

By: Senator(s) Parker

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2474

1 AN ACT TO CREATE THE MISSISSIPPI WHISTLEBLOWER REWARD ACT; TO
 2 PROVIDE FOR DEFINITIONS; TO PROVIDE THAT WHEN A WHISTLEBLOWER
 3 PROVIDES ORIGINAL INFORMATION AND SUBSTANTIAL EVIDENCE OF THE
 4 THEFT OR MISUSE OF GOVERNMENT FUNDS OR PROPERTY TO THE DEPARTMENT,
 5 AND THAT EVIDENCE LEADS TO THE SUCCESSFUL RECOVERY OF FUNDS BY THE
 6 DEPARTMENT, THEN THE STATE OF MISSISSIPPI, THROUGH THE DEPARTMENT
 7 OF AUDIT, SHALL PAY SUCH WHISTLEBLOWER 15% OF THE PROCEEDS OF THE
 8 RECOVERY; TO PROVIDE HOW THE POTENTIAL REWARD SHALL BE RECOVERED;
 9 TO PROVIDE THAT ADDITIONALLY, THE COST INCURRED BY THE DEPARTMENT
 10 WITH ANY VENDOR WHOSE SERVICES WERE DEEMED NECESSARY BY THE
 11 DEPARTMENT TO FULLY INVESTIGATE SHALL ALSO BE RECOVERED; TO
 12 PROVIDE THAT THE IDENTITY OF THE WHISTLEBLOWER SHALL REMAIN
 13 CONFIDENTIAL EXCEPT IN CERTAIN SITUATIONS; TO PROVIDE THAT
 14 COMMUNICATIONS BETWEEN THE DEPARTMENT OF AUDIT AND THE
 15 WHISTLEBLOWER SHALL BE EXEMPT FROM THE MISSISSIPPI PUBLIC RECORDS
 16 ACT; TO AMEND SECTION 25-61-12, MISSISSIPPI CODE OF 1972, TO
 17 CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** (1) This section shall be known and may be cited
 20 as the "Mississippi Whistleblower Reward Act."

21 (2) As used in this section, the following words shall have
 22 the meaning as defined in this section, unless the context clearly
 23 indicates otherwise:



24 (a) "Original information" means allegations not
25 previously known by the Department of Audit and unlikely to have
26 been discovered otherwise.

27 (b) "Substantial evidence" means personal knowledge and
28 documentation beyond a mere allegation.

29 (c) "Successful recovery of funds" means an action
30 taken by the Department of Audit which leads to the recovery of
31 public funds.

32 (d) "Department" means the Mississippi Department of
33 Audit.

34 (e) "Whistleblower" means one (1) person or one or more
35 persons together who:

36 (i) Provide original information and substantial
37 evidence that leads to a successful recovery of funds;

38 (ii) Cooperate continuously according to policies
39 promulgated by the Department of Audit;

40 (iii) Has not knowingly participated in the fraud;

41 (iv) Is not an employee of the Department of Audit
42 at the time the fraud was discovered or reported; and

43 (v) Is not the elected official or supervisor in
44 charge of the department where the fraud is discovered. State,
45 county and municipal officials shall not be included in the
46 definition of "whistleblower".

47 (3) (a) When a whistleblower provides original information
48 and substantial evidence of the theft or misuse of government



49 funds or property to the department, and that evidence leads to
50 the successful recovery of funds by the department, then the State
51 of Mississippi, through the Department of Audit, shall pay such
52 whistleblower fifteen percent (15%) of the proceeds of the
53 recovery.

54 (b) If two (2) or more persons together act as
55 whistleblowers, the fifteen percent (15%) reward shall be
56 disbursed in equal, pro rata shares. In no event shall the reward
57 paid to any such person or group of persons in relation to any
58 recovery exceed fifteen percent (15%) of the proceeds of such
59 recovery.

60 (c) The reward shall be recovered in the following
61 manner:

62 (i) From the person or persons liable for such
63 amounts and upon the surety on official bond thereof, and/or

64 (ii) From any individual, partnership, corporation
65 or association to whom the illegal expenditure was made or with
66 whom the unlawful disposition of public property was made, if such
67 individual, partnership, corporation or association knew or had
68 reason to know through the exercising of reasonable diligence that
69 the expenditure was illegal or the disposition unlawful, as
70 provided in Section 7-7-211(g).

71 (d) Additionally, there shall be recovered in all
72 cases, in the same manner, from the parties listed above, the cost
73 incurred by the department with any vendor whose services were



74 deemed necessary by the department to fully investigate any theft
75 or misuse of government funds or property, regardless of
76 whether a reward is payable to a whistleblower.

77 (e) If, after an investigation by the department, the
78 entity against which the theft or misuse of government funds or
79 property was committed is repaid directly by the employee, surety
80 bond, insurance policy, or other payor, that entity shall return
81 fifteen percent (15%) of the funds to the Mississippi Department
82 of Audit Exception Clearing Account, the whistleblower shall be
83 paid from such account.

84 (4) (a) The identity of a whistleblower shall remain
85 confidential and not admissible in a court of law, unless:

86 (i) A judge determines after an in-camera review
87 that such information is necessary for a criminal defendant to
88 receive a fair trial;

89 (ii) A judge determines such information contains
90 evidence that is exculpatory to a criminal defendant; or

91 (iii) The state or federal constitution requires
92 the disclosure of the whistleblower's identity.

93 (b) Communications between the department and a
94 whistleblower, including documents or tangible items provided or
95 exchanged, are exempt confidential investigative reports for
96 purposes of the Mississippi Public Records Act.



97 (5) This section shall only apply to whistleblowers who
98 submit evidence to the department after the effective date of this
99 act. The section shall not retroactively apply to whistleblower
100 information received before the effective date of this act.

101 **SECTION 2.** Section 25-61-12, Mississippi Code of 1972, is
102 amended as follows:

103 25-61-12. (1) The home address, any telephone number of a
104 privately paid account or other private information of any law
105 enforcement officer, criminal investigator, judge or district
106 attorney, or the spouse or child of the law enforcement officer,
107 criminal investigator, judge or district attorney, shall be exempt
108 from the Mississippi Public Records Act of 1983. This exemption
109 does not apply to any court transcript or recording if given under
110 oath and not otherwise excluded by law.

111 (2) (a) When in the possession of a law enforcement agency,
112 investigative reports shall be exempt from the provisions of this
113 chapter; however, a law enforcement agency, in its discretion, may
114 choose to make public all or any part of any investigative report.

115 (b) Nothing in this chapter shall be construed to
116 prevent any and all public bodies from having among themselves a
117 free flow of information for the purpose of achieving a
118 coordinated and effective detection and investigation of unlawful
119 activity. Where the confidentiality of records covered by this
120 section is being determined in a private hearing before a judge
121 under Section 25-61-13, the public body may redact or separate



122 from the records the identity of confidential informants or the
123 identity of the person or persons under investigation or other
124 information other than the nature of the incident, time, date and
125 location.

126 (c) Nothing in this chapter shall be construed to
127 exempt from public disclosure a law enforcement incident report.
128 An incident report shall be a public record. A law enforcement
129 agency may release information in addition to the information
130 contained in the incident report.

131 (d) Nothing in this chapter shall be construed to
132 require the disclosure of information that would reveal the
133 identity of the victim.

134 (3) Personal information of victims, including victim impact
135 statements and letters of support on behalf of victims that are
136 contained in records on file with the Mississippi Department of
137 Corrections and State Parole Board, shall be exempt from the
138 provisions of this chapter.

139 (4) Records of a public hospital board relating to the
140 purchase or sale of medical or other practices or other business
141 operations, and the recruitment of physicians and other health
142 care professionals, shall be exempt from the provisions of this
143 chapter.

144 (5) Communications between the Department of Audit and a
145 whistleblower, including documents or tangible items provided or
146 exchanged, shall be exempt from the provisions of this chapter.



147 **SECTION 3.** This act shall take effect and be in force from
148 and after July 1, 2024.

