

By: Representatives Hobgood-Wilkes,
Williamson

To: Public Health and Human
Services

HOUSE BILL NO. 576

1 AN ACT TO BE KNOWN AS THE MISSISSIPPI HELP NOT HARM ACT; TO
2 CREATE NEW SECTION 11-77-1, MISSISSIPPI CODE OF 1972, TO DEFINE
3 TERMS; TO CREATE NEW SECTION 11-77-3, MISSISSIPPI CODE OF 1972, TO
4 PROHIBIT ANY PERSON FROM KNOWINGLY PERFORMING OR PROVIDING GENDER
5 REASSIGNMENT SURGERY OR SERVICES TO A MINOR; TO PROVIDE THAT ANY
6 LICENSED MEDICAL PROFESSIONAL WHO PERFORMS OR PROVIDES GENDER
7 REASSIGNMENT SURGERY OR SERVICES TO A MINOR SHALL HAVE HIS OR HER
8 LICENSE REVOKED; TO PROVIDE A PRIVATE CAUSE OF ACTION AGAINST A
9 PHYSICIAN, OSTEOPATH, HOSPITAL, PRESCRIBING CAREGIVER, CLINIC AND
10 ANY OTHER HEALTH CARE FACILITY FOR INJURIES ARISING OUT OF THE
11 COURSE OF MEDICAL, SURGICAL OR OTHER PROFESSIONAL SERVICES RELATED
12 TO THE PERFORMANCE OF GENDER REASSIGNMENT SURGERY OR SERVICES; TO
13 PROVIDE THAT THIS CLAIM MUST BE BROUGHT WITHIN THIRTY YEARS FROM
14 THE DATE THAT THE ALLEGED ACT OCCURRED; TO AUTHORIZE THE ATTORNEY
15 GENERAL TO BRING AN ACTION TO ENFORCE COMPLIANCE WITH THIS
16 SECTION; TO PROVIDE THAT THIS SECTION DOES NOT APPLY TO CERTAIN
17 SERVICES, TREATMENTS AND PROCEDURES; TO AMEND SECTION 73-25-29,
18 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS
19 ACT; TO AMEND SECTION 73-25-33, MISSISSIPPI CODE OF 1972, TO
20 REVISE THE DEFINITION OF THE PRACTICE OF MEDICINE TO EXCLUDE
21 GENDER REASSIGNMENT SURGERY OR SERVICES FOR MINORS; TO AMEND
22 SECTION 11-46-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT UNDER
23 THE TORT CLAIMS ACT AN EMPLOYEE SHALL NOT BE CONSIDERED AS ACTING
24 WITHIN THE COURSE AND SCOPE OF HIS OR HER EMPLOYMENT AND A
25 GOVERNMENTAL ENTITY MAY BE LIABLE OR BE CONSIDERED TO HAVE WAIVED
26 IMMUNITY FOR ANY CONDUCT OF ITS EMPLOYEE IF THE EMPLOYEE'S CONDUCT
27 VIOLATED THE PROVISIONS OF THIS ACT; TO CREATE NEW SECTION
28 43-13-117.7, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE DIVISION OF
29 MEDICAID FROM REIMBURSING ANY ENTITY FOR PART OR ALL OF THE COSTS
30 OF CARE AND SERVICES RENDERED FOR GENDER REASSIGNMENT SURGERY OR
31 SERVICES; TO CREATE NEW SECTION 83-9-401, MISSISSIPPI CODE OF
32 1972, TO PROHIBIT HEALTH COVERAGE PLANS THAT ARE FUNDED WHOLLY OR
33 IN PART BY STATE FUNDS OR STATE-EMPLOYEE CONTRIBUTIONS FROM
34 REIMBURSING OR AUTHORIZING PAYMENT OF PART OR ALL OF THE COSTS OF



35 CARE AND SERVICES RENDERED BY ANY ENTITY FOR GENDER REASSIGNMENT
36 SURGERY OR SERVICES; TO AMEND SECTION 11-1-60, MISSISSIPPI CODE OF
37 1972, TO PROVIDE THAT IN ANY CAUSE OF ACTION FILED ON OR AFTER
38 JULY 1, 2023, FOR A CLAIM BROUGHT UNDER SECTION 11-77-3, IF THE
39 TRIER OF FACT FINDS THE DEFENDANT LIABLE, THERE SHALL NOT BE A
40 LIMITATION PLACED ON THE NONECONOMIC DAMAGES AWARD THAT A TRIER OF
41 FACT MAY AWARD TO THE PLAINTIFF; AND FOR RELATED PURPOSES.

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

43 **SECTION 1.** This act shall be known and may be cited as the
44 "Mississippi Help Not Harm Act."

45 **SECTION 2.** The following shall be codified as Section
46 11-77-1, Mississippi Code of 1972:

47 11-77-1. For purposes of this chapter, the following terms
48 shall have the meanings as defined in this section:

49 (a) "Gender" means the psychological, behavioral,
50 social and cultural aspects of being male or female.

51 (b) "Gender reassignment surgery or services" means any
52 of the following medical or surgical services performed on an
53 individual for the purpose of attempting to alter the appearance
54 of or affirm an individual's perception of his or her gender or
55 sex, if that appearance or perception is inconsistent with the
56 individual's sex:

57 (i) Prescribing or administering puberty blocking
58 medication to stop or delay normal puberty;

59 (ii) Prescribing or administering supraphysiologic
60 doses of testosterone or other androgens to females;

61 (iii) Prescribing or administering
62 supraphysiologic doses of estrogen to males;



63 (iv) Performing surgeries that sterilize,
64 including castration, vasectomy, hysterectomy, oophorectomy,
65 orchiectomy, and penectomy;

66 (v) Performing surgeries that artificially
67 construct tissue with the appearance of genitalia that differs
68 from the individual's sex, including metoidioplasty, phalloplasty,
69 and vaginoplasty; or

70 (vi) Removing any healthy or non-diseased body
71 part or tissue, except for a male circumcision.

72 (c) "Sex" means the biological indication of male and
73 female in the context of reproductive potential or capacity, such
74 as sex chromosomes, naturally occurring sex hormones, gonads and
75 nonambiguous internal and external genitalia present at birth,
76 without regard to an individual's psychological, chosen or
77 subjective experience of gender.

78 **SECTION 3.** The following shall be codified as Section
79 11-77-3, Mississippi Code of 1972:

80 11-77-3. (1) No person shall knowingly perform or provide
81 gender reassignment surgery or services to a minor.

82 (2) No person shall knowingly engage in conduct that aids or
83 abets in gender reassignment surgery or services being performed
84 on or provided to a minor. This section may not be construed to
85 impose liability on any speech or conduct protected by federal or
86 state law.



87 (3) Any licensed medical professional, including, but not
88 limited to, a physician, osteopath, physician assistant, nurse
89 practitioner or nurse, who violates the prohibition in subsection
90 (1) or (2) of this section shall have his or her license in the
91 State of Mississippi revoked pursuant to action taken by their
92 respective licensing board.

93 (4) For any claim accruing on or after July 1, 2023, a
94 private cause of action may be brought against a physician,
95 osteopath, hospital, prescribing caregiver, clinic and any other
96 health care facility for injuries arising out of the course of
97 medical, surgical or other professional services related to the
98 performance of gender reassignment surgery or services.

99 (5) For any claim accruing on or after July 1, 2023, no
100 claim as provided for in subsection (4) of this section may be
101 brought unless it is filed within thirty (30) years from the date
102 the alleged act occurred.

103 (6) The Attorney General may bring an action to enforce
104 compliance with this section. Nothing in this section shall be
105 construed to deny, impair, or otherwise affect any right or
106 authority of the Attorney General, the state, or any agency,
107 officer, or employee of the state to institute or intervene in any
108 proceeding.

109 (7) This section shall not apply to:

110 (a) Services provided to individuals born with a
111 medically verifiable disorder of sex development, including a



112 person with external sex characteristics that are irresolvably
113 ambiguous, such as an individual born with forty-six XX
114 chromosomes with virilization, forty-six XY chromosomes with
115 undervirilization, or having both ovarian and testicular tissue;

116 (b) Services provided to an individual when a physician
117 has otherwise diagnosed a disorder of sexual development, in which
118 the physician has determined through genetic or biochemical
119 testing that the individual does not have normal sex chromosome
120 structure, sex steroid hormone production, or sex steroid hormone
121 action for a biological male or biological female;

122 (c) The treatment of any infection, injury, disease or
123 disorder that has been caused or exacerbated by the performance of
124 gender transition procedures, whether or not the procedures were
125 performed in accordance with state and federal law; or

126 (d) Any procedure undertaken because an individual
127 suffers from a physical disorder, physical injury, or physical
128 illness that is certified by a physician and that would place the
129 individual in imminent danger of death or impairment of major
130 bodily function unless surgery is performed.

131 **SECTION 4.** Section 73-25-29, Mississippi Code of 1972, is
132 amended as follows:

133 73-25-29. The grounds for the nonissuance, suspension,
134 revocation or restriction of a license or the denial of
135 reinstatement or renewal of a license are:



136 (1) Habitual personal use of narcotic drugs, or any
137 other drug having addiction-forming or addiction-sustaining
138 liability.

139 (2) Habitual use of intoxicating liquors, or any
140 beverage, to an extent which affects professional competency.

141 (3) Administering, dispensing or prescribing any
142 narcotic drug, or any other drug having addiction-forming or
143 addiction-sustaining liability otherwise than in the course of
144 legitimate professional practice.

145 (4) Conviction of violation of any federal or state law
146 regulating the possession, distribution or use of any narcotic
147 drug or any drug considered a controlled substance under state or
148 federal law, a certified copy of the conviction order or judgment
149 rendered by the trial court being prima facie evidence thereof,
150 notwithstanding the pendency of any appeal.

151 (5) Procuring, or attempting to procure, or aiding in,
152 an abortion that is not medically indicated.

153 (6) Conviction of a felony or misdemeanor involving
154 moral turpitude, a certified copy of the conviction order or
155 judgment rendered by the trial court being prima facie evidence
156 thereof, notwithstanding the pendency of any appeal.

157 (7) Obtaining or attempting to obtain a license by
158 fraud or deception.

159 (8) Unprofessional conduct, which includes, but is not
160 limited to:



161 (a) Practicing medicine under a false or assumed
162 name or impersonating another practitioner, living or dead.

163 (b) Knowingly performing any act which in any way
164 assists an unlicensed person to practice medicine.

165 (c) Making or willfully causing to be made any
166 flamboyant claims concerning the licensee's professional
167 excellence.

168 (d) Being guilty of any dishonorable or unethical
169 conduct likely to deceive, defraud or harm the public.

170 (e) Obtaining a fee as personal compensation or
171 gain from a person on fraudulent representation of a disease or
172 injury condition generally considered incurable by competent
173 medical authority in the light of current scientific knowledge and
174 practice can be cured or offering, undertaking, attempting or
175 agreeing to cure or treat the same by a secret method, which he
176 refuses to divulge to the board upon request.

177 (f) Use of any false, fraudulent or forged
178 statement or document, or the use of any fraudulent, deceitful,
179 dishonest or immoral practice in connection with any of the
180 licensing requirements, including the signing in his professional
181 capacity any certificate that is known to be false at the time he
182 makes or signs such certificate.

183 (g) Failing to identify a physician's school of
184 practice in all professional uses of his name by use of his earned
185 degree or a description of his school of practice.



186 (9) The refusal of a licensing authority of another
187 state or jurisdiction to issue or renew a license, permit or
188 certificate to practice medicine in that jurisdiction or the
189 revocation, suspension or other restriction imposed on a license,
190 permit or certificate issued by such licensing authority which
191 prevents or restricts practice in that jurisdiction, a certified
192 copy of the disciplinary order or action taken by the other state
193 or jurisdiction being prima facie evidence thereof,
194 notwithstanding the pendency of any appeal.

195 (10) Surrender of a license or authorization to
196 practice medicine in another state or jurisdiction or surrender of
197 membership on any medical staff or in any medical or professional
198 association or society while under disciplinary investigation by
199 any of those authorities or bodies for acts or conduct similar to
200 acts or conduct which would constitute grounds for action as
201 defined in this section.

202 (11) Final sanctions imposed by the United States
203 Department of Health and Human Services, Office of Inspector
204 General or any successor federal agency or office, based upon a
205 finding of incompetency, gross misconduct or failure to meet
206 professionally recognized standards of health care; a certified
207 copy of the notice of final sanction being prima facie evidence
208 thereof. As used in this paragraph, the term "final sanction"
209 means the written notice to a physician from the United States
210 Department of Health and Human Services, Officer of Inspector



211 General or any successor federal agency or office, which
212 implements the exclusion.

213 (12) Failure to furnish the board, its investigators or
214 representatives information legally requested by the board.

215 (13) Violation of any provision(s) of the Medical
216 Practice Act or the rules and regulations of the board or of any
217 order, stipulation or agreement with the board.

218 (14) Violation(s) of the provisions of Sections
219 41-121-1 through 41-121-9 relating to deceptive advertisement by
220 health care practitioners.

221 (15) Performing or inducing an abortion on a woman in
222 violation of any provision of Sections 41-41-131 through
223 41-41-145.

224 (16) Performing an abortion on a pregnant woman after
225 determining that the unborn human individual that the pregnant
226 woman is carrying has a detectable fetal heartbeat as provided in
227 Section 41-41-34.1.

228 (17) Knowingly performing gender reassignment surgery
229 or services on a minor as prohibited in Section 11-77-3.

230 In addition to the grounds specified above, the board shall
231 be authorized to suspend the license of any licensee for being out
232 of compliance with an order for support, as defined in Section
233 93-11-153. The procedure for suspension of a license for being
234 out of compliance with an order for support, and the procedure for
235 the reissuance or reinstatement of a license suspended for that



236 purpose, and the payment of any fees for the reissuance or
237 reinstatement of a license suspended for that purpose, shall be
238 governed by Section 93-11-157 or 93-11-163, as the case may be.
239 If there is any conflict between any provision of Section
240 93-11-157 or 93-11-163 and any provision of this chapter, the
241 provisions of Section 93-11-157 or 93-11-163, as the case may be,
242 shall control.

243 A physician who provides a written certification as
244 authorized under the Mississippi Medical Cannabis Act and in
245 compliance with rules and regulations adopted thereunder shall not
246 be subject to any disciplinary action under this section solely
247 due to providing the written certification.

248 **SECTION 5.** Section 73-25-33, Mississippi Code of 1972, is
249 amended as follows:

250 73-25-33. (1) The practice of medicine shall mean to
251 suggest, recommend, prescribe, or direct for the use of any
252 person, any drug, medicine, appliance, or other agency, whether
253 material or not material, for the cure, relief, or palliation of
254 any ailment or disease of the mind or body, or for the cure or
255 relief of any wound or fracture or other bodily injury or
256 deformity, or the practice of obstetrics or midwifery, after
257 having received, or with the intent of receiving therefor, either
258 directly or indirectly, any bonus, gift, profit or compensation;
259 provided, that nothing in this section shall apply to females
260 engaged solely in the practice of midwifery.



261 (2) The practice of medicine shall not mean to knowingly
262 provide gender reassignment surgery or services for minors. For
263 purposes of this subsection, gender reassignment surgery or
264 services means the services or activities prohibited under Section
265 11-77-3.

266 **SECTION 6.** Section 11-46-5, Mississippi Code of 1972, is
267 amended as follows:

268 11-46-5. (1) Notwithstanding the immunity granted in
269 Section 11-46-3, or the provisions of any other law to the
270 contrary, the immunity of the state and its political subdivisions
271 from claims for money damages arising out of the torts of such
272 governmental entities and the torts of their employees while
273 acting within the course and scope of their employment is hereby
274 waived from and after July 1, 1993, as to the state, and from and
275 after October 1, 1993, as to political subdivisions; provided,
276 however, immunity of a governmental entity in any such case shall
277 be waived only to the extent of the maximum amount of liability
278 provided for in Section 11-46-15.

279 (2) For the purposes of this chapter an employee shall not
280 be considered as acting within the course and scope of his or her
281 employment and a governmental entity shall not be liable or be
282 considered to have waived immunity for any conduct of its employee
283 if the employee's conduct constituted fraud, malice, libel,
284 slander, defamation or any criminal offense other than traffic
285 violations.



286 (3) For the purposes of this chapter and not otherwise, it
287 shall be a rebuttable presumption that any act or omission of an
288 employee within the time and at the place of his or her employment
289 is within the course and scope of his employment except for
290 actions described in Section 73-25-33(2) and subsection (5) of
291 this section.

292 (4) Nothing contained in this chapter shall be construed to
293 waive the immunity of the state from suit in federal courts
294 guaranteed by the Eleventh Amendment to the Constitution of the
295 United States.

296 (5) For the purposes of this chapter, an employee shall not
297 be considered as acting within the course and scope of his or her
298 employment, and a governmental entity may be liable or be
299 considered to have waived immunity for any conduct of its employee
300 if the employee's conduct constituted an act in violation of
301 Section 11-77-3.

302 **SECTION 7.** The following shall be codified as Section
303 43-13-117.7, Mississippi Code of 1972:

304 43-13-117.7. (1) For purposes of this section, the
305 following terms shall have the meanings as defined in this
306 subsection:

307 (a) "Gender" means the psychological, behavioral,
308 social and cultural aspects of being male or female.

309 (b) "Gender reassignment surgery or service" means any
310 of the following medical or surgical services performed on an



311 individual for the purpose of attempting to alter the appearance
312 of or affirm an individual's perception of his or her gender or
313 sex, if that appearance or perception is inconsistent with the
314 individual's sex:

315 (i) Prescribing or administering puberty blocking
316 medication to stop or delay normal puberty;

317 (ii) Prescribing or administering supraphysiologic
318 doses of testosterone or other androgens to females;

319 (iii) Prescribing or administering
320 supraphysiologic doses of estrogen to males;

321 (iv) Performing surgeries that sterilize,
322 including castration, vasectomy, hysterectomy, oophorectomy,
323 orchiectomy, and penectomy;

324 (v) Performing surgeries that artificially
325 construct tissue with the appearance of genitalia that differs
326 from the individual's sex, including metoidioplasty, phalloplasty,
327 and vaginoplasty; or

328 (vi) Removing any healthy or non-diseased body
329 part or tissue, except for a male circumcision;

330 (c) "Sex" means the biological indication of male and
331 female in the context of reproductive potential or capacity, such
332 as sex chromosomes, naturally occurring sex hormones, gonads and
333 nonambiguous internal and external genitalia present at birth,
334 without regard to an individual's psychological, chosen or
335 subjective experience of gender.



336 (2) The division shall not authorize payment of part or all
337 of the costs of care and services rendered by any entity for
338 gender reassignment surgery or services.

339 **SECTION 8.** The following shall be codified as Section
340 83-9-401, Mississippi Code of 1972:

341 83-9-401. (1) For purposes of this section, the following
342 terms shall have the meanings as defined in this subsection:

343 (a) "Gender" means the psychological, behavioral,
344 social and cultural aspects of being male or female.

345 (b) "Gender reassignment surgery or service" means any
346 of the following medical or surgical services performed on an
347 individual for the purpose of attempting to alter the appearance
348 of or affirm an individual's perception of his or her gender or
349 sex, if that appearance or perception is inconsistent with the
350 individual's sex:

351 (i) Prescribing or administering puberty blocking
352 medication to stop or delay normal puberty;

353 (ii) Prescribing or administering supraphysiologic
354 doses of testosterone or other androgens to females;

355 (iii) Prescribing or administering
356 supraphysiologic doses of estrogen to males;

357 (iv) Performing surgeries that sterilize,
358 including castration, vasectomy, hysterectomy, oophorectomy,
359 orchiectomy, and penectomy;



360 (v) Performing surgeries that artificially
361 construct tissue with the appearance of genitalia that differs
362 from the individual's sex, including metoidioplasty, phalloplasty,
363 and vaginoplasty; or

364 (vii) Removing any healthy or non-diseased body
365 part or tissue, except for a male circumcision.

366 (c) "Health coverage plan" means any health or medical
367 expense insurance policy, hospital or medical service contract,
368 employee welfare benefit plan, contract or agreement with a health
369 maintenance organization or a preferred provider organization,
370 health and accident insurance policy, including a group insurance
371 plan and the State Health Plan.

372 (d) "Sex" means the biological indication of male and
373 female in the context of reproductive potential or capacity, such
374 as sex chromosomes, naturally occurring sex hormones, gonads and
375 nonambiguous internal and external genitalia present at birth,
376 without regard to an individual's psychological, chosen or
377 subjective experience of gender.

378 (2) No health coverage plan that is funded wholly or in part
379 by state funds or state-employee contributions shall reimburse or
380 authorize payment of part or all of the costs of care and services
381 rendered by any entity for gender reassignment surgery or
382 services.

383 **SECTION 9.** Section 11-1-60, Mississippi Code of 1972, is
384 amended as follows:



385 11-1-60. (1) For the purposes of this section, the
386 following words and phrases shall have the meanings ascribed
387 herein unless the context clearly requires otherwise:

388 (a) "Noneconomic damages" means subjective,
389 nonpecuniary damages arising from death, pain, suffering,
390 inconvenience, mental anguish, worry, emotional distress, loss of
391 society and companionship, loss of consortium, bystander injury,
392 physical impairment, disfigurement, injury to reputation,
393 humiliation, embarrassment, loss of the enjoyment of life, hedonic
394 damages, other nonpecuniary damages, and any other theory of
395 damages such as fear of loss, illness or injury. The term
396 "noneconomic damages" shall not include punitive or exemplary
397 damages.

398 (b) "Actual economic damages" means objectively
399 verifiable pecuniary damages arising from medical expenses and
400 medical care, rehabilitation services, custodial care,
401 disabilities, loss of earnings and earning capacity, loss of
402 income, burial costs, loss of use of property, costs of repair or
403 replacement of property, costs of obtaining substitute domestic
404 services, loss of employment, loss of business or employment
405 opportunities, and other objectively verifiable monetary losses.

406 (2) (a) In any cause of action filed on or after September
407 1, 2004, for injury based on malpractice or breach of standard of
408 care against a provider of health care, including institutions for
409 the aged or infirm, in the event the trier of fact finds the



410 defendant liable, they shall not award the plaintiff more than
411 Five Hundred Thousand Dollars (\$500,000.00) for noneconomic
412 damages.

413 (b) In any civil action filed on or after September 1,
414 2004, other than those actions described in paragraph (a) of this
415 subsection, in the event the trier of fact finds the defendant
416 liable, they shall not award the plaintiff more than One Million
417 Dollars (\$1,000,000.00) for noneconomic damages.

418 It is the intent of this section to limit all noneconomic
419 damages to the above.

420 (c) The trier of fact shall not be advised of the
421 limitations imposed by this subsection (2) and the judge shall
422 appropriately reduce any award of noneconomic damages that exceeds
423 the applicable limitation.

424 (3) Nothing contained in subsection (1) of this section
425 shall be construed as creating a cause of action or as setting
426 forth elements of or types of damages that are or are not
427 recoverable in any type of cause of action.

428 (4) For any claim accruing on or after July 1, 2023,
429 subsections (1) through (3) of this section shall not apply to a
430 claim brought according to Section 11-77-3 against a licensed
431 physician, osteopath or hospital for injuries arising out of the
432 course of medical, surgical or other professional services related
433 to the performance of gender reassignment surgery or services. In
434 any cause of action filed on or after July 1, 2023, for a claim



435 brought according to Section 11-77-3, if the trier of fact finds
436 the defendant liable, there shall not be a limitation placed on
437 the noneconomic damages award that a trier of fact may award to
438 the plaintiff.

439 **SECTION 10.** This act shall take effect and be in force from
440 and after July 1, 2023.

