

By: Representatives Hulum, Anthony, Clark,
Clarke, Crudup, Foster, Gibbs, Haney, McCray,
Newman, Patterson, Thompson, Walker

To: Education

HOUSE BILL NO. 488

1 AN ACT TO AMEND SECTION 37-13-8, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE LOCAL SCHOOL BOARDS TO DESIGNATE A PERIOD OF REFLECTION AT
3 THE BEGINNING OF EACH SCHOOL DAY TO PROVIDE FOR STUDENT-INITIATED
4 PRAYER ON A VOLUNTARY BASIS; TO BRING FORWARD SECTIONS 37-13-4 AND
5 37-13-4.1, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE
6 AMENDMENT; TO PROVIDE THAT THIS REQUIREMENT SHALL BECOME EFFECTIVE
7 ONLY UPON A DETERMINATION BY THE STATE ATTORNEY GENERAL THAT THE
8 UNITED STATES SUPREME COURT HAS OVERRULED THE DECISION OF ENGEL V.
9 VITALE, WHICH HAS THE EFFECT OF HOLDING UNCONSTITUTIONAL ANY STATE
10 LAW THAT SEEKS TO CREATE SUCH A REQUIREMENT; TO PROVIDE A RIGHT OF
11 INTERVENTION BY THE LEGISLATURE OR GOVERNOR IN ANY CASE IN WHICH
12 THE CONSTITUTIONALITY OF THIS ACT CHALLENGED; AND FOR RELATED
13 PURPOSES.

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

15 **SECTION 1.** Section 37-13-8, Mississippi Code of 1972, is
16 amended as follows:

17 37-13-8. (1) In each public school classroom, the local
18 school governing board * * * shall designate a * * * period
19 of * * * reflection * * * at the opening of school upon every
20 school day in which nonsectarian, nonproselytizing
21 student-initiated prayer must be allowed in silence or audible
22 communication for those students desiring to voluntarily
23 participate.



24 (2) The moment of * * * reflection authorized by subsection
25 (1) of this section is not intended to be and shall not be
26 conducted as a religious service or exercise but is considered an
27 opportunity for a moment of * * * reflection that does not
28 conflict with the authority granted under Sections 37-13-4 and
29 37-13-4.1.

30 **SECTION 2.** Section 37-13-4, Mississippi Code of 1972, is
31 brought forward as follows:

32 37-13-4. It shall be lawful for any teacher or school
33 administrator in any of the schools of the state which are
34 supported, in whole or in part, by the public funds of the state,
35 to permit the voluntary participation by students or others in
36 prayer. Nothing contained in this section shall authorize any
37 teacher or other school authority to prescribe the form or content
38 of any prayer. The provisions of this section shall not be
39 construed to amend or repeal the provisions of Section 37-13-4.1
40 but shall be considered as supplemental and in addition to the
41 provisions of Section 37-13-4.1.

42 **SECTION 3.** Section 37-13-4.1, Mississippi Code of 1972, is
43 brought forward as follows:

44 37-13-4.1. (1) The legislative intent and purpose for this
45 section is to protect the freedom of speech guaranteed by the
46 First Amendment to the United States Constitution, to define for
47 the citizens of Mississippi the rights and privileges that are
48 accorded them on public school property, other public property or



49 other property at school-related events; and to provide guidance
50 to public school officials on the rights and requirements of law
51 that they must apply. The intent and purpose of the Legislature
52 is to accommodate the free exercise of religious rights of its
53 student citizens in the public schools and at public school events
54 as provided to them by the First Amendment to the United States
55 Constitution and the judicial interpretations thereof as given by
56 the United States Supreme Court.

57 (2) On public school property, other public property or
58 other property, invocations, benedictions or nonsectarian,
59 nonproselytizing student-initiated voluntary prayer shall be
60 permitted during compulsory or noncompulsory school-related
61 student assemblies, student sporting events, graduation or
62 commencement ceremonies and other school-related student events.

63 (3) This section shall not diminish the right of any student
64 or person to exercise his rights of free speech and religion,
65 including prayer, as permitted by the United States Constitution,
66 on public school property, other public property or other
67 property, at times or events other than those stated in subsection
68 (2) of this section.

69 (4) The exercise of the rights guaranteed under subsection
70 (2) of this section shall not be construed to indicate any
71 support, approval or sanction of the contents of any such prayer,
72 invocation, benediction or other activity, or be construed as an
73 unconstitutional use of any public property or other property by



74 the State of Mississippi or any agency, department, board,
75 commission, institution or other instrumentality thereof or any
76 political subdivision of the state, including any county or
77 municipality and any instrumentality thereof. The exercise of
78 these rights on public school property, other public property or
79 on other property for school-related activities, by students or
80 others, shall not be construed as the promotion or establishment
81 of any religion or religious belief.

82 (5) The provisions of this section are severable. If any
83 part of this section is declared invalid or unconstitutional, that
84 declaration shall not affect the part or parts that remain.

85 **SECTION 4.** At such time as the Attorney General of
86 Mississippi determines that the United States Supreme Court has
87 overruled the decision of Engel v. Vitale 370 U.S. 421 (1962), and
88 that as a result, it is reasonably probable that Section
89 37-13-8 would be upheld by the court as constitutional, the
90 Attorney General shall publish his or her determination of that
91 fact in the administrative bulletin published by the Secretary of
92 State as provided in Section 25-43-2.101, Mississippi Code of
93 1972.

94 **SECTION 5.** (1) If any provision of this act is found to be
95 unconstitutional, the provision is severable; and the other
96 provisions of this act remain effective, except as provided in
97 other sections of this act.



98 (2) Nothing in this act may be construed to repeal, by
99 implication or otherwise, any provision not explicitly repealed.

100 (3) If any provision of this act is ever declared
101 unconstitutional or its enforcement temporarily or permanently
102 restricted or enjoined by judicial order, the unamended provisions
103 of Sections 37-13-8, 37-13-4 and 37-13-4.1, Mississippi Code of
104 1972, shall be enforced. However, if such temporary or permanent
105 restraining order or injunction is subsequently stayed or
106 dissolved or such declaration vacated or any similar court order
107 otherwise ceases to have effect, all provisions of this act that
108 are not declared unconstitutional or whose enforcement is not
109 restrained shall have full force and effect.

110 **SECTION 6.** Right of intervention. The Legislature, through
111 one or more sponsors of this act duly appointed by resolution of
112 their respective chamber, may intervene as a matter of right in
113 any case in which the constitutionality of this act is challenged.
114 The Governor may also intervene as a matter of right in any case
115 in which the constitutionality of this act is challenged.

116 **SECTION 7.** Sections 2, 3, 4, 5 and 6 of this act shall take
117 effect from and after July 1, 2023. The amendments to Section
118 37-13-8, Mississippi Code of 1972, shall take effect and be in
119 force from and after ten (10) days following the date of
120 publication by the Attorney General of Mississippi in the
121 administrative bulletin published by the Secretary of State as
122 provided in Section 25-43-2.101, Mississippi Code of 1972, that



123 the Attorney General has determined that the United States Supreme
124 Court has overruled the decision of Engel v. Vitale 370 U.S. 421
125 (1962), and that it is reasonably probable that Section 37-13-8,
126 Mississippi Code of 1972, would be upheld by the court as
127 constitutional.

128 **SECTION 8.** This act shall take effect and be in force from
129 and after July 1, 2023.

