION 2.** (1) Any branch, department, agency,
17 instrumentality or political subdivision of the State of
18 Mississippi, and any official or other person acting under color
19 of law of this state shall not infringe upon the fundamental right
20 of parents to direct the upbringing, education, health care and
21 mental health of their children without demonstrating a
22 governmental interest as to all minor children that is compelling,
23 and that the governmental interest as applied to the child



involved is of the highest order, is narrowly tailored and is not otherwise served by a less restrictive means.

(2) For the purposes of Sections 1 through 6 of this act, "parent" means the natural or adoptive parent or legal guardian of a minor child.

SECTION 3. (1) All parental rights are reserved to a parent of a minor child without obstruction or interference from any branch, department, agency or political subdivision of the State of Mississippi, any institution owned by one or more political subdivisions, and any official or other person acting under color of law of this state, including the following rights:

(a) The right to direct the education of the minor child;

(b) All rights of parents identified in Title 37, Mississippi Code of 1972, including the right to access and review all school records relating to the minor child;

(c) The right to cultivate the character of the minor child;

(d) The right to direct the moral or religious training of the minor child;

(e) The right to make health care decisions for the minor child, unless otherwise prohibited by law;

(f) The right to access and review all medical records of the minor child unless otherwise prohibited by law or if the parent is the subject of an investigation of a crime committed



49 against the minor child and a law enforcement official requests
50 that the information not be released;

51 (g) The right to be notified in advance and to refuse
52 or to consent in writing for a biometric scan of the minor child
53 to be made, shared or stored;

54 (h) The right to be notified in advance and to refuse
55 or to consent in writing before any record of the minor child's
56 blood or deoxyribonucleic acid (DNA) is created, stored or shared,
57 except as required by Section 45-47-1 or Section 99-49-1 for the
58 investigation of crimes, by Sections 93-9-1 through 93-9-49
59 (Mississippi Uniform Law on Paternity) or unless authorized
60 pursuant to a court order;

61 (i) The right to be notified in advance and to refuse
62 or to consent in writing before the state or any of its political
63 subdivisions makes a video or voice recording of the minor
64 child, unless the video or voice recording is made during or as
65 a part of a court proceeding, by law enforcement officers during
66 or as part of a law enforcement investigation, during or as part
67 of a forensic interview in a criminal or Department of Human
68 Services investigation, or to be used solely for any of the
69 following:

70 (i) Security or surveillance of buildings or
71 grounds, including the maintenance of order and discipline in the
72 common areas of a school or on student transportation vehicles;



(ii) A purpose related to regular classroom instruction or other legitimate academic or extracurricular activity; or

(iii) A photo identification card; and

(j) The right to be notified promptly if an employee of this state, any political subdivision of this state, any other governmental entity or any institution owned by one or more political subdivisions, suspects that a criminal offense has been committed against the minor child by someone other than a parent, unless the incident has first been reported to the police or sheriff's department having jurisdiction and notification of the parent would impede a law enforcement or Department of Human Services investigation. This paragraph does not create any new obligation for school districts and charter schools to report misconduct between students at school, such as fighting or aggressive play, that is routinely addressed as a student disciplinary matter by the school.

(2) This section does not authorize or allow a parent to engage in conduct that is unlawful or to abuse or neglect a child in violation of the laws of this state. This section shall not be construed to apply to a parental action or decision that would end life. This section does not prohibit courts, law enforcement officers or employees of a government agency responsible for child welfare from acting in their official capacity within the reasonable and prudent scope of their



98 authority. This section does not prohibit a court from issuing
99 an order that is otherwise permitted by law.

100 (3) Any attempt to persuade or coerce a minor child to
101 withhold information from the child's parent shall be grounds
102 for discipline of an employee of this state, any political
103 subdivision of this state or any other governmental entity,
104 except for law enforcement personnel of the police or sheriff's
105 department and district attorney's office having jurisdiction.

106 (4) Unless those rights have been legally waived or legally
107 terminated, parents have inherent rights that are more
108 comprehensive than those listed in this section. This act does
109 not prescribe all rights of parents. Unless otherwise required by
110 law, the rights of parents of minor children shall not be
111 limited or denied.

112 **SECTION 4.** (1) The board of trustees of a school district,
113 in consultation with parents, teachers and administrators, shall
114 develop and adopt a policy to promote the involvement of parents
115 and guardians of children enrolled in the schools within the
116 district, including:

117 (a) A plan for parent participation in the schools
118 which is designed to improve parent and teacher cooperation in
119 such areas as homework, attendance and discipline;

120 (b) Procedures by which parents may examine the course
121 of study for their children and inspect learning materials at the
122 District's central office or at the school building where their



child is or will be enrolled, including the source of any supplemental educational materials and digital or on-line content;

(c) A procedure by which parents who object to any learning material or activity on the basis that it is harmful may withdraw their children from the activity or from the class, class period, or program in which the material or content is used. Objection to learning material, content, or activity on the basis that it is harmful includes an objection that it questions beliefs or practices in human sexuality, morality or religion;

(d) Procedures by which parents will be notified in advance of and given the opportunity to withdraw their children from any instruction or presentations regarding human sexuality in courses other than a formal sex education course offered pursuant to Section 37-13-171;

(e) Procedures by which parents may learn about the nature and purpose of clubs and activities that are part of the school curriculum, as well as extracurricular clubs and activities that have been approved by the school;

(f) A procedure by which parents will be notified, prior to distribution to students of any portable digital device such as tablets, laptops or notebook computers, of any agreement, memorandum of understanding, or contract whereby the school district or board purports to consent for the supplier or manufacturer of the devices or the owner of any software



148 programmed into the device to observe or acquire data about
149 students' search queries, web browsing activity or history, or
150 electronic communications.

151 (g) Procedures by which parents may learn about
152 parental rights and responsibilities under the laws of this state,
153 including the following:

154 (i) The rights pursuant to Section 37-13-173 to
155 advance notice, to preview the curriculum, to withhold or give
156 consent for their child to attend the program of instruction and
157 to withdraw their child from sex education instruction if the
158 school district offers any sex education curricula for their
159 child's grade level pursuant to Section 37-13-171;

160 (ii) The rights pursuant to Section 37-15-29 to
161 transfer their child from the district of residence to a nearer
162 school in an adjacent district if the bus ride to the school
163 within the district of residence is farther than thirty (30)
164 miles, to transfer their child to a school within a district that
165 employs either parent as an instructor or certificated employee,
166 and to transfer their child to a school district of their choosing
167 if they are active members of the United States Armed Forces or
168 civilian military personnel and reside on a military base;

169 (iii) The right to opt their child out of
170 assignments pursuant to this section;

171 (iv) The promotion requirements prescribed in
172 Sections 37-177-3 and 37-177-9;



173 (v) The minimum course of study and proficiency
174 requirements for graduation from high school established
175 pursuant to Section 37-16-7;

176 (vi) The right to review test results;

177 (vii) The right to have their child considered for
178 participation in gifted programs pursuant to Sections 37-23-173
179 through 37-23-179;

180 (viii) The right to receive a school report card;

181 (ix) The attendance requirements prescribed in
182 Section 37-13-91;

183 (x) The right to public review of courses of study
184 and textbooks as set forth in Section 37-43-25;

185 (xi) The right for their child to be excused from
186 school attendance for religious purposes as set forth in Section
187 37-13-91;

188 (xii) Policies related to parental involvement
189 adopted pursuant to this section;

190 (xiii) The right to participate in any
191 parent-teacher association and organization approved or recognized
192 by the board;

193 (xiv) The right to opt their child out of any data
194 collection survey or instrument at the school, district, or state
195 level that would capture data for inclusion in the state
196 longitudinal data system except what is necessary and essential
197 for establishing a student's public school record of academic



198 achievement; and

199 (xv) The right to withhold or give consent for the
200 district to share personally identifiable data about their child's
201 or the parents' religion, political party affiliation, biometric
202 information or voting history with the federal government or
203 with an entity that markets or develops commercial products or
204 services.

205 (2) The board of trustees of a school district may adopt a
206 policy to provide to parents the information required by this
207 section in electronic form.

208 (3) A parent may submit a written request for information
209 pursuant to this section during regular business hours to either
210 the school principal at the school site or the superintendent of
211 the school district at the office of the school district. Within
212 ten (10) days of receiving the request for information, the
213 school principal or the superintendent of the school district
214 shall either deliver the requested information to the parent or
215 submit to the parent a written explanation of the reasons for
216 the denial of the requested information. If the request for
217 information is denied or the parent does not receive the
218 requested information within fifteen (15) days after submitting
219 the request for information, the parent may submit a written
220 request for the information to the board of trustees of a school
221 district, which shall formally consider the request at the next
222 scheduled public meeting of the board if the request can be



properly noticed on the agenda. If the request cannot be properly noticed on the agenda, the board of trustees of a school district shall formally consider the request at the next subsequent public meeting of the board.

SECTION 5. (1) Except as otherwise provided by law, no person, corporation, association, organization, state-supported institution, or individual employed by any of these entities may procure, solicit to perform, arrange for the performance of, perform surgical procedures, or perform a physical examination upon a minor or prescribe any prescription drug to a minor without first obtaining written consent from a parent or legal guardian of the minor.

(2) No hospital, psychiatric hospital or ambulatory surgical facility as defined in Section 41-7-173 nor any state hospital as defined in Section 41-17-1, may permit surgical procedures to be performed upon a minor in its facilities without first having received written consent from a parent or legal guardian of the minor.

(3) The provisions of this section shall not apply when it has been determined by a physician that an emergency exists and that it is necessary to perform such surgical procedures for the treatment of an injury or drug abuse, or to save the life of the patient, or when such parent or legal guardian cannot be located or contacted after a reasonably diligent effort.

(4) The provisions of this section shall not apply to an



abortion, which shall be governed by the provisions of Sections 41-41-51 through 41-41-59.

(5) Unless otherwise provided by law, a person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not more than one (1) year, or by both fine and imprisonment. This section shall not prohibit prosecution under any other criminal statute of the state.

SECTION 6. (1) Except when ordered by a court of competent jurisdiction, no person, corporation, association, organization or state supported institution, or any individual employed by any of these entities, may procure, solicit to perform, arrange for the performance of or perform a mental health evaluation in a clinical or nonclinical setting or mental health treatment on a minor without first obtaining the written consent of a parent or a legal guardian of the minor child. However, if evaluation, consultation, or treatment is conducted through telemedicine, then oral consent by the parent or guardian shall suffice provided that a health professional verifies the identity of the parent at the site where consent is given.

(2) This section does not apply when an emergency exists that requires a person to perform mental health screening or provide mental health treatment to prevent serious injury to or save the life of a minor child.



273 (3) A person who violates this section is guilty of a
274 misdemeanor and, upon conviction, shall be punished by a fine of
275 not more than One Thousand Dollars (\$1,000.00) or by
276 imprisonment in the county jail for not more than one (1) year,
277 or both.

278 **SECTION 7.** This act shall take effect and be in force from
279 and after July 1, 2016.

