

By: Representative Shanks

To: Judiciary B

HOUSE BILL NO. 1480

1 AN ACT TO ESTABLISH THE "PARENTS' BILL OF RIGHTS ACT OF
2 2023"; TO DEFINE TERMINOLOGY USED HEREIN; TO ESTABLISH THAT A
3 PARENT'S LIBERTY TO DIRECT THE UPBRINGING, EDUCATION, HEALTH CARE
4 AND MENTAL HEALTH OF HIS OR HER CHILD IS A FUNDAMENTAL RIGHT; TO
5 PROHIBIT THE STATE OR ANY POLITICAL SUBDIVISION THEREOF FROM
6 SUBSTANTIALLY BURDENING A PARENT'S FUNDAMENTAL RIGHT WITHOUT
7 DEMONSTRATING THAT THE BURDEN IS REQUIRED BY A COMPELLING
8 GOVERNMENTAL INTEREST; TO PROVIDE THAT ALL PARENTAL RIGHTS ARE
9 EXCLUSIVELY RESERVED TO A PARENT OF A CHILD WITHOUT OBSTRUCTION BY
10 OR INTERFERENCE FROM THE STATE OR ANY POLITICAL SUBDIVISION
11 THEREOF; TO PROVIDE THAT ABUSE OR NEGLECT OF A CHILD BY A PARENT
12 OR THE ACTION OR DECISION OF A PARENT THAT WOULD END LIFE ARE NOT
13 AUTHORIZED BY THIS ACT; TO PROHIBIT EMPLOYEES OF THIS STATE AND
14 ANY POLITICAL SUBDIVISION THEREOF, EXCEPT FOR LAW ENFORCEMENT
15 PERSONNEL, FROM ENCOURAGING OR COERCING A CHILD TO WITHHOLD
16 INFORMATION FROM THE CHILD'S PARENT; TO FURTHER PROHIBIT SUCH
17 EMPLOYEES FROM WITHHOLDING INFORMATION THAT IS RELEVANT TO A
18 CHILD'S PHYSICAL, EMOTIONAL OR MENTAL HEALTH FROM A CHILD'S
19 PARENT; TO REQUIRE THE BOARD OF EDUCATION OF A SCHOOL DISTRICT TO
20 DEVELOP AND ADOPT A POLICY TO PROMOTE THE INVOLVEMENT OF PARENTS
21 OF CHILDREN ENROLLED IN THE DISTRICT'S SCHOOLS; TO PRESCRIBE THE
22 MINIMUM REQUIREMENT PROCEDURES TO BE ADDRESSED BY THE POLICY; TO
23 PROVIDE THE BOARD OF EDUCATION OF A SCHOOL DISTRICT WITH THE
24 DISCRETION TO ADOPT A POLICY TO PROVIDE TO PARENTS THE INFORMATION
25 IN AN ELECTRONIC FORM; TO REQUIRE PARENTS TO SUBMIT A WRITTEN OR
26 ELECTRONIC REQUEST FOR THE CHILD'S INFORMATION TO THE SCHOOL
27 PRINCIPAL OR THE SUPERINTENDENT OF THE SCHOOL DISTRICT; TO REQUIRE
28 THE SCHOOL PRINCIPAL OR SUPERINTENDENT TO PROVIDE THE REQUESTED
29 INFORMATION TO THE PARENTS WITHIN TEN DAYS OF RECEIVING THE
30 REQUEST, OR SUBMIT TO THE PARENT A WRITTEN EXPLANATION OF THE
31 REASONS FOR THE DENIAL OF THE REQUESTED INFORMATION; TO PRESCRIBE
32 THE PROCESS BY WHICH A PARENT MAY SUBMIT A FORMAL CONSIDERATION OF
33 THE REQUEST OF INFORMATION WITH THE SCHOOL BOARD IF THE REQUESTED
34 INFORMATION IS NOT RECEIVED FIVE DAYS AFTER SUBMITTING THE INITIAL



35 REQUEST; TO ESTABLISH A CAUSE OF ACTION FOR VIOLATION OF THIS ACT;
36 TO PROVIDE THAT THIS ACT SHALL SERVE AS A DEFENSE TO ANY CAUSE OF
37 ACTION THAT IS RAISED AS A RESULT OF A VIOLATION THEREOF; TO
38 PROVIDE THAT THE RULES OF CONSTRUCTION SHALL PROVIDE BROAD
39 PROTECTION OF A PARENT'S FUNDAMENTAL RIGHTS AS INALIENABLE UNLESS
40 THOSE RIGHTS HAVE BEEN LEGALLY WAIVED OR LEGALLY TERMINATED; TO
41 AMEND SECTION 37-3-49, MISSISSIPPI CODE OF 1972, TO PROVIDE THE
42 PARENT OF EACH PUBLIC SCHOOL STUDENT WITH THE RIGHT TO RECEIVE
43 EFFECTIVE COMMUNICATION FROM THE SCHOOL PRINCIPAL AS TO THE MANNER
44 IN WHICH INSTRUCTIONAL MATERIALS ARE USED TO IMPLEMENT THE
45 SCHOOL'S CURRICULAR OBJECTIVES; TO AMEND SECTION 37-13-173,
46 MISSISSIPPI CODE OF 1972, TO PROVIDE PARENTS THE AUTHORITY TO OPT
47 THEIR CHILDREN OUT OF ANY INSTRUCTION OF THE SCHOOL DISTRICT'S
48 COMPREHENSIVE HEALTH EDUCATION RELATING TO SEX EDUCATION UPON
49 SUBMITTING A WRITTEN REQUEST TO THE SCHOOL PRINCIPAL; TO AMEND
50 SECTION 37-15-3, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT STUDENT
51 AND PARENTAL RIGHTS TO EDUCATION RECORDS CREATED, MAINTAINED, OR
52 USED BY PUBLIC EDUCATIONAL INSTITUTIONS AND AGENCIES SHALL BE
53 PROTECTED; TO STIPULATE THAT STUDENTS AND THEIR PARENTS MAINTAIN
54 THE RIGHT TO ACCESS THE STUDENT'S EDUCATIONAL RECORDS, WAIVE
55 ACCESS TO SUCH RECORDS, CHALLENGE THE CONTENT OF SUCH RECORDS,
56 PRIVACY OF SUCH RECORDS AND TO RECEIVE ANNUAL NOTICE OF THE RIGHTS
57 TO SUCH RECORDS; TO BRING FORWARD SECTIONS 37-7-301, 37-13-171 AND
58 43-21-105, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE
59 AMENDMENTS; AND FOR RELATED PURPOSES.

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

61 **SECTION 1.** This act shall be known and may be cited as the
62 "Parents' Bill of Rights Act of 2023."

63 **SECTION 2.** As used in this act, the following terms shall
64 have the meaning ascribed in this section unless context of usage
65 requires otherwise:

66 (a) "Child" means an individual under the age of
67 eighteen (18). The term does not include any child who has been
68 adjudicated as a legally emancipated minor in accordance with
69 state law by a court of competent jurisdiction.

70 (b) "Curriculum" includes all textbooks, reading
71 materials, handouts, videos, presentations, digital materials,
72 websites, online applications, digital applications for a phone,



73 laptop or tablet, questionnaires, surveys, or other written or
74 electronic materials that have been or will be assigned,
75 distributed or otherwise presented physically or virtually to
76 students in a class or course.

77 (c) "Educational records" includes attendance records,
78 test scores of school-administered tests and state-wide
79 assessments, grades, extracurricular activity or club
80 participation, e-mail accounts, online or virtual accounts or
81 data, disciplinary records, counseling records, psychological
82 records, applications for admission, health and immunization
83 information including any medical records maintained by a health
84 clinic or medical facility operated or controlled by the school
85 district or located on district property, teacher and counselor
86 evaluations, and reports of behavioral patterns.

87 (d) "Parent" means a biological parent of a child, an
88 adoptive parent of a child, or an individual who has been granted
89 exclusive right, guardianship and authority over the welfare of a
90 child under state law.

91 (f) "Parent" means a biological parent of a child, an
92 adoptive parent of a child, or an individual who has been granted
93 exclusive right and authority over the welfare of a child under
94 state law.

95 (g) "Sex" means biological sex based on chromosomal
96 structure and anatomy at birth.



97 (h) "Substantial burden" means any action that directly
98 or indirectly constrains, inhibits, curtails, or denies the right
99 of a parent to direct the upbringing, education, health care and
100 mental health of that parent's child, or compels any action
101 contrary to the right of a parent to direct the upbringing,
102 education, health care and mental health of that parent's child.
103 The term includes, but is not limited to, withholding benefits,
104 assessing criminal, civil or administrative penalties or damages,
105 or exclusion from governmental assistance programs.

106 (i) "Syllabus" means a written description of all
107 topics and subjects taught in a class or course, and shall include
108 a list of all curriculum used in the class or course, the identity
109 of all individuals providing in-person or live remote instruction
110 in the class or course, and a description of any assemblies, guest
111 lectures, field trips or other educational activities that are
112 part of the class or course.

113 (j) "Teacher training materials" means any
114 presentations, videos, professional development classes or other
115 educational or training activities, including any written or
116 electronic materials used or distributed in the activities, that a
117 teacher is required to attend by a public school.

118 **SECTION 3. Parental Rights are Fundamental.**

119 (1) The Legislature finds that parents have a liberty
120 interest, more precious than any property interest, in the care,
121 custody and management of their children and that these parental



122 rights are a matter of fundamental constitutional significance.
123 These rights include, but are not limited to, the liberty of
124 parents to direct the upbringing, education, health care, and
125 mental health of that parent's child. The Legislature further
126 finds that important information relating to a child should not be
127 withheld, either inadvertently or purposefully, from his or her
128 parent, including information relating to the child's health,
129 well-being, and education, while the child is in the custody of
130 the school district or charter school. The Legislature further
131 finds it is necessary to establish a consistent mechanism for
132 parents to be notified of information relating to the health and
133 well-being of their children.

134 (2) This state, any political subdivision of this state, any
135 other governmental entity, any governing body, or any officer,
136 employee or agent thereof shall not substantially burden the
137 fundamental right of a parent to direct the upbringing, education,
138 health care, and mental health of that parent's child without
139 demonstrating that the burden is required by a compelling
140 governmental interest as applied to the parent and the child and
141 is the least restrictive means of furthering that compelling
142 governmental interest.

143 **SECTION 4. Rights and Responsibilities.**

144 (1) All parental rights are exclusively reserved to a parent
145 of a child without substantial burden by or interference from this
146 state, any political subdivision of this state, any other



147 governmental entity or any other institution, including without
148 limitation, the following rights and responsibilities:

149 (a) To direct the education of the child, including the
150 right to choose public, private, religious or home schools, and
151 the right to make reasonable choices within public schools for the
152 education of the child;

153 (b) To access and review all written and electronic
154 educational records relating to the child that are controlled by
155 or in the possession of a school, including, but not limited to:

156 (i) Attendance records;

157 (ii) Test scores of school-administered tests and
158 state-wide assessments;

159 (iii) Grades;

160 (iv) Extracurricular activity or club
161 participation;

162 (v) Their child's e-mail accounts;

163 (vi) Their child's online or virtual accounts or
164 data;

165 (vii) Disciplinary records;

166 (viii) Counseling records;

167 (ix) Psychological records;

168 (x) Applications for admission;

169 (xi) Health and immunization information,

170 including any medical records maintained by a health clinic or



171 medical facility operated or controlled by the school district or
172 located on district property;

173 (xii) Teacher and counselor evaluations; and

174 (xiii) Reports of behavioral patterns.

175 (c) To direct the upbringing of the child;

176 (d) To direct the moral or religious training of the
177 child;

178 (e) To make and consent in writing to all physical and
179 mental health care decisions for the child;

180 (f) To access and review all health and medical records
181 of the child;

182 (g) To consent in writing before a biometric scan of
183 the child is made, shared or stored;

184 (h) To consent in writing before any record of the
185 child's blood or deoxyribonucleic acid (DNA) is created, stored or
186 shared, unless authorized pursuant to a court order;

187 (i) To consent in writing before any governmental
188 entity makes a video or voice recording of the child, unless the
189 video or voice recording is made during or as a part of:

190 (i) A court proceeding;

191 (ii) A law enforcement investigation;

192 (iii) A forensic interview in a criminal or
193 Department of Child Protection Services investigation;

194 (iv) The security or surveillance of buildings or
195 grounds; or



196 (v) A photo identification card;

197 (j) To be notified promptly if an employee of this
198 state, any political subdivision of this state, any other
199 governmental entity or any other institution suspects that abuse,
200 neglect or any criminal offense has been committed against the
201 child. This paragraph does not create any new obligation for
202 school districts and charter schools to report misconduct between
203 students at school, such as fighting or aggressive play, which is
204 routinely addressed pursuant to school disciplinary procedures;

205 (k) To opt the child out of any personal analysis,
206 evaluation, survey or data collection by a school district that
207 would capture data for inclusion in the state longitudinal student
208 data system except what is necessary and essential to establish a
209 student's educational record;

210 (l) The right to have the child excused from school
211 attendance for religious purposes; and

212 (m) The right to participate in parent-teacher
213 associations and school organizations that are sanctioned by the
214 board of education of a school district.

215 (2) This section does not and shall not be construed to:

216 (a) Authorize or allow a parent to abuse or neglect a
217 child as defined in Section 43-21-105;

218 (b) Apply to a parental action or decision that would
219 end life;



220 (c) Prohibit a court of competent jurisdiction from
221 issuing an order that is otherwise permitted by law; or

222 (d) Prohibit a judge or officer of a court of competent
223 jurisdiction, law enforcement or any agent of the Department of
224 Child Protective Services from acting within his or her official
225 capacity within the reasonable and prudent scope of his or her
226 authority.

227 (3) No employee of this state, any political subdivision of
228 this state, or any other governmental entity, except for law
229 enforcement personnel, shall encourage or coerce a child to
230 withhold information from the child's parent. Nor shall any such
231 employee withhold from a child's parent information that is
232 relevant to the physical, emotional or mental health of the child
233 or any information regarding the child's curricular or
234 extracurricular projects, assignments or activities.

235 (4) Any employee of the state, any of its political
236 subdivisions, or any other governmental entity, other than law
237 enforcement personnel, who encourages or coerces, or attempts to
238 encourage or coerce, a child to withhold information from his or
239 her parent may be subject to disciplinary action.

240 **SECTION 5. Educational Involvement.**

241 (1) The board of education of a school district, in
242 consultation with parents, teachers and administrators, shall
243 develop and adopt a policy to promote the involvement of parents



244 of children enrolled in the schools within the school district,
245 including:

246 (a) A plan for parent participation in the schools
247 which is designed to improve parent and teacher cooperation in
248 such areas as homework, attendance and discipline;

249 (b) Procedures by which a parent may learn about the
250 course of study for that parent's child and review all curriculum.
251 These procedures shall allow a parent to:

252 (i) Review a syllabus for each class or course
253 that the parent's child is enrolled in at least seven (7) days
254 before the start of each class or course;

255 (ii) Review all curriculum for each class or
256 course offered by the school and any teacher training materials at
257 least three (3) days before the curriculum or materials being
258 taught or used for instruction is presented to students in a
259 format that conspicuously identifies the added curriculum;

260 (iii) Copy and record information from the
261 curriculum and teacher training materials;

262 (iv) Review of all supplemental educational
263 materials including the source, sponsor, and funding for such
264 materials; and

265 (v) Meet with the teacher of the class or course,
266 the principal, or other representative from the school to discuss
267 the curriculum and teaching training materials.



268 (c) Procedures by which a parent who objects to any
269 specific instruction or presentation may withdraw that parent's
270 child from the instruction or presentation on the basis that such
271 material or activity questions beliefs or practices regarding sex,
272 morality, or religion. And that the school district or charter
273 school may not impose an academic or other penalty upon a child
274 who is withdrawn pursuant to this section. This section shall not
275 exempt a child from satisfying grade-level or graduation
276 requirements;

277 (d) Procedures by which a parent may learn about the
278 nature and purpose of clubs and extracurricular activities that
279 have been approved by the school and may withdraw that parent's
280 child from any club or extracurricular to which the parent
281 objects;

282 (e) Procedures by which a parent must provide written
283 consent before a school district or charter school or any employee
284 or agent thereof provides, procures, solicits, arranges for the
285 performance of, provides a referral for, or performs any mental
286 health counselling or treatment of that parent's child;

287 (f) Procedures by which a parent must provide written
288 consent before their child uses a name or nickname other than
289 their legal name, or before a child uses a pronoun that does not
290 align with the child's sex;



291 (g) Procedures by which a parent may learn about
292 parental rights and responsibilities under the laws of this state;
293 and

294 (h) Procedures by which parents are made aware of the
295 rights under the Family Educational Rights and Privacy Act (FERPA)
296 20 USCS Section 1232g, and regulations promulgated thereunder
297 relating to parents' access to their children's official records.

298 (2) The parental rights and the procedures provided herein
299 do not and shall be construed to:

300 (a) Compel officers, administrators, employees,
301 teachers, agents or volunteers of any school district or charter
302 school or students of such school district or charter school to
303 use pronouns that do not align with a child's sex or to otherwise
304 infringe upon such person's sincerely held religious belief even
305 if that child's parent has provided written consent as provided
306 herein;

307 (b) Permit a child to use a bathroom, locker room,
308 changing facilities, or overnight lodging accommodations that does
309 not align with that child's sex, nor require a school district or
310 charter school to allow or otherwise adopt a policy to permit a
311 child to use bathrooms, locker rooms, changing facilities, or
312 overnight lodging accommodations reserved for the opposite sex; or

313 (c) Permit a child to compete on an interscholastic or
314 intramural athletic team or sport designated for the opposite sex,
315 which shall be governed by Section 37-97-1 et seq.



316 (3) A school district or charter school shall publish these
317 procedures required by this section on that school district or
318 charter school's publicly available website.

319 (4) The board of education of a school district may adopt a
320 policy to provide to parents the information required by this
321 section in an electronic form.

322 (5) A parent shall submit a written or electronic request
323 for information pursuant to this section to either the school
324 principal or the superintendent of the school district. Within
325 five (5) business days of receiving the request for information,
326 the school principal or the superintendent shall either deliver
327 the requested information to the parent or submit to the parent a
328 written explanation of the reasons for the denial of the requested
329 information. If the request for information is denied or the
330 parent does not receive the requested information within the
331 allotted five (5) business days, the parent may submit a written
332 request for the information to the governing board of the school
333 district or charter school, which shall formally consider and rule
334 on the request during executive session at the next meeting of the
335 board. If it is too late for a parent's request on the agenda of
336 the next meeting, such request must be included on the agenda of
337 the subsequent meeting of the governing board.

338 (6) If aggrieved by the decision of the governing board of
339 the school district or charter school, a parent may appeal such



340 decision to the Chancery Court of the County in which the school
341 district or charter school is located.

342 **SECTION 6. Cause of Action.**

343 (1) A parent may bring suit for any violation of this act
344 and may raise the act as a defense in any judicial or
345 administrative proceeding without regard to whether the proceeding
346 is brought by or in the name of the state government, any private
347 person or any other party.

348 (2) Notwithstanding any other provision of law, an action
349 under this act may be commenced, and relief may be granted,
350 without regard to whether the person commencing the action has
351 sought or exhausted available administrative remedies.

352 (3) Any person who successfully asserts a claim or defense
353 under this act may recover declaratory relief, injunctive relief
354 to prevent or remedy a violation of this act or the effects of
355 such violation, compensatory damages, reasonable attorneys' fees
356 and costs, and any other appropriate relief.

357 (4) Sovereign, governmental and qualified immunities to suit
358 and from liability are waived and abolished to the extent of
359 liability created by this act.

360 **SECTION 7. Rules of Construction.**

361 (1) Unless those rights have been legally waived or legally
362 terminated, parents have inalienable rights that are more
363 comprehensive than those listed in this section. The protections
364 of the fundamental right of parents to direct the upbringing,



365 education, health care and mental health of their child afforded
366 by this act are in addition to the protections provided under
367 federal law, state law, and the state and federal constitutions.

368 (2) This act shall be construed in favor of a broad
369 protection of the fundamental right of parents to direct the
370 upbringing, education, health care and mental health of their
371 child.

372 (3) Nothing in this act shall be construed to authorize any
373 government to burden the fundamental right of parents to direct
374 the upbringing, education, health care and mental health of their
375 child.

376 (4) If a child has no affirmative right of access to a
377 particular medical or mental health procedure or service, then
378 nothing in this act shall be construed to grant that child's
379 parent an affirmative right of access to that procedure or service
380 on that child's behalf.

381 (5) Any provision of this act held to be invalid or
382 unenforceable by its terms, or as applied to any person or
383 circumstance, shall be construed so as to give it the maximum
384 effect permitted by law, unless such holding shall be one of utter
385 invalidity or unenforceability, in which event such provision
386 shall be deemed severable, and shall not affect the remainder
387 hereof or the application of such provision to other, dissimilar
388 circumstances.



389 **SECTION 8.** Section 37-3-49, Mississippi Code of 1972, is
390 amended as follows:

391 37-3-49. (1) The State Department of Education shall
392 provide an instructional program and establish guidelines and
393 procedures for managing such program in the public schools within
394 the school districts throughout the state as part of the State
395 Program of Educational Accountability and Assessment of
396 Performance as prescribed in Section 37-3-46. Public school
397 districts may (a) elect to adopt the instructional program and
398 management system provided by the State Department of Education,
399 or (b) elect to adopt an instructional program and management
400 system which meets or exceeds criteria established by the State
401 Department of Education for such. This provision shall begin with
402 the courses taught in Grades K-8 which contain skills tested
403 through the Mississippi Basic Skills Assessment Program and shall
404 proceed through all secondary school courses mandated for
405 graduation and all secondary school courses in the Mississippi
406 end-of-course testing program. Other state core objectives must
407 be included in the district's instructional program as they are
408 provided by the State Department of Education along with
409 instructional practices, resources, evaluation items and
410 management procedures. Districts are encouraged to adapt this
411 program and accompanying procedures to all other instructional
412 areas. The department shall provide that such program and
413 guidelines, or a program and guidelines developed by a local



414 school district which incorporates the core objectives from the
415 curriculum structure are enforced through the performance-based
416 accreditation system. It is the intent of the Legislature that
417 every effort be made to protect the instructional time in the
418 classroom and reduce the amount of paperwork which must be
419 completed by teachers. The State Department of Education shall
420 take steps to insure that school districts properly use staff
421 development time to work on the districts' instructional
422 management plans.

423 (2) The State Department of Education shall provide such
424 instructional program and management guidelines which shall
425 require for every public school district that:

426 (a) All courses taught in Grades K-8 which contain
427 skills which are tested through the Mississippi Basic Skills
428 Assessment Program, all secondary school courses mandated for
429 graduation, and all courses in the end-of-course testing program
430 shall include the State Department of Education's written list of
431 learning objectives.

432 (b) The local school board must adopt the objectives
433 that will form the core curriculum which will be systematically
434 delivered throughout the district.

435 (c) The set of objectives provided by the State
436 Department of Education must be accompanied by suggested
437 instructional practices and resources that would help teachers
438 organize instruction so as to promote student learning of the



439 objectives. Objectives added by the school district must also be
440 accompanied by suggested instructional practices and resources
441 that would help teachers organize instruction. The instructional
442 practices and resources that are identified are to be used as
443 suggestions and not as requirements that teachers must follow.
444 The goal of the program is to have students to achieve the desired
445 objective and not to limit teachers in the way they teach.

446 (d) Standards for student performance must be
447 established for each core objective in the local program and those
448 standards establish the district's definition of mastery for each
449 objective.

450 (e) There shall be an annual review of student
451 performance in the instructional program against locally
452 established standards. When weaknesses exist in the local
453 instructional program, the district shall take action to improve
454 student performance.

455 (3) The parent of each public school student has the right
456 to receive effective communication from the school principal as to
457 the manner in which instructional materials are used to implement
458 the school's curricular objectives, in accordance with the
459 provisions of Section 5 of this act.

460 (* * *4) The State Board of Education and the board of
461 trustees of each school district shall adopt policies to limit and
462 reduce the number and length of written reports that classroom
463 teachers are required to prepare.



464 (* * *5) This section shall not be construed to limit
465 teachers from using their own professional skills to help students
466 master instructional objectives, nor shall it be construed as a
467 call for more detailed or complex lesson plans or any increase in
468 testing at the local school district level.

469 (* * *6) Districts meeting the highest levels of
470 accreditation standards, as defined by the State Board of
471 Education, shall be exempted from the provisions of subsection (2)
472 of this section.

473 **SECTION 9.** Section 37-13-173, Mississippi Code of 1972, is
474 amended as follows:

475 37-13-173. (1) Each school providing instruction or any
476 other presentation on human sexuality in the classroom, assembly
477 or other official setting shall be required to provide no less
478 than * * * three (3) days' written notice thereof to the parents
479 of children in such programs of instruction. The written notice
480 must inform the parents of their right to request the inclusion of
481 their child for such instruction or presentation. The notice also
482 must inform the parents of the right, and the appropriate process,
483 to review the curriculum and all materials to be used in the
484 lesson or presentation.

485 (2) Upon the written request of any parent or legal guardian
486 to the school principal to exempt his or her child from the
487 teaching of reproductive health or any disease, including
488 HIV/AIDS, in accordance with the provisions of Section 37-13-171,



489 the school shall excuse the parent's child from such instruction
490 or presentation, without detriment to the student.

491 **SECTION 10.** Section 37-15-3, Mississippi Code of 1972, is
492 amended as follows:

493 37-15-3. (1) * * * The cumulative folders as are provided
494 for in Section 37-15-1 shall be kept in the school wherein the
495 pupils are in attendance. Both the permanent records and the
496 cumulative folders shall be available to school officials,
497 including teachers within the school district who have been
498 determined by the school district to have legitimate educational
499 interests. In no case, however, shall such records be available
500 to the general public.

501 (2) The rights of students and their parents or legal
502 guardians with respect to education records created, maintained,
503 or used by public educational institutions and agencies shall be
504 protected. Transcripts of courses and grades may be furnished
505 when requested by the parent or guardian or eligible pupil as
506 prescribed in the Family Educational Rights and Privacy Act of
507 1974, as amended, 20 USCS Section 1232g, the implementing
508 regulations issued pursuant thereto, and this section, provided
509 the following:

510 (a) Students and their parents shall have the right to
511 access their education records, including the right to inspect and
512 review those records;



513 (b) Students and their parents shall have the right to
514 waive their access to their education records in certain
515 circumstances;

516 (c) Students and their parents shall have the right to
517 challenge the content of education records in order to ensure that
518 the records are not inaccurate, misleading or otherwise a
519 violation of privacy or other rights;

520 (d) Students and their parents shall have the right of
521 privacy with respect to such records and reports; and

522 (e) Students and their parents shall receive annual
523 notice of their rights with respect to education records.

524 (3) * * * The records shall be kept for each pupil
525 throughout his entire public school enrollment period. In the
526 event a pupil transfers to a public school, including a charter
527 school, then the cumulative folder shall be furnished to the head
528 of the school to which the pupil transfers; if a pupil transfers
529 to a private school, then a copy of the cumulative folder shall be
530 furnished to the head of the school to which the pupil transfers.
531 The permanent record shall be kept permanently by the school
532 district from which the pupil transferred.

533 (4) At no time may a permanent record of a student be
534 destroyed, but cumulative folders may be destroyed by order of the
535 school board of the school district in not less than five (5)
536 years after the permanent record of the pupil has become inactive
537 and has been transferred to the central depository of the



538 district. * * * However, * * * where a school district makes
539 complete copies of inactive permanent records on photographic
540 film, microfilm * * * or any other acceptable form of medium for
541 storage which may be reproduced as needed, * * * those permanent
542 records may be destroyed after the photographic film or microfilm
543 copy has been stored in the central depository of the district.

544 **SECTION 11.** Section 37-7-301, Mississippi Code of 1972, is
545 brought forward as follows:

546 37-7-301. The school boards of all school districts shall
547 have the following powers, authority and duties in addition to all
548 others imposed or granted by law, to wit:

549 (a) To organize and operate the schools of the district
550 and to make such division between the high school grades and
551 elementary grades as, in their judgment, will serve the best
552 interests of the school;

553 (b) To introduce public school music, art, manual
554 training and other special subjects into either the elementary or
555 high school grades, as the board shall deem proper;

556 (c) To be the custodians of real and personal school
557 property and to manage, control and care for same, both during the
558 school term and during vacation;

559 (d) To have responsibility for the erection, repairing
560 and equipping of school facilities and the making of necessary
561 school improvements;



562 (e) To suspend or to expel a pupil or to change the
563 placement of a pupil to the school district's alternative school
564 or homebound program for misconduct in the school or on school
565 property, as defined in Section 37-11-29, on the road to and from
566 school, or at any school-related activity or event, or for conduct
567 occurring on property other than school property or other than at
568 a school-related activity or event when such conduct by a pupil,
569 in the determination of the school superintendent or principal,
570 renders that pupil's presence in the classroom a disruption to the
571 educational environment of the school or a detriment to the best
572 interest and welfare of the pupils and teacher of such class as a
573 whole, and to delegate such authority to the appropriate officials
574 of the school district;

575 (f) To visit schools in the district, in their
576 discretion, in a body for the purpose of determining what can be
577 done for the improvement of the school in a general way;

578 (g) To support, within reasonable limits, the
579 superintendent, principal and teachers where necessary for the
580 proper discipline of the school;

581 (h) To exclude from the schools students with what
582 appears to be infectious or contagious diseases; provided,
583 however, such student may be allowed to return to school upon
584 presenting a certificate from a public health officer, duly
585 licensed physician or nurse practitioner that the student is free
586 from such disease;



587 (i) To require those vaccinations specified by the
588 State Health Officer as provided in Section 41-23-37;

589 (j) To see that all necessary utilities and services
590 are provided in the schools at all times when same are needed;

591 (k) To authorize the use of the school buildings and
592 grounds for the holding of public meetings and gatherings of the
593 people under such regulations as may be prescribed by said board;

594 (l) To prescribe and enforce rules and regulations not
595 inconsistent with law or with the regulations of the State Board
596 of Education for their own government and for the government of
597 the schools, and to transact their business at regular and special
598 meetings called and held in the manner provided by law;

599 (m) To maintain and operate all of the schools under
600 their control for such length of time during the year as may be
601 required;

602 (n) To enforce in the schools the courses of study and
603 the use of the textbooks prescribed by the proper authorities;

604 (o) To make orders directed to the superintendent of
605 schools for the issuance of pay certificates for lawful purposes
606 on any available funds of the district and to have full control of
607 the receipt, distribution, allotment and disbursement of all funds
608 provided for the support and operation of the schools of such
609 school district whether such funds be derived from state
610 appropriations, local ad valorem tax collections, or otherwise.

611 The local school board shall be authorized and empowered to



612 promulgate rules and regulations that specify the types of claims
613 and set limits of the dollar amount for payment of claims by the
614 superintendent of schools to be ratified by the board at the next
615 regularly scheduled meeting after payment has been made;

616 (p) To select all school district personnel in the
617 manner provided by law, and to provide for such employee fringe
618 benefit programs, including accident reimbursement plans, as may
619 be deemed necessary and appropriate by the board;

620 (q) To provide athletic programs and other school
621 activities and to regulate the establishment and operation of such
622 programs and activities;

623 (r) To join, in their discretion, any association of
624 school boards and other public school-related organizations, and
625 to pay from local funds other than minimum foundation funds, any
626 membership dues;

627 (s) To expend local school activity funds, or other
628 available school district funds, other than minimum education
629 program funds, for the purposes prescribed under this paragraph.
630 "Activity funds" shall mean all funds received by school officials
631 in all school districts paid or collected to participate in any
632 school activity, such activity being part of the school program
633 and partially financed with public funds or supplemented by public
634 funds. The term "activity funds" shall not include any funds
635 raised and/or expended by any organization unless commingled in a
636 bank account with existing activity funds, regardless of whether



637 the funds were raised by school employees or received by school
638 employees during school hours or using school facilities, and
639 regardless of whether a school employee exercises influence over
640 the expenditure or disposition of such funds. Organizations shall
641 not be required to make any payment to any school for the use of
642 any school facility if, in the discretion of the local school
643 governing board, the organization's function shall be deemed to be
644 beneficial to the official or extracurricular programs of the
645 school. For the purposes of this provision, the term
646 "organization" shall not include any organization subject to the
647 control of the local school governing board. Activity funds may
648 only be expended for any necessary expenses or travel costs,
649 including advances, incurred by students and their chaperons in
650 attending any in-state or out-of-state school-related programs,
651 conventions or seminars and/or any commodities, equipment, travel
652 expenses, purchased services or school supplies which the local
653 school governing board, in its discretion, shall deem beneficial
654 to the official or extracurricular programs of the district,
655 including items which may subsequently become the personal
656 property of individuals, including yearbooks, athletic apparel,
657 book covers and trophies. Activity funds may be used to pay
658 travel expenses of school district personnel. The local school
659 governing board shall be authorized and empowered to promulgate
660 rules and regulations specifically designating for what purposes
661 school activity funds may be expended. The local school governing



662 board shall provide (i) that such school activity funds shall be
663 maintained and expended by the principal of the school generating
664 the funds in individual bank accounts, or (ii) that such school
665 activity funds shall be maintained and expended by the
666 superintendent of schools in a central depository approved by the
667 board. The local school governing board shall provide that such
668 school activity funds be audited as part of the annual audit
669 required in Section 37-9-18. The State Department of Education
670 shall prescribe a uniform system of accounting and financial
671 reporting for all school activity fund transactions;

672 (t) To enter into an energy performance contract,
673 energy services contract, on a shared-savings, lease or
674 lease-purchase basis, for energy efficiency services and/or
675 equipment as provided for in Section 31-7-14;

676 (u) To maintain accounts and issue pay certificates on
677 school food service bank accounts;

678 (v) (i) To lease a school building from an individual,
679 partnership, nonprofit corporation or a private for-profit
680 corporation for the use of such school district, and to expend
681 funds therefor as may be available from any nonminimum program
682 sources. The school board of the school district desiring to
683 lease a school building shall declare by resolution that a need
684 exists for a school building and that the school district cannot
685 provide the necessary funds to pay the cost or its proportionate
686 share of the cost of a school building required to meet the



687 present needs. The resolution so adopted by the school board
688 shall be published once each week for three (3) consecutive weeks
689 in a newspaper having a general circulation in the school district
690 involved, with the first publication thereof to be made not less
691 than thirty (30) days prior to the date upon which the school
692 board is to act on the question of leasing a school building. If
693 no petition requesting an election is filed prior to such meeting
694 as hereinafter provided, then the school board may, by resolution
695 spread upon its minutes, proceed to lease a school building. If
696 at any time prior to said meeting a petition signed by not less
697 than twenty percent (20%) or fifteen hundred (1500), whichever is
698 less, of the qualified electors of the school district involved
699 shall be filed with the school board requesting that an election
700 be called on the question, then the school board shall, not later
701 than the next regular meeting, adopt a resolution calling an
702 election to be held within such school district upon the question
703 of authorizing the school board to lease a school building. Such
704 election shall be called and held, and notice thereof shall be
705 given, in the same manner for elections upon the questions of the
706 issuance of the bonds of school districts, and the results thereof
707 shall be certified to the school board. If at least three-fifths
708 (3/5) of the qualified electors of the school district who voted
709 in such election shall vote in favor of the leasing of a school
710 building, then the school board shall proceed to lease a school
711 building. The term of the lease contract shall not exceed twenty



712 (20) years, and the total cost of such lease shall be either the
713 amount of the lowest and best bid accepted by the school board
714 after advertisement for bids or an amount not to exceed the
715 current fair market value of the lease as determined by the
716 averaging of at least two (2) appraisals by certified general
717 appraisers licensed by the State of Mississippi. The term "school
718 building" as used in this paragraph (v) (i) shall be construed to
719 mean any building or buildings used for classroom purposes in
720 connection with the operation of schools and shall include the
721 site therefor, necessary support facilities, and the equipment
722 thereof and appurtenances thereto such as heating facilities,
723 water supply, sewage disposal, landscaping, walks, drives and
724 playgrounds. The term "lease" as used in this paragraph (v) (i)
725 may include a lease-purchase contract;

726 (ii) If two (2) or more school districts propose
727 to enter into a lease contract jointly, then joint meetings of the
728 school boards having control may be held but no action taken shall
729 be binding on any such school district unless the question of
730 leasing a school building is approved in each participating school
731 district under the procedure hereinabove set forth in paragraph
732 (v) (i). All of the provisions of paragraph (v) (i) regarding the
733 term and amount of the lease contract shall apply to the school
734 boards of school districts acting jointly. Any lease contract
735 executed by two (2) or more school districts as joint lessees
736 shall set out the amount of the aggregate lease rental to be paid



737 by each, which may be agreed upon, but there shall be no right of
738 occupancy by any lessee unless the aggregate rental is paid as
739 stipulated in the lease contract. All rights of joint lessees
740 under the lease contract shall be in proportion to the amount of
741 lease rental paid by each;

742 (w) To employ all noninstructional and noncertificated
743 employees and fix the duties and compensation of such personnel
744 deemed necessary pursuant to the recommendation of the
745 superintendent of schools;

746 (x) To employ and fix the duties and compensation of
747 such legal counsel as deemed necessary;

748 (y) Subject to rules and regulations of the State Board
749 of Education, to purchase, own and operate trucks, vans and other
750 motor vehicles, which shall bear the proper identification
751 required by law;

752 (z) To expend funds for the payment of substitute
753 teachers and to adopt reasonable regulations for the employment
754 and compensation of such substitute teachers;

755 (aa) To acquire in its own name by purchase all real
756 property which shall be necessary and desirable in connection with
757 the construction, renovation or improvement of any public school
758 building or structure. Whenever the purchase price for such real
759 property is greater than Fifty Thousand Dollars (\$50,000.00), the
760 school board shall not purchase the property for an amount
761 exceeding the fair market value of such property as determined by



762 the average of at least two (2) independent appraisals by
763 certified general appraisers licensed by the State of Mississippi.
764 If the board shall be unable to agree with the owner of any such
765 real property in connection with any such project, the board shall
766 have the power and authority to acquire any such real property by
767 condemnation proceedings pursuant to Section 11-27-1 et seq.,
768 Mississippi Code of 1972, and for such purpose, the right of
769 eminent domain is hereby conferred upon and vested in said board.
770 Provided further, that the local school board is authorized to
771 grant an easement for ingress and egress over sixteenth section
772 land or lieu land in exchange for a similar easement upon
773 adjoining land where the exchange of easements affords substantial
774 benefit to the sixteenth section land; provided, however, the
775 exchange must be based upon values as determined by a competent
776 appraiser, with any differential in value to be adjusted by cash
777 payment. Any easement rights granted over sixteenth section land
778 under such authority shall terminate when the easement ceases to
779 be used for its stated purpose. No sixteenth section or lieu land
780 which is subject to an existing lease shall be burdened by any
781 such easement except by consent of the lessee or unless the school
782 district shall acquire the unexpired leasehold interest affected
783 by the easement;

784 (bb) To charge reasonable fees related to the
785 educational programs of the district, in the manner prescribed in
786 Section 37-7-335;



787 (cc) Subject to rules and regulations of the State
788 Board of Education, to purchase relocatable classrooms for the use
789 of such school district, in the manner prescribed in Section
790 37-1-13;

791 (dd) Enter into contracts or agreements with other
792 school districts, political subdivisions or governmental entities
793 to carry out one or more of the powers or duties of the school
794 board, or to allow more efficient utilization of limited resources
795 for providing services to the public;

796 (ee) To provide for in-service training for employees
797 of the district;

798 (ff) As part of their duties to prescribe the use of
799 textbooks, to provide that parents and legal guardians shall be
800 responsible for the textbooks and for the compensation to the
801 school district for any books which are not returned to the proper
802 schools upon the withdrawal of their dependent child. If a
803 textbook is lost or not returned by any student who drops out of
804 the public school district, the parent or legal guardian shall
805 also compensate the school district for the fair market value of
806 the textbooks;

807 (gg) To conduct fund-raising activities on behalf of
808 the school district that the local school board, in its
809 discretion, deems appropriate or beneficial to the official or
810 extracurricular programs of the district; provided that:



811 (i) Any proceeds of the fund-raising activities
812 shall be treated as "activity funds" and shall be accounted for as
813 are other activity funds under this section; and

814 (ii) Fund-raising activities conducted or
815 authorized by the board for the sale of school pictures, the
816 rental of caps and gowns or the sale of graduation invitations for
817 which the school board receives a commission, rebate or fee shall
818 contain a disclosure statement advising that a portion of the
819 proceeds of the sales or rentals shall be contributed to the
820 student activity fund;

821 (hh) To allow individual lessons for music, art and
822 other curriculum-related activities for academic credit or
823 nonacademic credit during school hours and using school equipment
824 and facilities, subject to uniform rules and regulations adopted
825 by the school board;

826 (ii) To charge reasonable fees for participating in an
827 extracurricular activity for academic or nonacademic credit for
828 necessary and required equipment such as safety equipment, band
829 instruments and uniforms;

830 (jj) To conduct or participate in any fund-raising
831 activities on behalf of or in connection with a tax-exempt
832 charitable organization;

833 (kk) To exercise such powers as may be reasonably
834 necessary to carry out the provisions of this section;



835 (11) To expend funds for the services of nonprofit arts
836 organizations or other such nonprofit organizations who provide
837 performances or other services for the students of the school
838 district;

839 (mm) To expend federal No Child Left Behind Act funds,
840 or any other available funds that are expressly designated and
841 authorized for that use, to pay training, educational expenses,
842 salary incentives and salary supplements to employees of local
843 school districts; except that incentives shall not be considered
844 part of the local supplement as defined in Section 37-151-5(o),
845 nor shall incentives be considered part of the local supplement
846 paid to an individual teacher for the purposes of Section
847 37-19-7(1). Mississippi Adequate Education Program funds or any
848 other state funds may not be used for salary incentives or salary
849 supplements as provided in this paragraph (mm);

850 (nn) To use any available funds, not appropriated or
851 designated for any other purpose, for reimbursement to the
852 state-licensed employees from both in state and out of state, who
853 enter into a contract for employment in a school district, for the
854 expense of moving when the employment necessitates the relocation
855 of the licensed employee to a different geographical area than
856 that in which the licensed employee resides before entering into
857 the contract. The reimbursement shall not exceed One Thousand
858 Dollars (\$1,000.00) for the documented actual expenses incurred in
859 the course of relocating, including the expense of any



860 professional moving company or persons employed to assist with the
861 move, rented moving vehicles or equipment, mileage in the amount
862 authorized for county and municipal employees under Section
863 25-3-41 if the licensed employee used his personal vehicle or
864 vehicles for the move, meals and such other expenses associated
865 with the relocation. No licensed employee may be reimbursed for
866 moving expenses under this section on more than one (1) occasion
867 by the same school district. Nothing in this section shall be
868 construed to require the actual residence to which the licensed
869 employee relocates to be within the boundaries of the school
870 district that has executed a contract for employment in order for
871 the licensed employee to be eligible for reimbursement for the
872 moving expenses. However, the licensed employee must relocate
873 within the boundaries of the State of Mississippi. Any individual
874 receiving relocation assistance through the Critical Teacher
875 Shortage Act as provided in Section 37-159-5 shall not be eligible
876 to receive additional relocation funds as authorized in this
877 paragraph;

878 (oo) To use any available funds, not appropriated or
879 designated for any other purpose, to reimburse persons who
880 interview for employment as a licensed employee with the district
881 for the mileage and other actual expenses incurred in the course
882 of travel to and from the interview at the rate authorized for
883 county and municipal employees under Section 25-3-41;



884 (pp) Consistent with the report of the Task Force to
885 Conduct a Best Financial Management Practices Review, to improve
886 school district management and use of resources and identify cost
887 savings as established in Section 8 of Chapter 610, Laws of 2002,
888 local school boards are encouraged to conduct independent reviews
889 of the management and efficiency of schools and school districts.
890 Such management and efficiency reviews shall provide state and
891 local officials and the public with the following:

- 892 (i) An assessment of a school district's
893 governance and organizational structure;
- 894 (ii) An assessment of the school district's
895 financial and personnel management;
- 896 (iii) An assessment of revenue levels and sources;
- 897 (iv) An assessment of facilities utilization,
898 planning and maintenance;
- 899 (v) An assessment of food services, transportation
900 and safety/security systems;
- 901 (vi) An assessment of instructional and
902 administrative technology;
- 903 (vii) A review of the instructional management and
904 the efficiency and effectiveness of existing instructional
905 programs; and
- 906 (viii) Recommended methods for increasing
907 efficiency and effectiveness in providing educational services to
908 the public;



909 (qq) To enter into agreements with other local school
910 boards for the establishment of an educational service agency
911 (ESA) to provide for the cooperative needs of the region in which
912 the school district is located, as provided in Section 37-7-345;

913 (rr) To implement a financial literacy program for
914 students in Grades 10 and 11. The board may review the national
915 programs and obtain free literature from various nationally
916 recognized programs. After review of the different programs, the
917 board may certify a program that is most appropriate for the
918 school districts' needs. If a district implements a financial
919 literacy program, then any student in Grade 10 or 11 may
920 participate in the program. The financial literacy program shall
921 include, but is not limited to, instruction in the same areas of
922 personal business and finance as required under Section
923 37-1-3(2) (b). The school board may coordinate with volunteer
924 teachers from local community organizations, including, but not
925 limited to, the following: United States Department of
926 Agriculture Rural Development, United States Department of Housing
927 and Urban Development, Junior Achievement, bankers and other
928 nonprofit organizations. Nothing in this paragraph shall be
929 construed as to require school boards to implement a financial
930 literacy program;

931 (ss) To collaborate with the State Board of Education,
932 Community Action Agencies or the Department of Human Services to
933 develop and implement a voluntary program to provide services for



934 a prekindergarten program that addresses the cognitive, social,
935 and emotional needs of four-year-old and three-year-old children.
936 The school board may utilize any source of available revenue to
937 fund the voluntary program. Effective with the 2013-2014 school
938 year, to implement voluntary prekindergarten programs under the
939 Early Learning Collaborative Act of 2013 pursuant to state funds
940 awarded by the State Department of Education on a matching basis;

941 (tt) With respect to any lawful, written obligation of
942 a school district, including, but not limited to, leases
943 (excluding leases of sixteenth section public school trust land),
944 bonds, notes, or other agreement, to agree in writing with the
945 obligee that the Department of Revenue or any state agency,
946 department or commission created under state law may:

947 (i) Withhold all or any part (as agreed by the
948 school board) of any monies which such local school board is
949 entitled to receive from time to time under any law and which is
950 in the possession of the Department of Revenue, or any state
951 agency, department or commission created under state law; and

952 (ii) Pay the same over to any financial
953 institution, trustee or other obligee, as directed in writing by
954 the school board, to satisfy all or part of such obligation of the
955 school district.

956 The school board may make such written agreement to withhold
957 and transfer funds irrevocable for the term of the written
958 obligation and may include in the written agreement any other



959 terms and provisions acceptable to the school board. If the
960 school board files a copy of such written agreement with the
961 Department of Revenue, or any state agency, department or
962 commission created under state law then the Department of Revenue
963 or any state agency, department or commission created under state
964 law shall immediately make the withholdings provided in such
965 agreement from the amounts due the local school board and shall
966 continue to pay the same over to such financial institution,
967 trustee or obligee for the term of the agreement.

968 This paragraph (tt) shall not grant any extra authority to a
969 school board to issue debt in any amount exceeding statutory
970 limitations on assessed value of taxable property within such
971 school district or the statutory limitations on debt maturities,
972 and shall not grant any extra authority to impose, levy or collect
973 a tax which is not otherwise expressly provided for, and shall not
974 be construed to apply to sixteenth section public school trust
975 land;

976 (uu) With respect to any matter or transaction that is
977 competitively bid by a school district, to accept from any bidder
978 as a good-faith deposit or bid bond or bid surety, the same type
979 of good-faith deposit or bid bond or bid surety that may be
980 accepted by the state or any other political subdivision on
981 similar competitively bid matters or transactions. This paragraph
982 (uu) shall not be construed to apply to sixteenth section public
983 school trust land. The school board may authorize the investment



984 of any school district funds in the same kind and manner of
985 investments, including pooled investments, as any other political
986 subdivision, including community hospitals;

987 (vv) To utilize the alternate method for the conveyance
988 or exchange of unused school buildings and/or land, reserving a
989 partial or other undivided interest in the property, as
990 specifically authorized and provided in Section 37-7-485;

991 (ww) To delegate, privatize or otherwise enter into a
992 contract with private entities for the operation of any and all
993 functions of nonacademic school process, procedures and operations
994 including, but not limited to, cafeteria workers, janitorial
995 services, transportation, professional development, achievement
996 and instructional consulting services materials and products,
997 purchasing cooperatives, insurance, business manager services,
998 auditing and accounting services, school safety/risk prevention,
999 data processing and student records, and other staff services;
1000 however, the authority under this paragraph does not apply to the
1001 leasing, management or operation of sixteenth section lands.

1002 Local school districts, working through their regional education
1003 service agency, are encouraged to enter into buying consortia with
1004 other member districts for the purposes of more efficient use of
1005 state resources as described in Section 37-7-345;

1006 (xx) To partner with entities, organizations and
1007 corporations for the purpose of benefiting the school district;



1008 (yy) To borrow funds from the Rural Economic
1009 Development Authority for the maintenance of school buildings;

1010 (zz) To fund and operate voluntary early childhood
1011 education programs, defined as programs for children less than
1012 five (5) years of age on or before September 1, and to use any
1013 source of revenue for such early childhood education programs.
1014 Such programs shall not conflict with the Early Learning
1015 Collaborative Act of 2013;

1016 (aaa) To issue and provide for the use of procurement
1017 cards by school board members, superintendents and licensed school
1018 personnel consistent with the rules and regulations of the
1019 Mississippi Department of Finance and Administration under Section
1020 31-7-9; and

1021 (bbb) To conduct an annual comprehensive evaluation of
1022 the superintendent of schools consistent with the assessment
1023 components of paragraph (pp) of this section and the assessment
1024 benchmarks established by the Mississippi School Board Association
1025 to evaluate the success the superintendent has attained in meeting
1026 district goals and objectives, the superintendent's leadership
1027 skill and whether or not the superintendent has established
1028 appropriate standards for performance, is monitoring success and
1029 is using data for improvement.

1030 **SECTION 12.** Section 37-13-171, Mississippi Code of 1972, is
1031 brought forward as follows:



1032 37-13-171. (1) The local school board of every public
1033 school district shall adopt a policy to implement abstinence-only
1034 or abstinence-plus education into its curriculum by June 30, 2012,
1035 which instruction in those subjects shall be implemented not later
1036 than the start of the 2012-2013 school year or the local school
1037 board shall adopt the program which has been developed by the
1038 Mississippi Department of Human Services and the Mississippi
1039 Department of Health. The State Department of Education shall
1040 approve each district's curriculum for sex-related education and
1041 shall establish a protocol to be used by districts to provide
1042 continuity in teaching the approved curriculum in a manner that is
1043 age, grade and developmentally appropriate.

1044 (2) Abstinence-only education shall remain the state
1045 standard for any sex-related education taught in the public
1046 schools. For purposes of this section, abstinence-only education
1047 includes any type of instruction or program which, at an
1048 appropriate age and grade:

1049 (a) Teaches the social, psychological and health gains
1050 to be realized by abstaining from sexual activity, and the likely
1051 negative psychological and physical effects of not abstaining;

1052 (b) Teaches the harmful consequences to the child, the
1053 child's parents and society that bearing children out of wedlock
1054 is likely to produce, including the health, educational, financial
1055 and other difficulties the child and his or her parents are likely



1056 to face, as well as the inappropriateness of the social and
1057 economic burden placed on others;

1058 (c) Teaches that unwanted sexual advances are
1059 irresponsible and teaches how to reject sexual advances and how
1060 alcohol and drug use increases vulnerability to sexual advances;

1061 (d) Teaches that abstinence from sexual activity before
1062 marriage, and fidelity within marriage, is the only certain way to
1063 avoid out-of-wedlock pregnancy, sexually transmitted diseases and
1064 related health problems. The instruction or program may include a
1065 discussion on condoms or contraceptives, but only if that
1066 discussion includes a factual presentation of the risks and
1067 failure rates of those contraceptives. In no case shall the
1068 instruction or program include any demonstration of how condoms or
1069 other contraceptives are applied;

1070 (e) Teaches the current state law related to sexual
1071 conduct, including forcible rape, statutory rape, paternity
1072 establishment, child support and homosexual activity; and

1073 (f) Teaches that a mutually faithful, monogamous
1074 relationship in the context of marriage is the only appropriate
1075 setting for sexual intercourse.

1076 (3) A program or instruction on sex-related education need
1077 not include every component listed in subsection (2) of this
1078 section for abstinence-only education. However, no program or
1079 instruction under an abstinence-only curriculum may include
1080 anything that contradicts the excluded components. For purposes



1081 of this section, abstinence-plus education includes every
1082 component listed under subsection (2) of this section that is age
1083 and grade appropriate, in addition to any other programmatic or
1084 instructional component approved by the department, which shall
1085 not include instruction and demonstrations on the application and
1086 use of condoms. Abstinence-plus education may discuss other
1087 contraceptives, the nature, causes and effects of sexually
1088 transmitted diseases, or the prevention of sexually transmitted
1089 diseases, including HIV/AIDS, along with a factual presentation of
1090 the risks and failure rates.

1091 (4) Any course containing sex-related education offered in
1092 the public schools shall include instruction in either
1093 abstinence-only or abstinence-plus education.

1094 (5) Local school districts, in their discretion, may host
1095 programs designed to teach parents how to discuss abstinence with
1096 their children.

1097 (6) There shall be no effort in either an abstinence-only or
1098 an abstinence-plus curriculum to teach that abortion can be used
1099 to prevent the birth of a baby.

1100 (7) At all times when sex-related education is discussed or
1101 taught, boys and girls shall be separated according to gender into
1102 different classrooms, sex-related education instruction may not be
1103 conducted when boys and girls are in the company of any students
1104 of the opposite gender.

1105 (8) This section shall stand repealed on July 1, 2024.



1106 **SECTION 13.** Section 43-21-105, Mississippi Code of 1972, is
1107 brought forward as follows:

1108 43-21-105. The following words and phrases, for purposes of
1109 this chapter, shall have the meanings ascribed herein unless the
1110 context clearly otherwise requires:

1111 (a) "Youth court" means the Youth Court Division.

1112 (b) "Judge" means the judge of the Youth Court
1113 Division.

1114 (c) "Designee" means any person that the judge appoints
1115 to perform a duty which this chapter requires to be done by the
1116 judge or his designee. The judge may not appoint a person who is
1117 involved in law enforcement or who is an employee of the
1118 Mississippi Department of Human Services or the Mississippi
1119 Department of Child Protection Services to be his designee.

1120 (d) "Child" and "youth" are synonymous, and each means
1121 a person who has not reached his eighteenth birthday. A child who
1122 has not reached his eighteenth birthday and is on active duty for
1123 a branch of the armed services or is married is not considered a
1124 "child" or "youth" for the purposes of this chapter.

1125 (e) "Parent" means the father or mother to whom the
1126 child has been born, or the father or mother by whom the child has
1127 been legally adopted.

1128 (f) "Guardian" means a court-appointed guardian of the
1129 person of a child.



1130 (g) "Custodian" means any person having the present
1131 care or custody of a child whether such person be a parent or
1132 otherwise.

1133 (h) "Legal custodian" means a court-appointed custodian
1134 of the child.

1135 (i) "Delinquent child" means a child who has reached
1136 his tenth birthday and who has committed a delinquent act.

1137 (j) "Delinquent act" is any act, which if committed by
1138 an adult, is designated as a crime under state or federal law, or
1139 municipal or county ordinance other than offenses punishable by
1140 life imprisonment or death. A delinquent act includes escape from
1141 lawful detention and violations of the Uniform Controlled
1142 Substances Law and violent behavior.

1143 (k) "Child in need of supervision" means a child who
1144 has reached his seventh birthday and is in need of treatment or
1145 rehabilitation because the child:

1146 (i) Is habitually disobedient of reasonable and
1147 lawful commands of his parent, guardian or custodian and is
1148 ungovernable; or

1149 (ii) While being required to attend school,
1150 willfully and habitually violates the rules thereof or willfully
1151 and habitually absents himself therefrom; or

1152 (iii) Runs away from home without good cause; or

1153 (iv) Has committed a delinquent act or acts.

1154 (l) "Neglected child" means a child:



1155 (i) Whose parent, guardian or custodian or any
1156 person responsible for his care or support, neglects or refuses,
1157 when able so to do, to provide for him proper and necessary care
1158 or support, or education as required by law, or medical, surgical,
1159 or other care necessary for his well-being; however, a parent who
1160 withholds medical treatment from any child who in good faith is
1161 under treatment by spiritual means alone through prayer in
1162 accordance with the tenets and practices of a recognized church or
1163 religious denomination by a duly accredited practitioner thereof
1164 shall not, for that reason alone, be considered to be neglectful
1165 under any provision of this chapter; or

1166 (ii) Who is otherwise without proper care,
1167 custody, supervision or support; or

1168 (iii) Who, for any reason, lacks the special care
1169 made necessary for him by reason of his mental condition, whether
1170 the mental condition is having mental illness or having an
1171 intellectual disability; or

1172 (iv) Who, for any reason, lacks the care necessary
1173 for his health, morals or well-being.

1174 (m) "Abused child" means a child whose parent, guardian
1175 or custodian or any person responsible for his care or support,
1176 whether legally obligated to do so or not, has caused or allowed
1177 to be caused, upon the child, sexual abuse, sexual exploitation,
1178 commercial sexual exploitation, emotional abuse, mental injury,
1179 nonaccidental physical injury or other maltreatment. However,



1180 physical discipline, including spanking, performed on a child by a
1181 parent, guardian or custodian in a reasonable manner shall not be
1182 deemed abuse under this section. "Abused child" also means a
1183 child who is or has been trafficked within the meaning of the
1184 Mississippi Human Trafficking Act by any person, without regard to
1185 the relationship of the person to the child.

1186 (n) "Sexual abuse" means obscene or pornographic
1187 photographing, filming or depiction of children for commercial
1188 purposes, or the rape, molestation, incest, prostitution or other
1189 such forms of sexual exploitation of children under circumstances
1190 which indicate that the child's health or welfare is harmed or
1191 threatened.

1192 (o) "A child in need of special care" means a child
1193 with any mental or physical illness that cannot be treated with
1194 the dispositional alternatives ordinarily available to the youth
1195 court.

1196 (p) A "dependent child" means any child who is not a
1197 child in need of supervision, a delinquent child, an abused child
1198 or a neglected child, and which child has been voluntarily placed
1199 in the custody of the Department of Child Protection Services by
1200 his parent, guardian or custodian.

1201 (q) "Custody" means the physical possession of the
1202 child by any person.

1203 (r) "Legal custody" means the legal status created by a
1204 court order which gives the legal custodian the responsibilities



1205 of physical possession of the child and the duty to provide him
1206 with food, shelter, education and reasonable medical care, all
1207 subject to residual rights and responsibilities of the parent or
1208 guardian of the person.

1209 (s) "Detention" means the care of children in
1210 physically restrictive facilities.

1211 (t) "Shelter" means care of children in physically
1212 nonrestrictive facilities.

1213 (u) "Records involving children" means any of the
1214 following from which the child can be identified:

1215 (i) All youth court records as defined in Section
1216 43-21-251;

1217 (ii) All forensic interviews conducted by a child
1218 advocacy center in abuse and neglect investigations;

1219 (iii) All law enforcement records as defined in
1220 Section 43-21-255;

1221 (iv) All agency records as defined in Section
1222 43-21-257; and

1223 (v) All other documents maintained by any
1224 representative of the state, county, municipality or other public
1225 agency insofar as they relate to the apprehension, custody,
1226 adjudication or disposition of a child who is the subject of a
1227 youth court cause.

1228 (v) "Any person responsible for care or support" means
1229 the person who is providing for the child at a given time. This



1230 term shall include, but is not limited to, stepparents, foster
1231 parents, relatives, nonlicensed babysitters or other similar
1232 persons responsible for a child and staff of residential care
1233 facilities and group homes that are licensed by the Department of
1234 Human Services or the Department of Child Protection Services.

1235 (w) The singular includes the plural, the plural the
1236 singular and the masculine the feminine when consistent with the
1237 intent of this chapter.

1238 (x) "Out-of-home" setting means the temporary
1239 supervision or care of children by the staff of licensed day care
1240 centers, the staff of public, private and state schools, the staff
1241 of juvenile detention facilities, the staff of unlicensed
1242 residential care facilities and group homes and the staff of, or
1243 individuals representing, churches, civic or social organizations.

1244 (y) "Durable legal custody" means the legal status
1245 created by a court order which gives the durable legal custodian
1246 the responsibilities of physical possession of the child and the
1247 duty to provide him with care, nurture, welfare, food, shelter,
1248 education and reasonable medical care. All these duties as
1249 enumerated are subject to the residual rights and responsibilities
1250 of the natural parent(s) or guardian(s) of the child or children.

1251 (z) "Status offense" means conduct subject to
1252 adjudication by the youth court that would not be a crime if
1253 committed by an adult.



1254 (aa) "Financially able" means a parent or child who is
1255 ineligible for a court-appointed attorney.

1256 (bb) "Assessment" means an individualized examination
1257 of a child to determine the child's psychosocial needs and
1258 problems, including the type and extent of any mental health,
1259 substance abuse or co-occurring mental health and substance abuse
1260 disorders and recommendations for treatment. The term includes,
1261 but is not limited to, a drug and alcohol, psychological or
1262 psychiatric evaluation, records review, clinical interview or the
1263 administration of a formal test and instrument.

1264 (cc) "Screening" means a process, with or without the
1265 administration of a formal instrument, that is designed to
1266 identify a child who is at increased risk of having mental health,
1267 substance abuse or co-occurring mental health and substance abuse
1268 disorders that warrant immediate attention, intervention or more
1269 comprehensive assessment.

1270 (dd) "Durable legal relative guardianship" means the
1271 legal status created by a youth court order that conveys the
1272 physical and legal custody of a child or children by durable legal
1273 guardianship to a relative or fictive kin who is licensed as a
1274 foster or resource parent.

1275 (ee) "Relative" means a person related to the child by
1276 affinity or consanguinity within the third degree.

1277 (ff) "Fictive kin" means a person not related to the
1278 child legally or biologically but who is considered a relative due



1279 to a significant, familial-like and ongoing relationship with the
1280 child and family.

1281 (gg) "Reasonable efforts" means the exercise of
1282 reasonable care and due diligence by the Department of Human
1283 Services, the Department of Child Protection Services, or any
1284 other appropriate entity or person to use appropriate and
1285 available services to prevent the unnecessary removal of the child
1286 from the home or provide other services related to meeting the
1287 needs of the child and the parents.

1288 (hh) "Commercial sexual exploitation" means any sexual
1289 act or crime of a sexual nature, which is committed against a
1290 child for financial or economic gain, to obtain a thing of value
1291 for quid pro quo exchange of property or for any other purpose.

1292 **SECTION 14.** This act shall take effect and be in force from
1293 and after July 1, 2023.

