

By: Representative Moody

To: Public Health and
Welfare

HOUSE BILL NO. 867
(As Passed the House)

1 AN ACT TO AMEND SECTION 45-31-12, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE DEPARTMENT OF PUBLIC SAFETY IS RESPONSIBLE FOR
3 RELEASING INFORMATION RELATING TO CRIMINAL HISTORY RECORD CHECKS
4 TO CERTAIN CHILD RESIDENTIAL FACILITIES; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 45-31-12, Mississippi Code of 1972, is
7 amended as follows:

8 45-31-12. (1) For the purposes of this section, the
9 following terms shall have the meanings ascribed in this
10 subsection:

11 (a) "Child" or "children" means any person under
12 eighteen (18) years of age.

13 (b) "Sex offense" means any offense listed in Section
14 45-31-3(i).

15 (c) "Sex offense criminal history record information"
16 has the meaning ascribed to this phrase in Section 45-31-3(j).

17 (2) Any institution, facility, clinic, organization or other
18 entity that provides services to children in a residential setting
19 where care, lodging, maintenance, and counseling or therapy for
20 alcohol or controlled substance abuse or for any other emotional
21 disorder or mental illness is provided for children, whether for
22 compensation or not, that holds itself out to the public as
23 providing such services, and that is entrusted with the care of
24 the children to whom it provides services, because of the nature
25 of the services and the setting in which the services are provided
26 shall be subject to the provisions of this section.

27 (3) Each entity to which subsection (2) applies shall
28 complete, through the appropriate governmental authority, sex

offense criminal history record information, as authorized under Section 45-31-1 et seq., and felony conviction record information checks for each employee, prospective employee, volunteer or prospective volunteer of the entity who provides or would provide services to children for the entity. In order to determine the applicant's suitability for employment, the entity shall ensure that the applicant be fingerprinted by local law enforcement, and the results forwarded to the Department of Public Safety. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the FBI for a national criminal history record check.

(4) Upon receipt of the information from the FBI as to the national criminal history record check, the Department of Public Safety shall submit to the applicable entity the following:

(a) The applicant meets the criteria for employment/licensing under the above state statute; or

(b) The applicant's fingerprints submitted to the FBI were unclassifiable. As a result, only a name-check was conducted, and no criminal record was located. If you desire a further check by fingerprints, please attach a new set of fingerprints to the unclassifiable set and resubmit them to this office for transmittal to the FBI Identification Division; or

(c) The applicant does not meet the criteria for employment/licensing under the above state statute.

No further information shall be released unless specifically authorized by the FBI.

The Department of Public Safety and its employees are hereby exempt from any civil liability as a result of any action taken as to the compilation and/or release of information pursuant to this section and any applicable section of the code.

(5) No entity to which subsection (2) applies shall employ any person, or allow any person to serve as a volunteer, who would provide services to children for the entity if the person:

(a) Has a felony conviction for a crime against

63 persons;

64 (b) Has a felony conviction under the Uniform
65 Controlled Substances Act;

66 (c) Has a conviction for a crime of child abuse or
67 neglect;

68 (d) Has a conviction for any sex offense as defined in
69 Section 45-31-3; or

70 (e) Has a conviction for any other offense committed in
71 another jurisdiction or any federal offense which would constitute
72 one (1) of the offenses listed in this subsection without regard
73 to its designation in that jurisdiction or under federal law.

74 (6) All fees incurred in compliance with this section shall
75 be borne by the entity to which subsection (2) applies.

76 (7) Any entity that violates the provisions of this section
77 by failure to complete sex offense criminal history record
78 information and felony conviction record information checks, as
79 required under subsection (3) of this section, shall be subject to
80 a penalty of up to Ten Thousand Dollars (\$10,000.00) for each such
81 violation and may be enjoined from further operation until it
82 complies with this section in actions maintained by the Attorney
83 General.

84 SECTION 2. This act shall take effect and be in force from
85 and after July 1, 1999.