

By: Senator(s) Fillingane

To: Public Health and  
Welfare

## SENATE BILL NO. 2870

1 AN ACT TO ENACT THE MISSISSIPPI FAMILIES' RIGHTS AND  
2 RESPONSIBILITIES ACT TO PROVIDE THAT THE STATE, ANY POLITICAL  
3 SUBDIVISION OF THE STATE, OR ANY OTHER GOVERNMENTAL ENTITY SHALL  
4 NOT SUBSTANTIALLY BURDEN THE FUNDAMENTAL RIGHT OF A PARENT TO  
5 DIRECT THE UPBRINGING, EDUCATION, HEALTH CARE AND MENTAL HEALTH OF  
6 THAT PARENT'S CHILD WITHOUT DEMONSTRATING THAT THE BURDEN IS  
7 REQUIRED BY A COMPELLING GOVERNMENTAL INTEREST OF THE HIGHEST  
8 ORDER AS APPLIED TO THE PARENT AND THE CHILD AND IS THE LEAST  
9 RESTRICTIVE MEANS OF FURTHERING THAT COMPELLING GOVERNMENTAL  
10 INTEREST; TO REQUIRE THE CONSENT OF A PARENT OR GUARDIAN FOR  
11 CERTAIN ACTIONS, INCLUDING PRESCRIBING MEDICATION OR PERFORMING  
12 SURGERY; TO SET CERTAIN EXCEPTIONS TO THE CONSENT REQUIREMENT; TO  
13 PROVIDE THAT NO STATE EMPLOYEE SHALL WITHHOLD INFORMATION ABOUT  
14 THE CHILD'S PHYSICAL, EMOTIONAL OR MENTAL HEALTH FROM THE PARENT;  
15 TO PROVIDE A CAUSE OF ACTION TO PARENTS FOR ANY VIOLATION OF THE  
16 ACT; TO PROVIDE THAT A PARENT MAY RAISE THE PROVISIONS OF THIS ACT  
17 AS A DEFENSE AGAINST CERTAIN JUDICIAL OR ADMINISTRATIVE  
18 PROCEEDINGS; TO PROVIDE CERTAIN LIMITATIONS ON THE PROVISIONS OF  
19 THE ACT; TO SET CERTAIN TRANSPARENCY MEASURES FOR PUBLIC SCHOOLS  
20 AND CHARTER SCHOOLS; TO ESTABLISH TEACHERS' EXPRESSIVE RIGHTS  
21 WITHIN A SCHOOL; TO PROVIDE RULES OF CONSTRUCTION RELATED TO THE  
22 ACT; AND FOR RELATED PURPOSES.

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

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

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



(a) "Child" shall have the same meaning as provided under Section 43-15-103.

(b) "Curriculum" includes all textbooks, handouts, videos, software, questionnaires, surveys or other written or electronic materials used to instruct 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, e-mail accounts, online or virtual accounts or data, disciplinary records, counseling records, psychological records, applications for admission, medical records, immunization information, teacher and counselor evaluations, and reports of behavioral patterns.

(d) "Parent" shall have the same meaning as provided under Section 37-23-133.

**SECTION 3. Parental Rights and Responsibilities.** (1) The state, any political subdivision of the 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.



53           (2) All parental rights are exclusively reserved to a parent  
54 of a child without obstruction by or interference from the state,  
55 including, without limitation, the following rights and  
56 responsibilities:

57           (a) To direct the upbringing of the child;

58           (b) To direct the moral or religious training of the  
59 child;

60           (c) To make and consent to all physical and mental  
61 health care decisions for the child;

62           (d) To access and review all health and medical records  
63 of the child;

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

68           (f) To access and review all written and electronic  
69 educational records relating to the child that are controlled by  
70 or in the possession of a school;

71           (g) To have the child excused from school attendance  
72 for religious purposes;

73           (h) To participant in parent-teacher associations and  
74 school organizations that are sanctioned by the board of education  
75 of a school district;

76           (i) To be notified promptly if an employee of the state  
77 reasonably believes that abuse, neglect or any criminal offense



has been committed against the child by someone other than the parent, unless doing so would interfere with a criminal or Department of Child Protection Services investigation;

(j) To consent before a biometric scan of the child is made, shared or stored;

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

(l) To consent 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;

(v) A photo identification card; or

(vi) A public event where the child has no reasonable expectation of privacy.

(3) This section does not authorize or allow a parent to abuse or neglect a child as defined in Section 97-5-39. 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.



(4) No employee of this state, 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.

(5) A parent may bring suit for any violation of this section and may raise this section 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, any private person or any other party.

(6) A parent who successfully asserts a claim or defense under this act may recover declaratory relief, injunctive relief, compensatory damages, reasonable attorney's fees and costs, and any other appropriate relief.

(7) A government entity shall indemnify its employees for any liability incurred by the employee and for any judgment entered against the employee for claims arising under this section; provided that a government entity does not have to indemnify an employee if the employee was convicted of a criminal violation for the conduct from which the claim arises.

**SECTION 4. Medical and Mental Health Care.** (1) Except as otherwise provided by law or court order, a person, private entity, government entity or any employee or agent of any private or government entity must obtain the consent of a parent of a child before taking any of the following actions:



128 (a) Procuring, soliciting to perform, arranging for the  
129 performance of, providing a referral for, or performing surgical  
130 procedures upon a child;

131 (b) Procuring, soliciting to perform, arranging for the  
132 performance of, providing a referral for, or performing a physical  
133 or medical examination upon a child;

134 (c) Prescribing or dispensing any prescription drug or  
135 medication to a child; or

136 (d) Procuring, soliciting to perform, arranging for the  
137 performance of, providing a referral for, or performing a mental  
138 health evaluation in a clinical or nonclinical setting or mental  
139 health treatment on a child.

140 (2) This section shall not apply if:

141 (a) A parent of the child has given a blanket consent  
142 authorizing the person or entity to perform an activity listed in  
143 subsection (1) of this section; or

144 (b) It has been reasonably determined by the person or  
145 entity that an emergency exists and either of the following  
146 conditions is true:

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

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



(3) The provisions of this section do not apply to an abortion.

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

(5) A parent who successfully asserts a claim or defense under this act may recover declaratory relief, injunctive relief, compensatory damages, reasonable attorney's fees and costs and any other appropriate relief.

(6) A government entity shall indemnify its employees for any liability incurred by the employee and for any judgment entered against the employee for claims arising under this section; provided, however, that a government entity does not have to indemnify an employee if the employee was convicted of a criminal violation for the conduct from which the claim arises.

**SECTION 5. Educational Transparency and involvement.** (1)

Each school district and charter school, in consultation with parents, teachers and administrators, shall develop and adopt a policy to promote the involvement of parents of children enrolled in the school district or charter school, including:

(a) A plan for parent participation in the schools which is designed to improve parent and teacher cooperation in areas such 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 all curriculum for each class or course offered by the school and any teacher training materials either by posting the curriculum and materials on a publicly available website or by viewing the materials in-person during regular hours of operation of the school or by special appointment;

(ii) Copy and record information from the curriculum and teacher training materials at cost if the curriculum and materials are not posted on a publicly available website; and

(iii) 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 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;

(d) Procedures to notify a parent at least five (5) days in advance and obtain the parent's 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 or sexual orientation;

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

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

(2) A parent shall have access to all written and electronic records concerning the parent's child that are controlled by or in the possession of a school district, district employee, or any person or organization hired, contracted, or authorized by the school district to provide services to students.

(3) District and charter school employees shall not withhold or conceal information from, or facilitate, encourage, or coerce a child to withhold or conceal information from the child's parents about the child's:



(a) Curricular or extracurricular projects, assignments or activities;

(b) Physical, emotional or mental health; or

(c) Purported gender identity or requested transition, where the child's purported gender identity is incongruous with his or her biological sex.

(4) A parent may submit a written complaint detailing any violation of this section to the school district or charter school. The parent shall be entitled to a meeting with the superintendent or head of the charter school to discuss the complaint if desired by the parent. The superintendent or head of the charter school shall investigate the complaint and respond to the parent in writing within fourteen (14) days after receiving the complaint describing the actions that will be taken to remedy the complaint.

(5) A parent may appeal the actions of the superintendent or head of the charter school to the school district board of education or governing board of the charter school by submitting a written complaint detailing the violation of this section and a description of why the actions failed to remedy the complaint. The board shall appoint a committee to investigate any such complaints. The committee shall meet with the parent to discuss the complaint. Within thirty (30) days of receiving the complaint, the committee shall submit a recommended response and



proposed steps to remedy the complaint to the full board for action by the board at the next regularly scheduled meeting.

(6) If the board's action does not remedy a complaint, a parent may file suit and assert a violation of this act as a claim against the school district or charter school.

(7) A parent who successfully asserts a claim or defense under this act may recover declaratory relief, injunctive relief, liquidated damages of Five Thousand Dollars (\$5,000.00) per violation, reasonable attorney's fees and costs and any other appropriate relief.

(8) A school district or charter school shall not force students, faculty or staff members to wear personal protective equipment, such as face masks, to attend school; provided, however, this section shall not be construed to prohibit such individuals from wearing such equipment.

**SECTION 6. Teachers' transparency and expressive rights.**

(1) A teacher or other employee of a school district or charter school shall not be subject to any disciplinary action or adverse employment action for any of the following:

(a) Informing a child's parent of any information regarding the child that the individual reasonably believes the parent should know;

(b) Declining to address a person using a name, pronoun, or title that is inconsistent with the person's sex;



273 (c) Engaging in religious expression, prayer, and  
274 discussions and sharing religious materials with other faculty and  
275 employees at the same times and in the same manner that faculty  
276 and employees are permitted to engage in nonreligious expression  
277 and discussions;

278 (d) Serving as a sponsor of student religious clubs and  
279 assisting students in planning meetings, activities and events to  
280 the same extent that faculty sponsors of nonreligious clubs are  
281 permitted to do so;

282 (e) Participating in voluntary student-initiated,  
283 student-led prayer, such as prayer before a sporting event, when  
284 invited to do so by the students, provided that the participation  
285 is in the faculty's or employee's personal capacity and not as a  
286 representative of the school;

287 (f) Wearing religious clothing, symbols, or jewelry,  
288 provided that such items otherwise comply with any dress code  
289 implemented by the public elementary or secondary school; and

290 (g) Decorating their desk and other personal space in  
291 their office or classroom with items that reflect their religious  
292 beliefs to the same extent that other faculty and employees are  
293 permitted to decorate their desk and other personal space.

294 (2) An individual may bring suit for any violation of this  
295 section and may raise this section as a defense in any judicial or  
296 administrative proceeding without regard to whether the proceeding



is brought by or in the name of the state, any private person or any other party.

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

(4) A government entity shall indemnify its employees for any liability incurred by the employee and for any judgment entered against the employee for claims arising under this section; provided that a government entity does not have to indemnify an employee if the employee was convicted of a criminal violation for the conduct from which the claim arises.

**SECTION 7. Rules of construction.** (1) Sovereign and governmental immunities to suit and from liability are waived and abolished to the extent of liability created by this act.

(2) 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.

(3) 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.



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

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

329           **SECTION 8.** This act shall take effect and be in force from  
330 and after July 1, 2025.

