

By: Senator(s) Hill

To: Public Health and
Welfare; Accountability,
Efficiency, Transparency

SENATE BILL NO. 2171

1 AN ACT TO CREATE THE TRANSGENDER 21 ACT; TO PROHIBIT THE
2 STATE, ITS AGENTS, AND POLITICAL SUBDIVISION FROM INFRINGING ON A
3 PARENT'S RIGHT TO WITHHOLD CONSENT FOR ANY TREATMENT, ACTIVITY OR
4 MENTAL HEALTHCARE SERVICES THAT ARE DESIGNED AND INTENDED TO FORM
5 THEIR CHILD'S CONCEPTIONS OF SEX AND GENDER OR TO TREAT GENDER
6 DYSPHORIA OR GENDER NONCONFORMITY; TO PROHIBIT CERTAIN MEDICAL
7 PROCEDURES FROM BEING PERFORMED UPON A MINOR; TO PROVIDE A PENALTY
8 FOR ANY MEDICAL PROFESSION WHO PERFORMS CERTAIN MEDICAL PROCEDURES
9 UPON A MINOR; TO PROVIDE A GOOD-FAITH EXCEPTION FOR A MINOR BORN
10 WITH A MEDICALLY VERIFIABLE GENETIC DISORDER OF SEXUAL
11 DEVELOPMENT; TO PROHIBIT ANY STATE AGENCY, POLITICAL SUBDIVISION
12 OR LICENSING ORGANIZATION FROM FORBIDDING, PENALIZING OR TAKING
13 ADVERSE ACTION AGAINST AN INDIVIDUAL WHO GIVES OR RECEIVES
14 COUNSEL, ADVICE, GUIDANCE OR OTHER SPEECH OR COMMUNICATION
15 CONSISTENT WITH CONSCIENCE OR RELIGIOUS BELIEF; TO PROVIDE THAT NO
16 INDIVIDUAL SHALL BE DISCRIMINATED AGAINST FOR PROVIDING
17 INFORMATION ABOUT A VIOLATION OF THIS ACT TO CERTAIN AUTHORITIES;
18 TO PROVIDE A PRIVATE CAUSE OF ACTION FOR VIOLATIONS OF THIS ACT;
19 TO PREEMPT POLITICAL SUBDIVISIONS FROM PROMULGATING RULES OR
20 REGULATIONS THAT LIMITS THE PROFESSIONAL CONDUCT AND JUDGMENT OF A
21 MENTAL HEALTHCARE PROFESSIONAL OR COUNSELOR; TO PROVIDE THAT THE
22 PROVISIONS OF THIS ACT ARE SEVERABLE; AND FOR RELATED PURPOSES.

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

24 **SECTION 1. Short title.** This act shall be known and may be
25 cited as the "Transgender 21 Act."

26 **SECTION 2. Legislative findings and intent.** (1) The
27 Legislature finds:



28 (a) That the decision to pursue a course of hormonal
29 and surgical interventions to address a discordance between an
30 individual's sex and sense of identity should not be presented to
31 or determined for minors who are incapable of comprehending the
32 negative implications and life-altering difficulties attending to
33 these interventions; and

34 (b) That minors are unable to fully appreciate the
35 risks and life implications, including permanent sterility that
36 result from the use of puberty blockers, cross-sex hormones, and
37 surgical procedures.

38 (2) Therefore, it is the intent of the Mississippi
39 Legislature, through this act and any regulations and policies
40 promulgated under it, to protect minors from the administration of
41 puberty blockers, cross-sex hormones, surgical procedures and
42 other interventions properly made by an adult exercising informed
43 consent.

44 **SECTION 3. Definitions.** For the purpose of this act:

45 (a) "Medical professional" means any physician,
46 surgeon, physician assistant, nurse, clinical nurse specialist,
47 nurse practitioner, anesthetist, psychiatrist, or medical
48 assistant licensed under Mississippi law.

49 (b) "Mental healthcare professional or counselor" means
50 any licensed medical, mental health, or human services
51 professional licensed under Mississippi law, including any
52 psychologist, social worker, psychiatric nurse, allied mental



53 health and human services professional, licensed marriage and
54 family therapist, licensed rehabilitation counselor, licensed
55 mental health counselor, licensed educational psychologist, or any
56 of their respective interns or trainees, or any other person
57 designated or licensed as a mental health or human service
58 professional, or behavioral science professional under Mississippi
59 law who provides mental healthcare services or counseling.

60 (c) "Government agent" means any agent, employee,
61 volunteer, or contractor of a public child services agency,
62 private child-placing agency, court, or school district.

63 (d) "Minor" means any child below the age of twenty-one
64 (21).

65 (e) "Political subdivision" means any division of local
66 government, county, city, assessment district, municipal
67 corporation, special purpose district, board, department,
68 commission or any division of local government delegated the right
69 to exercise part of the sovereign power of that subdivision.

70 (f) "Sex" means the biological state of being female or
71 male, based on sex organs, chromosomes, and endogenous hormone
72 profiles.

73 **SECTION 4. Protection of parental rights.** (1) Parents,
74 guardians, or custodians, in exercising the fundamental right to
75 care for their child, may withhold consent for any treatment,
76 activity, or mental healthcare services that are designed and
77 intended to form their child's conceptions of sex and gender or to



78 treat gender dysphoria or gender nonconformity. The state, its
79 agents, and political subdivisions shall not infringe upon or
80 impede the exercise of this right.

81 (2) No government agent, nor any employee of this state, any
82 political subdivision of this state, or any other governmental
83 entity, except for law enforcement personnel, shall encourage or
84 coerce a minor to withhold information from the minor's parent.
85 Nor shall any such employee withhold from a minor's parents
86 information that is relevant to the physical or mental health of
87 their child and of a sort that parents interested in and
88 responsible for the well-being of a minor reasonably would demand
89 and should be apprised of. Such conduct shall be grounds for
90 discipline of the employee, in addition to any other remedies
91 provided to a parent under this act.

92 (3) If a government agent has knowledge that a minor under
93 its care or supervision has exhibited symptoms of gender
94 dysphoria, gender nonconformity, or otherwise demonstrates a
95 desire to be treated in a manner incongruent with the minor's sex,
96 the government agent or entity with knowledge of that circumstance
97 shall immediately notify, in writing, each of the minor's parents,
98 guardians, or custodians. The notice shall describe all of the
99 relevant circumstances with reasonable specificity.

100 **SECTION 5. Prohibited practices.** (1) Notwithstanding any
101 other provision of law, it shall be unlawful for any individual to
102 engage in any of the following practices upon a minor, or cause



103 them to be performed, to facilitate the minor's desire to present
104 or appear in a manner that is inconsistent with the minor's sex:

105 (a) Performing surgeries that sterilize, including
106 castration, vasectomy, hysterectomy, oophorectomy, metoidioplasty,
107 orchiectomy, penectomy, phalloplasty, and vaginoplasty;

108 (b) Performing a mastectomy;

109 (c) Administering or supplying the following
110 medications that induce transient or permanent infertility:

111 (i) Puberty-blocking medication to stop or delay
112 normal puberty;

113 (ii) Supraphysiologic doses of testosterone or
114 other androgens to members of the female sex; or

115 (iii) Supraphysiologic doses of estrogen or
116 synthetic compounds with estrogenic activity to members of the
117 male sex; or

118 (d) Removing any otherwise healthy or nondiseased body
119 part or tissue.

120 (2) A medical professional who engages in any of the
121 practices identified in subsection (1)(a) of this section or
122 causes them to be performed shall be considered to have engaged in
123 unprofessional conduct and shall be subject to revocation of
124 licensure and other appropriate discipline by the medical
125 professional's licensing or certifying board. The medical
126 professional shall also be subject to a civil fine of up to One
127 Thousand Dollars (\$1,000.00) per occurrence.



128 (3) This section does not apply to the good-faith medical
129 decision of a parent or guardian of a minor born with a medically
130 verifiable genetic disorder of sexual development, including:

131 (a) A minor with external biological sex
132 characteristics that are ambiguous and irresolvable, such as a
133 minor born having 46 XX chromosomes with virilization, 46 XY
134 chromosomes with undervirilization, or having both ovarian and
135 testicular tissue; or

136 (b) When a physician has otherwise diagnosed a disorder
137 of sexual development, in which the physician has determined
138 through genetic testing that the minor does not have the normal
139 sex chromosome structure for a male or female.

140 **SECTION 6. Counseling.** A state office, agency, political
141 subdivision of the state, local government, or any organization
142 with authority to license or discipline the members of a
143 profession may not prohibit, impose any penalty or take any
144 adverse action against any individual who gives or receives
145 counsel, advice, guidance or any other speech or communication
146 consistent with conscience or religious belief whether or not the
147 counsel, advice, guidance, speech or communication is described as
148 therapy or provided for a fee.

149 **SECTION 7. Whistleblower protection.** (1) No person shall
150 be discriminated against in any manner because the person:

151 (a) Provided, caused to be provided, or is about to
152 provide or cause to be provided to his or her employer, the



153 Attorney General of Mississippi, the Mississippi Department of
154 Health, the Mississippi State Board of Medical Licensure, any
155 state agency charged with protecting health care rights of
156 conscience, the United States Department of Health and Human
157 Services, Office of Civil Rights, or any other federal agency
158 information relating to any violation of, or any act or omission
159 the individual reasonably believes to be a violation of any
160 provision of this act;

161 (b) Testified or is about to testify in a proceeding
162 concerning such violation; or

163 (c) Assisted or participated, or is about to assist or
164 participate, in such a proceeding.

165 (2) Unless the disclosure is specifically prohibited by law,
166 no person shall be discriminated against in any manner because the
167 individual disclosed information that the individual believes
168 evinces, pursuant to this act:

169 (a) A violation of any law, rule, or regulation;

170 (b) A violation of any standard of care or other
171 ethical guidelines for the provision of any healthcare service; or

172 (c) Gross mismanagement, a gross waste of funds, an
173 abuse of authority or a substantial and specific danger to public
174 health or safety.

175 **SECTION 8. Judicial relief.** (1) Any person harmed by a
176 violation of Section 4 of this act may bring a claim to obtain
177 injunctive relief, compensatory and special damages, and any other



178 relief available under law against the clinic, healthcare system,
179 medical professional or other person responsible for the
180 violation.

181 (2) Any person harmed by a violation of Section 5, 6 or 7 of
182 this act may bring a claim to obtain injunctive relief,
183 compensatory and special damages, and any other relief available
184 under law against a government agent, state office, agency, any
185 political subdivision of the state, any local government or any
186 other person or entity responsible for the violation.

187 (3) A person shall be required to bring suit for violation
188 of this section not later than two (2) years after the day the
189 cause of action accrues. Minors injured by practices prohibited
190 under Section 3 of this act may bring an action during their
191 minority through a parent or next friend, and may bring an action
192 in their own name upon reaching the age of twenty-one (21) years
193 at any time from that point until twenty (20) years after.

194 (4) Standing to assert a claim or defense under this section
195 shall be governed by the general rules of standing.

196 (5) Persons who prevail on a claim brought pursuant to this
197 section shall be entitled to monetary damages, including for all
198 psychological, emotional, and physical harm suffered, reasonable
199 attorney fees and costs, and any other appropriate relief.

200 **SECTION 9. Preemption.** (1) Political subdivisions of this
201 state are preempted from enacting, adopting, maintaining, or
202 enforcing any order, ordinance, rule, regulation, policy, or other



203 similar measure that prohibits, restricts, limits, controls,
204 directs, or otherwise interferes with the professional conduct and
205 judgment of a mental healthcare professional or counselor,
206 including speech, undertaken within the course of treatment and
207 communication with clients, patients, other persons, or the
208 public, including, but not limited to, therapies, counseling,
209 referrals and education.

210 (2) The Attorney General or a mental healthcare professional
211 or counselor may bring an action for an injunction to prevent or
212 restrain violations of this section. A mental healthcare
213 professional may recover reasonable costs and attorney's fees
214 incurred in obtaining an injunction under this section.

215 (3) Sovereign and governmental immunity to suit and from
216 liability is waived and abolished to the extent of the liability
217 created by this section.

218 **SECTION 10. Severability.** Any provision of this act held to
219 be invalid or unenforceable by its terms, or as applied to any
220 person or circumstance, shall be construed so as to give it the
221 maximum effect permitted by law, unless such holding shall be one
222 of utter invalidity or unenforceability, in which event such
223 provision shall be severable and shall not affect the application
224 of the remainder of the act, the application of such provision to
225 other persons not similarly situated or the application of such
226 provision to other, dissimilar circumstances.



227 **SECTION 11.** This act shall take effect and be in force from
228 and after July 1, 2021.

