

By: Senator(s) Hill, Seymour, Chism

To: Education

SENATE BILL NO. 2765

1 AN ACT ENTITLED THE "MISSISSIPPI FAMILIES' RIGHTS AND
2 RESPONSIBILITIES ACT"; TO PROVIDE DEFINITIONS; TO PROVIDE THAT ALL
3 PARENTAL RIGHTS ARE EXCLUSIVELY RESERVED TO A PARENT OF A CHILD
4 WITHOUT INTERFERENCE FROM THE STATE OR POLITICAL SUBDIVISION OF
5 THE STATE; TO PROVIDE THAT THE LOCAL SCHOOL BOARD IN CONSULTATION
6 WITH PARENTS AND TEACHERS SHALL DEVELOP AND ADOPT A POLICY TO
7 PROMOTE THE INVOLVEMENT OF PARENTS OF CHILDREN ENROLLED IN THE
8 PUBLIC SCHOOLS; TO REQUIRE PUBLIC SCHOOLS TO ADOPT PROCEDURES TO
9 ENSURE THAT A PARENT PROVIDES WRITTEN PERMISSION BEFORE THEIR
10 CHILD PARTICIPATES IN IDENTITY CURRICULUM OR CRITICAL THEORY
11 CURRICULUM AND ALLOW PARENTS TO EXEMPT THEIR CHILD FROM ANY
12 SPECIFIC LESSONS THAT ARE OBJECTIONABLE TO THE FAMILY; TO REQUIRE
13 PARENTAL CONSENT FOR MEDICAL AND MENTAL HEALTH CARE; TO PROVIDE A
14 CAUSE OF ACTION FOR VIOLATIONS OF THIS ACT; TO PROVIDE RULES OF
15 CONSTRUCTION; TO AMEND SECTION 37-13-9, MISSISSIPPI CODE OF 1972,
16 IN CONFORMITY; TO BRING FORWARD SECTIONS 41-41-3, 41-41-7 AND
17 41-41-11, MISSISSIPPI CODE OF 1972, RELATING TO IMPLIED CONSENT
18 FOR MEDICAL PROCEDURES ON MINORS; AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** This act shall be known and may be cited as the
21 "Mississippi Families' Rights and Responsibilities Act."

22 **SECTION 2.** As used in this act:

23 (a) The term "child" means an individual under the age
24 of eighteen (18).

25 (b) The term "curriculum" includes all textbooks,
26 reading materials, handouts, videos, presentations, digital



materials, websites, online applications, digital applications for a phone, laptop, or tablet, questionnaires, surveys, or other written or electronic materials that have been or will be assigned, distributed, or otherwise presented physically or virtually to students in a class or course.

(c) The term "identity curriculum" means curriculum that has the goal or purpose of studying, exploring, or informing students about gender roles or stereotypes, gender identity, gender expression, sexual orientation, or romantic or sexual relationships.

(d) The term "critical theory curriculum" means curriculum that discusses any of the following concepts:

(i) The United States or the State of Mississippi is fundamentally, inherently, or irredeemably racist, sexist, oppressive or discriminatory;

(ii) An individual, by virtue of sex, race, ethnicity, religion, color or national origin, is inherently racist, sexist, oppressive or discriminatory whether consciously or unconsciously;

(iii) An individual, by virtue of sex, race, ethnicity, religion, color or national origin, should be blamed or held responsible for actions committed in the past by other members of the individual's sex, race, ethnicity, religion, color or national origin;



(iv) An individual's moral character is necessarily determined, in whole or in part, by the individual's sex, race, ethnicity, religion, color or national origin;

(v) An individual should feel guilt, blame, discomfort, anguish, or any other form of psychological distress on account of the individual's sex, race, ethnicity, religion, color or national origin; or

(vi) Any individual, by virtue of sex, race, ethnicity, religion, color or national origin, is marginalized as perpetually victimized or unable to advance in society due to being victimized, marginalized, or oppressed by others.

(e) The term "educational records" includes attendance records, test scores of school-administered tests and state-wide assessments, grades, extracurricular activity or club participation, email accounts, online or virtual accounts or data, disciplinary records, counseling records, psychological records, applications for admission, health and immunization information, including any medical records maintained by a health clinic or medical facility operated or controlled by the school district or located on district property, teacher and counselor evaluations, and reports of behavioral patterns.

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



(g) The term "substantial burden" means any action that directly or indirectly constrains, inhibits, curtails, or denies the right of a parent to direct the upbringing, education, health care, and mental health of that parent's child or compels any action contrary to the right of a parent to direct the upbringing, education, health care, and mental health of that parent's child. It includes, but is not limited to, withholding benefits, assessing criminal, civil, or administrative penalties or damages, or exclusion from governmental programs.

(h) The term "teacher-training materials" means any presentations, videos, professional development classes, or other educational or training activities, including any written or electronic materials used or distributed in the activities, that a teacher is required to attend by a public school.

SECTION 3. **Parental rights are fundamental.** (1) The liberty of a parent to direct the upbringing, education, health care, and mental health of that parent's child is a fundamental right.

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



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

SECTION 4. Rights and responsibilities. (1) All parental
rights are exclusively reserved to a parent of a child without
obstruction by or interference from this state, any political
subdivision of this state, any other governmental entity, or any
other institution, including, without limitation, the following
rights and responsibilities:

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

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

- (i) Attendance records;
- (ii) Test scores of school-administered tests and
state-wide assessments;
- (iii) Grades;
- (iv) Extracurricular activity or club
participation;
- (v) Their child's email accounts;
- (vi) Their child's online or virtual accounts or
data;



125 (vii) Disciplinary records;
126 (viii) Counseling records;
127 (ix) Psychological records;
128 (x) Applications for admission;
129 (xi) Health and immunization information,
130 including any medical records maintained by a health clinic or
131 medical facility operated or controlled by the school district or
132 located on district property;
133 (xii) Teacher and counselor evaluations; and
134 (xiii) Reports of behavioral patterns;
135 (c) To direct the upbringing of the child;
136 (d) To direct the moral or religious training of the
137 child;
138 (e) To make and consent in writing to all physical and
139 mental health care decisions for the child;
140 (f) To access and review all health and medical records
141 of the child;
142 (g) To consent in writing before a biometric scan of
143 the child is made, shared, or stored;
144 (h) To consent in writing before any record of the
145 child's blood or deoxyribonucleic acid (DNA) is created, stored,
146 or shared, unless authorized pursuant to a court order;
147 (i) To consent in writing before any governmental
148 entity makes a video or voice recording of the child, unless the
149 video or voice recording is made during or as a part of:



(i) A court proceeding;

(ii) A law enforcement investigation;

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

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

(v) A photo identification card;

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

(k) To opt the child out of any personal analysis, evaluation, survey, or data collection by a school district that would capture data for inclusion in the State Longitudinal Student Data System except what is necessary and essential for establish a student' educational record;

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

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

(2) This section does not authorize or allow a parent to abuse or neglect a child as defined in Sections 97-5-39 and 43-21-105, Mississippi Code of 1972. This section does not apply



to a parental action or decision that would end life. This section does not prohibit a court from issuing an order that is otherwise permitted by law.

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

SECTION 5. Educational involvement. (1) The board of education of a school district, in consultation with parents, teachers and administrators, shall develop and adopt a policy to promote the involvement of parents of children enrolled in the schools within the school district, including:

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

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

(i) Review a syllabus, all curriculum, and all teacher-training materials for each class or course that the parent's child is enrolled in at least seven (7) days prior to the



start of each class or course. The syllabus shall include a written description of all topics and subjects taught in a class or course, and shall include a list of all curriculum used in the class or course, the identity of all individuals providing in-person or live remote instruction in the class or course, and a description of any assemblies, guest lectures, field trips or other educational activities that are part of the class or course;

(ii) Review all curriculum added after the start of a class or course after at least three (3) days prior to the curriculum being taught or used for instruction;

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

(iv) Meet with the teacher of the class or course, the principal, or other representative from the school to discuss the curriculum and teacher-training materials;

(c) Procedures to notify a parent at least three (3) days in advance and obtain the parent's written consent before the parent's child attends any instruction or presentation that has the goal or purpose of studying, exploring, or informing students about gender roles or stereotypes, gender identity, gender expression, sexual orientation, romantic or sexual relationships, or critical theory curriculum. For any child who does not attend any instruction or presentation pursuant to this subsection, the school:



224 (i) Shall provide to the child alternative
225 educational instruction that furthers the completion of any grade
226 level or graduation requirements and does not include any of the
227 objectionable content; and

228 (ii) Shall not impose an academic or other penalty
229 upon the child;

230 (d) Procedures by which a parent who objects to any
231 specific instruction or presentation on the basis that it is
232 harmful may withdraw that parent's child from the instruction or
233 presentation. Objection to a specific instruction or presentation
234 on the basis that it is harmful includes, but it is not limited
235 to, objection to a material or activity because it questions
236 beliefs or practices regarding sex, morality, or religion;

237 (e) Procedures by which a parent may learn about the
238 nature and purpose of clubs and extracurricular activities that
239 have been approved by the school and may withdraw that parent's
240 child from any club or extracurricular to which the parent
241 objects;

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



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

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

(3) A parent shall submit a written or electronic request for information pursuant to this section to either the school principal or the superintendent of the school district. Within five (5) days of receiving the request for information, the school principal or the superintendent shall either deliver the requested information to the parent or submit to the parent a written explanation of the reasons for the denial of the requested information. If the request for information is denied or the parent does not receive the requested information in the allotted time, the parent may submit a written request for the information to the board of education of the school district, which shall formally consider the request during executive session at the next meeting of the board.

SECTION 6. Medical and mental health care. (1) Except as otherwise provided by law or court order, a person, corporation, association, organization, state-supported institution, or individual employed by any of these entities must obtain the consent of a parent of a child before taking any of the following actions:



272 (a) Procuring, soliciting to perform, arranging for the
273 performance of, providing a referral for, or performing surgical
274 procedures upon a child;

275 (b) Procuring, soliciting to perform, arranging for the
276 performance of, providing a referral for, or performing a physical
277 examination upon a child;

278 (c) Prescribing or dispensing any medication or
279 prescription drugs to a child; or

280 (d) Procuring, soliciting to perform, arranging for the
281 performance of, providing a referral for, or performing a mental
282 health evaluation in a clinical or nonclinical setting or mental
283 health treatment on a child.

284 (2) If the parental consent pursuant to subsection (1) of
285 this section is given through telemedicine, the person or entity
286 obtaining parental consent must verify the identity of the parent
287 at the site where the consent is given.

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

290 (a) An emergency exists; and

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

292 (i) It is necessary to perform an activity listed
293 in subsection (1) of this section in order to prevent death or
294 imminent, irreparable physical injury to the child; or

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



(4) The provisions of this section do not apply to an abortion, which shall be governed by Section 41-41-51 et seq., Mississippi Code of 1972.

SECTION 7. Cause of action. (1) A parent may bring suit for any violation of this act and may raise the act as a defense in any judicial or administrative proceeding without regard to whether the proceeding is brought by or in the name of the state government, any private person, or any other party.

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

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

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

SECTION 8. Rules of construction. (1) Unless those rights have been legally waived or legally terminated, parents have inalienable rights that are more comprehensive than those listed in this section. The protections of the fundamental right of parents to direct the upbringing, education, health care and mental health of their child afforded by this act are in addition



to the protections provided under federal law, state law, and the state and federal constitutions.

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

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

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

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

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

37-13-9. The State Board of Education is hereby authorized to appoint a curriculum committee, composed of professional and lay members, not to exceed seven (7) in number, to make a continuous study of the curriculum of the public schools and to make recommendations to the State Board of Education from time to



time as to changes which should be made in the curriculum in the grammar school grades and in the high school grades. On or before July 1, 2023, and annually thereafter, the curriculum committee shall develop a report to the State Board of Education and the Legislature relating to the compliance of each public school district and school in the state with the provisions of the "Mississippi Families' Rights and Responsibilities Act" with recommendations to the Commission on School Accreditation regarding the continued accreditation of each school district and school based on compliance with said act. The members of such committee as of July 1, 1954, shall continue to serve until the expiration of the terms for which they were appointed; thereafter, the members of such committee shall be appointed and serve for a term of two (2) years and until their successors are appointed. Each member of said committee shall receive a per diem of Fifteen Dollars (\$15.00) for each day actually spent attending the meetings of the committee and, in addition, each member shall be reimbursed for actual travel expenses at the rate of Six Cents (\$.06) per mile for each mile traveled in attending the meetings of the committee. However, the total amount paid to any member of the committee for per diem shall not exceed the sum of One Hundred Fifty Dollars (\$150.00) in any one (1) year. The per diem and travel expenses provided for herein shall be paid out of such appropriation as may be made for such purpose by the Legislature.



SECTION 10. Section 41-41-3, Mississippi Code of 1972, is brought forward as follows:

41-41-3. (1) It is hereby recognized and established that, in addition to such other persons as may be so authorized and empowered, any one (1) of the following persons who is reasonably available, in descending order of priority, is authorized and empowered to consent on behalf of an unemancipated minor, either orally or otherwise, to any surgical or medical treatment or procedures not prohibited by law which may be suggested, recommended, prescribed or directed by a duly licensed physician:

(a) The minor's guardian or custodian.

(b) The minor's parent.

(c) An adult brother or sister of the minor.

(d) The minor's grandparent.

(2) If none of the individuals eligible to act under subsection (1) is reasonably available, an adult who has exhibited special care and concern for the minor and who is reasonably available may act; the adult shall communicate the assumption of authority as promptly as practicable to the individuals specified in subsection (1) who can be readily contacted.

(3) Any female, regardless of age or marital status, is empowered to give consent for herself in connection with pregnancy or childbirth.

SECTION 11. Section 41-41-7, Mississippi Code of 1972, is brought forward as follows:



41-41-7. In addition to any other instances in which a consent is excused or implied at law, a consent to surgical or medical treatment or procedures, suggested, recommended, prescribed or directed by a duly licensed physician, will be implied where an emergency exists if there has been no protest or refusal of consent by a person authorized and empowered to consent or, if so, there has been a subsequent change in the condition of the person affected that is material and morbid, and there is no one immediately available who is authorized, empowered, willing and capacitated to consent. For the purposes hereof, an emergency is defined as a situation wherein, in competent medical judgment, the proposed surgical or medical treatment or procedures are immediately or imminently necessary and any delay occasioned by an attempt to obtain a consent would reasonably jeopardize the life, health or limb of the person affected, or would reasonably result in disfigurement or impairment of faculties.

SECTION 12. Section 41-41-11, Mississippi Code of 1972, is brought forward as follows:

41-41-11. Any person authorized and empowered to consent to surgical or medical treatment or procedures for himself or another may also waive the medical privilege for himself or the other person and consent to the disclosure of medical information and the making and delivery of copies of medical or hospital records. Any such waiver or consent shall survive the death of the person giving the same. No such waiver shall be needed for the



421 cooperation with the furnishing of information to the State
422 Department of Health, its representatives or employees in the
423 discharge of their official duties. However, the State Department
424 of Health shall not reveal the name of a patient with his case
425 history without having first been authorized to do so by the
426 patient, his personal representative, or legal heirs in case there
427 be no personal representative.

428 **SECTION 13.** This act shall take effect and be in force from
429 and after July 1, 2023.

