MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Hines

To: Public Health and Human Services

HOUSE BILL NO. 22

AN ACT TO CREATE THE MISSISSIPPI EYES ON SMILING STUDENTS HEALTH ACT (MESSHA); TO AMEND SECTION 37-3-87, MISSISSIPPI CODE OF 1972, TO REQUIRE A COMPREHENSIVE EYE EXAMINATION FOR ALL STUDENTS ENTERING KINDERGARTEN, FIRST GRADE OR ENROLLING FOR THE FIRST TIME IN A PUBLIC, PRIVATE OR PAROCHIAL SCHOOL ACCREDITED BY THE STATE BOARD OF EDUCATION; TO PROVIDE STANDARDS FOR REQUIRED EYE EXAMINATIONS; TO DIRECT THE STATE BOARD OF HEALTH TO DEVELOP AND ISSUE REGULATIONS ESTABLISHING STANDARDS FOR THE STUDENT EYE EXAMINATION PROGRAM; TO REQUIRE AN ORAL HEALTH ASSESSMENT FOR ALL STUDENTS ENTERING KINDERGARTEN, FIRST GRADE OR ENROLLING FOR THE FIRST TIME IN A PUBLIC, PRIVATE OR PAROCHIAL SCHOOL ACCREDITED BY THE STATE BOARD OF EDUCATION; TO DIRECT THE STATE BOARD OF HEALTH TO DEVELOP AND ISSUE REGULATIONS ESTABLISHING STANDARDS FOR THE ORAL HEALTH ASSESSMENT; TO PRESCRIBE THE METHOD AND MANNER FOR REPORTING INFORMATION TO PARENTS AND SCHOOLS; TO ALLOW MEDICAL PROFESSIONALS PROVIDING VISION SCREENINGS AND ORAL HEALTH ASSESSMENTS TO RECEIVE A TAX DEDUCTION EQUAL TO THE ACTUAL COST OF SERVICES PROVIDED FREE OF CHARGE TO CERTAIN STUDENTS; 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 "Mississippi Eyes on Smiling Students Health Act."

SECTION 2. Section 37-3-87, Mississippi Code of 1972, is amended as follows:

37-3-87. (1) This section shall be known and may be cited as the "Mississippi Better Sight for Better Learning Program."

(2) (a) The State Board of Education shall recommend a child * * * enrolling in kindergarten or first grade, or enrolling for the first time in a Mississippi public, private, or parochial school accredited by the State Board of Education, * * * shall be required to have a face-to-face comprehensive eye examination, to be completed by an optometrist or ophthalmologist * * *. * * * Within thirty (30) days of the start of the school year, the principal, director or other person in charge of a public school shall collect from the child's parent or legal guardian, evidence of the child's passage of a face-to-face comprehensive eye examination within the previous six (6) months, as provided by regulations * * * promulgated by the State Board of Health, with the advice of the State Board of Education, which establish the criteria for meeting the requirements of the comprehensive eye-examination. * * * In the alternative, the principal, director or other person in charge of a public school shall collect a signed request by the parent or legal guardian of each student opting out of the face-to-face comprehensive eye examination. A face-to-face comprehensive eye examination that was performed within six (6) months before a child's initial enrollment in a public school shall be deemed to satisfy the requirement of this section. The State Board of Education shall adopt rules and regulations under the authority provided in this section to implement the provisions of this section.

(b) The minimum criteria to be used by the State Department of Health in making the determination if the requirements of a comprehensive eye examination has been met shall include, but not be limited to, the following:

(i) Measurement of visual acuity; ocular alignment and motility; depth perception-stereopsis; fusion; slit lamp; examination of the anterior segment and pupils; and cycloplegic refraction and dilated fundus examination when deemed appropriate by the examiner;

(ii) Any eye doctor who conducts a comprehensive eye examination of a student given in accordance with the provisions of this section shall forward a written report of the examination results to the parent or legal guardian of such student and the student's primary health provider. It shall be the responsibility of the parent or legal guardian to forward a copy of the report to school health personnel. The report shall include, but not be limited to, the following:

1. The date of the report;

2. The name, address and date of the birth of the student;

3. The name of the student's school;

4. The type of examination;

5. A summary of significant findings, including, diagnosis, medication used, duration of action of

medication, treatment, prognosis, whether or not a return visit is recommended and, if so, when;

6. Any recommended educational adjustments for the child, if any, which may include: preferential seating in the classroom, eyeglasses for full-time use in school, eyeglasses for part-time use in school, sight-saving eyeglasses or any other recommendations; and

7. The name, address and signature of the examiner;

(iii) Each public school, private and parochial school approved and accredited by the State Board of Education shall give notice of this eye examination requirement to the parents and guardians of students in compliance with the rules of the State Board of Health, and in conjunction with the rules of the State Board of Health relating to required vaccinations for students. Parents and legal guardians who fail to present the required report shall be notified in writing of the required eye examination. A school may withhold a child's report card until the required report is submitted. However, no student shall be excluded from attending kindergarten, first grade or another grade for a parent's or guardian's failure to furnish a report of the student's eye examination or an examiner's failure to furnish the results of a student's comprehensive eye examination. In the event that a parent or legal guardian of a student submits a

written request that a student be excused from having an eye examination, that student shall be excused; and

(iv) Enforcement of the provisions of this subsection shall be performed by the local school superintendent, or his or her designee, the headmaster of the private or parochial school, or his or her designee, or the director of the kindergarten program, as appropriate.

(3) In addition to the comprehensive eye examination required under subsection (1), the State Department of Education is hereby authorized and empowered to establish a student vision screening program to make eye screening services available to students in Grades K-12 in the public schools in order to detect vision problems which can lead to academic problems. * * * The eye screening service shall be based on a process that is screening in nature, and not diagnostic, which is intended to identify with a reasonably high probability, students with a wide range of eye problems who should seek the services of an eye care professional for examination, diagnosis and corrective recommendation. * * * The eye screening service shall provide each student screened with a report of the student's screening results to be taken home. Each school shall be provided with a list of the students screened, and their results. Statistical summaries of the screening results shall be provided to each school, and composite statistics by school system, county or district shall be provided to the State Department of Education.

The State Department of Education may contract with any legal entity to administer the student vision screening program on the school district level, and * * * the contract shall be let on a competitive basis. State funding for the program shall only be available subject to appropriation by the Legislature.

(4) The school board of any local school district shall cooperate with the State Department of Education and State Department of Health and any entity under contract with the either department to implement the student face-to-face comprehensive eye examination or vision screening programs established under this section.

(5) Any additional costs for student eye examinations that are not covered by existing insurance or public assistance programs shall be paid by the State Department of Health from a fund provided from any private or public sources, which shall not exceed the allowable state Medicaid reimbursement rate for eye examinations.

SECTION 3. (1) This section shall be known and may be cited as the "Mississippi Healthy Smiles in Education Program."

(2) (a) Beginning July 1, 2021, every student enrolling in kindergarten or first grade, or enrolling for the first time in a Mississippi public, private or parochial school approved and accredited by the State Board of Education shall, within thirty (30) days after the start of the school year, present proof of having received an oral health assessment by a licensed dentist,

or other licensed or registered dental health professional operating within his or her scope of practice, that was performed no earlier than twelve (12) months before the date of the initial enrollment of the pupil.

(b) The State Board of Health, with the advice of the State Board of Education, on or before July 1, 2021, shall promulgate rules establishing the criteria for meeting the requirements of this oral health assessment.

(c) Oral health screenings include a physical examination of a child's mouth, including the lips, tongue, teeth, gums and tissues to:

(i) Determine whether tooth eruption and loss are up to schedule according to tooth development guidelines;

(ii) Observe tooth abnormalities and alignment of teeth;

(iii) Observe oral plaque and debris;

(iv) Check for dental caries (tooth decay); and

(v) Check for oral injuries and other anomalies.

(d) Any dentist or dental hygienist who conducts an oral health assessment of a student given in accordance with the provisions of this section shall forward a written report of the results of the examination to the parent or guardian of such student and the student's primary health care provider. It shall be the responsibility of the parent or guardian to forward a copy

of the report to school health personnel. The report shall include, but not be limited to, the following:

(i) The date of report;

(ii) The name, address and date of birth of the student;

(iii) The name of the student's school;

(iv) The type of examination;

(v) A summary of significant findings, including diagnoses, medication used, duration of action of medication, treatment, prognosis, whether or not a return visit is recommended and if so, when; and

(vi) The name, address and signature of the examiner.

(3) The parent or legal guardian of a pupil may be excused from complying with subsection (2) by indicating on the form described in subsection (5) that the oral health assessment could not be completed because of one or more of the reasons provided in subsection (5)(b)(i), (ii) and (iii).

(4) A school shall notify the parent or legal guardian of a pupil described in subsection (2) concerning the assessment requirement. The notification shall, at a minimum, consist of a letter that includes all of the following:

(a) An explanation of the administrative requirements of this section;

(b) Information on the importance of primary teeth;

(c) Information on the importance of oral health to overall health and to learning;

(d) A toll-free telephone number to request an application for the Mississippi Children's Health Insurance Program (CHIP), Medicaid or other government-subsidized health insurance programs;

(e) Contact information for county public health departments; and

(f) A statement of privacy applicable under state and federal laws and regulations.

(5) In order to ensure uniform data collection, the State Department of Education, in consultation with interested persons, shall develop and make available on its website, a standardized notification form as specified in subsection (4) that shall be used by each school district. The standardized form shall include all of the following:

(a) A section that can be used by the licensed dentist or other licensed or registered dental health professional performing the assessment to record information that is consistent with the information collected on the oral health assessment form developed by the Mississippi State Board of Dental Examiners; and

(b) A section in which the parent or legal guardian of a pupil can indicate the reason why an assessment could not be completed by marking the box next to the appropriate reason. The

reasons for not completing an assessment shall include all of the following:

(i) Completion of an assessment poses an undue financial burden on the parent or legal guardian;

(ii) Lack of access by the parent or legal guardian to a licensed dentist or other licensed or registered dental health professional; and

(iii) The parent or legal guardian does not consent to an assessment.

(6) Upon receiving completed assessments, all school districts shall, by December 31 of each year, submit a report to the school district's central administrative office of the county or municipality in which the school district is located. The report shall include all of the following:

(a) The total number of pupils in the district, by school, who are subject to the requirement to present proof of having received an oral health assessment pursuant to subsection (2);

(b) The total number of pupils described in paragraph (a) who present proof of an assessment;

(c) The total number of pupils described in paragraph (a) who could not complete an assessment due to financial burden;

(d) The total number of pupils described in paragraph (a) who could not complete an assessment due to lack of access to

a licensed dentist or other licensed or registered dental health professional;

(e) The total number of pupils described in paragraph (a) who could not complete an assessment because their parents or legal guardians did not consent to their child receiving the assessment;

(f) The total number of pupils described in paragraph (a) who are assessed and found to have untreated decay; and

(g) The total number of pupils described in paragraph (a) who did not return either the assessment form or the waiver request to the school.

(7) Each school district's central administrative office shall maintain the data described in subsection (6) in a manner that allows the county office to release it upon an appropriate public records request.

(8) This section does not prohibit any of the following:

(a) School district's central administrative offices from sharing aggregate data collected pursuant to this section with other governmental agencies, philanthropic organizations, or other nonprofit organizations for the purpose of data analysis; or

(b) Use of assessment data that is compliant with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) for purposes of conducting research and analysis on the oral health status of public school pupils in Mississippi.

(9) This section does not preclude a school district or school district's central administrative office from developing an onsite school-based oral health assessment program to meet the requirements of this section.

(10) The Division of Dental Services of the State Department of Health shall conduct an evaluation of the requirements imposed by this section and prepare and submit a report to the Legislature by January 1, 2022, that discusses any improvements in the oral health of children resulting from the imposition of those requirements. The Division of Dental Services may receive private funds and contract with the University of Mississippi Medical Center to fulfill the duties described in this subsection.

(11) Any additional costs for student oral health assessments that are not covered by existing insurance or public assistance programs shall be paid by the State Department of Health from a fund provided from any private or public source, which shall not exceed the allowable CHIP or state Medicaid reimbursement rate for dental examinations.

SECTION 4. For those students and families who are without adequate insurance to cover the costs of any visual screening or oral assessment required under the Mississippi Eyes on Smiling Students Health Act, whether through CHIP, Medicaid or a private health insurance provider, the medical professional providing the vision or dental services required under this act may provide services at no cost to the student or his or her family. Medical

professionals offering in-kind services under the provisions of this act shall be entitled to a tax deduction equal to the amount of the actual cost of services rendered, provided that the medical professional maintains an accurate accounting of the number of students serviced and projected payment for the procedure performed.

SECTION 5. This act shall take effect and be in force from and after its passage.