

By: Senator(s) England

To: Judiciary, Division A;
Public Health and Welfare

SENATE BILL NO. 2895

1 AN ACT TO AMEND SECTION 41-41-3, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT A HEALTH CARE PROVIDER MAY PROVIDE HEALTH CARE NOT
3 PROHIBITED BY LAW FOR AN UNEMANCIPATED MINOR ONLY AFTER FIRST
4 OBTAINING THE CONSENT OF A PARENT, GUARDIAN OR SURROGATE; TO SET
5 FORTH CERTAIN CONSENT REQUIREMENT EXCEPTIONS; TO AMEND SECTION
6 41-41-17, MISSISSIPPI CODE OF 1972, TO DELETE THE AUTHORIZATION
7 THAT MINORS MAY PARTICIPATE AS SUBJECTS IN RESEARCH; TO AMEND
8 SECTION 41-42-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
9 CONTRACEPTIVE SUPPLIES AND INFORMATION MAY NOT BE FURNISHED BY A
10 PHYSICIAN TO ANY MINOR EXCEPT IN CERTAIN CASES; TO REPEAL SECTION
11 41-41-13, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT NO
12 PARENTAL CONSENT IS REQUIRED FOR TREATMENT OF VENEREAL DISEASE; TO
13 REPEAL SECTION 41-41-14, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
14 FOR MENTAL HEALTH TREATMENT OF MINORS AGE 15 AND OVER WITHOUT
15 PARENTAL CONSENT; TO CREATE A NEW SECTION THAT AUTHORIZES A PARENT
16 TO BRING SUIT FOR ANY VIOLATION OF THIS ACT; TO PROVIDE THAT ANY
17 PERSON WHO SUCCESSFULLY ASSERTS A CLAIM OR DEFENSE UNDER THIS ACT
18 MAY RECOVER DECLARATORY RELIEF, INJUNCTIVE RELIEF, NOMINAL
19 DAMAGES, COMPENSATORY DAMAGES, REASONABLE ATTORNEY'S FEES AND
20 COSTS AND ANY OTHER APPROPRIATE RELIEF; TO PROVIDE THAT SOVEREIGN,
21 GOVERNMENTAL AND QUALIFIED IMMUNITIES TO SUIT AND FROM LIABILITY
22 ARE WAIVED AND ABOLISHED TO THE EXTENT OF LIABILITY CREATED BY
23 THIS ACT; AND FOR RELATED PURPOSES.

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

25 **SECTION 1.** Section 41-41-3, Mississippi Code of 1972, is
26 amended as follows:

27 41-41-3. (1) Except as provided by subsection (2), it is
28 hereby recognized and established that * * * a health care



institution or health care provider may provide health care not
prohibited by law * * * for an unemancipated minor only after
first obtaining the consent of a parent with joint or separate
legal custody, a guardian of the minor or the minor's surrogate.

(2) * * * The consent required by subsection (1) shall not
be required:

(a) In any circumstance regarding a person with mental
illness as governed by Sections 41-21-61 through 41-21-109;

(b) In an emergency as provided for in Section 41-41-7;

(c) When a judicial consent is obtained pursuant to
Section 41-41-9;

(d) In relation to minors age sixteen (16) and older
donating to a blood bank as provided for in Section 41-41-15;

(e) In relation to a physician or hospital
authorization to test for or diagnose infectious disease as
provided for in Section 41-41-16;

(f) In relation to any minor in the custody of Child
Protective Services as provided for in Section 43-21-105;

(g) In relation to any inmate lacking the capacity to
make health-care decisions as provided for in Section 47-5-180;
or,

(h) In relation to the baby drop-off law, Sections
43-15-201 et seq.



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

(4) For the purposes of this section, "health care institution," "health care provider," "unemancipated minor" and "surrogate" shall have the same definitions as those terms do in Section 41-41-203, respectively.

SECTION 2. Section 41-41-17, Mississippi Code of 1972, is amended as follows:

41-41-17. * * * Any adult, as defined in Section 41-41-203(a) * * *, or emancipated minor, as defined in Section 41-41-203(e) * * *, may consent to participate as a subject in research if that research is conducted in accordance with federal law (Title 45 CFR Part 46: Protection of Human Subjects).

* * *

SECTION 3. Section 41-42-7, Mississippi Code of 1972, is amended as follows:

41-42-7. Contraceptive supplies and information may not be furnished by physicians to any minor * * * except in compliance with the provisions of Section 41-41-3.

SECTION 4. (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.



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

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

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

88 **SECTION 5.** Section 41-41-13, Mississippi Code of 1972, which
89 provides that no parental consent is required for treatment of
90 venereal disease, and Section 41-41-14, which provides for mental
91 health treatment of minors age fifteen (15) and over without
92 parental consent, are hereby repealed.

93 **SECTION 6.** This act shall take effect and be in force from
94 and after July 1, 2025.

