

By: Representatives Gunn, McLean, Summers

To: Judiciary B

HOUSE BILL NO. 1323
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 25-41-7, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE ANY PUBLIC BODY TO ENTER INTO EXECUTIVE SESSION FOR
3 STRATEGIC DEVELOPMENT OF PLANS TO COMBAT, ELIMINATE, REDUCE OR
4 RESPOND TO HUMAN TRAFFICKING OR COMMERCIAL SEXUAL EXPLOITATION OF
5 CHILDREN; TO BRING FORWARD SECTION 25-41-3, MISSISSIPPI CODE OF
6 1972, WHICH PROVIDES DEFINITIONS FOR THE PROVISIONS OF LAW THAT
7 REGULATE OPEN MEETINGS, FOR PURPOSES OF AMENDMENT; AND FOR RELATED
8 PURPOSES.

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

85 (l) Discussions regarding material or data exempt from
86 the Mississippi Public Records Act of 1983 pursuant to Section
87 25-11-121.

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

94 (n) Transaction of business of the boards of trustees
95 of public hospitals that would require discussion of any



96 identifiable patient information, including without limitation,
97 patient complaints, patients' accounts, patients receiving charity
98 care, or treatment that could be identified to a patient.

99 (o) Investigative discussions, investigative
100 strategies, probative strategies related to identifiable instances
101 of human trafficking or commercial sexual exploitation, and
102 discussions involving locations of shelters or safe-houses for
103 victims of human trafficking or commercial sexual exploitation.

104 (p) Transaction of business of committees,
105 subcommittees or boards that would require discussion of any
106 identifiable information of victims of human trafficking or
107 children under eighteen years old who are victims of commercial
108 sexual exploitation.

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

112 (6) Any vote whereby an executive session is declared shall
113 be applicable only to that particular meeting on that particular
114 day.

115 **SECTION 2.** Section 25-41-3, Mississippi Code of 1972, is
116 brought forward as follows:

117 25-41-3. For purposes of this chapter, the following words
118 shall have the meaning ascribed herein, to wit:

119 (a) "Public body" means any executive or administrative
120 board, commission, authority, council, department, agency, bureau



121 or any other policymaking entity, or committee thereof, of the
122 State of Mississippi, or any political subdivision or municipal
123 corporation of the state, whether the entity be created by statute
124 or executive order, which is supported wholly or in part by public
125 funds or expends public funds, and any standing, interim or
126 special committee of the Mississippi Legislature. The term
127 "public body" includes the governing board of a charter school
128 authorized by the Mississippi Charter School Authorizer Board and
129 the board of trustees of a community hospital as defined in
130 Section 41-13-10. The term "public body" includes the Mississippi
131 Lottery Corporation. There shall be exempted from the provisions
132 of this chapter:

- 133 (i) The judiciary, including all jury
134 deliberations;
- 135 (ii) Law enforcement officials;
- 136 (iii) The military;
- 137 (iv) The State Probation and Parole Board;
- 138 (v) The Workers' Compensation Commission;
- 139 (vi) Legislative subcommittees and legislative
140 conference committees;
- 141 (vii) The arbitration council established in
142 Section 69-3-19;
- 143 (viii) License revocation, suspension and
144 disciplinary proceedings held by the Mississippi State Board of
145 Dental Examiners; and



146 (ix) Hearings and meetings of the Board of Tax
147 Appeals and of the hearing officers and the board of review of the
148 Department of Revenue as provided in Section 27-77-15.

149 (b) "Meeting" means an assemblage of members of a
150 public body at which official acts may be taken upon a matter over
151 which the public body has supervision, control, jurisdiction or
152 advisory power, including an assemblage through the use of video
153 or teleconference devices that conforms to Section 25-41-5.

154 **SECTION 3.** This act shall take effect and be in force from
155 and after July 1, 2021.

