

By: Moody

To: Public Health and
Welfare

HOUSE BILL NO. 969
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 43-15-6, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE CRIMINAL BACKGROUND CHECKS FOR OWNERS, OPERATORS,
3 EMPLOYEES AND VOLUNTEERS OF CHILD RESIDENTIAL FACILITIES, TO
4 PROVIDE ADMINISTRATIVE IMMUNITY, AND TO PRESCRIBE CRIMINAL
5 PENALTIES FOR VIOLATIONS OF THOSE REQUIREMENTS; AND FOR RELATED
6 PURPOSES.

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

8 SECTION 1. Section 43-15-6, Mississippi Code of 1972, is
9 amended as follows:[MS1]

10 43-15-6. (1) Any person, institution, facility, clinic,
11 organization or other entity that provides services to children in
12 a residential setting where care, lodging, maintenance, and
13 counseling or therapy for alcohol or controlled substance abuse or
14 for any other emotional disorder or mental illness is provided for
15 children, whether for compensation or not, that holds himself,
16 herself, or itself out to the public as providing such services,
17 and that is entrusted with the care of the children to whom he,
18 she, or it provides services, because of the nature of the
19 services and the setting in which the services are provided shall
20 be subject to the provisions of this section.

21 (2) Each entity to which this section applies shall
22 complete, through the appropriate governmental authority, a
23 national criminal history record information check and a child
24 abuse registry check for each owner, operator, employee,
25 prospective employee, volunteer or prospective volunteer of the
26 entity and/or any other that has or may have unsupervised access
27 to a child served by the entity. In order to determine the
28 applicant's suitability for employment, the entity shall ensure

29 that the applicant be fingerprinted by local law enforcement, and
30 the results forwarded to the Department of Public Safety. If no
31 disqualifying record is identified at the state level, the
32 fingerprints shall be forwarded by the Department of Public Safety
33 to the FBI for a national criminal history record check.

34 (3) An owner, operator, employee, prospective employee,
35 volunteer or prospective volunteer of the entity and/or any other
36 that has or may have unsupervised access to a child who has a
37 criminal history of conviction or pending indictment of a crime,
38 whether a misdemeanor or a felony, that bears upon an individual's
39 fitness to have responsibility for the safety and well-being of
40 children as set forth in this chapter may not provide child care
41 or operate, or be licensed as, a residential child care program,
42 foster parent, or foster home.

43 (4) All fees incurred in compliance with this section shall
44 be borne by the individual or entity to which subsection (1)
45 applies.

46 (5) The Department of Human Services shall have the
47 authority to set fees, to exclude a particular crime or crimes or
48 a substantiated finding of child abuse and/or neglect as
49 disqualifying individuals or entities from providing foster care
50 or residential child care, and adopt such other rules and
51 regulations as may be required to carry out the provisions of this
52 section.

53 (6) Any entity that violates the provisions of this section
54 by failure to complete sex offense criminal history record
55 information and felony conviction record information checks, as
56 required under subsection (3) of this section, shall be subject to
57 a penalty of up to Ten Thousand Dollars (\$10,000.00) for each such
58 violation and may be enjoined from further operation until it
59 complies with this section in actions maintained by the Attorney
60 General.

61 (7) The Department of Human Services and/or its officers,
62 employees, attorneys, agents and representatives shall not be held
63 civilly liable for any findings, recommendations or actions taken
64 pursuant to this section.

65 SECTION 2. This act shall take effect and be in force from

66 and after July 1, 2000.