

By: Moody

To: Juvenile Justice

HOUSE BILL NO. 984
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 43-21-257 AND 43-21-261, MISSISSIPPI
2 CODE OF 1972, TO DELETE THE NECESSITY OF A COURT ORDER FOR
3 DISCLOSURE OF INFORMATION FROM THE DEPARTMENT OF HUMAN SERVICES
4 CENTRAL REGISTRY ON CHILD NEGLECT AND ABUSE CASES, AND TO
5 AUTHORIZE THE USE OF THE NAMES OF SUBSTANTIATED PERPETRATORS IN
6 ADMINISTRATIVE DUE PROCESS HEARINGS; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 43-21-257, Mississippi Code of 1972, is
9 amended as follows:[RDD1]

10 43-21-257. (1) Unless otherwise provided in this section,
11 any record involving children, including valid and invalid
12 complaints, and the contents thereof maintained by the Department
13 of Human Services, or any other state agency, shall be kept
14 confidential and shall not be disclosed except as provided in
15 Section 43-21-261.

16 (2) The Division of Youth Services shall maintain a state
17 central registry containing the number and disposition of all
18 cases together with such other useful information regarding such
19 cases as may be requested and is obtainable from the records of
20 the youth court. The Division of Youth Services shall annually
21 publish a statistical record of the number and disposition of all
22 cases, but the names or identity of any children shall not be
23 disclosed in the reports or records. The Division of Youth
24 Services shall adopt such rules as may be necessary to carry out
25 this subsection. The central registry files and the contents
26 thereof shall be confidential and shall not be open to public
27 inspection. Any person who shall disclose or encourage the
28 disclosure of any record involving children from the central

29 registry shall be subject to the penalty in Section 43-21-267.
30 The youth court shall furnish, upon forms provided by the Division
31 of Youth Services, the necessary information, and these completed
32 forms shall be forwarded to the Division of Youth Services.

33 (3) The Department of Human Services shall maintain a state
34 central registry on neglect and abuse cases containing (a) the
35 name, address and age of each child, (b) the nature of the harm
36 reported, (c) the name and address of the person responsible for
37 the care of the child, and (d) the name and address of the
38 substantiated perpetrator of the harm reported. The Department of
39 Human Services shall adopt such rules and administrative
40 procedures, especially those procedures to afford due process to
41 individuals who have been named as substantiated perpetrators
42 prior to the release of their name from the registry, as may be
43 necessary to carry out this subsection. The central registry
44 shall be confidential and shall not be open to public inspection.

45 Any person who shall disclose or encourage the disclosure of any
46 record involving children from the central registry without
47 following the rules and administrative procedures of the
48 department shall be subject to the penalty in Section 43-21-267.
49 The Department of Human Services and its employees are hereby
50 exempt from any civil liability as a result of any action taken
51 pursuant to the compilation and/or release of information on the
52 registry pursuant to this section and any other applicable section
53 of the code. * * *

54 (4) The Mississippi State Department of Health may release
55 the findings of investigations into allegations of abuse within
56 licensed day care centers made under the provisions of Section
57 43-21-353(8) to any parent of a child who is enrolled in the day
58 care center at the time of the alleged abuse or at the time the
59 request for information is made. The findings of any such
60 investigation may also be released to parents who are considering
61 placing children in the day care center. No information
62 concerning such investigations may contain the names or
63 identifying information of individual children.

64 The Department of Health shall not be held civilly liable for
65 the release of information on any findings, recommendations or

66 actions taken pursuant to investigations of abuse that have been
67 conducted pursuant to Section 43-21-353(8).

68 SECTION 2. Section 43-21-261, Mississippi Code of 1972, is
69 amended as follows:[RDD2]

70 43-21-261. (1) Except as otherwise provided in this
71 section, records involving children shall not be disclosed, other
72 than to necessary staff of the youth court, except pursuant to an
73 order of the youth court specifying the person or persons to whom
74 the records may be disclosed, the extent of the records which may
75 be disclosed and the purpose of the disclosure. Such court orders
76 for disclosure shall be limited to those instances in which the
77 youth court concludes, in its discretion, that disclosure is
78 required for the best interests of the child, the public safety or
79 the functioning of the youth court and then only to the following
80 persons:

81 (a) The judge of another youth court or member of
82 another youth court staff;

83 (b) The court of the parties in a child custody or
84 adoption cause in another court;

85 (c) A judge of any other court or members of another
86 court staff;

87 (d) Representatives of a public or private agency
88 providing supervision or having custody of the child under order
89 of the youth court;

90 (e) Any person engaged in a bona fide research purpose,
91 provided that no information identifying the subject of the
92 records shall be made available to the researcher unless it is
93 absolutely essential to the research purpose and the judge gives
94 prior written approval, and the child, through his or her
95 representative, gives permission to release the information;

96 (f) The Mississippi Employment Security Commission, or
97 its duly authorized representatives, for the purpose of a child's
98 enrollment into the Job Corps Training Program as authorized by

99 Title IV of the Comprehensive Employment Training Act of 1973 (29
100 USCS Section 923 et seq.). However, no records, reports,
101 investigations or information derived therefrom pertaining to
102 child abuse or neglect shall be disclosed; and

103 (g) To any person pursuant to a finding by a judge of
104 the youth court of compelling circumstances affecting the health
105 or safety of a child and that such disclosure is in the best
106 interests of the child.

107 Law enforcement agencies may disclose information to the
108 public concerning the taking of a child into custody for the
109 commission of a delinquent act without the necessity of an order
110 from the youth court. The information released shall not identify
111 the child or his address unless the information involves a child
112 convicted as an adult.

113 (2) Any records involving children which are disclosed under
114 an order of the youth court and the contents thereof shall be kept
115 confidential by the person or agency to whom the record is
116 disclosed except as provided in the order. Any further disclosure
117 of any records involving children shall be made only under an
118 order of the youth court as provided in this section.

119 (3) Upon request, the parent, guardian or custodian of the
120 child who is the subject of a youth court cause or any attorney
121 for such parent, guardian or custodian, shall have the right to
122 inspect any record, report or investigation which is to be
123 considered by the youth court at a hearing, except that the
124 identity of the reporter shall not be released, nor the name of
125 any other person where the person or agency making the information
126 available finds that disclosure of the information would be likely
127 to endanger the life or safety of such person.

128 (4) Upon request, the child who is the subject of a youth
129 court cause shall have the right to have his counsel inspect and
130 copy any record, report or investigation which is filed with the
131 youth court.

132 (5) (a) The youth court prosecutor or prosecutors, the
133 county attorney, the district attorney, the youth court defender
134 or defenders, or any attorney representing a child shall have the
135 right to inspect any law enforcement record involving children.

136 (b) The Department of Human Services shall disclose to
137 a county prosecuting attorney or district attorney any and all
138 records resulting from an investigation into suspected child abuse
139 or neglect when the case has been referred by the Department of
140 Human Services to the county prosecuting attorney or district
141 attorney for criminal prosecution.

142 (c) Agency records made confidential under the
143 provisions of this section may be disclosed to a court of
144 competent jurisdiction.

145 (6) Information concerning an investigation into a report of
146 child abuse or child neglect may be disclosed by the Department of
147 Human Services without order of the youth court to any attorney,
148 physician, dentist, intern, resident, nurse, psychologist, social
149 worker, child care giver, minister, law enforcement officer,
150 public or private school employee making that report pursuant to
151 Section 43-21-353(1) if the reporter has a continuing professional
152 relationship with the child and a need for such information in
153 order to protect or treat the child.

154 (7) Information concerning an investigation into a report of
155 child abuse or child neglect may be disclosed without further
156 order of the youth court to any interagency child abuse task force
157 established in any county or municipality by order of the youth
158 court of that county or municipality.

159 (8) Names and addresses of juveniles twice adjudicated as
160 delinquent for an act which would be a felony if committed by an
161 adult or for the unlawful possession of a firearm shall not be
162 held confidential and shall be made available to the public.

163 (9) Names and addresses of juveniles adjudicated as
164 delinquent for murder, manslaughter, burglary, arson, armed

165 robbery, aggravated assault, any sex offense as defined in Section
166 45-33-1, for any violation of Section 41-29-139(a)(1) or for any
167 violation of Section 63-11-30, shall not be held confidential and
168 shall be made available to the public.

169 (10) The judges of the circuit and county courts, and
170 presentence investigators for the circuit courts, as provided in
171 Section 47-7-9, shall have the right to inspect any youth court
172 records of a person convicted of a crime for sentencing purposes
173 only.

174 (11) The victim of an offense committed by a child who is
175 the subject of a youth court cause shall have the right to be
176 informed of the child's disposition by the youth court.

177 (12) The Classification Committee of the State Department of
178 Corrections, as provided in Section 47-5-103, shall have the right
179 to inspect any youth court records, excluding abuse and neglect
180 records, of any offender in the custody of the department who as a
181 child or minor was a juvenile offender or was the subject of a
182 youth court cause of action, and the State Parole Board, as
183 provided in Section 47-7-17, shall have the right to inspect such
184 records when said offender becomes eligible for parole.

185 (13) The youth court shall notify the Department of Public
186 Safety of the name, and any other identifying information such
187 department may require, of any child who is adjudicated delinquent
188 as a result of a violation of the Uniform Controlled Substances
189 Law.

190 (14) The Administrative Office of Courts shall have the
191 right to inspect any youth court records in order that the number
192 of youthful offenders, abused, neglected, truant and dependent
193 children, as well as children in need of special care and children
194 in need of supervision, may be tracked with specificity through
195 the youth court and adult justice system, and to utilize tracking
196 forms for such purpose.

197 (15) Upon a request by a youth court, the Administrative

198 Office of Courts shall disclose all information at its disposal
199 concerning any previous youth court intakes alleging that a child
200 was a delinquent child, child in need of supervision, child in
201 need of special care, truant child, abused child or neglected
202 child, as well as any previous youth court adjudications for the
203 same and all dispositional information concerning a child who at
204 the time of such request comes under the jurisdiction of the youth
205 court making such request.

206 (16) In every case where an abuse or neglect allegation has
207 been made, the confidentiality provisions of this section shall
208 not apply to prohibit access to a child's records by any state
209 regulatory agency, any state or local prosecutorial agency or law
210 enforcement agency; provided, however, that no identifying
211 information concerning the child in question may be released to
212 the public by such agency except as otherwise provided herein.

213 (17) In every case where there is any indication or
214 suggestion of either abuse or neglect and a child's physical
215 condition is medically labeled as medically "serious" or
216 "critical" or a child dies, the confidentiality provisions of this
217 section shall not apply.

218 (18) Any member of a foster care review board designated by
219 the Department of Human Services shall have the right to inspect
220 youth court records relating to the abuse, neglect or child in
221 need of supervision cases assigned to such member for review.

222 (19) Information concerning an investigation into a report
223 of child abuse or child neglect may be disclosed without further
224 order of the youth court in any administrative or due process
225 hearing held, pursuant to Section 43-21-257, by the Department of
226 Human Services for individuals whose names will be placed on the
227 central registry as substantiated perpetrators.

228 SECTION 3. This act shall take effect and be in force from
229 and after July 1, 2000.