

By: Representative Williams-Barnes

To: Workforce Development;
Public Health and Human
Services

HOUSE BILL NO. 1260

1 AN ACT TO CREATE THE "2021 WOMEN'S ECONOMIC SECURITY ACT"; TO
2 REQUIRE MINIMUM SPENDING LEVELS ON THE CHILD CARE PAYMENT PROGRAM
3 (CCPP) FROM THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)
4 BLOCK GRANT; TO AMEND SECTION 43-13-115, MISSISSIPPI CODE OF 1972,
5 TO REVISE MEDICAID ELIGIBILITY TO INCLUDE THOSE INDIVIDUALS WHO
6 ARE ENTITLED TO BENEFITS UNDER THE FEDERAL PATIENT PROTECTION AND
7 AFFORDABLE CARE ACT OF 2010 (ACA) BEGINNING JULY 1, 2021; TO AMEND
8 SECTION 43-13-117, MISSISSIPPI CODE OF 1972, TO INCLUDE ESSENTIAL
9 HEALTH BENEFITS FOR INDIVIDUALS ELIGIBLE FOR MEDICAID UNDER THE
10 FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT OF 2010 (ACA);
11 TO AMEND SECTION 37-153-7, MISSISSIPPI CODE OF 1972, TO EXPAND THE
12 MISSISSIPPI STATE WORKFORCE INVESTMENT BOARD TO INCLUDE A WOMAN
13 WITH EXPERTISE IN ASSISTING WOMEN IN JOB TRAINING AND SECURING
14 EMPLOYMENT IN NONTRADITIONAL OCCUPATIONS; TO AMEND SECTION
15 7-1-355, MISSISSIPPI CODE OF 1972, TO REQUIRE THE MISSISSIPPI
16 DEPARTMENT OF EMPLOYMENT SECURITY TO ACHIEVE GENDER EQUITY IN THE
17 WORKFORCE INVESTMENT ACT OR WORKFORCE INNOVATION OPPORTUNITY ACT
18 WORKFORCE DEVELOPMENT SYSTEM; TO REQUIRE CERTAIN INFORMATION TO BE
19 INCLUDED IN AN ANNUAL REPORT TO THE LEGISLATURE; TO REQUIRE EQUAL
20 PAY CERTIFICATES OF COMPLIANCE; TO CREATE WOMEN AND HIGH-WAGE,
21 HIGH-DEMAND, NONTRADITIONAL JOBS GRANT PROGRAM; TO ESTABLISH THE
22 MISSISSIPPI PAID FAMILY LEAVE ACT; TO PROHIBIT DISCRIMINATION IN
23 EMPLOYMENT BASED ON PREGNANCY, CHILDBIRTH, OR A RELATED CONDITION;
24 TO PROVIDE FOR PAID SICK AND SAFE LEAVE TIME; TO INCREASE THE
25 STATE MINIMUM WAGE; TO AMEND SECTIONS 17-1-51 AND 25-3-40,
26 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS
27 ACT; TO ENACT THE EVELYN GANDY FAIR PAY ACT; AND FOR RELATED
28 PURPOSES.

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

30 **SECTION 1.** This act shall be known and may be cited as the
31 "2021 Mississippi Women's Economic Security Act."



32 **SECTION 2.** (1) This section shall be known and cited as the
33 "Mississippi Affordable Child Care Act."

34 (2) Each federal fiscal year, the Mississippi Department
35 of Human Services (MDHS) and/or any state agency receiving and
36 administering the federal Temporary Assistance for Needy Families
37 (TANF) Block Grant shall spend no less than Twenty Million Dollars
38 (\$20,000,000.00) of federal TANF funds and/or state TANF
39 Maintenance of Effort (MOE) funds on the Child Care Payment
40 Program (CCPP). The Mississippi Department of Human Services
41 (MDHS) and/or any state agency receiving and administering the
42 federal TANF Block Grant shall transfer no less than twenty
43 percent (20%) of the state's fixed basic block grant amount for
44 its annual TANF Block Grant to the Child Care and Development Fund
45 (CCDF) for purposes of serving eligible families through the Child
46 Care Payment Program (CCPP).

47 **SECTION 3.** Section 43-13-115, Mississippi Code of 1972, is
48 amended as follows:

49 43-13-115. Recipients of Medicaid shall be the following
50 persons only:

51 (1) Those who are qualified for public assistance
52 grants under provisions of Title IV-A and E of the federal Social
53 Security Act, as amended, including those statutorily deemed to be
54 IV-A and low-income families and children under Section 1931 of
55 the federal Social Security Act. For the purposes of this
56 paragraph (1) and paragraphs (8), (17) and (18) of this section,



57 any reference to Title IV-A or to Part A of Title IV of the
58 federal Social Security Act, as amended, or the state plan under
59 Title IV-A or Part A of Title IV, shall be considered as a
60 reference to Title IV-A of the federal Social Security Act, as
61 amended, and the state plan under Title IV-A, including the income
62 and resource standards and methodologies under Title IV-A and the
63 state plan, as they existed on July 16, 1996. The Department of
64 Human Services shall determine Medicaid eligibility for children
65 receiving public assistance grants under Title IV-E. The division
66 shall determine eligibility for low-income families under Section
67 1931 of the federal Social Security Act and shall redetermine
68 eligibility for those continuing under Title IV-A grants.

69 (2) Those qualified for Supplemental Security Income
70 (SSI) benefits under Title XVI of the federal Social Security Act,
71 as amended, and those who are deemed SSI eligible as contained in
72 federal statute. The eligibility of individuals covered in this
73 paragraph shall be determined by the Social Security
74 Administration and certified to the Division of Medicaid.

75 (3) Qualified pregnant women who would be eligible for
76 Medicaid as a low-income family member under Section 1931 of the
77 federal Social Security Act if her child were born. The
78 eligibility of the individuals covered under this paragraph shall
79 be determined by the division.

80 (4) [Deleted]



81 (5) A child born on or after October 1, 1984, to a
82 woman eligible for and receiving Medicaid under the state plan on
83 the date of the child's birth shall be deemed to have applied for
84 Medicaid and to have been found eligible for Medicaid under the
85 plan on the date of that birth, and will remain eligible for
86 Medicaid for a period of one (1) year so long as the child is a
87 member of the woman's household and the woman remains eligible for
88 Medicaid or would be eligible for Medicaid if pregnant. The
89 eligibility of individuals covered in this paragraph shall be
90 determined by the Division of Medicaid.

91 (6) Children certified by the State Department of Human
92 Services to the Division of Medicaid of whom the state and county
93 departments of human services have custody and financial
94 responsibility, and children who are in adoptions subsidized in
95 full or part by the Department of Human Services, including
96 special needs children in non-Title IV-E adoption assistance, who
97 are approvable under Title XIX of the Medicaid program. The
98 eligibility of the children covered under this paragraph shall be
99 determined by the State Department of Human Services.

100 (7) Persons certified by the Division of Medicaid who
101 are patients in a medical facility (nursing home, hospital,
102 tuberculosis sanatorium or institution for treatment of mental
103 diseases), and who, except for the fact that they are patients in
104 that medical facility, would qualify for grants under Title IV,
105 Supplementary Security Income (SSI) benefits under Title XVI or



106 state supplements, and those aged, blind and disabled persons who
107 would not be eligible for Supplemental Security Income (SSI)
108 benefits under Title XVI or state supplements if they were not
109 institutionalized in a medical facility but whose income is below
110 the maximum standard set by the Division of Medicaid, which
111 standard shall not exceed that prescribed by federal regulation.

112 (8) Children under eighteen (18) years of age and
113 pregnant women (including those in intact families) who meet the
114 financial standards of the state plan approved under Title IV-A of
115 the federal Social Security Act, as amended. The eligibility of
116 children covered under this paragraph shall be determined by the
117 Division of Medicaid.

118 (9) Individuals who are:

119 (a) Children born after September 30, 1983, who
120 have not attained the age of nineteen (19), with family income
121 that does not exceed one hundred percent (100%) of the nonfarm
122 official poverty level;

123 (b) Pregnant women, infants and children who have
124 not attained the age of six (6), with family income that does not
125 exceed one hundred thirty-three percent (133%) of the federal
126 poverty level; and

127 (c) Pregnant women and infants who have not
128 attained the age of one (1), with family income that does not
129 exceed one hundred eighty-five percent (185%) of the federal
130 poverty level.



131 The eligibility of individuals covered in (a), (b) and (c) of
132 this paragraph shall be determined by the division.

133 (10) Certain disabled children age eighteen (18) or
134 under who are living at home, who would be eligible, if in a
135 medical institution, for SSI or a state supplemental payment under
136 Title XVI of the federal Social Security Act, as amended, and
137 therefore for Medicaid under the plan, and for whom the state has
138 made a determination as required under Section 1902(e)(3)(b) of
139 the federal Social Security Act, as amended. The eligibility of
140 individuals under this paragraph shall be determined by the
141 Division of Medicaid.

142 (11) Until the end of the day on December 31, 2005,
143 individuals who are sixty-five (65) years of age or older or are
144 disabled as determined under Section 1614(a)(3) of the federal
145 Social Security Act, as amended, and whose income does not exceed
146 one hundred thirty-five percent (135%) of the nonfarm official
147 poverty level as defined by the Office of Management and Budget
148 and revised annually, and whose resources do not exceed those
149 established by the Division of Medicaid. The eligibility of
150 individuals covered under this paragraph shall be determined by
151 the Division of Medicaid. After December 31, 2005, only those
152 individuals covered under the 1115(c) Healthier Mississippi waiver
153 will be covered under this category.

154 Any individual who applied for Medicaid during the period
155 from July 1, 2004, through March 31, 2005, who otherwise would



156 have been eligible for coverage under this paragraph (11) if it
157 had been in effect at the time the individual submitted his or her
158 application and is still eligible for coverage under this
159 paragraph (11) on March 31, 2005, shall be eligible for Medicaid
160 coverage under this paragraph (11) from March 31, 2005, through
161 December 31, 2005. The division shall give priority in processing
162 the applications for those individuals to determine their
163 eligibility under this paragraph (11).

164 (12) Individuals who are qualified Medicare
165 beneficiaries (QMB) entitled to Part A Medicare as defined under
166 Section 301, Public Law 100-360, known as the Medicare
167 Catastrophic Coverage Act of 1988, and whose income does not
168 exceed one hundred percent (100%) of the nonfarm official poverty
169 level as defined by the Office of Management and Budget and
170 revised annually.

171 The eligibility of individuals covered under this paragraph
172 shall be determined by the Division of Medicaid, and those
173 individuals determined eligible shall receive Medicare
174 cost-sharing expenses only as more fully defined by the Medicare
175 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
176 1997.

177 (13) (a) Individuals who are entitled to Medicare Part
178 A as defined in Section 4501 of the Omnibus Budget Reconciliation
179 Act of 1990, and whose income does not exceed one hundred twenty
180 percent (120%) of the nonfarm official poverty level as defined by



181 the Office of Management and Budget and revised annually.
182 Eligibility for Medicaid benefits is limited to full payment of
183 Medicare Part B premiums.

184 (b) Individuals entitled to Part A of Medicare,
185 with income above one hundred twenty percent (120%), but less than
186 one hundred thirty-five percent (135%) of the federal poverty
187 level, and not otherwise eligible for Medicaid. Eligibility for
188 Medicaid benefits is limited to full payment of Medicare Part B
189 premiums. The number of eligible individuals is limited by the
190 availability of the federal capped allocation at one hundred
191 percent (100%) of federal matching funds, as more fully defined in
192 the Balanced Budget Act of 1997.

193 The eligibility of individuals covered under this paragraph
194 shall be determined by the Division of Medicaid.

195 (14) [Deleted]

196 (15) Disabled workers who are eligible to enroll in
197 Part A Medicare as required by Public Law 101-239, known as the
198 Omnibus Budget Reconciliation Act of 1989, and whose income does
199 not exceed two hundred percent (200%) of the federal poverty level
200 as determined in accordance with the Supplemental Security Income
201 (SSI) program. The eligibility of individuals covered under this
202 paragraph shall be determined by the Division of Medicaid and
203 those individuals shall be entitled to buy-in coverage of Medicare
204 Part A premiums only under the provisions of this paragraph (15).



205 (16) In accordance with the terms and conditions of
206 approved Title XIX waiver from the United States Department of
207 Health and Human Services, persons provided home- and
208 community-based services who are physically disabled and certified
209 by the Division of Medicaid as eligible due to applying the income
210 and deeming requirements as if they were institutionalized.

211 (17) In accordance with the terms of the federal
212 Personal Responsibility and Work Opportunity Reconciliation Act of
213 1996 (Public Law 104-193), persons who become ineligible for
214 assistance under Title IV-A of the federal Social Security Act, as
215 amended, because of increased income from or hours of employment
216 of the caretaker relative or because of the expiration of the
217 applicable earned income disregards, who were eligible for
218 Medicaid for at least three (3) of the six (6) months preceding
219 the month in which the ineligibility begins, shall be eligible for
220 Medicaid for up to twelve (12) months. The eligibility of the
221 individuals covered under this paragraph shall be determined by
222 the division.

223 (18) Persons who become ineligible for assistance under
224 Title IV-A of the federal Social Security Act, as amended, as a
225 result, in whole or in part, of the collection or increased
226 collection of child or spousal support under Title IV-D of the
227 federal Social Security Act, as amended, who were eligible for
228 Medicaid for at least three (3) of the six (6) months immediately
229 preceding the month in which the ineligibility begins, shall be



230 eligible for Medicaid for an additional four (4) months beginning
231 with the month in which the ineligibility begins. The eligibility
232 of the individuals covered under this paragraph shall be
233 determined by the division.

234 (19) Disabled workers, whose incomes are above the
235 Medicaid eligibility limits, but below two hundred fifty percent
236 (250%) of the federal poverty level, shall be allowed to purchase
237 Medicaid coverage on a sliding fee scale developed by the Division
238 of Medicaid.

239 (20) Medicaid eligible children under age eighteen (18)
240 shall remain eligible for Medicaid benefits until the end of a
241 period of twelve (12) months following an eligibility
242 determination, or until such time that the individual exceeds age
243 eighteen (18).

244 (21) Women of childbearing age whose family income does
245 not exceed one hundred eighty-five percent (185%) of the federal
246 poverty level. The eligibility of individuals covered under this
247 paragraph (21) shall be determined by the Division of Medicaid,
248 and those individuals determined eligible shall only receive
249 family planning services covered under Section 43-13-117(13) and
250 not any other services covered under Medicaid. However, any
251 individual eligible under this paragraph (21) who is also eligible
252 under any other provision of this section shall receive the
253 benefits to which he or she is entitled under that other



254 provision, in addition to family planning services covered under
255 Section 43-13-117(13).

256 The Division of Medicaid shall apply to the United States
257 Secretary of Health and Human Services for a federal waiver of the
258 applicable provisions of Title XIX of the federal Social Security
259 Act, as amended, and any other applicable provisions of federal
260 law as necessary to allow for the implementation of this paragraph
261 (21). The provisions of this paragraph (21) shall be implemented
262 from and after the date that the Division of Medicaid receives the
263 federal waiver.

264 (22) Persons who are workers with a potentially severe
265 disability, as determined by the division, shall be allowed to
266 purchase Medicaid coverage. The term "worker with a potentially
267 severe disability" means a person who is at least sixteen (16)
268 years of age but under sixty-five (65) years of age, who has a
269 physical or mental impairment that is reasonably expected to cause
270 the person to become blind or disabled as defined under Section
271 1614(a) of the federal Social Security Act, as amended, if the
272 person does not receive items and services provided under
273 Medicaid.

274 The eligibility of persons under this paragraph (22) shall be
275 conducted as a demonstration project that is consistent with
276 Section 204 of the Ticket to Work and Work Incentives Improvement
277 Act of 1999, Public Law 106-170, for a certain number of persons
278 as specified by the division. The eligibility of individuals



279 covered under this paragraph (22) shall be determined by the
280 Division of Medicaid.

281 (23) Children certified by the Mississippi Department
282 of Human Services for whom the state and county departments of
283 human services have custody and financial responsibility who are
284 in foster care on their eighteenth birthday as reported by the
285 Mississippi Department of Human Services shall be certified
286 Medicaid eligible by the Division of Medicaid until their
287 twenty-first birthday.

288 (24) Individuals who have not attained age sixty-five
289 (65), are not otherwise covered by creditable coverage as defined
290 in the Public Health Services Act, and have been screened for
291 breast and cervical cancer under the Centers for Disease Control
292 and Prevention Breast and Cervical Cancer Early Detection Program
293 established under Title XV of the Public Health Service Act in
294 accordance with the requirements of that act and who need
295 treatment for breast or cervical cancer. Eligibility of
296 individuals under this paragraph (24) shall be determined by the
297 Division of Medicaid.

298 (25) The division shall apply to the Centers for
299 Medicare and Medicaid Services (CMS) for any necessary waivers to
300 provide services to individuals who are sixty-five (65) years of
301 age or older or are disabled as determined under Section
302 1614(a)(3) of the federal Social Security Act, as amended, and
303 whose income does not exceed one hundred thirty-five percent



304 (135%) of the nonfarm official poverty level as defined by the
305 Office of Management and Budget and revised annually, and whose
306 resources do not exceed those established by the Division of
307 Medicaid, and who are not otherwise covered by Medicare. Nothing
308 contained in this paragraph (25) shall entitle an individual to
309 benefits. The eligibility of individuals covered under this
310 paragraph shall be determined by the Division of Medicaid.

311 (26) The division shall apply to the Centers for
312 Medicare and Medicaid Services (CMS) for any necessary waivers to
313 provide services to individuals who are sixty-five (65) years of
314 age or older or are disabled as determined under Section
315 1614(a)(3) of the federal Social Security Act, as amended, who are
316 end stage renal disease patients on dialysis, cancer patients on
317 chemotherapy or organ transplant recipients on antirejection
318 drugs, whose income does not exceed one hundred thirty-five
319 percent (135%) of the nonfarm official poverty level as defined by
320 the Office of Management and Budget and revised annually, and
321 whose resources do not exceed those established by the division.
322 Nothing contained in this paragraph (26) shall entitle an
323 individual to benefits. The eligibility of individuals covered
324 under this paragraph shall be determined by the Division of
325 Medicaid.

326 (27) Individuals who are entitled to Medicare Part D
327 and whose income does not exceed one hundred fifty percent (150%)
328 of the nonfarm official poverty level as defined by the Office of



329 Management and Budget and revised annually. Eligibility for
330 payment of the Medicare Part D subsidy under this paragraph shall
331 be determined by the division.

332 (28) Under the federal Patient Protection and
333 Affordable Care Act of 2010 and as amended, beginning July 1,
334 2021, individuals who are sixty-five (65) years of age, not
335 pregnant, not entitled to nor enrolled for benefits in Part A of
336 Title XVIII of the federal Social Security Act, are not described
337 in any other part of this section, and whose income does not
338 exceed one hundred thirty-three percent (133%) of the Federal
339 Poverty Level applicable to a family of the size involved. The
340 eligibility of individuals covered under this paragraph (28) shall
341 be determined by the Division of Medicaid, and those individuals
342 determined eligible shall only receive essential health benefits
343 as described in the federal Patient Protection and Affordable Care
344 Act of 2010 as amended.

345 The division shall redetermine eligibility for all categories
346 of recipients described in each paragraph of this section not less
347 frequently than required by federal law.

348 **SECTION 4.** Section 43-13-117, Mississippi Code of 1972, is
349 amended as follows:

350 43-13-117. (A) Medicaid as authorized by this article shall
351 include payment of part or all of the costs, at the discretion of
352 the division, with approval of the Governor and the Centers for
353 Medicare and Medicaid Services, of the following types of care and



354 services rendered to eligible applicants who have been determined
355 to be eligible for that care and services, within the limits of
356 state appropriations and federal matching funds:

357 (1) Inpatient hospital services.

358 (a) The division shall allow thirty (30) days of
359 inpatient hospital care annually for all Medicaid recipients.
360 Medicaid recipients requiring transplants shall not have those
361 days included in the transplant hospital stay count against the
362 thirty-day limit for inpatient hospital care. Precertification of
363 inpatient days must be obtained as required by the division.

364 (b) From and after July 1, 1994, the Executive
365 Director of the Division of Medicaid shall amend the Mississippi
366 Title XIX Inpatient Hospital Reimbursement Plan to remove the
367 occupancy rate penalty from the calculation of the Medicaid
368 Capital Cost Component utilized to determine total hospital costs
369 allocated to the Medicaid program.

370 (c) Hospitals may receive an additional payment
371 for the implantable programmable baclofen drug pump used to treat
372 spasticity that is implanted on an inpatient basis. The payment
373 pursuant to written invoice will be in addition to the facility's
374 per diem reimbursement and will represent a reduction of costs on
375 the facility's annual cost report, and shall not exceed Ten
376 Thousand Dollars (\$10,000.00) per year per recipient.



377 (d) The division is authorized to implement an All
378 Patient Refined Diagnosis Related Groups (APR-DRG) reimbursement
379 methodology for inpatient hospital services.

380 (e) No service benefits or reimbursement
381 limitations in this section shall apply to payments under an
382 APR-DRG or Ambulatory Payment Classification (APC) model or a
383 managed care program or similar model described in subsection (H)
384 of this section unless specifically authorized by the division.

385 (2) Outpatient hospital services.

386 (a) Emergency services.

387 (b) Other outpatient hospital services. The
388 division shall allow benefits for other medically necessary
389 outpatient hospital services (such as chemotherapy, radiation,
390 surgery and therapy), including outpatient services in a clinic or
391 other facility that is not located inside the hospital, but that
392 has been designated as an outpatient facility by the hospital, and
393 that was in operation or under construction on July 1, 2009,
394 provided that the costs and charges associated with the operation
395 of the hospital clinic are included in the hospital's cost report.
396 In addition, the Medicare thirty-five-mile rule will apply to
397 those hospital clinics not located inside the hospital that are
398 constructed after July 1, 2009. Where the same services are
399 reimbursed as clinic services, the division may revise the rate or
400 methodology of outpatient reimbursement to maintain consistency,
401 efficiency, economy and quality of care.



402 (c) The division is authorized to implement an
403 Ambulatory Payment Classification (APC) methodology for outpatient
404 hospital services. The division may give rural hospitals that
405 have fifty (50) or fewer licensed beds the option to not be
406 reimbursed for outpatient hospital services using the APC
407 methodology, but reimbursement for outpatient hospital services
408 provided by those hospitals shall be based on one hundred one
409 percent (101%) of the rate established under Medicare for
410 outpatient hospital services. Those hospitals choosing to not be
411 reimbursed under the APC methodology shall remain under cost-based
412 reimbursement for a two-year period.

413 (d) No service benefits or reimbursement
414 limitations in this section shall apply to payments under an
415 APR-DRG or APC model or a managed care program or similar model
416 described in subsection (H) of this section.

417 (3) Laboratory and x-ray services.

418 (4) Nursing facility services.

419 (a) The division shall make full payment to
420 nursing facilities for each day, not exceeding forty-two (42) days
421 per year, that a patient is absent from the facility on home
422 leave. Payment may be made for the following home leave days in
423 addition to the forty-two-day limitation: Christmas, the day
424 before Christmas, the day after Christmas, Thanksgiving, the day
425 before Thanksgiving and the day after Thanksgiving.



426 (b) From and after July 1, 1997, the division
427 shall implement the integrated case-mix payment and quality
428 monitoring system, which includes the fair rental system for
429 property costs and in which recapture of depreciation is
430 eliminated. The division may reduce the payment for hospital
431 leave and therapeutic home leave days to the lower of the case-mix
432 category as computed for the resident on leave using the
433 assessment being utilized for payment at that point in time, or a
434 case-mix score of 1.000 for nursing facilities, and shall compute
435 case-mix scores of residents so that only services provided at the
436 nursing facility are considered in calculating a facility's per
437 diem.

438 (c) From and after July 1, 1997, all state-owned
439 nursing facilities shall be reimbursed on a full reasonable cost
440 basis.

441 (d) On or after January 1, 2015, the division
442 shall update the case-mix payment system resource utilization
443 grouper and classifications and fair rental reimbursement system.
444 The division shall develop and implement a payment add-on to
445 reimburse nursing facilities for ventilator-dependent resident
446 services.

447 (e) The division shall develop and implement, not
448 later than January 1, 2001, a case-mix payment add-on determined
449 by time studies and other valid statistical data that will
450 reimburse a nursing facility for the additional cost of caring for



451 a resident who has a diagnosis of Alzheimer's or other related
452 dementia and exhibits symptoms that require special care. Any
453 such case-mix add-on payment shall be supported by a determination
454 of additional cost. The division shall also develop and implement
455 as part of the fair rental reimbursement system for nursing
456 facility beds, an Alzheimer's resident bed depreciation enhanced
457 reimbursement system that will provide an incentive to encourage
458 nursing facilities to convert or construct beds for residents with
459 Alzheimer's or other related dementia.

460 (f) The division shall develop and implement an
461 assessment process for long-term care services. The division may
462 provide the assessment and related functions directly or through
463 contract with the area agencies on aging.

464 The division shall apply for necessary federal waivers to
465 assure that additional services providing alternatives to nursing
466 facility care are made available to applicants for nursing
467 facility care.

468 (5) Periodic screening and diagnostic services for
469 individuals under age twenty-one (21) years as are needed to
470 identify physical and mental defects and to provide health care
471 treatment and other measures designed to correct or ameliorate
472 defects and physical and mental illness and conditions discovered
473 by the screening services, regardless of whether these services
474 are included in the state plan. The division may include in its
475 periodic screening and diagnostic program those discretionary



476 services authorized under the federal regulations adopted to
477 implement Title XIX of the federal Social Security Act, as
478 amended. The division, in obtaining physical therapy services,
479 occupational therapy services, and services for individuals with
480 speech, hearing and language disorders, may enter into a
481 cooperative agreement with the State Department of Education for
482 the provision of those services to handicapped students by public
483 school districts using state funds that are provided from the
484 appropriation to the Department of Education to obtain federal
485 matching funds through the division. The division, in obtaining
486 medical and mental health assessments, treatment, care and
487 services for children who are in, or at risk of being put in, the
488 custody of the Mississippi Department of Human Services may enter
489 into a cooperative agreement with the Mississippi Department of
490 Human Services for the provision of those services using state
491 funds that are provided from the appropriation to the Department
492 of Human Services to obtain federal matching funds through the
493 division.

494 (6) Physician's services. Physician visits as
495 determined by the division and in accordance with federal laws and
496 regulations. The division may develop and implement a different
497 reimbursement model or schedule for physician's services provided
498 by physicians based at an academic health care center and by
499 physicians at rural health centers that are associated with an
500 academic health care center. From and after January 1, 2010, all



501 fees for physician's services that are covered only by Medicaid
502 shall be increased to ninety percent (90%) of the rate established
503 on January 1, 2018, and as may be adjusted each July thereafter,
504 under Medicare. The division may provide for a reimbursement rate
505 for physician's services of up to one hundred percent (100%) of
506 the rate established under Medicare for physician's services that
507 are provided after the normal working hours of the physician, as
508 determined in accordance with regulations of the division. The
509 division may reimburse eligible providers as determined by the
510 Patient Protection and Affordable Care Act for certain primary
511 care services as defined by the act at one hundred percent (100%)
512 of the rate established under Medicare. Additionally, the
513 division shall reimburse obstetricians and gynecologists for
514 certain primary care services as defined by the division at one
515 hundred percent (100%) of the rate established under Medicare.

516 (7) (a) Home health services for eligible persons, not
517 to exceed in cost the prevailing cost of nursing facility
518 services. All home health visits must be precertified as required
519 by the division.

520 (b) [Repealed]

521 (8) Emergency medical transportation services as
522 determined by the division.

523 (9) Prescription drugs and other covered drugs and
524 services as may be determined by the division.



525 The division shall establish a mandatory preferred drug list.
526 Drugs not on the mandatory preferred drug list shall be made
527 available by utilizing prior authorization procedures established
528 by the division.

529 The division may seek to establish relationships with other
530 states in order to lower acquisition costs of prescription drugs
531 to include single-source and innovator multiple-source drugs or
532 generic drugs. In addition, if allowed by federal law or
533 regulation, the division may seek to establish relationships with
534 and negotiate with other countries to facilitate the acquisition
535 of prescription drugs to include single-source and innovator
536 multiple-source drugs or generic drugs, if that will lower the
537 acquisition costs of those prescription drugs.

538 The division may allow for a combination of prescriptions for
539 single-source and innovator multiple-source drugs and generic
540 drugs to meet the needs of the beneficiaries.

541 The executive director may approve specific maintenance drugs
542 for beneficiaries with certain medical conditions, which may be
543 prescribed and dispensed in three-month supply increments.

544 Drugs prescribed for a resident of a psychiatric residential
545 treatment facility must be provided in true unit doses when
546 available. The division may require that drugs not covered by
547 Medicare Part D for a resident of a long-term care facility be
548 provided in true unit doses when available. Those drugs that were
549 originally billed to the division but are not used by a resident



550 in any of those facilities shall be returned to the billing
551 pharmacy for credit to the division, in accordance with the
552 guidelines of the State Board of Pharmacy and any requirements of
553 federal law and regulation. Drugs shall be dispensed to a
554 recipient and only one (1) dispensing fee per month may be
555 charged. The division shall develop a methodology for reimbursing
556 for restocked drugs, which shall include a restock fee as
557 determined by the division not exceeding Seven Dollars and
558 Eighty-two Cents (\$7.82).

559 Except for those specific maintenance drugs approved by the
560 executive director, the division shall not reimburse for any
561 portion of a prescription that exceeds a thirty-one-day supply of
562 the drug based on the daily dosage.

563 The division is authorized to develop and implement a program
564 of payment for additional pharmacist services as may be determined
565 by the division.

566 All claims for drugs for dually eligible Medicare/Medicaid
567 beneficiaries that are paid for by Medicare must be submitted to
568 Medicare for payment before they may be processed by the
569 division's online payment system.

570 The division shall develop a pharmacy policy in which drugs
571 in tamper-resistant packaging that are prescribed for a resident
572 of a nursing facility but are not dispensed to the resident shall
573 be returned to the pharmacy and not billed to Medicaid, in
574 accordance with guidelines of the State Board of Pharmacy.



575 The division shall develop and implement a method or methods
576 by which the division will provide on a regular basis to Medicaid
577 providers who are authorized to prescribe drugs, information about
578 the costs to the Medicaid program of single-source drugs and
579 innovator multiple-source drugs, and information about other drugs
580 that may be prescribed as alternatives to those single-source
581 drugs and innovator multiple-source drugs and the costs to the
582 Medicaid program of those alternative drugs.

583 Notwithstanding any law or regulation, information obtained
584 or maintained by the division regarding the prescription drug
585 program, including trade secrets and manufacturer or labeler
586 pricing, is confidential and not subject to disclosure except to
587 other state agencies.

588 The dispensing fee for each new or refill prescription,
589 including nonlegend or over-the-counter drugs covered by the
590 division, shall be not less than Three Dollars and Ninety-one
591 Cents (\$3.91), as determined by the division.

592 The division shall not reimburse for single-source or
593 innovator multiple-source drugs if there are equally effective
594 generic equivalents available and if the generic equivalents are
595 the least expensive.

596 It is the intent of the Legislature that the pharmacists
597 providers be reimbursed for the reasonable costs of filling and
598 dispensing prescriptions for Medicaid beneficiaries.



599 The division may allow certain drugs, implantable drug system
600 devices, and medical supplies, with limited distribution or
601 limited access for beneficiaries and administered in an
602 appropriate clinical setting, to be reimbursed as either a medical
603 claim or pharmacy claim, as determined by the division.

604 Notwithstanding any other provision of this article, the
605 division shall allow physician-administered drugs to be billed and
606 reimbursed as either a medical claim or pharmacy point-of-sale to
607 allow greater access to care.

608 It is the intent of the Legislature that the division and any
609 managed care entity described in subsection (H) of this section
610 encourage the use of Alpha-Hydroxyprogesterone Caproate (17P) to
611 prevent recurrent preterm birth.

612 (10) Dental and orthodontic services to be determined
613 by the division.

614 This dental services program under this paragraph shall be
615 known as the "James Russell Dumas Medicaid Dental Services
616 Program."

617 The Medical Care Advisory Committee, assisted by the Division
618 of Medicaid, shall annually determine the effect of this incentive
619 by evaluating the number of dentists who are Medicaid providers,
620 the number who and the degree to which they are actively billing
621 Medicaid, the geographic trends of where dentists are offering
622 what types of Medicaid services and other statistics pertinent to
623 the goals of this legislative intent. This data shall annually be



624 presented to the Chair of the Senate Medicaid Committee and the
625 Chair of the House Medicaid Committee.

626 The division shall include dental services as a necessary
627 component of overall health services provided to children who are
628 eligible for services.

629 (11) Eyeglasses for all Medicaid beneficiaries who have
630 (a) had surgery on the eyeball or ocular muscle that results in a
631 vision change for which eyeglasses or a change in eyeglasses is
632 medically indicated within six (6) months of the surgery and is in
633 accordance with policies established by the division, or (b) one
634 (1) pair every five (5) years and in accordance with policies
635 established by the division. In either instance, the eyeglasses
636 must be prescribed by a physician skilled in diseases of the eye
637 or an optometrist, whichever the beneficiary may select.

638 (12) Intermediate care facility services.

639 (a) The division shall make full payment to all
640 intermediate care facilities for individuals with intellectual
641 disabilities for each day, not exceeding sixty-three (63) days per
642 year, that a patient is absent from the facility on home leave.
643 Payment may be made for the following home leave days in addition
644 to the sixty-three-day limitation: Christmas, the day before
645 Christmas, the day after Christmas, Thanksgiving, the day before
646 Thanksgiving and the day after Thanksgiving.



647 (b) All state-owned intermediate care facilities
648 for individuals with intellectual disabilities shall be reimbursed
649 on a full reasonable cost basis.

650 (c) Effective January 1, 2015, the division shall
651 update the fair rental reimbursement system for intermediate care
652 facilities for individuals with intellectual disabilities.

653 (13) Family planning services, including drugs,
654 supplies and devices, when those services are under the
655 supervision of a physician or nurse practitioner.

656 (14) Clinic services. Such diagnostic, preventive,
657 therapeutic, rehabilitative or palliative services furnished to an
658 outpatient by or under the supervision of a physician or dentist
659 in a facility that is not a part of a hospital but that is
660 organized and operated to provide medical care to outpatients.
661 Clinic services shall include any services reimbursed as
662 outpatient hospital services that may be rendered in such a
663 facility, including those that become so after July 1, 1991. On
664 July 1, 1999, all fees for physicians' services reimbursed under
665 authority of this paragraph (14) shall be reimbursed at ninety
666 percent (90%) of the rate established on January 1, 1999, and as
667 may be adjusted each July thereafter, under Medicare (Title XVIII
668 of the federal Social Security Act, as amended). The division may
669 develop and implement a different reimbursement model or schedule
670 for physician's services provided by physicians based at an
671 academic health care center and by physicians at rural health



672 centers that are associated with an academic health care center.
673 The division may provide for a reimbursement rate for physician's
674 clinic services of up to one hundred percent (100%) of the rate
675 established under Medicare for physician's services that are
676 provided after the normal working hours of the physician, as
677 determined in accordance with regulations of the division.

678 (15) Home- and community-based services for the elderly
679 and disabled, as provided under Title XIX of the federal Social
680 Security Act, as amended, under waivers, subject to the
681 availability of funds specifically appropriated for that purpose
682 by the Legislature.

683 The Division of Medicaid is directed to apply for a waiver
684 amendment to increase payments for all adult day care facilities
685 based on acuity of individual patients, with a maximum of
686 Seventy-five Dollars (\$75.00) per day for the most acute patients.

687 (16) Mental health services. Certain services provided
688 by a psychiatrist shall be reimbursed at up to one hundred percent
689 (100%) of the Medicare rate. Approved therapeutic and case
690 management services (a) provided by an approved regional mental
691 health/intellectual disability center established under Sections
692 41-19-31 through 41-19-39, or by another community mental health
693 service provider meeting the requirements of the Department of
694 Mental Health to be an approved mental health/intellectual
695 disability center if determined necessary by the Department of
696 Mental Health, using state funds that are provided in the



697 appropriation to the division to match federal funds, or (b)
698 provided by a facility that is certified by the State Department
699 of Mental Health to provide therapeutic and case management
700 services, to be reimbursed on a fee for service basis, or (c)
701 provided in the community by a facility or program operated by the
702 Department of Mental Health. Any such services provided by a
703 facility described in subparagraph (b) must have the prior
704 approval of the division to be reimbursable under this section.

705 (17) Durable medical equipment services and medical
706 supplies. Precertification of durable medical equipment and
707 medical supplies must be obtained as required by the division.
708 The Division of Medicaid may require durable medical equipment
709 providers to obtain a surety bond in the amount and to the
710 specifications as established by the Balanced Budget Act of 1997.

711 (18) (a) Notwithstanding any other provision of this
712 section to the contrary, as provided in the Medicaid state plan
713 amendment or amendments as defined in Section 43-13-145(10), the
714 division shall make additional reimbursement to hospitals that
715 serve a disproportionate share of low-income patients and that
716 meet the federal requirements for those payments as provided in
717 Section 1923 of the federal Social Security Act and any applicable
718 regulations. It is the intent of the Legislature that the
719 division shall draw down all available federal funds allotted to
720 the state for disproportionate share hospitals. However, from and
721 after January 1, 1999, public hospitals participating in the



722 Medicaid disproportionate share program may be required to
723 participate in an intergovernmental transfer program as provided
724 in Section 1903 of the federal Social Security Act and any
725 applicable regulations.

726 (b) The division may establish a Medicare Upper
727 Payment Limits Program, as defined in Section 1902(a)(30) of the
728 federal Social Security Act and any applicable federal
729 regulations, for hospitals, and may establish a Medicare Upper
730 Payment Limits Program for nursing facilities, and may establish a
731 Medicare Upper Payment Limits Program for physicians employed or
732 contracted by public hospitals. Upon successful implementation of
733 a Medicare Upper Payment Limits Program for physicians employed by
734 public hospitals, the division may develop a plan for implementing
735 an Upper Payment Limits Program for physicians employed by other
736 classes of hospitals. The division shall assess each hospital
737 and, if the program is established for nursing facilities, shall
738 assess each nursing facility, for the sole purpose of financing
739 the state portion of the Medicare Upper Payment Limits Program.
740 The hospital assessment shall be as provided in Section
741 43-13-145(4)(a) and the nursing facility assessment, if
742 established, shall be based on Medicaid utilization or other
743 appropriate method consistent with federal regulations. The
744 assessment will remain in effect as long as the state participates
745 in the Medicare Upper Payment Limits Program. Public hospitals
746 with physicians participating in the Medicare Upper Payment Limits



747 Program shall be required to participate in an intergovernmental
748 transfer program for the purpose of financing the state portion of
749 the physician UPL payments. As provided in the Medicaid state
750 plan amendment or amendments as defined in Section 43-13-145(10),
751 the division shall make additional reimbursement to hospitals and,
752 if the program is established for nursing facilities, shall make
753 additional reimbursement to nursing facilities, for the Medicare
754 Upper Payment Limits, and, if the program is established for
755 physicians, shall make additional reimbursement for physicians, as
756 defined in Section 1902(a)(30) of the federal Social Security Act
757 and any applicable federal regulations. Notwithstanding any other
758 provision of this article to the contrary, effective upon
759 implementation of the Mississippi Hospital Access Program (MHAP)
760 provided in subparagraph (c)(i) below, the hospital portion of the
761 inpatient Upper Payment Limits Program shall transition into and
762 be replaced by the MHAP program. However, the division is
763 authorized to develop and implement an alternative fee-for-service
764 Upper Payment Limits model in accordance with federal laws and
765 regulations if necessary to preserve supplemental funding.
766 Further, the division, in consultation with the Mississippi
767 Hospital Association and a governmental hospital located in a
768 county bordering the Gulf of Mexico and the State of Alabama shall
769 develop alternative models for distribution of medical claims and
770 supplemental payments for inpatient and outpatient hospital
771 services, and such models may include, but shall not be limited to



772 the following: increasing rates for inpatient and outpatient
773 services; creating a low-income utilization pool of funds to
774 reimburse hospitals for the costs of uncompensated care, charity
775 care and bad debts as permitted and approved pursuant to federal
776 regulations and the Centers for Medicare and Medicaid Services;
777 supplemental payments based upon Medicaid utilization, quality,
778 service lines and/or costs of providing such services to Medicaid
779 beneficiaries and to uninsured patients. The goals of such
780 payment models shall be to ensure access to inpatient and
781 outpatient care and to maximize any federal funds that are
782 available to reimburse hospitals for services provided. Any such
783 documents required to achieve the goals described in this
784 paragraph shall be submitted to the Centers for Medicare and
785 Medicaid Services, with a proposed effective date of July 1, 2019,
786 to the extent possible, but in no event shall the effective date
787 of such payment models be later than July 1, 2020. The Chairmen
788 of the Senate and House Medicaid Committees shall be provided a
789 copy of the proposed payment model(s) prior to submission.
790 Effective July 1, 2018, and until such time as any payment
791 model(s) as described above become effective, the division, in
792 consultation with the Mississippi Hospital Association and a
793 governmental hospital located in a county bordering the Gulf of
794 Mexico and the State of Alabama is authorized to implement a
795 transitional program for inpatient and outpatient payments and/or
796 supplemental payments (including, but not limited to, MHAP and



797 directed payments), to redistribute available supplemental funds
798 among hospital providers, provided that when compared to a
799 hospital's prior year supplemental payments, supplemental payments
800 made pursuant to any such transitional program shall not result in
801 a decrease of more than five percent (5%) and shall not increase
802 by more than the amount needed to maximize the distribution of the
803 available funds.

804 (c) (i) Not later than December 1, 2015, the
805 division shall, subject to approval by the Centers for Medicare
806 and Medicaid Services (CMS), establish, implement and operate a
807 Mississippi Hospital Access Program (MHAP) for the purpose of
808 protecting patient access to hospital care through hospital
809 inpatient reimbursement programs provided in this section designed
810 to maintain total hospital reimbursement for inpatient services
811 rendered by in-state hospitals and the out-of-state hospital that
812 is authorized by federal law to submit intergovernmental transfers
813 (IGTs) to the State of Mississippi and is classified as Level I
814 trauma center located in a county contiguous to the state line at
815 the maximum levels permissible under applicable federal statutes
816 and regulations, at which time the current inpatient Medicare
817 Upper Payment Limits (UPL) Program for hospital inpatient services
818 shall transition to the MHAP.

819 (ii) Subject only to approval by the Centers
820 for Medicare and Medicaid Services (CMS) where required, the MHAP
821 shall provide increased inpatient capitation (PMPM) payments to



822 managed care entities contracting with the division pursuant to
823 subsection (H) of this section to support availability of hospital
824 services or such other payments permissible under federal law
825 necessary to accomplish the intent of this subsection.

826 (iii) The intent of this subparagraph (c) is
827 that effective for all inpatient hospital Medicaid services during
828 state fiscal year 2016, and so long as this provision shall remain
829 in effect hereafter, the division shall to the fullest extent
830 feasible replace the additional reimbursement for hospital
831 inpatient services under the inpatient Medicare Upper Payment
832 Limits (UPL) Program with additional reimbursement under the MHAP
833 and other payment programs for inpatient and/or outpatient
834 payments which may be developed under the authority of this
835 paragraph.

836 (iv) The division shall assess each hospital
837 as provided in Section 43-13-145(4) (a) for the purpose of
838 financing the state portion of the MHAP, supplemental payments and
839 such other purposes as specified in Section 43-13-145. The
840 assessment will remain in effect as long as the MHAP and
841 supplemental payments are in effect.

842 (19) (a) Perinatal risk management services. The
843 division shall promulgate regulations to be effective from and
844 after October 1, 1988, to establish a comprehensive perinatal
845 system for risk assessment of all pregnant and infant Medicaid
846 recipients and for management, education and follow-up for those



847 who are determined to be at risk. Services to be performed
848 include case management, nutrition assessment/counseling,
849 psychosocial assessment/counseling and health education. The
850 division shall contract with the State Department of Health to
851 provide the services within this paragraph (Perinatal High Risk
852 Management/Infant Services System (PHRM/ISS)). The State
853 Department of Health as the agency for PHRM/ISS for the Division
854 of Medicaid shall be reimbursed on a full reasonable cost basis.

855 (b) Early intervention system services. The
856 division shall cooperate with the State Department of Health,
857 acting as lead agency, in the development and implementation of a
858 statewide system of delivery of early intervention services, under
859 Part C of the Individuals with Disabilities Education Act (IDEA).
860 The State Department of Health shall certify annually in writing
861 to the executive director of the division the dollar amount of
862 state early intervention funds available that will be utilized as
863 a certified match for Medicaid matching funds. Those funds then
864 shall be used to provide expanded targeted case management
865 services for Medicaid eligible children with special needs who are
866 eligible for the state's early intervention system.
867 Qualifications for persons providing service coordination shall be
868 determined by the State Department of Health and the Division of
869 Medicaid.

870 (20) Home- and community-based services for physically
871 disabled approved services as allowed by a waiver from the United



872 States Department of Health and Human Services for home- and
873 community-based services for physically disabled people using
874 state funds that are provided from the appropriation to the State
875 Department of Rehabilitation Services and used to match federal
876 funds under a cooperative agreement between the division and the
877 department, provided that funds for these services are
878 specifically appropriated to the Department of Rehabilitation
879 Services.

880 (21) Nurse practitioner services. Services furnished
881 by a registered nurse who is licensed and certified by the
882 Mississippi Board of Nursing as a nurse practitioner, including,
883 but not limited to, nurse anesthetists, nurse midwives, family
884 nurse practitioners, family planning nurse practitioners,
885 pediatric nurse practitioners, obstetrics-gynecology nurse
886 practitioners and neonatal nurse practitioners, under regulations
887 adopted by the division. Reimbursement for those services shall
888 not exceed ninety percent (90%) of the reimbursement rate for
889 comparable services rendered by a physician. The division may
890 provide for a reimbursement rate for nurse practitioner services
891 of up to one hundred percent (100%) of the reimbursement rate for
892 comparable services rendered by a physician for nurse practitioner
893 services that are provided after the normal working hours of the
894 nurse practitioner, as determined in accordance with regulations
895 of the division.



896 (22) Ambulatory services delivered in federally
897 qualified health centers, rural health centers and clinics of the
898 local health departments of the State Department of Health for
899 individuals eligible for Medicaid under this article based on
900 reasonable costs as determined by the division. Federally
901 qualified health centers shall be reimbursed by the Medicaid
902 prospective payment system as approved by the Centers for Medicare
903 and Medicaid Services.

904 (23) Inpatient psychiatric services. Inpatient
905 psychiatric services to be determined by the division for
906 recipients under age twenty-one (21) that are provided under the
907 direction of a physician in an inpatient program in a licensed
908 acute care psychiatric facility or in a licensed psychiatric
909 residential treatment facility, before the recipient reaches age
910 twenty-one (21) or, if the recipient was receiving the services
911 immediately before he or she reached age twenty-one (21), before
912 the earlier of the date he or she no longer requires the services
913 or the date he or she reaches age twenty-two (22), as provided by
914 federal regulations. From and after January 1, 2015, the division
915 shall update the fair rental reimbursement system for psychiatric
916 residential treatment facilities. Precertification of inpatient
917 days and residential treatment days must be obtained as required
918 by the division. From and after July 1, 2009, all state-owned and
919 state-operated facilities that provide inpatient psychiatric
920 services to persons under age twenty-one (21) who are eligible for



921 Medicaid reimbursement shall be reimbursed for those services on a
922 full reasonable cost basis.

923 (24) [Deleted]

924 (25) [Deleted]

925 (26) Hospice care. As used in this paragraph, the term
926 "hospice care" means a coordinated program of active professional
927 medical attention within the home and outpatient and inpatient
928 care that treats the terminally ill patient and family as a unit,
929 employing a medically directed interdisciplinary team. The
930 program provides relief of severe pain or other physical symptoms
931 and supportive care to meet the special needs arising out of
932 physical, psychological, spiritual, social and economic stresses
933 that are experienced during the final stages of illness and during
934 dying and bereavement and meets the Medicare requirements for
935 participation as a hospice as provided in federal regulations.

936 (27) Group health plan premiums and cost-sharing if it
937 is cost-effective as defined by the United States Secretary of
938 Health and Human Services.

939 (28) Other health insurance premiums that are
940 cost-effective as defined by the United States Secretary of Health
941 and Human Services. Medicare eligible must have Medicare Part B
942 before other insurance premiums can be paid.

943 (29) The Division of Medicaid may apply for a waiver
944 from the United States Department of Health and Human Services for
945 home- and community-based services for developmentally disabled



946 people using state funds that are provided from the appropriation
947 to the State Department of Mental Health and/or funds transferred
948 to the department by a political subdivision or instrumentality of
949 the state and used to match federal funds under a cooperative
950 agreement between the division and the department, provided that
951 funds for these services are specifically appropriated to the
952 Department of Mental Health and/or transferred to the department
953 by a political subdivision or instrumentality of the state.

954 (30) Pediatric skilled nursing services for eligible
955 persons under twenty-one (21) years of age.

956 (31) Targeted case management services for children
957 with special needs, under waivers from the United States
958 Department of Health and Human Services, using state funds that
959 are provided from the appropriation to the Mississippi Department
960 of Human Services and used to match federal funds under a
961 cooperative agreement between the division and the department.

962 (32) Care and services provided in Christian Science
963 Sanatoria listed and certified by the Commission for Accreditation
964 of Christian Science Nursing Organizations/Facilities, Inc.,
965 rendered in connection with treatment by prayer or spiritual means
966 to the extent that those services are subject to reimbursement
967 under Section 1903 of the federal Social Security Act.

968 (33) Podiatrist services.

969 (34) Assisted living services as provided through
970 home- and community-based services under Title XIX of the federal



971 Social Security Act, as amended, subject to the availability of
972 funds specifically appropriated for that purpose by the
973 Legislature.

974 (35) Services and activities authorized in Sections
975 43-27-101 and 43-27-103, using state funds that are provided from
976 the appropriation to the Mississippi Department of Human Services
977 and used to match federal funds under a cooperative agreement
978 between the division and the department.

979 (36) Nonemergency transportation services for
980 Medicaid-eligible persons, to be provided by the Division of
981 Medicaid. The division may contract with additional entities to
982 administer nonemergency transportation services as it deems
983 necessary. All providers shall have a valid driver's license,
984 valid vehicle license tags and a standard liability insurance
985 policy covering the vehicle. The division may pay providers a
986 flat fee based on mileage tiers, or in the alternative, may
987 reimburse on actual miles traveled. The division may apply to the
988 Center for Medicare and Medicaid Services (CMS) for a waiver to
989 draw federal matching funds for nonemergency transportation
990 services as a covered service instead of an administrative cost.
991 The PEER Committee shall conduct a performance evaluation of the
992 nonemergency transportation program to evaluate the administration
993 of the program and the providers of transportation services to
994 determine the most cost-effective ways of providing nonemergency
995 transportation services to the patients served under the program.



996 The performance evaluation shall be completed and provided to the
997 members of the Senate Medicaid Committee and the House Medicaid
998 Committee not later than January 1, 2019, and every two (2) years
999 thereafter.

1000 (37) [Deleted]

1001 (38) Chiropractic services. A chiropractor's manual
1002 manipulation of the spine to correct a subluxation, if x-ray
1003 demonstrates that a subluxation exists and if the subluxation has
1004 resulted in a neuromusculoskeletal condition for which
1005 manipulation is appropriate treatment, and related spinal x-rays
1006 performed to document these conditions. Reimbursement for
1007 chiropractic services shall not exceed Seven Hundred Dollars
1008 (\$700.00) per year per beneficiary.

1009 (39) Dually eligible Medicare/Medicaid beneficiaries.
1010 The division shall pay the Medicare deductible and coinsurance
1011 amounts for services available under Medicare, as determined by
1012 the division. From and after July 1, 2009, the division shall
1013 reimburse crossover claims for inpatient hospital services and
1014 crossover claims covered under Medicare Part B in the same manner
1015 that was in effect on January 1, 2008, unless specifically
1016 authorized by the Legislature to change this method.

1017 (40) [Deleted]

1018 (41) Services provided by the State Department of
1019 Rehabilitation Services for the care and rehabilitation of persons
1020 with spinal cord injuries or traumatic brain injuries, as allowed



1021 under waivers from the United States Department of Health and
1022 Human Services, using up to seventy-five percent (75%) of the
1023 funds that are appropriated to the Department of Rehabilitation
1024 Services from the Spinal Cord and Head Injury Trust Fund
1025 established under Section 37-33-261 and used to match federal
1026 funds under a cooperative agreement between the division and the
1027 department.

1028 (42) [Deleted]

1029 (43) The division shall provide reimbursement,
1030 according to a payment schedule developed by the division, for
1031 smoking cessation medications for pregnant women during their
1032 pregnancy and other Medicaid-eligible women who are of
1033 child-bearing age.

1034 (44) Nursing facility services for the severely
1035 disabled.

1036 (a) Severe disabilities include, but are not
1037 limited to, spinal cord injuries, closed-head injuries and
1038 ventilator-dependent patients.

1039 (b) Those services must be provided in a long-term
1040 care nursing facility dedicated to the care and treatment of
1041 persons with severe disabilities.

1042 (45) Physician assistant services. Services furnished
1043 by a physician assistant who is licensed by the State Board of
1044 Medical Licensure and is practicing with physician supervision
1045 under regulations adopted by the board, under regulations adopted



1046 by the division. Reimbursement for those services shall not
1047 exceed ninety percent (90%) of the reimbursement rate for
1048 comparable services rendered by a physician. The division may
1049 provide for a reimbursement rate for physician assistant services
1050 of up to one hundred percent (100%) or the reimbursement rate for
1051 comparable services rendered by a physician for physician
1052 assistant services that are provided after the normal working
1053 hours of the physician assistant, as determined in accordance with
1054 regulations of the division.

1055 (46) The division shall make application to the federal
1056 Centers for Medicare and Medicaid Services (CMS) for a waiver to
1057 develop and provide services for children with serious emotional
1058 disturbances as defined in Section 43-14-1(1), which may include
1059 home- and community-based services, case management services or
1060 managed care services through mental health providers certified by
1061 the Department of Mental Health. The division may implement and
1062 provide services under this waived program only if funds for
1063 these services are specifically appropriated for this purpose by
1064 the Legislature, or if funds are voluntarily provided by affected
1065 agencies.

1066 (47) (a) The division may develop and implement
1067 disease management programs for individuals with high-cost chronic
1068 diseases and conditions, including the use of grants, waivers,
1069 demonstrations or other projects as necessary.



1070 (b) Participation in any disease management
1071 program implemented under this paragraph (47) is optional with the
1072 individual. An individual must affirmatively elect to participate
1073 in the disease management program in order to participate, and may
1074 elect to discontinue participation in the program at any time.

1075 (48) Pediatric long-term acute care hospital services.

1076 (a) Pediatric long-term acute care hospital
1077 services means services provided to eligible persons under
1078 twenty-one (21) years of age by a freestanding Medicare-certified
1079 hospital that has an average length of inpatient stay greater than
1080 twenty-five (25) days and that is primarily engaged in providing
1081 chronic or long-term medical care to persons under twenty-one (21)
1082 years of age.

1083 (b) The services under this paragraph (48) shall
1084 be reimbursed as a separate category of hospital services.

1085 (49) The division shall establish copayments and/or
1086 coinsurance for all Medicaid services for which copayments and/or
1087 coinsurance are allowable under federal law or regulation.

1088 (50) Services provided by the State Department of
1089 Rehabilitation Services for the care and rehabilitation of persons
1090 who are deaf and blind, as allowed under waivers from the United
1091 States Department of Health and Human Services to provide home-
1092 and community-based services using state funds that are provided
1093 from the appropriation to the State Department of Rehabilitation
1094 Services or if funds are voluntarily provided by another agency.



1095 (51) Upon determination of Medicaid eligibility and in
1096 association with annual redetermination of Medicaid eligibility,
1097 beneficiaries shall be encouraged to undertake a physical
1098 examination that will establish a base-line level of health and
1099 identification of a usual and customary source of care (a medical
1100 home) to aid utilization of disease management tools. This
1101 physical examination and utilization of these disease management
1102 tools shall be consistent with current United States Preventive
1103 Services Task Force or other recognized authority recommendations.

1104 For persons who are determined ineligible for Medicaid, the
1105 division will provide information and direction for accessing
1106 medical care and services in the area of their residence.

1107 (52) Notwithstanding any provisions of this article,
1108 the division may pay enhanced reimbursement fees related to trauma
1109 care, as determined by the division in conjunction with the State
1110 Department of Health, using funds appropriated to the State
1111 Department of Health for trauma care and services and used to
1112 match federal funds under a cooperative agreement between the
1113 division and the State Department of Health. The division, in
1114 conjunction with the State Department of Health, may use grants,
1115 waivers, demonstrations, or other projects as necessary in the
1116 development and implementation of this reimbursement program.

1117 (53) Targeted case management services for high-cost
1118 beneficiaries may be developed by the division for all services
1119 under this section.



1120 (54) [Deleted]

1121 (55) Therapy services. The plan of care for therapy
1122 services may be developed to cover a period of treatment for up to
1123 six (6) months, but in no event shall the plan of care exceed a
1124 six-month period of treatment. The projected period of treatment
1125 must be indicated on the initial plan of care and must be updated
1126 with each subsequent revised plan of care. Based on medical
1127 necessity, the division shall approve certification periods for
1128 less than or up to six (6) months, but in no event shall the
1129 certification period exceed the period of treatment indicated on
1130 the plan of care. The appeal process for any reduction in therapy
1131 services shall be consistent with the appeal process in federal
1132 regulations.

1133 (56) Prescribed pediatric extended care centers
1134 services for medically dependent or technologically dependent
1135 children with complex medical conditions that require continual
1136 care as prescribed by the child's attending physician, as
1137 determined by the division.

1138 (57) No Medicaid benefit shall restrict coverage for
1139 medically appropriate treatment prescribed by a physician and
1140 agreed to by a fully informed individual, or if the individual
1141 lacks legal capacity to consent by a person who has legal
1142 authority to consent on his or her behalf, based on an
1143 individual's diagnosis with a terminal condition. As used in this
1144 paragraph (57), "terminal condition" means any aggressive



1145 malignancy, chronic end-stage cardiovascular or cerebral vascular
1146 disease, or any other disease, illness or condition which a
1147 physician diagnoses as terminal.

1148 (58) Treatment services for persons with opioid
1149 dependency or other highly addictive substance use disorders. The
1150 division is authorized to reimburse eligible providers for
1151 treatment of opioid dependency and other highly addictive
1152 substance use disorders, as determined by the division. Treatment
1153 related to these conditions shall not count against any physician
1154 visit limit imposed under this section.

1155 (59) The division shall allow beneficiaries between the
1156 ages of ten (10) and eighteen (18) years to receive vaccines
1157 through a pharmacy venue.

1158 (60) Beginning July 1, 2021, essential health benefits
1159 as described in the federal Patient Protection and Affordable Care
1160 Act of 2010 and as amended, for individuals eligible for Medicaid
1161 under the federal Patient Protection and Affordable Care Act of
1162 2010 as amended, as described in Section 43-13-115(28).

1163 (B) Notwithstanding any other provision of this article to
1164 the contrary, the division shall reduce the rate of reimbursement
1165 to providers for any service provided under this section by five
1166 percent (5%) of the allowed amount for that service. However, the
1167 reduction in the reimbursement rates required by this subsection
1168 (B) shall not apply to inpatient hospital services, outpatient
1169 hospital services, nursing facility services, intermediate care



1170 facility services, psychiatric residential treatment facility
1171 services, pharmacy services provided under subsection (A) (9) of
1172 this section, or any service provided by the University of
1173 Mississippi Medical Center or a state agency, a state facility or
1174 a public agency that either provides its own state match through
1175 intergovernmental transfer or certification of funds to the
1176 division, or a service for which the federal government sets the
1177 reimbursement methodology and rate. From and after January 1,
1178 2010, the reduction in the reimbursement rates required by this
1179 subsection (B) shall not apply to physicians' services. In
1180 addition, the reduction in the reimbursement rates required by
1181 this subsection (B) shall not apply to case management services
1182 and home-delivered meals provided under the home- and
1183 community-based services program for the elderly and disabled by a
1184 planning and development district (PDD). Planning and development
1185 districts participating in the home- and community-based services
1186 program for the elderly and disabled as case management providers
1187 shall be reimbursed for case management services at the maximum
1188 rate approved by the Centers for Medicare and Medicaid Services
1189 (CMS). The Medical Care Advisory Committee established in Section
1190 43-13-107(3) (a) shall develop a study and advise the division with
1191 respect to (1) determining the effect of any across-the-board five
1192 percent (5%) reduction in the rate of reimbursement to providers
1193 authorized under this subsection (B), and (2) comparing provider
1194 reimbursement rates to those applicable in other states in order



1195 to establish a fair and equitable provider reimbursement structure
1196 that encourages participation in the Medicaid program, and (3)
1197 comparing dental and orthodontic services reimbursement rates to
1198 those applicable in other states in fee-for-service and in managed
1199 care programs in order to establish a fair and equitable dental
1200 provider reimbursement structure that encourages participation in
1201 the Medicaid program, and (4) make a report thereon with any
1202 legislative recommendations to the Chairmen of the Senate and
1203 House Medicaid Committees prior to January 1, 2019.

1204 (C) The division may pay to those providers who participate
1205 in and accept patient referrals from the division's emergency room
1206 redirection program a percentage, as determined by the division,
1207 of savings achieved according to the performance measures and
1208 reduction of costs required of that program. Federally qualified
1209 health centers may participate in the emergency room redirection
1210 program, and the division may pay those centers a percentage of
1211 any savings to the Medicaid program achieved by the centers'
1212 accepting patient referrals through the program, as provided in
1213 this subsection (C).

1214 (D) [Deleted]

1215 (E) Notwithstanding any provision of this article, no new
1216 groups or categories of recipients and new types of care and
1217 services may be added without enabling legislation from the
1218 Mississippi Legislature, except that the division may authorize



1219 those changes without enabling legislation when the addition of
1220 recipients or services is ordered by a court of proper authority.

1221 (F) The executive director shall keep the Governor advised
1222 on a timely basis of the funds available for expenditure and the
1223 projected expenditures. Notwithstanding any other provisions of
1224 this article, if current or projected expenditures of the division
1225 are reasonably anticipated to exceed the amount of funds
1226 appropriated to the division for any fiscal year, the Governor,
1227 after consultation with the executive director, shall take all
1228 appropriate measures to reduce costs, which may include, but are
1229 not limited to:

1230 (1) Reducing or discontinuing any or all services that
1231 are deemed to be optional under Title XIX of the Social Security
1232 Act;

1233 (2) Reducing reimbursement rates for any or all service
1234 types;

1235 (3) Imposing additional assessments on health care
1236 providers; or

1237 (4) Any additional cost-containment measures deemed
1238 appropriate by the Governor.

1239 Beginning in fiscal year 2010 and in fiscal years thereafter,
1240 when Medicaid expenditures are projected to exceed funds available
1241 for the fiscal year, the division shall submit the expected
1242 shortfall information to the PEER Committee not later than
1243 December 1 of the year in which the shortfall is projected to



1244 occur. PEER shall review the computations of the division and
1245 report its findings to the Legislative Budget Office not later
1246 than January 7 in any year.

1247 (G) Notwithstanding any other provision of this article, it
1248 shall be the duty of each provider participating in the Medicaid
1249 program to keep and maintain books, documents and other records as
1250 prescribed by the Division of Medicaid in substantiation of its
1251 cost reports for a period of three (3) years after the date of
1252 submission to the Division of Medicaid of an original cost report,
1253 or three (3) years after the date of submission to the Division of
1254 Medicaid of an amended cost report.

1255 (H) (1) Notwithstanding any other provision of this
1256 article, the division is authorized to implement (a) a managed
1257 care program, (b) a coordinated care program, (c) a coordinated
1258 care organization program, (d) a health maintenance organization
1259 program, (e) a patient-centered medical home program, (f) an
1260 accountable care organization program, (g) provider-sponsored
1261 health plan, or (h) any combination of the above programs.
1262 Managed care programs, coordinated care programs, coordinated care
1263 organization programs, health maintenance organization programs,
1264 patient-centered medical home programs, accountable care
1265 organization programs, provider-sponsored health plans, or any
1266 combination of the above programs or other similar programs
1267 implemented by the division under this section shall be limited to
1268 the greater of (i) forty-five percent (45%) of the total



1269 enrollment of Medicaid beneficiaries, or (ii) the categories of
1270 beneficiaries participating in the program as of January 1, 2014,
1271 plus the categories of beneficiaries composed primarily of persons
1272 younger than nineteen (19) years of age, and the division is
1273 authorized to enroll categories of beneficiaries in such
1274 program(s) as long as the appropriate limitations are not exceeded
1275 in the aggregate. As a condition for the approval of any program
1276 under this subsection (H) (1), the division shall require that no
1277 program may:

1278 (a) Pay providers at a rate that is less than the
1279 Medicaid All Patient Refined Diagnosis Related Groups (APR-DRG)
1280 reimbursement rate;

1281 (b) Override the medical decisions of hospital
1282 physicians or staff regarding patients admitted to a hospital for
1283 an emergency medical condition as defined by 42 US Code Section
1284 1395dd. This restriction (b) does not prohibit the retrospective
1285 review of the appropriateness of the determination that an
1286 emergency medical condition exists by chart review or coding
1287 algorithm, nor does it prohibit prior authorization for
1288 nonemergency hospital admissions;

1289 (c) Pay providers at a rate that is less than the
1290 normal Medicaid reimbursement rate. It is the intent of the
1291 Legislature that all managed care entities described in this
1292 subsection (H), in collaboration with the division, develop and
1293 implement innovative payment models that incentivize improvements



1294 in health care quality, outcomes, or value, as determined by the
1295 division. Participation in the provider network of any managed
1296 care, coordinated care, provider-sponsored health plan, or similar
1297 contractor shall not be conditioned on the provider's agreement to
1298 accept such alternative payment models;

1299 (d) Implement a prior authorization program for
1300 prescription drugs that is more stringent than the prior
1301 authorization processes used by the division in its administration
1302 of the Medicaid program;

1303 (e) [Deleted]

1304 (f) Implement a preferred drug list that is more
1305 stringent than the mandatory preferred drug list established by
1306 the division under subsection (A)(9) of this section;

1307 (g) Implement a policy which denies beneficiaries
1308 with hemophilia access to the federally funded hemophilia
1309 treatment centers as part of the Medicaid Managed Care network of
1310 providers. All Medicaid beneficiaries with hemophilia shall
1311 receive unrestricted access to anti-hemophilia factor products
1312 through noncapitated reimbursement programs.

1313 (2) Notwithstanding any provision of this section, no
1314 expansion of Medicaid managed care program contracts may be
1315 implemented by the division without enabling legislation from the
1316 Mississippi Legislature. There is hereby established the
1317 Commission on Expanding Medicaid Managed Care to develop a
1318 recommendation to the Legislature and the Division of Medicaid



1319 relative to authorizing the division to expand Medicaid managed
1320 care contracts to include additional categories of
1321 Medicaid-eligible beneficiaries, and to study the feasibility of
1322 developing an alternative managed care payment model for medically
1323 complex children.

1324 (a) The members of the commission shall be as
1325 follows:

1326 (i) The Chairmen of the Senate Medicaid
1327 Committee and the Senate Appropriations Committee and a member of
1328 the Senate appointed by the Lieutenant Governor;

1329 (ii) The Chairmen of the House Medicaid
1330 Committee and the House Appropriations Committee and a member of
1331 the House of Representatives appointed by the Speaker of the
1332 House;

1333 (iii) The Executive Director of the Division
1334 of Medicaid, Office of the Governor;

1335 (iv) The Commissioner of the Mississippi
1336 Department of Insurance;

1337 (v) A representative of a hospital that
1338 operates in Mississippi, appointed by the Speaker of the House;

1339 (vi) A licensed physician appointed by the
1340 Lieutenant Governor;

1341 (vii) A licensed pharmacist appointed by the
1342 Governor;



1343 (viii) A licensed mental health professional
1344 or alcohol and drug counselor appointed by the Governor;
1345 (ix) The Executive Director of the
1346 Mississippi State Medical Association (MSMA);
1347 (x) Representatives of each of the current
1348 managed care organizations operated in the state appointed by the
1349 Governor; and
1350 (xi) A representative of the long-term care
1351 industry appointed by the Governor.
1352 (b) The commission shall meet within forty-five
1353 (45) days of the effective date of this section, upon the call of
1354 the Governor, and shall evaluate the Medicaid managed care
1355 program. Specifically, the commission shall:
1356 (i) Review the program's financial metrics;
1357 (ii) Review the program's product offerings;
1358 (iii) Review the program's impact on
1359 insurance premiums for individuals and small businesses;
1360 (iv) Make recommendations for future managed
1361 care program modifications;
1362 (v) Determine whether the expansion of the
1363 Medicaid managed care program may endanger the access to care by
1364 vulnerable patients;
1365 (vi) Review the financial feasibility and
1366 health outcomes of populations health management as specifically
1367 provided in paragraph (2) above;



1368 (vii) Make recommendations regarding a pilot
1369 program to evaluate an alternative managed care payment model for
1370 medically complex children;

1371 (viii) The commission may request the
1372 assistance of the PEER Committee in making its evaluation; and

1373 (ix) The commission shall solicit information
1374 from any person or entity the commission deems relevant to its
1375 study.

1376 (c) The members of the commission shall elect a
1377 chair from among the members. The commission shall develop and
1378 report its findings and any recommendations for proposed
1379 legislation to the Governor and the Legislature on or before
1380 December 1, 2018. A quorum of the membership shall be required to
1381 approve any final report and recommendation. Members of the
1382 commission shall be reimbursed for necessary travel expense in the
1383 same manner as public employees are reimbursed for official duties
1384 and members of the Legislature shall be reimbursed in the same
1385 manner as for attending out-of-session committee meetings.

1386 (d) Upon making its report, the commission shall
1387 be dissolved.

1388 (3) Any contractors providing direct patient care under
1389 a managed care program established in this section shall provide
1390 to the Legislature and the division statistical data to be shared
1391 with provider groups in order to improve patient access,
1392 appropriate utilization, cost savings and health outcomes not



1393 later than October 1 of each year. The division and the
1394 contractors participating in the managed care program, a
1395 coordinated care program or a provider-sponsored health plan shall
1396 be subject to annual program audits performed by the Office of the
1397 State Auditor, the PEER Committee and/or an independent third
1398 party that has no existing contractual relationship with the
1399 division. Those audits shall determine among other items, the
1400 financial benefit to the State of Mississippi of the managed care
1401 program, the difference between the premiums paid to the managed
1402 care contractors and the payments made by those contractors to
1403 health care providers, compliance with performance measures
1404 required under the contracts, and whether costs have been
1405 contained due to improved health care outcomes. In addition, the
1406 audit shall review the most common claim denial codes to determine
1407 the reasons for the denials. This audit report shall be
1408 considered a public document and shall be posted in its entirety
1409 on the division's website.

1410 (4) All health maintenance organizations, coordinated
1411 care organizations, provider-sponsored health plans, or other
1412 organizations paid for services on a capitated basis by the
1413 division under any managed care program or coordinated care
1414 program implemented by the division under this section shall
1415 reimburse all providers in those organizations at rates no lower
1416 than those provided under this section for beneficiaries who are
1417 not participating in those programs.



1418 (5) No health maintenance organization, coordinated
1419 care organization, provider-sponsored health plan, or other
1420 organization paid for services on a capitated basis by the
1421 division under any managed care program or coordinated care
1422 program implemented by the division under this section shall
1423 require its providers or beneficiaries to use any pharmacy that
1424 ships, mails or delivers prescription drugs or legend drugs or
1425 devices.

1426 (6) No health maintenance organization, coordinated
1427 care organization, provider-sponsored health plan, or other
1428 organization paid for services on a capitated basis by the
1429 division under any managed care program or coordinated care
1430 program implemented by the division under this section shall
1431 require its providers to be credentialed by the organization in
1432 order to receive reimbursement from the organization, but those
1433 organizations shall recognize the credentialing of the providers
1434 by the division.

1435 (I) [Deleted]

1436 (J) There shall be no cuts in inpatient and outpatient
1437 hospital payments, or allowable days or volumes, as long as the
1438 hospital assessment provided in Section 43-13-145 is in effect.
1439 This subsection (J) shall not apply to decreases in payments that
1440 are a result of: reduced hospital admissions, audits or payments
1441 under the APR-DRG or APC models, or a managed care program or
1442 similar model described in subsection (H) of this section.



1443 (K) This section shall stand repealed on July 1, 2023.

1444 **SECTION 5.** Section 37-153-7, Mississippi Code of 1972, is
1445 amended as follows:

1446 37-153-7. (1) There is created the Mississippi Office of
1447 Workforce Development and the Mississippi State Workforce
1448 Investment Board, which shall serve as the advisory board for the
1449 office. The Mississippi State Workforce Investment Board shall be
1450 composed of * * * twenty-eight (28) voting members, of which a
1451 majority shall be representatives of business and industry in
1452 accordance with the federal Workforce Innovation and Opportunity
1453 Act, or any successive acts.

1454 (2) The members of the State Workforce Investment Board
1455 shall include:

1456 (a) The Governor, or his designee;

1457 (b) * * * Sixteen (16) members, appointed by the
1458 Governor, of whom:

1459 (i) A majority shall be representatives of
1460 businesses in the state, who:

1461 1. Are owners of businesses, chief executives
1462 or operating officers of businesses, or other business executives
1463 or employers with optimum policymaking or hiring authority, and
1464 who, in addition, may be members of a local board described in
1465 Section 3122(b)(2)(A)(i) of the federal Workforce Innovation and
1466 Opportunity Act. At least two (2) of the members appointed under
1467 this item 1. shall be small business owners, chief executives or



1468 operating officers of businesses with less than fifty (50)
1469 employees;

1470 2. Represent businesses, including small
1471 businesses, or organizations representing businesses, which
1472 provide employment opportunities that, at a minimum, include
1473 high-quality, work-relevant training and development in
1474 high-demand industry sectors or occupations in the state; and

1475 3. Are appointed from among individuals
1476 nominated by state business organizations and business trade
1477 associations;

1478 (ii) Not less than twenty percent (20%) shall
1479 consist of representatives of the workforce within the state,
1480 which:

1481 1. Includes labor organization
1482 representatives who have been nominated by state labor
1483 federations;

1484 2. Includes a labor organization member or
1485 training director from an apprenticeship program in the state,
1486 which shall be a joint labor-management apprenticeship program if
1487 such a program exists in the state;

1488 3. May include representatives of
1489 community-based organizations, including organizations serving
1490 veterans or providing or supporting competitive, integrated
1491 employment for individuals with disabilities, who have
1492 demonstrated experience and expertise in addressing employment,



1493 training or education needs of individuals with barriers to
1494 employment; and

1495 4. May include representatives of
1496 organizations, including organizations serving out-of-school
1497 youth, who have demonstrated experience or expertise in addressing
1498 the employment, training or education needs of eligible youth;

1499 5. Includes at least one (1) woman with
1500 expertise in assisting women in job training and securing
1501 employment in nontraditional occupations;

1502 (iii) The balance shall include government
1503 representatives, including the lead state officials with primary
1504 responsibility for core programs, and chief elected officials
1505 (collectively representing both cities and counties, where
1506 appropriate);

1507 (c) Two (2) representatives of businesses in the state
1508 appointed by the Lieutenant Governor;

1509 (d) Two (2) representatives of businesses in the state
1510 appointed by the Governor from a list of three (3) recommendations
1511 from the Speaker of the House; and

1512 (e) The following state officials:

1513 (i) The Executive Director of the Mississippi
1514 Department of Employment Security;

1515 (ii) The Executive Director of the Department of
1516 Rehabilitation Services;



1517 (iii) The State Superintendent of Public
1518 Education;
1519 (iv) The Executive Director of the Mississippi
1520 Development Authority;
1521 (v) The Executive Director of the Mississippi
1522 Community College Board;
1523 * * *
1524 (* * *vi) The Commissioner of the Institutions of
1525 Higher Learning.
1526 (f) One (1) senator, appointed by the Lieutenant
1527 Governor, and one (1) representative, appointed by the Speaker of
1528 the House, shall serve on the state board in a nonvoting capacity.
1529 (g) The Governor may appoint additional members if
1530 required by the federal Workforce Innovation and Opportunity Act,
1531 or any successive acts.
1532 (h) Members of the board shall serve a term of four (4)
1533 years, and shall not serve more than three (3) consecutive terms.
1534 (i) The membership of the board shall reflect the
1535 diversity of the State of Mississippi.
1536 (j) The Governor shall designate the Chairman of the
1537 Mississippi State Workforce Investment Board from among the
1538 business and industry voting members of the board, and a quorum of
1539 the board shall consist of a majority of the voting members of the
1540 board.



1541 (k) The voting members of the board who are not state
1542 employees shall be entitled to reimbursement of their reasonable
1543 expenses in the manner and amount specified in Section 25-3-41 and
1544 shall be entitled to receive per diem compensation as authorized
1545 in Section 25-3-69.

1546 (3) Members of the state board may be recalled by their
1547 appointing authority for cause, including a felony conviction,
1548 fraudulent or dishonest acts or gross abuse of discretion, failure
1549 to meet board member qualifications, or chronic failure to attend
1550 board meetings.

1551 (4) The Mississippi Department of Employment Security shall
1552 establish limits on administrative costs for each portion of
1553 Mississippi's workforce development system consistent with the
1554 federal Workforce Investment Act or any future federal workforce
1555 legislation. The Mississippi Department of Employment Security
1556 shall be responsible for providing necessary administrative,
1557 clerical and budge support for the State Workforce Investment
1558 Board.

1559 (5) The Mississippi State Workforce Investment Board shall
1560 have the following duties. These duties are intended to be
1561 consistent with the scope of duties provided in the federal
1562 Workforce Innovation and Opportunity Act, amendments and successor
1563 legislation to this act, and other relevant federal law:

1564 (a) Through the office, develop and submit to the
1565 Governor, Lieutenant Governor and Speaker of the House a strategic



1566 plan for an integrated state workforce development system that
1567 aligns resources and structures the system to more effectively and
1568 efficiently meet the demands of Mississippi's employers and job
1569 seekers. This plan will comply with the federal Workforce
1570 Investment Act of 1998, as amended, the federal Workforce
1571 Innovation and Opportunity Act of 2014 and amendments and
1572 successor legislation to these acts;

1573 (b) Assist the Governor, Lieutenant Governor and
1574 Speaker of the House in the development and continuous improvement
1575 of the statewide workforce investment system that shall include:

1576 (i) Development of linkages in order to assure
1577 coordination and nonduplication among programs and activities; and

1578 (ii) Review local workforce development plans that
1579 reflect the use of funds from the federal Workforce Investment
1580 Act, * * * the Wagner-Peyser Act and the * * * Mississippi
1581 Comprehensive Workforce Training and Education Consolidation Act;

1582 (c) Recommend to the office the designation of local
1583 workforce investment areas as required in Section 116 of the
1584 federal Workforce Investment Act of 1998 and the Workforce
1585 Innovation and Opportunity Act of 2014. There shall be four (4)
1586 workforce investment areas that are generally aligned with the
1587 planning and development district structure in Mississippi.
1588 Planning and development districts will serve as the fiscal agents
1589 to manage Workforce Investment Act funds, oversee and support the
1590 local workforce investment boards aligned with the area and the



1591 local programs and activities as delivered by the one-stop
1592 employment and training system. The planning and development
1593 districts will perform this function through the provisions of the
1594 county cooperative service districts created under Sections
1595 19-3-101 through 19-3-115; however, planning and development
1596 districts currently performing this function under the Interlocal
1597 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
1598 continue to do so;

1599 (d) Assist the Governor in the development of an
1600 allocation formula for the distribution of funds for adult
1601 employment and training activities and youth activities to local
1602 workforce investment areas;

1603 (e) Recommend comprehensive, results-oriented measures
1604 that shall be applied to all of Mississippi's workforce
1605 development system programs;

1606 (f) Assist the Governor in the establishment and
1607 management of a one-stop employment and training system conforming
1608 to the requirements of the federal Workforce Investment Act of
1609 1998 and the Workforce Innovation and Opportunity Act of 2014, as
1610 amended, recommending policy for implementing the Governor's
1611 approved plan for employment and training activities and services
1612 within the state. In developing this one-stop career operating
1613 system, the Mississippi State Workforce Investment Board, in
1614 conjunction with local workforce investment boards, shall:



1615 (i) Design broad guidelines for the delivery of
1616 workforce development programs;

1617 (ii) Identify all existing delivery agencies and
1618 other resources;

1619 (iii) Define appropriate roles of the various
1620 agencies to include an analysis of service providers' strengths
1621 and weaknesses;

1622 (iv) Determine the best way to utilize the various
1623 agencies to deliver services to recipients; and

1624 (v) Develop a financial plan to support the
1625 delivery system that shall, at a minimum, include an
1626 accountability system;

1627 (g) To provide authority, in accordance with any
1628 executive order of the Governor, for developing the necessary
1629 collaboration among state agencies at the highest level for
1630 accomplishing the purposes of this chapter;

1631 (h) To monitor the effectiveness of the workforce
1632 development centers and WIN job centers;

1633 (i) To advise the Governor, public schools,
1634 community/junior colleges and institutions of higher learning on
1635 effective school-to-work transition policies and programs that
1636 link students moving from high school to higher education and
1637 students moving between community colleges and four-year
1638 institutions in pursuit of academic and technical skills training;



1639 (j) To work with industry to identify barriers that
1640 inhibit the delivery of quality workforce education and the
1641 responsiveness of educational institutions to the needs of
1642 industry;

1643 (k) To provide periodic assessments on effectiveness
1644 and results of the overall Mississippi comprehensive workforce
1645 development system and district councils;

1646 (l) Develop broad statewide development goals,
1647 including a goal to raise the state's labor force participation
1648 rate;

1649 (m) Perform a comprehensive review of Mississippi's
1650 workforce development efforts, including the amount spent and
1651 effectiveness of programs supported by state or federal money; and

1652 (n) To assist the Governor in carrying out any other
1653 responsibility required by the federal Workforce Investment Act of
1654 1998, as amended and the Workforce Innovation and Opportunity Act,
1655 successor legislation and amendments.

1656 (6) The Mississippi State Workforce Investment Board shall
1657 coordinate all training programs and funds within its purview,
1658 consistent with the federal Workforce Investment Act, Workforce
1659 Innovation and Opportunity Act, amendments and successor
1660 legislation to these acts, and other relevant federal law.

1661 Each state agency director responsible for workforce training
1662 activities shall advise the Mississippi Office of Workforce
1663 Development and the State Workforce Investment Board of



1664 appropriate federal and state requirements. Each state agency,
1665 department and institution shall report any monies received for
1666 workforce training activities or career and technical education
1667 and a detailed itemization of how those monies were spent to the
1668 state board. The board shall compile the data and provide a
1669 report of the monies and expenditures to the Chairs of the House
1670 and Senate Appropriations Committee, the Chair of the House
1671 Workforce Development Committee and the Chair of the Senate
1672 Economic and Workforce Development Committee by October 1 of each
1673 year. Each such state agency director shall remain responsible
1674 for the actions of his agency; however, each state agency and
1675 director shall work cooperatively to fulfill the state's goals.

1676 (7) The State Workforce Investment Board shall establish an
1677 executive committee, which shall consist of the following State
1678 Workforce Investment Board members:

1679 (a) The Chair of the State Workforce Investment Board;

1680 (b) Two (2) business representatives currently serving
1681 on the state board selected by the Governor;

1682 (c) The two (2) business representatives currently
1683 serving on the state board appointed by the Lieutenant Governor;

1684 (d) The two (2) business representatives currently
1685 serving on the state board appointed by the Governor from a list
1686 of three (3) recommendations from the Speaker of the House;

1687 (e) The two (2) legislators, who shall serve in a
1688 nonvoting capacity, one (1) of whom shall be appointed by the



1689 Lieutenant Governor from the membership of the Mississippi Senate
1690 and one (1) of whom shall be appointed by the Speaker of the House
1691 of Representatives from the membership of the Mississippi House of
1692 Representatives.

1693 (8) The executive committee shall select an executive
1694 director of the Office of Workforce Development, with the advice
1695 and consent of a majority of the State Workforce Investment Board.
1696 The executive committee shall seek input from economic development
1697 organizations across the state when selecting the executive
1698 director. The executive director shall:

1699 (a) Be a person with extensive experience in
1700 development of economic, human and physical resources, and
1701 promotion of industrial and commercial development. The executive
1702 director shall have a bachelor's degree from a state-accredited
1703 institution and no less than eight (8) years of professional
1704 experience related to workforce or economic development;

1705 (b) Perform the functions necessary for the daily
1706 operation and administration of the office, with oversight from
1707 the executive committee and the State Workforce Investment Board,
1708 to fulfill the duties of the state board as described in Chapter
1709 476, Laws of 2020;

1710 (c) Hire staff needed for the performance of his or her
1711 duties under this act. The executive director, with approval from
1712 the executive committee, shall set the compensation of any hired
1713 employees from any funds made available for that purpose;



1714 (d) Enter any part of the Mississippi Community College
1715 Board, individual community and junior colleges, or other
1716 workforce training facilities operated by the state or its
1717 subdivisions;

1718 (e) Serve at the will and pleasure of the executive
1719 committee;

1720 (f) Promulgate rules and regulations, subject to
1721 oversight by the executive committee, not inconsistent with this
1722 chapter, as may be necessary to enforce the provisions in this
1723 act; and

1724 (g) Perform any other actions he or she, in
1725 consultation with the executive committee, deems necessary to
1726 fulfill the duties under Chapter 476, Laws of 2020.

1727 (9) The Office of Workforce Development and Mississippi
1728 Community College Board shall collaborate in the administration
1729 and oversight of the Mississippi Workforce Enhancement Training
1730 Fund and Mississippi Works Fund, as described in Section 71-5-353.
1731 The executive director shall maintain complete and exclusive
1732 operational control of the office's functions.

1733 (10) The office shall file an annual report with the
1734 Governor, Secretary of State, President of the Senate, Secretary
1735 of the Senate, Speaker of the House, and Clerk of the House not
1736 later than October 1 of each year regarding all funds approved by
1737 the office to be expended on workforce training during the prior
1738 calendar year. The report shall include:



1739 (a) Information on the performance of the Mississippi
1740 Workforce Enhancement Training Fund and the Mississippi Works
1741 Fund, in terms of adding value to the local and state economy, the
1742 contribution to future growth of the state economy, and movement
1743 toward state goals, including increasing the labor force
1744 participation rate; and

1745 (b) With respect to specific workforce training
1746 projects:

1747 (i) The location of the training;

1748 (ii) The amount allocated to the project;

1749 (iii) The purpose of the project;

1750 (iv) The specific business entity that is the
1751 beneficiary of the project; and

1752 (v) The number of employees intended to be trained
1753 and actually trained, if applicable, in the course of the project.

1754 (c) All information concerning a proposed project which
1755 is provided to the executive director shall be kept confidential.

1756 Such confidentiality shall not limit disclosure under the
1757 Mississippi Public Records Act of 1983 of records describing the

1758 nature, quantity, cost or other pertinent information related to
1759 the activities of, or services performed using, the Mississippi

1760 Workforce Enhancement Training Fund or the Mississippi Works Fund.
1761 (11) Nothing in Chapter 476, Laws of 2020 [Senate Bill No.

1762 2564] shall void or otherwise interrupt any contract, lease, grant
1763 or other agreement previously entered into by the State Workforce



1764 Investment Board, Mississippi Community College Board, individual
1765 community or junior colleges, or other entities.

1766 **SECTION 6.** Section 7-1-355, Mississippi Code of 1972, is
1767 amended as follows:

1768 7-1-355. (1) The Mississippi Department of Employment
1769 Security, Office of the Governor, is designated as the sole
1770 administrator of all programs for which the state is the prime
1771 sponsor under Title 1(B) of Public Law 105-220, Workforce
1772 Investment Act of 1998, and the Workforce Innovation Opportunity
1773 Act (Public Law 113-128) and the regulations promulgated
1774 thereunder, and may take all necessary action to secure to this
1775 state the benefits of that legislation. The Mississippi
1776 Department of Employment Security, Office of the Governor, may
1777 receive and disburse funds for those programs that become
1778 available to it from any source.

1779 (2) The Mississippi Department of Employment Security,
1780 Office of the Governor, shall establish guidelines on the amount
1781 and/or percentage of indirect and/or administrative expenses by
1782 the local fiscal agent or the Workforce Development Center
1783 operator. The Mississippi Department of Employment Security,
1784 Office of the Governor, shall develop an accountability system and
1785 make an annual report to the Legislature before December 31 of
1786 each year on Workforce Investment Act activities. The report
1787 shall include, but is not limited to, the following:



1788 (a) The total number of individuals served through the
1789 Workforce Development Centers and the percentage and number of
1790 individuals for which a quarterly follow-up is provided;

1791 (b) The number of individuals who receive core services
1792 by each center;

1793 (c) The number of individuals who receive intensive
1794 services by each center;

1795 (d) The number of Workforce Investment Act vouchers
1796 issued by the Workforce Development Centers including:

1797 (i) A list of schools and colleges to which these
1798 vouchers were issued and the average cost per school of the
1799 vouchers; and

1800 (ii) A list of the types of programs for which
1801 these vouchers were issued;

1802 (e) The number of individuals placed in a job through
1803 Workforce Development Centers;

1804 (f) The monies and the amount retained for
1805 administrative and other costs received from Workforce Investment
1806 Act or Workforce Innovation Opportunity Act funds for each agency
1807 or organization that Workforce Investment Act or Workforce
1808 Innovation Opportunity Act funds flow through as a percentage and
1809 actual dollar amount of all Workforce Investment Act or Workforce
1810 Innovation Opportunity Act funds received.

1811 (3) The Mississippi Department of Employment Security shall
1812 achieve gender pay equity in the Workforce Investment Act or



1813 Workforce Innovation Opportunity Act workforce development system.
1814 The department shall include in the annual report required by
1815 subsection (2) of this section:

1816 (a) The gender and race of those seeking employment
1817 services;

1818 (b) Training by training provider extended to each
1819 participant by gender; and

1820 (c) Earnings for each participant by gender as
1821 verification of pay equity in the workforce system.

1822 **SECTION 7. Equal pay certificate.** (1) No department or
1823 agency of the state shall execute a contract or agreement in
1824 excess of One Hundred Thousand Dollars (\$100,000.00) with a
1825 business that has forty (40) or more full-time employees in this
1826 state or a state where the business has its primary place of
1827 business on a single day during the prior twelve (12) months,
1828 unless the business has an equal pay certificate or it has
1829 certified in writing that it is exempt. A certificate is valid
1830 for four (4) years.

1831 (2) This section does not apply to a business with respect
1832 to a specific contract if the Executive Director of the Department
1833 of Finance and Administration determines that application of this
1834 section would cause undue hardship to the contracting entity.

1835 (3) A business shall apply for an equal pay certificate by
1836 paying a One Hundred Fifty Dollar (\$150.00) filing fee and
1837 submitting an equal pay compliance statement to the Department of



1838 Finance and Administration. The proceeds from the fees collected
1839 under this section shall be deposited in an equal pay certificate
1840 special revenue account. The Department of Finance and
1841 Administration shall issue an equal pay certificate of compliance
1842 to a business that submits to the department a statement signed by
1843 the chairperson of the board or chief executive officer of the
1844 business:

1845 (a) That the business is in compliance with Title VII
1846 of the Civil Rights Act of 1964;

1847 (b) That the average compensation for its female
1848 employees is not consistently below the average compensation for
1849 its male employees within each of the major job categories in the
1850 EEO-1 Employer Information Report for which an employee is
1851 expected to perform work under the contract, taking into account
1852 factors such as length of service, requirements of specific jobs,
1853 experience, skill, effort, responsibility, working conditions of
1854 the job, or other mitigating factors;

1855 (c) That the business does not restrict employees of
1856 one (1) sex to certain job classifications and makes retention and
1857 promotion decisions without regard to sex;

1858 (d) That wage and benefit disparities are corrected
1859 when identified to ensure compliance with the laws cited in
1860 paragraph (a) and with paragraph (b) of this subsection; and



1861 (e) How often wages and benefits are evaluated to
1862 ensure compliance with the laws cited in paragraph (a) and with
1863 paragraph (b) of this subsection.

1864 (4) The equal pay compliance statement shall also indicate
1865 whether the business, in setting compensation and benefits, uses:

1866 (a) A market pricing approach;

1867 (b) State prevailing wage or union contract
1868 requirements;

1869 (c) A performance pay system;

1870 (d) An internal analysis; or

1871 (e) An alternative approach to determine what level of
1872 wages and benefits to pay its employees. If the business uses an
1873 alternative approach, the business must provide a description of
1874 its approach.

1875 Receipt of the equal pay compliance statement by the
1876 commissioner does not establish compliance with the laws set forth
1877 in subsection (3)(a) of this section.

1878 (5) The Department of Finance and Administration must issue
1879 an equal pay certificate, or a statement of why the application
1880 was rejected, within fifteen (15) days of receipt of the
1881 application. An application may be rejected only if it does not
1882 comply with the requirements of subsection (3) of this section.

1883 (6) An equal pay certificate for a business may be suspended
1884 or revoked by the Department of Finance and Administration when
1885 the business fails to make a good-faith effort to comply with the



1886 laws identified in subsection (3) of this section, fails to make a
1887 good-faith effort to comply with this section, or has multiple
1888 violations of this section or the laws identified in subsection
1889 (3) of this section. Before suspending or revoking a certificate,
1890 the Department of Finance and Administration must first have
1891 sought to conciliate with the business regarding wages and
1892 benefits due to employees.

1893 (7) If a contract is awarded to a business that does not
1894 have an equal pay certificate as required under this section, or
1895 that is not in compliance with subsection (3) of this section, the
1896 Department of Finance and Administration may void the contract on
1897 behalf of the state. The contract award entity that is a party to
1898 the agreement must be notified by the Department of Finance and
1899 Administration before the Department of Finance and Administration
1900 takes action to void the contract.

1901 A contract may be abridged or terminated by the contract
1902 award entity identified upon notice that the Department of Finance
1903 and Administration has suspended or revoked the certificate of the
1904 business.

1905 (8) A business may obtain an administrative hearing before
1906 the suspension or revocation of its certificate is effective by
1907 filing a written request for a hearing twenty (20) days after
1908 service of notice by the Department of Finance and Administration.
1909 A business may obtain an administrative hearing before the
1910 contract award entity's abridgement or termination of a contract



1911 is effective by filing a written request for a hearing twenty (20)
1912 days after service of notice by the contract award entity.

1913 (9) The Department of Finance and Administration must
1914 provide technical assistance to any business that requests
1915 assistance regarding this section.

1916 (10) The State Auditor may audit the business's compliance
1917 with this section. As part of an audit, upon request, a business
1918 must provide the State Auditor the following information with
1919 respect to employees expected to perform work under the contract
1920 in each of the major job categories in the EEO-1 Employer
1921 Information Report:

1922 (a) Number of male employees;

1923 (b) Number of female employees;

1924 (c) Average annualized salaries paid to male employees
1925 and to female employees, in the manner most consistent with the
1926 employer's compensation system, within each major job category;

1927 (d) Information on performance payments, benefits, or
1928 other elements of compensation, in the manner most consistent with
1929 the employer's compensation system, if requested by the State
1930 Auditor as part of a determination as to whether these elements of
1931 compensation are different for male and female employees;

1932 (e) Average length of service for male and female
1933 employees in each major job category; and



1934 (f) Other information identified by the business or by
1935 the Department of Finance and Administration, as needed, to
1936 determine compliance.

1937 (11) Data submitted to the Department of Finance and
1938 Administration related to equal pay certificates are private data
1939 on individuals or nonpublic data with respect to persons other
1940 than department employees. The Department of Finance and
1941 Administration's decision to issue, not issue, revoke or suspend
1942 an equal pay certificate is public data.

1943 (12) The Department of Finance and Administration shall
1944 report to the Governor and the Legislature by January 31 of every
1945 year, beginning January 31, 2022. The report shall indicate the
1946 number of equal pay certificates issued, the number of audits
1947 conducted, the processes used by contractors to ensure compliance
1948 with subsection (3) of this section, and a summary of its auditing
1949 efforts. The Department of Finance and Administration shall
1950 consult with the Committee on the Status of Women in preparing the
1951 report.

1952 **SECTION 8.** It is declared to be the public policy of the
1953 State of Mississippi to establish fair minimum wages for workers
1954 in order to safeguard their health, efficiency and general
1955 well-being and to protect those workers as well as their employers
1956 from the effects of unfair competition resulting from wage levels
1957 detrimental to their health, efficiency and well-being.



1958 **SECTION 9.** (1) Except as otherwise provided in this act,
1959 every employer shall pay each of its employees a fair minimum wage
1960 as provided in this section.

1961 (2) The state minimum wage shall be as follows:

1962 (a) Beginning January 1, 2022, the rate of not less
1963 than Seven Dollars and Fifty Cents (\$7.50) per hour;

1964 (b) Beginning January 1, 2023, the rate of not less
1965 than Seven Dollars and Seventy-five Cents (\$7.75) per hour;

1966 (c) Beginning January 1, 2024, the rate of not less
1967 than Eight Dollars (\$8.00) per hour; and

1968 (d) Beginning January 1, 2025, the rate of not less
1969 than Ten Dollars (\$10.00) per hour.

1970 (3) Whenever the highest federal minimum wage is increased,
1971 the minimum wage established under this section shall be increased
1972 to the amount of the federal minimum wage plus one-half of one
1973 percent (1/2 of 1%) more than the federal rate, rounded to the
1974 nearest whole cent, effective on the same date as the increase in
1975 the highest federal minimum wage, and shall apply to all wage
1976 orders and administrative regulations then in force.

1977 (4) The rates for learners, beginners, and persons under the
1978 age of eighteen (18) years shall be not less than eighty-five
1979 percent (85%) of the state minimum wage for the first two hundred
1980 (200) hours of their employment and equal to the applicable state
1981 minimum wage thereafter, except institutional training programs
1982 specifically exempted by the director.



1983 **SECTION 10.** As used in this act, the following words shall
1984 have the meanings ascribed herein unless the context clearly
1985 requires otherwise:

1986 (a) "Director" means the Executive Director of the
1987 Mississippi Department of Employment Security.

1988 (b) "Department" means the Mississippi Department of
1989 Employment Security, Office of the Governor, established under
1990 Section 71-5-101.

1991 (c) "Wage" means compensation due to an employee by reason
1992 of his or her employment, payable in legal tender of the United
1993 States or checks on banks convertible into cash on demand at full
1994 face value, subject to any deductions, charges or allowances as
1995 may be permitted by this act or by regulations of the department
1996 under this act.

1997 (d) "Employ" means to suffer or to permit to work.

1998 (e) "Employer" means any individual, partnership,
1999 association, corporation, business trust, or any person or group
2000 of persons acting directly or indirectly in the interest of an
2001 employer in relation to an employee. The term "employer" does not
2002 mean:

2003 (i) Any individual, partnership, association,
2004 corporation, business trust, or any person or group of persons
2005 acting directly or indirectly in the interest of an employer in
2006 relation to an employee that employs fewer than five (5) employees
2007 in a regular employment relationship; or



2008 (ii) Any person, firm or corporation, or other
2009 entity subject to the provisions of the federal Fair Labor
2010 Standards Act of 1938.

2011 (f) "Independent contractor" means any individual who
2012 contracts to perform certain work away from the premises of his or
2013 her employer, uses his or her own methods to accomplish the work,
2014 and is subject to the control of the employer only as to the
2015 result of his or her work.

2016 (g) "Employee" means any individual employed by an
2017 employer but does not mean:

2018 (i) Any individual employed in a bona fide
2019 executive, administrative or professional capacity, or as an
2020 outside commission-paid salesperson, who customarily performs his
2021 or her services away from his or her employer's premises, taking
2022 orders for goods or services;

2023 (ii) Any student performing services for any
2024 school, college or university in which he or she is enrolled and
2025 is regularly attending classes;

2026 (iii) Any individual employed by the United States
2027 or by the state or any political subdivision of the state, except
2028 public schools and school districts;

2029 (iv) Any individual engaged in an activity of any
2030 educational, charitable, religious or nonprofit organization where
2031 the employer/employee relationship does not in fact exist or where
2032 the service is rendered to the organization gratuitously;



2033 (v) Any bona fide independent contractor;
2034 (vi) Any individual employed by an agricultural
2035 employer who did not use more than five hundred (500) man-days of
2036 agricultural labor in any calendar quarter of the preceding
2037 calendar year;

2038 (vii) The parent, spouse, child or other member of
2039 an agricultural employer's immediate family;

2040 (viii) An individual who:

2041 1. Is employed as a hand harvest laborer and
2042 is paid on a piece-rate basis in an operation that has been, and
2043 is customarily and generally recognized as having been, paid on a
2044 piece-rate basis in the region of employment;

2045 2. Commutes daily from his or her permanent
2046 residence to the farm on which he or she is so employed; and

2047 3. Has been employed in agriculture less than
2048 thirteen (13) weeks during the preceding calendar year;

2049 (ix) A migrant who:

2050 1. Is sixteen (16) years of age or under and
2051 is employed as a hand harvest laborer;

2052 2. Is paid on a piece-rate basis in an
2053 operation which has been, and is customarily and generally
2054 recognized as having been, paid on a piece-rate basis in the
2055 region of employment;

2056 3. Is employed on the same farm as his or her
2057 parents; and



2058 4. Is paid the same piece-rate as employees
2059 over age sixteen (16) are paid on the same farm;

2060 (x) Any employee principally engaged in the range
2061 production of livestock; or

2062 (xi) Any employee employed in planting or tending
2063 trees, cruising, surveying or felling timber, or in preparing or
2064 transporting logs or other forestry products to the mill,
2065 processing plants, or railroad or other transportation terminal if
2066 the number of employees employed by his or her employer in the
2067 forestry or lumbering operations does not exceed eight (8).

2068 (h) "Occupation" means any occupation, service, trade,
2069 business, industry, or branch or group of industries or employment
2070 or class of employment in which employees are gainfully employed.

2071 (i) "Gratuities" means voluntary monetary contributions
2072 received by an employee from a guest, patron or customer for
2073 services rendered.

2074 (j) "Man-day" means any day during any portion of which
2075 an employee performs any agricultural labor.

2076 **SECTION 11.** Nothing in this act shall be deemed to interfere
2077 with, impede, or in any way diminish the right of employers and
2078 employees to bargain collectively through representatives of their
2079 own choosing in order to establish wages or other conditions of
2080 work.

2081 **SECTION 12.** (1) Any employer who willfully:



2082 (a) Hinders or delays the department or its authorized
2083 representative in the performance of its duties in the enforcement
2084 of this act;

2085 (b) Refuses to admit the department or its authorized
2086 representative to any place of employment;

2087 (c) Fails to make, keep and preserve any records as
2088 required under the provisions of this act or to make the record
2089 accessible to the department or its authorized representative upon
2090 demand;

2091 (d) Refuses to furnish a sworn statement of the record
2092 or any other information required for the proper enforcement of
2093 this act to the department or its authorized representative upon
2094 demand; or

2095 (e) Fails to post a summary of this act or a copy of
2096 any applicable regulations as required by this act shall be deemed
2097 in violation of this act and shall, upon conviction, be fined not
2098 less than One Hundred Dollars (\$100.00) nor more than Four Hundred
2099 Dollars (\$400.00). For the purposes of this subsection, each
2100 violation shall constitute a separate offense.

2101 (2) Any employer who pays or agrees to pay minimum wages at
2102 a rate less than the rate applicable under this act shall be
2103 guilty of a felony and the employer shall:

2104 (a) Be fined not less than Four Thousand Dollars
2105 (\$4,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for



2106 each offense if the total amount of all unpaid wages owed to an
2107 employee is more than Two Thousand Dollars (\$2,000.00);

2108 (b) Be fined not less than Two Thousand Dollars
2109 (\$2,000.00) nor more than Four Thousand Dollars (\$4,000.00) or the
2110 agent or officer of the employer shall be imprisoned not more than
2111 one (1) year, or both, for each offense if the total amount of all
2112 unpaid wages owed to an employee is more than One Thousand Dollars
2113 (\$1,000.00) but not more than Two Thousand Dollars (\$2,000.00);

2114 (c) Be fined not less than One Thousand Dollars
2115 (\$1,000.00) nor more than Two Thousand Dollars (\$2,000.00) or the
2116 agent or officer of the employer shall be imprisoned not more than
2117 six (6) months, or both, for each offense if the total amount of
2118 all unpaid wages owed to an employee is more than Five Hundred
2119 Dollars (\$500.00) but not more than One Thousand Dollars
2120 (\$1,000.00); or

2121 (d) Be fined not less than Four Hundred Dollars
2122 (\$400.00) nor more than One Thousand Dollars (\$1,000.00) or the
2123 agent or officer of the employer shall be imprisoned not more than
2124 three (3) months, or both, for each offense if the total amount of
2125 all unpaid wages owed to an employee is Five Hundred Dollars
2126 (\$500.00) or less.

2127 (3) Any employer who willfully discharges or in any other
2128 manner willfully discriminates against any employee because:

2129 (a) The employee has made any complaint to his or her
2130 employer, to the department, or to the director or his or her



2131 authorized representative that he or she has not been paid minimum
2132 wages in accordance with the provisions of this act;

2133 (b) The employee has caused to be instituted or is
2134 about to cause to be instituted any proceeding under or related to
2135 this act; or

2136 (c) The employee has testified or is about to testify
2137 in any such proceeding;

2138 Shall be deemed in violation of this act and shall, upon
2139 conviction, be fined not more than One Hundred Dollars (\$100.00).

2140 **SECTION 13.** (1) For any occupation, the department shall
2141 make and revise any administrative regulations, including
2142 definitions of terms, as it may deem appropriate to carry out the
2143 purposes of this act or necessary to prevent the circumvention or
2144 evasion of those purposes and to safeguard the minimum wage rates
2145 established.

2146 (2) The regulations may include, but are not limited to,
2147 regulations governing:

2148 (a) Outside or commission salespeople;

2149 (b) Learners and apprentices, their number, proportion
2150 or length of service;

2151 (c) Part-time pay, bonuses or fringe benefits;

2152 (d) Special pay for special or extra work;

2153 (e) Permitted charges to employees or allowances for
2154 board, lodging, apparel or other facilities or services
2155 customarily furnished by employers to employees;



2156 (f) Allowances for gratuities; or
2157 (g) Allowances for other special conditions or
2158 circumstances that may be usual in a particular employer/employee
2159 relationship.

2160 (3) Regulations or revisions issued by the department under
2161 this section shall be made only after a public hearing, at which
2162 any person may be heard by the department, at least ten (10) days
2163 subsequent to publication of notice of the hearing in a newspaper
2164 of general circulation throughout the State of Mississippi.

2165 **SECTION 14.** The director or his or her authorized
2166 representatives shall:

2167 (a) Have authority to enter and inspect the place of
2168 business or employment of any employer in the state for the
2169 purpose of examining and inspecting any books, registers, payrolls
2170 and other records of any employer that in any way relate to or
2171 have a bearing upon the question of wages, hours or other
2172 conditions of employment of any employees; copy any of the books,
2173 registers, payrolls or other records as he or she may deem
2174 necessary or appropriate; and question employees to ascertain
2175 whether the provisions of this act and regulations issued under
2176 this act have been and are being complied with;

2177 (b) Have authority to require from the employer full
2178 and correct statements in writing, including sworn statements,
2179 with respect to wages, hours, names, addresses and any information



2180 pertaining to his or her employees as the director or his or her
2181 authorized representative may deem necessary or appropriate;

2182 (c) Publish all regulations made by the department; and

2183 (d) Otherwise implement and enforce the regulations and
2184 decisions of the department.

2185 **SECTION 15.** Except as otherwise provided in this section, no
2186 employer shall employ any of his or her employees for a workweek
2187 longer than forty (40) hours unless the employee receives
2188 compensation for his or her employment in excess of the hours
2189 above specified at a rate not less than one and one-half (1-1/2)
2190 times the regular rate of pay at which he or she is employed.

2191 **SECTION 16.** (1) Every employer of an employee engaged in
2192 any occupation in which gratuities have been customarily and
2193 usually constituted and have been recognized as a part of
2194 remuneration for hiring purposes shall be entitled to an allowance
2195 for gratuities as a part of the hourly wage rate provided in
2196 Section 9 of this act in an amount not to exceed fifty percent
2197 (50%) of the minimum wage established by Section 9 of this act,
2198 provided that the employee actually received that amount in
2199 gratuities and that the application of the foregoing gratuity
2200 allowances results in payment of wages other than gratuities to
2201 tipped employees, including full-time students, subject to the
2202 provisions of this act, of not less than fifty percent (50%) of
2203 the minimum wage prescribed by this act.



2204 (2) In determining whether an employee received in
2205 gratuities the amount claimed, the director may require the
2206 employee to show to the satisfaction of the director that the
2207 actual amount of gratuities received by him or her during any
2208 workweek was less than the amount determined by the employer as
2209 the amount by which the wage paid the employee was deemed to be
2210 increased under this section.

2211 **SECTION 17.** (1) Every employer subject to any provisions of
2212 this act shall keep a summary of this act, approved by the
2213 department, and copies of any applicable regulations issued under
2214 this act posted in a conspicuous and accessible place in or about
2215 the premises where any person subject to this act is employed.

2216 (2) Employers shall be furnished copies of the summaries of
2217 this statute and regulations by the director on request without
2218 charge.

2219 **SECTION 18.** (1) Every employer subject to any provision of
2220 this act or of any regulation issued under this act shall make and
2221 keep for a period of not less than three (3) years, in or about
2222 the premises where any employee is employed, a record of the name,
2223 address and occupation of each of his or her employees, the rate
2224 of pay and the amount paid each pay period to each employee and
2225 any other information as the department prescribes by regulation
2226 as necessary or appropriate for the enforcement of the provisions
2227 of this act or of the regulations under this act.



2228 (2) The records shall be open for inspection or
2229 transcription by the director or his or her authorized
2230 representative at any reasonable time.

2231 (3) Every employer shall furnish to the director or to his
2232 or her authorized representative on demand a sworn statement of
2233 the records and information upon forms prescribed or approved by
2234 the director.

2235 **SECTION 19.** (1) Any employer who pays any employee less
2236 than minimum wages to which the employee is entitled under or by
2237 virtue of this act shall be liable to the employee affected for
2238 the full amount of the wages, less any amount actually paid to the
2239 employee by the employer, and for costs and reasonable attorney's
2240 fees as may be allowed by the court.

2241 (2) Any agreement between the employee and employer to work
2242 for less than minimum wages shall be no defense to the action.

2243 (3) The venue of the action shall lie in the circuit court
2244 of any county in which the services which are the subject of the
2245 employment were performed.

2246 (4) The director shall have the authority to fully enforce
2247 this act by instituting legal action to recover any wages which he
2248 or she determines to be due to employees under this act.

2249 **SECTION 20.** Section 17-1-51, Mississippi Code of 1972, is
2250 amended as follows:

2251 17-1-51. (1) No county, board of supervisors of a county,
2252 municipality or governing authority of a municipality is



2253 authorized to establish a mandatory, minimum living wage rate that
2254 is lower than the rate provided in this act, minimum number of
2255 vacation or sick days, whether paid or unpaid, that would regulate
2256 how a private employer pays its employees. Each county, board of
2257 supervisors of a county, municipality or governing authority of a
2258 municipality shall be prohibited from establishing a mandatory,
2259 minimum living wage rate that is lower than the rate provided in
2260 this act, minimum number of vacation or sick days, whether paid or
2261 unpaid, that would regulate how a private employer pays its
2262 employees.

2263 (2) The Legislature finds that the prohibitions of
2264 subsection (1) of this section are necessary to ensure an economic
2265 climate conducive to new business development and job growth in
2266 the State of Mississippi while protecting the health and
2267 well-being of workers. * * *

2268 * * *

2269 (* * *3) The Legislature concludes from * * * this finding
2270 that, in order for a business to remain competitive and yet
2271 attract and retain the highest possible caliber of employees, and
2272 thereby remain sound, an enterprise must work in * * * an
2273 environment * * * that respects its workers and that encourages
2274 the payment of fair minimum wage rates * * *. The net impact of
2275 any local * * * wages that are greater than the rate provided in
2276 this act * * * will be economically * * * stable and create



2277 a * * * rise and * * * increase in the standard of living for the
2278 citizens of the state. * * *

2279 **SECTION 21.** Section 25-3-40, Mississippi Code of 1972, is
2280 amended as follows:

2281 25-3-40. On July 1, 1978, and each year thereafter, the
2282 Mississippi Compensation Plan shall be amended to provide salary
2283 increases in such amounts and percentages as might be recommended
2284 by the Legislative Budget Office and as may be authorized by funds
2285 appropriated by the Legislature for the purpose of granting
2286 incentive salary increases as deemed possible dependent upon the
2287 availability of general and special funds.

2288 It is hereby declared to be the intent of the Mississippi
2289 Legislature to implement the minimum wage as enacted by statutory
2290 law of the United States Congress subject to funds being available
2291 for that purpose. It is further the intent of the Legislature to
2292 implement the state minimum wage as provided in this act. It is
2293 the intent and purpose of this section to maximize annual salary
2294 increases consistent with the availability of funds as might be
2295 determined by the Mississippi Legislature at its regular annual
2296 session and that all salary increases hereafter be made consistent
2297 with the provisions of this section.

2298 **SECTION 22.** (1) **Definitions.** The following words and
2299 phrases shall have the meanings as defined in this section unless
2300 the context clearly indicates otherwise:



2301 (a) "Child" means a biological, adopted, or foster
2302 child, a stepchild, a legal ward, or a child of a person standing
2303 in loco parentis, who is: (i) Under eighteen (18) years of age;
2304 (ii) or eighteen (18) years of age or older and incapable of
2305 self-care because of a mental or physical disability.

2306 (b) "Department" means the Mississippi Department of
2307 Employment Security.

2308 (c) "Director" means the director of the department.

2309 (d) "Employee" means a person who has been employed:
2310 (i) for at least twelve (12) months by the employer with respect
2311 to whom leave is requested; and (ii) for at least one thousand two
2312 hundred fifty (1,250) hours of service with the employer during
2313 the previous twelve-month period.

2314 "Employee" does not mean a person who is employed at a
2315 worksite at which the employer employs less than fifty (50)
2316 employees if the total number of employees employed by that
2317 employer within seventy-five (75) miles of that worksite is less
2318 than fifty (50).

2319 (e) "Employer" means: (i) any person, firm,
2320 corporation, partnership, business trust, legal representative, or
2321 other business entity which engages in any business, industry,
2322 profession, or activity in this state and includes any unit of
2323 local government including, but not limited to, a county, city,
2324 town, municipal corporation, quasi-municipal corporation, or
2325 political subdivision, which employs fifty (50) or more employees



2326 for each working day during each of twenty (20) or more calendar
2327 workweeks in the current or preceding calendar year; (ii) the
2328 state, state institutions, and state agencies; and (iii) any unit
2329 of local government including, but not limited to, a county, city,
2330 town, municipal corporation, quasi-municipal corporation, or
2331 political subdivision.

2332 (f) "Employment benefits" means all benefits provided
2333 or made available to employees by an employer, including group
2334 life insurance, health insurance, disability insurance, sick
2335 leave, annual leave, educational benefits, and pensions except
2336 benefits that are provided by a practice or written policy of an
2337 employer or through an employee benefit plan as defined in 29 USC
2338 Section 1002(3).

2339 (g) "Family member" means a child, parent, spouse, or
2340 state registered domestic partner of an employee.

2341 (h) "Health care provider" means: (i) a person
2342 licensed as a physician or an osteopathic physician and surgeon;
2343 (ii) a person licensed as an advanced registered nurse
2344 practitioner; or (iii) any other person determined by the director
2345 to be capable of providing health care services.

2346 (i) "Intermittent leave" is leave taken in separate
2347 blocks of time due to a single qualifying reason.

2348 (j) "Leave for a family member's serious health
2349 condition" means leave as defined in subsection (3) of this
2350 section.



2351 (k) "Leave for the birth or placement of a child" means
2352 leave as defined in subsection (3) of this section.

2353 (l) "Leave for the employee's serious health condition"
2354 means leave as defined in subsection (3) of this section.

2355 (m) "Parent" means the biological or adoptive parent of
2356 an employee or an individual who stood in loco parentis to an
2357 employee when the employee was a child.

2358 (n) "Period of incapacity" means an inability to work,
2359 attend school, or perform other regular daily activities because
2360 of the serious health condition, treatment of that condition or
2361 recovery from it, or subsequent treatment in connection with such
2362 inpatient care.

2363 (o) "Reduced leave schedule" means a leave schedule
2364 that reduces the usual number of hours per workweek, or hours per
2365 workday, of an employee.

2366 (p) (i) "Serious health condition" means an illness,
2367 injury, impairment, or physical or mental condition that involves:
2368 inpatient care in a hospital, hospice, or residential medical care
2369 facility, including any period of incapacity; or continuing
2370 treatment by a health care provider. A serious health condition
2371 involving continuing treatment by a health care provider includes
2372 any one or more of the following:

2373 1. A period of incapacity of more than three
2374 (3) consecutive calendar days, and any subsequent treatment or



2375 period of incapacity relating to the same condition, that also
2376 involves:

2377 a. Treatment two (2) or more times by a
2378 health care provider, by a nurse or physician's assistant under
2379 direct supervision of a health care provider, or by a provider of
2380 health care services under orders of, or on referral by, a health
2381 care provider; or

2382 b. Treatment by a health care provider
2383 on at least one (1) occasion which results in a regimen of
2384 continuing treatment under the supervision of the health care
2385 provider;

2386 2. Any period of incapacity due to pregnancy,
2387 or for prenatal care;

2388 3. Any period of incapacity or treatment for
2389 such incapacity due to a chronic serious health condition. A
2390 chronic serious health condition is one which:

2391 a. Requires periodic visits for
2392 treatment by a health care provider, or by a nurse or physician's
2393 assistant under direct supervision of a health care provider;

2394 b. Continues over an extended period of
2395 time, including recurring episodes of a single underlying
2396 condition; and

2397 c. May cause episodic rather than a
2398 continuing period of incapacity;



2399 4. A period of incapacity which is permanent
2400 or long-term due to a condition for which treatment may not be
2401 effective. The employee or family member must be under the
2402 continuing supervision of, but need not be receiving active
2403 treatment by, a health care provider; or

2404 5. Any period of absence to receive multiple
2405 treatments, including any period of recovery from the treatments,
2406 by a health care provider or by a provider of health care services
2407 under orders of, or on referral by, a health care provider, either
2408 for restorative surgery after an accident or other injury, or for
2409 a condition that would likely result in a period of incapacity of
2410 more than three (3) consecutive calendar days in the absence of
2411 medical intervention or treatment, such as cancer, severe
2412 arthritis, or kidney disease.

2413 (ii) Treatment for purposes of subparagraph (i) of
2414 this paragraph (p) includes, but is not limited to, examinations
2415 to determine if a serious health condition exists and evaluations
2416 of the condition.

2417 Treatment does not include routine physical examinations, eye
2418 examinations, or dental examinations. Under subparagraph (i)1.b.
2419 of this paragraph (p), a regimen of continuing treatment includes,
2420 but is not limited to, a course of prescription medication or
2421 therapy requiring special equipment to resolve or alleviate the
2422 health condition. A regimen of continuing treatment that includes
2423 taking over-the-counter medications, such as aspirin,



2424 antihistamines, or salves, or bed rest, drinking fluids, exercise,
2425 and other similar activities that can be initiated without a visit
2426 to a health care provider, is not, by itself, sufficient to
2427 constitute a regimen of continuing treatment for purposes of this
2428 act.

2429 (iii) Conditions for which cosmetic treatments are
2430 administered are not "serious health conditions" unless inpatient
2431 hospital care is required or unless complications develop. Unless
2432 complications arise, the common cold, the flu, earaches, upset
2433 stomach, minor ulcers, headaches other than migraine, routine
2434 dental or orthodontia problems, and periodontal disease are
2435 examples of conditions that do not meet the definition of a
2436 "serious health condition" and do not qualify for leave under this
2437 act. Restorative dental or plastic surgery after an injury or
2438 removal of cancerous growths are serious health conditions
2439 provided all the other conditions of this section are met.

2440 Mental illness resulting from stress or allergies may be
2441 serious health conditions provided all the other conditions of
2442 this section are met.

2443 (iv) Substance abuse may be a serious health
2444 condition if the conditions of this section are met. However,
2445 leave may only be taken for treatment for substance abuse by a
2446 health care provider or by a provider of health care services upon
2447 referral by a health care provider. Absence from work because of



2448 the employee's use of the substance, rather than for treatment,
2449 does not qualify for leave under this act.

2450 (v) Absences attributable to incapacity under
2451 subparagraph (i)1. or 3. of this paragraph (p) qualify for leave
2452 under this act even though the employee or the immediate family
2453 member does not receive treatment from a health care provider
2454 during the absence, and even if the absence does not last more
2455 than three (3) days.

2456 (q) "Spouse" means a husband or wife, as the case may
2457 be, or state registered domestic partner.

2458 (2) **Administration.** The Mississippi Department of
2459 Employment Security shall administer the provisions of this act.

2460 (3) **Entitlement to paid leave.** (a) An employee is entitled
2461 to a total of twelve (12) workweeks of paid leave during any
2462 twelve-month period for one or more of the following:

2463 (i) Because of the birth of a child of the
2464 employee and in order to care for the child;

2465 (ii) Because of the placement of a child with the
2466 employee for adoption or foster care;

2467 (iii) In order to care for a family member of the
2468 employee, if the family member has a serious health condition; or

2469 (iv) Because of a serious health condition that
2470 makes the employee unable to perform the functions of the position
2471 of the employee.



2472 (b) The entitlement to leave for the birth or placement
2473 of a child expires at the end of the twelve-month period beginning
2474 on the date of such birth or placement.

2475 (4) **Leave taken intermittently or on reduced leave schedule.**

2476 (a) When paid leave is taken after the birth or
2477 placement of a child for adoption or foster care, an employee may
2478 take paid leave intermittently or on a reduced paid leave schedule
2479 with the employers' agreement. The employers' agreement is not
2480 required, however, for paid leave during which the employee has a
2481 serious health condition in connection with the birth of a child
2482 or if the newborn child has a serious health condition.

2483 (b) Paid leave may be taken intermittently or on a
2484 reduced leave schedule when medically necessary for medical
2485 treatment of a serious health condition by or under the
2486 supervision of a health care provider, or for recovery from
2487 treatment or recovery from a serious health condition. It may
2488 also be taken to provide care or psychological comfort to an
2489 immediate family member with a serious health condition.

2490 (i) Intermittent paid leave may be taken for a
2491 serious health condition that requires treatment by a health care
2492 provider periodically, rather than for one (1) continuous period
2493 of time, and may include leave of periods from an hour or more to
2494 several weeks.

2495 (ii) Intermittent or reduced schedule paid leave
2496 may be taken for absences where the employee or family member is



2497 incapacitated or unable to perform the essential functions of the
2498 position because of a chronic serious health condition even if he
2499 or she does not receive treatment by a health care provider.

2500 (c) There is no limit on the size of an increment of
2501 paid leave when an employee takes intermittent paid leave or paid
2502 leave on a reduced paid leave schedule. However, an employer may
2503 limit leave increments to the shortest period of time that the
2504 employer's payroll system uses to account for absences or use of
2505 leave, provided it is one (1) hour or less.

2506 (d) The taking of paid leave intermittently or on a
2507 reduced leave schedule under this section may not result in a
2508 reduction in the total amount of leave to which the employee is
2509 entitled beyond the amount of leave actually taken.

2510 (e) If an employee requests intermittent paid leave, or
2511 leave on a reduced leave schedule, for a family member's serious
2512 health condition or the employees' serious health condition when
2513 the condition is foreseeable based on planned medical treatment,
2514 the employer may require such employee to transfer temporarily to
2515 an available alternative position offered by the employer for
2516 which the employee is qualified and that:

2517 (i) Has equivalent pay and benefits; and
2518 (ii) Better accommodates recurring periods of
2519 leave than the regular employment position of the employee.

2520 (5) **Foreseeable paid leave.** (a) If the necessity for paid
2521 leave for the birth or placement of a child is foreseeable based



2522 on an expected birth or placement, the employee shall provide the
2523 employer with not less than thirty (30) days notice, before the
2524 date the leave is to begin, of the employee's intention to take
2525 leave for the birth or placement of a child, except that if the
2526 date of the birth or placement requires leave to begin in less
2527 than thirty (30) days, the employee shall provide such notice as
2528 is practicable.

2529 (b) If the necessity for paid leave for a family
2530 member's serious health condition or the employee's serious health
2531 condition is foreseeable based on planned medical treatment, the
2532 employee:

2533 (i) Must make a reasonable effort to schedule the
2534 treatment so as not to unduly disrupt the operations of the
2535 employer, subject to the approval of the health care provider of
2536 the employee or the health care provider of the family member, as
2537 appropriate; and

2538 (ii) Must provide the employer with not less than
2539 thirty (30) days notice, before the date the leave is to begin, of
2540 the employee's intention to take leave for a family member's
2541 serious health condition or the employee's serious health
2542 condition, except that if the date of the treatment requires leave
2543 to begin in less than thirty (30) days, the employee must provide
2544 such notice as is practicable.

2545 (6) **Spouses employed by same employer.** If spouses entitled
2546 to leave under this act are employed by the same employer, the



2547 aggregate number of workweeks of paid leave to which both may be
2548 entitled may be limited to twelve (12) workweeks during any
2549 twelve-month period, if such leave is taken: (a) for the birth or
2550 placement of a child; or (b) for a parent's serious health
2551 condition.

2552 (7) **Certification.** (a) An employer may require that a
2553 request for paid leave for a family member's serious health
2554 condition or the employee's serious health condition be supported
2555 by a certification issued by the health care provider of the
2556 employee or of the family member, as appropriate. The employee
2557 must provide, in a timely manner, a copy of the certification to
2558 the employer.

2559 (b) Certification provided under paragraph (a) of this
2560 subsection is sufficient if it states:

2561 (i) The date on which the serious health condition
2562 commenced;

2563 (ii) The probable duration of the condition;

2564 (iii) The appropriate medical facts within the
2565 knowledge of the health care provider regarding the condition;

2566 (iv) 1. For purposes of leave for a family
2567 member's serious health condition, a statement that the employee
2568 is needed to care for the family member and an estimate of the
2569 amount of time that such employee is needed to care for the family
2570 member; and



2571 2. For purposes of leave for the employee's
2572 serious health condition, a statement that the employee is unable
2573 to perform the functions of the position of the employee;

2574 (v) In the case of certification for intermittent
2575 leave, or leave on a reduced leave schedule, for planned medical
2576 treatment, the dates on which the treatment is expected to be
2577 given and the duration of the treatment;

2578 (vi) In the case of certification for intermittent
2579 leave, or leave on a reduced leave schedule, for the employee's
2580 serious health condition, a statement of the medical necessity for
2581 the intermittent leave or leave on a reduced leave schedule, and
2582 the expected duration of the intermittent leave or reduced leave
2583 schedule; and

2584 (vii) In the case of certification for
2585 intermittent leave, or leave on a reduced leave schedule, for a
2586 family member's serious health condition, a statement that the
2587 employee's intermittent leave or leave on a reduced leave schedule
2588 is necessary for the care of the family member who has a serious
2589 health condition, or will assist in their recovery, and the
2590 expected duration and schedule of the intermittent leave or
2591 reduced leave schedule.

2592 (c) If the employer has reason to doubt the validity of
2593 the certification provided under paragraph (a) of this subsection
2594 (7) for leave for a family member's serious health condition or
2595 the employee's serious health condition, the employer may require,



2596 at the expense of the employer, that the employee obtain the
2597 opinion of a second health care provider designated or approved by
2598 the employer concerning any information certified under paragraph
2599 (b) of this subsection (7) for the leave. The second health care
2600 provider may not be employed on a regular basis by the employer.

2601 (d) If the second opinion described in paragraph (c) of
2602 this subsection (7) differs from the opinion in the original
2603 certification provided under paragraph (a) of this subsection (7),
2604 the employer may require, at the expense of the employer, that the
2605 employee obtain the opinion of a third health care provider
2606 designated or approved jointly by the employer and the employee
2607 concerning the information certified under paragraph (b) of this
2608 subsection (7). The opinion of the third health care provider
2609 concerning the information certified under paragraph (b) of this
2610 subsection (7) is considered to be final and is binding on the
2611 employer and the employee.

2612 (e) The employer may require that the employee obtain
2613 subsequent recertifications on a reasonable basis.

2614 (8) **Employment protection.** (a) Except as provided in
2615 paragraph (b) of this subsection, any employee who takes paid
2616 leave for the intended purpose of the leave is entitled, on return
2617 from the leave:

2618 (i) To be restored by the employer to the position
2619 of employment held by the employee when the leave commenced; or



2620 (ii) To be restored to an equivalent position with
2621 equivalent employment benefits, pay, and other terms and
2622 conditions of employment at a workplace within twenty (20) miles
2623 of the employee's workplace when leave commenced.

2624 (b) The taking of leave may not result in the loss of
2625 any employment benefits accrued before the date on which the leave
2626 commenced.

2627 (c) Nothing in this section entitles any restored
2628 employee to (i) the accrual of any seniority or employment
2629 benefits during any period of leave; or (ii) any right, benefit,
2630 or position of employment other than any right, benefit, or
2631 position to which the employee would have been entitled had the
2632 employee not taken the leave.

2633 (d) As a condition of restoration under paragraph (a)
2634 of this subsection for an employee who has taken leave for the
2635 employee's serious health condition, the employer may have a
2636 uniformly applied practice or policy that requires each such
2637 employee to receive certification from the health care provider of
2638 the employee that the employee is able to resume work, except that
2639 nothing in this paragraph (d) supersedes a valid local law or a
2640 collective bargaining agreement that governs the return to work of
2641 such employees.

2642 (e) Nothing in this subsection prohibits an employer
2643 from requiring an employee on leave to report periodically to the



2644 employer on the status and intention of the employee to return to
2645 work.

2646 An employer may deny restoration under this subsection to any
2647 salaried employee who is among the highest paid ten percent (10%)
2648 of the employees employed by the employer within seventy-five (75)
2649 miles of the facility at which the employee is employed if:

2650 (i) Denial is necessary to prevent substantial and
2651 grievous economic injury to the operations of the employer;

2652 (ii) The employer notifies the employee of the
2653 intent of the employer to deny restoration on such basis at the
2654 time the employer determines that the injury would occur; and

2655 (iii) The leave has commenced and the employee
2656 elects not to return to employment after receiving the notice.

2657 (9) **Employment benefits.** During any period of paid leave
2658 taken, if the employee is not eligible for any employer
2659 contribution to medical or dental benefits under an applicable
2660 collective bargaining agreement or employer policy during any
2661 period of leave, an employer shall allow the employee to continue,
2662 at the employee's expense, medical or dental insurance coverage,
2663 including any spouse and dependent coverage, in accordance with
2664 state or federal law. The premium to be paid by the employee
2665 shall not exceed one hundred two percent (102%) of the applicable
2666 premium for the leave period.

2667 (10) **Prohibited acts.** (a) It is unlawful for any employer
2668 to:



2669 (i) Interfere with, restrain, or deny the exercise
2670 of, or the attempt to exercise, any right provided under this act;
2671 or

2672 (ii) Discharge or in any other manner discriminate
2673 against any individual for opposing any practice made unlawful by
2674 this act.

2675 (b) It is unlawful for any person to discharge or in
2676 any other manner discriminate against any individual because the
2677 individual has:

2678 (i) Filed any charge, or has instituted or caused
2679 to be instituted any proceeding, under or related to this act;

2680 (ii) Given, or is about to give, any information
2681 in connection with any inquiry or proceeding relating to any right
2682 provided under this act; or

2683 (iii) Testified, or is about to testify, in any
2684 inquiry or proceeding relating to any right provided under this
2685 act.

2686 (11) **Complaint investigations by director.** Upon complaint
2687 by an employee, the director shall investigate to determine if
2688 there has been compliance with this act and the rules adopted
2689 under this act. If the investigation indicates that a violation
2690 may have occurred, a hearing must be held. The director must
2691 issue a written determination including his or her findings after
2692 the hearing. A judicial appeal from the director's determination



2693 may be taken, with the prevailing party entitled to recover
2694 reasonable costs and attorney's fees.

2695 (12) **Civil penalty.** An employer who is found to have
2696 violated a requirement of this act and the rules adopted under
2697 this act, is subject to a civil penalty of not less than One
2698 Thousand Dollars (\$1,000.00) for each violation. Civil penalties
2699 must be collected by the department and deposited into the family
2700 and medical leave enforcement account.

2701 (13) **Civil action by employees.** (a) Any employer who
2702 violates a requirement of this act is liable:

2703 (i) For damages equal to:

2704 1. The amount of:

2705 a. Any wages, salary, employment
2706 benefits, or other compensation denied or lost to such employee by
2707 reason of the violation; or

2708 b. In a case in which wages, salary,
2709 employment benefits, or other compensation have not been denied or
2710 lost to the employee, any actual monetary losses sustained by the
2711 employee as a direct result of the violation, such as the cost of
2712 providing care, up to a sum equal to twelve (12) weeks of wages or
2713 salary for the employee;

2714 2. The interest on the amount described in
2715 subparagraph (i)1 of this paragraph (a) calculated at the
2716 prevailing rate; and



2717 3. An additional amount as liquidated damages
2718 equal to the sum of the amount described in subparagraph (i)1 of
2719 this paragraph (a) and the interest described in subparagraph (i)2
2720 of this paragraph (a), except that if an employer who has violated
2721 proves to the satisfaction of the court that the act or omission
2722 which violated was in good faith and that the employer had
2723 reasonable grounds for believing that the act or omission was not
2724 a violation of, the court may, in the discretion of the court,
2725 reduce the amount of the liability to the amount and interest
2726 determined under subparagraph (i)1 and 2 of this paragraph (a),
2727 respectively; and

2728 (ii) For such equitable relief as may be
2729 appropriate, including employment, reinstatement and promotion.

2730 (b) An action to recover the damages or equitable
2731 relief prescribed in subsection (1) of this section may be
2732 maintained against any employer in any court of competent
2733 jurisdiction by any one or more employees for and on behalf of:

2734 (i) The employees; or

2735 (ii) The employees and other employees similarly
2736 situated.

2737 (c) The court in such an action shall, in addition to
2738 any judgment awarded to the plaintiff, allow reasonable attorney's
2739 fees, reasonable expert witness fees and other costs of the action
2740 to be paid by the defendant.



2741 (14) **Notice-Penalties.** Each employer shall post and keep
2742 posted, in conspicuous places on the premises of the employer
2743 where notices to employees and applicants for employment are
2744 customarily posted, a notice, to be prepared or approved by the
2745 director, setting forth excerpts from, or summaries of, the
2746 pertinent provisions of this act and information pertaining to the
2747 filing of a charge. Any employer that willfully violates this
2748 section may be subject to a civil penalty of not more than One
2749 Hundred Dollars (\$100.00) for each separate offense. Any
2750 penalties collected by the department under this subsection shall
2751 be deposited into the family and medical leave enforcement
2752 account.

2753 (15) **Effect on other laws.** Nothing in this act shall be
2754 construed to: (a) modify or affect any state or local law
2755 prohibiting discrimination on the basis of race, religion, color,
2756 national origin, sex, age, or disability; or (b) supersede any
2757 provision of any local law that provides greater family or medical
2758 leave rights than the rights established under this act.

2759 (16) **Effect on existing employment benefits.** Nothing in
2760 this act diminishes the obligation of an employer to comply with
2761 any collective bargaining agreement or any employment benefit
2762 program or plan that provides greater family or medical leave
2763 rights to employees than the rights established under this act.
2764 The rights established for employees under this act may not be



2765 diminished by any collective bargaining agreement or any
2766 employment benefit program or plan.

2767 (17) **Encouragement of more generous leave policies.** Nothing
2768 in this act shall be construed to discourage employers from
2769 adopting or retaining leave policies more generous than any
2770 policies that comply with the requirements under this act.

2771 (18) **Relationship to federal Family and Medical Leave Act.**

2772 (a) Leave under this section and leave under the
2773 federal Family and Medical Leave Act of 1993 (Act Feb. 5, 1993,
2774 Public Law 103-3, 107 Stat. 6) is in addition to any leave for
2775 sickness or temporary disability because of pregnancy or
2776 childbirth;

2777 (b) Leave taken under this act must be taken
2778 concurrently with any leave taken under the federal Family and
2779 Medical Leave Act of 1993 (Act Feb. 5, 1993, Public Law 103-3, 107
2780 Stat. 6).

2781 (19) **Construction.** This must be construed to the extent
2782 possible in a manner that is consistent with similar provisions,
2783 if any, of the federal Family and Medical Leave Act of 1993 (Act
2784 Feb. 5, 1993, Public Law 103-3, 107 Stat. 6), and that gives
2785 consideration to the rules, precedents and practices of the
2786 federal Department of Labor relevant to the federal act.

2787 **SECTION 23. Women in High-Wage, High-Demand, Nontraditional**
2788 **Jobs Grant Program.** (1) The following words and phrases shall



2789 have the meanings as defined in this section unless the context
2790 clearly indicates otherwise:

2791 (a) "Commissioner" means the Executive Director of the
2792 Mississippi Department of Employment Security.

2793 (b) "Eligible organization" includes, but is not
2794 limited to:

2795 (i) Community-based organizations experienced in
2796 serving women;

2797 (ii) Employers;

2798 (iii) Business and trade associations;

2799 (iv) Labor unions and employee organizations;

2800 (v) Registered apprenticeship programs;

2801 (vi) Secondary and postsecondary education
2802 institutions located in Mississippi; and

2803 (vii) Workforce and economic development agencies.

2804 (c) "High-wage, high-demand" means occupations that
2805 represent at least one-tenth of one percent (0.1%) of total
2806 employment in the base year, have an annual median salary which is
2807 higher than the average for the current year, and are projected to
2808 have more total openings as a share of employment than the
2809 average.

2810 (d) "Low-income" means income less than two hundred
2811 percent (200%) of the federal poverty guideline adjusted for a
2812 family size of four (4).



2813 (e) "Nontraditional occupations" mean those occupations
2814 in which women make up less than twenty-five percent (25%) of the
2815 workforce as defined under United States Code, Title 20, Section
2816 2302.

2817 (2) **Grant program.** The Executive Director of the
2818 Mississippi Department of Employment Security shall establish the
2819 Women in High-Wage, High-Demand, Nontraditional Jobs Grant Program
2820 to increase the number of women in high-wage, high-demand,
2821 nontraditional occupations. The Executive Director of the
2822 Mississippi Department of Employment Security shall make grants to
2823 eligible organizations for programs that encourage and assist
2824 women to enter high-wage, high-demand, nontraditional occupations,
2825 including, but not limited to, those in the skilled trades,
2826 science, technology, engineering and math (STEM) occupations.

2827 (3) **Use of funds.** Grant funds awarded under this section
2828 may be used for:

2829 (a) Recruitment, preparation, placement and retention
2830 of women, including low-income women and women over fifty (50)
2831 years old, in registered apprenticeships, postsecondary education
2832 programs, on-the-job training and permanent employment in
2833 high-wage, high-demand, nontraditional occupations;

2834 (b) Secondary or postsecondary education or other
2835 training to prepare women to succeed in high-wage, high-demand,
2836 nontraditional occupations. Activities under this section may be
2837 conducted by the grantee or in collaboration with another



2838 institution, including, but not limited to, a public or private
2839 secondary or postsecondary school;

2840 (c) Innovative, hands-on best practices that stimulate
2841 interest in high-wage, high-demand, nontraditional occupations
2842 among women, increase awareness among women about opportunities in
2843 high-wage, high-demand, nontraditional occupations or increase
2844 access to secondary programming leading to jobs in high-wage,
2845 high-demand, nontraditional occupations. Best practices include,
2846 but are not limited to, mentoring, internships or apprenticeships
2847 for women in high-wage, high-demand, nontraditional occupations;

2848 (d) Training and other staff development for job seeker
2849 counselors and Mississippi Family Investment Program (MFIP)
2850 caseworkers on opportunities in high-wage, high-demand,
2851 nontraditional occupations;

2852 (e) Incentives for employers and sponsors of registered
2853 apprenticeship programs to retain women in high-wage, high-demand,
2854 nontraditional occupations for more than one (1) year;

2855 (f) Training and technical assistance for employers to
2856 create a safe and healthy workplace environment designed to retain
2857 and advance women, including best practices for addressing sexual
2858 harassment, and to overcome gender inequity among employers and
2859 registered apprenticeship programs;

2860 (g) Public education and outreach activities to
2861 overcome stereotypes about women in high-wage, high-demand,



2862 nontraditional occupations, including the development of
2863 educational and marketing materials; and

2864 (h) Support for women in high-wage, high-demand,
2865 nontraditional occupations including, but not limited to,
2866 assistance with workplace issues resolution and access to advocacy
2867 assistance and services.

2868 (4) Grant applications must include detailed information
2869 about how the applicant plans to:

2870 (a) Increase women's participation in high-wage,
2871 high-demand occupations in which women are currently
2872 underrepresented in the workforce;

2873 (b) Comply with the requirements under subsection (3)
2874 of this section; and

2875 (c) Use grant funds in conjunction with funding from
2876 other public or private sources.

2877 (5) In awarding grants under this section, the executive
2878 director shall give priority to eligible organizations:

2879 (a) With demonstrated success in recruiting and
2880 preparing women, especially low-income women and women over fifty
2881 (50) years old, for high-wage, high-demand, nontraditional
2882 occupations; and

2883 (b) That leverage additional public and private
2884 resources.



2885 (6) At least fifty percent (50%) of total grant funds must
2886 be awarded to programs providing services and activities targeted
2887 to low-income women.

2888 (7) The executive director shall monitor the use of funds
2889 under this section, collect and compile information on the
2890 activities of other state agencies and public or private entities
2891 that have purposes similar to those under this section, and
2892 identify other public and private funding available for these
2893 purposes.

2894 **SECTION 24.** Sections 24 through 28 of this act shall be
2895 known and may be cited as the "Mississippi Pregnant Workers
2896 Fairness Act."

2897 **SECTION 25.** It is the intent of the Legislature to combat
2898 pregnancy discrimination, promote public health and ensure full
2899 and equal participation for women in the labor force by requiring
2900 employers to provide reasonable accommodations to employees with
2901 conditions related to pregnancy, childbirth or a related
2902 condition. Mississippi currently has no current workplace laws to
2903 protect pregnant women from being forced out or fired when they
2904 need a simple, reasonable accommodation in order to stay on the
2905 job. Many pregnant women are single mothers or the primary
2906 breadwinners for their families – if they lose their jobs then the
2907 whole family will suffer. This is not an outcome that families
2908 can afford in today's difficult economy.

2909 **SECTION 26.** (1) No employer may:



2910 (a) Refuse to make reasonable accommodations for any
2911 condition of a job applicant or employee related to pregnancy,
2912 childbirth, or a related condition, including, but not limited to,
2913 the need to express breast milk for a nursing child, if the
2914 employee or applicant so requests, unless the employer can
2915 demonstrate that the accommodation would impose an undue hardship
2916 on the employer's program, enterprise or business;

2917 (b) Take adverse action against an employee who
2918 requests or uses an accommodation in terms, conditions or
2919 privileges of employment, including, but not limited to, failing
2920 to reinstate the employee to her original job or to an equivalent
2921 position with equivalent pay and accumulated seniority,
2922 retirement, fringe benefits and other applicable service credits
2923 when her need for reasonable accommodations ceases;

2924 (c) Deny employment opportunities to an otherwise
2925 qualified job applicant or employee, if such denial is based on
2926 the need of the employer to make reasonable accommodations to the
2927 known conditions related to the pregnancy, childbirth or related
2928 conditions of the applicant or employee; or

2929 (d) Require an employee to take leave if another
2930 reasonable accommodation can be provided to the known conditions
2931 related to the pregnancy, childbirth or related conditions of an
2932 employee.



2933 (2) The employer shall engage in a timely, good faith and
2934 interactive process with the employee to determine effective
2935 reasonable accommodations.

2936 (3) The following words and phrases shall have the meanings
2937 as defined in this section unless the context clearly indicates
2938 otherwise:

2939 (a) "Reasonable accommodations" shall include, but not
2940 be limited to: more frequent or longer breaks, time off to
2941 recover from childbirth, acquisition or modification of equipment,
2942 seating, temporary transfer to a less strenuous or hazardous
2943 position, job restructuring, light duty, break time and private
2944 nonbathroom space for expressing breast milk, assistance with
2945 manual labor, or modified work schedules, provided that:

2946 (i) No employer shall be required by this section
2947 to create additional employment that the employer would not
2948 otherwise have created, unless the employer does so or would do so
2949 for other classes of employees who need accommodation, and

2950 (ii) The employer shall not be required to
2951 discharge any employee, transfer any employee with more seniority,
2952 or promote any employee who is not qualified to perform the job,
2953 unless the employer does so or would do so to accommodate other
2954 classes of employees who need it.

2955 (b) "Related conditions" includes, but is not limited
2956 to, lactation or the need to express breast milk for a nursing
2957 child.



2958 (c) "Undue hardship" means an action requiring
2959 significant difficulty or expense, when considered in light of the
2960 factors set forth as follows:

2961 (i) The employer shall have the burden of proving
2962 undue hardship. In making a determination of undue hardship, the
2963 factors that may be considered include, but shall not be limited
2964 to:

2965 1. The nature and cost of the accommodation;
2966 2. The overall financial resources of the
2967 employer;

2968 3. The overall size of the business of the
2969 employer with respect to the number of employees;

2970 4. The number, type and location of the
2971 facilities of the employer; and

2972 5. The effect on expenses and resources or
2973 the impact otherwise of such accommodation upon the operation of
2974 the employer.

2975 (ii) The fact that the employer provides or would
2976 be required to provide a similar accommodation to other classes of
2977 employees who need it shall create a rebuttable presumption that
2978 the accommodation does not impose an undue hardship on the
2979 employer.

2980 **SECTION 27.** An employer shall provide written notice of the
2981 right to be free from discrimination in relation to pregnancy,
2982 childbirth and related conditions, including the right to



2983 reasonable accommodations for conditions related to pregnancy,
2984 childbirth or related conditions, pursuant to the Mississippi
2985 Pregnant Workers Fairness Act to:

- 2986 (a) New employees at the commencement of employment;
- 2987 (b) Existing employees within one hundred twenty (120)
2988 days after July 1, 2022; and
- 2989 (c) Any employee who notifies the employer of her
2990 pregnancy within ten (10) days of such notification.

2991 Such notice must also be conspicuously posted at an
2992 employer's place of business in an area accessible to employees.

2993 **SECTION 28.** (1) An actionable right is hereby created for
2994 any person who is an employee and who believes that such person's
2995 employer has violated the provisions of the Mississippi Pregnant
2996 Workers Fairness Act. Any such employee who is aggrieved under
2997 the act may file a petition in the proper circuit court in
2998 Mississippi.

2999 (2) If an employer is found to have violated the provisions
3000 of the Mississippi Pregnant Workers Fairness Act, the employee
3001 shall be awarded reasonable remedies, which shall include
3002 attorney's fees, prejudgment interest, back pay, liquidated
3003 damages and one hundred percent (100%) of the difference of unpaid
3004 wages. If the employer is found to have willfully violated the
3005 provisions of subsection (1), the employee shall be awarded three
3006 hundred percent (300%) of reasonable remedies.



3007 **SECTION 29.** (1) This section shall be known and cited as
3008 the "Mississippi Sick and Safe Leave Act."

3009 (2) The following words and phrases shall have the meanings
3010 as defined in this section unless the context clearly indicates
3011 otherwise:

3012 (a) "Department" means the Mississippi Department of
3013 Employment Security.

3014 (b) "Domestic violence" means the same as defined in
3015 Section 97-3-7.

3016 (c) "Earned paid sick time" means time that is
3017 compensated at the same hourly rate and with the same benefits,
3018 including health care benefits, as the employee normally earns
3019 during hours worked and is provided by an employer to an employee
3020 for the purposes described in subsection (3) of this section but
3021 in no case shall this hourly amount be less than that provided
3022 under 29 USC Section 206(a)(1).

3023 (d) "Employee" is as defined in the Fair Labor
3024 Standards Act 29 USC Section 203(e).

3025 (e) "Employer" is as defined in the Fair Labor
3026 Standards Act 29 USC Section 203(d).

3027 (f) "Family member" means:

3028 (i) Regardless of age, a biological, adopted or
3029 foster child, stepchild or legal ward, a child of a domestic
3030 partner, a child to whom the employee stands in loco parentis, or



3031 an individual to whom the employee stood in loco parentis when the
3032 individual was a minor;

3033 (ii) A biological, foster, stepparent or adoptive
3034 parent or legal guardian of an employee or an employee's spouse or
3035 domestic partner or a person who stood in loco parentis when the
3036 employee or employee's spouse or domestic partner was a minor
3037 child;

3038 (iii) A person to whom the employee is legally
3039 married under the laws of any state, or a domestic partner of an
3040 employee as registered under the laws of any state or political
3041 subdivision;

3042 (iv) A grandparent, grandchild or sibling (whether
3043 of a biological, foster, adoptive or step relationship) of the
3044 employee or the employee's spouse or domestic partner;

3045 (v) A person for whom the employee is responsible
3046 for providing or arranging care, including, but not limited to,
3047 helping that individual obtain diagnostic, preventive, routine or
3048 therapeutic health treatment; or

3049 (vi) Any other individual related by blood or
3050 whose close association with the employee is the equivalent of a
3051 family relationship.

3052 (g) "Health care professional" means any person
3053 licensed under federal or state law to provide medical or
3054 emergency services, including, but not limited to, doctors, nurses
3055 and emergency room personnel.



3056 (h) "Retaliatory personnel action" means denial of any
3057 right guaranteed under this section and any threat, discharge,
3058 suspension, demotion, reduction of hours, reporting or threatening
3059 to report an employee's suspected citizenship or immigration
3060 status, or the suspected citizenship or immigration status of a
3061 family member of the employee to a federal, state or local agency,
3062 or any other adverse action against an employee for the exercise
3063 of any right guaranteed herein including any sanctions against an
3064 employee who is the recipient of public benefits for rights
3065 guaranteed under this section. Retaliation shall also include
3066 interference with or punishment for in any manner participating in
3067 or assisting an investigation, proceeding or hearing under this
3068 section.

3069 (i) "Sexual assault" means the same as defined in
3070 Section 97-3-95.

3071 (j) "Stalking" means the same as defined in Section
3072 97-3-107.

3073 (k) "Year" means a regular and consecutive twelve-month
3074 period as determined by the employer.

3075 (3) (a) All employees shall accrue a minimum of one (1)
3076 hour of earned paid sick time for every thirty (30) hours worked.
3077 Employees shall not use more than forty (40) hours of earned paid
3078 sick time in a year, unless the employer selects a higher limit.

3079 (b) Employees who are exempt from overtime requirements
3080 under 29 USC Section 213(a)(1) of the Federal Fair Labor Standards



3081 Act will be assumed to work forty (40) hours in each work week for
3082 purposes of earned paid sick time accrual unless their normal work
3083 week is less than forty (40) hours, in which case earned paid sick
3084 time accrues based upon that normal work week.

3085 (c) Earned paid sick time as provided in this section
3086 shall begin to accrue at the commencement of employment or on the
3087 date this law goes into effect, whichever is later. An employer
3088 may provide all paid sick time that an employee is expected to
3089 accrue in a year at the beginning of the year.

3090 (d) Employees shall not be entitled to use accrued
3091 earned paid sick time until the ninetieth calendar day following
3092 commencement of their employment unless otherwise permitted by the
3093 employer. On and after the ninetieth calendar day of employment,
3094 employees may use earned paid sick time as it is accrued.

3095 (e) Earned paid sick time shall be carried over to the
3096 following year. Alternatively, in lieu of carryover of unused
3097 earned paid sick time from one (1) year to the next, an employer
3098 may pay an employee for unused earned paid sick time at the end of
3099 a year and provide the employee with an amount of paid sick time
3100 that meets or exceeds the requirements of this section that is
3101 available for the employee's immediate use at the beginning of the
3102 next year.

3103 (f) Any employer with a paid leave policy, such as a
3104 paid time off policy, who makes available an amount of paid leave
3105 sufficient to meet the accrual requirements of this section that



3106 may be used for the same purposes and under the same conditions as
3107 earned paid sick time under this section is not required to
3108 provide additional paid sick time.

3109 (g) Nothing in this section shall be construed as
3110 requiring financial or other reimbursement to an employee from an
3111 employer upon the employee's termination, resignation, retirement
3112 or other separation from employment for accrued earned paid sick
3113 time that has not been used.

3114 (h) If an employee is transferred to a separate
3115 division, entity or location, but remains employed by the same
3116 employer, the employee is entitled to all earned paid sick time
3117 accrued at the prior division, entity or location and is entitled
3118 to use all earned paid sick time as provided in this section. When
3119 there is a separation from employment and the employee is rehired
3120 within six (6) months of separation by the same employer,
3121 previously accrued earned paid sick time that had not been used
3122 shall be reinstated. Further, the employee shall be entitled to
3123 use accrued earned paid sick time and accrue additional earned
3124 paid sick time at the re-commencement of employment.

3125 (i) When a different employer succeeds or takes the
3126 place of an existing employer, all employees of the original
3127 employer who remain employed by the successor employer are
3128 entitled to all earned paid sick time they accrued when employed
3129 by the original employer, and are entitled to use earned paid sick
3130 time previously accrued.



3131 (j) At its discretion, an employer may loan earned paid
3132 sick time to an employee in advance of accrual by such employee.

3133 (4) (a) Earned paid sick time shall be provided to an
3134 employee by an employer for:

3135 (i) An employee's mental or physical illness,
3136 injury or health condition; an employee's need for medical
3137 diagnosis, care or treatment of a mental or physical illness,
3138 injury or health condition; an employee's need for preventive
3139 medical care;

3140 (ii) Care of a family member with a mental or
3141 physical illness, injury or health condition; care of a family
3142 member who needs medical diagnosis, care or treatment of a mental
3143 or physical illness, injury or health condition; care of a family
3144 member who needs preventive medical care; or in the case of a
3145 child, to attend a school meeting or a meeting at a place where
3146 the child is receiving care necessitated by the child's health
3147 condition or disability, domestic violence, sexual assault,
3148 harassment or stalking;

3149 (iii) Closure of the employee's place of business
3150 by order of a public official due to a public health emergency or
3151 an employee's need to care for a child whose school or place of
3152 care has been closed by order of a public official due to a public
3153 health emergency, or care for oneself or a family member when it
3154 has been determined by the health authorities having jurisdiction
3155 or by a health care provider that the employee's or family



3156 member's presence in the community may jeopardize the health of
3157 others because of his or her exposure to a communicable disease,
3158 whether or not the employee or family member has actually
3159 contracted the communicable disease; or

3160 (iv) Absence necessary due to domestic violence,
3161 sexual assault or stalking, provided the leave is to allow the
3162 employee to obtain for the employee or the employee's family
3163 member:

3164 1. Medical attention needed to recover from
3165 physical or psychological injury or disability caused by domestic
3166 violence, sexual assault, harassment or stalking;

3167 2. Services from a victim services
3168 organization;

3169 3. Psychological or other counseling;

3170 4. Relocation or taking steps to secure an
3171 existing home due to the domestic violence, sexual assault,
3172 harassment or stalking; or

3173 5. Legal services, including preparing for or
3174 participating in any civil or criminal legal proceeding related to
3175 or resulting from the domestic violence, sexual assault,
3176 harassment or stalking.

3177 (b) Earned paid sick time shall be provided upon the
3178 request of an employee. Such request may be made orally, in
3179 writing, by electronic means or by any other means acceptable to



3180 the employer. When possible, the request shall include the
3181 expected duration of the absence.

3182 (c) When the use of earned paid sick time is
3183 foreseeable, the employee shall make a good faith effort to
3184 provide notice of the need for such time to the employer in
3185 advance of the use of the earned paid sick time and shall make a
3186 reasonable effort to schedule the use of earned paid sick time in
3187 a manner that does not unduly disrupt the operations of the
3188 employer.

3189 (d) An employer that requires notice of the need to use
3190 earned paid sick time shall provide a written policy that contains
3191 procedures for the employee to provide notice. An employer that
3192 has not provided to the employee a copy of its written policy for
3193 providing such notice shall not deny earned paid sick time to the
3194 employee based on noncompliance with such a policy.

3195 (e) An employer may not require, as a condition of an
3196 employee's taking earned paid sick time, that the employee search
3197 for or find a replacement worker to cover the hours during which
3198 the employee is using earned paid sick time.

3199 (f) Earned paid sick time may be used in the smaller of
3200 hourly increments or the smallest increment that the employer's
3201 payroll system uses to account for absences or use of other time.

3202 (g) For earned paid sick time of three (3) or more
3203 consecutive work days, an employer may require reasonable
3204 documentation that the earned paid sick time has been used for a



3205 purpose covered by paragraph (a) of this subsection.
3206 Documentation signed by a health care professional indicating that
3207 earned paid sick time is necessary shall be considered reasonable
3208 documentation for purposes of this section. In cases of domestic
3209 violence, sexual assault, or stalking, one (1) of the following
3210 types of documentation selected by the employee shall be
3211 considered reasonable documentation: (i) a police report
3212 indicating that the employee or the employee's family member was a
3213 victim of domestic violence, sexual assault, harassment or
3214 stalking; (ii) a signed statement from a victim and witness
3215 advocate affirming that the employee or employee's family member
3216 is receiving services from a victim services organization; or
3217 (iii) a court document indicating that the employee or employee's
3218 family member is involved in legal action related to domestic
3219 violence, sexual assault, harassment or stalking. An employer may
3220 not require that the documentation explain the nature of the
3221 illness or the details of the domestic violence, sexual assault,
3222 harassment or stalking.

3223 (5) It shall be unlawful for an employer or any other person
3224 to interfere with, restrain, or deny the exercise of, or the
3225 attempt to exercise, any right protected under this section. An
3226 employer shall not take retaliatory personnel action or
3227 discriminate against an employee or former employee because the
3228 person has exercised rights protected under this section. Such
3229 rights include, but are not limited to, the right to request or



3230 use earned paid sick time pursuant to this section; the right to
3231 file a complaint with the agency or courts or inform any person
3232 about any employer's alleged violation of this section; the right
3233 to participate in an investigation, hearing or proceeding or
3234 cooperate with or assist the agency in its investigations of
3235 alleged violations of this section; and the right to inform any
3236 person of his or her potential rights under this section. It
3237 shall be unlawful for an employer's absence control policy to
3238 count earned paid sick time taken under this section as an absence
3239 that may lead to or result in discipline, discharge, demotion,
3240 suspension or any other adverse action. Protections of this
3241 section shall apply to any person who mistakenly but in good faith
3242 alleges violations of this section.

3243 (6) (a) Employers shall give employees written notice of
3244 the following at the commencement of employment: employees are
3245 entitled to earned paid sick time and the amount of earned paid
3246 sick time, the terms of its use guaranteed under this section,
3247 that retaliatory personnel action against employees who request or
3248 use earned paid sick time is prohibited, that each employee has
3249 the right to file a complaint or bring a civil action if earned
3250 paid sick time as required by this section is denied by the
3251 employer or the employee is subjected to retaliatory personnel
3252 action for requesting or taking earned paid sick time, and the
3253 contact information for the agency where questions about rights
3254 and responsibilities under this section can be answered.



3255 (b) The amount of earned paid sick time available to
3256 the employee, the amount of earned paid sick time taken by the
3257 employee to date in the year and the amount of pay the employee
3258 has received as earned paid sick time shall be recorded in, or on
3259 an attachment to, the employee's regular paycheck.

3260 (7) Employers shall retain records documenting hours worked
3261 by employees and earned paid sick time taken by employees, for a
3262 period of three (3) years and shall allow the department access to
3263 such records, with appropriate notice and at a mutually agreeable
3264 time, to monitor compliance with the requirements of this section.
3265 When an issue arises as to an employee's entitlement to earned
3266 paid sick time under this section, if the employer does not
3267 maintain or retain adequate records documenting hours worked by
3268 the employee and earned paid sick time taken by the employee, or
3269 does not allow the department reasonable access to such records,
3270 it shall be presumed that the employer has violated the section,
3271 absent clear and convincing evidence otherwise.

3272 (8) The department shall be authorized to coordinate
3273 implementation and enforcement of this section and shall
3274 promulgate appropriate guidelines or regulations for such
3275 purposes.

3276 (9) (a) The department shall have the authority to take
3277 complaints, investigate those complaints and seek penalties under
3278 this section and to bring charges for noncompliance against any
3279 employer or employee.



3280 (b) (i) The department, the Attorney General, any
3281 person aggrieved by a violation of this section, or any entity a
3282 member of which is aggrieved by a violation of this section may
3283 bring a civil action in a court of competent jurisdiction against
3284 an employer violating this section. Such action may be brought by
3285 a person aggrieved by a violation of this section without first
3286 filing an administrative complaint.

3287 (ii) Upon prevailing in an action brought pursuant
3288 to this section, aggrieved persons shall recover the full amount
3289 of any unpaid earned sick time plus any actual damages suffered as
3290 the result of the employer's violation of this section plus an
3291 equal amount of liquidated damages. Aggrieved persons shall also
3292 be entitled to reasonable attorney's fees.

3293 (iii) Upon prevailing in an action brought
3294 pursuant to this section, aggrieved persons shall be entitled to
3295 such legal or equitable relief as may be appropriate to remedy the
3296 violation, including, without limitation, reinstatement to
3297 employment, back pay and injunctive relief.

3298 (iv) Any person aggrieved by a violation of this
3299 section may file a complaint with the Attorney General. The
3300 filing of a complaint with the Attorney General will not preclude
3301 the filing of a civil action.

3302 (v) The Attorney General may bring a civil action
3303 to enforce this section.



3304 (10) An employer may not require disclosure of details
3305 relating to domestic violence, sexual assault or stalking or the
3306 details of an employee's or an employee's family member's health
3307 information as a condition of providing earned paid sick time
3308 under this section. If an employer possesses health information
3309 or information pertaining to domestic violence, sexual assault, or
3310 stalking about an employee or employee's family member, such
3311 information shall be treated as confidential and not disclosed
3312 except to the affected employee or with the permission of the
3313 affected employee.

3314 (11) (a) Nothing in this section shall be construed to
3315 discourage or prohibit an employer from the adoption or retention
3316 of an earned paid sick time policy more generous than the one
3317 required herein.

3318 (b) Nothing in this section shall be construed as
3319 diminishing the obligation of an employer to comply with any
3320 contract, collective bargaining agreement, employment benefit plan
3321 or other agreement providing more generous paid sick time to an
3322 employee than required herein. Nothing in this section shall be
3323 construed as diminishing the rights of public employees regarding
3324 paid sick time or use of paid sick time as provided in
3325 Mississippi.

3326 (12) This section provides minimum requirements pertaining
3327 to earned paid sick time and shall not be construed to preempt,
3328 limit, or otherwise affect the applicability of any other law,



3329 regulation, requirement, policy or standard that provides for
3330 greater accrual or use by employees of earned paid sick time or
3331 that extends other protections to employees.

3332 (13) If any provision of this section or application thereof
3333 to any person or circumstance is judged invalid, the invalidity
3334 shall not affect other provisions or applications of this section
3335 which can be given effect without the invalid provision or
3336 application, and to this end the provisions of this section are
3337 declared severable.

3338 **SECTION 30.** Sections 30 through 32 shall be known and may be
3339 cited as the "Evelyn Gandy Fair Pay Act."

3340 **SECTION 31.** The Mississippi Legislature finds that the
3341 existence of wage differentials based on sex in industries engaged
3342 in commerce or in the production of goods for commerce:

3343 (a) Depresses the wages and living standards for
3344 employees that are necessary for their health and efficiency,
3345 thereby increasing the poverty rate in Mississippi;

3346 (b) Prevents the maximum utilization of the available
3347 labor resources, thereby depressing the growth of the state GDP;

3348 (c) Tends to cause labor disputes, thereby burdening,
3349 affecting and obstructing commerce;

3350 (d) Burdens commerce and the free flow of goods in
3351 commerce; and

3352 (e) Constitutes an unfair method of competition.



3353 SECTION 32. (1) No employer shall discriminate in any way
3354 against any employee on the basis of sex by paying a salary or
3355 wage to any employee at a rate less than the rate paid to its
3356 employees of the opposite sex for equal work on jobs that require
3357 equal skill, effort and responsibility to perform, and which are
3358 performed under similar working conditions, except where such
3359 payment is made pursuant to:

3360 (a) A seniority system; however, time spent on leave
3361 due to a pregnancy-related condition and parental, family and
3362 medical leave, shall not reduce the seniority-level of an
3363 employee;

3364 (b) A merit system;

3365 (c) A system which measures earnings by quantity or
3366 quality of production; or

3367 (d) A differential based on any bona fide factor other
3368 than sex if the factor:

3369 (i) Is not based on or derived from a differential
3370 in wage based on sex;

3371 (ii) Is job-related with respect to the position
3372 and necessary for the business; and

3373 (iii) Accounts for the entire differential.

3374 An employer who is paying a wage rate differential in
3375 violation of this subsection shall not, in order to comply with
3376 the provisions of this subsection, reduce the wage rate of any
3377 employee.



3378 (2) (a) No labor organization, or its agents, representing
3379 employees of an employer whose employees are subject to the
3380 provisions of this section, shall cause or attempt to cause the
3381 employer to discriminate against an employee in violation of
3382 subsection (1) of this section.

3383 (b) As used in this subsection (2), the term "labor
3384 organization" means any organization of any kind, or any agency or
3385 employee representation committee or plan, in which employees
3386 participate and which exists for the purpose, in whole or in part,
3387 of dealing with employers concerning grievances, labor disputes,
3388 wages, rates of pay, hours of employment or conditions of work.

3389 (3) For purposes of administration and enforcement, any
3390 amounts owed to an employee that have been withheld in violation
3391 of this section shall be deemed to be unpaid minimum wages or
3392 unpaid overtime compensation.

3393 (4) (a) An employer that has been charged with unlawful sex
3394 discrimination under this section shall be entitled to a
3395 rebuttable presumption that the employer has not engaged in
3396 unlawful sex discrimination in violation of this section if:

3397 (i) The charge is made by an employee who holds a
3398 job predominantly occupied by members of one (1) sex, which means
3399 that at least seventy-five percent (75%) of the occupants of the
3400 job are of the same sex, and the employee alleges he or she is
3401 being paid less than an employee who does a different job;



3402 (ii) The employer has, within two (2) years of the
3403 commencement of the action, completed a self-evaluation that meets
3404 the standards set forth in paragraph (d) of this subsection; and

3405 (iii) The employer makes an affirmative showing
3406 that it has made reasonable and substantial progress towards
3407 eliminating wage differentials, including implementing any
3408 required remediation plan, between jobs of equivalent value,
3409 including the job of the employee making the charge, in accordance
3410 with the self-evaluation required in subparagraph (ii) of this
3411 paragraph.

3412 (b) In such cases, the court must give the aggrieved
3413 party an opportunity to rebut this presumption through evidence
3414 that reasonably demonstrates that, notwithstanding the employer's
3415 self-evaluation, the employer has violated this section. In
3416 rebutting this presumption, the aggrieved party may provide all
3417 relevant information including, but not limited to, evidence that:

3418 (i) The employer's job analysis devalues
3419 attributes associated with jobs occupied predominantly by members
3420 of one (1) sex and/or over-values attributes associated with jobs
3421 occupied predominantly by members of the opposite sex;

3422 (ii) The job the aggrieved party occupies was not
3423 adequately evaluated; or

3424 (iii) A job evaluation process has been completed
3425 and, if necessary, a remediation process is in progress or has
3426 been completed, but the self-evaluation has not been reviewed and



3427 updated at reasonable intervals to adjust for changes in the work
3428 environment over time.

3429 (c) An employer wishing to be availed of this
3430 presumption must produce documentation that describes the
3431 self-evaluation process in detail sufficient to show that the
3432 employer has met the standards under paragraph (d).

3433 (d) In order to be eligible for the presumption of
3434 compliance, the self-evaluation must:

3435 (i) Clearly define the employer's establishment;

3436 (ii) Analyze the employee population to identify
3437 differentials in wages, including raises, bonuses, incentive
3438 payments and other forms of remuneration, based on sex;

3439 (iii) Establish a job evaluation plan to determine
3440 the value of jobs within the establishment. The plan must:

3441 1. Be free of any bias based on a person's
3442 sex;

3443 2. Allow for the comparison of all jobs; and

3444 3. Fully and accurately measure the skill,
3445 effort, responsibility and working conditions of each job based on
3446 the actual work performance requirements of the jobs evaluated;

3447 (iv) Apply the job evaluation plan to all jobs;

3448 (v) Create a salary structure or have an
3449 identifying salary group system where jobs of equal value are
3450 placed in the same level or grouping;



3451 (vi) Determine for each salary grouping, or for
3452 each total job evaluation score, the pay differential between jobs
3453 that are predominantly occupied by one (1) sex and other jobs,
3454 including those predominantly occupied by the opposite sex, in
3455 order to identify any wage rate discrimination; and

3456 (vii) Remedy any pay differential identified in
3457 subsection (vi); however, such remediation may not reduce the pay
3458 of any employee or class of employees.

3459 The presumption of compliance may be strengthened where,
3460 through the self-evaluation, including any needed remediation, the
3461 employer maintains communication with and keeps employees apprised
3462 of the process. The method and procedure for that communication
3463 may vary according to the size and organizational structure of the
3464 establishment, but any method or procedure chosen should be
3465 adequate to reach all employees at the establishment.

3466 (5) It shall be an unlawful employment practice for an
3467 employer to:

3468 (a) Require, as a condition of employment, that an
3469 employee refrain from inquiring about, discussing or disclosing
3470 his or her wages or the wages of another employee;

3471 (b) Require an employee to sign a waiver or other
3472 document which purports to deny an employee the right to disclose
3473 or discuss his or her wages;

3474 (c) Discharge, formally discipline or otherwise
3475 discriminate against an employee for inquiring about, discussing



3476 or disclosing his or her wages or the wages of another employee;
3477 however, nothing in this subsection (5) creates an obligation for
3478 an employer or employee to disclose wages;

3479 (d) Retaliate or in any other manner discriminate
3480 against an employee or applicant for employment because that
3481 individual has opposed a practice made unlawful by this act or
3482 because that individual has made a charge, filed a complaint or
3483 instituted or caused to be instituted any investigation,
3484 proceeding, hearing or action under or related to this act,
3485 including an investigation conducted by the employer, or has
3486 testified or is planning to testify, or has assisted, or
3487 participated in any manner in any such investigation, proceeding,
3488 or hearing under this act.

3489 (6) (a) A civil action asserting a violation of this
3490 section may be maintained against any employer in any court of
3491 competent jurisdiction by any one (1) or more employees for or on
3492 behalf of the employee, a group of employees and other employees
3493 similarly situated. Any such action shall commence no later than
3494 two (2) years after the discriminatory practice declared unlawful
3495 by this section has occurred. A discriminatory practice occurs
3496 when a discriminatory compensation decision or other practice is
3497 adopted, when an employee is subjected to a discriminatory
3498 compensation decision or other practice, or when an employee is
3499 affected by the application of a discriminatory compensation
3500 decision or other practice, including each time wages, benefits,



3501 or other compensation is paid based on the discriminatory
3502 compensation decision or other practice.

3503 (b) If an employer is found in violation of this
3504 section, the employee may recover in a civil action the amount of
3505 their unpaid wages; liquidated damages; compensatory damages;
3506 punitive damages as may be appropriate, where the employee
3507 demonstrates that the employer acted with malice or reckless
3508 indifference; other equitable relief as may be appropriate; and
3509 the costs of the action and reasonable attorney's fees.

3510 **SECTION 33.** This act shall take effect and be in force from
3511 and after July 1, 2022.

