

By: Senator(s) Hill, DeLano, Tate, Seymour, Whaley, Chism, Younger, Fillingane, Caughman, Moran, McCaughn, Suber, Barrett, Branning, Carter, McLendon, Williams, England, Chassaniol, DeBar, Thompson, Michel, Sojourner, McDaniel, Blackwell

To: Judiciary, Division A

SENATE BILL NO. 2760

1 AN ACT TO ENACT THE MISSISSIPPI HELP NOT HARM ACT; TO CREATE
2 NEW SECTION 11-77-1, MISSISSIPPI CODE OF 1972, TO DEFINE TERMS; TO
3 CREATE NEW SECTION 11-77-3, MISSISSIPPI CODE OF 1972, TO PROHIBIT
4 ANY PERSON FROM KNOWINGLY PERFORMING OR PROVIDING GENDER
5 REASSIGNMENT SURGERY OR SERVICES TO A MINOR; TO PROHIBIT ANY
6 PERSON FROM KNOWINGLY ENGAGING IN CONDUCT THAT AIDS OR ABETS IN
7 GENDER REASSIGNMENT SURGERY OR SERVICES BEING PERFORMED ON OR
8 PROVIDED TO A MINOR; TO PROVIDE THAT ANY LICENSED MEDICAL
9 PROFESSIONAL, INCLUDING, BUT NOT LIMITED TO, A PHYSICIAN,
10 OSTEOPATH, PHYSICIAN ASSISTANT, NURSE PRACTITIONER OR NURSE WHO
11 PERFORMS OR PROVIDES GENDER REASSIGNMENT SURGERY OR SERVICES TO A
12 MINOR SHALL HAVE THEIR LICENSE REVOKED; TO PROVIDE A PRIVATE CAUSE
13 OF ACTION AGAINST A PHYSICIAN, OSTEOPATH, HOSPITAL, PRESCRIBING
14 CAREGIVER, CLINIC OR ANY OTHER HEALTH CARE FACILITY FOR INJURIES
15 ARISING OUT OF THE COURSE OF MEDICAL, SURGICAL OR OTHER
16 PROFESSIONAL SERVICES RELATED TO THE PERFORMANCE OF GENDER
17 REASSIGNMENT SURGERY OR SERVICES; TO PROVIDE THAT THIS CLAIM MUST
18 BE BROUGHT WITHIN 30 YEARS FROM THE DATE THE ALLEGED ACT OCCURRED;
19 TO PROVIDE THAT THE ATTORNEY GENERAL MAY BRING AN ACTION TO
20 ENFORCE COMPLIANCE WITH THE ACT; TO PROVIDE CERTAIN EXCEPTIONS OF
21 THE ACT; TO AMEND SECTION 73-25-29, MISSISSIPPI CODE OF 1972, TO
22 CONFORM TO THE PROVISIONS OF THIS ACT; TO AMEND SECTION 73-25-33,
23 MISSISSIPPI CODE OF 1972, TO REVISE PHYSICIAN'S SCOPE OF PRACTICE
24 TO PROVIDE THAT THE PRACTICE OF MEDICINE SHALL NOT MEAN TO
25 KNOWINGLY PROVIDE GENDER REASSIGNMENT SURGERY OR SERVICES FOR
26 MINORS; TO AMEND SECTION 11-46-5, MISSISSIPPI CODE OF 1972, TO
27 ESTABLISH THAT AN EMPLOYEE SHALL NOT BE CONSIDERED AS ACTING
28 WITHIN THE COURSE AND SCOPE OF HIS EMPLOYMENT AND A GOVERNMENTAL
29 ENTITY MAY BE LIABLE OR BE CONSIDERED TO HAVE WAIVED IMMUNITY FOR
30 ANY CONDUCT OF ITS EMPLOYEE IF THE EMPLOYEE'S CONDUCT VIOLATED THE
31 PROVISIONS OF THIS ACT; TO CREATE NEW SECTION 43-13-117.7,
32 MISSISSIPPI CODE OF 1972, TO PROHIBIT THE DIVISION OF MEDICAID
33 FROM REIMBURSING ANY ENTITY FOR PART OR ALL OF THE COSTS OF CARE
34 AND SERVICES RENDERED FOR GENDER REASSIGNMENT SURGERY OR SERVICES;



35 TO CREATE NEW SECTION 83-9-401, MISSISSIPPI CODE OF 1972, TO
36 PROHIBIT HEALTH COVERAGE PLANS THAT ARE FUNDED WHOLLY OR IN PART
37 BY STATE FUNDS OR STATE-EMPLOYEE CONTRIBUTIONS FROM REIMBURSING OR
38 AUTHORIZING PAYMENT OF PART OR ALL OF THE COSTS OF CARE AND
39 SERVICES RENDERED BY ANY ENTITY FOR GENDER REASSIGNMENT SURGERY OR
40 SERVICES; TO AMEND SECTION 11-1-60, MISSISSIPPI CODE OF 1972, TO
41 PROVIDE THAT IN ANY CAUSE OF ACTION FILED ON OR AFTER JULY 1,
42 2023, FOR A CLAIM BROUGHT UNDER SECTION 11-77-3, IN THE EVENT THE
43 TRIER OF FACT FINDS THE DEFENDANT LIABLE, THERE SHALL NOT BE A
44 LIMITATION PLACED ON THE NONECONOMIC DAMAGES AWARD THAT A TRIER OF
45 FACT MAY AWARD TO THE PLAINTIFF; AND FOR RELATED PURPOSES.

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

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

49 **SECTION 2.** The following shall be codified as Section
50 11-77-1, Mississippi Code of 1972:

51 11-77-1. For purposes of this chapter, the following terms
52 shall have the meanings ascribed herein:

53 (a) "Sex" means the biological indication of male and
54 female in the context of reproductive potential or capacity, such
55 as sex chromosomes, naturally occurring sex hormones, gonads and
56 no ambiguous internal and external genitalia present at birth,
57 without regard to an individual's psychological, chosen or
58 subjective experience of gender.

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

61 (c) "Gender reassignment surgery or services" means any
62 of the following medical or surgical services performed on an
63 individual for the purpose of attempting to alter the appearance
64 of or affirm an individual's perception of his or her gender or



65 sex, if that appearance or perception is inconsistent with the
66 individual's sex:

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

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

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

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

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

80 (vi) Removing any healthy or nondiseased body part
81 or tissue, except for a male circumcision.

82 **SECTION 3.** The following shall be codified as Section
83 11-77-3, Mississippi Code of 1972:

84 11-77-3. (1) No person shall knowingly perform or provide
85 gender reassignment surgery or services to a minor.

86 (2) No person shall knowingly engage in conduct that aids or
87 abets in gender reassignment surgery or services being performed
88 on or provided to a minor. This section may not be construed to



89 impose liability on any speech or conduct protected by federal or
90 state law.

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

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

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

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

113 (7) This section shall not apply to:



114 (a) Services provided to individuals born with a
115 medically verifiable disorder of sex development, including a
116 person with external sex characteristics that are irresolvably
117 ambiguous, such as an individual born with 46, XX chromosomes with
118 virilization, 46, XY chromosomes with undervirilization, or having
119 both ovarian and testicular tissue;

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

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

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

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



137 73-25-29. The grounds for the nonissuance, suspension,
138 revocation or restriction of a license or the denial of
139 reinstatement or renewal of a license are:

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

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

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

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

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

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



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

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

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

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

169 (c) Making or willfully causing to be made any
170 flamboyant claims concerning the licensee's professional
171 excellence.

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

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

181 (f) Use of any false, fraudulent or forged
182 statement or document, or the use of any fraudulent, deceitful,
183 dishonest or immoral practice in connection with any of the
184 licensing requirements, including the signing in his professional



185 capacity any certificate that is known to be false at the time he
186 makes or signs such certificate.

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

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

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

206 (11) Final sanctions imposed by the United States
207 Department of Health and Human Services, Office of Inspector
208 General or any successor federal agency or office, based upon a
209 finding of incompetency, gross misconduct or failure to meet



210 professionally recognized standards of health care; a certified
211 copy of the notice of final sanction being prima facie evidence
212 thereof. As used in this paragraph, the term "final sanction"
213 means the written notice to a physician from the United States
214 Department of Health and Human Services, Officer of Inspector
215 General or any successor federal agency or office, which
216 implements the exclusion.

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

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

222 (14) Violation(s) of the provisions of Sections
223 41-121-1 through 41-121-9 relating to deceptive advertisement by
224 health care practitioners.

225 (15) Performing or inducing an abortion on a woman in
226 violation of any provision of Sections 41-41-131 through
227 41-41-145.

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

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



234 In addition to the grounds specified above, the board shall
235 be authorized to suspend the license of any licensee for being out
236 of compliance with an order for support, as defined in Section
237 93-11-153. The procedure for suspension of a license for being
238 out of compliance with an order for support, and the procedure for
239 the reissuance or reinstatement of a license suspended for that
240 purpose, and the payment of any fees for the reissuance or
241 reinstatement of a license suspended for that purpose, shall be
242 governed by Section 93-11-157 or 93-11-163, as the case may be.
243 If there is any conflict between any provision of Section
244 93-11-157 or 93-11-163 and any provision of this chapter, the
245 provisions of Section 93-11-157 or 93-11-163, as the case may be,
246 shall control.

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

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

254 73-25-33. (1) The practice of medicine shall mean to
255 suggest, recommend, prescribe, or direct for the use of any
256 person, any drug, medicine, appliance, or other agency, whether
257 material or not material, for the cure, relief, or palliation of
258 any ailment or disease of the mind or body, or for the cure or



259 relief of any wound or fracture or other bodily injury or
260 deformity, or the practice of obstetrics or midwifery, after
261 having received, or with the intent of receiving therefor, either
262 directly or indirectly, any bonus, gift, profit or compensation;
263 provided, that nothing in this section shall apply to females
264 engaged solely in the practice of midwifery.

265 (2) The practice of medicine shall not mean to knowingly
266 provide gender reassignment surgery or services for minors.

267 (3) For purposes of this section, gender reassignment
268 surgery or services means the services or activities prohibited
269 under Section 11-77-3.

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

272 11-46-5. (1) Notwithstanding the immunity granted in
273 Section 11-46-3, or the provisions of any other law to the
274 contrary, the immunity of the state and its political subdivisions
275 from claims for money damages arising out of the torts of such
276 governmental entities and the torts of their employees while
277 acting within the course and scope of their employment is hereby
278 waived from and after July 1, 1993, as to the state, and from and
279 after October 1, 1993, as to political subdivisions; provided,
280 however, immunity of a governmental entity in any such case shall
281 be waived only to the extent of the maximum amount of liability
282 provided for in Section 11-46-15.



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

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

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

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

306 **SECTION 7.** The following shall be codified as Section
307 43-13-117.7, Mississippi Code of 1972:



308 43-13-117.7. (1) For purposes of this section, the
309 following terms shall have the meanings ascribed herein:

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

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

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

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

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

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

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



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

337 (vi) Removing any healthy or nondiseased body part
338 or tissue, except for a male circumcision.

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

342 **SECTION 8.** The following shall be codified as Section
343 83-9-401, Mississippi Code of 1972:

344 83-9-401. (1) For purposes of this section, the following
345 terms shall have the meanings ascribed herein:

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

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

354 (c) "Gender reassignment surgery or services" means any
355 of the following medical or surgical services performed on an
356 individual for the purpose of attempting to alter the appearance
357 of or affirm an individual's perception of his or her gender or



358 sex, if that appearance or perception is inconsistent with the
359 individual's sex:

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

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

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

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

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

373 (vi) Removing any healthy or nondiseased body part
374 or tissue, except for a male circumcision.

375 (d) "Health coverage plan" shall mean any health or
376 medical expense insurance policy, hospital or medical service
377 contract, employee welfare benefit plan, contract or agreement
378 with a health maintenance organization or a preferred provider
379 organization, health and accident insurance policy, including a
380 group insurance plan and the State Health Plan.

381 (2) No health coverage plan that is funded wholly or in part
382 by state funds or state-employee contributions shall reimburse or



383 authorize payment of part or all of the costs of care and services
384 rendered by any entity for gender reassignment surgery or
385 services.

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

388 11-1-60. (1) For the purposes of this section, the
389 following words and phrases shall have the meanings ascribed
390 herein unless the context clearly requires otherwise:

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

401 (b) "Actual economic damages" means objectively
402 verifiable pecuniary damages arising from medical expenses and
403 medical care, rehabilitation services, custodial care,
404 disabilities, loss of earnings and earning capacity, loss of
405 income, burial costs, loss of use of property, costs of repair or
406 replacement of property, costs of obtaining substitute domestic



407 services, loss of employment, loss of business or employment
408 opportunities, and other objectively verifiable monetary losses.

409 (2) (a) In any cause of action filed on or after September
410 1, 2004, for injury based on malpractice or breach of standard of
411 care against a provider of health care, including institutions for
412 the aged or infirm, in the event the trier of fact finds the
413 defendant liable, they shall not award the plaintiff more than
414 Five Hundred Thousand Dollars (\$500,000.00) for noneconomic
415 damages.

416 (b) In any civil action filed on or after September 1,
417 2004, other than those actions described in paragraph (a) of this
418 subsection, in the event the trier of fact finds the defendant
419 liable, they shall not award the plaintiff more than One Million
420 Dollars (\$1,000,000.00) for noneconomic damages.

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

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

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



431 (4) For any claim accruing on or after July 1, 2023,
432 subsections (1) through (3) of this section shall not apply to a
433 claim brought according to Section 11-77-3 against a provider of
434 health care for injuries arising out of the course of medical,
435 surgical or other professional services related to the performance
436 of gender reassignment surgery or services. In any cause of
437 action filed on or after July 1, 2023, for a claim brought
438 according to Section 11-77-3, in the event the trier of fact finds
439 the defendant liable, there shall not be a limitation placed on
440 the noneconomic damages award that a trier of fact may award to
441 the plaintiff.

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

