

By: Senator(s) Hill

To: Judiciary, Division A

SENATE BILL NO. 2022

1 AN ACT PROHIBITING THE MUTILATION OF GIRLS AND YOUNG WOMEN,  
 2 CREATING CIVIL REMEDIES FOR VICTIMS OF MUTILATION, AND PROVIDING A  
 3 STATUTE OF LIMITATIONS FOR ACTIONS ARISING FROM SUCH ACTS; TO  
 4 AMEND SECTION 97-5-39, MISSISSIPPI CODE OF 1972, TO CREATE GENITAL  
 5 MUTILATION OF A FEMALE MINOR AS CHILD ABUSE; TO AMEND SECTION  
 6 93-15-121, MISSISSIPPI CODE OF 1972, TO CREATE GENITAL MUTILATION  
 7 OF A FEMALE MINOR AS A GROUND FOR TERMINATION OF CHILD ABUSE; TO  
 8 AMEND SECTION 11-1-60, MISSISSIPPI CODE OF 1972, TO WAIVE THE TORT  
 9 CLAIM LIMITS ON CAUSES OF ACTION FOR GENITAL MUTILATION OF A  
 10 FEMALE MINOR; TO AMEND SECTION 11-46-15, MISSISSIPPI CODE OF 1972,  
 11 TO WAIVE SOVEREIGN IMMUNITY FOR A CAUSE OF ACTION BASED ON THE  
 12 GENITAL MUTILATION OF A FEMALE MINOR; TO AMEND SECTION 15-1-35,  
 13 MISSISSIPPI CODE OF 1972, TO CREATE A NEW STATUTE OF LIMITATIONS  
 14 FOR A CAUSE OF ACTION FOUNDED ON THE GENITAL MUTILATION OF A  
 15 FEMALE MINOR; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** (1) **Definitions.** For the purposes of this act:

18 (a) "Mutilation" means the following actions or  
 19 procedures to the genitalia of female minors: (i) the partial or  
 20 total removal of the clitoris and/or the prepuce; (ii) the partial  
 21 or total removal of the clitoris and the labia minora, with or  
 22 without excision of the labia major; or (iii) the narrowing of the  
 23 vaginal opening through the creation of a covering seal formed by  
 24 cuffing and repositioning the inner, and sometimes outer, labia,



25 with or without removal of the clitoris. "Mutilation" also means  
26 all other harmful procedures to the genitalia of female minors,  
27 including, but not limited to, pricking, piercing, incising,  
28 scraping and cauterizing, unless these harmful procedures are  
29 proven to be medically necessary for the minor due to a recognized  
30 medical condition by a preponderance of the evidence.

31 (b) "Provider" means the following persons: (i) all  
32 health care providers, including, but not limited to, hospitals,  
33 clinics, doctors, nurses, and all other natural and legal persons  
34 who provide health care services; (ii) teachers; and (iii) all  
35 social services providers, including, but not limited to,  
36 organizations, social workers, therapists and case workers.

37 (2) **Providers' duty to report mutilation.** Any provider who  
38 discovers the mutilation of, or the threat of mutilation to, a  
39 female minor shall immediately report such mutilation or  
40 threatened mutilation to the Mississippi Department of Child  
41 Protection Services and the law enforcement agency in whose  
42 jurisdiction the reporter believes the violation or threatened  
43 violation of this section occurred and provide written notice of  
44 such mutilation or threatened mutilation in writing within twelve  
45 (12) hours of the discovery thereof to the Mississippi Department  
46 of Child Protection Services and the law enforcement agency in  
47 whose jurisdiction the reporter believes the violation or  
48 threatened violation of this section occurred. The report shall  
49 include the name and address of the victim or potential victim.



50 (3) The Mississippi Department of Child Protection Services  
51 shall maintain a confidential registry of reports of violations of  
52 this section.

53 (4) **Penalties.** (a) Any person who: (i) mutilates, or (ii)  
54 arranges for mutilation, or (iii) knowingly transports a resident  
55 of this state outside of this state for mutilation, or (iv)  
56 recklessly transports a resident of this state outside of this  
57 state to a place where mutilation is reasonably likely to occur,  
58 or (v) aids and abets mutilation, or (vi) conspires to mutilate,  
59 to arrange for mutilation, to transport a resident of this state  
60 outside of this state for mutilation or to a place where  
61 mutilation is reasonably likely to occur, or to aid and abet  
62 mutilation, shall be guilty of a felony and shall be sentenced to  
63 no less than ten (10) years in prison, and shall pay a fine of  
64 Fifty Thousand Dollars (\$50,000.00).

65 (b) Any provider who knows, or has reason to know, of  
66 mutilation or threatened mutilation, and who fails to report such  
67 mutilation to the Mississippi Department of Child Protection  
68 Services and the law enforcement agency in whose jurisdiction the  
69 reporter believes the violation or threatened violation of this  
70 section occurred in accordance with the terms of this act shall be  
71 guilty of a misdemeanor and shall be sentenced to not more than  
72 one (1) year in prison, and a fine not to exceed Five Thousand  
73 Dollars (\$5,000.00).



74 (5) **Civil remedies.** (a) In addition to any other remedies  
75 she may have under law, the victim of mutilation shall recover  
76 treble her damages for pain, suffering, and psychological trauma,  
77 exemplary damages, litigation costs, expert fees, and actual  
78 attorney fees from any person who: (i) mutilated her; (ii)  
79 arranged for her mutilation; (iii) knowingly transported her  
80 outside of this state for mutilation; (iv) recklessly transported  
81 her outside of this state to a place where mutilation was  
82 reasonably likely to occur; (v) aided and abetted her mutilation;  
83 or (vi) conspired to mutilate her, to arrange for her mutilation,  
84 to transport her outside of this state for mutilation or to a  
85 place where mutilation was reasonably likely to occur, or to aid  
86 and abet her mutilation.

87 (b) In addition to any other remedies she may have  
88 under law, a victim of mutilation that occurs after the effective  
89 date of this act may seek and recover treble her damages,  
90 including damages for pain, suffering, and psychological trauma,  
91 exemplary damages, and actual litigation costs, expert fees, and  
92 attorney fees from a provider and/or the secretary, provided that  
93 the victim proves that the provider or the secretary failed to  
94 comply with their obligations hereunder.

95 **SECTION 2.** Section 97-5-39, Mississippi Code of 1972, is  
96 amended as follows:

97 97-5-39. (1) (a) Except as otherwise provided in this  
98 section, any parent, guardian or other person who intentionally,



99 knowingly or recklessly commits any act or omits the performance  
100 of any duty, which act or omission contributes to or tends to  
101 contribute to the neglect or delinquency of any child or which act  
102 or omission results in the abuse of any child, as defined in  
103 Section 43-21-105(m) of the Youth Court Law, or who knowingly aids  
104 any child in escaping or absenting himself from the guardianship  
105 or custody of any person, agency or institution, or knowingly  
106 harbors or conceals, or aids in harboring or concealing, any child  
107 who has absented himself without permission from the guardianship  
108 or custody of any person, agency or institution to which the child  
109 shall have been committed by the youth court shall be guilty of a  
110 misdemeanor, and upon conviction shall be punished by a fine not  
111 to exceed One Thousand Dollars (\$1,000.00), or by imprisonment not  
112 to exceed one (1) year in jail, or by both such fine and  
113 imprisonment.

114 (b) For the purpose of this section, a child is a  
115 person who has not reached his eighteenth birthday. A child who  
116 has not reached his eighteenth birthday and is on active duty for  
117 a branch of the armed services, or who is married, is not  
118 considered a child for the purposes of this statute.

119 (c) If a child commits one (1) of the proscribed acts  
120 in subsection (2) (a), (b) or (c) of this section upon another  
121 child, then original jurisdiction of all such offenses shall be in  
122 youth court.



123 (d) If the child's deprivation of necessary clothing,  
124 shelter, health care or supervision appropriate to the child's age  
125 results in substantial harm to the child's physical, mental or  
126 emotional health, the person may be sentenced to imprisonment in  
127 the custody of the Department of Corrections for not more than  
128 five (5) years or to payment of a fine of not more than Five  
129 Thousand Dollars (\$5,000.00), or both.

130 (e) A parent, legal guardian or other person who  
131 knowingly permits the continuing physical or sexual abuse of a  
132 child is guilty of neglect of a child and may be sentenced to  
133 imprisonment in the custody of the Department of Corrections for  
134 not more than ten (10) years or to payment of a fine of not more  
135 than Ten Thousand Dollars (\$10,000.00), or both.

136 (2) Any person shall be guilty of felonious child abuse in  
137 the following circumstances:

138 (a) Whether bodily harm results or not, if the person  
139 shall intentionally, knowingly or recklessly:

140 (i) Burn any child;

141 (ii) Physically torture any child;

142 (iii) Strangle, choke, smother or in any way  
143 interfere with any child's breathing;

144 (iv) Poison a child;

145 (v) Starve a child of nourishments needed to  
146 sustain life or growth;

147 (vi) Use any type of deadly weapon upon any child;



148 (b) If some bodily harm to any child actually occurs,  
149 and if the person shall intentionally, knowingly or recklessly:

150 (i) Throw, kick, bite, or cut any child;

151 (ii) Strike a child under the age of fourteen (14)  
152 about the face or head with a closed fist;

153 (iii) Strike a child under the age of five (5) in  
154 the face or head;

155 (iv) Kick, bite, cut or strike a child's genitals;  
156 circumcision of a male child is not a violation under this  
157 subparagraph (iv);

158 (c) If serious bodily harm to any child actually  
159 occurs, and if the person shall intentionally, knowingly or  
160 recklessly:

161 (i) Strike any child on the face or head;

162 (ii) Disfigure or scar any child;

163 (iii) Whip, strike or otherwise abuse any child;

164 (d) If the person violates Section 1 of this act;

165 ( \* \* \*e) Any person, upon conviction under paragraph  
166 (a) or (c) of this subsection, shall be sentenced by the court to  
167 imprisonment in the custody of the Department of Corrections for a  
168 term of not less than five (5) years and up to life, as determined  
169 by the court. Any person, upon conviction under paragraph (b) of  
170 this subsection shall be sentenced by the court to imprisonment in  
171 the custody of the Department of Corrections for a term of not  
172 less than two (2) years nor more than ten (10) years, as



173 determined by the court. For any second or subsequent conviction  
174 under this subsection (2), the person shall be sentenced to  
175 imprisonment for life \* \* \*;

176 ( \* \* \*f) For the purposes of this subsection (2),  
177 "bodily harm" means any bodily injury to a child and includes, but  
178 is not limited to, bruising, bleeding, lacerations, soft tissue  
179 swelling, and external or internal swelling of any body  
180 organ \* \* \*;

181 ( \* \* \*g) For the purposes of this subsection (2),  
182 "serious bodily harm" means any serious bodily injury to a child  
183 and includes, but is not limited to, the fracture of a bone,  
184 permanent disfigurement, permanent scarring, or any internal  
185 bleeding or internal trauma to any organ, any brain damage, any  
186 injury to the eye or ear of a child or other vital organ, and  
187 impairment of any bodily function \* \* \*;

188 ( \* \* \*h) Nothing contained in paragraph (c) of this  
189 subsection shall preclude a parent or guardian from disciplining a  
190 child of that parent or guardian, or shall preclude a person in  
191 loco parentis to a child from disciplining that child, if done in  
192 a reasonable manner, and reasonable corporal punishment or  
193 reasonable discipline as to that parent or guardian's child or  
194 child to whom a person stands in loco parentis shall be a defense  
195 to any violation charged under paragraph (c) of this  
196 subsection \* \* \*;





197           ( \* \* \*i) Reasonable discipline and reasonable corporal  
198 punishment shall not be a defense to acts described in paragraphs  
199 (a) and (b) of this subsection or if a child suffers serious  
200 bodily harm as a result of any act prohibited under paragraph (c)  
201 of this subsection.

202           (3) Nothing contained in this section shall prevent  
203 proceedings against the parent, guardian or other person under any  
204 statute of this state or any municipal ordinance defining any act  
205 as a crime or misdemeanor. Nothing in the provisions of this  
206 section shall preclude any person from having a right to trial by  
207 jury when charged with having violated the provisions of this  
208 section.

209           (4) (a) A parent, legal guardian or caretaker who endangers  
210 a child's person or health by knowingly causing or permitting the  
211 child to be present where any person is selling, manufacturing or  
212 possessing immediate precursors or chemical substances with intent  
213 to manufacture, sell or possess a controlled substance as  
214 prohibited under Section 41-29-139 or 41-29-313, is guilty of  
215 child endangerment and may be sentenced to imprisonment for not  
216 more than ten (10) years or to payment of a fine of not more than  
217 Ten Thousand Dollars (\$10,000.00), or both.

218           (b) If the endangerment results in substantial harm to  
219 the child's physical, mental or emotional health, the person may  
220 be sentenced to imprisonment for not more than twenty (20) years



221 or to payment of a fine of not more than Twenty Thousand Dollars  
222 (\$20,000.00), or both.

223 (5) Nothing contained in this section shall prevent  
224 proceedings against the parent, guardian or other person under any  
225 statute of this state or any municipal ordinance defining any act  
226 as a crime or misdemeanor. Nothing in the provisions of this  
227 section shall preclude any person from having a right to trial by  
228 jury when charged with having violated the provisions of this  
229 section.

230 (6) After consultation with the Department of Human  
231 Services, a regional mental health center or an appropriate  
232 professional person, a judge may suspend imposition or execution  
233 of a sentence provided in subsections (1) and (2) of this section  
234 and in lieu thereof require treatment over a specified period of  
235 time at any approved public or private treatment facility. A  
236 person may be eligible for treatment in lieu of criminal penalties  
237 no more than one (1) time.

238 (7) In any proceeding resulting from a report made pursuant  
239 to Section 43-21-353 of the Youth Court Law, the testimony of the  
240 physician making the report regarding the child's injuries or  
241 condition or cause thereof shall not be excluded on the ground  
242 that the physician's testimony violates the physician-patient  
243 privilege or similar privilege or rule against disclosure. The  
244 physician's report shall not be considered as evidence unless  
245 introduced as an exhibit to his testimony.



246 (8) Any criminal prosecution arising from a violation of  
247 this section shall be tried in the circuit, county, justice or  
248 municipal court having jurisdiction; provided, however, that  
249 nothing herein shall abridge or dilute the contempt powers of the  
250 youth court.

251 **SECTION 3.** Section 93-15-121, Mississippi Code of 1972, is  
252 amended as follows:

253 93-15-121. Any of the following, if established by clear and  
254 convincing evidence, may be grounds for termination of the  
255 parent's parental rights if reunification between the parent and  
256 child is not desirable toward obtaining a satisfactory permanency  
257 outcome:

258 (a) The parent has been medically diagnosed by a  
259 qualified mental health professional with a severe mental illness  
260 or deficiency that is unlikely to change in a reasonable period of  
261 time and which, based upon expert testimony or an established  
262 pattern of behavior, makes the parent unable or unwilling to  
263 provide an adequate permanent home for the child;

264 (b) The parent has been medically diagnosed by a  
265 qualified health professional with an extreme physical  
266 incapacitation that is unlikely to change in a reasonable period  
267 of time and which, based upon expert testimony or an established  
268 pattern of behavior, prevents the parent, despite reasonable  
269 accommodations, from providing minimally acceptable care for the  
270 child;



271 (c) The parent is suffering from habitual alcoholism or  
272 other drug addiction and has failed to successfully complete  
273 alcohol or drug treatment;

274 (d) The parent is unwilling to provide reasonably  
275 necessary food, clothing, shelter, or medical care for the child;  
276 reasonably necessary medical care does not include recommended or  
277 optional vaccinations against childhood or any other disease;

278 (e) The parent has failed to exercise reasonable  
279 visitation or communication with the child;

280 (f) The parent's abusive or neglectful conduct has  
281 caused, at least in part, an extreme and deep-seated antipathy by  
282 the child toward the parent, or some other substantial erosion of  
283 the relationship between the parent and the child;

284 (g) The parent has committed an abusive act for which  
285 reasonable efforts to maintain the children in the home would not  
286 be required under Section 43-21-603, or a series of physically,  
287 mentally, or emotionally abusive incidents, against the child or  
288 another child, whether related by consanguinity or affinity or  
289 not, making future contacts between the parent and child  
290 undesirable; or

291 (h) (i) The parent has been convicted of any of the  
292 following offenses against any child:

- 293 1. Rape of a child under Section 97-3-65;  
294 2. Sexual battery of a child under Section  
295 97-3-95(c);



- 296                   3. Touching a child for lustful purposes  
297 under Section 97-5-23;
- 298                   4. Exploitation of a child under Sections  
299 97-5-31 through 97-5-37;
- 300                   5. Felonious abuse or battery of a child  
301 under Section 97-5-39(2);
- 302                   6. Carnal knowledge of a step or adopted  
303 child or a child of a cohabitating partner under Section 97-5-41;  
304 or
- 305                   7. Human trafficking of a child under Section  
306 97-3-54.1; or
- 307                   (ii) The parent has been convicted of:
- 308                   1. Murder or voluntary manslaughter of  
309 another child of the parent;
- 310                   2. Aiding, abetting, attempting, conspiring  
311 or soliciting to commit murder or voluntary manslaughter of the  
312 child or another child of the parent; \* \* \*
- 313                   3. A felony assault that results in the  
314 serious bodily injury to the child or another child of the  
315 parent \* \* \*; or
- 316                   4. Violating Section 1 of this act.

317           **SECTION 4.** Section 11-1-60, Mississippi Code of 1972, is  
318 amended as follows:



319 11-1-60. (1) For the purposes of this section, the  
320 following words and phrases shall have the meanings ascribed  
321 herein unless the context clearly requires otherwise:

322 (a) "Noneconomic damages" means subjective,  
323 nonpecuniary damages arising from death, pain, suffering,  
324 inconvenience, mental anguish, worry, emotional distress, loss of  
325 society and companionship, loss of consortium, bystander injury,  
326 physical impairment, disfigurement, injury to reputation,  
327 humiliation, embarrassment, loss of the enjoyment of life, hedonic  
328 damages, other nonpecuniary damages, and any other theory of  
329 damages such as fear of loss, illness or injury. The term  
330 "noneconomic damages" shall not include punitive or exemplary  
331 damages.

332 (b) "Actual economic damages" means objectively  
333 verifiable pecuniary damages arising from medical expenses and  
334 medical care, rehabilitation services, custodial care,  
335 disabilities, loss of earnings and earning capacity, loss of  
336 income, burial costs, loss of use of property, costs of repair or  
337 replacement of property, costs of obtaining substitute domestic  
338 services, loss of employment, loss of business or employment  
339 opportunities, and other objectively verifiable monetary losses.

340 (2) Except as provided in paragraph (d) of this subsection  
341 (2):

342 (a) In any cause of action filed on or after September  
343 1, 2004, for injury based on malpractice or breach of standard of



344 care against a provider of health care, including institutions for  
345 the aged or infirm, in the event the trier of fact finds the  
346 defendant liable, they shall not award the plaintiff more than  
347 Five Hundred Thousand Dollars (\$500,000.00) for noneconomic  
348 damages.

349 (b) In any civil action filed on or after September 1,  
350 2004, other than those actions described in paragraph (a) of this  
351 subsection, in the event the trier of fact finds the defendant  
352 liable, they shall not award the plaintiff more than One Million  
353 Dollars (\$1,000,000.00) for noneconomic damages.

354 It is the intent of this section to limit all noneconomic  
355 damages to the above.

356 (c) The trier of fact shall not be advised of the  
357 limitations imposed by this subsection (2) and the judge shall  
358 appropriately reduce any award of noneconomic damages that exceeds  
359 the applicable limitation.

360 (d) The limitations of paragraphs (a) and (b) of this  
361 subsection (2) shall not apply to any cause of action brought  
362 under Section 1 of this act.

363 (3) Nothing contained in subsection (1) of this section  
364 shall be construed as creating a cause of action or as setting  
365 forth elements of or types of damages that are or are not  
366 recoverable in any type of cause of action.

367 **SECTION 5.** Section 11-46-15, Mississippi Code of 1972, is  
368 amended as follows:



369 11-46-15. (1) In any claim or suit for damages against a  
370 governmental entity or its employee brought under the provisions  
371 of this chapter, the liability shall not exceed the following for  
372 all claims arising out of a single occurrence for all damages  
373 permitted under this chapter:

374 (a) For claims or causes of action arising from acts or  
375 omissions occurring on or after July 1, 1993, but before July 1,  
376 1997, the sum of Fifty Thousand Dollars (\$50,000.00);

377 (b) For claims or causes of action arising from acts or  
378 omissions occurring on or after July 1, 1997, but before July 1,  
379 2001, the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00);

380 (c) For claims or causes of action arising from acts or  
381 omissions occurring on or after July 1, 2001, the sum of Five  
382 Hundred Thousand Dollars (\$500,000.00), except that this limit  
383 shall not apply to a cause of action brought under Section 1 of  
384 this act.

385 (2) No judgment against a governmental entity or its  
386 employee for any act or omission for which immunity is waived  
387 under this chapter shall include an award for exemplary or  
388 punitive damages or for interest prior to judgment, or an award of  
389 attorney's fees unless attorney's fees are specifically authorized  
390 by law.

391 (3) Except as otherwise provided in Section 11-46-17(4), in  
392 any suit brought under the provisions of this chapter, if the  
393 verdict which is returned, when added to costs and any attorney's





394 fees authorized by law, would exceed the maximum dollar amount of  
395 liability provided in subsection (1) of this section, the court  
396 shall reduce the verdict accordingly and enter judgment in an  
397 amount not to exceed the maximum dollar amount of liability  
398 provided in subsection (1) of this section.

399       **SECTION 6.** Section 15-1-35, Mississippi Code of 1972, is  
400 amended as follows:

401       15-1-35. All actions for assault, assault and battery,  
402 maiming, false imprisonment, malicious arrest, or menace, and all  
403 actions for slanderous words concerning the person or title, for  
404 failure to employ, and for libels, shall be commenced within one  
405 (1) year next after the cause of such action accrued, and not  
406 after, except that an action founded on a violation of Section 1  
407 of this act shall be commenced within ten (10) years next after  
408 the cause of such action accrued.

409       **SECTION 7.** This act shall take effect and be in force from  
410 and after July 1, 2019.

