

By: Representative Ford (73rd)

To: Public Health and Human  
Services

## HOUSE BILL NO. 1124

1 AN ACT TO BE KNOWN AS THE MISSISSIPPI HELP NOT HARM ACT; TO  
2 CREATE NEW SECTION 11-77-1, MISSISSIPPI CODE OF 1972, TO DEFINE  
3 TERMS; TO CREATE NEW SECTION 11-77-3, MISSISSIPPI CODE OF 1972, TO  
4 PROHIBIT ANY PERSON FROM KNOWINGLY PERFORMING OR PROVIDING GENDER  
5 REASSIGNMENT SURGERY OR SERVICES TO A MINOR; TO PROVIDE THAT ANY  
6 LICENSED MEDICAL PROFESSIONAL WHO PERFORMS OR PROVIDES GENDER  
7 REASSIGNMENT SURGERY OR SERVICES TO A MINOR SHALL HAVE HIS OR HER  
8 LICENSE REVOKED; TO PROVIDE A PRIVATE CAUSE OF ACTION AGAINST A  
9 PHYSICIAN, OSTEOPATH, HOSPITAL, PRESCRIBING CAREGIVER, CLINIC AND  
10 ANY OTHER HEALTH CARE FACILITY FOR INJURIES ARISING OUT OF THE  
11 COURSE OF MEDICAL, SURGICAL OR OTHER PROFESSIONAL SERVICES RELATED  
12 TO THE PERFORMANCE OF GENDER REASSIGNMENT SURGERY OR SERVICES; TO  
13 PROVIDE THAT THIS CLAIM MUST BE BROUGHT WITHIN THIRTY YEARS FROM  
14 THE DATE THAT THE ALLEGED ACT OCCURRED; TO AUTHORIZE THE ATTORNEY  
15 GENERAL TO BRING AN ACTION TO ENFORCE COMPLIANCE WITH THIS  
16 SECTION; TO PROVIDE THAT THIS SECTION DOES NOT APPLY TO CERTAIN  
17 SERVICES, TREATMENTS AND PROCEDURES; TO AMEND SECTION 73-25-29,  
18 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS  
19 ACT; TO AMEND SECTION 73-25-33, MISSISSIPPI CODE OF 1972, TO  
20 REVISE THE DEFINITION OF THE PRACTICE OF MEDICINE TO EXCLUDE  
21 GENDER REASSIGNMENT SURGERY OR SERVICES FOR MINORS; TO AMEND  
22 SECTION 11-46-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT UNDER  
23 THE TORT CLAIMS ACT AN EMPLOYEE SHALL NOT BE CONSIDERED AS ACTING  
24 WITHIN THE COURSE AND SCOPE OF HIS OR HER EMPLOYMENT AND A  
25 GOVERNMENTAL ENTITY MAY BE LIABLE OR BE CONSIDERED TO HAVE WAIVED  
26 IMMUNITY FOR ANY CONDUCT OF ITS EMPLOYEE IF THE EMPLOYEE'S CONDUCT  
27 VIOLATED THE PROVISIONS OF THIS ACT; TO CREATE NEW SECTION  
28 43-13-117.7, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE DIVISION OF  
29 MEDICAID FROM REIMBURSING ANY ENTITY FOR PART OR ALL OF THE COSTS  
30 OF CARE AND SERVICES RENDERED FOR GENDER REASSIGNMENT SURGERY OR  
31 SERVICES; TO CREATE NEW SECTION 83-9-401, MISSISSIPPI CODE OF  
32 1972, TO PROHIBIT HEALTH COVERAGE PLANS THAT ARE FUNDED WHOLLY OR  
33 IN PART BY STATE FUNDS OR STATE-EMPLOYEE CONTRIBUTIONS FROM  
34 REIMBURSING OR AUTHORIZING PAYMENT OF PART OR ALL OF THE COSTS OF



CARE AND SERVICES RENDERED BY ANY ENTITY FOR GENDER REASSIGNMENT SURGERY OR SERVICES; TO AMEND SECTION 11-1-60, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN ANY CAUSE OF ACTION FILED ON OR AFTER JULY 1, 2023, FOR A CLAIM BROUGHT UNDER SECTION 11-77-3, IF THE TRIER OF FACT FINDS THE DEFENDANT LIABLE, THERE SHALL NOT BE A LIMITATION PLACED ON THE NONECONOMIC DAMAGES AWARD THAT A TRIER OF FACT MAY AWARD TO THE PLAINTIFF; AND FOR RELATED PURPOSES.

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

**SECTION 1.** This act shall be known and may be cited as the "Mississippi Help Not Harm Act."

**SECTION 2.** The following shall be codified as Section 11-77-1, Mississippi Code of 1972:

11-77-1. For purposes of this chapter, the following terms shall have the meanings as defined in this section:

(a) "Gender" means the psychological, behavioral, social and cultural aspects of being male or female.

(b) "Gender reassignment surgery or services" means any of the following medical or surgical services performed on an individual for the purpose of attempting to alter the appearance of or affirm an individual's perception of his or her gender or sex, if that appearance or perception is inconsistent with the individual's sex:

(i) Prescribing or administering puberty blocking medication to stop or delay normal puberty;

(ii) Prescribing or administering supraphysiologic doses of testosterone or other androgens to females;

(iii) Prescribing or administering supraphysiologic doses of estrogen to males;



(iv) Performing surgeries that sterilize, including castration, vasectomy, hysterectomy, oophorectomy, orchiectomy, and penectomy;

(v) Performing surgeries that artificially construct tissue with the appearance of genitalia that differs from the individual's sex, including metoidioplasty, phalloplasty, and vaginoplasty; or

(vi) Removing any healthy or non-diseased body part or tissue, except for a male circumcision.

(c) "Sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen or subjective experience of gender.

**SECTION 3.** The following shall be codified as Section 11-77-3, Mississippi Code of 1972:

11-77-3. (1) No person shall knowingly perform or provide gender reassignment surgery or services to a minor.

(2) No person shall knowingly engage in conduct that aids or abets in gender reassignment surgery or services being performed on or provided to a minor. This section may not be construed to impose liability on any speech or conduct protected by federal or state law.



87           (3) Any licensed medical professional, including, but not  
88 limited to, a physician, osteopath, physician assistant, nurse  
89 practitioner or nurse, who violates the prohibition in subsection  
90 (1) or (2) of this section shall have his or her license in the  
91 State of Mississippi revoked pursuant to action taken by their  
92 respective licensing board.

93           (4) For any claim accruing on or after July 1, 2023, a  
94 private cause of action may be brought against a physician,  
95 osteopath, hospital, prescribing caregiver, clinic and any other  
96 health care facility for injuries arising out of the course of  
97 medical, surgical or other professional services related to the  
98 performance of gender reassignment surgery or services.

99           (5) For any claim accruing on or after July 1, 2023, no  
100 claim as provided for in subsection (4) of this section may be  
101 brought unless it is filed within thirty (30) years from the date  
102 the alleged act occurred.

103           (6) The Attorney General may bring an action to enforce  
104 compliance with this section. Nothing in this section shall be  
105 construed to deny, impair, or otherwise affect any right or  
106 authority of the Attorney General, the state, or any agency,  
107 officer, or employee of the state to institute or intervene in any  
108 proceeding.

109           (7) This section shall not apply to:

110                 (a) Services provided to individuals born with a  
111 medically verifiable disorder of sex development, including a



person with external sex characteristics that are irresolvably ambiguous, such as an individual born with forty-six XX chromosomes with virilization, forty-six XY chromosomes with undervirilization, or having both ovarian and testicular tissue;

(b) Services provided to an individual when a physician has otherwise diagnosed a disorder of sexual development, in which the physician has determined through genetic or biochemical testing that the individual does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a biological male or biological female;

(c) The treatment of any infection, injury, disease or disorder that has been caused or exacerbated by the performance of gender transition procedures, whether or not the procedures were performed in accordance with state and federal law; or

(d) Any procedure undertaken because an individual suffers from a physical disorder, physical injury, or physical illness that is certified by a physician and that would place the individual in imminent danger of death or impairment of major bodily function unless surgery is performed.

**SECTION 4.** Section 73-25-29, Mississippi Code of 1972, is amended as follows:

73-25-29. The grounds for the nonissuance, suspension, revocation or restriction of a license or the denial of reinstatement or renewal of a license are:



(1) Habitual personal use of narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability.

(2) Habitual use of intoxicating liquors, or any beverage, to an extent which affects professional competency.

(3) Administering, dispensing or prescribing any narcotic drug, or any other drug having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice.

(4) Conviction of violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or any drug considered a controlled substance under state or federal law, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(5) Procuring, or attempting to procure, or aiding in, an abortion that is not medically indicated.

(6) Conviction of a felony or misdemeanor involving moral turpitude, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(7) Obtaining or attempting to obtain a license by fraud or deception.

(8) Unprofessional conduct, which includes, but is not limited to:



161 (a) Practicing medicine under a false or assumed  
162 name or impersonating another practitioner, living or dead.

163 (b) Knowingly performing any act which in any way  
164 assists an unlicensed person to practice medicine.

165 (c) Making or willfully causing to be made any  
166 flamboyant claims concerning the licensee's professional  
167 excellence.

168 (d) Being guilty of any dishonorable or unethical  
169 conduct likely to deceive, defraud or harm the public.

170 (e) Obtaining a fee as personal compensation or  
171 gain from a person on fraudulent representation of a disease or  
172 injury condition generally considered incurable by competent  
173 medical authority in the light of current scientific knowledge and  
174 practice can be cured or offering, undertaking, attempting or  
175 agreeing to cure or treat the same by a secret method, which he  
176 refuses to divulge to the board upon request.

177 (f) Use of any false, fraudulent or forged  
178 statement or document, or the use of any fraudulent, deceitful,  
179 dishonest or immoral practice in connection with any of the  
180 licensing requirements, including the signing in his professional  
181 capacity any certificate that is known to be false at the time he  
182 makes or signs such certificate.

183 (g) Failing to identify a physician's school of  
184 practice in all professional uses of his name by use of his earned  
185 degree or a description of his school of practice.



(9) The refusal of a licensing authority of another state or jurisdiction to issue or renew a license, permit or certificate to practice medicine in that jurisdiction or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts practice in that jurisdiction, a certified copy of the disciplinary order or action taken by the other state or jurisdiction being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(10) Surrender of a license or authorization to practice medicine in another state or jurisdiction or surrender of membership on any medical staff or in any medical or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this section.

(11) Final sanctions imposed by the United States Department of Health and Human Services, Office of Inspector General or any successor federal agency or office, based upon a finding of incompetency, gross misconduct or failure to meet professionally recognized standards of health care; a certified copy of the notice of final sanction being prima facie evidence thereof. As used in this paragraph, the term "final sanction" means the written notice to a physician from the United States Department of Health and Human Services, Officer of Inspector





General or any successor federal agency or office, which implements the exclusion.

(12) Failure to furnish the board, its investigators or representatives information legally requested by the board.

(13) Violation of any provision(s) of the Medical Practice Act or the rules and regulations of the board or of any order, stipulation or agreement with the board.

(14) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners.

(15) Performing or inducing an abortion on a woman in violation of any provision of Sections 41-41-131 through 41-41-145.

(16) Performing an abortion on a pregnant woman after determining that the unborn human individual that the pregnant woman is carrying has a detectable fetal heartbeat as provided in Section 41-41-34.1.

(17) Knowingly performing gender reassignment surgery or services on a minor as prohibited in Section 11-77-3.

In addition to the grounds specified above, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that



purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

A physician who provides a written certification as authorized under the Mississippi Medical Cannabis Act and in compliance with rules and regulations adopted thereunder shall not be subject to any disciplinary action under this section solely due to providing the written certification.

**SECTION 5.** Section 73-25-33, Mississippi Code of 1972, is amended as follows:

73-25-33. (1) The practice of medicine shall mean to suggest, recommend, prescribe, or direct for the use of any person, any drug, medicine, appliance, or other agency, whether material or not material, for the cure, relief, or palliation of any ailment or disease of the mind or body, or for the cure or relief of any wound or fracture or other bodily injury or deformity, or the practice of obstetrics or midwifery, after having received, or with the intent of receiving therefor, either directly or indirectly, any bonus, gift, profit or compensation; provided, that nothing in this section shall apply to females engaged solely in the practice of midwifery.



(2) The practice of medicine shall not mean to knowingly provide gender reassignment surgery or services for minors. For purposes of this subsection, gender reassignment surgery or services means the services or activities prohibited under Section 11-77-3.

**SECTION 6.** Section 11-46-5, Mississippi Code of 1972, is amended as follows:

11-46-5. (1) Notwithstanding the immunity granted in Section 11-46-3, or the provisions of any other law to the contrary, the immunity of the state and its political subdivisions from claims for money damages arising out of the torts of such governmental entities and the torts of their employees while acting within the course and scope of their employment is hereby waived from and after July 1, 1993, as to the state, and from and after October 1, 1993, as to political subdivisions; provided, however, immunity of a governmental entity in any such case shall be waived only to the extent of the maximum amount of liability provided for in Section 11-46-15.

(2) For the purposes of this chapter an employee shall not be considered as acting within the course and scope of his or her employment and a governmental entity shall not be liable or be considered to have waived immunity for any conduct of its employee if the employee's conduct constituted fraud, malice, libel, slander, defamation or any criminal offense other than traffic violations.



(3) For the purposes of this chapter and not otherwise, it shall be a rebuttable presumption that any act or omission of an employee within the time and at the place of his or her employment is within the course and scope of his employment except for actions described in Section 73-25-33(2) and subsection (5) of this section.

(4) Nothing contained in this chapter shall be construed to waive the immunity of the state from suit in federal courts guaranteed by the Eleventh Amendment to the Constitution of the United States.

(5) For the purposes of this chapter, an employee shall not be considered as acting within the course and scope of his or her employment, and a governmental entity may be liable or be considered to have waived immunity for any conduct of its employee if the employee's conduct constituted an act in violation of Section 11-77-3.

**SECTION 7.** The following shall be codified as Section 43-13-117.7, Mississippi Code of 1972:

43-13-117.7. (1) For purposes of this section, the following terms shall have the meanings as defined in this subsection:

(a) "Gender" means the psychological, behavioral, social and cultural aspects of being male or female.

(b) "Gender reassignment surgery or service" means any of the following medical or surgical services performed on an



individual for the purpose of attempting to alter the appearance of or affirm an individual's perception of his or her gender or sex, if that appearance or perception is inconsistent with the individual's sex:

(i) Prescribing or administering puberty blocking medication to stop or delay normal puberty;

(ii) Prescribing or administering supraphysiologic doses of testosterone or other androgens to females;

(iii) Prescribing or administering supraphysiologic doses of estrogen to males;

(iv) Performing surgeries that sterilize, including castration, vasectomy, hysterectomy, oophorectomy, orchiectomy, and penectomy;

(v) Performing surgeries that artificially construct tissue with the appearance of genitalia that differs from the individual's sex, including metoidioplasty, phalloplasty, and vaginoplasty; or

(vi) Removing any healthy or non-diseased body part or tissue, except for a male circumcision;

(c) "Sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen or subjective experience of gender.



(2) The division shall not authorize payment of part or all of the costs of care and services rendered by any entity for gender reassignment surgery or services.

**SECTION 8.** The following shall be codified as Section 83-9-401, Mississippi Code of 1972:

83-9-401. (1) For purposes of this section, the following terms shall have the meanings as defined in this subsection:

(a) "Gender" means the psychological, behavioral, social and cultural aspects of being male or female.

(b) "Gender reassignment surgery or service" means any of the following medical or surgical services performed on an individual for the purpose of attempting to alter the appearance of or affirm an individual's perception of his or her gender or sex, if that appearance or perception is inconsistent with the individual's sex:

(i) Prescribing or administering puberty blocking medication to stop or delay normal puberty;

(ii) Prescribing or administering supraphysiologic doses of testosterone or other androgens to females;

(iii) Prescribing or administering supraphysiologic doses of estrogen to males;

(iv) Performing surgeries that sterilize, including castration, vasectomy, hysterectomy, oophorectomy, orchiectomy, and penectomy;



(v) Performing surgeries that artificially construct tissue with the appearance of genitalia that differs from the individual's sex, including metoidioplasty, phalloplasty, and vaginoplasty; or

(vii) Removing any healthy or non-diseased body part or tissue, except for a male circumcision.

(c) "Health coverage plan" means any health or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, contract or agreement with a health maintenance organization or a preferred provider organization, health and accident insurance policy, including a group insurance plan and the State Health Plan.

(d) "Sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen or subjective experience of gender.

(2) No health coverage plan that is funded wholly or in part by state funds or state-employee contributions shall reimburse or authorize payment of part or all of the costs of care and services rendered by any entity for gender reassignment surgery or services.

**SECTION 9.** Section 11-1-60, Mississippi Code of 1972, is amended as follows:



11-1-60. (1) For the purposes of this section, the following words and phrases shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Noneconomic damages" means subjective, nonpecuniary damages arising from death, pain, suffering, inconvenience, mental anguish, worry, emotional distress, loss of society and companionship, loss of consortium, bystander injury, physical impairment, disfigurement, injury to reputation, humiliation, embarrassment, loss of the enjoyment of life, hedonic damages, other nonpecuniary damages, and any other theory of damages such as fear of loss, illness or injury. The term "noneconomic damages" shall not include punitive or exemplary damages.

(b) "Actual economic damages" means objectively verifiable pecuniary damages arising from medical expenses and medical care, rehabilitation services, custodial care, disabilities, loss of earnings and earning capacity, loss of income, burial costs, loss of use of property, costs of repair or replacement of property, costs of obtaining substitute domestic services, loss of employment, loss of business or employment opportunities, and other objectively verifiable monetary losses.

(2) (a) In any cause of action filed on or after September 1, 2004, for injury based on malpractice or breach of standard of care against a provider of health care, including institutions for the aged or infirm, in the event the trier of fact finds the





defendant liable, they shall not award the plaintiff more than Five Hundred Thousand Dollars (\$500,000.00) for noneconomic damages.

(b) In any civil action filed on or after September 1, 2004, other than those actions described in paragraph (a) of this subsection, in the event the trier of fact finds the defendant liable, they shall not award the plaintiff more than One Million Dollars (\$1,000,000.00) for noneconomic damages.

It is the intent of this section to limit all noneconomic damages to the above.

(c) The trier of fact shall not be advised of the limitations imposed by this subsection (2) and the judge shall appropriately reduce any award of noneconomic damages that exceeds the applicable limitation.

(3) Nothing contained in subsection (1) of this section shall be construed as creating a cause of action or as setting forth elements of or types of damages that are or are not recoverable in any type of cause of action.

(4) For any claim accruing on or after July 1, 2023, subsections (1) through (3) of this section shall not apply to a claim brought according to Section 11-77-3 against a licensed physician, osteopath or hospital for injuries arising out of the course of medical, surgical or other professional services related to the performance of gender reassignment surgery or services. In any cause of action filed on or after July 1, 2023, for a claim



435 brought according to Section 11-77-3, if the trier of fact finds  
436 the defendant liable, there shall not be a limitation placed on  
437 the noneconomic damages award that a trier of fact may award to  
438 the plaintiff.

439       **SECTION 10.** This act shall take effect and be in force from  
440 and after July 1, 2023.

