

By: Senator(s) Simmons (12th)

To: Judiciary, Division A

SENATE BILL NO. 2738

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

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

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

10 (a) "Religion" means aspects of religious belief,
 11 observance, and practice.

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

14 (c) "Immigrant status" means a representation made by
 15 an individual, or determination made by the appropriate government
 16 authority, that an individual present in the United States is not
 17 a citizen or national of the United States. This status would
 18 also indicate whether the individual was in the United States with
 19 or without authorization.



20 (d) "Sexual orientation" means actual or perceived
21 homosexuality, heterosexuality, or bisexuality.

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

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

29 (i) Compulsive gambling, kleptomania, or
30 pyromania;

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

33 (iii) Alcoholism.

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

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

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

42 The protections afforded against discrimination on the basis
43 of familial status apply to any person who is pregnant or is in



44 the process of securing legal custody of any individual who has
45 not attained the age of eighteen (18) years.

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

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

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

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

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

58 (iii) An individual employed outside of this
59 state.

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

64 (l) "Place of public resort, accommodation, assemblage,
65 or amusement" means any place, store, or other establishment,
66 either licensed or unlicensed, that supplies accommodations,
67 goods, or services to the general public, or that solicits or
68 accepts the patronage or trade of the general public, or that is



69 supported directly or indirectly by government funds. The term
70 does not include any of the following:

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

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

76 (iii) House of worship.

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

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

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

92 (b) The right to the full enjoyment of any of the
93 accommodations, advantages, facilities, or privileges of any place



94 of public resorts, accommodation, assemblage, or amusement without
95 discrimination.

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

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

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

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

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

117 (ii) No liability for back pay shall accrue from a
118 date more than two (2) years before the filing of an action.



119 (b) In addition to the remedies under paragraph (a)(i)
120 of this subsection, any individual who is injured by intentional
121 discrimination by an employer in violation of subsection (1)(a)
122 shall be entitled to recover compensatory damages and punitive
123 damages.

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

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

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

