

By: Representatives Yancey, Crawford

To: Public Health and Human Services

HOUSE BILL NO. 1100  
(As Passed the House)

1 AN ACT TO AMEND SECTION 41-41-3, MISSISSIPPI CODE OF 1972, TO  
2 PROHIBIT A HEALTH-CARE INSTITUTION OR HEALTH-CARE PROVIDER FROM  
3 PROVIDING HEALTH CARE FOR AN UNEMANCIPATED MINOR WITHOUT FIRST  
4 OBTAINING THE CONSENT OF THE MINOR'S PARENT, GUARDIAN OR  
5 SURROGATE; TO PROVIDE FOR CERTAIN EXCEPTIONS TO THE REQUIREMENT OF  
6 OBTAINING PARENTAL CONSENT; TO AUTHORIZE A PARENT, GUARDIAN OR  
7 SURROGATE OF AN UNEMANCIPATED MINOR TO BRING SUIT FOR ANY  
8 VIOLATION OF THIS ACT; TO AMEND SECTIONS 41-41-17 AND 41-42-7,  
9 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS;  
10 TO REPEAL SECTION 41-41-13, MISSISSIPPI CODE OF 1972, WHICH  
11 PROVIDES THAT A PHYSICIAN OR NURSE PRACTITIONER MAY TREAT MINORS  
12 FOR VENEREAL DISEASE WITHOUT PARENTAL CONSENT, AND SECTION  
13 41-41-14, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT A  
14 PHYSICIAN OR PSYCHOLOGIST MAY TREAT CERTAIN MINORS FOR MENTAL OR  
15 EMOTIONAL PROBLEMS CAUSED OR RELATED TO ALCOHOL OR DRUGS WITHOUT  
16 PARENTAL CONSENT; AND FOR RELATED PURPOSES.

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

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

20 41-41-3. (1) For the purpose of this section, the terms  
21 health-care institution or health-care provider, unemancipated  
22 minor and surrogate shall have the meanings as defined in Section  
23 41-41-203.

24 ( \* \* \*2) Except as provided by subsection (3) of this  
25 section, it is \* \* \* recognized and established that \* \* \* a



26 health-care institution or health-care provider may provide health  
27 care that is not prohibited by law \* \* \* for an unemancipated  
28 minor only after first obtaining the consent of a parent with  
29 joint or separate legal custody of the minor, a guardian of the  
30 minor, or the minor's surrogate. If a parent with joint or  
31 separate legal custody of the minor, a guardian of the minor, or  
32 the minor's surrogate has not consented or denied consent within  
33 seven (7) days after the first attempt by the health-care provider  
34 or health-care institution to contact the parent, guardian or  
35 surrogate at the last known telephone number or their telephone  
36 number provided by the minor or the minor's custodian, or if there  
37 is no known telephone number, twenty-one (21) days after mailing a  
38 request for consent to the parent's, guardian's or surrogate's  
39 last known address or their address provided by the minor or  
40 minor's custodian, which attempts shall be evidenced by verified  
41 documentation, then any one (1) of the following persons who are  
42 reasonably available, in descending order of priority, is  
43 authorized and empowered to consent on behalf of the minor:

- 44 (a) The minor's custodian;  
45 (b) The minor's adult brother or sister; or  
46 (c) The minor's grandparent.

47 \* \* \*

48 (3) The consent required by subsection (2) of this section  
49 shall not be required:



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

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

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

55           (d) In relation to minors age sixteen (16) years or  
56 older donating to a blood bank as provided for in Section  
57 41-41-15;

58           (e) In relation to physicians or hospitals  
59 authorizations to test for or diagnose infectious disease as  
60 provided for in Section 41-41-16;

61           (f) In relation to any minor in the custody of the  
62 Department of Child Protection Services (CPS) to which CPS  
63 consents;

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

66           (h) In relation to the baby drop-off law, Section  
67 43-15-201 et seq.

68           ( \* \* \*4) Any female, regardless of age or marital status,  
69 is empowered to give consent for herself in connection with  
70 pregnancy or childbirth.

71           (5) The provisions of this section do not affect other  
72 statutes of this state governing treatment for mental illness of  
73 an individual involuntarily committed to a mental health-care  
74 institution.



75           **SECTION 2.** (1) A parent, guardian or surrogate of an  
76 unemancipated minor may bring suit for any violation of Section 1  
77 of this act and may raise Section 1 of this act as a defense in  
78 any judicial or administrative proceeding without regard to  
79 whether the proceeding is brought by or in the name of the state  
80 government, any private person, or any other party.

81           (2) An action under this section may be brought, and relief  
82 may be granted, without regard to whether the person bringing the  
83 action has sought or exhausted available administrative remedies.

84           (3) Any person who successfully asserts a claim or defense  
85 under this section may recover declaratory relief, injunctive  
86 relief, nominal damages, compensatory damages reasonable  
87 attorneys' fees and costs, and any other appropriate relief.

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

91           **SECTION 3.** Section 41-41-17, Mississippi Code of 1972, is  
92 amended as follows:

93           41-41-17. \* \* \* Any adult, as defined in Section  
94 41-41-203(a), \* \* \* or emancipated minor, as defined in Section  
95 41-41-203(e), \* \* \* may consent to participate as a subject in  
96 research if that research is conducted in accordance with federal  
97 law (Title 45 CFR Part 46: Protection of Human Subjects).

98           \* \* \*



99           **SECTION 4.** Section 41-42-7, Mississippi Code of 1972, is  
100 amended as follows:

101           41-42-7. Contraceptive supplies and information may not be  
102 furnished by physicians to any minor \* \* \* except in compliance  
103 with the provisions of Section 41-41-3.

104           **SECTION 5.** Section 41-41-13, Mississippi Code of 1972, which  
105 provides that a physician or nurse practitioner may treat minors  
106 for venereal disease without parental consent, and Section  
107 41-41-14, Mississippi Code of 1972, which provides that a  
108 physician or psychologist may treat certain minors for mental or  
109 emotional problems caused or related to alcohol or drugs without  
110 parental consent, are repealed.

111           **SECTION 6.** This act shall take effect and be in force from  
112 and after July 1, 2024.

