

By: Representative Gunn

To: Judiciary B

HOUSE BILL NO. 1523

1 AN ACT TO CREATE THE RELIGIOUS LIBERTY ACCOMMODATIONS ACT; TO  
 2 DESIGNATE CERTAIN RELIGIOUS BELIEFS OR MORAL CONVICTIONS THAT ARE  
 3 PROTECTED; TO PROVIDE CERTAIN PROTECTIONS REGARDING A SINCERELY  
 4 HELD RELIGIOUS BELIEF OR MORAL CONVICTION FOR PERSONS, RELIGIOUS  
 5 ORGANIZATIONS AND PRIVATE ASSOCIATIONS; TO DEFINE A DISCRIMINATORY  
 6 ACTION FOR PURPOSES OF THIS ACT; TO PROVIDE THAT A PERSON MAY  
 7 ASSERT A VIOLATION OF THIS ACT AS A CLAIM AGAINST THE GOVERNMENT;  
 8 TO PROVIDE CERTAIN REMEDIES; TO REQUIRE A PERSON BRINGING A CLAIM  
 9 UNDER THIS ACT TO DO SO NOT LATER THAN TWO YEARS AFTER THE  
 10 DISCRIMINATORY ACTION WAS TAKEN; TO PROVIDE CERTAIN DEFINITIONS;  
 11 AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** This act shall be known and may be cited as the  
 14 "Religious Liberty Accommodations Act."

15 **SECTION 2.** The Mississippi Legislature finds the following:

16 (a) Leading legal scholars concur that conflicts between  
 17 same-sex marriage and religious liberty are real and should be  
 18 addressed through legislation;

19 (b) After the legalization of same-sex marriage,  
 20 religious adoption and foster care agencies in Massachusetts,  
 21 Illinois and the District of Columbia were forced to close because  
 22 of their sincerely held religious beliefs about marriage.



23 Further, a religious educational institution in Massachusetts was  
24 threatened by the government with loss of its accreditation  
25 because of its sincerely held religious beliefs about marriage,  
26 and small family-owned wedding businesses in Oregon, Washington,  
27 Iowa, New York and elsewhere have endured fines or financial  
28 penalties or have been forced to close because they operated  
29 consistent with their sincerely held religious beliefs about  
30 marriage;

31 (c) Citizens of the this state hold a wide range of  
32 reasonable views on the issue of same-sex marriage, and  
33 maintaining the state's commitment to religious freedom when faced  
34 with these good-faith differences of opinion is vital;

35 (d) Our nation has a long and honorable history of  
36 respecting and accommodating the religious freedom rights of its  
37 people, dating from before the American Revolution to the present.  
38 For example, laws have protected the right of Quakers and other  
39 pacifists to serve the nation as noncombatants in times of war,  
40 the right of Jews and other Sabbath observers to dedicate their  
41 time to God and family instead of working on their Sabbath and the  
42 right of religious organizations to provide charitable services to  
43 the public consistent with their beliefs by hiring individuals who  
44 share the same beliefs;

45 (e) Protecting religious freedom from government  
46 intrusion is a state interest of the highest order. Legislation  
47 advances this interest by remedying, deterring and preventing



48 government interference with religious exercise in a way that  
49 complements the protections mandated by the state and federal  
50 constitutions;

51 (f) Protecting the religious freedom of faith-based  
52 charities and educational institutions serves the state's  
53 compelling interest in providing essential social services to the  
54 poor, and educational opportunities to the next generation. This  
55 is also consistent with the state's long tradition of cooperating  
56 with religious organizations when providing these critical  
57 services;

58 (g) This state enacted the Religious Freedom  
59 Restoration Act in 2014, making clear that it is unlawful to  
60 substantially burden a person's exercise of religion, even if the  
61 burden results from a facially neutral rule of general  
62 applicability, unless that application of the burden to the person  
63 is both (i) in furtherance of a compelling governmental interest,  
64 and (ii) the least restrictive means of furthering that compelling  
65 governmental interest;

66 (h) Laws and government actions that protect the free  
67 exercise of religious beliefs and moral convictions about marriage  
68 and human sexuality will encourage private citizens and  
69 institutions to demonstrate tolerance for those beliefs and  
70 convictions and therefore contribute to a more respectful, diverse  
71 and peaceful society; and



72 (i) In a pluralistic society, in which people of good  
73 faith hold more than one view of marriage, it is possible for the  
74 government to recognize same-sex marriage without forcing persons  
75 with sincerely held religious beliefs or moral convictions to  
76 conform.

77 **SECTION 3.** The sincerely held religious beliefs or moral  
78 convictions protected by this act are the belief or conviction  
79 that:

80 (a) Marriage is or should be recognized as the union of  
81 one man and one woman;

82 (b) Sexual relations are properly reserved to such a  
83 marriage; and

84 (c) Male (man) or female (woman) refer to an  
85 individual's immutable biological sex as objectively determined by  
86 anatomy and genetics at time of birth.

87 **SECTION 4.** (1) The state government shall not take any  
88 discriminatory action against a religious organization wholly or  
89 partially on the basis that such organization:

90 (a) Solemnizes or declines to solemnize any marriage,  
91 or provides or declines to provide services, accommodations,  
92 facilities, goods or privileges for a purpose related to the  
93 solemnization, formation, celebration or recognition of any  
94 marriage, based upon or in a manner consistent with a sincerely  
95 held religious belief or moral conviction described in Section 3  
96 of this act;



97           (b) Makes any employment-related decision including,  
98 but not limited to, the decision whether or not to hire, terminate  
99 or discipline an individual whose conduct or religious beliefs are  
100 inconsistent with those of the religious organization, based upon  
101 or in a manner consistent with a sincerely held religious belief  
102 or moral conviction described in Section 3 of this act; or

103           (c) Makes any decision concerning the sale, rental,  
104 occupancy of, or terms and conditions of occupying a dwelling or  
105 other housing under its control, based upon or in a manner  
106 consistent with a sincerely held religious belief or moral  
107 conviction described in Section 3 of this act.

108           (2) The state government shall not take any discriminatory  
109 action against a religious organization that advertises, provides  
110 or facilitates adoption or foster care, wholly or partially on the  
111 basis that such organization has provided or declined to provide  
112 any adoption or foster care service, or related service, based  
113 upon or in a manner consistent with a sincerely held religious  
114 belief or moral conviction described in Section 3 of this act.

115           (3) The state government shall not take any discriminatory  
116 action against a person who the state grants custody of a foster  
117 or adoptive child, or who seeks from the state custody of a foster  
118 or adoptive child, wholly or partially on the basis that the  
119 person guides, instructs or raises a child, or intends to guide,  
120 instruct, or raise a child based upon or in a manner consistent



121 with a sincerely held religious belief or moral conviction  
122 described in Section 3 of this act.

123 (4) The state government shall not take any discriminatory  
124 action against a person wholly or partially on the basis that the  
125 person declines to participate in the provision of treatments,  
126 counseling, or surgeries related to sex reassignment or gender  
127 identity transitioning or declines to participate in the provision  
128 of psychological, counseling, or fertility services based upon a  
129 sincerely held religious belief or moral conviction described in  
130 Section 3 of this act. This subsection (4) shall not be construed  
131 to allow any person to deny visitation, recognition of a  
132 designated representative for health care decision-making, or  
133 emergency medical treatment necessary to cure an illness or injury  
134 as required by law.

135 (5) The state government shall not take any discriminatory  
136 action against a person wholly or partially on the basis that the  
137 person has provided or declined to provide the following services,  
138 accommodations, facilities, goods, or privileges for a purpose  
139 related to the solemnization, formation, celebration, or  
140 recognition of any marriage, based upon or in a manner consistent  
141 with a sincerely held religious belief or moral conviction  
142 described in Section 3 of this act:

143 (a) Photography, poetry, videography, disc-jockey  
144 services, wedding planning, printing, publishing or similar  
145 marriage-related goods or services; or



146           (b) Floral arrangements, dress making, cake or pastry  
147     artistry, assembly-hall or other wedding-venue rentals, limousine  
148     or other car-service rentals, jewelry sales and services, or  
149     similar marriage-related services, accommodations, facilities or  
150     goods.

151           (6) The state government shall not take any discriminatory  
152     action against a person wholly or partially on the basis that the  
153     person establishes sex-specific standards or policies concerning  
154     employee or student dress or grooming, or concerning access to  
155     restrooms, spas, baths, showers, dressing rooms, locker rooms, or  
156     other intimate facilities or settings, based upon or in a manner  
157     consistent with a sincerely held religious belief or moral  
158     conviction described in Section 3 of this act.

159           (7) The state government shall not take any discriminatory  
160     action against a state employee wholly or partially on the basis  
161     that such employee lawfully speaks or engages in expressive  
162     conduct based upon or in a manner consistent with a sincerely held  
163     religious belief or moral conviction described in Section 3 of  
164     this act, so long as:

165           (a) If the employee's speech or expressive conduct  
166     occurs in the workplace, that speech or expressive conduct is  
167     consistent with the time, place, manner and frequency of any other  
168     expression of a religious, political, or moral belief or  
169     conviction allowed; or



170           (b) If the employee's speech or expressive conduct  
171 occurs outside the workplace, that speech or expressive conduct is  
172 in the employee's personal capacity and outside the course of  
173 performing work duties.

174           (8) (a) Any person employed or acting on behalf of the  
175 state government who has authority to authorize or license  
176 marriages, including, but not limited to, clerks, registers of  
177 deeds or their deputies, may seek recusal from authorizing or  
178 licensing lawful marriages based upon or in a manner consistent  
179 with a sincerely held religious belief or moral conviction  
180 described in Section 3 of this act. Any person making such  
181 recusal shall provide prior written notice to the State Registrar  
182 of Vital Records who shall keep a record of such recusal, and the  
183 state government shall not take any discriminatory action against  
184 that person wholly or partially on the basis of such recusal. The  
185 person who is recusing himself or herself shall take all necessary  
186 steps to ensure that the authorization and licensing of any  
187 legally valid marriage is not impeded or delayed as a result of  
188 any recusal.

189           (b) Any person employed or acting on behalf of the  
190 state government who has authority to perform or solemnize  
191 marriages, including, but not limited to, judges, magistrates,  
192 justices of the peace or their deputies, may seek recusal from  
193 performing or solemnizing lawful marriages based upon or in a  
194 manner consistent with a sincerely held religious belief or moral





195 conviction described in Section 3 of this act. Any person making  
196 such recusal shall provide prior written notice to the  
197 Administrative Office of Courts, and the state government shall  
198 not take any discriminatory action against that person wholly or  
199 partially on the basis of such recusal. The Administrative Office  
200 of Courts shall take all necessary steps to ensure that the  
201 performance or solemnization of any legally valid marriage is not  
202 impeded or delayed as a result of any recusal.

203 **SECTION 5.** (1) As used in this act, discriminatory action  
204 includes any action taken by the state government to:

205 (a) Alter in any way the tax treatment of, or cause any  
206 tax, penalty, or payment to be assessed against, or deny, delay,  
207 revoke, or otherwise make unavailable an exemption from taxation  
208 of any person referred to in Section 4 of this act;

209 (b) Disallow, deny or otherwise make unavailable a  
210 deduction for state tax purposes of any charitable contribution  
211 made to or by such person;

212 (c) Withhold, reduce, exclude, terminate, materially  
213 alter the terms or conditions of, or otherwise make unavailable or  
214 deny any state grant, contract, subcontract, cooperative  
215 agreement, guarantee, loan, scholarship, or other similar benefit  
216 from or to such person;

217 (d) Withhold, reduce, exclude, terminate, materially  
218 alter the terms or conditions of, or otherwise make unavailable or



219 deny any entitlement or benefit under a state benefit program from  
220 or to such person;

221 (e) Impose, levy or assess a monetary fine, fee,  
222 penalty or injunction;

223 (f) Withhold, reduce, exclude, terminate, materially  
224 alter the terms or conditions of, or otherwise make unavailable or  
225 deny any license, certification, accreditation, custody award or  
226 agreement, diploma, grade, recognition, or other similar benefit,  
227 position, or status from or to any person; or

228 (g) Refuse to hire or promote, force to resign, fire,  
229 demote, sanction, discipline, materially alter the terms or  
230 conditions of employment, or retaliate or take other adverse  
231 employment action against a person employed or commissioned by the  
232 state government.

233 (2) The state government shall consider accredited, licensed  
234 or certified any person that would otherwise be accredited,  
235 licensed or certified, respectively, for any purposes under state  
236 law but for a determination against such person wholly or  
237 partially on the basis that the person believes, speaks or acts in  
238 accordance with a sincerely held religious belief or moral  
239 conviction described in Section 3 of this act.

240 **SECTION 6.** (1) A person may assert a violation of this act  
241 as a claim against the state government in any judicial or  
242 administrative proceeding or as defense in any judicial or  
243 administrative proceeding without regard to whether the proceeding



244 is brought by or in the name of the state government, any private  
245 person or any other party.

246 (2) An action under this act may be commenced, and relief  
247 may be granted, in a court of the state without regard to whether  
248 the person commencing the action has sought or exhausted available  
249 administrative remedies.

250 (3) Violations of this act which are properly governed by  
251 Chapter 46, Title 11, Mississippi Code of 1972, shall be brought  
252 in accordance with that chapter.

253 **SECTION 7.** Any person who successfully asserts a claim or  
254 defense under this act may recover:

255 (a) Declaratory relief;

256 (b) Injunctive relief to prevent or remedy a violation  
257 of this act or the effects of such a violation;

258 (c) Compensatory damages for pecuniary and nonpecuniary  
259 losses;

260 (d) Reasonable attorneys' fees and costs; and

261 (e) Any other appropriate relief except only  
262 declaratory relief and injunctive relief shall be available  
263 against a private person not acting under color of state law upon  
264 a successful assertion of a claim or defense under this act.

265 **SECTION 8.** A person must bring an action to assert a claim  
266 under this act not later than two (2) years after the date that  
267 the person knew or should have known that a discriminatory action  
268 was taken against that person.



269           **SECTION 9.** (1) Sovereign, governmental and qualified  
270 immunities to suit and from liability are waived and abolished to  
271 the extent of liability created by Section 7 of this act, and a  
272 person may sue the state government, except state courts, for  
273 damages allowed by Section 7 of this act.

274           (2) Notwithstanding subsection (2) of this section, this  
275 section does not waive or abolish sovereign immunity to suit and  
276 from liability under the Eleventh Amendment to the United States  
277 Constitution.

278           **SECTION 10.** (1) This act shall be construed in favor of a  
279 broad protection of free exercise of religious beliefs and moral  
280 convictions, to the maximum extent permitted by the state and  
281 federal constitutions.

282           (2) The protection of free exercise of religious beliefs and  
283 moral convictions afforded by this act are in addition to the  
284 protections provided under federal law, state law, and the state  
285 and federal constitutions. Nothing in this act shall be construed  
286 to preempt or repeal any state or local law that is equally or  
287 more protective of free exercise of religious beliefs or moral  
288 convictions. Nothing in this act shall be construed to narrow the  
289 meaning or application of any state or local law protecting free  
290 exercise of religious beliefs or moral convictions. Nothing in  
291 this act shall be construed to prevent the state government from  
292 providing, either directly or through an individual or entity not



293 seeking protection under this act, any benefit or service  
294 authorized under state law.

295 (3) This act applies to, and in cases of conflict  
296 supersedes, each statute of the state that impinges upon the free  
297 exercise of religious beliefs and moral convictions protected by  
298 this act, unless a conflicting statute is expressly made exempt  
299 from the application of this act. This act also applies to, and  
300 in cases of conflict supersedes, any ordinance, rule, regulation,  
301 order, opinion, decision, practice or other exercise of the state  
302 government's authority that impinges upon the free exercise of  
303 religious beliefs or moral convictions protected by this act.

304 **SECTION 11.** As used in Section 1 through 10 of this act, the  
305 following words and phrases shall have the meanings ascribed in  
306 this section unless the context clearly indicates otherwise:

307 (1) "State benefit program" means any program administered  
308 or funded by the state, or by any agent on behalf of the state,  
309 providing cash, payments, grants, contracts, loans or in-kind  
310 assistance.

311 (2) "State government" means:

312 (a) The State of Mississippi or a political subdivision  
313 of the state;

314 (b) Any agency of the state or of a political  
315 subdivision of the state, including a department, bureau, board,  
316 commission, council, court or public institution of higher  
317 education;



318 (c) Any person acting under color of state law; and

319 (d) Any private party or third party suing under or  
320 enforcing a law, ordinance, rule or regulation of the state or  
321 political subdivision of the state.

322 (3) "Person" means:

323 (a) A natural person, in his or her individual  
324 capacity, regardless of religious affiliation or lack thereof, or  
325 in his or her capacity as a member, officer, owner, volunteer,  
326 employee, manager, religious leader, clergy or minister of any  
327 entity described in this section;

328 (b) A religious organization;

329 (c) A sole proprietorship, or closely held company,  
330 partnership, association, organization, firm, corporation,  
331 cooperative, trust, society or other closely held entity operating  
332 with a sincerely held religious belief or moral conviction  
333 described in Section 2 of this act; or

334 (d) Cooperatives, ventures or enterprises comprised of  
335 two (2) or more individuals or entities described in this  
336 subsection.

337 (4) "Religious organization" means:

338 (a) A house of worship, including, but not limited to,  
339 churches, synagogues, shrines, mosques and temples;

340 (b) A religious group, corporation, association, school  
341 or educational institution, ministry, order, society or similar



342 entity, regardless of whether it is integrated or affiliated with  
343 a church or other house of worship; and

344 (c) An officer, owner, employee, manager, religious  
345 leader, clergy or minister of an entity or organization described  
346 in this subsection (4).

347 (5) "Adoption or foster care" or "adoption or foster care  
348 service" means social services provided to or on behalf of  
349 children, including:

350 (a) Assisting abused or neglected children;

351 (b) Teaching children and parents occupational,  
352 homemaking and other domestic skills;

353 (c) Promoting foster parenting;

354 (d) Providing foster homes, residential care, group  
355 homes or temporary group shelters for children;

356 (e) Recruiting foster parents;

357 (f) Placing children in foster homes;

358 (g) Licensing foster homes;

359 (h) Promoting adoption or recruiting adoptive parents;

360 (i) Assisting adoptions or supporting adoptive  
361 families;

362 (j) Performing or assisting home studies;

363 (k) Assisting kinship guardianships or kinship  
364 caregivers;

365 (l) Providing family preservation services;

366 (m) Providing family support services; and



367 (n) Providing temporary family reunification services.

368 **SECTION 12.** The provisions of Sections 1 through 11 of this  
369 act shall be excluded from the application of Section 11-61-1.

370 **SECTION 13.** This act shall take effect and be in force from  
371 and after July 1, 2016.

