

By: Representative Moody

To: Public Health and  
Welfare

HOUSE BILL NO. 859  
(As Passed the House)

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.