To: Judiciary A

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2019

By: Representative Anderson

HOUSE BILL NO. 1345

AN ACT TO CREATE THE MISSISSIPPI CIVIL RIGHTS ACT; TO PROVIDE
THAT THE RIGHT OF A PERSON TO BE FREE FROM DISCRIMINATION BECAUSE
OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, IMMIGRANT STATUS, SEX,
SEXUAL ORIENTATION, GENDER IDENTITY, DISABILITY, OR FAMILIAL
STATUS IS A CIVIL RIGHT; TO AMEND SECTIONS 25-9-149, 43-33-723 AND
13-5-2, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
PROVISIONS; AND FOR RELATED PURPOSES.

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

SECTION 1. For the purposes of this act, the following terms
shall have the following meanings:

(a) "Compensatory damages" means damages for mental
anguish, loss of dignity, and other intangible injuries. The term
does not include punitive damages.

(b) "Disability" means a physical or mental impairment
that substantially limits a major life function. The term does
not include any of the following:

(i) Compulsive gambling, kleptomania, or
pyromania;

(ii) Current use of illegal drugs or psychoactive
substance use disorder resulting from illegal use of drugs; and
(iii) Alcoholism.

(c) "Educational institution" means any public educational institution, including any academy, college, elementary or secondary school, extension course, charter school, magnet school, kindergarten, nursery, school district, university, professional school, or vocational school.

(d) "Employee" does not include any of the following:

(i) Any individual employed by his or her parents, spouse, or child;

(ii) An individual participating in a specialized employment training program conducted by a nonprofit sheltered workshop or rehabilitation facility; and

(iii) An individual employed outside of this state.

(e) "Employer" means a person who employs nine (9) or more employees in the state for twenty (20) or more calendar weeks in the current or preceding calendar year, or any agent of an employer.

(f) "Familial status" means one or more individuals who have not attained the age of eighteen (18) years being domiciled with:

(i) A parent or another person having legal custody of the individual or individuals; or
(ii) The designee of the parent or other person having custody, with the written permission of the parent or other person.

The protections afforded against discrimination on the basis of familial status apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

(g) "Gender identity" means the actual or perceived gender-related identity, expression, appearance, or mannerisms or other gender-related characteristics of an individual, regardless of the designated sex at birth of the individual.

(h) "Immigrant status" means a representation made by an individual, or determination made by the appropriate government authority, that an individual present in the United States is not a citizen or national of the United States. This status would also indicate whether the individual was in the United States with or without authorization.

(i) "National origin" means an individual's or the individual's ancestor's place of origin.

(j) "Place of public resort, accommodation, assemblage, or amusement" means any place, store, or other establishment, either licensed or unlicensed, that supplies accommodations, goods, or services to the general public, or that solicits or accepts the patronage or trade of the general public, or that is
supported directly or indirectly by government funds. The term does not include any of the following:

(i) Any lodging establishment which contains not more than five (5) rooms for rent and which is actually occupied by the proprietor of such establishment as a residence;

(ii) Any private club or other establishment not in fact open to the public; and

(iii) House of worship.

(k) "Punitive damages" means damages for malicious or heinous and intentional actions or inactions.

(l) "Religion" means aspects of religious belief, observance, and practice.

(m) "Sexual orientation" means actual or perceived homosexuality, heterosexuality, or bisexuality.

SECTION 2. (1) The right of an otherwise qualified person to be free from discrimination, defined as the denial of equal treatment or equal protection to persons in a similar situation because of race, color, religion, national origin, immigrant status, sex, sexual orientation, gender identity, disability, or familial status, is recognized as and declared to be a civil right. This right shall include, but not limited to, all of the following:

(a) The right to obtain and hold employment without discrimination. An employer shall not take any discriminatory action against an employee wholly or partially on the basis that
such employee lawfully speaks or engages in expressive conduct
based upon or in a manner consistent with the employee's sincerely
held religious or moral beliefs and commitments:

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

(ii) If the employee's speech or expressive
conduct occurs outside the workplace, that speech or expressive
conduct is in the employee's personal capacity and outside the
course of performing work duties; and

(iii) The expression or expressive activity is not
in direct conflict with the essential business-related interests
of the employer.

(b) The right to the full enjoyment of any of the
accommodations, advantages, facilities, or privileges of any place
of public resorts, accommodation, assemblage, or amusement without
discrimination.

(c) The right to engage in property transactions,
including to obtain housing, without discrimination.

(d) The right to engage in credit and other contractual
transactions without discrimination.
(e) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of an educational institution without discrimination.

(2) Any person who is injured by an intentional act of discrimination in violation of subsection (1)(b) through (e) of this section may file a civil action in a court of competent jurisdiction to enjoin further violations, to recover compensatory and punitive damages, and, in the discretion of the court, to recover the cost of litigation and reasonable attorney's fees.

(3) (a) (i) Any individual who is injured by employment discrimination by an employer in violation of subsection (1)(a) of this section may file a civil action in a court of competent jurisdiction, which may issue an order prohibiting the discriminatory practices and provide affirmative relief from the effects of the practices, and award back pay, interest on back pay, and, at the discretion of the court, the cost of litigation and reasonable attorney's fees; and

(ii) No liability for back pay shall accrue from a date more than two (2) years before the filing of an action.

(b) In addition to the remedies under paragraph (a)(i) of this subsection, any individual who is injured by intentional discrimination by an employer in violation of subsection (1)(a) of this section shall be entitled to recover compensatory damages and punitive damages.
(4) Subsection (1)(a) of this section does not apply to the employment of an individual of a particular religion by a religious corporation, association, or society to perform work connected with the performance of religious activities by the corporation, association, or society.

(5) This act may not be construed to limit any other remedies available under law.

SECTION 3. Section 25-9-149, Mississippi Code of 1972, is amended as follows:

25-9-149. It is the intent of the Legislature that no person seeking employment in state service, as defined in Section 25-9-107, Mississippi Code of 1972, or employed in state service, as defined in Section 25-9-107, Mississippi Code of 1972, shall be discriminated against on the basis of race, color, religion, sex, national origin, age, sexual orientation, gender identity or disability.

SECTION 4. Section 43-33-723, Mississippi Code of 1972, is amended as follows:

43-33-723. No person shall be discriminated against because of race, religious principles, color, sex, national origin, ancestry, sexual orientation, gender identity, or disability by the corporation, any qualified sponsor, any lender, or any agent or employee thereof in connection with any housing development or eligible loan. No person shall be discriminated against because of age, nor shall any family be discriminated
against because of children, in admission to, or continuance of
occupancy in, any housing project receiving assistance under this
act except for any housing project constructed under a program
restricting occupancy to persons sixty-two (62) years of age or
older and any directors of their immediate households or their
occupant surviving spouses.

SECTION 5. Section 13-5-2, Mississippi Code of 1972, is
amended as follows:

13-5-2. It is the policy of this state that all persons
selected for jury service be selected at random from a fair cross
section of the population of the area served by the court, and
that all qualified citizens have the opportunity in accordance
with this chapter to be considered for jury service in this state
and an obligation to serve as jurors when summoned for that
purpose. A citizen shall not be excluded from jury service in
this state on account of race, color, religion, sex, national
origin, * * * economic status, sexual orientation, gender identity
or physical disability.

SECTION 6. This act shall take effect and be in force from
and after July 1, 2019.