

By: Representative Compretta

To: Judiciary B

HOUSE BILL NO. 1167

1 AN ACT TO AMEND SECTION 45-31-12, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE PROCEDURE FOR CHILD ABUSE REGISTRY CRIMINAL HISTORY
3 CHECKS OF PROSPECTIVE EMPLOYEES; AND FOR RELATED PURPOSES.

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

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

7 45-31-12. (1) For the purposes of this section, the
8 following terms shall have the meanings ascribed in this
9 subsection:

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

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

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

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

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

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

39 (4) Upon receipt of the information from the FBI as to the
40 national criminal history record check, the Department of Human
41 Services shall submit to the applicable entity the following:

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

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

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

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

54 The Department of Human Services and its employees are hereby
55 exempt from any civil liability as a result of any action taken as
56 to the compilation and/or release of information pursuant to this
57 section and any applicable section of the Code.

58 Prospective employees shall have a state child abuse registry
59 check/local criminal records check completed and a fingerprint
60 card and the national criminal history records check submitted as
61 required by this section prior to being employed. Employees shall

62 be deemed conditional employees for not more than eight (8) weeks
63 which the national criminal history record check is completed. If
64 any adverse information is found through such record check, the
65 employee shall be dismissed immediately and a report of such
66 dismissal and the cause for such action shall be forwarded to the
67 state child abuse registry to be filed and maintained as a
68 permanent record.

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

72 (a) Has a felony conviction for a crime against
73 persons;

74 (b) Has a felony conviction under the Uniform
75 Controlled Substances Act;

76 (c) Has a conviction for a crime of child abuse or
77 neglect;

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

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

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

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

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