

By: Senator(s) England

To: Public Health and  
Welfare

SENATE BILL NO. 2875

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



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

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

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

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

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

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

42 (e) In relation to physicians or hospitals  
43 authorizations to test for or diagnose infectious disease as  
44 provided for in Section 41-41-16;

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

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

49 or,

50 (h) In relation to the baby drop-off law, Sections  
51 43-15-201 et seq.



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

55 (4) For purposes of this section, "health care institution,"  
56 "health care provider," "unemancipated minor" and "surrogate"  
57 shall have the same definitions as those terms do in Section  
58 41-41-203, respectively.

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

61 41-41-17. \* \* \* Any adult, as defined in Section  
62 41-41-203(a), Mississippi Code of 1972, or emancipated minor, as  
63 defined in Section 41-41-203(e), Mississippi Code of 1972, may  
64 consent to participate as a subject in research if that research  
65 is conducted in accordance with federal law (Title 45 CFR Part 46:  
66 Protection of Human Subjects).

67 \* \* \*

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

70 41-42-7. Contraceptive supplies and information may not be  
71 furnished by physicians to any minor \* \* \* except in compliance  
72 with the provisions of Section 41-41-3.

73 **SECTION 4.** (1) A parent may bring suit for any violation  
74 of this act and may raise the act as a defense in any judicial or  
75 administrative proceeding without regard to whether the proceeding



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

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

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

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

89 **SECTION 5.** (1) Section 41-41-13, which provides that no  
90 parental consent is required for treatment of venereal disease,  
91 and 41-41-14, which provides for mental health treatment of minors  
92 age 15 and over without parental consent, of the Mississippi Code  
93 of 1972, are hereby repealed.

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

