

By: Representative Carpenter (By Request)

To: Accountability,
Efficiency, Transparency;
Judiciary A

HOUSE BILL NO. 797

1 AN ACT TO AMEND SECTION 25-41-7, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE REASONS A PUBLIC BODY MAY HOLD AN EXECUTIVE SESSION
3 UNDER THE OPEN MEETINGS ACT TO INCLUDE TRANSACTION OF BUSINESS AND
4 DISCUSSIONS BY THE BOARDS OF TRUSTEES OF PUBLIC HOSPITALS
5 REGARDING CERTAIN PROSPECTIVE STRATEGIC BUSINESS DECISIONS OF
6 PUBLIC HOSPITALS; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 25-41-7, Mississippi Code of 1972, is
9 amended as follows:

10 25-41-7. (1) Any public body may enter into executive
11 session for the transaction of public business; however, all
12 meetings of any public body shall commence as an open meeting, and
13 an affirmative vote of three-fifths (3/5) of all members present
14 shall be required to declare an executive session.

15 (2) The procedure to be followed by any public body in
16 declaring an executive session shall be as follows: Any member
17 shall have the right to request by motion a closed determination
18 upon the issue of whether or not to declare an executive session.
19 The motion, by majority vote, shall require the meeting to be
20 closed for a preliminary determination of the necessity for



21 executive session. No other business shall be transacted until
22 the discussion of the nature of the matter requiring executive
23 session has been completed and a vote, as required in subsection
24 (1) hereof, has been taken on the issue.

25 (3) An executive session shall be limited to matters allowed
26 to be exempted from open meetings by subsection (4) of this
27 section. The reason for holding an executive session shall be
28 stated in an open meeting, and the reason so stated shall be
29 recorded in the minutes of the meeting. Nothing in this section
30 shall be construed to require that any meeting be closed to the
31 public, nor shall any executive session be used to circumvent or
32 to defeat the purposes of this chapter.

33 (4) A public body may hold an executive session pursuant to
34 this section for one or more of the following reasons:

35 (a) Transaction of business and discussion of personnel
36 matters relating to the job performance, character, professional
37 competence, or physical or mental health of a person holding a
38 specific position, or matters relating to the terms of any
39 potential or current employment or services agreement with any
40 physicians or other employees of public hospitals, including any
41 discussion of any person applying for medical staff privileges or
42 membership with a public hospital.

43 (b) Strategy sessions or negotiations with respect to
44 prospective litigation, litigation or issuance of an appealable



order when an open meeting would have a detrimental effect on the
litigating position of the public body.

(c) Transaction of business and discussion regarding
the report, development or course of action regarding security
personnel, plans or devices.

(d) Investigative proceedings by any public body
regarding allegations of misconduct or violation of law.

(e) Any body of the Legislature which is meeting on
matters within the jurisdiction of that body.

(f) Cases of extraordinary emergency which would pose
immediate or irrevocable harm or damage to persons or property, or
both, within the jurisdiction of the public body.

(g) Transaction of business and discussion regarding
the prospective purchase, sale or leasing of lands.

(h) Discussions between a school board and individual
students who attend a school within the jurisdiction of the school
board or the parents or teachers of the students regarding
problems of the students or their parents or teachers.

(i) Transaction of business and discussion concerning
the preparation of tests for admission to practice in recognized
professions.

(j) Transaction of business and discussions or
negotiations regarding the location, relocation or expansion of a
business, medical service or an industry.



69 (k) Transaction of business and discussions regarding
70 employment or job performance of a person in a specific position
71 or termination of an employee holding a specific position. The
72 exemption provided by this paragraph includes transaction of
73 business and discussion in executive session by the board of
74 trustees of a public hospital regarding any employee or medical
75 staff member or applicant for medical staff privileges and any
76 such individual's credentialing, health, performance, salary,
77 raises or disciplinary action. The exemption provided by this
78 paragraph includes the right to enter into executive session
79 concerning a line item in a budget which might affect the
80 termination of an employee or employees. All other budget items
81 shall be considered in open meetings and final budgetary adoption
82 shall not be taken in executive session.

83 (l) Discussions regarding material or data exempt from
84 the Mississippi Public Records Act of 1983 pursuant to Section
85 25-11-121.

86 (m) Transaction of business and discussion by the
87 boards of public trustees of public hospitals, or a committee
88 thereof, regarding prospective strategic business decisions of
89 public hospitals, including without limitation, decisions to open
90 a new service line, implement capital improvements, or file
91 applications for certificates of need or determinations of
92 nonreviewability with the State Department of Health.



93 (n) Transaction of business of the boards of trustees
94 of public hospitals that would require discussion of any
95 identifiable patient information, including without limitation,
96 patient complaints, patients' accounts, patients receiving charity
97 care, or treatment that could be identified to a patient.

98 (5) The total vote on the question of entering into an
99 executive session shall be recorded and spread upon the minutes of
100 the public body.

101 (6) Any vote whereby an executive session is declared shall
102 be applicable only to that particular meeting on that particular
103 day.

104 **SECTION 2.** This act shall take effect and be in force from
105 and after July 1, 2020.

