

By: Representative Moody

To: Public Health and
Welfare

HOUSE BILL NO. 859

1 AN ACT TO AMEND SECTION 43-16-9, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THE EXECUTIVE DIRECTOR OF A CHILD RESIDENTIAL HOME TO
3 SWEAR BY AFFIDAVIT THE OBTAINING OF REQUIRED CRIMINAL RECORD
4 CHECKS; TO AMEND SECTION 43-16-15, MISSISSIPPI CODE OF 1972, TO
5 INCLUDE CRIMINAL RECORDS CHECKS AS A MANDATED INSPECTION ITEM; TO
6 AMEND SECTION 43-16-21, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
7 STATE DEPARTMENT OF HEALTH TO MAINTAIN AN ACTION FOR A COURT ORDER
8 TO CLOSE A CHILD RESIDENTIAL HOME AND PROVIDE FOR COURT-DIRECTED
9 APPROPRIATE PLACEMENT FOR THE RESIDENTS THEREOF; AND FOR RELATED
10 PURPOSES.

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

12 SECTION 1. Section 43-16-9, Mississippi Code of 1972, is
13 amended as follows:

14 43-16-9. Such notification shall be filed by the executive
15 director of the child residential home to the department upon
16 forms provided by the department and shall contain the following
17 information:

18 (a) Name, street address, mailing address and phone
19 number of the home.

20 (b) Name of the executive director and all staff
21 members of the home.

22 (c) Name and description of the agency or organization
23 operating the home, which shall include a statement as to whether
24 or not the agency or organization is incorporated.

25 (d) Name and address of the sponsoring organization of
26 the home, if applicable.

27 (e) The names of all children living at the home which
28 shall include the following personal data:

29 (i) Full name and a copy of the child's birth
30 certificate;

31 (ii) Name and address of parent(s) or guardian(s);

32 and

33 (iii) Name and address of other nearest relative.

34 (f) School(s) attended by the children served by such
35 home.

36 (g) Fire department or State Fire Marshal inspection
37 certificate.

38 (h) Local health department inspection certificate.

39 (i) Proof, to be shown by the sworn affidavit of the
40 executive director of the home, that the home has complied with
41 Section 45-31-12 by having performed (i) sex offense criminal
42 history record information checks, and (ii) felony conviction
43 record information checks on all employees, prospective employees,
44 volunteers and prospective volunteers at such home, and that such
45 records are maintained to the extent permitted by law, for every
46 such employee, prospective employee, volunteer and prospective
47 volunteer.

48 (j) Proof, to be shown by the sworn affidavit of the
49 executive director of the home, that medical records are
50 maintained for each child.

51 SECTION 2. Section 43-16-15, Mississippi Code of 1972, is
52 amended as follows:

53 43-16-15. The department once a year shall make or cause to
54 be made inspections limited to health, nutrition, cleanliness,
55 sanitation, written medical records for children, discipline
56 policy, * * * family communication policy and required criminal
57 checks of all child residential homes. Reasonable additional
58 inspections may be made as often as may be deemed necessary by the
59 department, but shall not be scheduled so as to disrupt the normal
60 activities of the home. Department inspectors shall be persons
61 knowledgeable with the state's child abuse and neglect laws, child
62 labor laws and compulsory education laws. The State Fire Marshal,
63 or his designee, shall make or cause to be made annual inspections

64 limited to the safety of all child residential homes. Any
65 violation of state law on the premises of such child residential
66 home shall immediately be reported by such inspection personnel to
67 the appropriate law enforcement officer.

68 SECTION 3. Section 43-16-21, Mississippi Code of 1972, is
69 amended as follows:

70 43-16-21. Notwithstanding the existence of any other remedy,
71 the department may, in the manner provided by law, in termtime or
72 in vacation, upon the advice of the Attorney General who shall
73 represent the department in the proceedings, maintain an action in
74 the name of the state for an injunction or restraining order to
75 cease the operation of the home, and to provide for the
76 appropriate removal of the children from the home and placement in
77 the custody of the parents or legal guardians, the Department of
78 Human Services, or any other appropriate entity in the discretion
79 of the court. Such action shall be brought in the chancery court
80 or the youth court, as appropriate, of the county in which such
81 child residential home is located, and shall only be initiated for
82 the following violations:

83 (a) Providing supervision, care, lodging or maintenance
84 for any children in such home without filing notification in
85 accordance with this chapter.

86 (b) Failure to satisfactorily comply with local health
87 department or State Fire Marshal inspections made pursuant to
88 Section 43-16-15, regarding the health, nutrition, cleanliness,
89 safety, sanitation, written records and discipline policy of such
90 home.

91 (c) Suspected abuse and/or neglect of the children
92 served by such home, as defined in Section 43-21-105, Mississippi
93 Code of 1972.

94 SECTION 4. This act shall take effect and be in force from
95 and after July 1, 1999.