

By: Representatives Yancey, Ford (73rd)

To: Public Health and Human Services

HOUSE BILL NO. 1450

1 AN ACT TO REQUIRE EMPLOYERS THAT REQUIRE OR ARE MANDATED TO
 2 REQUIRE VACCINATION OR IMMUNIZATION FOR COVID-19 OR ITS VARIANTS
 3 FOR ITS EMPLOYEES TO PROVIDE A SPECIFIC EXEMPTION PROCESS; TO
 4 PROVIDE THAT THE SPECIFIC EXEMPTION PROCESS SHALL INCLUDE OPTIONS
 5 THAT ALLOW THE EMPLOYEE TO PRODUCE EITHER A NEGATIVE TEST RESULT
 6 SHOWING THAT THE EMPLOYEE IS NOT POSITIVE FOR COVID-19, OR PROOF
 7 OF IMMUNITY FOR THE VIRUS THAT CAUSES COVID-19 OR ITS VARIANTS; TO
 8 PROVIDE THAT THE COST OF THE TESTING SHALL BE COVERED BY ANY STATE
 9 OR FEDERAL FUNDING MADE AVAILABLE IF THE EMPLOYEE'S HEALTH BENEFIT
 10 PLAN DOES NOT PROVIDE COVERAGE FOR THE TESTING; TO PROVIDE THAT IF
 11 AN EMPLOYEE COMPLIES WITH THE REQUIREMENTS OF THE SPECIFIC
 12 EXEMPTION PROCESS RELATED TO COVID-19 AS REQUIRED BY THIS ACT, THE
 13 EMPLOYEE SHALL NOT BE TERMINATED FOR MANDATES RELATED TO COVID-19;
 14 TO PROVIDE THAT IF AN EMPLOYEE IS TERMINATED DUE TO THE EMPLOYER'S
 15 VIOLATION OF THIS ACT, THE EMPLOYEE MAY BE ELIGIBLE FOR
 16 UNEMPLOYMENT BENEFITS IN ADDITION TO ANY OTHER REMEDY AVAILABLE TO
 17 THE EMPLOYEE; TO AMEND SECTION 71-5-511, MISSISSIPPI CODE OF 1972,
 18 TO CONFORM TO THE PRECEDING PROVISION; AND FOR RELATED PURPOSES.

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

20 **SECTION 1. Legislative findings and intent.** (1) The
 21 Legislature finds that:

22 (a) The United States Government is mandating that
 23 employers take actions related to Coronavirus Disease 2019
 24 (COVID-19) vaccinations, including forcing an employee to be
 25 vaccinated against the employee's will;



26 (b) Vaccination mandates are an overreach of authority
27 by the government;

28 (c) Many employers and employees in Mississippi will
29 soon be subject to this vaccination mandate; and

30 (d) Mississippi employees need to be protected from
31 this type of overreach by the government.

32 (2) The Legislature intends for this act to:

33 (a) Protect employees in Mississippi from impending
34 terminations due to vaccination mandates; and

35 (b) Create the ability for funding to be available to
36 assist employees in Mississippi with the costs associated with
37 testing related to the vaccination mandate through the methods
38 provided in this act, including, without limitation, COVID-19
39 relief funds distributed from the American Rescue Plan Act of
40 2021, Public Law No. 117-2.

41 **SECTION 2. Exemption for employees from mandates related to**
42 **Coronavirus Disease 2019 (COVID-19).** (1) An employer that
43 requires or is mandated to require vaccination or immunization for
44 Coronavirus Disease 2019 (COVID-19) or its variants for its
45 employees shall provide a specific exemption process.

46 (2) The specific exemption process shall include options
47 that allow the employee to produce either:

48 (a) A negative antigen detection test result or
49 molecular diagnostic test result no more than one (1) time per
50 week showing that the employee is not positive for COVID-19; or



51 (b) Proof of immunity for the virus that causes
52 coronavirus disease 2019 (COVID-19) or its variants, including
53 without limitation the presence of antibodies, T-cell response, or
54 proof of a positive test for COVID-19 or its variants, on a basis
55 of two (2) times per year, not to exceed one (1) time every six
56 (6) months, from a licensed health care provider.

57 (3) (a) If multiple proven test processes are available to
58 an employee under subsection (1) of this section, the employee may
59 choose which test to take.

60 (b) The employee may provide test results obtained
61 outside of the employer or a licensed healthcare provider if the
62 test meets the guidelines contained within the Policy for
63 Coronavirus Disease-2019 Tests During the Public Health Emergency
64 (Revised) issued by the United States Department of Health and
65 Human Services Food and Drug Administration Center for Devices and
66 Radiological Health.

67 (c) (i) The cost of the testing shall be covered by
68 any state or federal funding made available, including without
69 limitation COVID-19 relief funds distributed from the American
70 Rescue Plan Act of 2021, Public Law No. 117-2, if the employee's
71 health benefit plan does not provide coverage for the testing.

72 (ii) If the cost of testing under subparagraph (i)
73 of this paragraph (c) is not available, the cost of the testing
74 shall be covered by the employee.



75 (4) An employer shall provide the specific exemption process
76 required under this section in addition to any other exemptions
77 offered by the employer.

78 (5) If an employee complies with the requirements of the
79 specific exemption process related to COVID-19 as required by this
80 section, the employee shall not be terminated for mandates related
81 to COVID-19.

82 (6) Nothing in this section should be interpreted to modify
83 any other agreements between the employer and employee or to amend
84 or affect the employment-at-will doctrine, whether written or
85 otherwise.

86 (7) The Department of Finance and Administration shall
87 establish rules regarding the method of distribution of COVID-19
88 relief funds from the American Rescue Plan Act of 2021, Public Law
89 No. 117-2, to employees and employers to cover the cost of
90 testing, to include without limitation the:

91 (a) Timely distribution of funds to recipients within
92 thirty (30) days;

93 (b) Establishment of an option for distribution to an
94 employer that chooses to receive funds for disbursement to
95 employees; and

96 (c) Verification and method of authentication of
97 receipts that shall meet legislative auditing requirements,
98 including without limitation the development of forms.



99 (8) The department shall report to the Legislative Budget
100 Office on a monthly basis on the disbursement of funds under this
101 section.

102 (9) If an employee is terminated due to the employer's
103 violation of this section, the employee may be eligible for
104 unemployment benefits in addition to any other remedy available to
105 the employee.

106 (10) This section shall be repealed on July 31, 2023, unless
107 extended by the Legislature.

108 **SECTION 3.** Section 71-5-511, Mississippi Code of 1972, is
109 amended as follows:

110 71-5-511. An unemployed individual shall be eligible to
111 receive benefits with respect to any week only if the department
112 finds that:

113 (a) (i) He has registered for work at and thereafter
114 has continued to report to the department in accordance with such
115 regulations as the department may prescribe; except that the
116 department may, by regulation, waive or alter either or both of
117 the requirements of this subparagraph as to such types of cases or
118 situations with respect to which it finds that compliance with
119 such requirements would be oppressive or would be inconsistent
120 with the purposes of this chapter; and

121 (ii) He participates in reemployment services,
122 such as job search assistance services, if, in accordance with a
123 profiling system established by the department, it has been



124 determined that he is likely to exhaust regular benefits and needs
125 reemployment services, unless the department determines that:

126 1. The individual has completed such
127 services; or

128 2. There is justifiable cause for the
129 claimant's failure to participate in such services.

130 (b) He has made a claim for benefits in accordance with
131 the provisions of Section 71-5-515 and in accordance with such
132 regulations as the department may prescribe thereunder.

133 (c) He is able to work, available for work and actively
134 seeking work.

135 (d) He has been unemployed for a waiting period of one
136 (1) week. No week shall be counted as a week of unemployment for
137 the purposes of this paragraph:

138 (i) Unless it occurs within the benefit year which
139 includes the week with respect to which he claims payment of
140 benefits;

141 (ii) If benefits have been paid with respect
142 thereto;

143 (iii) Unless the individual was eligible for
144 benefits with respect thereto, as provided in Sections 71-5-511
145 and 71-5-513, except for the requirements of this paragraph.

146 (e) For weeks beginning on or before July 1, 1982, he
147 has, during his base period, been paid wages for insured work
148 equal to not less than thirty-six (36) times his weekly benefit



149 amount; he has been paid wages for insured work during at least
150 two (2) quarters of his base period; and he has, during that
151 quarter of his base period in which his total wages were highest,
152 been paid wages for insured work equal to not less than sixteen
153 (16) times the minimum weekly benefit amount. For benefit years
154 beginning after July 1, 1982, he has, during his base period, been
155 paid wages for insured work equal to not less than forty (40)
156 times his weekly benefit amount; he has been paid wages for
157 insured work during at least two (2) quarters of his base period,
158 and he has, during that quarter of his base period in which his
159 total wages were highest, been paid wages for insured work equal
160 to not less than twenty-six (26) times the minimum weekly benefit
161 amount. For purposes of this paragraph, wages shall be counted as
162 "wages for insured work" for benefit purposes with respect to any
163 benefit year only if such benefit year begins subsequent to the
164 date on which the employing unit by which such wages were paid has
165 satisfied the conditions of Section 71-5-11, subsection H, or
166 Section 71-5-361, subsection (3), with respect to becoming an
167 employer.

168 (f) No individual may receive benefits in a benefit
169 year unless, subsequent to the beginning of the next preceding
170 benefit year during which he received benefits, he performed
171 service in "employment" as defined in Section 71-5-11, subsection
172 I, and earned remuneration for such service in an amount equal to



173 not less than eight (8) times his weekly benefit amount applicable
174 to his next preceding benefit year.

175 (g) Benefits based on service in employment defined in
176 Section 71-5-11, subsection I(3) and I(4), and Section 71-5-361,
177 subsection (4) shall be payable in the same amount, on the same
178 terms, and subject to the same conditions as compensation payable
179 on the basis of other service subject to this chapter, except that
180 benefits based on service in an instructional, research or
181 principal administrative capacity in an institution of higher
182 learning (as defined in Section 71-5-11, subsection N) with
183 respect to service performed prior to January 1, 1978, shall not
184 be paid to an individual for any week of unemployment which begins
185 during the period between two (2) successive academic years, or
186 during a similar period between two (2) regular terms, whether or
187 not successive, or during a period of paid sabbatical leave
188 provided for in the individual's contract, if the individual has a
189 contract or contracts to perform services in any such capacity for
190 any institution or institutions of higher learning for both such
191 academic years or both such terms.

192 (h) Benefits based on service in employment defined in
193 Section 71-5-11, subsection I(3) and I(4), shall be payable in the
194 same amount, on the same terms and subject to the same conditions
195 as compensation payable on the basis of other service subject to
196 this chapter, except that:



197 (i) With respect to service performed in an
198 instructional, research or principal administrative capacity for
199 an educational institution, benefits shall not be paid based on
200 such services for any week of unemployment commencing during the
201 period between two (2) successive academic years, or during a
202 similar period between two (2) regular but not successive terms,
203 or during a period of paid sabbatical leave provided for in the
204 individual's contract, to any individual, if such individual
205 performs such services in the first of such academic years or
206 terms and if there is a contract or a reasonable assurance that
207 such individual will perform services in any such capacity for any
208 educational institution in the second of such academic years or
209 terms, and provided that paragraph (g) of this section shall apply
210 with respect to such services prior to January 1, 1978. In no
211 event shall benefits be paid unless the individual employee was
212 terminated by the employer.

213 (ii) With respect to services performed in any
214 other capacity for an educational institution, benefits shall not
215 be paid on the basis of such services to any individual for any
216 week which commences during a period between two (2) successive
217 academic years or terms, if such individual performs such services
218 in the first of such academic years or terms and there is a
219 reasonable assurance that such individual will perform such
220 services in the second of such academic years or terms, except
221 that if compensation is denied to any individual under this



222 subparagraph and such individual was not offered an opportunity to
223 perform such services for the educational institution for the
224 second of such academic years or terms, such individual shall be
225 entitled to a retroactive payment of compensation for each week
226 for which the individual filed a timely claim for compensation and
227 for which compensation was denied solely by reason of this clause.
228 In no event shall benefits be paid unless the individual employee
229 was terminated by the employer.

230 (iii) With respect to services described in
231 subparagraphs (i) and (ii) of this paragraph (h), benefits shall
232 not be payable on the basis of services in any such capacities to
233 any individual for any week which commences during an established
234 and customary vacation period or holiday recess if such individual
235 performs such services in the first of such academic years or
236 terms, or in the period immediately before such vacation period or
237 holiday recess, and there is a reasonable assurance that such
238 individual will perform such services in the period immediately
239 following such vacation period or holiday recess.

240 (iv) With respect to any services described in
241 subparagraphs (i) and (ii) of this paragraph (h), benefits shall
242 not be payable on the basis of services in any such capacities as
243 specified in subparagraphs (i), (ii) and (iii) of this paragraph
244 (h) to any individual who performed such services in an
245 educational institution while in the employ of an educational
246 service agency. For purposes of this paragraph, the term



247 "educational service agency" means a governmental agency or
248 governmental entity which is established and operated exclusively
249 for the purpose of providing such services to one or more
250 educational institutions.

251 (v) With respect to services to which Sections
252 71-5-357 and 71-5-359 apply, if such services are provided to or
253 on behalf of an educational institution, benefits shall not be
254 payable under the same circumstances and subject to the same terms
255 and conditions as described in subparagraphs (i), (ii), (iii) and
256 (iv) of this paragraph (h).

257 (i) Subsequent to December 31, 1977, benefits shall not
258 be paid to any individual on the basis of any services
259 substantially all of which consist of participating in sports or
260 athletic events or training or preparing to so participate, for
261 any week which commences during the period between two (2)
262 successive sports seasons (or similar periods) if such individual
263 performs such services in the first of such seasons (or similar
264 periods) and there is a reasonable assurance that such individual
265 will perform such services in the later of such seasons (or
266 similar periods).

267 (j) (i) Subsequent to December 31, 1977, benefits
268 shall not be payable on the basis of services performed by an
269 alien, unless such alien is an individual who was lawfully
270 admitted for permanent residence at the time such services were
271 performed, was lawfully present for purposes of performing such



272 services, or was permanently residing in the United States under
273 color of law at the time such services were performed (including
274 an alien who was lawfully present in the United States as a result
275 of the application of the provisions of Section 203(a) (7) or
276 Section 212(d) (5) of the Immigration and Nationality Act).

277 (ii) Any data or information required of
278 individuals applying for benefits to determine whether benefits
279 are not payable to them because of their alien status shall be
280 uniformly required from all applicants for benefits.

281 (iii) In the case of an individual whose
282 application for benefits would otherwise be approved, no
283 determination that benefits to such individual are not payable
284 because of his alien status shall be made, except upon a
285 preponderance of the evidence.

286 (k) An individual shall be deemed prima facie
287 unavailable for work, and therefore ineligible to receive
288 benefits, during any period which, with respect to his employment
289 status, is found by the department to be a holiday or vacation
290 period.

291 (l) A temporary employee of a temporary help firm is
292 considered to have left the employee's last work voluntarily
293 without good cause connected with the work if the temporary
294 employee does not contact the temporary help firm for reassignment
295 on completion of an assignment. A temporary employee is not
296 considered to have left work voluntarily without good cause



297 connected with the work under this paragraph unless the temporary
298 employee has been advised in writing:

299 (i) That the temporary employee is obligated to
300 contact the temporary help firm on completion of assignments; and

301 (ii) That unemployment benefits may be denied if
302 the temporary employee fails to do so.

303 (m) An employee who is terminated due to the employer's
304 violation of Section 1 of this act may be eligible for benefits if
305 the employee meets the other eligibility criteria specified under
306 this section.

307 **SECTION 4.** This act shall take effect and be in force from
308 and after its passage.

