

By: Representative Owen

To: Judiciary A

## HOUSE BILL NO. 1516

1 AN ACT TO ESTABLISH THE "PARENTS' BILL OF RIGHTS ACT"; TO  
2 DEFINE TERMINOLOGY USED HEREIN; TO ESTABLISH THAT A PARENT'S  
3 LIBERTY TO DIRECT THE UPBRINGING, EDUCATION, HEALTH CARE AND  
4 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



REQUEST; TO ESTABLISH A CAUSE OF ACTION FOR VIOLATION OF THIS ACT;  
TO PROVIDE THAT THIS ACT SHALL SERVE AS A DEFENSE TO ANY CAUSE OF  
ACTION THAT IS RAISED AS A RESULT OF A VIOLATION THEREOF; TO  
PROVIDE THAT THE RULES OF CONSTRUCTION SHALL PROVIDE BROAD  
PROTECTION OF A PARENT'S FUNDAMENTAL RIGHTS AS INALIENABLE UNLESS  
THOSE RIGHTS HAVE BEEN LEGALLY WAIVED OR LEGALLY TERMINATED; TO  
BRING FORWARD SECTIONS 37-3-49, 37-13-173, 37-15-3, 37-7-301,  
37-13-171 AND 43-21-105, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF  
POSSIBLE AMENDMENTS; AND FOR RELATED PURPOSES.

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

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

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

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

(b) "Curriculum" includes all textbooks, 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) "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,



65 disciplinary records, counseling records, psychological records,  
66 applications for admission, health and immunization information  
67 including any medical records maintained by a health clinic or  
68 medical facility operated or controlled by the school district or  
69 located on district property, teacher and counselor evaluations,  
70 and reports of behavioral patterns.

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

75 (e) "Sex" means biological sex based on chromosomal  
76 structure and anatomy at birth.

77 (f) "Substantial burden" means any action that directly  
78 or indirectly constrains, inhibits, curtails, or denies the right  
79 of a parent to direct the upbringing, education, health care and  
80 mental health of that parent's child, or compels any action  
81 contrary to the right of a parent to direct the upbringing,  
82 education, health care and mental health of that parent's child.  
83 The term includes, but is not limited to, withholding benefits,  
84 assessing criminal, civil or administrative penalties or damages,  
85 or exclusion from governmental assistance programs.

86 (g) "Syllabus" means a written description of all  
87 topics and subjects taught in a class or course, and shall include  
88 a list of all curriculum used in the class or course, the identity  
89 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.

(h) "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 Legislature finds that parents have a liberty interest, more precious than any property interest, in the care, custody and management of their children and that these parental rights are a matter of fundamental constitutional significance. These rights include, but are not limited to, the liberty of parents to direct the upbringing, education, health care, and mental health of that parent's child. The Legislature further finds that important information relating to a child should not be withheld, either inadvertently or purposefully, from his or her parent, including information relating to the child's health, well-being, and education, while the child is in the custody of the school district or charter school. The Legislature further finds it is necessary to establish a consistent mechanism for parents to be notified of information relating to the health and well-being of their children.



(2) This state, any political subdivision of this state, any other governmental entity, any governing body, or any officer, employee or agent thereof 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 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 substantial burden 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:

- (i) Attendance records;
- (ii) Test scores of school-administered tests and state-wide assessments;



139 (iii) Grades;  
140 (iv) Extracurricular activity or club  
141 participation;  
142 (v) Their child's email accounts;  
143 (vi) Their child's online or virtual accounts or  
144 data;  
145 (vii) Disciplinary records;  
146 (viii) Counseling records;  
147 (ix) Psychological records;  
148 (x) Applications for admission;  
149 (xi) Health and immunization information,  
150 including any medical records maintained by a health clinic or  
151 medical facility operated or controlled by the school district or  
152 located on district property;  
153 (xii) Teacher and counselor evaluations; and  
154 (xiii) Reports of behavioral patterns.  
155 (c) To direct the upbringing of the child;  
156 (d) To direct the moral or religious training of the  
157 child;  
158 (e) To make and consent in writing to all physical and  
159 mental health care decisions for the child;  
160 (f) To access and review all health and medical records  
161 of the child;  
162 (g) To consent in writing before a biometric scan of  
163 the child is made, shared or stored;



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

(i) To consent in writing before any governmental entity makes a video or voice recording of the child, unless the 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 Protection 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. This paragraph does not create any new obligation for school districts and charter schools to report misconduct between students at school, such as fighting or aggressive play, which is routinely addressed pursuant to school disciplinary procedures;

(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



188 data system except what is necessary and essential to establish a  
189 student's educational record;

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

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

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

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

198 (b) Apply to a parental action or decision that would  
199 end life;

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

202 (d) Prohibit a judge or officer of a court of competent  
203 jurisdiction, law enforcement or any agent of the Department of  
204 Child Protective Services from acting within his or her official  
205 capacity within the reasonable and prudent scope of his or her  
206 authority.

207 (3) No employee of this state, any political subdivision of  
208 this state, or any other governmental entity, except for law  
209 enforcement personnel, shall encourage or coerce a child to  
210 withhold information from the child's parent. Nor shall any such  
211 employee withhold from a child's parent information that is  
212 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.

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

**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 for each class or course that the parent's child is enrolled in at least seven (7) days before the start of each class or course;

(ii) Review all curriculum for each class or course offered by the school and any teacher training materials at least three (3) days before the curriculum or materials being



taught or used for instruction is presented to students in a  
format that conspicuously identifies the added curriculum;

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

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

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

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

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



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

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

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

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

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

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



287 (b) Permit a child to use a bathroom, locker room,  
288 changing facilities, or overnight lodging accommodations that does  
289 not align with that child's sex, nor require a school district or  
290 charter school to allow or otherwise adopt a policy to permit a  
291 child to use bathrooms, locker rooms, changing facilities, or  
292 overnight lodging accommodations reserved for the opposite sex; or

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

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

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

302 (5) A parent shall submit a written or electronic request  
303 for information pursuant to this section to either the school  
304 principal or the superintendent of the school district. Within  
305 five (5) business days of receiving the request for information,  
306 the school principal or the superintendent shall either deliver  
307 the requested information to the parent or submit to the parent a  
308 written explanation of the reasons for the denial of the requested  
309 information. If the request for information is denied or the  
310 parent does not receive the requested information within the  
311 allotted five (5) business days, the parent may submit a written



request for the information to the governing board of the school district or charter school, which shall formally consider and rule on the request during executive session at the next meeting of the board. If it is too late for a parent's request on the agenda of the next meeting, such request must be included on the agenda of the subsequent meeting of the governing board.

(6) If aggrieved by the decision of the governing board of the school district or charter school, a parent may appeal such decision to the chancery court of the county in which the school district or charter school is located.

**SECTION 6. 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 to prevent or remedy a violation of this act or the effects of such violation, compensatory damages, reasonable attorneys' fees and costs, and any other appropriate relief.



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

**SECTION 7. 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 rights 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) Any provision of this act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable, and shall not affect the remainder hereof or the application of such provision to other, dissimilar circumstances.

**SECTION 8.** Section 37-3-49, Mississippi Code of 1972, is brought forward as follows:

37-3-49. (1) The State Department of Education shall provide an instructional program and establish guidelines and procedures for managing such program in the public schools within the school districts throughout the state as part of the State Program of Educational Accountability and Assessment of Performance as prescribed in Section 37-3-46. Public school districts may (a) elect to adopt the instructional program and management system provided by the State Department of Education, or (b) elect to adopt an instructional program and management system which meets or exceeds criteria established by the State Department of Education for such. This provision shall begin with the courses taught in Grades K-8 which contain skills tested through the Mississippi Basic Skills Assessment Program and shall proceed through all secondary school courses mandated for graduation and all secondary school courses in the Mississippi



386 end-of-course testing program. Other state core objectives must  
387 be included in the district's instructional program as they are  
388 provided by the State Department of Education along with  
389 instructional practices, resources, evaluation items and  
390 management procedures. Districts are encouraged to adapt this  
391 program and accompanying procedures to all other instructional  
392 areas. The department shall provide that such program and  
393 guidelines, or a program and guidelines developed by a local  
394 school district which incorporates the core objectives from the  
395 curriculum structure are enforced through the performance-based  
396 accreditation system. It is the intent of the Legislature that  
397 every effort be made to protect the instructional time in the  
398 classroom and reduce the amount of paperwork which must be  
399 completed by teachers. The State Department of Education shall  
400 take steps to insure that school districts properly use staff  
401 development time to work on the districts' instructional  
402 management plans.

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

406 (a) All courses taught in Grades K-8 which contain  
407 skills which are tested through the Mississippi Basic Skills  
408 Assessment Program, all secondary school courses mandated for  
409 graduation, and all courses in the end-of-course testing program





410 shall include the State Department of Education's written list of  
411 learning objectives.

412 (b) The local school board must adopt the objectives  
413 that will form the core curriculum which will be systematically  
414 delivered throughout the district.

415 (c) The set of objectives provided by the State  
416 Department of Education must be accompanied by suggested  
417 instructional practices and resources that would help teachers  
418 organize instruction so as to promote student learning of the  
419 objectives. Objectives added by the school district must also be  
420 accompanied by suggested instructional practices and resources  
421 that would help teachers organize instruction. The instructional  
422 practices and resources that are identified are to be used as  
423 suggestions and not as requirements that teachers must follow.  
424 The goal of the program is to have students to achieve the desired  
425 objective and not to limit teachers in the way they teach.

426 (d) Standards for student performance must be  
427 established for each core objective in the local program and those  
428 standards establish the district's definition of mastery for each  
429 objective.

430 (e) There shall be an annual review of student  
431 performance in the instructional program against locally  
432 established standards. When weaknesses exist in the local  
433 instructional program, the district shall take action to improve  
434 student performance.



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

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

(5) Districts meeting the highest levels of accreditation standards, as defined by the State Board of Education, shall be exempted from the provisions of subsection (2) of this section.

**SECTION 9.** Section 37-7-301, Mississippi Code of 1972, is brought forward as follows:

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

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

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



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

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

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

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

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



484           (h) To exclude from the schools students with what  
485 appears to be infectious or contagious diseases; provided,  
486 however, such student may be allowed to return to school upon  
487 presenting a certificate from a public health officer, duly  
488 licensed physician or nurse practitioner that the student is free  
489 from such disease;

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

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

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

497           (l) To prescribe and enforce rules and regulations not  
498 inconsistent with law or with the regulations of the State Board  
499 of Education for their own government and for the government of  
500 the schools, and to transact their business at regular and special  
501 meetings called and held in the manner provided by law;

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

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

507           (o) To make orders directed to the superintendent of  
508 schools for the issuance of pay certificates for lawful purposes



on any available funds of the district and to have full control of the receipt, distribution, allotment and disbursement of all funds provided for the support and operation of the schools of such school district whether such funds be derived from state appropriations, local ad valorem tax collections, or otherwise. The local school board shall be authorized and empowered to promulgate rules and regulations that specify the types of claims and set limits of the dollar amount for payment of claims by the superintendent of schools to be ratified by the board at the next regularly scheduled meeting after payment has been made;

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

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

(r) To join, in their discretion, any association of school boards and other public school-related organizations, and to pay from local funds other than total funding formula funds, any membership dues;

(s) To expend local school activity funds, or other available school district funds, other than total funding formula funds, for the purposes prescribed under this paragraph.

"Activity funds" shall mean all funds received by school officials



534 in all school districts paid or collected to participate in any  
535 school activity, such activity being part of the school program  
536 and partially financed with public funds or supplemented by public  
537 funds. The term "activity funds" shall not include any funds  
538 raised and/or expended by any organization unless commingled in a  
539 bank account with existing activity funds, regardless of whether  
540 the funds were raised by school employees or received by school  
541 employees during school hours or using school facilities, and  
542 regardless of whether a school employee exercises influence over  
543 the expenditure or disposition of such funds. Organizations shall  
544 not be required to make any payment to any school for the use of  
545 any school facility if, in the discretion of the local school  
546 governing board, the organization's function shall be deemed to be  
547 beneficial to the official or extracurricular programs of the  
548 school. For the purposes of this provision, the term  
549 "organization" shall not include any organization subject to the  
550 control of the local school governing board. Activity funds may  
551 only be expended for any necessary expenses or travel costs,  
552 including advances, incurred by students and their chaperons in  
553 attending any in-state or out-of-state school-related programs,  
554 conventions or seminars and/or any commodities, equipment, travel  
555 expenses, purchased services or school supplies which the local  
556 school governing board, in its discretion, shall deem beneficial  
557 to the official or extracurricular programs of the district,  
558 including items which may subsequently become the personal



property of individuals, including yearbooks, athletic apparel, book covers and trophies. Activity funds may be used to pay travel expenses of school district personnel. The local school governing board shall be authorized and empowered to promulgate rules and regulations specifically designating for what purposes school activity funds may be expended. The local school governing board shall provide (i) that such school activity funds shall be maintained and expended by the principal of the school generating the funds in individual bank accounts, or (ii) that such school activity funds shall be maintained and expended by the superintendent of schools in a central depository approved by the board. The local school governing board shall provide that such school activity funds be audited as part of the annual audit required in Section 37-9-18. The State Department of Education shall prescribe a uniform system of accounting and financial reporting for all school activity fund transactions;

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

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

(v) (i) To lease a school building from an individual, partnership, nonprofit corporation or a private for-profit corporation for the use of such school district, and to expend



584 funds therefor as may be available from any sources other than  
585 total funding formula funds as set by Sections 37-151-200 through  
586 37-151-215. The school board of the school district desiring to  
587 lease a school building shall declare by resolution that a need  
588 exists for a school building and that the school district cannot  
589 provide the necessary funds to pay the cost or its proportionate  
590 share of the cost of a school building required to meet the  
591 present needs. The resolution so adopted by the school board  
592 shall be published once each week for three (3) consecutive weeks  
593 in a newspaper having a general circulation in the school district  
594 involved, with the first publication thereof to be made not less  
595 than thirty (30) days prior to the date upon which the school  
596 board is to act on the question of leasing a school building. If  
597 no petition requesting an election is filed prior to such meeting  
598 as hereinafter provided, then the school board may, by resolution  
599 spread upon its minutes, proceed to lease a school building. If  
600 at any time prior to said meeting a petition signed by not less  
601 than twenty percent (20%) or fifteen hundred (1500), whichever is  
602 less, of the qualified electors of the school district involved  
603 shall be filed with the school board requesting that an election  
604 be called on the question, then the school board shall, not later  
605 than the next regular meeting, adopt a resolution calling an  
606 election to be held within such school district upon the question  
607 of authorizing the school board to lease a school building. Such  
608 election shall be called and held, and notice thereof shall be





609 given, in the same manner for elections upon the questions of the  
610 issuance of the bonds of school districts, and the results thereof  
611 shall be certified to the school board. If at least three-fifths  
612 (3/5) of the qualified electors of the school district who voted  
613 in such election shall vote in favor of the leasing of a school  
614 building, then the school board shall proceed to lease a school  
615 building. The term of the lease contract shall not exceed twenty  
616 (20) years, and the total cost of such lease shall be either the  
617 amount of the lowest and best bid accepted by the school board  
618 after advertisement for bids or an amount not to exceed the  
619 current fair market value of the lease as determined by the  
620 averaging of at least two (2) appraisals by certified general  
621 appraisers licensed by the State of Mississippi. The term "school  
622 building" as used in this paragraph (v) (i) shall be construed to  
623 mean any building or buildings used for classroom purposes in  
624 connection with the operation of schools and shall include the  
625 site therefor, necessary support facilities, and the equipment  
626 thereof and appurtenances thereto such as heating facilities,  
627 water supply, sewage disposal, landscaping, walks, drives and  
628 playgrounds. The term "lease" as used in this paragraph (v) (i)  
629 may include a lease-purchase contract;

630 (ii) If two (2) or more school districts propose  
631 to enter into a lease contract jointly, then joint meetings of the  
632 school boards having control may be held but no action taken shall  
633 be binding on any such school district unless the question of



634 leasing a school building is approved in each participating school  
635 district under the procedure hereinabove set forth in paragraph  
636 (v)(i). All of the provisions of paragraph (v)(i) regarding the  
637 term and amount of the lease contract shall apply to the school  
638 boards of school districts acting jointly. Any lease contract  
639 executed by two (2) or more school districts as joint lessees  
640 shall set out the amount of the aggregate lease rental to be paid  
641 by each, which may be agreed upon, but there shall be no right of  
642 occupancy by any lessee unless the aggregate rental is paid as  
643 stipulated in the lease contract. All rights of joint lessees  
644 under the lease contract shall be in proportion to the amount of  
645 lease rental paid by each;

646 (w) To employ all noninstructional and noncertificated  
647 employees and fix the duties and compensation of such personnel  
648 deemed necessary pursuant to the recommendation of the  
649 superintendent of schools;

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

652 (y) Subject to rules and regulations of the State Board  
653 of Education, to purchase, own and operate trucks, vans and other  
654 motor vehicles, which shall bear the proper identification  
655 required by law;

656 (z) To expend funds for the payment of substitute  
657 teachers and to adopt reasonable regulations for the employment  
658 and compensation of such substitute teachers;



659           (aa) To acquire in its own name by purchase all real  
660 property which shall be necessary and desirable in connection with  
661 the construction, renovation or improvement of any public school  
662 building or structure. Whenever the purchase price for such real  
663 property is greater than Fifty Thousand Dollars (\$50,000.00), the  
664 school board shall not purchase the property for an amount  
665 exceeding the fair market value of such property as determined by  
666 the average of at least two (2) independent appraisals by  
667 certified general appraisers licensed by the State of Mississippi.  
668 If the board shall be unable to agree with the owner of any such  
669 real property in connection with any such project, the board shall  
670 have the power and authority to acquire any such real property by  
671 condemnation proceedings pursuant to Section 11-27-1 et seq.,  
672 Mississippi Code of 1972, and for such purpose, the right of  
673 eminent domain is hereby conferred upon and vested in said board.  
674 Provided further, that the local school board is authorized to  
675 grant an easement for ingress and egress over sixteenth section  
676 land or lieu land in exchange for a similar easement upon  
677 adjoining land where the exchange of easements affords substantial  
678 benefit to the sixteenth section land; provided, however, the  
679 exchange must be based upon values as determined by a competent  
680 appraiser, with any differential in value to be adjusted by cash  
681 payment. Any easement rights granted over sixteenth section land  
682 under such authority shall terminate when the easement ceases to  
683 be used for its stated purpose. No sixteenth section or lieu land



684 which is subject to an existing lease shall be burdened by any  
685 such easement except by consent of the lessee or unless the school  
686 district shall acquire the unexpired leasehold interest affected  
687 by the easement;

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

691 (cc) Subject to rules and regulations of the State  
692 Board of Education, to purchase relocatable classrooms for the use  
693 of such school district, in the manner prescribed in Section  
694 37-1-13;

695 (dd) Enter into contracts or agreements with other  
696 school districts, political subdivisions or governmental entities  
697 to carry out one or more of the powers or duties of the school  
698 board, or to allow more efficient utilization of limited resources  
699 for providing services to the public;

700 (ee) To provide for in-service training for employees  
701 of the district;

702 (ff) As part of their duties to prescribe the use of  
703 textbooks, to provide that parents and legal guardians shall be  
704 responsible for the textbooks and for the compensation to the  
705 school district for any books which are not returned to the proper  
706 schools upon the withdrawal of their dependent child. If a  
707 textbook is lost or not returned by any student who drops out of  
708 the public school district, the parent or legal guardian shall



709 also compensate the school district for the fair market value of  
710 the textbooks;

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

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

718 (ii) Fund-raising activities conducted or  
719 authorized by the board for the sale of school pictures, the  
720 rental of caps and gowns or the sale of graduation invitations for  
721 which the school board receives a commission, rebate or fee shall  
722 contain a disclosure statement advising that a portion of the  
723 proceeds of the sales or rentals shall be contributed to the  
724 student activity fund;

725 (hh) To allow individual lessons for music, art and  
726 other curriculum-related activities for academic credit or  
727 nonacademic credit during school hours and using school equipment  
728 and facilities, subject to uniform rules and regulations adopted  
729 by the school board;

730 (ii) To charge reasonable fees for participating in an  
731 extracurricular activity for academic or nonacademic credit for  
732 necessary and required equipment such as safety equipment, band  
733 instruments and uniforms;



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

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

739           (ll) To expend funds for the services of nonprofit arts  
740 organizations or other such nonprofit organizations who provide  
741 performances or other services for the students of the school  
742 district;

743           (mm) To expend federal No Child Left Behind Act funds,  
744 or any other available funds that are expressly designated and  
745 authorized for that use, to pay training, educational expenses,  
746 salary incentives and salary supplements to employees of local  
747 school districts; except that incentives shall not be considered  
748 part of the local supplement, nor shall incentives be considered  
749 part of the local supplement paid to an individual teacher for the  
750 purposes of Section 37-19-7(1);

751           (nn) To use any available funds, not appropriated or  
752 designated for any other purpose, for reimbursement to the  
753 state-licensed employees from both in state and out of state, who  
754 enter into a contract for employment in a school district, for the  
755 expense of moving when the employment necessitates the relocation  
756 of the licensed employee to a different geographical area than  
757 that in which the licensed employee resides before entering into  
758 the contract. The reimbursement shall not exceed One Thousand



Dollars (\$1,000.00) for the documented actual expenses incurred in the course of relocating, including the expense of any professional moving company or persons employed to assist with the move, rented moving vehicles or equipment, mileage in the amount authorized for county and municipal employees under Section 25-3-41 if the licensed employee used his personal vehicle or vehicles for the move, meals and such other expenses associated with the relocation. No licensed employee may be reimbursed for moving expenses under this section on more than one (1) occasion by the same school district. Nothing in this section shall be construed to require the actual residence to which the licensed employee relocates to be within the boundaries of the school district that has executed a contract for employment in order for the licensed employee to be eligible for reimbursement for the moving expenses. However, the licensed employee must relocate within the boundaries of the State of Mississippi. Any individual receiving relocation assistance through the Critical Teacher Shortage Act as provided in Section 37-159-5 shall not be eligible to receive additional relocation funds as authorized in this paragraph;

(oo) To use any available funds, not appropriated or designated for any other purpose, to reimburse persons who interview for employment as a licensed employee with the district for the mileage and other actual expenses incurred in the course



of travel to and from the interview at the rate authorized for county and municipal employees under Section 25-3-41;

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

(i) An assessment of a school district's governance and organizational structure;

(ii) An assessment of the school district's financial and personnel management;

(iii) An assessment of revenue levels and sources;

(iv) An assessment of facilities utilization, planning and maintenance;

(v) An assessment of food services, transportation and safety/security systems;

(vi) An assessment of instructional and administrative technology;

(vii) A review of the instructional management and the efficiency and effectiveness of existing instructional programs; and





807                   (viii) Recommended methods for increasing  
808 efficiency and effectiveness in providing educational services to  
809 the public;

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

814                   (rr) To implement a financial literacy program for  
815 students in Grades 10 and 11. The board may review the national  
816 programs and obtain free literature from various nationally  
817 recognized programs. After review of the different programs, the  
818 board may certify a program that is most appropriate for the  
819 school districts' needs. If a district implements a financial  
820 literacy program, then any student in Grade 10 or 11 may  
821 participate in the program. The financial literacy program shall  
822 include, but is not limited to, instruction in the same areas of  
823 personal business and finance as required under Section  
824 37-1-3(2) (b). The school board may coordinate with volunteer  
825 teachers from local community organizations, including, but not  
826 limited to, the following: United States Department of  
827 Agriculture Rural Development, United States Department of Housing  
828 and Urban Development, Junior Achievement, bankers and other  
829 nonprofit organizations. Nothing in this paragraph shall be  
830 construed as to require school boards to implement a financial  
831 literacy program;



832           (ss) To collaborate with the State Board of Education,  
833 Community Action Agencies or the Department of Human Services to  
834 develop and implement a voluntary program to provide services for  
835 a prekindergarten program that addresses the cognitive, social,  
836 and emotional needs of four-year-old and three-year-old children.  
837 The school board may utilize any source of available revenue to  
838 fund the voluntary program. Effective with the 2013-2014 school  
839 year, to implement voluntary prekindergarten programs under the  
840 Early Learning Collaborative Act of 2013 pursuant to state funds  
841 awarded by the State Department of Education on a matching basis;

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

848               (i) Withhold all or any part (as agreed by the  
849 school board) of any monies which such local school board is  
850 entitled to receive from time to time under any law and which is  
851 in the possession of the Department of Revenue, or any state  
852 agency, department or commission created under state law; and

853               (ii) Pay the same over to any financial  
854 institution, trustee or other obligee, as directed in writing by  
855 the school board, to satisfy all or part of such obligation of the  
856 school district.



857       The school board may make such written agreement to withhold  
858 and transfer funds irrevocable for the term of the written  
859 obligation and may include in the written agreement any other  
860 terms and provisions acceptable to the school board. If the  
861 school board files a copy of such written agreement with the  
862 Department of Revenue, or any state agency, department or  
863 commission created under state law then the Department of Revenue  
864 or any state agency, department or commission created under state  
865 law shall immediately make the withholdings provided in such  
866 agreement from the amounts due the local school board and shall  
867 continue to pay the same over to such financial institution,  
868 trustee or obligee for the term of the agreement.

869       This paragraph (tt) shall not grant any extra authority to a  
870 school board to issue debt in any amount exceeding statutory  
871 limitations on assessed value of taxable property within such  
872 school district or the statutory limitations on debt maturities,  
873 and shall not grant any extra authority to impose, levy or collect  
874 a tax which is not otherwise expressly provided for, and shall not  
875 be construed to apply to sixteenth section public school trust  
876 land;

877       (uu) With respect to any matter or transaction that is  
878 competitively bid by a school district, to accept from any bidder  
879 as a good-faith deposit or bid bond or bid surety, the same type  
880 of good-faith deposit or bid bond or bid surety that may be  
881 accepted by the state or any other political subdivision on



882 similar competitively bid matters or transactions. This paragraph  
883 (uu) shall not be construed to apply to sixteenth section public  
884 school trust land. The school board may authorize the investment  
885 of any school district funds in the same kind and manner of  
886 investments, including pooled investments, as any other political  
887 subdivision, including community hospitals;

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

892 (ww) To delegate, privatize or otherwise enter into a  
893 contract with private entities for the operation of any and all  
894 functions of nonacademic school process, procedures and operations  
895 including, but not limited to, cafeteria workers, janitorial  
896 services, transportation, professional development, achievement  
897 and instructional consulting services materials and products,  
898 purchasing cooperatives, insurance, business manager services,  
899 auditing and accounting services, school safety/risk prevention,  
900 data processing and student records, and other staff services;

901 however, the authority under this paragraph does not apply to the  
902 leasing, management or operation of sixteenth section lands.

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



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

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

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

917                   (aaa) To issue and provide for the use of procurement  
918 cards by school board members, superintendents and licensed school  
919 personnel consistent with the rules and regulations of the  
920 Mississippi Department of Finance and Administration under Section  
921 31-7-9; and

922                   (bbb) To conduct an annual comprehensive evaluation of  
923 the superintendent of schools consistent with the assessment  
924 components of paragraph (pp) of this section and the assessment  
925 benchmarks established by the Mississippi School Board Association  
926 to evaluate the success the superintendent has attained in meeting  
927 district goals and objectives, the superintendent's leadership  
928 skill and whether or not the superintendent has established  
929 appropriate standards for performance, is monitoring success and  
930 is using data for improvement.



931           **SECTION 10.** Section 37-15-3, Mississippi Code of 1972, is  
932 brought forward as follows:

933           37-15-3. Such cumulative folders as are provided for in  
934 Section 37-15-1 shall be kept in the school wherein the pupils are  
935 in attendance. Both the permanent records and the cumulative  
936 folders shall be available to school officials, including teachers  
937 within the school district who have been determined by the school  
938 district to have legitimate educational interests. In no case,  
939 however, shall such records be available to the general public.  
940 Transcripts of courses and grades may be furnished when requested  
941 by the parent or guardian or eligible pupil as prescribed in the  
942 Family Educational Rights and Privacy Act of 1974, as amended, 20  
943 USCS Section 1232g. Such records shall be kept for each pupil  
944 throughout his entire public school enrollment period. In the  
945 event a pupil transfers to a public school, including a charter  
946 school, then the cumulative folder shall be furnished to the head  
947 of the school to which the pupil transfers; if a pupil transfers  
948 to a private school, then a copy of the cumulative folder shall be  
949 furnished to the head of the school to which the pupil transfers.  
950 The permanent record shall be kept permanently by the school  
951 district from which the pupil transferred.

952           At no time may a permanent record of a student be destroyed,  
953 but cumulative folders may be destroyed by order of the school  
954 board of the school district in not less than five (5) years after  
955 the permanent record of the pupil has become inactive and has been



transferred to the central depository of the district. Provided, however, that where a school district makes complete copies of inactive permanent records on photographic film, microfilm, or any other acceptable form of medium for storage which may be reproduced as needed, such permanent records may be destroyed after the photographic film or microfilm copy has been stored in the central depository of the district.

**SECTION 11.** Section 37-13-171, Mississippi Code of 1972, is brought forward as follows:

37-13-171. (1) The local school board of every public school district shall adopt a policy to implement abstinence-only or abstinence-plus education or sexual risk avoidance education into its curriculum, which instruction in those subjects shall be implemented not later than the start of the 2023-2024 school year or the local school board shall adopt the program which has been developed by the Mississippi Department of Human Services and the Mississippi Department of Health. The State Department of Education shall approve each district's curriculum for sex-related education and shall establish a protocol to be used by districts to provide continuity in teaching the approved curriculum in a manner that is age, grade and developmentally appropriate.

(2) Abstinence-only education shall remain the state standard for any sex-related education taught in the public schools. For purposes of this section, abstinence-only education



includes any type of instruction or program which, at an appropriate age and grade:

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

(b) Teaches the harmful consequences to the child, the child's parents and society that bearing children out of marriage is likely to produce, including the health, educational, financial and other difficulties the child and his or her parents are likely to face, as well as the inappropriateness of the social and economic burden placed on others;

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

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





1003           (e) Teaches the current state law related to sexual  
1004 conduct, including forcible rape, statutory rape, paternity  
1005 establishment, child support and homosexual activity; and

1006           (f) Teaches that a mutually faithful, monogamous  
1007 relationship in the context of marriage is the only appropriate  
1008 setting for sexual intercourse.

1009       (3) A program or instruction on sex-related education need  
1010 not include every component listed in subsection (2) of this  
1011 section for abstinence-only education. However, no program or  
1012 instruction under an abstinence-only curriculum may include  
1013 anything that contradicts the excluded components. For purposes  
1014 of this section, abstinence-plus education includes every  
1015 component listed under subsection (2) of this section that is age  
1016 and grade appropriate, in addition to any other programmatic or  
1017 instructional component approved by the department, which shall  
1018 not include instruction and demonstrations on the application and  
1019 use of condoms. Abstinence-plus education may discuss other  
1020 contraceptives, the nature, causes and effects of sexually  
1021 transmitted diseases, or the prevention of sexually transmitted  
1022 diseases, including HIV/AIDS, along with a factual presentation of  
1023 the risks and failure rates.

1024       (4) Any course containing sex-related education offered in  
1025 the public schools shall include instruction in either  
1026 abstinence-only or abstinence-plus education.



1027 (5) Local school districts, in their discretion, may host  
1028 programs designed to teach parents how to discuss abstinence with  
1029 their children.

1030 (6) There shall be no effort in either an abstinence-only or  
1031 an abstinence-plus curriculum to teach that abortion can be used  
1032 to prevent the birth of a baby.

1033 (7) At all times when sex-related education is discussed or  
1034 taught, boys and girls shall be separated according to gender into  
1035 different classrooms, sex-related education instruction may not be  
1036 conducted when boys and girls are in the company of any students  
1037 of the opposite gender.

1038 **SECTION 12.** Section 37-13-173, Mississippi Code of 1972, is  
1039 brought forward as follows:

1040 37-13-173. Each school providing instruction or any other  
1041 presentation on human sexuality in the classroom, assembly or  
1042 other official setting shall be required to provide no less than  
1043 one (1) week's written notice thereof to the parents of children  
1044 in such programs of instruction. The written notice must inform  
1045 the parents of their right to request the inclusion of their child  
1046 for such instruction or presentation. The notice also must inform  
1047 the parents of the right, and the appropriate process, to review  
1048 the curriculum and all materials to be used in the lesson or  
1049 presentation. Upon the request of any parent, the school shall  
1050 excuse the parent's child from such instruction or presentation,  
1051 without detriment to the student.



1052           **SECTION 13.** Section 43-21-105, Mississippi Code of 1972, is  
1053 brought forward as follows:

1054           43-21-105. The following words and phrases, for purposes of  
1055 this chapter, shall have the meanings ascribed herein unless the  
1056 context clearly otherwise requires:

1057           (a) "Youth court" means the Youth Court Division.

1058           (b) "Judge" means the judge of the Youth Court  
1059 Division.

1060           (c) "Designee" means any person that the judge appoints  
1061 to perform a duty which this chapter requires to be done by the  
1062 judge or his designee. The judge may not appoint a person who is  
1063 involved in law enforcement or who is an employee of the  
1064 Mississippi Department of Human Services or the Mississippi  
1065 Department of Child Protection Services to be his designee.

1066           (d) "Child" and "youth" are synonymous, and each means  
1067 a person who has not reached his eighteenth birthday. A child who  
1068 has not reached his eighteenth birthday and is on active duty for  
1069 a branch of the armed services or is married is not considered a  
1070 "child" or "youth" for the purposes of this chapter.

1071           (e) "Parent" means the father or mother to whom the  
1072 child has been born, or the father or mother by whom the child has  
1073 been legally adopted.

1074           (f) "Guardian" means a court-appointed guardian of the  
1075 person of a child.



1076 (g) "Custodian" means any person having the present  
1077 care or custody of a child whether such person be a parent or  
1078 otherwise.

1079 (h) "Legal custodian" means a court-appointed custodian  
1080 of the child.

1081 (i) "Delinquent child" means a child who has reached  
1082 his tenth birthday and who has committed a delinquent act.

1083 (j) "Delinquent act" is any act, which if committed by  
1084 an adult, is designated as a crime under state or federal law, or  
1085 municipal or county ordinance other than offenses punishable by  
1086 life imprisonment or death. A delinquent act includes escape from  
1087 lawful detention and violations of the Uniform Controlled  
1088 Substances Law and violent behavior.

1089 (k) "Child in need of supervision" means a child who  
1090 has reached his seventh birthday and is in need of treatment or  
1091 rehabilitation because the child:

1092 (i) Is habitually disobedient of reasonable and  
1093 lawful commands of his parent, guardian or custodian and is  
1094 ungovernable; or

1095 (ii) While being required to attend school,  
1096 willfully and habitually violates the rules thereof or willfully  
1097 and habitually absents himself therefrom; or

1098 (iii) Runs away from home without good cause; or

1099 (iv) Has committed a delinquent act or acts.

1100 (l) "Neglected child" means a child:



1101                   (i) Whose parent, guardian or custodian or any  
1102 person responsible for his care or support, neglects or refuses,  
1103 when able so to do, to provide for him proper and necessary care  
1104 or support, or education as required by law, or medical, surgical,  
1105 or other care necessary for his well-being; however, a parent who  
1106 withholds medical treatment from any child who in good faith is  
1107 under treatment by spiritual means alone through prayer in  
1108 accordance with the tenets and practices of a recognized church or  
1109 religious denomination by a duly accredited practitioner thereof  
1110 shall not, for that reason alone, be considered to be neglectful  
1111 under any provision of this chapter; or

1112                   (ii) Who is otherwise without proper care,  
1113 custody, supervision or support; or

1114                   (iii) Who, for any reason, lacks the special care  
1115 made necessary for him by reason of his mental condition, whether  
1116 the mental condition is having mental illness or having an  
1117 intellectual disability; or

1118                   (iv) Who is not provided by the child's parent,  
1119 guardian or custodian, with food, clothing, or shelter necessary  
1120 to sustain the life or health of the child, excluding such failure  
1121 caused primarily by financial inability unless relief services  
1122 have been offered and refused and the child is in imminent risk of  
1123 harm.

1124                   (m) "Abused child" means a child whose parent, guardian  
1125 or custodian or any person responsible for his care or support,



1126 whether legally obligated to do so or not, has caused or allowed  
1127 to be caused, upon the child, sexual abuse, sexual exploitation,  
1128 commercial sexual exploitation, emotional abuse, mental injury,  
1129 nonaccidental physical injury or other maltreatment. However,  
1130 physical discipline, including spanking, performed on a child by a  
1131 parent, guardian or custodian in a reasonable manner shall not be  
1132 deemed abuse under this section. "Abused child" also means a  
1133 child who is or has been trafficked within the meaning of the  
1134 Mississippi Human Trafficking Act by any person, without regard to  
1135 the relationship of the person to the child.

1136 (n) "Sexual abuse" means obscene or pornographic  
1137 photographing, filming or depiction of children for commercial  
1138 purposes, or the rape, molestation, incest, prostitution or other  
1139 such forms of sexual exploitation of children under circumstances  
1140 which indicate that the child's health or welfare is harmed or  
1141 threatened.

1142 (o) "A child in need of special care" means a child  
1143 with any mental or physical illness that cannot be treated with  
1144 the dispositional alternatives ordinarily available to the youth  
1145 court.

1146 (p) A "dependent child" means any child who is not a  
1147 child in need of supervision, a delinquent child, an abused child  
1148 or a neglected child, and which child has been voluntarily placed  
1149 in the custody of the Department of Child Protection Services by  
1150 his parent, guardian or custodian.



1151           (q) "Custody" means the physical possession of the  
1152 child by any person.

1153           (r) "Legal custody" means the legal status created by a  
1154 court order which gives the legal custodian the responsibilities  
1155 of physical possession of the child and the duty to provide him  
1156 with food, shelter, education and reasonable medical care, all  
1157 subject to residual rights and responsibilities of the parent or  
1158 guardian of the person.

1159           (s) "Detention" means the care of children in  
1160 physically restrictive facilities.

1161           (t) "Shelter" means care of children in physically  
1162 nonrestrictive facilities.

1163           (u) "Records involving children" means any of the  
1164 following from which the child can be identified:

1165               (i) All youth court records as defined in Section  
1166 43-21-251;

1167               (ii) All forensic interviews conducted by a child  
1168 advocacy center in abuse and neglect investigations;

1169               (iii) All law enforcement records as defined in  
1170 Section 43-21-255;

1171               (iv) All agency records as defined in Section  
1172 43-21-257; and

1173               (v) All other documents maintained by any  
1174 representative of the state, county, municipality or other public  
1175 agency insofar as they relate to the apprehension, custody,



1176 adjudication or disposition of a child who is the subject of a  
1177 youth court cause.

1178 (v) "Any person responsible for care or support" means  
1179 the person who is providing for the child at a given time. This  
1180 term shall include, but is not limited to, stepparents, foster  
1181 parents, relatives, nonlicensed babysitters or other similar  
1182 persons responsible for a child and staff of residential care  
1183 facilities and group homes that are licensed by the Department of  
1184 Human Services or the Department of Child Protection Services.

1185 (w) The singular includes the plural, the plural the  
1186 singular and the masculine the feminine when consistent with the  
1187 intent of this chapter.

1188 (x) "Out-of-home" setting means the temporary  
1189 supervision or care of children by the staff of licensed day care  
1190 centers, the staff of public, private and state schools, the staff  
1191 of juvenile detention facilities, the staff of unlicensed  
1192 residential care facilities and group homes and the staff of, or  
1193 individuals representing, churches, civic or social organizations.

1194 (y) "Durable legal custody" means the legal status  
1195 created by a court order which gives the durable legal custodian  
1196 the responsibilities of physical possession of the child and the  
1197 duty to provide him with care, nurture, welfare, food, shelter,  
1198 education and reasonable medical care. All these duties as  
1199 enumerated are subject to the residual rights and responsibilities  
1200 of the natural parent(s) or guardian(s) of the child or children.





1201           (z) "Status offense" means conduct subject to  
1202 adjudication by the youth court that would not be a crime if  
1203 committed by an adult.

1204           (aa) "Financially able" means a parent or child who is  
1205 ineligible for a court-appointed attorney.

1206           (bb) "Assessment" means an individualized examination  
1207 of a child to determine the child's psychosocial needs and  
1208 problems, including the type and extent of any mental health,  
1209 substance abuse or co-occurring mental health and substance abuse  
1210 disorders and recommendations for treatment. The term includes,  
1211 but is not limited to, a drug and alcohol, psychological or  
1212 psychiatric evaluation, records review, clinical interview or the  
1213 administration of a formal test and instrument.

1214           (cc) "Screening" means a process, with or without the  
1215 administration of a formal instrument, that is designed to  
1216 identify a child who is at increased risk of having mental health,  
1217 substance abuse or co-occurring mental health and substance abuse  
1218 disorders that warrant immediate attention, intervention or more  
1219 comprehensive assessment.

1220           (dd) "Durable legal relative guardianship" means the  
1221 legal status created by a youth court order that conveys the  
1222 physical and legal custody of a child or children by durable legal  
1223 guardianship to a relative or fictive kin who is licensed as a  
1224 foster or resource parent.



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

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

(gg) "Reasonable efforts" means the exercise of reasonable care and due diligence by the Department of Human Services, the Department of Child Protection Services, or any other appropriate entity or person to use services appropriate to the child's background, accessible, and available to meet the individualized needs of the child and child's family to prevent removal and reunify the family as soon as safely possible consistent with the best interests of the child. Reasonable efforts must be made in collaboration with the family and must address the individualized needs of the family that brought the child to the attention of the Department of Child Protection Services and must not consist of required services that are not related to the family's needs.

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

**SECTION 14.** This act shall take effect and be in force from and after July 1, 2025.

