

By: Representative Ford (73rd)

To: Judiciary A

HOUSE BILL NO. 509

1 AN ACT TO ESTABLISH THE "FAMILIES' RIGHTS AND
2 RESPONSIBILITIES ACT OF 2023"; TO DEFINE TERMINOLOGY USED HEREIN;
3 TO ESTABLISH THAT A PARENT'S LIBERTY TO DIRECT THE UPBRINGING,
4 EDUCATION, HEALTH CARE AND MENTAL HEALTH OF HIS OR HER CHILD IS A
5 FUNDAMENTAL RIGHT; TO PROHIBIT THE STATE OR ANY POLITICAL
6 SUBDIVISION THEREOF FROM SUBSTANTIALLY BURDENING A PARENT'S
7 FUNDAMENTAL RIGHT WITHOUT DEMONSTRATING THAT THE BURDEN IS
8 REQUIRED BY A COMPELLING GOVERNMENTAL INTEREST; TO PROVIDE THAT
9 ALL PARENTAL RIGHTS ARE EXCLUSIVELY RESERVED TO A PARENT OF A
10 CHILD WITHOUT OBSTRUCTION BY OR INTERFERENCE FROM THE STATE OR ANY
11 POLITICAL SUBDIVISION THEREOF; TO PROVIDE THAT ABUSE OR NEGLECT OF
12 A CHILD BY A PARENT OR THE ACTION OR DECISION OF A PARENT THAT
13 WOULD END LIFE ARE NOT AUTHORIZED BY THIS ACT; TO PROHIBIT
14 EMPLOYEES OF THIS STATE AND ANY POLITICAL SUBDIVISION THEREOF,
15 EXCEPT FOR LAW ENFORCEMENT PERSONNEL, FROM ENCOURAGING OR COERCING
16 A CHILD TO WITHHOLD INFORMATION FROM THE CHILD'S PARENT; TO
17 FURTHER PROHIBIT SUCH EMPLOYEES FROM WITHHOLDING INFORMATION THAT
18 IS RELEVANT TO A CHILD'S PHYSICAL, EMOTIONAL OR MENTAL HEALTH FROM
19 A CHILD'S PARENT; TO REQUIRE THE BOARD OF EDUCATION OF A SCHOOL
20 DISTRICT TO DEVELOP AND ADOPT A POLICY TO PROMOTE THE INVOLVEMENT
21 OF PARENTS OF CHILDREN ENROLLED IN THE DISTRICT'S SCHOOLS; TO
22 PRESCRIBE THE MINIMUM REQUIREMENT PROCEDURES TO BE ADDRESSED BY
23 THE POLICY; TO PROVIDE THE BOARD OF EDUCATION OF A SCHOOL DISTRICT
24 WITH THE DISCRETION TO ADOPT A POLICY TO PROVIDE TO PARENTS THE
25 INFORMATION IN AN ELECTRONIC FORM; TO REQUIRE PARENTS TO SUBMIT A
26 WRITTEN OR ELECTRONIC REQUEST FOR THE CHILD'S INFORMATION TO THE
27 SCHOOL PRINCIPAL OR THE SUPERINTENDENT OF THE SCHOOL DISTRICT; TO
28 REQUIRE THE SCHOOL PRINCIPAL OR SUPERINTENDENT TO PROVIDE THE
29 REQUESTED INFORMATION TO THE PARENTS WITHIN TEN DAYS OF RECEIVING
30 THE REQUEST, OR SUBMIT TO THE PARENT A WRITTEN EXPLANATION OF THE
31 REASONS FOR THE DENIAL OF THE REQUESTED INFORMATION; TO PRESCRIBE
32 THE PROCESS BY WHICH A PARENT MAY SUBMIT A FORMAL CONSIDERATION OF
33 THE REQUEST OF INFORMATION WITH THE SCHOOL BOARD IF THE REQUESTED
34 INFORMATION IS NOT RECEIVED 15 DAYS AFTER SUBMITTING THE INITIAL



REQUEST; TO STIPULATE THE LIMITATIONS PLACED UPON PERSONS, CORPORATIONS, ASSOCIATIONS, ORGANIZATIONS, STATE SUPPORTED INSTITUTIONS OR INDIVIDUALS EMPLOYED BY ANY OF THESE ENTITIES TO PROVIDE ANY MEDICAL OR MENTAL HEALTH SERVICE OR PROCEDURE ON A CHILD WITHOUT FIRST OBTAINING THE CONSENT OF THE CHILD'S PARENT, EXCEPT AS OTHERWISE PROVIDED BY LAW OR COURT ORDER; TO PRESCRIBE EXCEPTIONS TO THE LIMITATION WHEN PARENTAL CONSENT IS NOT CAPABLE OF BEING GIVEN OR IN EMERGENCY SITUATIONS WHEN IMMINENT BODILY HARM OR DEATH COULD RESULT; TO SPECIFY THE MANNER BY WHICH PARENTAL CONSENT MUST BE VERIFIED IF TELEMEDICINE IS PROVIDED; TO ESTABLISH A CAUSE OF ACTION FOR VIOLATION OF THIS ACT; TO PROVIDE THAT THIS ACT SHALL SERVE AS A DEFENSE TO ANY CAUSE OF ACTION THAT IS RAISED AS A RESULT OF A VIOLATION THEREOF; TO PROVIDE THAT THE RULES OF CONSTRUCTION SHALL PROVIDE BROAD PROTECTION OF A PARENT'S FUNDAMENTAL RIGHTS AS INALIENABLE UNLESS THOSE RIGHTS HAVE BEEN LEGALLY WAIVED OR LEGALLY TERMINATED; TO AMEND SECTION 37-3-49, MISSISSIPPI CODE OF 1972, TO PROVIDE THE PARENT OF EACH PUBLIC SCHOOL STUDENT WITH THE RIGHT TO RECEIVE EFFECTIVE COMMUNICATION FROM THE SCHOOL PRINCIPAL AS TO THE MANNER IN WHICH INSTRUCTIONAL MATERIALS ARE USED TO IMPLEMENT THE SCHOOL'S CURRICULAR OBJECTIVES; TO AMEND SECTION 37-13-173, MISSISSIPPI CODE OF 1972, TO PROVIDE PARENTS THE AUTHORITY TO OPT THEIR CHILDREN OUT OF ANY INSTRUCTION OF THE SCHOOL DISTRICT'S COMPREHENSIVE HEALTH EDUCATION RELATING TO SEX EDUCATION UPON SUBMITTING A WRITTEN REQUEST TO THE SCHOOL PRINCIPAL; TO AMEND SECTION 37-15-3, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT STUDENT AND PARENTAL RIGHTS TO EDUCATION RECORDS CREATED, MAINTAINED, OR USED BY PUBLIC EDUCATIONAL INSTITUTIONS AND AGENCIES SHALL BE PROTECTED; TO STIPULATE THAT STUDENTS AND THEIR PARENTS MAINTAIN THE RIGHT TO ACCESS THE STUDENT'S EDUCATIONAL RECORDS, WAIVE ACCESS TO SUCH RECORDS, CHALLENGE THE CONTENT OF SUCH RECORDS, PRIVACY OF SUCH RECORDS AND TO RECEIVE ANNUAL NOTICE OF THE RIGHTS TO SUCH RECORDS; TO BRING FORWARD SECTIONS 37-7-301, 37-13-171 AND 43-21-105, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE AMENDMENTS; 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 "Families' Rights and Responsibilities Act of 2023."

SECTION 2. As used in this act, the following terms shall have the meaning ascribed in this section unless context of usage requires otherwise:

(a) "Child" means an individual under the age of eighteen (18). The term does not include any child who has been



78 adjudicated as a legally emancipated minor in accordance with
79 state law by a court of competent jurisdiction.

80 (b) "Curriculum" includes all textbooks, reading
81 materials, handouts, videos, presentations, digital materials,
82 websites, online applications, digital applications for a phone,
83 laptop or tablet, questionnaires, surveys, or other written or
84 electronic materials that have been or will be assigned,
85 distributed or otherwise presented physically or virtually to
86 students in a class or course.

87 (c) "Educational records" includes attendance records,
88 test scores of school-administered tests and state-wide
89 assessments, grades, extracurricular activity or club
90 participation, e-mail accounts, online or virtual accounts or
91 data, disciplinary records, counseling records, psychological
92 records, applications for admission, health and immunization
93 information including any medical records maintained by a health
94 clinic or medical facility operated or controlled by the school
95 district or located on district property, teacher and counselor
96 evaluations, and reports of behavioral patterns.

97 (d) "Parent" means a biological parent of a child, an
98 adoptive parent of a child, or an individual who has been granted
99 exclusive right, guardianship and authority over the welfare of a
100 child under state law.

101 (e) "Substantial burden" means any action that directly
102 or indirectly constrains, inhibits, curtails, or denies the right



of a parent to direct the upbringing, education, health care and mental health of that parent's child, or compels any action contrary to the right of a parent to direct the upbringing, education, health care and mental health of that parent's child. The term includes, but is not limited to, withholding benefits, assessing criminal, civil or administrative penalties or damages, or exclusion from governmental assistance programs.

SECTION 3. Parental Rights are Fundamental.

(1) The liberty of a parent to direct the upbringing, education, health care and mental health of that parent's child is a fundamental right.

(2) This state, any political subdivision of this state or any other governmental entity shall not substantially burden the fundamental right of a parent to direct the upbringing, education, health care and mental health of that parent's child without demonstrating that the burden is required by a compelling governmental interest of the highest order as applied to the parent and the child and is the least restrictive means of furthering that compelling governmental interest.

SECTION 4. Rights and Responsibilities.

(1) All parental rights are exclusively reserved to a parent of a child without obstruction by or interference from this state, any political subdivision of this state, any other governmental entity or any other institution, including without limitation, the following rights and responsibilities:



128 (a) To direct the education of the child, including the
129 right to choose public, private, religious or home schools, and
130 the right to make reasonable choices within public schools for the
131 education of the child;

132 (b) To access and review all written and electronic
133 educational records relating to the child that are controlled by
134 or in the possession of a school;

135 (c) To direct the upbringing of the child;

136 (d) To direct the moral or religious training of the
137 child;

138 (e) To make and consent in writing to all physical and
139 mental health care decisions for the child;

140 (f) To access and review all health and medical records
141 of the child;

142 (g) To consent in writing before a biometric scan of
143 the child is made, shared or stored;

144 (h) To consent in writing before any record of the
145 child's blood or deoxyribonucleic acid (DNA) is created, stored or
146 shared, unless authorized pursuant to a court order;

147 (i) To consent in writing before any governmental
148 entity makes a video or voice recording of the child, unless the
149 video or voice recording is made during or as a part of:

150 (i) A court proceeding;

151 (ii) A law enforcement investigation;



(iii) A forensic interview in a criminal or Department of Child Protection Services investigation;

(iv) The security or surveillance of buildings or grounds; or

(v) A photo identification card;

(j) To be notified promptly if an employee of this state, any political subdivision of this state, any other governmental entity or any other institution suspects that abuse, neglect or any criminal offense has been committed against the child;

(k) To opt the child out of any personal analysis, evaluation, survey or data collection by a school district that would capture data for inclusion in the state longitudinal student data system except what is necessary and essential to establish a student's educational record;

(l) The right to have the child excused from school attendance for religious purposes; and

(m) The right to participate in parent-teacher associations and school organizations that are sanctioned by the board of education of a school district.

(2) This section does not authorize or allow a parent to abuse or neglect a child as defined in Section 43-21-105. This section does not apply to a parental action or decision that would end life. This section does not prohibit a court from issuing an order that is otherwise permitted by law.



(3) No employee of this state, any political subdivision of this state, or any other governmental entity, except for law enforcement personnel, shall encourage or coerce a child to withhold information from the child's parent. Nor shall any such employee withhold from a child's parent information that is relevant to the physical, emotional or mental health of the child.

SECTION 5. Educational Involvement.

(1) The board of education of a school district, in consultation with parents, teachers and administrators, shall develop and adopt a policy to promote the involvement of parents of children enrolled in the schools within the school district, including:

(a) A plan for parent participation in the schools which is designed to improve parent and teacher cooperation in such areas as homework, attendance and discipline;

(b) Procedures by which a parent may learn about the course of study for that parent's child and review all curriculum. These procedures shall allow a parent to:

(i) Review a syllabus for each class or course that the parent's child is enrolled in at least seven (7) days before the start of each class or course. The syllabus shall include a written description of all topics and subjects taught in a class or course, and shall include a list of all curriculum used in the class or course, the identity of all individuals providing in-person or live remote instruction in the class or course, and a



description of any assemblies, guest lectures, field trips or other educational activities that are part of the class or course;

(ii) Review all curriculum for each class or course offered by the school and any teacher training materials at least three (3) days before the curriculum or materials being taught or used for instruction is presented to students;

(iii) Copy and record information from the curriculum and teacher training materials; and

(iv) Meet with the teacher of the class or course, the principal, or other representative from the school to discuss the curriculum and teaching training materials.

(c) Procedures to notify a parent at least three (3) days in advance and obtain the parent's written consent before the parent's child attends any instruction or presentation that has the goal or purpose of studying, exploring or informing students about gender roles or stereotypes, gender identity, gender expression, sexual orientation or romantic or sexual relationships;

(d) Procedures by which a parent who objects to any specific instruction or presentation on the basis that it is harmful may withdraw that parent's child from the instruction or presentation. Objection to a specific instruction or presentation on the basis that it is harmful includes, but is not limited to, objection to a material or activity because it questions beliefs or practices regarding sex, morality or religion;



227 (e) Procedures by which a parent may learn about the
228 nature and purpose of clubs and extracurricular activities that
229 have been approved by the school and may withdraw that parent's
230 child from any club or extracurricular to which the parent
231 objects;

232 (f) Procedures by which a parent must provide written
233 consent before their child uses a name or nickname other than
234 their legal name, or before a child uses a pronoun that does not
235 align with the child's sex. However, even if a parent provides
236 written consent, no person shall be compelled to use pronouns that
237 do not align with the child's sex; and

238 (g) Procedures by which a parent may learn about
239 parental rights and responsibilities under the laws of this state.

240 (2) The board of education of a school district may adopt a
241 policy to provide to parents the information required by this
242 section in an electronic form.

243 (3) A parent shall submit a written or electronic request
244 for information pursuant to this section to either the school
245 principal or the superintendent of the school district. Within
246 ten (10) days of receiving the request for information, the school
247 principal or the superintendent shall either deliver the requested
248 information to the parent or submit to the parent a written
249 explanation of the reasons for the denial of the requested
250 information. If the request for information is denied or the
251 parent does not receive the requested information within fifteen



(15) days after submitting the request for information, the parent may submit a written request for the information to the board of education of the school district, which shall formally consider the request at the next scheduled public meeting of the board if the request can be properly noticed on the agenda. If the request cannot be properly noticed on the agenda, the board of education shall formally consider the request at the next subsequent public meeting of the board.

SECTION 6. Medical and Mental Health Care.

(1) Except as otherwise provided by law or court order, a person, corporation, association, organization, state-supported institution or individual employed by any of these entities must obtain the consent of a parent of a child before taking any of the following actions:

(a) Procuring, soliciting to perform, arranging for the performance of, providing a referral for, or performing surgical procedures upon a child;

(b) Procuring, soliciting to perform, arranging for the performance of, providing a referral for, or performing a physical examination upon a child;

(c) Prescribing or dispensing any medication or prescription drugs to a child; or

(d) Procuring, soliciting to perform, arranging for the performance of, providing a referral for, or performing a mental



health evaluation in a clinical or nonclinical setting, or mental health treatment on a child.

(2) If the parental consent pursuant to subsection (1) is given through telemedicine, the person or entity obtaining parental consent must verify the identity of the parent at the site where the consent is given.

(3) The provisions of this section shall not apply when it has been determined by a physician that:

(a) An emergency exists; and

(b) Either of the following conditions is true:

(i) It is necessary to perform an activity listed in subsection (1) in order to prevent death or imminent irreparable physical injury to the child; or

(ii) A parent of the child cannot be located or contacted after a reasonably diligent effort.

(4) The provisions of this section do not apply to an abortion, which shall be governed by Chapter 41, Title 41, Mississippi Code of 1972.

SECTION 7. Cause of Action.

(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.



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

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

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

SECTION 8. Rules of Construction.

(1) Unless those rights have been legally waived or legally terminated, parents have inalienable rights that are more comprehensive than those listed in this section. The protections of the fundamental right of parents to direct the upbringing, education, health care and mental health of their child afforded by this act are in addition to the protections provided under federal law, state law, and the state and federal constitutions.

(2) This act shall be construed in favor of a broad protection of the fundamental right of parents to direct the upbringing, education, health care and mental health of their child.

(3) Nothing in this act shall be construed to authorize any government to burden the fundamental right of parents to direct



the upbringing, education, health care and mental health of their child.

(4) If a child has no affirmative right of access to a particular medical or mental health procedure or service, then nothing in this act shall be construed to grant that child's parent an affirmative right of access to that procedure or service on that child's behalf.

(5) State statutory law adopted after the date of the enactment of this act is subject to this act unless such law explicitly excludes such application by reference to this act.

SECTION 9. Section 37-3-49, Mississippi Code of 1972, is amended as follows:

37-3-49. (1) The State Department of Education shall provide an instructional program and establish guidelines and procedures for managing such program in the public schools within the school districts throughout the state as part of the State Program of Educational Accountability and Assessment of Performance as prescribed in Section 37-3-46. Public school districts may (a) elect to adopt the instructional program and management system provided by the State Department of Education, or (b) elect to adopt an instructional program and management system which meets or exceeds criteria established by the State Department of Education for such. This provision shall begin with the courses taught in Grades K-8 which contain skills tested through the Mississippi Basic Skills Assessment Program and shall



350 proceed through all secondary school courses mandated for
351 graduation and all secondary school courses in the Mississippi
352 end-of-course testing program. Other state core objectives must
353 be included in the district's instructional program as they are
354 provided by the State Department of Education along with
355 instructional practices, resources, evaluation items and
356 management procedures. Districts are encouraged to adapt this
357 program and accompanying procedures to all other instructional
358 areas. The department shall provide that such program and
359 guidelines, or a program and guidelines developed by a local
360 school district which incorporates the core objectives from the
361 curriculum structure are enforced through the performance-based
362 accreditation system. It is the intent of the Legislature that
363 every effort be made to protect the instructional time in the
364 classroom and reduce the amount of paperwork which must be
365 completed by teachers. The State Department of Education shall
366 take steps to insure that school districts properly use staff
367 development time to work on the districts' instructional
368 management plans.

369 (2) The State Department of Education shall provide such
370 instructional program and management guidelines which shall
371 require for every public school district that:

372 (a) All courses taught in Grades K-8 which contain
373 skills which are tested through the Mississippi Basic Skills
374 Assessment Program, all secondary school courses mandated for



375 graduation, and all courses in the end-of-course testing program
376 shall include the State Department of Education's written list of
377 learning objectives.

378 (b) The local school board must adopt the objectives
379 that will form the core curriculum which will be systematically
380 delivered throughout the district.

381 (c) The set of objectives provided by the State
382 Department of Education must be accompanied by suggested
383 instructional practices and resources that would help teachers
384 organize instruction so as to promote student learning of the
385 objectives. Objectives added by the school district must also be
386 accompanied by suggested instructional practices and resources
387 that would help teachers organize instruction. The instructional
388 practices and resources that are identified are to be used as
389 suggestions and not as requirements that teachers must follow.
390 The goal of the program is to have students to achieve the desired
391 objective and not to limit teachers in the way they teach.

392 (d) Standards for student performance must be
393 established for each core objective in the local program and those
394 standards establish the district's definition of mastery for each
395 objective.

396 (e) There shall be an annual review of student
397 performance in the instructional program against locally
398 established standards. When weaknesses exist in the local



instructional program, the district shall take action to improve student performance.

(3) The parent of each public school student has the right to receive effective communication from the school principal as to the manner in which instructional materials are used to implement the school's curricular objectives, in accordance with the provisions of Section 5 of this act.

(* * *4) The State Board of Education and the board of trustees of each school district shall adopt policies to limit and reduce the number and length of written reports that classroom teachers are required to prepare.

(* * *5) This section shall not be construed to limit teachers from using their own professional skills to help students master instructional objectives, nor shall it be construed as a call for more detailed or complex lesson plans or any increase in testing at the local school district level.

(* * *6) Districts meeting the highest levels of accreditation standards, as defined by the State Board of Education, shall be exempted from the provisions of subsection (2) of this section.

SECTION 10. Section 37-13-173, Mississippi Code of 1972, is amended as follows:

37-13-173. (1) Each school providing instruction or any other presentation on human sexuality in the classroom, assembly or other official setting shall be required to provide no less



than * * * three (3) days' written notice thereof to the parents of children in such programs of instruction. The written notice must inform the parents of their right to request the inclusion of their child for such instruction or presentation. The notice also must inform the parents of the right, and the appropriate process, to review the curriculum and all materials to be used in the lesson or presentation.

(2) Upon the written request of any parent or legal guardian to the school principal to exempt his or her child from the teaching of reproductive health or any disease, including HIV/AIDS, in accordance with the provisions of Section 37-13-171, the school shall excuse the parent's child from such instruction or presentation, without detriment to the student.

SECTION 11. Section 37-15-3, Mississippi Code of 1972, is amended as follows:

37-15-3. (1) * * * The cumulative folders as are provided for in Section 37-15-1 shall be kept in the school wherein the pupils are in attendance. Both the permanent records and the cumulative folders shall be available to school officials, including teachers within the school district who have been determined by the school district to have legitimate educational interests. In no case, however, shall such records be available to the general public.

(2) The rights of students and their parents or legal guardians with respect to education records created, maintained,



or used by public educational institutions and agencies shall be protected. Transcripts of courses and grades may be furnished when requested by the parent or guardian or eligible pupil as prescribed in the Family Educational Rights and Privacy Act of 1974, as amended, 20 USCS Section 1232g, the implementing regulations issued pursuant thereto, and this section, provided the following:

(a) Students and their parents shall have the right to access their education records, including the right to inspect and review those records;

(b) Students and their parents shall have the right to waive their access to their education records in certain circumstances;

(c) Students and their parents shall have the right to challenge the content of education records in order to ensure that the records are not inaccurate, misleading or otherwise a violation of privacy or other rights;

(d) Students and their parents shall have the right of privacy with respect to such records and reports; and

(e) Students and their parents shall receive annual notice of their rights with respect to education records.

(3) * * * The records shall be kept for each pupil throughout his entire public school enrollment period. In the event a pupil transfers to a public school, including a charter school, then the cumulative folder shall be furnished to the head



of the school to which the pupil transfers; if a pupil transfers to a private school, then a copy of the cumulative folder shall be furnished to the head of the school to which the pupil transfers. The permanent record shall be kept permanently by the school district from which the pupil transferred.

(4) At no time may a permanent record of a student be destroyed, but cumulative folders may be destroyed by order of the school board of the school district in not less than five (5) years after the permanent record of the pupil has become inactive and has been transferred to the central depository of the district. * * * However, * * * where a school district makes complete copies of inactive permanent records on photographic film, microfilm * * * or any other acceptable form of medium for storage which may be reproduced as needed, * * * those permanent records may be destroyed after the photographic film or microfilm copy has been stored in the central depository of the district.

SECTION 12. Section 37-7-301, Mississippi Code of 1972, is brought forward as follows:

37-7-301. The school boards of all school districts shall have the following powers, authority and duties in addition to all others imposed or granted by law, to wit:

(a) To organize and operate the schools of the district and to make such division between the high school grades and elementary grades as, in their judgment, will serve the best interests of the school;



499 (b) To introduce public school music, art, manual
500 training and other special subjects into either the elementary or
501 high school grades, as the board shall deem proper;

502 (c) To be the custodians of real and personal school
503 property and to manage, control and care for same, both during the
504 school term and during vacation;

505 (d) To have responsibility for the erection, repairing
506 and equipping of school facilities and the making of necessary
507 school improvements;

508 (e) To suspend or to expel a pupil or to change the
509 placement of a pupil to the school district's alternative school
510 or homebound program for misconduct in the school or on school
511 property, as defined in Section 37-11-29, on the road to and from
512 school, or at any school-related activity or event, or for conduct
513 occurring on property other than school property or other than at
514 a school-related activity or event when such conduct by a pupil,
515 in the determination of the school superintendent or principal,
516 renders that pupil's presence in the classroom a disruption to the
517 educational environment of the school or a detriment to the best
518 interest and welfare of the pupils and teacher of such class as a
519 whole, and to delegate such authority to the appropriate officials
520 of the school district;

521 (f) To visit schools in the district, in their
522 discretion, in a body for the purpose of determining what can be
523 done for the improvement of the school in a general way;



(g) To support, within reasonable limits, the superintendent, principal and teachers where necessary for the proper discipline of the school;

(h) To exclude from the schools students with what appears to be infectious or contagious diseases; provided, however, such student may be allowed to return to school upon presenting a certificate from a public health officer, duly licensed physician or nurse practitioner that the student is free from such disease;

(i) To require those vaccinations specified by the State Health Officer as provided in Section 41-23-37;

(j) To see that all necessary utilities and services are provided in the schools at all times when same are needed;

(k) To authorize the use of the school buildings and grounds for the holding of public meetings and gatherings of the people under such regulations as may be prescribed by said board;

(l) To prescribe and enforce rules and regulations not inconsistent with law or with the regulations of the State Board of Education for their own government and for the government of the schools, and to transact their business at regular and special meetings called and held in the manner provided by law;

(m) To maintain and operate all of the schools under their control for such length of time during the year as may be required;



(n) To enforce in the schools the courses of study and the use of the textbooks prescribed by the proper authorities;

(o) To make orders directed to the superintendent of schools for the issuance of pay certificates for lawful purposes on any available funds of the district and to have full control of the receipt, distribution, allotment and disbursement of all funds provided for the support and operation of the schools of such school district whether such funds be derived from state appropriations, local ad valorem tax collections, or otherwise. The local school board shall be authorized and empowered to promulgate rules and regulations that specify the types of claims and set limits of the dollar amount for payment of claims by the superintendent of schools to be ratified by the board at the next regularly scheduled meeting after payment has been made;

(p) To select all school district personnel in the manner provided by law, and to provide for such employee fringe benefit programs, including accident reimbursement plans, as may be deemed necessary and appropriate by the board;

(q) To provide athletic programs and other school activities and to regulate the establishment and operation of such programs and activities;

(r) To join, in their discretion, any association of school boards and other public school-related organizations, and to pay from local funds other than minimum foundation funds, any membership dues;



573 (s) To expend local school activity funds, or other
574 available school district funds, other than minimum education
575 program funds, for the purposes prescribed under this paragraph.
576 "Activity funds" shall mean all funds received by school officials
577 in all school districts paid or collected to participate in any
578 school activity, such activity being part of the school program
579 and partially financed with public funds or supplemented by public
580 funds. The term "activity funds" shall not include any funds
581 raised and/or expended by any organization unless commingled in a
582 bank account with existing activity funds, regardless of whether
583 the funds were raised by school employees or received by school
584 employees during school hours or using school facilities, and
585 regardless of whether a school employee exercises influence over
586 the expenditure or disposition of such funds. Organizations shall
587 not be required to make any payment to any school for the use of
588 any school facility if, in the discretion of the local school
589 governing board, the organization's function shall be deemed to be
590 beneficial to the official or extracurricular programs of the
591 school. For the purposes of this provision, the term
592 "organization" shall not include any organization subject to the
593 control of the local school governing board. Activity funds may
594 only be expended for any necessary expenses or travel costs,
595 including advances, incurred by students and their chaperons in
596 attending any in-state or out-of-state school-related programs,
597 conventions or seminars and/or any commodities, equipment, travel



598 expenses, purchased services or school supplies which the local
599 school governing board, in its discretion, shall deem beneficial
600 to the official or extracurricular programs of the district,
601 including items which may subsequently become the personal
602 property of individuals, including yearbooks, athletic apparel,
603 book covers and trophies. Activity funds may be used to pay
604 travel expenses of school district personnel. The local school
605 governing board shall be authorized and empowered to promulgate
606 rules and regulations specifically designating for what purposes
607 school activity funds may be expended. The local school governing
608 board shall provide (i) that such school activity funds shall be
609 maintained and expended by the principal of the school generating
610 the funds in individual bank accounts, or (ii) that such school
611 activity funds shall be maintained and expended by the
612 superintendent of schools in a central depository approved by the
613 board. The local school governing board shall provide that such
614 school activity funds be audited as part of the annual audit
615 required in Section 37-9-18. The State Department of Education
616 shall prescribe a uniform system of accounting and financial
617 reporting for all school activity fund transactions;
618 (t) To enter into an energy performance contract,
619 energy services contract, on a shared-savings, lease or
620 lease-purchase basis, for energy efficiency services and/or
621 equipment as provided for in Section 31-7-14;



622 (u) To maintain accounts and issue pay certificates on
623 school food service bank accounts;

624 (v) (i) To lease a school building from an individual,
625 partnership, nonprofit corporation or a private for-profit
626 corporation for the use of such school district, and to expend
627 funds therefor as may be available from any nonminimum program
628 sources. The school board of the school district desiring to
629 lease a school building shall declare by resolution that a need
630 exists for a school building and that the school district cannot
631 provide the necessary funds to pay the cost or its proportionate
632 share of the cost of a school building required to meet the
633 present needs. The resolution so adopted by the school board
634 shall be published once each week for three (3) consecutive weeks
635 in a newspaper having a general circulation in the school district
636 involved, with the first publication thereof to be made not less
637 than thirty (30) days prior to the date upon which the school
638 board is to act on the question of leasing a school building. If
639 no petition requesting an election is filed prior to such meeting
640 as hereinafter provided, then the school board may, by resolution
641 spread upon its minutes, proceed to lease a school building. If
642 at any time prior to said meeting a petition signed by not less
643 than twenty percent (20%) or fifteen hundred (1500), whichever is
644 less, of the qualified electors of the school district involved
645 shall be filed with the school board requesting that an election
646 be called on the question, then the school board shall, not later



647 than the next regular meeting, adopt a resolution calling an
648 election to be held within such school district upon the question
649 of authorizing the school board to lease a school building. Such
650 election shall be called and held, and notice thereof shall be
651 given, in the same manner for elections upon the questions of the
652 issuance of the bonds of school districts, and the results thereof
653 shall be certified to the school board. If at least three-fifths
654 (3/5) of the qualified electors of the school district who voted
655 in such election shall vote in favor of the leasing of a school
656 building, then the school board shall proceed to lease a school
657 building. The term of the lease contract shall not exceed twenty
658 (20) years, and the total cost of such lease shall be either the
659 amount of the lowest and best bid accepted by the school board
660 after advertisement for bids or an amount not to exceed the
661 current fair market value of the lease as determined by the
662 averaging of at least two (2) appraisals by certified general
663 appraisers licensed by the State of Mississippi. The term "school
664 building" as used in this paragraph (v)(i) shall be construed to
665 mean any building or buildings used for classroom purposes in
666 connection with the operation of schools and shall include the
667 site therefor, necessary support facilities, and the equipment
668 thereof and appurtenances thereto such as heating facilities,
669 water supply, sewage disposal, landscaping, walks, drives and
670 playgrounds. The term "lease" as used in this paragraph (v)(i)
671 may include a lease-purchase contract;



672 (ii) If two (2) or more school districts propose
673 to enter into a lease contract jointly, then joint meetings of the
674 school boards having control may be held but no action taken shall
675 be binding on any such school district unless the question of
676 leasing a school building is approved in each participating school
677 district under the procedure hereinabove set forth in paragraph
678 (v)(i). All of the provisions of paragraph (v)(i) regarding the
679 term and amount of the lease contract shall apply to the school
680 boards of school districts acting jointly. Any lease contract
681 executed by two (2) or more school districts as joint lessees
682 shall set out the amount of the aggregate lease rental to be paid
683 by each, which may be agreed upon, but there shall be no right of
684 occupancy by any lessee unless the aggregate rental is paid as
685 stipulated in the lease contract. All rights of joint lessees
686 under the lease contract shall be in proportion to the amount of
687 lease rental paid by each;

688 (w) To employ all noninstructional and noncertificated
689 employees and fix the duties and compensation of such personnel
690 deemed necessary pursuant to the recommendation of the
691 superintendent of schools;

692 (x) To employ and fix the duties and compensation of
693 such legal counsel as deemed necessary;

694 (y) Subject to rules and regulations of the State Board
695 of Education, to purchase, own and operate trucks, vans and other



696 motor vehicles, which shall bear the proper identification
697 required by law;

698 (z) To expend funds for the payment of substitute
699 teachers and to adopt reasonable regulations for the employment
700 and compensation of such substitute teachers;

701 (aa) To acquire in its own name by purchase all real
702 property which shall be necessary and desirable in connection with
703 the construction, renovation or improvement of any public school
704 building or structure. Whenever the purchase price for such real
705 property is greater than Fifty Thousand Dollars (\$50,000.00), the
706 school board shall not purchase the property for an amount
707 exceeding the fair market value of such property as determined by
708 the average of at least two (2) independent appraisals by
709 certified general appraisers licensed by the State of Mississippi.
710 If the board shall be unable to agree with the owner of any such
711 real property in connection with any such project, the board shall
712 have the power and authority to acquire any such real property by
713 condemnation proceedings pursuant to Section 11-27-1 et seq.,
714 Mississippi Code of 1972, and for such purpose, the right of
715 eminent domain is hereby conferred upon and vested in said board.
716 Provided further, that the local school board is authorized to
717 grant an easement for ingress and egress over sixteenth section
718 land or lieu land in exchange for a similar easement upon
719 adjoining land where the exchange of easements affords substantial
720 benefit to the sixteenth section land; provided, however, the



exchange must be based upon values as determined by a competent appraiser, with any differential in value to be adjusted by cash payment. Any easement rights granted over sixteenth section land under such authority shall terminate when the easement ceases to be used for its stated purpose. No sixteenth section or lieu land which is subject to an existing lease shall be burdened by any such easement except by consent of the lessee or unless the school district shall acquire the unexpired leasehold interest affected by the easement;

(bb) To charge reasonable fees related to the educational programs of the district, in the manner prescribed in Section 37-7-335;

(cc) Subject to rules and regulations of the State Board of Education, to purchase relocatable classrooms for the use of such school district, in the manner prescribed in Section 37-1-13;

(dd) Enter into contracts or agreements with other school districts, political subdivisions or governmental entities to carry out one or more of the powers or duties of the school board, or to allow more efficient utilization of limited resources for providing services to the public;

(ee) To provide for in-service training for employees of the district;

(ff) As part of their duties to prescribe the use of textbooks, to provide that parents and legal guardians shall be



746 responsible for the textbooks and for the compensation to the
747 school district for any books which are not returned to the proper
748 schools upon the withdrawal of their dependent child. If a
749 textbook is lost or not returned by any student who drops out of
750 the public school district, the parent or legal guardian shall
751 also compensate the school district for the fair market value of
752 the textbooks;

753 (gg) To conduct fund-raising activities on behalf of
754 the school district that the local school board, in its
755 discretion, deems appropriate or beneficial to the official or
756 extracurricular programs of the district; provided that:

757 (i) Any proceeds of the fund-raising activities
758 shall be treated as "activity funds" and shall be accounted for as
759 are other activity funds under this section; and

760 (ii) Fund-raising activities conducted or
761 authorized by the board for the sale of school pictures, the
762 rental of caps and gowns or the sale of graduation invitations for
763 which the school board receives a commission, rebate or fee shall
764 contain a disclosure statement advising that a portion of the
765 proceeds of the sales or rentals shall be contributed to the
766 student activity fund;

767 (hh) To allow individual lessons for music, art and
768 other curriculum-related activities for academic credit or
769 nonacademic credit during school hours and using school equipment



and facilities, subject to uniform rules and regulations adopted by the school board;

(ii) To charge reasonable fees for participating in an extracurricular activity for academic or nonacademic credit for necessary and required equipment such as safety equipment, band instruments and uniforms;

(jj) To conduct or participate in any fund-raising activities on behalf of or in connection with a tax-exempt charitable organization;

(kk) To exercise such powers as may be reasonably necessary to carry out the provisions of this section;

(ll) To expend funds for the services of nonprofit arts organizations or other such nonprofit organizations who provide performances or other services for the students of the school district;

(mm) To expend federal No Child Left Behind Act funds, or any other available funds that are expressly designated and authorized for that use, to pay training, educational expenses, salary incentives and salary supplements to employees of local school districts; except that incentives shall not be considered part of the local supplement as defined in Section 37-151-5(o), nor shall incentives be considered part of the local supplement paid to an individual teacher for the purposes of Section 37-19-7(1). Mississippi Adequate Education Program funds or any



794 other state funds may not be used for salary incentives or salary
795 supplements as provided in this paragraph (mm);

796 (nn) To use any available funds, not appropriated or
797 designated for any other purpose, for reimbursement to the
798 state-licensed employees from both in state and out of state, who
799 enter into a contract for employment in a school district, for the
800 expense of moving when the employment necessitates the relocation
801 of the licensed employee to a different geographical area than
802 that in which the licensed employee resides before entering into
803 the contract. The reimbursement shall not exceed One Thousand
804 Dollars (\$1,000.00) for the documented actual expenses incurred in
805 the course of relocating, including the expense of any
806 professional moving company or persons employed to assist with the
807 move, rented moving vehicles or equipment, mileage in the amount
808 authorized for county and municipal employees under Section
809 25-3-41 if the licensed employee used his personal vehicle or
810 vehicles for the move, meals and such other expenses associated
811 with the relocation. No licensed employee may be reimbursed for
812 moving expenses under this section on more than one (1) occasion
813 by the same school district. Nothing in this section shall be
814 construed to require the actual residence to which the licensed
815 employee relocates to be within the boundaries of the school
816 district that has executed a contract for employment in order for
817 the licensed employee to be eligible for reimbursement for the
818 moving expenses. However, the licensed employee must relocate



within the boundaries of the State of Mississippi. Any individual receiving relocation assistance through the Critical Teacher Shortage Act as provided in Section 37-159-5 shall not be eligible to receive additional relocation funds as authorized in this paragraph;

(oo) To use any available funds, not appropriated or designated for any other purpose, to reimburse persons who interview for employment as a licensed employee with the district for the mileage and other actual expenses incurred in the course of travel to and from the interview at the rate authorized for county and municipal employees under Section 25-3-41;

(pp) Consistent with the report of the Task Force to Conduct a Best Financial Management Practices Review, to improve school district management and use of resources and identify cost savings as established in Section 8 of Chapter 610, Laws of 2002, local school boards are encouraged to conduct independent reviews of the management and efficiency of schools and school districts. Such management and efficiency reviews shall provide state and local officials and the public with the following:

(i) An assessment of a school district's governance and organizational structure;

(ii) An assessment of the school district's financial and personnel management;

(iii) An assessment of revenue levels and sources;



843 (iv) An assessment of facilities utilization,
844 planning and maintenance;

845 (v) An assessment of food services, transportation
846 and safety/security systems;

847 (vi) An assessment of instructional and
848 administrative technology;

849 (vii) A review of the instructional management and
850 the efficiency and effectiveness of existing instructional
851 programs; and

852 (viii) Recommended methods for increasing
853 efficiency and effectiveness in providing educational services to
854 the public;

855 (qq) To enter into agreements with other local school
856 boards for the establishment of an educational service agency
857 (ESA) to provide for the cooperative needs of the region in which
858 the school district is located, as provided in Section 37-7-345;

859 (rr) To implement a financial literacy program for
860 students in Grades 10 and 11. The board may review the national
861 programs and obtain free literature from various nationally
862 recognized programs. After review of the different programs, the
863 board may certify a program that is most appropriate for the
864 school districts' needs. If a district implements a financial
865 literacy program, then any student in Grade 10 or 11 may
866 participate in the program. The financial literacy program shall
867 include, but is not limited to, instruction in the same areas of



868 personal business and finance as required under Section
869 37-1-3(2) (b). The school board may coordinate with volunteer
870 teachers from local community organizations, including, but not
871 limited to, the following: United States Department of
872 Agriculture Rural Development, United States Department of Housing
873 and Urban Development, Junior Achievement, bankers and other
874 nonprofit organizations. Nothing in this paragraph shall be
875 construed as to require school boards to implement a financial
876 literacy program;

877 (ss) To collaborate with the State Board of Education,
878 Community Action Agencies or the Department of Human Services to
879 develop and implement a voluntary program to provide services for
880 a prekindergarten program that addresses the cognitive, social,
881 and emotional needs of four-year-old and three-year-old children.
882 The school board may utilize any source of available revenue to
883 fund the voluntary program. Effective with the 2013-2014 school
884 year, to implement voluntary prekindergarten programs under the
885 Early Learning Collaborative Act of 2013 pursuant to state funds
886 awarded by the State Department of Education on a matching basis;

887 (tt) With respect to any lawful, written obligation of
888 a school district, including, but not limited to, leases
889 (excluding leases of sixteenth section public school trust land),
890 bonds, notes, or other agreement, to agree in writing with the
891 obligee that the Department of Revenue or any state agency,
892 department or commission created under state law may:



893 (i) Withhold all or any part (as agreed by the
894 school board) of any monies which such local school board is
895 entitled to receive from time to time under any law and which is
896 in the possession of the Department of Revenue, or any state
897 agency, department or commission created under state law; and

898 (ii) Pay the same over to any financial
899 institution, trustee or other obligee, as directed in writing by
900 the school board, to satisfy all or part of such obligation of the
901 school district.

902 The school board may make such written agreement to withhold
903 and transfer funds irrevocable for the term of the written
904 obligation and may include in the written agreement any other
905 terms and provisions acceptable to the school board. If the
906 school board files a copy of such written agreement with the
907 Department of Revenue, or any state agency, department or
908 commission created under state law then the Department of Revenue
909 or any state agency, department or commission created under state
910 law shall immediately make the withholdings provided in such
911 agreement from the amounts due the local school board and shall
912 continue to pay the same over to such financial institution,
913 trustee or obligee for the term of the agreement.

914 This paragraph (tt) shall not grant any extra authority to a
915 school board to issue debt in any amount exceeding statutory
916 limitations on assessed value of taxable property within such
917 school district or the statutory limitations on debt maturities,



918 and shall not grant any extra authority to impose, levy or collect
919 a tax which is not otherwise expressly provided for, and shall not
920 be construed to apply to sixteenth section public school trust
921 land;

922 (uu) With respect to any matter or transaction that is
923 competitively bid by a school district, to accept from any bidder
924 as a good-faith deposit or bid bond or bid surety, the same type
925 of good-faith deposit or bid bond or bid surety that may be
926 accepted by the state or any other political subdivision on
927 similar competitively bid matters or transactions. This paragraph
928 (uu) shall not be construed to apply to sixteenth section public
929 school trust land. The school board may authorize the investment
930 of any school district funds in the same kind and manner of
931 investments, including pooled investments, as any other political
932 subdivision, including community hospitals;

933 (vv) To utilize the alternate method for the conveyance
934 or exchange of unused school buildings and/or land, reserving a
935 partial or other undivided interest in the property, as
936 specifically authorized and provided in Section 37-7-485;

937 (ww) To delegate, privatize or otherwise enter into a
938 contract with private entities for the operation of any and all
939 functions of nonacademic school process, procedures and operations
940 including, but not limited to, cafeteria workers, janitorial
941 services, transportation, professional development, achievement
942 and instructional consulting services materials and products,



943 purchasing cooperatives, insurance, business manager services,
944 auditing and accounting services, school safety/risk prevention,
945 data processing and student records, and other staff services;
946 however, the authority under this paragraph does not apply to the
947 leasing, management or operation of sixteenth section lands.
948 Local school districts, working through their regional education
949 service agency, are encouraged to enter into buying consortia with
950 other member districts for the purposes of more efficient use of
951 state resources as described in Section 37-7-345;

952 (xx) To partner with entities, organizations and
953 corporations for the purpose of benefiting the school district;

954 (yy) To borrow funds from the Rural Economic
955 Development Authority for the maintenance of school buildings;

956 (zz) To fund and operate voluntary early childhood
957 education programs, defined as programs for children less than
958 five (5) years of age on or before September 1, and to use any
959 source of revenue for such early childhood education programs.
960 Such programs shall not conflict with the Early Learning
961 Collaborative Act of 2013;

962 (aaa) To issue and provide for the use of procurement
963 cards by school board members, superintendents and licensed school
964 personnel consistent with the rules and regulations of the
965 Mississippi Department of Finance and Administration under Section
966 31-7-9; and



(bbb) To conduct an annual comprehensive evaluation of the superintendent of schools consistent with the assessment components of paragraph (pp) of this section and the assessment benchmarks established by the Mississippi School Board Association to evaluate the success the superintendent has attained in meeting district goals and objectives, the superintendent's leadership skill and whether or not the superintendent has established appropriate standards for performance, is monitoring success and is using data for improvement.

SECTION 13. Section 37-13-171, Mississippi Code of 1972, is brought forward as follows:

37-13-171. (1) The local school board of every public school district shall adopt a policy to implement abstinence-only or abstinence-plus education into its curriculum by June 30, 2012, which instruction in those subjects shall be implemented not later than the start of the 2012-2013 school year or the local school board shall adopt the program which has been developed by the Mississippi Department of Human Services and the Mississippi Department of Health. The State Department of Education shall approve each district's curriculum for sex-related education and shall establish a protocol to be used by districts to provide continuity in teaching the approved curriculum in a manner that is age, grade and developmentally appropriate.

(2) Abstinence-only education shall remain the state standard for any sex-related education taught in the public



992 schools. For purposes of this section, abstinence-only education
993 includes any type of instruction or program which, at an
994 appropriate age and grade:

995 (a) Teaches the social, psychological and health gains
996 to be realized by abstaining from sexual activity, and the likely
997 negative psychological and physical effects of not abstaining;

998 (b) Teaches the harmful consequences to the child, the
999 child's parents and society that bearing children out of wedlock
1000 is likely to produce, including the health, educational, financial
1001 and other difficulties the child and his or her parents are likely
1002 to face, as well as the inappropriateness of the social and
1003 economic burden placed on others;

1004 (c) Teaches that unwanted sexual advances are
1005 irresponsible and teaches how to reject sexual advances and how
1006 alcohol and drug use increases vulnerability to sexual advances;

1007 (d) Teaches that abstinence from sexual activity before
1008 marriage, and fidelity within marriage, is the only certain way to
1009 avoid out-of-wedlock pregnancy, sexually transmitted diseases and
1010 related health problems. The instruction or program may include a
1011 discussion on condoms or contraceptives, but only if that
1012 discussion includes a factual presentation of the risks and
1013 failure rates of those contraceptives. In no case shall the
1014 instruction or program include any demonstration of how condoms or
1015 other contraceptives are applied;



1016 (e) Teaches the current state law related to sexual
1017 conduct, including forcible rape, statutory rape, paternity
1018 establishment, child support and homosexual activity; and

1019 (f) Teaches that a mutually faithful, monogamous
1020 relationship in the context of marriage is the only appropriate
1021 setting for sexual intercourse.

1022 (3) A program or instruction on sex-related education need
1023 not include every component listed in subsection (2) of this
1024 section for abstinence-only education. However, no program or
1025 instruction under an abstinence-only curriculum may include
1026 anything that contradicts the excluded components. For purposes
1027 of this section, abstinence-plus education includes every
1028 component listed under subsection (2) of this section that is age
1029 and grade appropriate, in addition to any other programmatic or
1030 instructional component approved by the department, which shall
1031 not include instruction and demonstrations on the application and
1032 use of condoms. Abstinence-plus education may discuss other
1033 contraceptives, the nature, causes and effects of sexually
1034 transmitted diseases, or the prevention of sexually transmitted
1035 diseases, including HIV/AIDS, along with a factual presentation of
1036 the risks and failure rates.

1037 (4) Any course containing sex-related education offered in
1038 the public schools shall include instruction in either
1039 abstinence-only or abstinence-plus education.



(5) Local school districts, in their discretion, may host programs designed to teach parents how to discuss abstinence with their children.

(6) There shall be no effort in either an abstinence-only or an abstinence-plus curriculum to teach that abortion can be used to prevent the birth of a baby.

(7) At all times when sex-related education is discussed or taught, boys and girls shall be separated according to gender into different classrooms, sex-related education instruction may not be conducted when boys and girls are in the company of any students of the opposite gender.

(8) This section shall stand repealed on July 1, 2024.

SECTION 14. Section 43-21-105, Mississippi Code of 1972, is brought forward as follows:

43-21-105. The following words and phrases, for purposes of this chapter, shall have the meanings ascribed herein unless the context clearly otherwise requires:

(a) "Youth court" means the Youth Court Division.

(b) "Judge" means the judge of the Youth Court Division.

(c) "Designee" means any person that the judge appoints to perform a duty which this chapter requires to be done by the judge or his designee. The judge may not appoint a person who is involved in law enforcement or who is an employee of the



1064 Mississippi Department of Human Services or the Mississippi
1065 Department of Child Protection Services to be his designee.

1066 (d) "Child" and "youth" are synonymous, and each means
1067 a person who has not reached his eighteenth birthday. A child who
1068 has not reached his eighteenth birthday and is on active duty for
1069 a branch of the armed services or is married is not considered a
1070 "child" or "youth" for the purposes of this chapter.

1071 (e) "Parent" means the father or mother to whom the
1072 child has been born, or the father or mother by whom the child has
1073 been legally adopted.

1074 (f) "Guardian" means a court-appointed guardian of the
1075 person of a child.

1076 (g) "Custodian" means any person having the present
1077 care or custody of a child whether such person be a parent or
1078 otherwise.

1079 (h) "Legal custodian" means a court-appointed custodian
1080 of the child.

1081 (i) "Delinquent child" means a child who has reached
1082 his tenth birthday and who has committed a delinquent act.

1083 (j) "Delinquent act" is any act, which if committed by
1084 an adult, is designated as a crime under state or federal law, or
1085 municipal or county ordinance other than offenses punishable by
1086 life imprisonment or death. A delinquent act includes escape from
1087 lawful detention and violations of the Uniform Controlled
1088 Substances Law and violent behavior.



1089 (k) "Child in need of supervision" means a child who
1090 has reached his seventh birthday and is in need of treatment or
1091 rehabilitation because the child:

1092 (i) Is habitually disobedient of reasonable and
1093 lawful commands of his parent, guardian or custodian and is
1094 ungovernable; or

1095 (ii) While being required to attend school,
1096 willfully and habitually violates the rules thereof or willfully
1097 and habitually absents himself therefrom; or

1098 (iii) Runs away from home without good cause; or

1099 (iv) Has committed a delinquent act or acts.

1100 (l) "Neglected child" means a child:

1101 (i) Whose parent, guardian or custodian or any
1102 person responsible for his care or support, neglects or refuses,
1103 when able so to do, to provide for him proper and necessary care
1104 or support, or education as required by law, or medical, surgical,
1105 or other care necessary for his well-being; however, a parent who
1106 withholds medical treatment from any child who in good faith is
1107 under treatment by spiritual means alone through prayer in
1108 accordance with the tenets and practices of a recognized church or
1109 religious denomination by a duly accredited practitioner thereof
1110 shall not, for that reason alone, be considered to be neglectful
1111 under any provision of this chapter; or

1112 (ii) Who is otherwise without proper care,
1113 custody, supervision or support; or



1114 (iii) Who, for any reason, lacks the special care
1115 made necessary for him by reason of his mental condition, whether
1116 the mental condition is having mental illness or having an
1117 intellectual disability; or

1118 (iv) Who, for any reason, lacks the care necessary
1119 for his health, morals or well-being.

1120 (m) "Abused child" means a child whose parent, guardian
1121 or custodian or any person responsible for his care or support,
1122 whether legally obligated to do so or not, has caused or allowed
1123 to be caused, upon the child, sexual abuse, sexual exploitation,
1124 commercial sexual exploitation, emotional abuse, mental injury,
1125 nonaccidental physical injury or other maltreatment. However,
1126 physical discipline, including spanking, performed on a child by a
1127 parent, guardian or custodian in a reasonable manner shall not be
1128 deemed abuse under this section. "Abused child" also means a
1129 child who is or has been trafficked within the meaning of the
1130 Mississippi Human Trafficking Act by any person, without regard to
1131 the relationship of the person to the child.

1132 (n) "Sexual abuse" means obscene or pornographic
1133 photographing, filming or depiction of children for commercial
1134 purposes, or the rape, molestation, incest, prostitution or other
1135 such forms of sexual exploitation of children under circumstances
1136 which indicate that the child's health or welfare is harmed or
1137 threatened.



1138 (o) "A child in need of special care" means a child
1139 with any mental or physical illness that cannot be treated with
1140 the dispositional alternatives ordinarily available to the youth
1141 court.

1142 (p) A "dependent child" means any child who is not a
1143 child in need of supervision, a delinquent child, an abused child
1144 or a neglected child, and which child has been voluntarily placed
1145 in the custody of the Department of Child Protection Services by
1146 his parent, guardian or custodian.

1147 (q) "Custody" means the physical possession of the
1148 child by any person.

1149 (r) "Legal custody" means the legal status created by a
1150 court order which gives the legal custodian the responsibilities
1151 of physical possession of the child and the duty to provide him
1152 with food, shelter, education and reasonable medical care, all
1153 subject to residual rights and responsibilities of the parent or
1154 guardian of the person.

1155 (s) "Detention" means the care of children in
1156 physically restrictive facilities.

1157 (t) "Shelter" means care of children in physically
1158 nonrestrictive facilities.

1159 (u) "Records involving children" means any of the
1160 following from which the child can be identified:

1161 (i) All youth court records as defined in Section
1162 43-21-251;



1163 (ii) All forensic interviews conducted by a child
1164 advocacy center in abuse and neglect investigations;

1165 (iii) All law enforcement records as defined in
1166 Section 43-21-255;

1167 (iv) All agency records as defined in Section
1168 43-21-257; and

1169 (v) All other documents maintained by any
1170 representative of the state, county, municipality or other public
1171 agency insofar as they relate to the apprehension, custody,
1172 adjudication or disposition of a child who is the subject of a
1173 youth court cause.

1174 (v) "Any person responsible for care or support" means
1175 the person who is providing for the child at a given time. This
1176 term shall include, but is not limited to, stepparents, foster
1177 parents, relatives, nonlicensed babysitters or other similar
1178 persons responsible for a child and staff of residential care
1179 facilities and group homes that are licensed by the Department of
1180 Human Services or the Department of Child Protection Services.

1181 (w) The singular includes the plural, the plural the
1182 singular and the masculine the feminine when consistent with the
1183 intent of this chapter.

1184 (x) "Out-of-home" setting means the temporary
1185 supervision or care of children by the staff of licensed day care
1186 centers, the staff of public, private and state schools, the staff
1187 of juvenile detention facilities, the staff of unlicensed



residential care facilities and group homes and the staff of, or individuals representing, churches, civic or social organizations.

(y) "Durable legal custody" means the legal status created by a court order which gives the durable legal custodian the responsibilities of physical possession of the child and the duty to provide him with care, nurture, welfare, food, shelter, education and reasonable medical care. All these duties as enumerated are subject to the residual rights and responsibilities of the natural parent(s) or guardian(s) of the child or children.

(z) "Status offense" means conduct subject to adjudication by the youth court that would not be a crime if committed by an adult.

(aa) "Financially able" means a parent or child who is ineligible for a court-appointed attorney.

(bb) "Assessment" means an individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse or co-occurring mental health and substance abuse disorders and recommendations for treatment. The term includes, but is not limited to, a drug and alcohol, psychological or psychiatric evaluation, records review, clinical interview or the administration of a formal test and instrument.

(cc) "Screening" means a process, with or without the administration of a formal instrument, that is designed to identify a child who is at increased risk of having mental health,



1213 substance abuse or co-occurring mental health and substance abuse
1214 disorders that warrant immediate attention, intervention or more
1215 comprehensive assessment.

1216 (dd) "Durable legal relative guardianship" means the
1217 legal status created by a youth court order that conveys the
1218 physical and legal custody of a child or children by durable legal
1219 guardianship to a relative or fictive kin who is licensed as a
1220 foster or resource parent.

1221 (ee) "Relative" means a person related to the child by
1222 affinity or consanguinity within the third degree.

1223 (ff) "Fictive kin" means a person not related to the
1224 child legally or biologically but who is considered a relative due
1225 to a significant, familial-like and ongoing relationship with the
1226 child and family.

1227 (gg) "Reasonable efforts" means the exercise of
1228 reasonable care and due diligence by the Department of Human
1229 Services, the Department of Child Protection Services, or any
1230 other appropriate entity or person to use appropriate and
1231 available services to prevent the unnecessary removal of the child
1232 from the home or provide other services related to meeting the
1233 needs of the child and the parents.

1234 (hh) "Commercial sexual exploitation" means any sexual
1235 act or crime of a sexual nature, which is committed against a
1236 child for financial or economic gain, to obtain a thing of value
1237 for quid pro quo exchange of property or for any other purpose.



1238 **SECTION 15.** This act shall take effect and be in force from
1239 and after July 1, 2023.

