

By: Representatives Ford (73rd), Hobgood-
Wilkes, Williamson, Boyd (19th)

To: Judiciary B

HOUSE BILL NO. 1045

1 AN ACT TO CREATE A NEW SECTION OF LAW TO PROVIDE THAT LIBRARY
2 COLLECTIONS, EVENTS, PRESENTATIONS AND DISPLAYS AIMED AT THE
3 SPECIAL NEEDS AND INTERESTS OF CHILDREN AND YOUNG TEENAGERS SHALL
4 NOT BE ALLOWED TO INCLUDE MATERIALS CONTAINING CERTAIN
5 INFORMATION; TO PROVIDE THAT A CITIZEN OF THIS STATE WHOSE CHILD
6 IS AFFECTED BY A VIOLATION OF THIS ACT MAY FILE SUIT FOR
7 DECLARATIVE AND INJUNCTIVE RELIEF, INCLUDING ALL REASONABLE
8 ATTORNEY'S FEES AND COSTS INCURRED BY THE PARTY BRINGING THE SUIT
9 IN THE CIRCUIT COURT WHICH SHALL HAVE JURISDICTION OVER THE
10 LIBRARY WHERE THE VIOLATION OF THIS ACT OCCURS; TO PROVIDE THAT
11 THE ATTORNEY GENERAL'S OFFICE SHALL GIVE THE LIBRARY THE
12 OPPORTUNITY TO CURE THE VIOLATION BEFORE A SUIT IS BROUGHT; TO
13 PROVIDE THAT THE STATE BOARD OF EDUCATION AND THE MISSISSIPPI
14 LIBRARY COMMISSION, IN CONSULTATION WITH THE ATTORNEY GENERAL'S
15 OFFICE, SHALL PROVIDE TRAINING TO THE LIBRARIES; TO AMEND SECTION
16 37-1-3, MISSISSIPPI CODE OF 1972, TO AMEND THE POWERS AND DUTIES
17 OF THE STATE BOARD OF EDUCATION TO COMPLY WITH THE PROVISIONS OF
18 THIS ACT; TO AMEND SECTION 97-29-107, MISSISSIPPI CODE OF 1972, TO
19 CONFORM; TO BRING FORWARD SECTION 39-3-357, MISSISSIPPI CODE OF
20 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED
21 PURPOSES.

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

23 **SECTION 1.** (1) Library collections, events, presentations
24 and displays curated for the special needs and interests of
25 children between the ages of three (3) and twelve (12) shall not
26 include materials containing the following:

27 (a) Child pornography;



28 (b) Vulgar or sexualized content;

29 (c) Depictions, descriptions, or promotions of child
30 sexual exploitation and trafficking;

31 (d) Inappropriate materials depicting, describing or
32 dealing with matters of sex, cruelty and violence in a manner
33 likely to be injurious or harmful to a child;

34 (e) Visual or visually implied depictions of sexual
35 acts or simulations of such acts;

36 (f) Explicit or implied written descriptions of sexual
37 acts;

38 (g) Sexually oriented content, as defined in Section
39 97-5-27; and

40 (h) Visual depictions of nudity or implied nudity, not
41 including age-appropriate materials with diagrams about anatomy
42 for science or content relating to classical works of art.

43 (2) Library collections, events, presentations and displays
44 curated for the special needs and interests of younger teens
45 between the ages of thirteen (13) and fifteen (15) shall not
46 include materials containing the following:

47 (a) Child pornography;

48 (b) Pervasively vulgar or sexualized content;

49 (c) Depictions or promotions of child sexual
50 exploitation and trafficking;



51 (d) Inappropriate materials depicting, describing or
52 dealing with matters of sex, cruelty and violence in a manner
53 likely to be injurious or harmful to a child;

54 (e) Visual depictions of sexual acts or simulations of
55 such acts;

56 (f) Explicit written descriptions of sexual acts;

57 (g) Sexually oriented content, as defined in Section
58 97-5-27; and

59 (h) Visual depictions of nudity, not including
60 age-appropriate materials with diagrams about anatomy for science
61 or content relating to classical works of art.

62 **SECTION 2.** (1) A citizen of this state whose child is
63 affected by a violation of this act may file suit for declarative
64 and injunctive relief, including all reasonable attorney's fees
65 and costs incurred by the party bringing the suit in the circuit
66 court which shall have jurisdiction over the library where the
67 violation of this act occurs.

68 (2) Before instituting suit under this section, the party
69 adversely impacted by a violation of this act shall notify the
70 Attorney General in writing of the violation and include evidence
71 of the violation. The Attorney General shall, within thirty (30)
72 days, investigate whether the library is in violation of this act
73 and provide the chief administrative officer of the library notice
74 of her findings, including a description of the materials in
75 violation of this act. The library shall have thirty (30) days



76 from receipt of the Attorney General's notice to cure the
77 violation. If the library fails to cure the violation within that
78 thirty-day time period, a suit under subsection (1) of this
79 section may proceed. The findings of the Attorney General shall
80 constitute a public record under the Mississippi Public Records
81 Act of 1983.

82 (3) If the circuit court finds that a library failed to cure
83 the violation in accordance with subsection (2) of this section,
84 the circuit court shall issue a permanent injunction against the
85 library, prohibiting it from including the offending materials in
86 its collections for children and younger teens.

87 **SECTION 3.** The State Board of Education and the Mississippi
88 Library Commission shall, in consultation with the Office of the
89 Attorney General, provide guidance and training to support public
90 libraries and public school libraries in identifying materials
91 that violate this act.

92 **SECTION 4.** Section 37-1-3, Mississippi Code of 1972, is
93 amended as follows:

94 37-1-3. (1) The State Board of Education shall adopt rules
95 and regulations and set standards and policies for the
96 organization, operation, management, planning, budgeting and
97 programs of the State Department of Education.

98 (a) The board is directed to identify all functions of
99 the department that contribute to or comprise a part of the state
100 system of educational accountability and to establish and maintain



101 within the department the necessary organizational structure,
102 policies and procedures for effectively coordinating such
103 functions. Such policies and procedures shall clearly fix and
104 delineate responsibilities for various aspects of the system and
105 for overall coordination of the total system and its effective
106 management.

107 (b) The board shall establish and maintain a
108 system-wide plan of performance, policy and directions of public
109 education not otherwise provided for.

110 (c) The board shall effectively use the personnel and
111 resources of the department to enhance technical assistance to
112 school districts in instruction and management therein.

113 (d) The board shall establish and maintain a central
114 budget policy.

115 (e) The board shall establish and maintain within the
116 State Department of Education a central management capacity under
117 the direction of the State Superintendent of Public Education.

118 (f) The board, with recommendations from the
119 superintendent, shall design and maintain a five-year plan and
120 program for educational improvement that shall set forth
121 objectives for system performance and development and be the basis
122 for budget requests and legislative initiatives.

123 (g) The board shall, with the Mississippi Library
124 Commission and in consultation with the Office of the Attorney
125 General, provide guidance and training to support public libraries



126 and public school libraries in identifying materials that violate
127 Section 1 through 3 of this act.

128 (2) (a) The State Board of Education shall adopt and
129 maintain a curriculum and a course of study to be used in the
130 public school districts that is designed to prepare the state's
131 children and youth to be productive, informed, creative citizens,
132 workers and leaders, and it shall regulate all matters arising in
133 the practical administration of the school system not otherwise
134 provided for.

135 (b) Before the 1999-2000 school year, the State Board
136 of Education shall develop personal living and finances objectives
137 that focus on money management skills for individuals and families
138 for appropriate, existing courses at the secondary level. The
139 objectives must require the teaching of those skills necessary to
140 handle personal business and finances and must include instruction
141 in the following:

- 142 (i) Opening a bank account and assessing the
143 quality of a bank's services;
- 144 (ii) Balancing a checkbook;
- 145 (iii) Managing debt, including retail and credit
146 card debt;
- 147 (iv) Completing a loan application;
- 148 (v) The implications of an inheritance;
- 149 (vi) The basics of personal insurance policies;
- 150 (vii) Consumer rights and responsibilities;



- 151 (viii) Dealing with salesmen and merchants;
152 (ix) Computing state and federal income taxes;
153 (x) Local tax assessments;
154 (xi) Computing interest rates by various
155 mechanisms;
156 (xii) Understanding simple contracts; and
157 (xiii) Contesting an incorrect billing statement.

158 (3) The State Board of Education shall have authority to
159 expend any available federal funds, or any other funds expressly
160 designated, to pay training, educational expenses, salary
161 incentives and salary supplements to licensed teachers employed in
162 local school districts or schools administered by the State Board
163 of Education. Such incentive payments shall not be considered
164 part of a school district's local supplement as defined in Section
165 37-151-5(o), nor shall the incentives be considered part of the
166 local supplement paid to an individual teacher for the purposes of
167 Section 37-19-7(1). MAEP funds or any other state funds shall not
168 be used to provide such incentives unless specifically authorized
169 by law.

170 (4) The State Board of Education shall through its actions
171 seek to implement the policies set forth in Section 37-1-2.

172 **SECTION 5.** Section 97-29-107, Mississippi Code of 1972, is
173 amended as follows:



174 97-29-107. (1) Sections 97-29-101 through 97-29-109 shall
175 not apply when the distribution or wholesale distribution of the
176 material, performance or device was made by:

177 (a) A person, corporation, company, partnership, firm,
178 association, business, establishment or other legal entity to a
179 person associated with an institution of higher learning, either
180 as a member of the faculty or as a matriculated student, teaching
181 or pursuing a course of study related to such material,
182 performance or device;

183 (b) A licensed physician or a licensed psychologist to
184 a person whose receipt of such material or device was authorized
185 in writing by such physician or psychologist in the course of
186 medical or psychological treatment or care;

187 (c) Except as otherwise provided in Section 1 through 3
188 of this act, a person who while acting in his capacity as an
189 employee is employed on a full-time or part-time basis by (i) any
190 recognized historical society or museum accorded charitable status
191 by the federal government; (ii) any state, county or municipal
192 public library; or (iii) any library of any public or private
193 school, college or university in this state; or

194 (d) A community television antenna services system or a
195 cable television system operating pursuant to a written agreement
196 not in conflict with this paragraph granted by a county,
197 municipality or other political subdivision of this state, or by
198 an employee of such system while acting within the scope of his



199 employment, when the signal transmitting the material or
200 performance originates outside of the State of Mississippi.

201 (2) Any exemption from prosecution claimed under the
202 provisions of this section may be raised at a pretrial hearing by
203 motion, and the court shall determine whether sufficient evidence
204 exists to constitute an exemption from prosecution under the
205 provisions of Sections 97-29-101 through 97-29-109. If the motion
206 is sustained, the case shall be dismissed; provided, however, if
207 the motion is not sustained then the defendant may offer into
208 evidence at trial as an affirmative defense to conviction under
209 Sections 97-29-101 through 97-29-109 any matter which could have
210 been raised by the defendant in the motion to dismiss.

211 **SECTION 6.** Section 39-3-357, Mississippi Code of 1972, is
212 brought forward as follows:

213 39-3-357. Each accredited public library system shall
214 receive an annual allocation of state funds to supplement the
215 local appropriation and other income. Library cooperatives which
216 include accredited public library systems may receive state aid.
217 The state aid shall be used only to support library services in
218 accredited public library systems and in cooperatives including
219 accredited public library systems. The amount of the minimum
220 allocation for each public library system shall be based on
221 specific local service levels of the public library system and as
222 identified by accreditation category.



223 **SECTION 7.** This act shall take effect and be in force from
224 and after July 1, 2023.

