

By: Representative Gunn

To: Judiciary B

HOUSE BILL NO. 1489

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



35 REQUEST; TO STIPULATE THE LIMITATIONS PLACED UPON PERSONS,
36 CORPORATIONS, ASSOCIATIONS, ORGANIZATIONS, STATE SUPPORTED
37 INSTITUTIONS OR INDIVIDUALS EMPLOYED BY ANY OF THESE ENTITIES TO
38 PROVIDE ANY MEDICAL OR MENTAL HEALTH SERVICE OR PROCEDURE ON A
39 CHILD WITHOUT FIRST OBTAINING THE CONSENT OF THE CHILD'S PARENT,
40 EXCEPT AS OTHERWISE PROVIDED BY LAW OR COURT ORDER; TO PRESCRIBE
41 EXCEPTIONS TO THE LIMITATION WHEN PARENTAL CONSENT IS NOT CAPABLE
42 OF BEING GIVEN OR IN EMERGENCY SITUATIONS WHEN IMMINENT BODILY
43 HARM OR DEATH COULD RESULT; TO SPECIFY THE MANNER BY WHICH
44 PARENTAL CONSENT MUST BE VERIFIED IF TELEMEDICINE IS PROVIDED; TO
45 ESTABLISH A CAUSE OF ACTION FOR VIOLATION OF THIS ACT; TO PROVIDE
46 THAT THIS ACT SHALL SERVE AS A DEFENSE TO ANY CAUSE OF ACTION THAT
47 IS RAISED AS A RESULT OF A VIOLATION THEREOF; TO PROVIDE THAT THE
48 RULES OF CONSTRUCTION SHALL PROVIDE BROAD PROTECTION OF A PARENT'S
49 FUNDAMENTAL RIGHTS AS INALIENABLE UNLESS THOSE RIGHTS HAVE BEEN
50 LEGALLY WAIVED OR LEGALLY TERMINATED; TO PROVIDE FOR SEVERABILITY
51 IF ANY PART OF THIS ACT IS HELD INVALID; TO AMEND SECTION 37-3-49,
52 MISSISSIPPI CODE OF 1972, TO PROVIDE THE PARENT OF EACH PUBLIC
53 SCHOOL STUDENT WITH THE RIGHT TO RECEIVE EFFECTIVE COMMUNICATION
54 FROM THE SCHOOL PRINCIPAL AS TO THE MANNER IN WHICH INSTRUCTIONAL
55 MATERIALS ARE USED TO IMPLEMENT THE SCHOOL'S CURRICULAR
56 OBJECTIVES; TO AMEND SECTION 37-13-173, MISSISSIPPI CODE OF 1972,
57 TO PROVIDE PARENTS THE AUTHORITY TO OPT THEIR CHILDREN OUT OF ANY
58 INSTRUCTION OF THE SCHOOL DISTRICT'S COMPREHENSIVE HEALTH
59 EDUCATION RELATING TO SEX EDUCATION UPON SUBMITTING A WRITTEN
60 REQUEST TO THE SCHOOL PRINCIPAL; TO AMEND SECTION 37-15-3,
61 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT STUDENT AND PARENTAL
62 RIGHTS TO EDUCATION RECORDS CREATED, MAINTAINED, OR USED BY PUBLIC
63 EDUCATIONAL INSTITUTIONS AND AGENCIES SHALL BE PROTECTED; TO
64 STIPULATE THAT STUDENTS AND THEIR PARENTS MAINTAIN THE RIGHT TO
65 ACCESS THE STUDENT'S EDUCATIONAL RECORDS, WAIVE ACCESS TO SUCH
66 RECORDS, CHALLENGE THE CONTENT OF SUCH RECORDS, PRIVACY OF SUCH
67 RECORDS AND TO RECEIVE ANNUAL NOTICE OF THE RIGHTS TO SUCH
68 RECORDS; TO BRING FORWARD SECTION 43-21-105, MISSISSIPPI CODE OF
69 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED
70 PURPOSES.

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

72 **SECTION 1.** This act shall be known and may be cited as the
73 "Families' Rights and Responsibilities Act of 2023."

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



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

81 (b) "Curriculum" includes all textbooks, reading
82 materials, handouts, videos, presentations, digital materials,
83 websites, online applications, digital applications for a phone,
84 laptop or tablet, questionnaires, surveys, or other written or
85 electronic materials that have been or will be assigned,
86 distributed or otherwise presented physically or virtually to
87 students in a class or course.

88 (c) "Educational records" includes attendance records,
89 test scores of school-administered tests and state-wide
90 assessments, grades, extracurricular activity or club
91 participation, e-mail accounts, online or virtual accounts or
92 data, disciplinary records, counseling records, psychological
93 records, applications for admission, health and immunization
94 information including any medical records maintained by a health
95 clinic or medical facility operated or controlled by the school
96 district or located on district property, teacher and counselor
97 evaluations, and reports of behavioral patterns.

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



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

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

112 (1) The liberty of a parent to direct the upbringing,
113 education, health care and mental health of that parent's child is
114 a fundamental right.

115 (2) Except as otherwise provided by statute, this state, any
116 political subdivision of this state or any other governmental
117 entity shall not substantially burden the fundamental right of a
118 parent to direct the upbringing, education, health care and mental
119 health of that parent's child without demonstrating that the
120 burden is required by a compelling governmental interest of the
121 highest order as applied to the parent and the child and is the
122 least restrictive means of furthering that compelling governmental
123 interest.

124 **SECTION 4. Rights and Responsibilities.**

125 (1) All parental rights are exclusively reserved to a parent
126 of a child without obstruction by or interference from this state,



127 any political subdivision of this state, any other governmental
128 entity or any other institution, including without limitation, the
129 following rights and responsibilities:

130 (a) To direct the education of the child, including the
131 right to choose public, private, religious or home schools, and
132 the right to make reasonable choices within public schools for the
133 education of the child;

134 (b) To access and review all written and electronic
135 educational records relating to the child that are controlled by
136 or in the possession of a school;

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

138 (d) To direct the moral or religious training of the
139 child;

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

142 (f) To access and review all health and medical records
143 of the child;

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

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

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



152 (i) A court proceeding;

153 (ii) A law enforcement investigation;

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

156 (iv) The security or surveillance of buildings or
157 grounds; or

158 (v) A photo identification card;

159 (j) To be notified promptly if an employee of this
160 state, any political subdivision of this state, any other
161 governmental entity or any other institution suspects that abuse,
162 neglect or any criminal offense has been committed against the
163 child;

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

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

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

174 (2) This section does not authorize or allow a parent to
175 abuse or neglect a child as defined in Section 43-21-105. This
176 section does not apply to a parental action or decision that would



177 end life. This section does not prohibit a court from issuing an
178 order that is otherwise permitted by law.

179 (3) No employee of this state, any political subdivision of
180 this state, or any other governmental entity, except for law
181 enforcement personnel, shall encourage or coerce a child to
182 withhold information from the child's parent. Nor shall any such
183 employee withhold from a child's parent information that is
184 relevant to the physical, emotional or mental health of the child.

185 **SECTION 5. Educational Involvement.**

186 (1) The board of education of a school district, in
187 consultation with parents, teachers and administrators, shall
188 develop and adopt a policy to promote the involvement of parents
189 of children enrolled in the schools within the school district,
190 including:

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

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

197 (i) Review a syllabus for each class or course
198 that the parent's child is enrolled in at least seven (7) days
199 before the start of each class or course. The syllabus shall
200 include a written description of all topics and subjects taught in
201 a class or course, and shall include a list of all curriculum used



202 in the class or course, the identity of all individuals providing
203 in-person or live remote instruction in the class or course, and a
204 description of any assemblies, guest lectures, field trips or
205 other educational activities that are part of the class or course;

206 (ii) Review all curriculum for each class or
207 course offered by the school and any teacher training materials at
208 least three (3) days before the curriculum or materials being
209 taught or used for instruction is presented to students;

210 (iii) Copy and record information from the
211 curriculum and teacher training materials; and

212 (iv) Meet with the teacher of the class or course,
213 the principal, or other representative from the school to discuss
214 the curriculum and teaching training materials.

215 (c) Procedures to notify a parent at least three (3)
216 days in advance and obtain the parent's written consent before the
217 parent's child attends any instruction or presentation that has
218 the goal or purpose of studying, exploring or informing students
219 about gender roles or stereotypes, gender identity, gender
220 expression, sexual orientation or romantic or sexual
221 relationships;

222 (d) Procedures by which a parent who objects to any
223 specific instruction or presentation on the basis that it is
224 harmful may withdraw that parent's child from the instruction or
225 presentation. Objection to a specific instruction or presentation
226 on the basis that it is harmful includes, but is not limited to,



227 objection to a material or activity because it questions beliefs
228 or practices regarding sex, morality or religion;

229 (e) Procedures by which a parent may learn about the
230 nature and purpose of clubs and extracurricular activities that
231 have been approved by the school and may withdraw that parent's
232 child from any club or extracurricular to which the parent
233 objects;

234 (f) Procedures by which a parent must provide written
235 consent before their child uses a name or nickname other than
236 their legal name, or before a child uses a pronoun that does not
237 align with the child's sex. However, even if a parent provides
238 written consent, no person shall be compelled to use pronouns that
239 do not align with the child's sex; and

240 (g) Procedures by which a parent may learn about
241 parental rights and responsibilities under the laws of this state.

242 (2) The board of education of a school district may adopt a
243 policy to provide to parents the information required by this
244 section in an electronic form.

245 (3) A parent shall submit a written or electronic request
246 for information pursuant to this section to either the school
247 principal or the superintendent of the school district. Within
248 ten (10) days of receiving the request for information, the school
249 principal or the superintendent shall either deliver the requested
250 information to the parent or submit to the parent a written
251 explanation of the reasons for the denial of the requested



252 information. If the request for information is denied or the
253 parent does not receive the requested information within fifteen
254 (15) days after submitting the request for information, the parent
255 may submit a written request for the information to the board of
256 education of the school district, which shall formally consider
257 the request at the next scheduled public meeting of the board if
258 the request can be properly noticed on the agenda. If the request
259 cannot be properly noticed on the agenda, the board of education
260 shall formally consider the request at the next subsequent public
261 meeting of the board.

262 **SECTION 6. Medical and Mental Health Care.**

263 (1) Except as otherwise provided by law or court order, a
264 person, corporation, association, organization, state-supported
265 institution or individual employed by any of these entities must
266 obtain the consent of a parent of a child before taking any of the
267 following actions:

268 (a) Procuring, soliciting to perform, arranging for the
269 performance of, providing a referral for, or performing surgical
270 procedures upon a child;

271 (b) Procuring, soliciting to perform, arranging for the
272 performance of, providing a referral for, or performing a physical
273 examination upon a child;

274 (c) Prescribing or dispensing any medication or
275 prescription drugs to a child; or



276 (d) Procuring, soliciting to perform, arranging for the
277 performance of, providing a referral for, or performing a mental
278 health evaluation in a clinical or nonclinical setting, or mental
279 health treatment on a child.

280 (2) If the parental consent pursuant to subsection (1) is
281 given through telemedicine, the person or entity obtaining
282 parental consent must verify the identity of the parent at the
283 site where the consent is given.

284 (3) The provisions of this section shall not apply when it
285 has been determined by a physician that:

286 (a) An emergency exists; and

287 (b) Either of the following conditions is true:

288 (i) It is necessary to perform an activity listed
289 in subsection (1) in order to prevent death or imminent
290 irreparable physical injury to the child; or

291 (ii) A parent of the child cannot be located or
292 contacted after a reasonably diligent effort.

293 (4) The provisions of this section do not apply to an
294 abortion, which shall be governed by Chapter 41, Title 41,
295 Mississippi Code of 1972, nor shall this section apply to any
296 services or treatments provided to facilitate gender transition or
297 the performance of gender transition procedures as defined in
298 Section 2, House Bill 1125, 2023 Regular Session.

299 **SECTION 7. Cause of Action.**



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

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

309 (3) Any person who successfully asserts a claim or defense
310 under this act may recover declaratory relief, injunctive relief,
311 compensatory damages, reasonable attorneys' fees and costs, and
312 any other appropriate relief.

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

316 **SECTION 8. Rules of Construction.**

317 (1) Unless those rights have been legally waived or legally
318 terminated, parents have inalienable rights that are more
319 comprehensive than those listed in this section. The protections
320 of the fundamental right of parents to direct the upbringing,
321 education, health care and mental health of their child afforded
322 by this act are in addition to the protections provided under
323 federal law, state law, and the state and federal constitutions.



324 (2) This act shall be construed in favor of a broad
325 protection of the fundamental right of parents to direct the
326 upbringing, education, health care and mental health of their
327 child.

328 (3) Nothing in this act shall be construed to authorize any
329 government to burden the fundamental right of parents to direct
330 the upbringing, education, health care and mental health of their
331 child.

332 (4) If a child has no affirmative right of access to a
333 particular medical or mental health procedure or service, then
334 nothing in this act shall be construed to grant that child's
335 parent an affirmative right of access to that procedure or service
336 on that child's behalf.

337 (5) State statutory law adopted after the date of the
338 enactment of this act is subject to this act unless such law
339 explicitly excludes such application by reference to this act.

340 **SECTION 9. Severability Clause.**

341 If any provision of this act or its application to any person
342 or circumstances is held invalid, the invalidity does not affect
343 other provisions or applications of this act which can be given
344 effect without the invalid provision or application, and to this
345 end, the provisions of this act are severable.

346 **SECTION 10.** Section 37-3-49, Mississippi Code of 1972, is
347 amended as follows:



348 37-3-49. (1) The State Department of Education shall
349 provide an instructional program and establish guidelines and
350 procedures for managing such program in the public schools within
351 the school districts throughout the state as part of the State
352 Program of Educational Accountability and Assessment of
353 Performance as prescribed in Section 37-3-46. Public school
354 districts may (a) elect to adopt the instructional program and
355 management system provided by the State Department of Education,
356 or (b) elect to adopt an instructional program and management
357 system which meets or exceeds criteria established by the State
358 Department of Education for such. This provision shall begin with
359 the courses taught in Grades K-8 which contain skills tested
360 through the Mississippi Basic Skills Assessment Program and shall
361 proceed through all secondary school courses mandated for
362 graduation and all secondary school courses in the Mississippi
363 end-of-course testing program. Other state core objectives must
364 be included in the district's instructional program as they are
365 provided by the State Department of Education along with
366 instructional practices, resources, evaluation items and
367 management procedures. Districts are encouraged to adapt this
368 program and accompanying procedures to all other instructional
369 areas. The department shall provide that such program and
370 guidelines, or a program and guidelines developed by a local
371 school district which incorporates the core objectives from the
372 curriculum structure are enforced through the performance-based



373 accreditation system. It is the intent of the Legislature that
374 every effort be made to protect the instructional time in the
375 classroom and reduce the amount of paperwork which must be
376 completed by teachers. The State Department of Education shall
377 take steps to insure that school districts properly use staff
378 development time to work on the districts' instructional
379 management plans.

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

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

389 (b) The local school board must adopt the objectives
390 that will form the core curriculum which will be systematically
391 delivered throughout the district.

392 (c) The set of objectives provided by the State
393 Department of Education must be accompanied by suggested
394 instructional practices and resources that would help teachers
395 organize instruction so as to promote student learning of the
396 objectives. Objectives added by the school district must also be
397 accompanied by suggested instructional practices and resources



398 that would help teachers organize instruction. The instructional
399 practices and resources that are identified are to be used as
400 suggestions and not as requirements that teachers must follow.
401 The goal of the program is to have students to achieve the desired
402 objective and not to limit teachers in the way they teach.

403 (d) Standards for student performance must be
404 established for each core objective in the local program and those
405 standards establish the district's definition of mastery for each
406 objective.

407 (e) There shall be an annual review of student
408 performance in the instructional program against locally
409 established standards. When weaknesses exist in the local
410 instructional program, the district shall take action to improve
411 student performance.

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

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

421 (* * *5) This section shall not be construed to limit
422 teachers from using their own professional skills to help students



423 master instructional objectives, nor shall it be construed as a
424 call for more detailed or complex lesson plans or any increase in
425 testing at the local school district level.

426 (* * *6) Districts meeting the highest levels of
427 accreditation standards, as defined by the State Board of
428 Education, shall be exempted from the provisions of subsection (2)
429 of this section.

430 **SECTION 11.** Section 37-13-173, Mississippi Code of 1972, is
431 amended as follows:

432 37-13-173. (1) Each school providing instruction or any
433 other presentation on human sexuality in the classroom, assembly
434 or other official setting shall be required to provide no less
435 than * * * three (3) days' written notice thereof to the parents
436 of children in such programs of instruction. The written notice
437 must inform the parents of their right to request the inclusion of
438 their child for such instruction or presentation. The notice also
439 must inform the parents of the right, and the appropriate process,
440 to review the curriculum and all materials to be used in the
441 lesson or presentation.

442 (2) Upon the written request of any parent or legal guardian
443 to the school principal to exempt his or her child from the
444 teaching of reproductive health or any disease, including
445 HIV/AIDS, in accordance with the provisions of Section 37-13-171,
446 the school shall excuse the parent's child from such instruction
447 or presentation, without detriment to the student.



448 **SECTION 12.** Section 37-15-3, Mississippi Code of 1972, is
449 amended as follows:

450 37-15-3. (1) * * * The cumulative folders as are provided
451 for in Section 37-15-1 shall be kept in the school wherein the
452 pupils are in attendance. Both the permanent records and the
453 cumulative folders shall be available to school officials,
454 including teachers within the school district who have been
455 determined by the school district to have legitimate educational
456 interests. In no case, however, shall such records be available
457 to the general public.

458 (2) The rights of students and their parents or legal
459 guardians with respect to education records created, maintained,
460 or used by public educational institutions and agencies shall be
461 protected. Transcripts of courses and grades may be furnished
462 when requested by the parent or guardian or eligible pupil as
463 prescribed in the Family Educational Rights and Privacy Act of
464 1974, as amended, 20 USCS Section 1232g, the implementing
465 regulations issued pursuant thereto, and this section, provided
466 the following:

467 (a) Students and their parents shall have the right to
468 access their education records, including the right to inspect and
469 review those records;

470 (b) Students and their parents shall have the right to
471 waive their access to their education records in certain
472 circumstances;



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

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

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

481 (3) * * * The records shall be kept for each pupil
482 throughout his entire public school enrollment period. In the
483 event a pupil transfers to a public school, including a charter
484 school, then the cumulative folder shall be furnished to the head
485 of the school to which the pupil transfers; if a pupil transfers
486 to a private school, then a copy of the cumulative folder shall be
487 furnished to the head of the school to which the pupil transfers.
488 The permanent record shall be kept permanently by the school
489 district from which the pupil transferred.

490 (4) At no time may a permanent record of a student be
491 destroyed, but cumulative folders may be destroyed by order of the
492 school board of the school district in not less than five (5)
493 years after the permanent record of the pupil has become inactive
494 and has been transferred to the central depository of the
495 district. * * * However, * * * where a school district makes
496 complete copies of inactive permanent records on photographic
497 film, microfilm * * * or any other acceptable form of medium for



498 storage which may be reproduced as needed, * * * those permanent
499 records may be destroyed after the photographic film or microfilm
500 copy has been stored in the central depository of the district.

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

503 43-21-105. The following words and phrases, for purposes of
504 this chapter, shall have the meanings ascribed herein unless the
505 context clearly otherwise requires:

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

507 (b) "Judge" means the judge of the Youth Court
508 Division.

509 (c) "Designee" means any person that the judge appoints
510 to perform a duty which this chapter requires to be done by the
511 judge or his designee. The judge may not appoint a person who is
512 involved in law enforcement or who is an employee of the
513 Mississippi Department of Human Services or the Mississippi
514 Department of Child Protection Services to be his designee.

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

520 (e) "Parent" means the father or mother to whom the
521 child has been born, or the father or mother by whom the child has
522 been legally adopted.



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

525 (g) "Custodian" means any person having the present
526 care or custody of a child whether such person be a parent or
527 otherwise.

528 (h) "Legal custodian" means a court-appointed custodian
529 of the child.

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

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

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

541 (i) Is habitually disobedient of reasonable and
542 lawful commands of his parent, guardian or custodian and is
543 ungovernable; or

544 (ii) While being required to attend school,
545 willfully and habitually violates the rules thereof or willfully
546 and habitually absents himself therefrom; or

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



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

549 (1) "Neglected child" means a child:

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

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

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

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

569 (m) "Abused child" means a child whose parent, guardian
570 or custodian or any person responsible for his care or support,
571 whether legally obligated to do so or not, has caused or allowed
572 to be caused, upon the child, sexual abuse, sexual exploitation,



573 commercial sexual exploitation, emotional abuse, mental injury,
574 nonaccidental physical injury or other maltreatment. However,
575 physical discipline, including spanking, performed on a child by a
576 parent, guardian or custodian in a reasonable manner shall not be
577 deemed abuse under this section. "Abused child" also means a
578 child who is or has been trafficked within the meaning of the
579 Mississippi Human Trafficking Act by any person, without regard to
580 the relationship of the person to the child.

581 (n) "Sexual abuse" means obscene or pornographic
582 photographing, filming or depiction of children for commercial
583 purposes, or the rape, molestation, incest, prostitution or other
584 such forms of sexual exploitation of children under circumstances
585 which indicate that the child's health or welfare is harmed or
586 threatened.

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

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

596 (q) "Custody" means the physical possession of the
597 child by any person.



598 (r) "Legal custody" means the legal status created by a
599 court order which gives the legal custodian the responsibilities
600 of physical possession of the child and the duty to provide him
601 with food, shelter, education and reasonable medical care, all
602 subject to residual rights and responsibilities of the parent or
603 guardian of the person.

604 (s) "Detention" means the care of children in
605 physically restrictive facilities.

606 (t) "Shelter" means care of children in physically
607 nonrestrictive facilities.

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

610 (i) All youth court records as defined in Section
611 43-21-251;

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

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

616 (iv) All agency records as defined in Section
617 43-21-257; and

618 (v) All other documents maintained by any
619 representative of the state, county, municipality or other public
620 agency insofar as they relate to the apprehension, custody,
621 adjudication or disposition of a child who is the subject of a
622 youth court cause.



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

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

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

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



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

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

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

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

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



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

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

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

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

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

