

By: Representatives Gunn, Arnold, Bounds,  
Carpenter, Gipson, Shirley, Boyd, Eubanks

To: Judiciary B

HOUSE BILL NO. 1523  
(As Sent to Governor)

1 AN ACT TO CREATE THE "PROTECTING FREEDOM OF CONSCIENCE FROM  
2 GOVERNMENT DISCRIMINATION ACT"; TO PROVIDE CERTAIN PROTECTIONS  
3 REGARDING A SINCERELY HELD RELIGIOUS BELIEF OR MORAL CONVICTION  
4 FOR PERSONS, RELIGIOUS ORGANIZATIONS AND PRIVATE ASSOCIATIONS; TO  
5 DEFINE A DISCRIMINATORY ACTION FOR PURPOSES OF THIS ACT; TO  
6 PROVIDE THAT A PERSON MAY ASSERT A VIOLATION OF THIS ACT AS A  
7 CLAIM AGAINST THE GOVERNMENT; TO PROVIDE CERTAIN REMEDIES; TO  
8 REQUIRE A PERSON BRINGING A CLAIM UNDER THIS ACT TO DO SO NOT  
9 LATER THAN TWO YEARS AFTER THE DISCRIMINATORY ACTION WAS TAKEN; TO  
10 PROVIDE CERTAIN DEFINITIONS; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** This act shall be known and may be cited as the  
13 "Protecting Freedom of Conscience from Government Discrimination  
14 Act."

15 **SECTION 2.** The sincerely held religious beliefs or moral  
16 convictions protected by this act are the belief or conviction  
17 that:

18 (a) Marriage is or should be recognized as the union of  
19 one man and one woman;

20 (b) Sexual relations are properly reserved to such a  
21 marriage; and



22 (c) Male (man) or female (woman) refer to an  
23 individual's immutable biological sex as objectively determined by  
24 anatomy and genetics at time of birth.

25 **SECTION 3.** (1) The state government shall not take any  
26 discriminatory action against a religious organization wholly or  
27 partially on the basis that such organization:

28 (a) Solemnizes or declines to solemnize any marriage,  
29 or provides or declines to provide services, accommodations,  
30 facilities, goods or privileges for a purpose related to the  
31 solemnization, formation, celebration or recognition of any  
32 marriage, based upon or in a manner consistent with a sincerely  
33 held religious belief or moral conviction described in Section 2  
34 of this act;

35 (b) Makes any employment-related decision including,  
36 but not limited to, the decision whether or not to hire, terminate  
37 or discipline an individual whose conduct or religious beliefs are  
38 inconsistent with those of the religious organization, based upon  
39 or in a manner consistent with a sincerely held religious belief  
40 or moral conviction described in Section 2 of this act; or

41 (c) Makes any decision concerning the sale, rental,  
42 occupancy of, or terms and conditions of occupying a dwelling or  
43 other housing under its control, based upon or in a manner  
44 consistent with a sincerely held religious belief or moral  
45 conviction described in Section 2 of this act.



46           (2) The state government shall not take any discriminatory  
47 action against a religious organization that advertises, provides  
48 or facilitates adoption or foster care, wholly or partially on the  
49 basis that such organization has provided or declined to provide  
50 any adoption or foster care service, or related service, based  
51 upon or in a manner consistent with a sincerely held religious  
52 belief or moral conviction described in Section 2 of this act.

53           (3) The state government shall not take any discriminatory  
54 action against a person who the state grants custody of a foster  
55 or adoptive child, or who seeks from the state custody of a foster  
56 or adoptive child, wholly or partially on the basis that the  
57 person guides, instructs or raises a child, or intends to guide,  
58 instruct, or raise a child based upon or in a manner consistent  
59 with a sincerely held religious belief or moral conviction  
60 described in Section 2 of this act.

61           (4) The state government shall not take any discriminatory  
62 action against a person wholly or partially on the basis that the  
63 person declines to participate in the provision of treatments,  
64 counseling, or surgeries related to sex reassignment or gender  
65 identity transitioning or declines to participate in the provision  
66 of psychological, counseling, or fertility services based upon a  
67 sincerely held religious belief or moral conviction described in  
68 Section 2 of this act. This subsection (4) shall not be construed  
69 to allow any person to deny visitation, recognition of a  
70 designated representative for health care decision-making, or



71 emergency medical treatment necessary to cure an illness or injury  
72 as required by law.

73 (5) The state government shall not take any discriminatory  
74 action against a person wholly or partially on the basis that the  
75 person has provided or declined to provide the following services,  
76 accommodations, facilities, goods, or privileges for a purpose  
77 related to the solemnization, formation, celebration, or  
78 recognition of any marriage, based upon or in a manner consistent  
79 with a sincerely held religious belief or moral conviction  
80 described in Section 2 of this act:

81 (a) Photography, poetry, videography, disc-jockey  
82 services, wedding planning, printing, publishing or similar  
83 marriage-related goods or services; or

84 (b) Floral arrangements, dress making, cake or pastry  
85 artistry, assembly-hall or other wedding-venue rentals, limousine  
86 or other car-service rentals, jewelry sales and services, or  
87 similar marriage-related services, accommodations, facilities or  
88 goods.

89 (6) The state government shall not take any discriminatory  
90 action against a person wholly or partially on the basis that the  
91 person establishes sex-specific standards or policies concerning  
92 employee or student dress or grooming, or concerning access to  
93 restrooms, spas, baths, showers, dressing rooms, locker rooms, or  
94 other intimate facilities or settings, based upon or in a manner



95 consistent with a sincerely held religious belief or moral  
96 conviction described in Section 2 of this act.

97 (7) The state government shall not take any discriminatory  
98 action against a state employee wholly or partially on the basis  
99 that such employee lawfully speaks or engages in expressive  
100 conduct based upon or in a manner consistent with a sincerely held  
101 religious belief or moral conviction described in Section 2 of  
102 this act, so long as:

103 (a) If the employee's speech or expressive conduct  
104 occurs in the workplace, that speech or expressive conduct is  
105 consistent with the time, place, manner and frequency of any other  
106 expression of a religious, political, or moral belief or  
107 conviction allowed; or

108 (b) If the employee's speech or expressive conduct  
109 occurs outside the workplace, that speech or expressive conduct is  
110 in the employee's personal capacity and outside the course of  
111 performing work duties.

112 (8) (a) Any person employed or acting on behalf of the  
113 state government who has authority to authorize or license  
114 marriages, including, but not limited to, clerks, registers of  
115 deeds or their deputies, may seek recusal from authorizing or  
116 licensing lawful marriages based upon or in a manner consistent  
117 with a sincerely held religious belief or moral conviction  
118 described in Section 2 of this act. Any person making such  
119 recusal shall provide prior written notice to the State Registrar



120 of Vital Records who shall keep a record of such recusal, and the  
121 state government shall not take any discriminatory action against  
122 that person wholly or partially on the basis of such recusal. The  
123 person who is recusing himself or herself shall take all necessary  
124 steps to ensure that the authorization and licensing of any  
125 legally valid marriage is not impeded or delayed as a result of  
126 any recusal.

127 (b) Any person employed or acting on behalf of the  
128 state government who has authority to perform or solemnize  
129 marriages, including, but not limited to, judges, magistrates,  
130 justices of the peace or their deputies, may seek recusal from  
131 performing or solemnizing lawful marriages based upon or in a  
132 manner consistent with a sincerely held religious belief or moral  
133 conviction described in Section 2 of this act. Any person making  
134 such recusal shall provide prior written notice to the  
135 Administrative Office of Courts, and the state government shall  
136 not take any discriminatory action against that person wholly or  
137 partially on the basis of such recusal. The Administrative Office  
138 of Courts shall take all necessary steps to ensure that the  
139 performance or solemnization of any legally valid marriage is not  
140 impeded or delayed as a result of any recusal.

141 **SECTION 4.** (1) As used in this act, discriminatory action  
142 includes any action taken by the state government to:

143 (a) Alter in any way the tax treatment of, or cause any  
144 tax, penalty, or payment to be assessed against, or deny, delay,



145 revoke, or otherwise make unavailable an exemption from taxation  
146 of any person referred to in Section 3 of this act;

147 (b) Disallow, deny or otherwise make unavailable a  
148 deduction for state tax purposes of any charitable contribution  
149 made to or by such person;

150 (c) Withhold, reduce, exclude, terminate, materially  
151 alter the terms or conditions of, or otherwise make unavailable or  
152 deny any state grant, contract, subcontract, cooperative  
153 agreement, guarantee, loan, scholarship, or other similar benefit  
154 from or to such person;

155 (d) Withhold, reduce, exclude, terminate, materially  
156 alter the terms or conditions of, or otherwise make unavailable or  
157 deny any entitlement or benefit under a state benefit program from  
158 or to such person;

159 (e) Impose, levy or assess a monetary fine, fee,  
160 penalty or injunction;

161 (f) Withhold, reduce, exclude, terminate, materially  
162 alter the terms or conditions of, or otherwise make unavailable or  
163 deny any license, certification, accreditation, custody award or  
164 agreement, diploma, grade, recognition, or other similar benefit,  
165 position, or status from or to any person; or

166 (g) Refuse to hire or promote, force to resign, fire,  
167 demote, sanction, discipline, materially alter the terms or  
168 conditions of employment, or retaliate or take other adverse



169 employment action against a person employed or commissioned by the  
170 state government.

171 (2) The state government shall consider accredited, licensed  
172 or certified any person that would otherwise be accredited,  
173 licensed or certified, respectively, for any purposes under state  
174 law but for a determination against such person wholly or  
175 partially on the basis that the person believes, speaks or acts in  
176 accordance with a sincerely held religious belief or moral  
177 conviction described in Section 2 of this act.

178 **SECTION 5.** (1) A person may assert a violation of this act  
179 as a claim against the state government in any judicial or  
180 administrative proceeding or as defense in any judicial or  
181 administrative proceeding without regard to whether the proceeding  
182 is brought by or in the name of the state government, any private  
183 person or any other party.

184 (2) An action under this act may be commenced, and relief  
185 may be granted, in a court of the state without regard to whether  
186 the person commencing the action has sought or exhausted available  
187 administrative remedies.

188 (3) Violations of this act which are properly governed by  
189 Chapter 46, Title 11, Mississippi Code of 1972, shall be brought  
190 in accordance with that chapter.

191 **SECTION 6.** An aggrieved person must first seek injunctive  
192 relief to prevent or remedy a violation of this act or the effects  
193 of a violation of this act. If injunctive relief is granted by





194 the court and the injunction is thereafter violated, then and only  
195 then may the aggrieved party, subject to the limitations of  
196 liability set forth in Section 11-46-15, seek the following:

197 (a) Compensatory damages for pecuniary and nonpecuniary  
198 losses;

199 (b) Reasonable attorneys' fees and costs; and

200 (c) Any other appropriate relief, except that only  
201 declaratory relief and injunctive relief shall be available  
202 against a private person not acting under color of state law upon  
203 a successful assertion of a claim or defense under this act.

204 **SECTION 7.** A person must bring an action to assert a claim  
205 under this act not later than two (2) years after the date that  
206 the person knew or should have known that a discriminatory action  
207 was taken against that person.

208 **SECTION 8.** (1) This act shall be construed in favor of a  
209 broad protection of free exercise of religious beliefs and moral  
210 convictions, to the maximum extent permitted by the state and  
211 federal constitutions.

212 (2) The protection of free exercise of religious beliefs and  
213 moral convictions afforded by this act are in addition to the  
214 protections provided under federal law, state law, and the state  
215 and federal constitutions. Nothing in this act shall be construed  
216 to preempt or repeal any state or local law that is equally or  
217 more protective of free exercise of religious beliefs or moral  
218 convictions. Nothing in this act shall be construed to narrow the



219 meaning or application of any state or local law protecting free  
220 exercise of religious beliefs or moral convictions. Nothing in  
221 this act shall be construed to prevent the state government from  
222 providing, either directly or through an individual or entity not  
223 seeking protection under this act, any benefit or service  
224 authorized under state law.

225 (3) This act applies to, and in cases of conflict  
226 supersedes, each statute of the state that impinges upon the free  
227 exercise of religious beliefs and moral convictions protected by  
228 this act, unless a conflicting statute is expressly made exempt  
229 from the application of this act. This act also applies to, and  
230 in cases of conflict supersedes, any ordinance, rule, regulation,  
231 order, opinion, decision, practice or other exercise of the state  
232 government's authority that impinges upon the free exercise of  
233 religious beliefs or moral convictions protected by this act.

234 **SECTION 9.** As used in Sections 1 through 9 of this act, the  
235 following words and phrases shall have the meanings ascribed in  
236 this section unless the context clearly indicates otherwise:

237 (1) "State benefit program" means any program administered  
238 or funded by the state, or by any agent on behalf of the state,  
239 providing cash, payments, grants, contracts, loans or in-kind  
240 assistance.

241 (2) "State government" means:

242 (a) The State of Mississippi or a political subdivision  
243 of the state;



244 (b) Any agency of the state or of a political  
245 subdivision of the state, including a department, bureau, board,  
246 commission, council, court or public institution of higher  
247 education;

248 (c) Any person acting under color of state law; and

249 (d) Any private party or third party suing under or  
250 enforcing a law, ordinance, rule or regulation of the state or  
251 political subdivision of the state.

252 (3) "Person" means:

253 (a) A natural person, in his or her individual  
254 capacity, regardless of religious affiliation or lack thereof, or  
255 in his or her capacity as a member, officer, owner, volunteer,  
256 employee, manager, religious leader, clergy or minister of any  
257 entity described in this section;

258 (b) A religious organization;

259 (c) A sole proprietorship, or closely held company,  
260 partnership, association, organization, firm, corporation,  
261 cooperative, trust, society or other closely held entity operating  
262 with a sincerely held religious belief or moral conviction  
263 described in this act; or

264 (d) Cooperatives, ventures or enterprises comprised of  
265 two (2) or more individuals or entities described in this  
266 subsection.

267 (4) "Religious organization" means:



268 (a) A house of worship, including, but not limited to,  
269 churches, synagogues, shrines, mosques and temples;

270 (b) A religious group, corporation, association, school  
271 or educational institution, ministry, order, society or similar  
272 entity, regardless of whether it is integrated or affiliated with  
273 a church or other house of worship; and

274 (c) An officer, owner, employee, manager, religious  
275 leader, clergy or minister of an entity or organization described  
276 in this subsection (4).

277 (5) "Adoption or foster care" or "adoption or foster care  
278 service" means social services provided to or on behalf of  
279 children, including:

280 (a) Assisting abused or neglected children;

281 (b) Teaching children and parents occupational,  
282 homemaking and other domestic skills;

283 (c) Promoting foster parenting;

284 (d) Providing foster homes, residential care, group  
285 homes or temporary group shelters for children;

286 (e) Recruiting foster parents;

287 (f) Placing children in foster homes;

288 (g) Licensing foster homes;

289 (h) Promoting adoption or recruiting adoptive parents;

290 (i) Assisting adoptions or supporting adoptive  
291 families;

292 (j) Performing or assisting home studies;



- 293                   (k) Assisting kinship guardianships or kinship  
294 caregivers;  
295                   (l) Providing family preservation services;  
296                   (m) Providing family support services; and  
297                   (n) Providing temporary family reunification services.

298                   **SECTION 10.** The provisions of Sections 1 through 9 of this  
299 act shall be excluded from the application of Section 11-61-1.

300                   **SECTION 11.** This act shall take effect and be in force from  
301 and after July 1, 2016.

