

By: Representatives Hobgood-Wilkes, Boyd,
Calvert, Carpenter, Currie, Ford (73rd),
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To: Constitution

HOUSE BILL NO. 689

1 AN ACT TO ESTABLISH THE "FORMING OPEN AND ROBUST UNIVERSITY
2 MINDS (FORUM) ACT," AS IT RELATES TO FREEDOM OF SPEECH ON THE
3 CAMPUSES OF STATE INSTITUTIONS OF HIGHER LEARNING; TO PROHIBIT A
4 STATE INSTITUTION OF HIGHER LEARNING FROM DENYING A RELIGIOUS,
5 POLITICAL OR IDEOLOGICAL STUDENT ORGANIZATION A BENEFIT OR
6 PRIVILEGE AVAILABLE TO ANOTHER STUDENT ORGANIZATION, OR OTHERWISE
7 DISCRIMINATE AGAINST SUCH AN ORGANIZATION, BASED ON THE EXPRESSION
8 OF THE ORGANIZATION; TO REQUIRE STATE INSTITUTIONS OF HIGHER
9 LEARNING TO DEVELOP AND MAKE AVAILABLE MATERIALS EXPLAINING THE
10 POLICY FOR CAMPUS STAFF AND STUDENTS; TO REQUIRE STATE
11 INSTITUTIONS OF HIGHER LEARNING TO SUBMIT A YEARLY REPORT
12 DETAILING THE COURSE OF ACTION IMPLEMENTED TO COMPLY WITH THE
13 POLICY; TO PRESCRIBE A ONE-YEAR STATUTE OF LIMITATIONS FOR ACTIONS
14 BROUGHT UNDER THIS ACT; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** This act shall be known and may be cited as the
17 "Forming Open and Robust University Minds (FORUM) Act."

18 **SECTION 2.** As used in this act, the following terms shall
19 have the meaning ascribed in this section, unless context of use
20 clearly requires otherwise:

21 (a) "Benefit" means the following:

22 (i) Recognition;

23 (ii) Registration;



(iii) The use of facilities of the institution of higher education for meetings or speaking purposes;

(iv) The use of channels of communication; and

(v) Funding sources that are otherwise available to other student organizations at the state institution of higher learning.

(b) "Campus community" includes students, administrators, faculty and staff at the institution of higher education and their invited guests.

(c) "Harassment" shall mean only that expression that is unwelcome, so severe, pervasive, and subjectively and objectively offensive, that a student is effectively denied equal access to educational opportunities or benefits provided by the state institution of higher learning.

(d) "Materially and substantially disrupts" means when a person, with the intent to or with knowledge of doing so, significantly hinders another person's or group's expressive activity, prevents the communication of the message, or prevents the transaction of the business of a lawful meeting, gathering or procession by:

(i) Engaging in fighting, violent, or other unlawful behavior; or

(ii) Physically blocking or using threats of violence to prevent any person from attending, listening to, viewing, or otherwise participating in an expressive activity.



49 Conduct that "materially disrupts" shall not include conduct that
50 is protected under the First Amendment to the United States
51 Constitution or Section 14, Mississippi Constitution of 1890.
52 Such protected conduct includes, but is not limited to, lawful
53 protests in the outdoor areas of campus generally accessible to
54 the members of the public (except during times when those areas
55 have been reserved in advance for other events), or minor, brief,
56 or fleeting nonviolent disruptions of events that are isolated and
57 short in duration.

58 (e) "Outdoor areas of campus" means the generally
59 accessible outside areas of campus where members of the campus
60 community are commonly allowed, such as grassy areas, walkways or
61 other similar common areas and does not include outdoor areas
62 where access is restricted from a majority of the campus
63 community.

64 (f) "State institution of higher learning" means any
65 public technical institute, public junior college, public senior
66 college or university, law school, medical or dental school,
67 public state college, or other agency of higher education.

68 (g) "Student" means any person who is enrolled on a
69 full-time or part-time basis in a state institution of higher
70 learning.

71 (h) "Student organization" means an officially
72 recognized group at a state institution of higher learning, or a
73 group seeking official recognition, comprised of admitted students



74 that receive, or are seeking to receive, benefits through the
75 institution of higher education as defined in this section.

76 **SECTION 3.** Expressive activities protected under the
77 provisions of this act include, but are not limited to, any lawful
78 verbal, written, audio-visual or electronic means by which
79 individuals may communicate ideas to one another, including all
80 forms of peaceful assembly, protests, speeches and guest speakers,
81 distribution of literature, carrying signs and circulating
82 petitions.

83 **SECTION 4.** The outdoor areas of campuses of state
84 institutions of higher learning in this state shall be deemed
85 public forums for the campus community, and state institutions of
86 higher learning shall not create "free speech zones" or other
87 designated areas of campus outside of which expressive activities
88 are prohibited. State institutions of higher learning may
89 maintain and enforce reasonable time, place and manner
90 restrictions narrowly tailored in service of a significant
91 institutional interest only when such restrictions employ clear,
92 published, content- and viewpoint-neutral criteria, and provide
93 for ample alternative means of expression. Any such restrictions
94 shall allow for members of the campus community to spontaneously
95 and contemporaneously assemble and distribute literature. The
96 public forum protections provided in this section apply only to
97 expressive activities.



98 Nothing in this section shall be interpreted as limiting the
99 right of student expression elsewhere on campus.

100 **SECTION 5.** (1) Any person who wishes to engage in
101 noncommercial expressive activity on campus shall be permitted to
102 do so freely, as long as the person's conduct is not unlawful and
103 does not materially and substantially disrupt the functioning of
104 the state institution of higher learning, subject only to the
105 requirements of Section 4 of this act.

106 (2) Nothing in this act shall prohibit state institutions of
107 higher learning from maintaining and enforcing reasonable time,
108 place and manner restrictions that are narrowly tailored to serve
109 a significant institutional interest only when such restrictions
110 employ clear, published, content- and viewpoint-neutral criteria.
111 Any such restrictions shall allow for members of the campus
112 community to spontaneously and contemporaneously assemble, speak
113 and distribute literature.

114 (3) Nothing in this act shall be interpreted as preventing
115 state institutions of higher learning from prohibiting, limiting,
116 or restricting expression that the First Amendment does not
117 protect (e.g. true threats, expression directed to provoke
118 imminent lawless actions and expression inciting others to commit
119 unlawful activity) or prohibit harassment as defined in Section 2
120 of this act.

121 (4) Nothing in this act shall enable individuals to engage
122 in conduct that intentionally, materially, and substantially



disrupts another's expressive activity if that activity is occurring in a campus space reserved for that activity under the exclusive use or control of a particular group.

SECTION 6. No state institution of higher learning may deny a religious, political or ideological student organization any benefit or privilege available to any other student organization, or otherwise discriminate against such an organization, based on the expression of the organization, including any requirement that the leaders or members of such organization:

(a) Affirm and adhere to the organization's sincerely held beliefs;

(b) Comply with the organization's standards of conduct; or

(c) Further the organization's mission or purpose, as defined by the student organization.

SECTION 7. State institutions of higher learning shall make public in their handbooks, on their websites, and through their orientation programs for students the policies, regulations and expectations of students regarding free expression on campus consistent with this act.

SECTION 8. State institutions of higher learning shall develop materials, programs and procedures to ensure that those persons who have responsibility for discipline or education of students, such as administrators, campus police officers, residence life officials, and professors, understand the policies,



regulations and duties of state institutions of higher learning regarding free expression on campus consistent with this act.

SECTION 9. (1) Each state institution of higher learning shall publicly post on their website, as well as annually submit to the Governor and Legislature, by December 1 of each year, a report which will detail the course of action implemented to be in compliance with the requirements of this act. A report shall also be given in the instance of any changes or updates to the chosen course of action. The information required in the report must be:

(a) Accessible from the institution's Internet website home page by use of not more than three (3) links;

(b) Searchable by keywords and phrases; and

(c) Accessible to the public without requiring registration or use of a user name, a password or another user identification.

(2) The report shall include:

(a) (i) A description of any barriers to or incidents of disruption of free expression occurring on campus, including, but not limited to, attempts to block or prohibit speakers and investigations into students or student organizations for their speech; and

(ii) The description shall include the nature of each barrier or incident, as well as what disciplinary action, if any, was taken against members of the campus community determined to be responsible for those specific barriers or incidents. The



description of any barrier, incident or disciplinary action shall be reported without revealing those students' personally identifiable information; and

(b) Any other information each state institution of higher learning deems valuable for the public to evaluate whether free expression rights for all members of the campus community have been equally protected and enforced consistent with this act.

(3) If a state institution of higher learning is sued for an alleged violation of First Amendment rights, a supplementary report with a copy of the complaint, or any amended complaint, must be submitted to the Governor and Legislature within thirty (30) days.

SECTION 10. Any person or student association aggrieved by a violation of this act may bring an action against the state institution of higher learning and its employees acting in their official capacities, responsible for the violation and seek appropriate relief, including, but not limited to, injunctive relief, monetary damages, reasonable attorneys' fees and court costs. If a court should find a violation of this act, it shall issue an award of at least Five Thousand Dollars (\$5,000.00). Any person or student organization aggrieved by a violation of this act may assert such violation as a defense or counter claim in any disciplinary action or in any civil or administrative proceedings brought against such student or student organization. Nothing in



197 this section shall be interpreted to limit any other remedies
198 available to any person or student organization.

199 **SECTION 11.** A person shall be required to bring suit for
200 violation of this act not later than one (1) year after the day
201 the cause of action accrues. For purposes of calculating the
202 one-year limitation period, each day that the violation persists,
203 and each day that a policy in violation of this act remains in
204 effect, shall constitute a new day that the cause of action has
205 accrued.

206 **SECTION 12.** If any provision of this act or any application
207 of such provision to any person or circumstance is held to be
208 unconstitutional, the remainder of this act and the application of
209 the provision to any other person or circumstance shall not be
210 affected.

211 **SECTION 13.** This act shall take effect and be in force from
212 and after July 1, 2021.

