MISSISSIPPI LEGISLATURE

REGULAR SESSION 2016

By: Senator(s) Simmons (12th)

To: Judiciary, Division A

SENATE BILL NO. 2738

AN ACT TO CREATE THE MISSISSIPPI CIVIL RIGHTS ACT; TO PROVIDE
THAT THE RIGHT OF A PERSON TO BE FREE FROM DISCRIMINATION, BECAUSE
OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, IMMIGRANT STATUS, SEX,
SEXUAL ORIENTATION, GENDER IDENTITY, DISABILITY, OR FAMILIAL
STATUS IS A CIVIL RIGHT; TO PROVIDE REMEDIES FOR VIOLATIONS; AND
FOR RELATED PURPOSES.

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

SECTION 1. For the purposes of this act, the following terms
shall have the following meanings:

(a) "Religion" means aspects of religious belief,
obsiance, and practice.

(b) "National origin" means an individual's or the
individual's ancestor's place of origin.

(c) "Immigrant status" means a representation made by
an individual, or determination made by the appropriate government
authority, that an individual present in the United States is not
a citizen or national of the United States. This status would
also indicate whether the individual was in the United States with
or without authorization.
(d) "Sexual orientation" means actual or perceived homosexuality, heterosexuality, or bisexuality.

(e) "Gender identity" means the actual or perceived gender-related identity, expression, appearance, or mannerisms or other gender-related characteristics of an individual, regardless of the designated sex at birth of the individual.

(f) "Disability" means a physical or mental impairment that substantially limits a major life function. The term does not include any of the following:

(i) Compulsive gambling, kleptomania, or pyromania;

(ii) Current use of illegal drugs or psychoactive substance use disorder resulting from illegal use of drugs; and

(iii) Alcoholism.

(g) "Familial status" means one or more individuals who have not attained the age of eighteen (18) years being domiciled with:

(i) A parent or another person having legal custody of the individual or individuals; or

(ii) The designee of the parent or other person having custody, with the written permission of the parent or other person.

The protections afforded against discrimination on the basis of familial status apply to any person who is pregnant or is in
the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

(h) "Compensatory damages" means damages for mental anguish, loss of dignity, and other intangible injuries. The term does not include punitive damages.

(i) "Punitive damages" means damages for malicious or heinous and intentional actions or inactions.

(j) "Employee" means does not include any of the following:

   (i) Any individual employed by his or her parents, spouse, or child;

   (ii) An individual participating in a specialized employment training program conducted by a nonprofit sheltered workshop or rehabilitation facility; and

   (iii) An individual employed outside of this state.

(k) "Employer" means a person who employs nine (9) or more employees in the state each of twenty (20) or more calendar weeks in the current or preceding calendar year, or any agent of an employer.

(l) "Place of public resort, accommodation, assemblage, or amusement" means any place, store, or other establishment, either licensed or unlicensed, that supplies accommodations, goods, or services to the general public, or that solicits or accepts the patronage or trade of the general public, or that is
supported directly or indirectly by government funds. The term does not include any of the following:

(i) Any lodging establishment which contains not more than five (5) rooms for rent and which is actually occupied by the proprietor of such establishment as a residence;

(ii) Any private club or other establishment not in fact open to the public; and

(iii) House of worship.

(m) "Educational institution" means any public educational institution, including any academy, college, elementary or secondary school, extension course, charter school, magnet school, kindergarten, nursery, school district, university, professional school, or vocational school.

**SECTION 2.** (1) The right of an otherwise qualified person to be free from discrimination, defined as the denial of equal treatment or equal protection to persons in a similar situation, because of race, color, religion, national origin, immigrant status, sex, sexual orientation, gender identity, disability, or familial status is recognized as and declared to be a civil right. This right shall include, but not limited to, all of the following:

(a) The right to obtain and hold employment without discrimination.

(b) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place
of public resorts, accommodation, assemblage, or amusement without discrimination.

(c) The right to engage in property transactions, including to obtain housing, without discrimination.

(d) The right to engage in credit and other contractual transactions without discrimination.

(e) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of an educational institution without discrimination.

(2) Any person who is injured by an intentional act of discrimination in violation of subsection (1)(b) through (e) of this section may file a civil action in a court of competent jurisdiction to enjoin further violations, to recover compensatory and punitive damages, and, in the discretion of the court, to recover the cost of litigation and reasonable attorney's fees.

(3) (a) (i) Any individual who is injured by employment discrimination by an employer in violation of subsection (1)(a) of this section may file a civil action in a court of competent jurisdiction, which may issue an order prohibiting the discriminatory practices and provide affirmative relief from the effects of the practices, and award back pay, interest on back pay, and, at the discretion of the court, the cost of litigation and reasonable attorney's fees; and

(ii) No liability for back pay shall accrue from a date more than two (2) years before the filing of an action.
(b) In addition to the remedies under paragraph (a)(i) of this subsection, any individual who is injured by intentional discrimination by an employer in violation of subsection (1)(a) shall be entitled to recover compensatory damages and punitive damages.

(4) Subsection (1)(a) of this section does not apply to the employment of an individual of a particular religion by a religious corporation, association, or society to perform work connected with the performance of religious activities by the corporation, association, or society.

(5) This act may not be construed to limit any other remedies available under law.

SECTION 3. This act shall take effect and be in force from and after July 1, 2016.