

By: Senator(s) Bean

To: Judiciary

SENATE BILL NO. 2311  
(As Passed the Senate)

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

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

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

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

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

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

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

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

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

62 (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.