

By: Representative Cockerham

To: Judiciary A

HOUSE BILL NO. 590

1 AN ACT TO AMEND SECTION 79-11-501, MISSISSIPPI CODE OF 1972,
 2 TO REMOVE CONDUCT OF RELIGIOUS INSTITUTIONS AND GROUPS OR
 3 CORPORATIONS WHICH FORM AN INTEGRAL PART OF RELIGIOUS INSTITUTIONS
 4 THAT IS PRIMARILY SUPPORTED BY PREVIOUS DONORS FROM WHAT THE TERM
 5 "CHARITABLE ORGANIZATION" DOES NOT INCLUDE; TO AMEND SECTION
 6 79-11-511, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A CHARITABLE
 7 ORGANIZATION, PERSON, PROFESSIONAL FUNDRAISER, FUNDRAISING COUNSEL
 8 OR PROFESSIONAL SOLICITOR, THAT SOLICITS CONTRIBUTIONS IN THE
 9 STATE OF MISSISSIPPI, SHALL BE SUBJECT TO NOTICE OR DEMAND AS
 10 PROVIDED IN SECTION 79-35-13, MISSISSIPPI CODE OF 1972, AND SHALL
 11 BE SUBJECT TO SERVICE OF PROCESS AS PROVIDED BY THE MISSISSIPPI
 12 RULES OF CIVIL PROCEDURE; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 79-11-501, Mississippi Code of 1972, is
 15 amended as follows:

16 79-11-501. The following words and phrases as used in
 17 Sections 79-11-501 through 79-11-529 shall have the meanings as
 18 defined in this section * * * unless * * * the context clearly
 19 indicates otherwise:

20 (a) (i) "Charitable organization" means either of the
 21 following:



22 (A) Any person determined by the Internal
23 Revenue Service to be a tax exempt organization pursuant to
24 Section 501(c) (3) of the Internal Revenue Code; or

25 (B) Any person actually or purporting to be
26 established for any voluntary health and welfare, benevolent,
27 philanthropic, patriotic, educational, humane, scientific, public
28 health, environmental conservation, civic, or other eleemosynary
29 purpose or for the benefit of law enforcement personnel,
30 firefighters, or other public safety organizations, or any person
31 employing in any manner a charitable appeal as the basis of any
32 solicitation or an appeal that suggests that there is a charitable
33 purpose to any solicitation and includes each local, county or
34 area division within this state of such charitable organization,
35 provided such local, county or area division has authority and
36 discretion to disburse funds or property otherwise than by
37 transfer to any parent organization.

38 (ii) "Charitable organization" is not limited to
39 only those organizations to which contributions are tax deductible
40 under Section 170 of the Internal Revenue Code.

41 (iii) "Charitable organization" does not include
42 any bona fide duly constituted religious institutions and such
43 separate groups or corporations which form an integral part of
44 religious institutions, provided that:

45 (A) Such religious institutions, groups or
46 corporations are tax exempt pursuant to the Internal Revenue Code;



47 (B) No part of their net income inures to the
48 direct benefit of any individual; and

49 (C) Their conduct is primarily supported by
50 government grants or contracts, funds solicited from their own
51 membership, congregations * * * and fees charged for services
52 rendered.

53 (b) "Charitable purpose" means either of the following:

54 (i) Any purpose described in Section 501(c)(3) of
55 the Internal Revenue Code; or

56 (ii) Any voluntary health and welfare, charitable,
57 benevolent, philanthropic, patriotic, educational, humane,
58 scientific, public health, environmental conservation, civic, or
59 other eleemosynary purpose or for the benefit of law enforcement
60 personnel, firefighters, or other public safety organizations;

61 "Charitable purpose" is not limited to only those purposes
62 for which contributions are tax deductible under Section 170 of
63 the Internal Revenue Code.

64 (c) "Container" means any box, carton, package,
65 receptacle, canister, jar, dispenser, or machine that offers a
66 product for sale or distribution which is or purports to be a
67 solicitation of contributions for a charitable purpose.

68 (d) "Contribution" means the promise or grant of any
69 money or property of any kind or value, including the promise to
70 pay, except payments by members of an organization for membership
71 fees, dues, fines, assessments or for services rendered to



72 individual members, if membership in such organization confers a
73 bona fide right, privilege, professional standing, honor or other
74 direct benefit, other than the right to vote, elect officers or
75 hold offices, and except money or property received from any
76 governmental authority. Reference to the dollar amount of
77 "contributions" in Sections 79-11-501 through 79-11-529 means in
78 the case of promises to pay, or payments for merchandise or rights
79 of any other description, the value of the total amount promised
80 to be paid or paid for such merchandise or rights and not merely
81 that portion of the purchase price to be applied to a charitable
82 purpose.

83 (e) "Fundraising counsel" means a person (i) who for a
84 fixed fee or rate under a written agreement plans, manages,
85 advises or consults with respect to the solicitation in this state
86 of contributions by a charitable organization, (ii) who neither
87 solicits contributions nor directly or indirectly employ, procure
88 or engage any person compensated to solicit contributions, and
89 (iii) who does not at any time, whether directly or indirectly,
90 receive or have custody or control of contributions. A bona fide
91 nontemporary salaried officer or employee of a charitable
92 organization shall not be deemed to be a fundraising counsel. No
93 attorney, accountant or banker who renders professional services
94 to a charitable organization or advises a person to make a
95 charitable contribution during the course of rendering
96 professional services to that person shall be deemed, as a result



97 of the professional service or advice rendered, to be a
98 fundraising counsel.

99 (f) "Person" means any individual, organization, group,
100 association, partnership, corporation, trust or any combination of
101 them or any other entity however established within or without
102 this state.

103 (g) "Professional fundraiser" means any person who for
104 compensation or other consideration is retained by a charitable
105 organization to solicit in or from this state contributions for
106 charitable purposes directly or in the form of payment for goods,
107 services or admission to fundraising events, whether such
108 solicitation is performed personally or through his agents,
109 servants or employees or through agents, servants or employees
110 especially employed by or for a charitable organization who are
111 engaged in the solicitation of contributions, the sale of goods or
112 services or the production of fundraising events under the
113 direction of such person, or a person who plans, conducts,
114 manages, carries on, advises or consults, whether directly or
115 indirectly, in connection with the solicitation of contributions,
116 sale of goods or services or the production of fundraising events
117 for or on behalf of any charitable organization, but does not
118 qualify as a fundraising counsel within the meaning of Sections
119 79-11-501 through 79-11-529, or who engages in the business of or
120 holds himself out as independently engaged in the business of
121 soliciting contributions for such purposes. A bona fide officer



122 or employee of a charitable organization shall not be deemed a
123 professional fundraiser unless his salary or other compensation is
124 paid as a commission which is computed on the basis of funds to be
125 raised or actually raised.

126 (h) "Professional solicitor" means any person who is
127 employed or retained for compensation by a professional fundraiser
128 to solicit contributions for charitable purposes from persons in
129 this state.

130 (i) "Public safety organization" means a
131 nongovernmental organization that uses in its name, whether in a
132 publication of the organization, in a solicitation for
133 contributions to the organizations, for membership in the
134 organization, or to purchase advertising in a publication of the
135 organization, or in a solicitation to purchase products or tickets
136 to an event sponsored by or for the benefit of the organization by
137 a solicitor, the term officer, peace officer, police officer,
138 police law enforcement, reserve officer, deputy, deputy sheriff,
139 constable, deputy constable, fireman, firefighter, volunteer
140 fireman, emergency medical service provider, civil employee or any
141 other term in a manner that reasonably implies that the
142 organization or that a contribution, purchase or membership will
143 benefit public safety personnel.

144 (j) "Solicitation" or "solicit" means the request,
145 directly or indirectly, for money, credit, property, financial
146 assistance, or any other thing of value on the plea or



147 representation that such money, credit, property, financial
148 assistance, or any other thing of value or a portion of it will be
149 used for a charitable purpose or will benefit a charitable
150 organization. "Solicitation" or "solicit" includes, but is not
151 limited to, the following methods of requesting or securing money,
152 credit, property, financial assistance or any other thing of
153 value:

154 (i) Any oral or written request.

155 (ii) The making of any announcement in the press,
156 over the radio or television, by telephone, through the mail or
157 any other media concerning an appeal or campaign by or for any
158 charitable organization or purpose.

159 (iii) The distribution, circulation, posting or
160 publishing of any handbill, written advertisement or other
161 publication which directly or by implication seeks to obtain a
162 contribution.

163 (iv) The offer of, attempt to sell, or sale of any
164 advertising space, book, card, tag, coupon, device, magazine,
165 membership, merchandise, subscription, flower, ticket, candy,
166 cookies or other tangible item in connection with which any appeal
167 is made for any charitable organization or purpose, or where the
168 name of any charitable organization is used or referred to in any
169 appeal as an inducement or reason for making any sale, or where
170 any statement is made that the whole or any part of the proceeds



171 from the sale will be used for any charitable purpose or will
172 benefit any charitable organization.

173 (v) The use or employment of container, canisters,
174 cards, receptacles or similar devices for the collection of money
175 or other thing of value in connection with which any appeal is
176 made for any charitable organization or purpose.

177 (vi) Any announcement requesting the public to
178 attend an appeal, assemblage, athletic or competitive event,
179 carnival, circus, concert, contest, dance, entertainment,
180 exhibition, exposition, game, lecture, meal, party, show, social
181 gathering or other performance or event of any kind.

182 A solicitation shall take place whether or not the person
183 making the solicitation receives any contribution, except that a
184 charitable organization's use of its own name in any communication
185 shall not alone be sufficient to constitute a solicitation.

186 **SECTION 2.** Section 79-11-511, Mississippi Code of 1972, is
187 amended as follows:

188 79-11-511. * * * A charitable organization, person,
189 professional fundraiser, fundraising counsel or professional
190 solicitor, that solicits contributions in the State of
191 Mississippi, shall be subject to notice or demand as provided in
192 Section 79-35-13, and shall be subject to service of process as
193 provided by the Mississippi Rules of Civil Procedure.

194 **SECTION 3.** This act shall take effect and be in force from
195 and after July 1, 2022.

