

By: Representatives Shanks, Barnett,  
Williamson

To: Constitution

HOUSE BILL NO. 164

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

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

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

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

21 (a) "Benefit" means the following:

22 (i) Recognition;

23 (ii) Registration;



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

26 (iv) The use of channels of communication; and

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

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

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

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

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

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



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

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

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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

159 (b) Searchable by keywords and phrases; and

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

163 (2) The report shall include:

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

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



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

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

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

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





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

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

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

211 **SECTION 13.** This act shall take effect and be in force from  
212 and after July 1, 2022.

