

By: Representative Lamar

To: Public Health and Human  
Services

## HOUSE BILL NO. 1126

1 AN ACT TO RESTRICT TRANSGENDER MEDICAL PROCEDURES FOR ANY  
2 PERSON UNDER TWENTY-ONE YEARS OF AGE; TO PROVIDE DEFINITIONS FOR  
3 THE ACT; TO PROHIBIT THE ADMINISTRATION OF OR THE ASSISTANCE IN  
4 THE ADMINISTRATION OF CROSS SEX HORMONES OR PUBERTY BLOCKING  
5 DRUGS; TO PROHIBIT THE PERFORMANCE OF GENDER REASSIGNMENT SURGERY;  
6 TO PROHIBIT PHYSICIANS AND OTHER HEALTH CARE PROFESSIONALS FROM  
7 PROVIDING GENDER TRANSITION PROCEDURES OR GENDER REASSIGNMENT  
8 SURGERY TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE; TO PROHIBIT  
9 PHYSICIANS AND OTHER HEALTH CARE PROFESSIONALS FROM REFERRING ANY  
10 PERSON UNDER A CERTAIN AGE TO ANY HEALTH CARE PROFESSIONAL FOR  
11 GENDER TRANSITION OR GENDER REASSIGNMENT PROCEDURES; TO PROHIBIT  
12 PARENTS, GUARDIANS OR PERSONS RESPONSIBLE FOR THE CARE OF A PERSON  
13 UNDER A CERTAIN AGE FROM CONSENTING TO OR PROVIDING  
14 PUBERTY-BLOCKING DRUGS, CROSS SEX HORMONES; TO PROVIDE CERTAIN  
15 EXCEPTIONS TO THOSE PROHIBITIONS; TO AMEND SECTION 97-5-39,  
16 MISSISSIPPI CODE OF 1972, TO INCLUDE VIOLATIONS OF THIS ACT IN THE  
17 PENALTIES FOR CHILD ABUSE; TO AMEND SECTION 43-21-105, MISSISSIPPI  
18 CODE OF 1972, TO REVISE THE DEFINITION OF CHILD ABUSE TO INCLUDE  
19 VIOLATION OF THIS ACT; TO AMEND SECTION 97-5-51, MISSISSIPPI CODE  
20 OF 1972, TO REQUIRE MANDATORY REPORTING OF PERSONS WHO VIOLATE THE  
21 PROVISIONS OF THIS ACT; TO PROHIBIT THE DIRECT OR INDIRECT USE,  
22 GRANT, PAYMENT OR DISTRIBUTION OF PUBLIC FUNDS TO ANY ENTITY,  
23 ORGANIZATION OR INDIVIDUAL THAT PROVIDES GENDER TRANSITION  
24 PROCEDURES TO A PERSON UNDER TWENTY-ONE YEARS OF AGE; TO PROVIDE  
25 THAT HEALTH CARE SERVICES FURNISHED IN A STATE OR LOCALLY-OWNED  
26 HEALTH CARE FACILITY OR BY A PHYSICIAN OR OTHER HEALTH CARE  
27 PROFESSIONAL EMPLOYED BY THE STATE OR LOCAL GOVERNMENT SHALL NOT  
28 INCLUDE GENDER TRANSITION PROCEDURES FOR A PERSON UNDER TWENTY-ONE  
29 YEARS OF AGE; TO PROVIDE THAT AMOUNTS PAID DURING A TAXABLE YEAR  
30 FOR PROVISION OF GENDER TRANSITION PROCEDURES OR AS PREMIUMS FOR  
31 HEALTH CARE COVERAGE THAT INCLUDES COVERAGE FOR GENDER TRANSITION  
32 PROCEDURES ARE NOT DEDUCTIBLE UNDER THE STATE INCOME TAX LAWS; TO  
33 PROVIDE THAT ANY REFERRAL FOR OR PROVISION OF GENDER TRANSITION  
34 PROCEDURES TO A PERSON UNDER TWENTY-ONE YEARS OF AGE BY A



PHYSICIAN OR OTHER HEALTH CARE PROFESSIONAL IS UNPROFESSIONAL CONDUCT AND IS SUBJECT TO DISCIPLINE BY THE APPROPRIATE LICENSING ENTITY FOR THE HEALTH CARE PROFESSIONAL; TO AUTHORIZE THE ATTORNEY GENERAL TO BRING AN ACTION TO ENFORCE COMPLIANCE WITH THIS ACT; TO CREATE NEW SECTION 43-13-117.7, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE DIVISION OF MEDICAID FROM REIMBURSING OR PROVIDING COVERAGE FOR GENDER TRANSITION PROCEDURES FOR A PERSON UNDER TWENTY-ONE YEARS OF AGE; TO AMEND SECTION 83-9-22, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT HEALTH COVERAGE PLANS ARE NOT REQUIRED TO INCLUDE GENDER TRANSITION PROCEDURES; TO CREATE NEW SECTION 83-9-37, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A HEALTH BENEFIT PLAN UNDER AN INSURANCE POLICY OR OTHER PLAN PROVIDING HEALTH CARE COVERAGE SHALL NOT INCLUDE REIMBURSEMENT FOR GENDER TRANSITION PROCEDURES FOR A PERSON UNDER TWENTY-ONE YEARS OF AGE; TO AMEND SECTIONS 27-7-17, 73-15-29 AND 73-25-29, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; TO AMEND SECTION 11-46-5, MISSISSIPPI CODE OF 1972, TO EXCLUDE FROM TORT IMMUNITY VIOLATIONS OF THIS ACT; TO AMEND SECTION 11-1-60, MISSISSIPPI CODE OF 1972, TO EXCLUDE VIOLATION OF THIS ACT FROM LIMITS ON NONECONOMIC DAMAGES; AND FOR RELATED PURPOSES.

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

**SECTION 1.** For purposes of this act, the following terms shall have the meanings ascribed herein:

(a) "Biological sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience of gender;

(b) "Cross-sex hormones" means:

(i) Testosterone or other androgens given to biological females in amounts that are larger or more potent than would normally occur naturally in healthy biological sex females; and



(ii) Estrogen given to biological males in amounts that are larger or more potent than would normally occur naturally in healthy biological sex males;

(c) "Gender" means the psychological, behavioral, social, and cultural aspects of being male or female;

(d) "Gender reassignment surgery" means any medical or surgical service that seeks to surgically alter or remove healthy physical or anatomical characteristics or features that are typical for the individual's biological sex, in order to instill or create physiological or anatomical characteristics that resemble a sex different from the individual's biological sex, including, without limitation, genital or nongenital gender reassignment surgery performed for the purpose of assisting an individual with a gender transition including, without limitation:

(i) Surgical procedures such as penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for biologically male patients or hysterectomy or ovariectomy for biologically female patients;

(ii) Reconstruction of the fixed part of the urethra with or without a metoidioplasty;

(iii) Phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses for biologically female patients;

(iv) Surgical procedures for biologically male patients, such as augmentation mammoplasty, facial feminization



surgery, liposuction, lipofilling, voice surgery, thyroid  
cartilage reduction, gluteal augmentation, hair reconstruction, or  
various aesthetic procedures; or

(v) Surgical procedures for biologically female  
patients, such as subcutaneous mastectomy, voice surgery,  
liposuction, lipofilling, pectoral implants, or various aesthetic  
procedures;

(e) "Gender transition" means the process in which a  
person goes from identifying with and living as a gender that  
corresponds to his or her biological sex to identifying with and  
living as a gender different from his or her biological sex, and  
may involve social, legal, or physical changes;

(f) (i) "Gender transition procedures" means any  
medical or surgical service, including, without limitation,  
physician's services, inpatient and outpatient hospital services,  
or prescribed drugs related to gender transition that seek to:

1. Alter or remove physical or anatomical  
characteristics or features that are typical for the individual's  
biological sex; or

2. Instill or create physiological or  
anatomical characteristics that resemble a sex different from the  
individual's biological sex, including, without limitation,  
medical services that provide puberty-blocking drugs, cross-sex  
hormones, or other mechanisms to promote the development of  
feminizing or masculinizing features in the opposite biological



sex, or genital or nongenital gender reassignment surgery performed for the purpose of assisting an individual with a gender transition.

(ii) "Gender transition procedures" do not include:

1. Services to persons born with a medically verifiable disorder of sex development, including a person with external biological sex characteristics that are irresolvably ambiguous, such as those born with forty-six (46) XX chromosomes with virilization, forty-six (46) XY chromosomes with undervirilization, or having both ovarian and testicular tissue;

2. Services provided when a physician has otherwise diagnosed a disorder of sexual development that the physician has determined through genetic or biochemical testing that the person does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action;

3. The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures, whether or not the gender transition procedure was performed in accordance with state and federal law or whether or not the funding for the gender transition procedure is permissible under this act; or

4. Any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place



the individual in imminent danger of death or impairment of major bodily function unless surgery is performed;

(g) "Health care professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession;

(h) "Physician" means a person who is licensed to practice medicine in this state;

(i) "Puberty-blocking drugs" means gonadotropin-releasing hormone analogues or other synthetic drugs used in biological males to stop luteinizing hormone secretion and therefore testosterone secretion, or synthetic drugs used in biological females which stop the production of estrogens and progesterone, when used to delay or suppress pubertal development in children for the purpose of assisting an individual with a gender transition; and

(j) "Public funds" means state, county, or local government monies, in addition to any department, agency, or instrumentality authorized or appropriated under state law or derived from any fund in which such monies are deposited.

**SECTION 2.** (1) (a) No person may administer, supply, consent to, or assist in administering or supplying a puberty-blocking drug or cross-sex hormone to a person under the age of twenty-one (21) years of age.



169 (b) No person shall perform or provide, or assist in  
170 the performance or provision of gender transition procedures or  
171 gender reassignment surgery to a person under the age of  
172 twenty-one (21) years of age.

173 (c) A physician or other health care professional shall  
174 not provide gender transition procedures to any person under  
175 twenty-one (21) years of age.

176 (d) A physician, or other health care professional  
177 shall not refer any person under twenty-one (21) years of age to  
178 any health care professional for gender transition procedures.

179 (e) Any person who violates the prohibitions described  
180 in this section shall be guilty of the felony crime of "gender  
181 disfigurement" and upon conviction, fined no less than Ten  
182 Thousand Dollars (\$10,000.00), sentenced up to five (5) years in  
183 the custody of the Department of Corrections, or both.

184 (2) A physician who violates the prohibition in subsection  
185 (1) of this section shall have his or her license to practice  
186 medicine in the State of Mississippi revoked pursuant to action  
187 taken by the Mississippi State Board of Medical Licensure.

188 (3) For any claim accruing on or after July 1, 2023, a  
189 private cause of action may be brought against a physician,  
190 osteopath or hospital for injuries arising out of the course of  
191 medical, surgical or other professional services related to the  
192 performance of gender reassignment surgery or services.



193           (4) For any claim accruing on or after July 1, 2023, no  
194 claim as provided for in subsection (2) of this section may be  
195 brought unless it is filed within five (5) years from the date the  
196 alleged act occurred.

197           (5) If at the time at which the cause of action arose, the  
198 person to whom such claim has accrued shall be twenty-one (21)  
199 years of age or younger, then such minor or the person claiming  
200 through such minor may, notwithstanding that the period of time  
201 limited pursuant to subsection (3) of this section shall have  
202 expired, commence action on such claim at any time within two (2)  
203 years next after the time at which the minor shall have reached  
204 his or her twenty-first birthday, or shall have died, whichever  
205 shall have first occurred.

206           **SECTION 3.** Section 97-5-39, Mississippi Code of 1972, is  
207 amended as follows:

208           97-5-39. (1) (a) Except as otherwise provided in this  
209 section, any parent, guardian or other person who intentionally,  
210 knowingly or recklessly commits any act or omits the performance  
211 of any duty, which act or omission contributes to or tends to  
212 contribute to the neglect or delinquency of any child or which act  
213 or omission results in the abuse of any child, as defined in  
214 Section 43-21-105(m) of the Youth Court Law, or who knowingly aids  
215 any child in escaping or absenting himself from the guardianship  
216 or custody of any person, agency or institution, or knowingly  
217 harbors or conceals, or aids in harboring or concealing, any child





218 who has absented himself without permission from the guardianship  
219 or custody of any person, agency or institution to which the child  
220 shall have been committed by the youth court shall be guilty of a  
221 misdemeanor, and upon conviction shall be punished by a fine not  
222 to exceed One Thousand Dollars (\$1,000.00), or by imprisonment not  
223 to exceed one (1) year in jail, or by both such fine and  
224 imprisonment.

225 (b) For the purpose of this section, a child is a  
226 person who has not reached his eighteenth birthday. A child who  
227 has not reached his eighteenth birthday and is on active duty for  
228 a branch of the armed services, or who is married, is not  
229 considered a child for the purposes of this statute.

230 (c) If a child commits one (1) of the proscribed acts  
231 in subsection (2)(a), (b) or (c) of this section upon another  
232 child, then original jurisdiction of all such offenses shall be in  
233 youth court.

234 (d) If the child's deprivation of necessary clothing,  
235 shelter, health care or supervision appropriate to the child's age  
236 results in substantial harm to the child's physical, mental or  
237 emotional health, the person may be sentenced to imprisonment in  
238 custody of the Department of Corrections for not more than five  
239 (5) years or to payment of a fine of not more than Five Thousand  
240 Dollars (\$5,000.00), or both.

241 (e) A parent, legal guardian or other person who  
242 knowingly permits the continuing physical or sexual abuse of a



child is guilty of neglect of a child and may be sentenced to imprisonment in the custody of the Department of Corrections for not more than ten (10) years or to payment of a fine of not more than Ten Thousand Dollars (\$10,000.00), or both.

(2) Any person shall be guilty of felonious child abuse in the following circumstances:

(a) Whether bodily harm results or not, if the person shall intentionally, knowingly or recklessly:

- (i) Burn any child;
- (ii) Physically torture any child;
- (iii) Strangle, choke, smother or in any way interfere with any child's breathing;
- (iv) Poison a child;
- (v) Starve a child of nourishments needed to sustain life or growth;
- (vi) Use any type of deadly weapon upon any child;

(b) If some bodily harm to any child actually occurs, and if the person shall intentionally, knowingly or recklessly:

- (i) Throw, kick, bite, or cut any child;
- (ii) Strike a child under the age of fourteen (14) about the face or head with a closed fist;
- (iii) Strike a child under the age of five (5) in the face or head;



(iv) Kick, bite, cut or strike a child's genitals; circumcision of a male child is not a violation under this subparagraph (iv);

(c) If serious bodily harm to any child actually occurs, and if the person shall intentionally, knowingly or recklessly:

(i) Strike any child on the face or head;

(ii) Disfigure or scar any child;

(iii) Whip, strike or otherwise abuse any child;

(d) If the person violates subsection (1) of Section 2 of this act.

( \* \* \*e) Any person, upon conviction under paragraph (a) or (c) of this subsection, shall be sentenced by the court to imprisonment in the custody of the Department of Corrections for a term of not less than five (5) years and up to life, as determined by the court. Any person, upon conviction under paragraph (b) or (d) of this subsection shall be sentenced by the court to imprisonment in the custody of the Department of Corrections for a term of not less than two (2) years nor more than ten (10) years, as determined by the court. For any second or subsequent conviction under this subsection (2), the person shall be sentenced to imprisonment for life.

( \* \* \*f) For the purposes of this subsection (2), "bodily harm" means any bodily injury to a child and includes, but



is not limited to, bruising, bleeding, lacerations, soft tissue swelling, and external or internal swelling of any body organ.

( \* \* \*g) For the purposes of this subsection (2), "serious bodily harm" means any serious bodily injury to a child and includes, but is not limited to, the fracture of a bone, permanent disfigurement, permanent scarring, or any internal bleeding or internal trauma to any organ, any brain damage, the removal of genitals from the child's body in violation of paragraph (d) of this subsection, or implant of genitals to the child's body in violation of paragraph (d) of this subsection, any injury to the eye or ear of a child or other vital organ, and impairment of any bodily function.

( \* \* \*h) Nothing contained in paragraph (c) of this subsection shall preclude a parent or guardian from disciplining a child of that parent or guardian, or shall preclude a person in loco parentis to a child from disciplining that child, if done in a reasonable manner, and reasonable corporal punishment or reasonable discipline as to that parent or guardian's child or child to whom a person stands in loco parentis shall be a defense to any violation charged under paragraph (c) of this subsection.

( \* \* \*i) Reasonable discipline and reasonable corporal punishment shall not be a defense to acts described in paragraphs (a) and (b) of this subsection or if a child suffers serious bodily harm as a result of any act prohibited under paragraph (c) of this subsection.



(3) Nothing contained in this section shall prevent proceedings against the parent, guardian or other person under any statute of this state or any municipal ordinance defining any act as a crime or misdemeanor. Nothing in the provisions of this section shall preclude any person from having a right to trial by jury when charged with having violated the provisions of this section.

(4) (a) A parent, legal guardian or caretaker who endangers a child's person or health by knowingly causing or permitting the child to be present where any person is selling, manufacturing or possessing immediate precursors or chemical substances with intent to manufacture, sell or possess a controlled substance as prohibited under Section 41-29-139 or 41-29-313, is guilty of child endangerment and may be sentenced to imprisonment for not more than ten (10) years or to payment of a fine of not more than Ten Thousand Dollars (\$10,000.00), or both.

(b) If the endangerment results in substantial harm to the child's physical, mental or emotional health, the person may be sentenced to imprisonment for not more than twenty (20) years or to payment of a fine of not more than Twenty Thousand Dollars (\$20,000.00), or both.

(5) Nothing contained in this section shall prevent proceedings against the parent, guardian or other person under any statute of this state or any municipal ordinance defining any act as a crime or misdemeanor. Nothing in the provisions of this



340 section shall preclude any person from having a right to trial by  
341 jury when charged with having violated the provisions of this  
342 section.

343 (6) After consultation with the Department of Human  
344 Services, a regional mental health center or an appropriate  
345 professional person, a judge may suspend imposition or execution  
346 of a sentence provided in subsections (1) and (2) of this section  
347 and in lieu thereof require treatment over a specified period of  
348 time at any approved public or private treatment facility. A  
349 person may be eligible for treatment in lieu of criminal penalties  
350 no more than one (1) time.

351 (7) In any proceeding resulting from a report made pursuant  
352 to Section 43-21-353 of the Youth Court Law, the testimony of the  
353 physician making the report regarding the child's injuries or  
354 condition or cause thereof shall not be excluded on the ground  
355 that the physician's testimony violates the physician-patient  
356 privilege or similar privilege or rule against disclosure. The  
357 physician's report shall not be considered as evidence unless  
358 introduced as an exhibit to his testimony.

359 (8) Any criminal prosecution arising from a violation of  
360 this section shall be tried in the circuit, county, justice or  
361 municipal court having jurisdiction; provided, however, that  
362 nothing herein shall abridge or dilute the contempt powers of the  
363 youth court.



364           **SECTION 4.** Section 43-21-105, Mississippi Code of 1972, is  
365 amended as follows:

366           43-21-105. The following words and phrases, for purposes of  
367 this chapter, shall have the meanings ascribed herein unless the  
368 context clearly otherwise requires:

369           (a) "Youth court" means the Youth Court Division.

370           (b) "Judge" means the judge of the Youth Court  
371 Division.

372           (c) "Designee" means any person that the judge appoints  
373 to perform a duty which this chapter requires to be done by the  
374 judge or his designee. The judge may not appoint a person who is  
375 involved in law enforcement or who is an employee of the  
376 Mississippi Department of Human Services or the Mississippi  
377 Department of Child Protection Services to be his designee.

378           (d) "Child" and "youth" are synonymous, and each means  
379 a person who has not reached his eighteenth birthday. A child who  
380 has not reached his eighteenth birthday and is on active duty for  
381 a branch of the armed services or is married is not considered a  
382 "child" or "youth" for the purposes of this chapter.

383           (e) "Parent" means the father or mother to whom the  
384 child has been born, or the father or mother by whom the child has  
385 been legally adopted.

386           (f) "Guardian" means a court-appointed guardian of the  
387 person of a child.



388                   (g) "Custodian" means any person having the present  
389 care or custody of a child whether such person be a parent or  
390 otherwise.

391                   (h) "Legal custodian" means a court-appointed custodian  
392 of the child.

393                   (i) "Delinquent child" means a child who has reached  
394 his tenth birthday and who has committed a delinquent act.

395                   (j) "Delinquent act" is any act, which if committed by  
396 an adult, is designated as a crime under state or federal law, or  
397 municipal or county ordinance other than offenses punishable by  
398 life imprisonment or death. A delinquent act includes escape from  
399 lawful detention and violations of the Uniform Controlled  
400 Substances Law and violent behavior.

401                   (k) "Child in need of supervision" means a child who  
402 has reached his seventh birthday and is in need of treatment or  
403 rehabilitation because the child:

404                           (i) Is habitually disobedient of reasonable and  
405 lawful commands of his parent, guardian or custodian and is  
406 ungovernable; or

407                           (ii) While being required to attend school,  
408 willfully and habitually violates the rules thereof or willfully  
409 and habitually absents himself therefrom; or

410                           (iii) Runs away from home without good cause; or

411                           (iv) Has committed a delinquent act or acts.

412                   (l) "Neglected child" means a child:





(i) Whose parent, guardian or custodian or any person responsible for his care or support, neglects or refuses, when able so to do, to provide for him proper and necessary care or support, or education as required by law, or medical, surgical, or other care necessary for his well-being; however, a parent who withholds medical treatment from any child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall not, for that reason alone, be considered to be neglectful under any provision of this chapter; or

(ii) Who is otherwise without proper care, custody, supervision or support; or

(iii) Who, for any reason, lacks the special care made necessary for him by reason of his mental condition, whether the mental condition is having mental illness or having an intellectual disability; or

(iv) Who, for any reason, lacks the care necessary for his health, morals or well-being.

(m) "Abused child" means a child whose parent, guardian or custodian or any person responsible for his care or support, whether legally obligated to do so or not, has caused or allowed to be caused, upon the child, sexual abuse, sexual exploitation, commercial sexual exploitation, emotional abuse, mental injury, nonaccidental physical injury, the administration, supply, consent



438 to, or assistance in administering or supplying a puberty-blocking  
439 drug or cross-sex hormone, gender transition procedures or gender  
440 reassignment surgery or other maltreatment. However, physical  
441 discipline, including spanking, performed on a child by a parent,  
442 guardian or custodian in a reasonable manner shall not be deemed  
443 abuse under this section. "Abused child" also means a child who  
444 is or has been trafficked within the meaning of the Mississippi  
445 Human Trafficking Act by any person, without regard to the  
446 relationship of the person to the child.

447 (n) "Sexual abuse" means obscene or pornographic  
448 photographing, filming or depiction of children for commercial  
449 purposes, or the rape, molestation, incest, prostitution or other  
450 such forms of sexual exploitation of children under circumstances  
451 which indicate that the child's health or welfare is harmed or  
452 threatened.

453 (o) "A child in need of special care" means a child  
454 with any mental or physical illness that cannot be treated with  
455 the dispositional alternatives ordinarily available to the youth  
456 court.

457 (p) A "dependent child" means any child who is not a  
458 child in need of supervision, a delinquent child, an abused child  
459 or a neglected child, and which child has been voluntarily placed  
460 in the custody of the Department of Child Protection Services by  
461 his parent, guardian or custodian.



462           (q) "Custody" means the physical possession of the  
463 child by any person.

464           (r) "Legal custody" means the legal status created by a  
465 court order which gives the legal custodian the responsibilities  
466 of physical possession of the child and the duty to provide him  
467 with food, shelter, education and reasonable medical care, all  
468 subject to residual rights and responsibilities of the parent or  
469 guardian of the person.

470           (s) "Detention" means the care of children in  
471 physically restrictive facilities.

472           (t) "Shelter" means care of children in physically  
473 nonrestrictive facilities.

474           (u) "Records involving children" means any of the  
475 following from which the child can be identified:

476               (i) All youth court records as defined in Section  
477 43-21-251;

478               (ii) All forensic interviews conducted by a child  
479 advocacy center in abuse and neglect investigations;

480               (iii) All law enforcement records as defined in  
481 Section 43-21-255;

482               (iv) All agency records as defined in Section  
483 43-21-257; and

484               (v) All other documents maintained by any  
485 representative of the state, county, municipality or other public  
486 agency insofar as they relate to the apprehension, custody,



adjudication or disposition of a child who is the subject of a youth court cause.

(v) "Any person responsible for care or support" means the person who is providing for the child at a given time. This term shall include, but is not limited to, stepparents, foster parents, relatives, nonlicensed babysitters or other similar persons responsible for a child and staff of residential care facilities and group homes that are licensed by the Department of Human Services or the Department of Child Protection Services.

(w) The singular includes the plural, the plural the singular and the masculine the feminine when consistent with the intent of this chapter.

(x) "Out-of-home" setting means the temporary supervision or care of children by the staff of licensed day care centers, the staff of public, private and state schools, the staff of juvenile detention facilities, the staff of unlicensed residential care facilities and group homes and the staff of, or individuals representing, churches, civic or social organizations.

(y) "Durable legal custody" means the legal status created by a court order which gives the durable legal custodian the responsibilities of physical possession of the child and the duty to provide him with care, nurture, welfare, food, shelter, education and reasonable medical care. All these duties as enumerated are subject to the residual rights and responsibilities of the natural parent(s) or guardian(s) of the child or children.



(z) "Status offense" means conduct subject to adjudication by the youth court that would not be a crime if committed by an adult.

(aa) "Financially able" means a parent or child who is ineligible for a court-appointed attorney.

(bb) "Assessment" means an individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse or co-occurring mental health and substance abuse disorders and recommendations for treatment. The term includes, but is not limited to, a drug and alcohol, psychological or psychiatric evaluation, records review, clinical interview or the administration of a formal test and instrument.

(cc) "Screening" means a process, with or without the administration of a formal instrument, that is designed to identify a child who is at increased risk of having mental health, substance abuse or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention or more comprehensive assessment.

(dd) "Durable legal relative guardianship" means the legal status created by a youth court order that conveys the physical and legal custody of a child or children by durable legal guardianship to a relative or fictive kin who is licensed as a foster or resource parent.



(ee) "Relative" means a person related to the child by affinity or consanguinity within the third degree.

(ff) "Fictive kin" means a person not related to the child legally or biologically but who is considered a relative due to a significant, familial-like and ongoing relationship with the child and family.

(gg) "Reasonable efforts" means the exercise of reasonable care and due diligence by the Department of Human Services, the Department of Child Protection Services, or any other appropriate entity or person to use appropriate and available services to prevent the unnecessary removal of the child from the home or provide other services related to meeting the needs of the child and the parents.

(hh) "Commercial sexual exploitation" means any sexual act or crime of a sexual nature, which is committed against a child for financial or economic gain, to obtain a thing of value for quid pro quo exchange of property or for any other purpose.

**SECTION 5.** Section 97-5-51, Mississippi Code of 1972, is amended as follows:

97-5-51. (1) **Definitions.** For the purposes of this section:

(a) "Sex crime against a minor" means any offense under at least one (1) of the following statutes when committed by an adult against a minor who is under the age of sixteen (16):

(i) Section 97-3-65 relating to rape;



561                   (ii) Section 97-3-71 relating to rape and assault  
562 with intent to ravish;  
563                   (iii) Section 97-3-95 relating to sexual battery;  
564                   (iv) Section 97-5-23 relating to the touching of a  
565 child, mentally defective or incapacitated person or physically  
566 helpless person for lustful purposes;  
567                   (v) Section 97-5-41 relating to the carnal  
568 knowledge of a stepchild, adopted child or child of a cohabiting  
569 partner;  
570                   (vi) Section 97-5-33 relating to exploitation of  
571 children;  
572                   (vii) Section 97-3-54.1(1)(c) relating to  
573 procuring sexual servitude of a minor;  
574                   (viii) Section 43-47-18 relating to sexual abuse  
575 of a vulnerable person;  
576                   (ix) Section 97-1-7 relating to the attempt to  
577 commit any of the offenses listed in this subsection;  
578                   (x) Section 97-29-51 relating to procuring sexual  
579 services of a minor; \* \* \*  
580                   (xi) Section 43-47-18 and Section 43-47-19  
581 relating to sexual battery abuse of a vulnerable person who is a  
582 minor \* \* \* ; and  
583                   (xii) Subsection (1) of Section 3 of this act.  
584                   (b) "Mandatory reporter" means any of the following  
585 individuals performing their occupational duties: health care



practitioner, clergy member, teaching or child care provider, law enforcement officer, or commercial image processor.

(c) "Health care practitioner" means any individual who provides health care services, including a physician, surgeon, physical therapist, psychiatrist, psychologist, medical resident, medical intern, hospital staff member, licensed nurse, midwife and emergency medical technician or paramedic.

(d) "Clergy member" means any priest, rabbi or duly ordained deacon or minister.

(e) "Teaching or child care provider" means anyone who provides training or supervision of a minor under the age of sixteen (16), including a teacher, teacher's aide, principal or staff member of a public or private school, social worker, probation officer, foster home parent, group home or other child care institutional staff member, personnel of residential home facilities, a licensed or unlicensed day care provider.

(f) "Commercial image processor" means any person who, for compensation: (i) develops exposed photographic film into negatives, slides or prints; (ii) makes prints from negatives or slides; or (iii) processes or stores digital media or images from any digital process, including, but not limited to, website applications, photography, live streaming of video, posting, creation of power points or any other means of intellectual property communication or media including conversion or





manipulation of still shots or video into a digital show stored on a photography site or a media storage site.

(g) "Caretaker" means any person legally obligated to provide or secure adequate care for a minor under the age of sixteen (16), including a parent, guardian, tutor, legal custodian or foster home parent.

(2) (a) **Mandatory reporter requirement.** A mandatory reporter shall make a report if it would be reasonable for the mandatory reporter to suspect that a sex crime against a minor has occurred.

(b) Failure to file a mandatory report shall be punished as provided in this section.

(c) Reports made under this section and the identity of the mandatory reporter are confidential except when the court determines the testimony of the person reporting to be material to a judicial proceeding or when the identity of the reporter is released to law enforcement agencies and the appropriate prosecutor. The identity of the reporting party shall not be disclosed to anyone other than law enforcement or prosecutors except under court order; violation of this requirement is a misdemeanor. Reports made under this section are for the purpose of criminal investigation and prosecution only and information from these reports is not a public record. Disclosure of any information by the prosecutor shall conform to the Mississippi Uniform Rules of Circuit and County Court Procedure.



635           (d) Any mandatory reporter who makes a required report  
636 under this section or participates in a judicial proceeding  
637 resulting from a mandatory report shall be presumed to be acting  
638 in good faith. Any person or institution reporting in good faith  
639 shall be immune from any liability, civil or criminal, that might  
640 otherwise be incurred or imposed.

641           (3) (a) **Mandatory reporting procedure.** A report required  
642 under subsection (2) must be made immediately to the law  
643 enforcement agency in whose jurisdiction the reporter believes the  
644 sex crime against the minor occurred. Except as otherwise  
645 provided in this subsection (3), a mandatory reporter may not  
646 delegate to any other person the responsibility to report, but  
647 shall make the report personally.

648                   (i) The reporting requirement under this  
649 subsection (3) is satisfied if a mandatory reporter in good faith  
650 reports a suspected sex crime against a minor to the Department of  
651 Child Protection Services under Section 43-21-353.

652                   (ii) The reporting requirement under this  
653 subsection (3) is satisfied if a mandatory reporter reports a  
654 suspected sex crime against a minor by following a reporting  
655 procedure that is imposed:

656                           1. By state agency rule as part of licensure  
657 of any person or entity holding a state license to provide  
658 services that include the treatment or education of abused or  
659 neglected children; or



660 2. By statute.

661 (b) **Contents of the report.** The report shall identify,  
662 to the extent known to the reporter, the following:

663 (i) The name and address of the minor victim;

664 (ii) The name and address of the minor's  
665 caretaker;

666 (iii) Any other pertinent information known to the  
667 reporter.

668 (4) A law enforcement officer who receives a mandated report  
669 under this section shall file an affidavit against the offender on  
670 behalf of the State of Mississippi if there is probable cause to  
671 believe that the offender has committed a sex crime against a  
672 minor.

673 (5) **Collection of forensic samples.** (a) (i) When an  
674 abortion is performed on a minor who is less than fourteen (14)  
675 years of age at the time of the abortion procedure, fetal tissue  
676 extracted during the abortion shall be collected in accordance  
677 with rules and regulations adopted pursuant to this section if it  
678 would be reasonable to suspect that the pregnancy being terminated  
679 is the result of a sex crime against a minor.

680 (ii) When a minor who is under sixteen (16) years  
681 of age gives birth to an infant, umbilical cord blood shall be  
682 collected, if possible, in accordance with rules and regulations  
683 adopted pursuant to this section if it would be reasonable to



684 suspect that the minor's pregnancy resulted from a sex crime  
685 against a minor.

686 (iii) It shall be reasonable to suspect that a sex  
687 crime against a minor has occurred if the mother of an infant was  
688 less than sixteen (16) years of age at the time of conception and  
689 at least one (1) of the following conditions also applies:

690 1. The mother of the infant will not identify  
691 the father of the infant;

692 2. The mother of the infant lists the father  
693 of the infant as unknown;

694 3. The person the mother identifies as the  
695 father of the infant disputes his fatherhood;

696 4. The person the mother identifies as the  
697 father of the infant is twenty-one (21) years of age or older; or

698 5. The person the mother identifies as the  
699 father is deceased.

700 (b) The State Medical Examiner shall adopt rules and  
701 regulations consistent with Section 99-49-1 that prescribe:

702 (i) The amount and type of fetal tissue or  
703 umbilical cord blood to be collected pursuant to this section;

704 (ii) Procedures for the proper preservation of the  
705 tissue or blood for the purpose of DNA testing and examination;

706 (iii) Procedures for documenting the chain of  
707 custody of such tissue or blood for use as evidence;



(iv) Procedures for proper disposal of fetal tissue or umbilical cord blood collected pursuant to this section;

(v) A uniform reporting instrument mandated to be utilized, which shall include the complete residence address and name of the parent or legal guardian of the minor who is the subject of the report required under this subsection (5); and

(vi) Procedures for communication with law enforcement agencies regarding evidence and information obtained pursuant to this section.

(6) **Penalties.** (a) A person who is convicted of a first offense under this section shall be guilty of a misdemeanor and fined not more than Five Hundred Dollars (\$500.00).

(b) A person who is convicted of a second offense under this section shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00), or imprisoned for not more than thirty (30) days, or both.

(c) A person who is convicted of a third or subsequent offense under this section shall be guilty of a misdemeanor and fined not more than Five Thousand Dollars (\$5,000.00), or imprisoned for not more than one (1) year, or both.

(7) A health care practitioner or health care facility shall be immune from any penalty, civil or criminal, for good-faith compliance with any rules and regulations adopted pursuant to this section.



732           **SECTION 6. Prohibition on use of public funds or tax**

733   **deduction for gender transition procedures.**   (1) Public funds  
734 shall not be directly or indirectly used, granted, paid, or  
735 distributed to any entity, organization, or individual that  
736 provides gender transition procedures to a person under twenty-one  
737 (21) years of age.

738           (2) Health care services furnished in the following  
739 situations shall not include gender transition procedures for a  
740 person under twenty-one (21) years of age:

741                   (a) By or in a health care facility owned by the state  
742 or a county or local government; or

743                   (b) By a physician or other health care professional  
744 employed by the state or a county or local government.

745           (3) Any amount paid by an individual or an entity during a  
746 taxable year for provision of gender transition procedures or as  
747 premiums for health care coverage that includes coverage for  
748 gender transition procedures is not deductible under the state  
749 income tax laws.

750           **SECTION 7. Enforcement.**   (1) Any referral for or provision

751 of gender transition procedures to a person under twenty-one (21)  
752 years of age by a physician or other health care professional is  
753 unprofessional conduct and is subject to discipline by the  
754 appropriate licensing entity for the health care professional.

755           (2) A person may assert an actual or threatened violation of  
756 this act as a claim or defense in a judicial or administrative



757 proceeding and obtain compensatory damages, injunctive relief,  
758 declaratory relief, or any other appropriate relief.

759 (3) (a) A person must bring a claim for a violation of this  
760 act no later than two (2) years after the day the cause of action  
761 accrues.

762 (b) A person under twenty-one (21) years of age may  
763 bring an action throughout their minority through a parent or next  
764 friend, and may bring an action in their own name upon reaching  
765 majority at any time from that point until twenty (20) years after  
766 reaching the age of majority.

767 (4) Notwithstanding any other provision of law, an action  
768 under this act may be commenced, and relief may be granted, in a  
769 judicial proceeding without regard to whether the person  
770 commencing the action has sought or exhausted available  
771 administrative remedies.

772 (5) In any action or proceeding to enforce a provision of  
773 this act, a prevailing party who establishes a violation of this  
774 act shall recover reasonable attorney's fees.

775 (6) (a) The Attorney General may bring an action to enforce  
776 compliance with this act.

777 (b) This act does not deny, impair, or otherwise affect  
778 any right or authority of the Attorney General, the State of  
779 Mississippi, or any agency, officer, or employee of the state,  
780 acting under any law other than this act, to institute or  
781 intervene in any proceeding.



782           **SECTION 8.** Section 27-7-17, Mississippi Code of 1972, is  
783 amended as follows:

784           27-7-17. In computing taxable income, there shall be allowed  
785 as deductions:

786           (1) **Business deductions.**

787           (a) **Business expenses.** All the ordinary and necessary  
788 expenses paid or incurred during the taxable year in carrying on  
789 any trade or business, including a reasonable allowance for  
790 salaries or other compensation for personal services actually  
791 rendered; nonreimbursable traveling expenses incident to current  
792 employment, including a reasonable amount expended for meals and  
793 lodging while away from home in the pursuit of a trade or  
794 business; and rentals or other payments required to be made as a  
795 condition of the continued use or possession, for purposes of the  
796 trade or business of property to which the taxpayer has not taken  
797 or is not taking title or in which he had no equity. Expense  
798 incurred in connection with earning and distributing nontaxable  
799 income is not an allowable deduction. Limitations on  
800 entertainment expenses shall conform to the provisions of the  
801 Internal Revenue Code of 1986. There shall also be allowed a  
802 deduction for expenses as provided in Section 41-137-51.

803           (b) **Interest.** All interest paid or accrued during the  
804 taxable year on business indebtedness, except interest upon the  
805 indebtedness for the purchase of tax-free bonds, or any stocks,  
806 the dividends from which are nontaxable under the provisions of





807 this article; provided, however, in the case of securities  
808 dealers, interest payments or accruals on loans, the proceeds of  
809 which are used to purchase tax-exempt securities, shall be  
810 deductible if income from otherwise tax-free securities is  
811 reported as income. Investment interest expense shall be limited  
812 to investment income. Interest expense incurred for the purchase  
813 of treasury stock, to pay dividends, or incurred as a result of an  
814 undercapitalized affiliated corporation may not be deducted unless  
815 an ordinary and necessary business purpose can be established to  
816 the satisfaction of the commissioner. For the purposes of this  
817 paragraph, the phrase "interest upon the indebtedness for the  
818 purchase of tax-free bonds" applies only to the indebtedness  
819 incurred for the purpose of directly purchasing tax-free bonds and  
820 does not apply to any other indebtedness incurred in the regular  
821 course of the taxpayer's business. Any corporation, association,  
822 organization or other entity taxable under Section 27-7-23(c)  
823 shall allocate interest expense as provided in Section  
824 27-7-23(c) (3) (I).

825 (c) **Taxes.** Taxes paid or accrued within the taxable  
826 year, except state and federal income taxes, excise taxes based on  
827 or measured by net income, estate and inheritance taxes, gift  
828 taxes, cigar and cigarette taxes, gasoline taxes, and sales and  
829 use taxes unless incurred as an item of expense in a trade or  
830 business or in the production of taxable income. In the case of  
831 an individual, taxes permitted as an itemized deduction under the



provisions of subsection (3)(a) of this section are to be claimed thereunder.

(d) **Business losses.**

(i) Losses sustained during the taxable year not compensated for by insurance or otherwise, if incurred in trade or business, or nonbusiness transactions entered into for profit.

(ii) Limitations on losses from passive activities and rental real estate shall conform to the provisions of the Internal Revenue Code of 1986.

(e) **Bad debts.** Losses from debts ascertained to be worthless and charged off during the taxable year, if sustained in the conduct of the regular trade or business of the taxpayer; provided, that such losses shall be allowed only when the taxpayer has reported as income, on the accrual basis, the amount of such debt or account.

(f) **Depreciation.** A reasonable allowance for exhaustion, wear and tear of property used in the trade or business, or rental property, and depreciation upon buildings based upon their reasonable value as of March 16, 1912, if acquired prior thereto, and upon cost if acquired subsequent to that date. In the case of new or used aircraft, equipment, engines, or other parts and tools used for aviation, allowance for bonus depreciation conforms with the federal bonus depreciation rates and reasonable allowance for depreciation under this section is no less than one hundred percent (100%).



857           (g) **Depletion.** In the case of mines, oil and gas  
858 wells, other natural deposits and timber, a reasonable allowance  
859 for depletion and for depreciation of improvements, based upon  
860 cost, including cost of development, not otherwise deducted, or  
861 fair market value as of March 16, 1912, if acquired prior to that  
862 date, such allowance to be made upon regulations prescribed by the  
863 commissioner, with the approval of the Governor.

864           (h) **Contributions or gifts.** Except as otherwise  
865 provided in paragraph (p) of this subsection or subsection (3)(a)  
866 of this section for individuals, contributions or gifts made by  
867 corporations within the taxable year to corporations,  
868 organizations, associations or institutions, including Community  
869 Chest funds, foundations and trusts created solely and exclusively  
870 for religious, charitable, scientific or educational purposes, or  
871 for the prevention of cruelty to children or animals, no part of  
872 the net earnings of which inure to the benefit of any private  
873 stockholder or individual. This deduction shall be allowed in an  
874 amount not to exceed twenty percent (20%) of the net income. Such  
875 contributions or gifts shall be allowable as deductions only if  
876 verified under rules and regulations prescribed by the  
877 commissioner, with the approval of the Governor. Contributions  
878 made in any form other than cash shall be allowed as a deduction,  
879 subject to the limitations herein provided, in an amount equal to  
880 the actual market value of the contributions at the time the  
881 contribution is actually made and consummated.



882           (i) **Reserve funds - insurance companies.** In the case  
883 of insurance companies the net additions required by law to be  
884 made within the taxable year to reserve funds when such reserve  
885 funds are maintained for the purpose of liquidating policies at  
886 maturity.

887           (j) **Annuity income.** The sums, other than dividends,  
888 paid within the taxpayer year on policy or annuity contracts when  
889 such income has been included in gross income.

890           (k) **Contributions to employee pension plans.**  
891 Contributions made by an employer to a plan or a trust forming  
892 part of a pension plan, stock bonus plan, disability or  
893 death-benefit plan, or profit-sharing plan of such employer for  
894 the exclusive benefit of some or all of his, their, or its  
895 employees, or their beneficiaries, shall be deductible from his,  
896 their, or its income only to the extent that, and for the taxable  
897 year in which, the contribution is deductible for federal income  
898 tax purposes under the Internal Revenue Code of 1986 and any other  
899 provisions of similar purport in the Internal Revenue Laws of the  
900 United States, and the rules, regulations, rulings and  
901 determinations promulgated thereunder, provided that:

902                   (i) The plan or trust be irrevocable.

903                   (ii) The plan or trust constitute a part of a  
904 pension plan, stock bonus plan, disability or death-benefit plan,  
905 or profit-sharing plan for the exclusive benefit of some or all of  
906 the employer's employees and/or officers, or their beneficiaries,



for the purpose of distributing the corpus and income of the plan or trust to such employees and/or officers, or their beneficiaries.

(iii) No part of the corpus or income of the plan or trust can be used for purposes other than for the exclusive benefit of employees and/or officers, or their beneficiaries.

Contributions to all plans or to all trusts of real or personal property (or real and personal property combined) or to insured plans created under a retirement plan for which provision has been made under the laws of the United States of America, making such contributions deductible from income for federal income tax purposes, shall be deductible only to the same extent under the Income Tax Laws of the State of Mississippi.

(1) **Net operating loss carrybacks and carryovers.** A net operating loss for any taxable year ending after December 31, 1993, and taxable years thereafter, shall be a net operating loss carryback to each of the three (3) taxable years preceding the taxable year of the loss. If the net operating loss for any taxable year is not exhausted by carrybacks to the three (3) taxable years preceding the taxable year of the loss, then there shall be a net operating loss carryover to each of the fifteen (15) taxable years following the taxable year of the loss beginning with any taxable year after December 31, 1991.

For any taxable year ending after December 31, 1997, the period for net operating loss carrybacks and net operating loss



932 carryovers shall be the same as those established by the Internal  
933 Revenue Code and the rules, regulations, rulings and  
934 determinations promulgated thereunder as in effect at the taxable  
935 year end or on December 31, 2000, whichever is earlier.

936 A net operating loss for any taxable year ending after  
937 December 31, 2001, and taxable years thereafter, shall be a net  
938 operating loss carryback to each of the two (2) taxable years  
939 preceding the taxable year of the loss. If the net operating loss  
940 for any taxable year is not exhausted by carrybacks to the two (2)  
941 taxable years preceding the taxable year of the loss, then there  
942 shall be a net operating loss carryover to each of the twenty (20)  
943 taxable years following the taxable year of the loss beginning  
944 with any taxable year after the taxable year of the loss.

945 The term "net operating loss," for the purposes of this  
946 paragraph, shall be the excess of the deductions allowed over the  
947 gross income; provided, however, the following deductions shall  
948 not be allowed in computing same:

949 (i) No net operating loss deduction shall be  
950 allowed.

951 (ii) No personal exemption deduction shall be  
952 allowed.

953 (iii) Allowable deductions which are not  
954 attributable to taxpayer's trade or business shall be allowed only  
955 to the extent of the amount of gross income not derived from such  
956 trade or business.



Any taxpayer entitled to a carryback period as provided by this paragraph may elect to relinquish the entire carryback period with respect to a net operating loss for any taxable year ending after December 31, 1991. The election shall be made in the manner prescribed by the Department of Revenue and shall be made by the due date, including extensions of time, for filing the taxpayer's return for the taxable year of the net operating loss for which the election is to be in effect. The election, once made for any taxable year, shall be irrevocable for that taxable year.

(m) **Amortization of pollution or environmental control facilities.** Allowance of deduction. Every taxpayer, at his election, shall be entitled to a deduction for pollution or environmental control facilities to the same extent as that allowed under the Internal Revenue Code and the rules, regulations, rulings and determinations promulgated thereunder.

(n) **Dividend distributions - real estate investment trusts.** "Real estate investment trust" (hereinafter referred to as REIT) shall have the meaning ascribed to such term in Section 856 of the federal Internal Revenue Code of 1986, as amended. A REIT is allowed a dividend distributed deduction if the dividend distributions meet the requirements of Section 857 or are otherwise deductible under Section 858 or 860, federal Internal Revenue Code of 1986, as amended. In addition:

(i) A dividend distributed deduction shall only be allowed for dividends paid by a publicly traded REIT. A qualified



REIT subsidiary shall be allowed a dividend distributed deduction if its owner is a publicly traded REIT.

(ii) Income generated from real estate contributed or sold to a REIT by a shareholder or related party shall not give rise to a dividend distributed deduction, unless the shareholder or related party would have received the dividend distributed deduction under this chapter.

(iii) A holding corporation receiving a dividend from a REIT shall not be allowed the deduction in Section 27-7-15(4)(t).

(iv) Any REIT not allowed the dividend distributed deduction in the federal Internal Revenue Code of 1986, as amended, shall not be allowed a dividend distributed deduction under this chapter.

The commissioner is authorized to promulgate rules and regulations consistent with the provisions in Section 269 of the federal Internal Revenue Code of 1986, as amended, so as to prevent the evasion or avoidance of state income tax.

(o) **Contributions to college savings trust fund accounts.** Contributions or payments to a Mississippi Affordable College Savings Program account are deductible as provided under Section 37-155-113. Payments made under a prepaid tuition contract entered into under the Mississippi Prepaid Affordable College Tuition Program are deductible as provided under Section 37-155-17.





1007                   (p) **Contributions of human pharmaceutical products.** To  
1008 the extent that a "major supplier" as defined in Section  
1009 27-13-13(2) (d) contributes human pharmaceutical products in excess  
1010 of Two Hundred Fifty Million Dollars (\$250,000,000.00) as  
1011 determined under Section 170 of the Internal Revenue Code, the  
1012 charitable contribution limitation associated with those donations  
1013 shall follow the federal limitation but cannot result in the  
1014 Mississippi net income being reduced below zero.

1015                   (q) **Contributions to ABLE trust fund accounts.**  
1016 Contributions or payments to a Mississippi Achieving a Better Life  
1017 Experience (ABLE) Program account are deductible as provided under  
1018 Section 43-28-13.

1019           (2) **Restrictions on the deductibility of certain intangible**  
1020 **expenses and interest expenses with a related member.**

1021                   (a) As used in this subsection (2):

1022                           (i) "Intangible expenses and costs" include:

1023                                   1. Expenses, losses and costs for, related  
1024 to, or in connection directly or indirectly with the direct or  
1025 indirect acquisition, use, maintenance or management, ownership,  
1026 sale, exchange or any other disposition of intangible property to  
1027 the extent such amounts are allowed as deductions or costs in  
1028 determining taxable income under this chapter;

1029                                   2. Expenses or losses related to or incurred  
1030 in connection directly or indirectly with factoring transactions  
1031 or discounting transactions;



1032                   3. Royalty, patent, technical and copyright  
1033 fees;

1034                   4. Licensing fees; and

1035                   5. Other similar expenses and costs.

1036                   (ii) "Intangible property" means patents, patent  
1037 applications, trade names, trademarks, service marks, copyrights  
1038 and similar types of intangible assets.

1039                   (iii) "Interest expenses and cost" means amounts  
1040 directly or indirectly allowed as deductions for purposes of  
1041 determining taxable income under this chapter to the extent such  
1042 interest expenses and costs are directly or indirectly for,  
1043 related to, or in connection with the direct or indirect  
1044 acquisition, maintenance, management, ownership, sale, exchange or  
1045 disposition of intangible property.

1046                   (iv) "Related member" means an entity or person  
1047 that, with respect to the taxpayer during all or any portion of  
1048 the taxable year, is a related entity, a component member as  
1049 defined in the Internal Revenue Code, or is an entity or a person  
1050 to or from whom there is attribution of stock ownership in  
1051 accordance with Section 1563(e) of the Internal Revenue Code.

1052                   (v) "Related entity" means:

1053                   1. A stockholder who is an individual or a  
1054 member of the stockholder's family, as defined in regulations  
1055 prescribed by the commissioner, if the stockholder and the members  
1056 of the stockholder's family own, directly, indirectly,



1057 beneficially or constructively, in the aggregate, at least fifty  
1058 percent (50%) of the value of the taxpayer's outstanding stock;

1059                   2. A stockholder, or a stockholder's  
1060 partnership, limited liability company, estate, trust or  
1061 corporation, if the stockholder and the stockholder's  
1062 partnerships, limited liability companies, estates, trusts and  
1063 corporations own, directly, indirectly, beneficially or  
1064 constructively, in the aggregate, at least fifty percent (50%) of  
1065 the value of the taxpayer's outstanding stock;

1066                   3. A corporation, or a party related to the  
1067 corporation in a manner that would require an attribution of stock  
1068 from the corporation to the party or from the party to the  
1069 corporation, if the taxpayer owns, directly, indirectly,  
1070 beneficially or constructively, at least fifty percent (50%) of  
1071 the value of the corporation's outstanding stock under regulation  
1072 prescribed by the commissioner;

1073                   4. Any entity or person which would be a  
1074 related member under this section if the taxpayer were considered  
1075 a corporation for purposes of this section.

1076                   (b) In computing net income, a taxpayer shall add back  
1077 otherwise deductible interest expenses and costs and intangible  
1078 expenses and costs directly or indirectly paid, accrued to or  
1079 incurred, in connection directly or indirectly with one or more  
1080 direct or indirect transactions with one or more related members.



1081           (c) The adjustments required by this subsection shall  
1082 not apply to such portion of interest expenses and costs and  
1083 intangible expenses and costs that the taxpayer can establish  
1084 meets one (1) of the following:

1085           (i) The related member directly or indirectly  
1086 paid, accrued or incurred such portion to a person during the same  
1087 income year who is not a related member; or

1088           (ii) The transaction giving rise to the interest  
1089 expenses and costs or intangible expenses and costs between the  
1090 taxpayer and related member was done primarily for a valid  
1091 business purpose other than the avoidance of taxes, and the  
1092 related member is not primarily engaged in the acquisition, use,  
1093 maintenance or management, ownership, sale, exchange or any other  
1094 disposition of intangible property.

1095           (d) Nothing in this subsection shall require a taxpayer  
1096 to add to its net income more than once any amount of interest  
1097 expenses and costs or intangible expenses and costs that the  
1098 taxpayer pays, accrues or incurs to a related member.

1099           (e) The commissioner may prescribe such regulations as  
1100 necessary or appropriate to carry out the purposes of this  
1101 subsection, including, but not limited to, clarifying definitions  
1102 of terms, rules of stock attribution, factoring and discount  
1103 transactions.

1104           (3) **Individual nonbusiness deductions.**



1105           (a) The amount allowable for individual nonbusiness  
1106 itemized deductions for federal income tax purposes where the  
1107 individual is eligible to elect, for the taxable year, to itemize  
1108 deductions on his federal return except the following:

1109                   (i) The deduction for state income taxes paid or  
1110 other taxes allowed for federal purposes in lieu of state income  
1111 taxes paid;

1112                   (ii) The deduction for gaming losses from gaming  
1113 establishments;

1114                   (iii) The deduction for taxes collected by  
1115 licensed gaming establishments pursuant to Section 27-7-901;

1116                   (iv) The deduction for taxes collected by gaming  
1117 establishments pursuant to Section 27-7-903 \* \* \*; and

1118                   (v) The deduction for medical expenses for the  
1119 provision of puberty-blocking drugs, cross-sex hormones, gender  
1120 transition procedures or gender reassignment surgery as defined in  
1121 Section 2 of this act.

1122           (b) In lieu of the individual nonbusiness itemized  
1123 deductions authorized in paragraph (a), for all purposes other  
1124 than ordinary and necessary expenses paid or incurred during the  
1125 taxable year in carrying on any trade or business, an optional  
1126 standard deduction of:

1127                   (i) Three Thousand Four Hundred Dollars  
1128 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred  
1129 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand



1130 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
1131 in the case of married individuals filing a joint or combined  
1132 return;

1133 (ii) One Thousand Seven Hundred Dollars  
1134 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred  
1135 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
1136 Three Hundred Dollars (\$2,300.00) for each calendar year  
1137 thereafter in the case of married individuals filing separate  
1138 returns;

1139 (iii) Three Thousand Four Hundred Dollars  
1140 (\$3,400.00) in the case of a head of family; or

1141 (iv) Two Thousand Three Hundred Dollars  
1142 (\$2,300.00) in the case of an individual who is not married.

1143 In the case of a husband and wife living together, having  
1144 separate incomes, and filing combined returns, the standard  
1145 deduction authorized may be divided in any manner they choose. In  
1146 the case of separate returns by a husband and wife, the standard  
1147 deduction shall not be allowed to either if the taxable income of  
1148 one of the spouses is determined without regard to the standard  
1149 deduction.

1150 (c) A nonresident individual shall be allowed the same  
1151 individual nonbusiness deductions as are authorized for resident  
1152 individuals in paragraph (a) or (b) of this subsection; however,  
1153 the nonresident individual is entitled only to that proportion of  
1154 the individual nonbusiness deductions as his net income from



sources within the State of Mississippi bears to his total or entire net income from all sources.

(4) Nothing in this section shall permit the same item to be deducted more than once, either in fact or in effect.

(5) Notwithstanding any other provision in Title 27, Mississippi Code of 1972, there shall be allowed an income tax deduction for otherwise deductible expenses if:

(a) The payment(s) for such deductible expenses are made with the grant or loan program of the Paycheck Protection Program as authorized under (i) the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Consolidated Appropriations Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan Program, (iii) the 2020 COVID-19 Mississippi Business Assistance Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered Venue Operators Grant Program and Restaurant Revitalization Fund authorized by the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, and amended by the federal American Rescue Plan Act, and/or (vi) the Mississippi Agriculture Stabilization Act; and

(b) Such deductible expenses shall be allowed as deductions for federal income tax purposes.

**SECTION 9.** The following shall be codified as Section 43-13-117.7, Mississippi Code of 1972:

43-13-117.7. Notwithstanding any other provisions of Section 43-13-117, the division shall not reimburse or provide coverage



1180 for gender transition procedures for a person under twenty-one  
1181 (21) years of age. As used in this section, the term "gender  
1182 transition procedures" means the same as defined in Section 3 of  
1183 this act.

1184 **SECTION 10.** Section 73-15-29, Mississippi Code of 1972, is  
1185 amended as follows:

1186 73-15-29. (1) The board shall have power to revoke, suspend  
1187 or refuse to renew any license issued by the board, or to revoke  
1188 or suspend any privilege to practice, or to deny an application  
1189 for a license, or to fine, place on probation and/or discipline a  
1190 licensee, in any manner specified in this article, upon proof that  
1191 such person:

1192 (a) Has committed fraud or deceit in securing or  
1193 attempting to secure such license;

1194 (b) Has been convicted of a felony, or a crime  
1195 involving moral turpitude or has had accepted by a court a plea of  
1196 nolo contendere to a felony or a crime involving moral turpitude  
1197 (a certified copy of the judgment of the court of competent  
1198 jurisdiction of such conviction or pleas shall be prima facie  
1199 evidence of such conviction);

1200 (c) Has negligently or willfully acted in a manner  
1201 inconsistent with the health or safety of the persons under the  
1202 licensee's care;

1203 (d) Has had a license or privilege to practice as a  
1204 registered nurse or a licensed practical nurse suspended or





1205 revoked in any jurisdiction, has voluntarily surrendered such  
1206 license or privilege to practice in any jurisdiction, has been  
1207 placed on probation as a registered nurse or licensed practical  
1208 nurse in any jurisdiction or has been placed under a disciplinary  
1209 order(s) in any manner as a registered nurse or licensed practical  
1210 nurse in any jurisdiction, (a certified copy of the order of  
1211 suspension, revocation, probation or disciplinary action shall be  
1212 prima facie evidence of such action);

1213 (e) Has negligently or willfully practiced nursing in a  
1214 manner that fails to meet generally accepted standards of such  
1215 nursing practice;

1216 (f) Has negligently or willfully violated any order,  
1217 rule or regulation of the board pertaining to nursing practice or  
1218 licensure;

1219 (g) Has falsified or in a repeatedly negligent manner  
1220 made incorrect entries or failed to make essential entries on  
1221 records;

1222 (h) Is addicted to or dependent on alcohol or other  
1223 habit-forming drugs or is a habitual user of narcotics,  
1224 barbiturates, amphetamines, hallucinogens, or other drugs having  
1225 similar effect, or has misappropriated any medication;

1226 (i) Has a physical, mental or emotional condition that  
1227 renders the licensee unable to perform nursing services or duties  
1228 with reasonable skill and safety;



1229           (j) Has engaged in any other conduct, whether of the  
1230 same or of a different character from that specified in this  
1231 article, that would constitute a crime as defined in Title 97 of  
1232 the Mississippi Code of 1972, as now or hereafter amended, and  
1233 that relates to such person's employment as a registered nurse or  
1234 licensed practical nurse;

1235           (k) Engages in conduct likely to deceive, defraud or  
1236 harm the public;

1237           (l) Engages in any unprofessional conduct as identified  
1238 by the board in its rules;

1239           (m) Has violated any provision of this article; \* \* \*

1240           (n) Violation(s) of the provisions of Sections 41-121-1  
1241 through 41-121-9 relating to deceptive advertisement by health  
1242 care practitioners. This paragraph shall stand repealed on July  
1243 1, 2025 \* \* \*; or

1244           (o) Violation(s) of any provision of Sections 1 through  
1245 6 of this act.

1246           (2) When the board finds any person unqualified because of  
1247 any of the grounds set forth in subsection (1) of this section, it  
1248 may enter an order imposing one or more of the following  
1249 penalties:

1250           (a) Denying application for a license or other  
1251 authorization to practice nursing or practical nursing;

1252           (b) Administering a reprimand;



1253           (c)   Suspending or restricting the license or other  
1254 authorization to practice as a registered nurse or licensed  
1255 practical nurse for up to two (2) years without review;

1256           (d)   Revoking the license or other authorization to  
1257 practice nursing or practical nursing;

1258           (e)   Requiring the disciplinee to submit to care,  
1259 counseling or treatment by persons and/or agencies approved or  
1260 designated by the board as a condition for initial, continued or  
1261 renewed licensure or other authorization to practice nursing or  
1262 practical nursing;

1263           (f)   Requiring the disciplinee to participate in a  
1264 program of education prescribed by the board as a condition for  
1265 initial, continued or renewed licensure or other authorization to  
1266 practice;

1267           (g)   Requiring the disciplinee to practice under the  
1268 supervision of a registered nurse for a specified period of time;  
1269 or

1270           (h)   Imposing a fine not to exceed Five Hundred Dollars  
1271 (\$500.00) .

1272           (3)   In addition to the grounds specified in subsection (1)  
1273 of this section, the board shall be authorized to suspend the  
1274 license or privilege to practice of any licensee for being out of  
1275 compliance with an order for support, as defined in Section  
1276 93-11-153. The procedure for suspension of a license or privilege  
1277 to practice for being out of compliance with an order for support,



1278 and the procedure for the reissuance or reinstatement of a license  
1279 or privilege to practice suspended for that purpose, and the  
1280 payment of any fees for the reissuance or reinstatement of a  
1281 license or privilege to practice suspended for that purpose, shall  
1282 be governed by Section 93-11-157 or 93-11-163, as the case may be.  
1283 If there is any conflict between any provision of Section  
1284 93-11-157 or 93-11-163 and any provision of this article, the  
1285 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
1286 shall control.

1287       (4) If the public health, safety or welfare imperatively  
1288 requires emergency action and the board incorporates a finding to  
1289 that effect in an order, the board may order summary suspension of  
1290 a license pending proceedings for revocation or other action.  
1291 These proceedings shall be promptly instituted and determined by  
1292 the board.

1293       (5) The board may establish by rule an alternative to  
1294 discipline program for licensees who have an impairment as a  
1295 result of substance abuse or a mental health condition, which  
1296 program shall include at least the following components:

1297               (a) Participation in the program is voluntary with the  
1298 licensee, and the licensee must enter the program before the board  
1299 holds a disciplinary action hearing regarding the licensee;

1300               (b) The full cost of participation in the program,  
1301 including the cost of any care, counseling, treatment and/or



1302 education received by the licensee, shall be borne by the  
1303 licensee;

1304 (c) All of the procedures and records regarding the  
1305 licensee's participation in the program shall be confidential,  
1306 shall not be disclosed and shall be exempt from the provisions of  
1307 the Mississippi Public Records Act of 1983; and

1308 (d) A licensee may not participate in the program more  
1309 often than one (1) time during any period of five (5) years or  
1310 such longer period as set by the board.

1311 (6) A nurse practitioner who provides a written  
1312 certification as authorized under the Mississippi Medical Cannabis  
1313 Act and in compliance with rules and regulations adopted  
1314 thereunder shall not be subject to any disciplinary action under  
1315 this section solely due to providing the written certification.

1316 **SECTION 11.** Section 73-25-29, Mississippi Code of 1972, is  
1317 amended as follows:

1318 73-25-29. The grounds for the nonissuance, suspension,  
1319 revocation or restriction of a license or the denial of  
1320 reinstatement or renewal of a license are:

1321 (1) Habitual personal use of narcotic drugs, or any  
1322 other drug having addiction-forming or addiction-sustaining  
1323 liability.

1324 (2) Habitual use of intoxicating liquors, or any  
1325 beverage, to an extent which affects professional competency.



1326           (3) Administering, dispensing or prescribing any  
1327 narcotic drug, or any other drug having addiction-forming or  
1328 addiction-sustaining liability otherwise than in the course of  
1329 legitimate professional practice.

1330           (4) Conviction of violation of any federal or state law  
1331 regulating the possession, distribution or use of any narcotic  
1332 drug or any drug considered a controlled substance under state or  
1333 federal law, a certified copy of the conviction order or judgment  
1334 rendered by the trial court being prima facie evidence thereof,  
1335 notwithstanding the pendency of any appeal.

1336           (5) Procuring, or attempting to procure, or aiding in,  
1337 an abortion that is not medically indicated.

1338           (6) Conviction of a felony or misdemeanor involving  
1339 moral turpitude, a certified copy of the conviction order or  
1340 judgment rendered by the trial court being prima facie evidence  
1341 thereof, notwithstanding the pendency of any appeal.

1342           (7) Obtaining or attempting to obtain a license by  
1343 fraud or deception.

1344           (8) Unprofessional conduct, which includes, but is not  
1345 limited to:

1346                   (a) Practicing medicine under a false or assumed  
1347 name or impersonating another practitioner, living or dead.

1348                   (b) Knowingly performing any act which in any way  
1349 assists an unlicensed person to practice medicine.



1350 (c) Making or willfully causing to be made any  
1351 flamboyant claims concerning the licensee's professional  
1352 excellence.

1353 (d) Being guilty of any dishonorable or unethical  
1354 conduct likely to deceive, defraud or harm the public.

1355 (e) Obtaining a fee as personal compensation or  
1356 gain from a person on fraudulent representation of a disease or  
1357 injury condition generally considered incurable by competent  
1358 medical authority in the light of current scientific knowledge and  
1359 practice can be cured or offering, undertaking, attempting or  
1360 agreeing to cure or treat the same by a secret method, which he  
1361 refuses to divulge to the board upon request.

1362 (f) Use of any false, fraudulent or forged  
1363 statement or document, or the use of any fraudulent, deceitful,  
1364 dishonest or immoral practice in connection with any of the  
1365 licensing requirements, including the signing in his professional  
1366 capacity any certificate that is known to be false at the time he  
1367 makes or signs such certificate.

1368 (g) Failing to identify a physician's school of  
1369 practice in all professional uses of his name by use of his earned  
1370 degree or a description of his school of practice.

1371 (9) The refusal of a licensing authority of another  
1372 state or jurisdiction to issue or renew a license, permit or  
1373 certificate to practice medicine in that jurisdiction or the  
1374 revocation, suspension or other restriction imposed on a license,



1375 permit or certificate issued by such licensing authority which  
1376 prevents or restricts practice in that jurisdiction, a certified  
1377 copy of the disciplinary order or action taken by the other state  
1378 or jurisdiction being prima facie evidence thereof,  
1379 notwithstanding the pendency of any appeal.

1380           (10) Surrender of a license or authorization to  
1381 practice medicine in another state or jurisdiction or surrender of  
1382 membership on any medical staff or in any medical or professional  
1383 association or society while under disciplinary investigation by  
1384 any of those authorities or bodies for acts or conduct similar to  
1385 acts or conduct which would constitute grounds for action as  
1386 defined in this section.

1387           (11) Final sanctions imposed by the United States  
1388 Department of Health and Human Services, Office of Inspector  
1389 General or any successor federal agency or office, based upon a  
1390 finding of incompetency, gross misconduct or failure to meet  
1391 professionally recognized standards of health care; a certified  
1392 copy of the notice of final sanction being prima facie evidence  
1393 thereof. As used in this paragraph, the term "final sanction"  
1394 means the written notice to a physician from the United States  
1395 Department of Health and Human Services, Officer of Inspector  
1396 General or any successor federal agency or office, which  
1397 implements the exclusion.

1398           (12) Failure to furnish the board, its investigators or  
1399 representatives information legally requested by the board.





1400                   (13) Violation of any provision(s) of the Medical  
1401 Practice Act or the rules and regulations of the board or of any  
1402 order, stipulation or agreement with the board.

1403                   (14) Violation(s) of the provisions of Sections  
1404 41-121-1 through 41-121-9 relating to deceptive advertisement by  
1405 health care practitioners.

1406                   (15) Performing or inducing an abortion on a woman in  
1407 violation of any provision of Sections 41-41-131 through  
1408 41-41-145.

1409                   (16) Performing an abortion on a pregnant woman after  
1410 determining that the unborn human individual that the pregnant  
1411 woman is carrying has a detectable fetal heartbeat as provided in  
1412 Section 41-41-34.1.

1413                   (17) Violation(s) of any provision of Sections 1  
1414 through 6 of this act.

1415           In addition to the grounds specified above, the board shall  
1416 be authorized to suspend the license of any licensee for being out  
1417 of compliance with an order for support, as defined in Section  
1418 93-11-153. The procedure for suspension of a license for being  
1419 out of compliance with an order for support, and the procedure for  
1420 the reissuance or reinstatement of a license suspended for that  
1421 purpose, and the payment of any fees for the reissuance or  
1422 reinstatement of a license suspended for that purpose, shall be  
1423 governed by Section 93-11-157 or 93-11-163, as the case may be.  
1424 If there is any conflict between any provision of Section



1425 93-11-157 or 93-11-163 and any provision of this chapter, the  
1426 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
1427 shall control.

1428 A physician who provides a written certification as  
1429 authorized under the Mississippi Medical Cannabis Act and in  
1430 compliance with rules and regulations adopted thereunder shall not  
1431 be subject to any disciplinary action under this section solely  
1432 due to providing the written certification.

1433 **SECTION 12.** Section 83-9-22, Mississippi Code of 1972, is  
1434 amended as follows:

1435 83-9-22. (1) (a) Notwithstanding any other provision of  
1436 the law to the contrary, except as otherwise provided in  
1437 subsections (3) and (4) of this section, no health coverage plan  
1438 shall restrict coverage for medically appropriate treatment  
1439 prescribed by a physician and agreed to by a fully informed  
1440 insured, or if the insured lacks legal capacity to consent by a  
1441 person who has legal authority to consent on his or her behalf,  
1442 based on an insured's diagnosis with a terminal condition.  
1443 Refusing to pay for treatment rendered to an insured near the end  
1444 of life that is consistent with best practices for treatment of a  
1445 disease or condition, approved uses of a drug or device, or uses  
1446 supported by peer reviewed medical literature, is a per se  
1447 violation of this section.



1448           (b) Violations of this section shall constitute an  
1449 unfair trade practice and subject the violator to the penalties  
1450 provided by law.

1451           (c) As used in this section "terminal condition" means  
1452 any aggressive malignancy, chronic end-stage cardiovascular or  
1453 cerebral vascular disease, or any other disease, illness or  
1454 condition which a physician diagnoses as terminal.

1455           (d) As used in this section, a "health coverage plan"  
1456 shall mean any hospital, health or medical expense insurance  
1457 policy, hospital or medical service contract, employee welfare  
1458 benefit plan, contract or agreement with a health maintenance  
1459 organization or a preferred provider organization, health and  
1460 accident insurance policy, or any other insurance contract of this  
1461 type, including a group insurance plan and the State Health and  
1462 Life Insurance Plan.

1463           (2) (a) Notwithstanding any other provision of the law to  
1464 the contrary, no health benefit paid directly or indirectly with  
1465 state funds, specifically Medicaid, shall restrict coverage for  
1466 medically appropriate treatment prescribed by a physician and  
1467 agreed to by a fully informed individual, or if the individual  
1468 lacks legal capacity to consent by a person who has legal  
1469 authority to consent on his or her behalf, based on an  
1470 individual's diagnosis with a terminal condition.

1471           (b) Refusing to pay for treatment rendered to an  
1472 individual near the end of life that is consistent with best



practices for treatment of a disease or condition, approved uses of a drug or device, or uses supported by peer reviewed medical literature, is a per se violation of this section.

(c) As used in this section "terminal condition" means any aggressive malignancy, chronic end-stage cardiovascular or cerebral vascular disease, or any other disease, illness or condition which a physician diagnoses as terminal.

(3) This section does not require a health coverage plan to cover and pay for the treatment of a person who is a cardholder and registered qualifying patient with medical cannabis that is lawful under the Mississippi Medical Cannabis Act and in compliance with rules and regulations adopted thereunder.

(4) This section does not require a health coverage plan to provide coverage for gender transition procedures for a person under twenty-one (21) years of age. As used in this section, the term "gender transition procedures" means the same as defined in Section 3 of this act.

**SECTION 13.** The following shall be codified as Section 83-9-37, Mississippi Code of 1972:

83-9-37. (1) As used in this section, the term "gender transition procedures" means the same as defined in Section 3 of this act.

(2) A health benefit plan under an insurance policy or other plan providing health care coverage in this state shall not



1497 include reimbursement for gender transition procedures for a  
1498 person under twenty-one (21) years of age.

1499 (3) A health benefit plan under an insurance policy or other  
1500 plan providing health care coverage in this state is not required  
1501 to provide coverage for gender transition procedures for a person  
1502 under twenty-one (21) years of age.

1503 **SECTION 14.** Section 11-46-5, Mississippi Code of 1972, is  
1504 amended as follows:

1505 11-46-5. (1) Notwithstanding the immunity granted in  
1506 Section 11-46-3, or the provisions of any other law to the  
1507 contrary, the immunity of the state and its political subdivisions  
1508 from claims for money damages arising out of the torts of such  
1509 governmental entities and the torts of their employees while  
1510 acting within the course and scope of their employment is hereby  
1511 waived from and after July 1, 1993, as to the state, and from and  
1512 after October 1, 1993, as to political subdivisions; provided,  
1513 however, immunity of a governmental entity in any such case shall  
1514 be waived only to the extent of the maximum amount of liability  
1515 provided for in Section 11-46-15.

1516 (2) For the purposes of this chapter an employee shall not  
1517 be considered as acting within the course and scope of his  
1518 employment and a governmental entity shall not be liable or be  
1519 considered to have waived immunity for any conduct of its employee  
1520 if the employee's conduct constituted fraud, malice, libel,



slander, defamation or any criminal offense other than traffic violations.

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

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

(5) For purposes of this chapter, an employee shall not be considered as acting within the course and scope of his or her employment and a governmental entity shall be liable or be considered to have waived immunity for any conduct of its employee if the employee's conduct constituted a violation of subsection (1) of Section 2 of this act.

**SECTION 15.** Section 11-1-60, Mississippi Code of 1972, is amended as follows:

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

(a) "Noneconomic damages" means subjective, nonpecuniary damages arising from death, pain, suffering,



1546 inconvenience, mental anguish, worry, emotional distress, loss of  
1547 society and companionship, loss of consortium, bystander injury,  
1548 physical impairment, disfigurement, injury to reputation,  
1549 humiliation, embarrassment, loss of the enjoyment of life, hedonic  
1550 damages, other nonpecuniary damages, and any other theory of  
1551 damages such as fear of loss, illness or injury. The term  
1552 "noneconomic damages" shall not include punitive or exemplary  
1553 damages.

1554           (b) "Actual economic damages" means objectively  
1555 verifiable pecuniary damages arising from medical expenses and  
1556 medical care, rehabilitation services, custodial care,  
1557 disabilities, loss of earnings and earning capacity, loss of  
1558 income, burial costs, loss of use of property, costs of repair or  
1559 replacement of property, costs of obtaining substitute domestic  
1560 services, loss of employment, loss of business or employment  
1561 opportunities, and other objectively verifiable monetary losses.

1562           (2) (a) In any cause of action filed on or after September  
1563 1, 2004, for injury based on malpractice or breach of standard of  
1564 care against a provider of health care, including institutions for  
1565 the aged or infirm, in the event the trier of fact finds the  
1566 defendant liable, they shall not award the plaintiff more than  
1567 Five Hundred Thousand Dollars (\$500,000.00) for noneconomic  
1568 damages.

1569           (b) In any civil action filed on or after September 1,  
1570 2004, other than those actions described in paragraph (a) of this



subsection, in the event the trier of fact finds the defendant liable, they shall not award the plaintiff more than One Million Dollars (\$1,000,000.00) for noneconomic damages.

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

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

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

(4) The statutory limits provided in this section shall not be applied in favor of any provider of healthcare who violates subsection (1) of Section 2 of this act for any claim that arises or is brought on or after July 1, 2023.

**SECTION 16.** This act shall take effect and be in force from and after July 1, 2023.

