

By: Senator(s) Hill

To: Education

SENATE BILL NO. 2763

1 AN ACT TO ENACT THE "FAMILIES' RIGHTS AND RESPONSIBILITIES  
2 ACT"; TO PROVIDE THAT THE LIBERTY OF A PARENT TO DIRECT THE  
3 UPBRINGING, EDUCATION, HEALTH CARE AND MENTAL HEALTH OF THAT  
4 PARENT'S CHILD SHALL BE A FUNDAMENTAL RIGHT; TO PROVIDE THAT THE  
5 STATE, ANY POLITICAL SUBDIVISION OF THIS STATE OR ANY OTHER  
6 GOVERNMENTAL ENTITY SHALL NOT SUBSTANTIALLY BURDEN THE FUNDAMENTAL  
7 RIGHT OF A PARENT TO DIRECT THE UPBRINGING, EDUCATION, HEALTH CARE  
8 AND MENTAL HEALTH OF THAT PARENT'S CHILD WITHOUT DEMONSTRATING  
9 THAT THE BURDEN IS REQUIRED BY A COMPELLING GOVERNMENTAL INTEREST  
10 OF THE HIGHEST ORDER AS APPLIED TO THE PARENT AND THE CHILD AND IS  
11 THE LEAST RESTRICTIVE MEANS OF FURTHERING THAT COMPELLING  
12 GOVERNMENTAL INTEREST; TO PROVIDE SPECIFIC RIGHTS AND  
13 RESPONSIBILITIES OF PARENTS; TO SET STANDARDS FOR THE EDUCATIONAL  
14 INVOLVEMENT FOR PARENTS IN SCHOOL DISTRICTS; TO PROVIDE THAT A  
15 PERSON, CORPORATION, ASSOCIATION, ORGANIZATION, STATE-SUPPORTED  
16 INSTITUTION OR INDIVIDUAL EMPLOYED BY ANY OF THESE ENTITIES SHALL  
17 OBTAIN THE CONSENT OF A PARENT OF A CHILD BEFORE TAKING ANY  
18 SPECIFIC MEDICAL CARE; TO PROVIDE A CAUSE OF ACTION FOR ANY  
19 VIOLATION OF THE ACT; TO PROVIDE THAT PARENTS HAVE INALIENABLE  
20 RIGHTS THAT ARE MORE COMPREHENSIVE THAN THOSE LISTED IN THIS ACT;  
21 AND FOR RELATED PURPOSES.

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

23 **SECTION 1. Title.** This Act shall be known and may be cited  
24 as the "Families' Rights and Responsibilities Act."

25 **SECTION 2. Definitions.** For purposes of this act, the  
26 following terms shall have the meanings ascribed herein:



27 (a) "Child" means an individual under the age of  
28 eighteen.

29 (b) "Parent" means a biological parent of a child, an  
30 adoptive parent of a child, or an individual who has been granted  
31 exclusive right and authority over the welfare of a child under  
32 state law.

33 (c) "Substantial burden" means any action that directly  
34 or indirectly constrains, inhibits, curtails or denies the right  
35 of a parent to direct the upbringing, education, health care and  
36 mental health of that parent's child or compels any action  
37 contrary to the right of a parent to direct the upbringing,  
38 education, health care and mental health of that parent's child.  
39 This term shall include but is not limited to, withholding  
40 benefits, assessing criminal, civil or administrative penalties or  
41 damages, or exclusion from governmental programs.

42 **SECTION 3. Parental rights are fundamental.**

43 (1) The liberty of a parent to direct the upbringing,  
44 education, health care and mental health of that parent's child  
45 shall be a fundamental right.

46 (2) This state, any political subdivision of this state or  
47 any other governmental entity shall not substantially burden the  
48 fundamental right of a parent to direct the upbringing, education,  
49 health care and mental health of that parent's child without  
50 demonstrating that the burden is required by a compelling  
51 governmental interest of the highest order as applied to the



52 parent and the child and is the least restrictive means of  
53 furthering that compelling governmental interest.

54 **SECTION 4. Rights and responsibilities.**

55 (1) All parental rights shall be exclusively reserved to a  
56 parent of a child without obstruction by or interference from this  
57 state, any political subdivision of this state, any other  
58 governmental entity or any other institution, including  
59 without limitation, the following rights and responsibilities:

60 (a) To direct the education of the child, including the  
61 right to choose public, private, religious or home schools, and  
62 the right to make reasonable choices within public schools for the  
63 education of the child;

64 (b) To access and review all school records relating to  
65 the child;

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

67 (d) To direct the moral or religious training of the  
68 child;

69 (e) To make and consent in writing to all physical and  
70 mental healthcare decisions for the child;

71 (f) To access and review all medical records of the  
72 child;

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



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

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

81 (i) A court proceeding;

82 (ii) A law enforcement investigation;

83 (iii) A forensic interview in a criminal or  
84 Mississippi Department of Child Protection Services investigation;

85 (iv) The security or surveillance of buildings or  
86 grounds; or

87 (v) A photo identification card;

88 (j) To be notified promptly if an employee of this  
89 state, any political subdivision of this state, any other  
90 governmental entity or any other institution suspects that abuse,  
91 neglect or any criminal offense has been committed against the  
92 child by someone other than a parent, unless the incident has  
93 first been reported to law enforcement and notification of the  
94 parent would impede a law enforcement or Mississippi Department of  
95 Child Protection Services investigation.

96 (2) This section does not authorize or allow a parent to  
97 abuse or neglect a child as defined in Section 97-5-39. This  
98 section does not apply to a parental action or decision that would



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

101 (3) No employee of this state, any political subdivision of  
102 this state or any other governmental entity, except for law  
103 enforcement personnel, shall encourage or coerce a child to  
104 withhold information from the child's parent. Nor shall any such  
105 employee withhold from a child's parent information that is  
106 relevant to the physical, emotional or mental health of the child.  
107 Such conduct shall be grounds for discipline of the employee, in  
108 addition to any other remedies provided to a parent under this  
109 Act.

110 **SECTION 5. Educational Involvement.**

111 (1) The board of education of a school district, in  
112 consultation with parents, teachers and administrators, shall  
113 develop and adopt a policy to promote the involvement of parents  
114 of children enrolled in the schools within the school district,  
115 including:

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

119 (b) Procedures by which a parent may learn about the  
120 course of study for that parent's child and review all educational  
121 and learning materials, including the source of any supplemental  
122 educational materials;



123           (c) Procedures by which a parent who objects to any  
124 specific instruction or presentation on the basis that it is  
125 harmful may withdraw that parent's child from the instruction or  
126 presentation. Objection to a specific instruction or presentation  
127 on the basis that it is harmful includes, but it is not limited  
128 to, objection to a material or activity because it questions  
129 beliefs or practices regarding sex, morality or religion;

130           (d) Procedures to notify a parent in advance and obtain  
131 the parent's written consent before the parent's child attends any  
132 instruction or presentation containing sexual educational content  
133 or any instruction or presentation that has the goal or purpose of  
134 studying, exploring or informing students about gender roles or  
135 stereotypes, gender identity, gender expression, sexual  
136 orientation or romantic or sexual relationships;

137           (e) Procedures by which a parent may learn about the  
138 nature and purpose of clubs and extracurricular activities that  
139 have been approved by the school and may withdraw that parent's  
140 child from any club or extracurricular to which the parent  
141 objects; and

142           (f) Procedures by which a parent may learn about  
143 parental rights and responsibilities under the laws of this state.

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



147 (3) A parent shall submit a written or electronic request  
148 for information pursuant to this section to either the school  
149 principal or the superintendent of the school district. Within  
150 ten (10) days of receiving the request for information, the school  
151 principal or the superintendent shall either deliver the requested  
152 information to the parent or submit to the parent a written  
153 explanation of the reasons for the denial of the requested  
154 information. If the request for information is denied or the  
155 parent does not receive the requested information within fifteen  
156 (15) days after submitting the request for information, the  
157 parent may submit a written request for the information to the  
158 board of education of the school district, which shall formally  
159 consider the request at the next scheduled public meeting of the  
160 board if the request can be properly noticed on the agenda. If  
161 the request cannot be properly noticed on the agenda, the board of  
162 education shall formally consider the request at the next  
163 subsequent public meeting of the board.

164 **SECTION 6. Medical Care.**

165 (1) Except as otherwise provided by law or court order, a  
166 person, corporation, association, organization, state-supported  
167 institution or individual employed by any of these entities shall  
168 obtain the consent of a parent of a child before taking any of the  
169 following actions:



170 (a) Procuring, soliciting to perform, arranging for the  
171 performance of, providing a referral for or performing surgical  
172 procedures upon a child;

173 (b) Procuring, soliciting to perform, arranging for the  
174 performance of, providing a referral for or performing a physical  
175 examination upon a child;

176 (c) Prescribing or dispensing any medication or  
177 prescription drugs to a child; or

178 (d) Procuring, soliciting to perform, arranging for the  
179 performance of, providing a referral for or performing a mental  
180 health evaluation in a clinical or nonclinical setting or mental  
181 health treatment on a child.

182 (2) If the parental consent pursuant to Subsection (1) of  
183 this section is given through telemedicine, the person or entity  
184 obtaining parental consent must verify the identity of the parent  
185 at the site where the consent is given.

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

188 (a) An emergency exists; and

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

190 (i) It is necessary to perform an activity listed  
191 in Subsection (1) of this section in order to prevent death or  
192 imminent, irreparable physical injury to the child, or

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





195 (4) The provisions of this section shall not apply to a  
196 performance of abortions upon minors, which shall be governed by  
197 Sections 41-41-51 through 41-41-63.

198 **SECTION 7. Cause of Action.**

199 (1) A parent may bring suit for any violation of this Act  
200 and may raise the Act as a defense in any judicial or  
201 administrative proceeding without regard to whether the proceeding  
202 is brought by or in the name of the State government, any private  
203 person or any other party.

204 (2) Notwithstanding any other provision of law, an action  
205 under this Act may be commenced, and relief may be granted,  
206 without regard to whether the person commencing the action has  
207 sought or exhausted available administrative remedies.

208 (3) Any person who successfully asserts a claim or defense  
209 under this Act may recover declaratory relief, injunctive relief,  
210 compensatory damages, reasonable attorneys' fees and costs and any  
211 other appropriate relief.

212 (4) Sovereign, governmental and qualified immunities to suit  
213 and from liability are waived and abolished to the extent of  
214 liability created by this Act.

215 **SECTION 8. Rules of Construction.**

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



220 education, health care and mental health of their child afforded  
221 by this Act are in addition to the protections provided under  
222 Federal law, State law, and the State and Federal constitutions.

223 (2) This Act shall be construed in favor of a broad  
224 protection of the fundamental right of parents to direct the  
225 upbringing, education, health care and mental health of their  
226 child.

227 (3) Nothing in this Act shall be construed to authorize any  
228 government to burden the fundamental right of parents to direct  
229 the upbringing, education, health care and mental health of their  
230 child.

231 (4) If a child has no affirmative right of access to a  
232 particular medical treatment, then nothing in this Act shall be  
233 construed to grant that child's parent an affirmative right of  
234 access to that treatment on that child's behalf.

235 **SECTION 9.** This act shall take effect and be in force from  
236 and after July 1, 2023.

