

By: Representative Anderson (110th)

To: Judiciary A;
Constitution

HOUSE BILL NO. 764

1 AN ACT TO CREATE THE MISSISSIPPI CIVIL RIGHTS ACT; TO PROVIDE
2 THAT THE RIGHT OF A PERSON TO BE FREE FROM DISCRIMINATION BECAUSE
3 OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, IMMIGRANT STATUS, SEX,
4 SEXUAL ORIENTATION, GENDER IDENTITY, DISABILITY OR FAMILIAL STATUS
5 IS A CIVIL RIGHT; TO AMEND SECTIONS 25-9-149, 43-33-723 AND
6 13-5-2, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
7 PROVISIONS; AND FOR RELATED PURPOSES.

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

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

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

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

17 (i) Compulsive gambling, kleptomania, or
18 pyromania;

19 (ii) Current use of illegal drugs or psychoactive
20 substance use disorder resulting from illegal use of drugs; and



21 (iii) Alcoholism.

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

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

28 (i) An individual employed by his or her parents,
29 spouse, or child;

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

33 (iii) An individual employed outside of this
34 state.

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

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

42 (i) A parent or another person having legal
43 custody of the individual or individuals; or



44 (ii) The designee of the parent or other person
45 having custody, with the written permission of the parent or other
46 person.

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

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

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

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

63 (j) "Place of public resort, accommodation, assemblage,
64 or amusement" means any place, store, or other establishment,
65 either licensed or unlicensed, that supplies accommodations,
66 goods, or services to the general public, or that solicits or
67 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



93 such employee lawfully speaks or engages in expressive conduct
94 based upon or in a manner consistent with the employee's sincerely
95 held religious or moral beliefs and commitments:

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

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

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

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

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

114 (d) The right to engage in credit and other contractual
115 transactions without discrimination.



116 (e) The right to the full enjoyment of any of the
117 accommodations, advantages, facilities, or privileges of an
118 educational institution without discrimination.

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

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

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

135 (b) In addition to the remedies under paragraph (a)(i)
136 of this subsection, any individual who is injured by intentional
137 discrimination by an employer in violation of subsection (1)(a) of
138 this section shall be entitled to recover compensatory damages and
139 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



165 against because of children, in admission to, or continuance of
166 occupancy in, any housing project receiving assistance under this
167 article except for any housing project constructed under a program
168 restricting occupancy to persons sixty-two (62) years of age or
169 older and any directors of their immediate households or their
170 occupant surviving spouses.

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

173 13-5-2. It is the policy of this state that all persons
174 selected for jury service be selected at random from a fair cross
175 section of the population of the area served by the court, and
176 that all qualified citizens have the opportunity in accordance
177 with this chapter to be considered for jury service in this state
178 and an obligation to serve as jurors when summoned for that
179 purpose. A citizen shall not be excluded from jury service in
180 this state on account of race, color, religion, sex, national
181 origin, * * * economic status, sexual orientation, gender identity
182 or physical disability.

183 **SECTION 6.** This act shall take effect and be in force from
184 and after July 1, 2020.

