AN ACT TO CREATE NEW SECTION 43-11-16, MISSISSIPPI CODE OF 1972, TO DIRECT THE STATE DEPARTMENT OF HEALTH TO REQUIRE ALL LICENSED NURSING HOMES TO CONDUCT CRIMINAL HISTORY CHECKS ON ALL NEW EMPLOYEES WHO PROVIDE DIRECT PATIENT CARE OR SERVICES; TO PROVIDE CIVIL IMMUNITY FOR THE DEPARTMENT, NURSING HOMES AND THEIR AGENTS AND EMPLOYEES FOR ANY FINDINGS, RECOMMENDATIONS OR ACTIONS TAKEN PURSUANT TO THIS ACT; TO AUTHORIZE THE DEPARTMENT TO CHARGE NURSING FACILITIES A FEE FOR THE CRIMINAL HISTORY CHECKS; TO AMEND SECTION 43-11-13, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT TO PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. The following shall be codified as Section 43-11-16, Mississippi Code of 1972:

43-11-16. (1) Under regulations promulgated by the licensing agency, all licensed nursing homes shall conduct a criminal history check on every new employee who provides direct patient care or services. Except as otherwise provided, no new employee shall be permitted to provide direct patient care or services until the results of the criminal history check have revealed no disqualifying record. Every new employee shall provide a valid current social security number and/or driver's license number, which shall be furnished to the licensing agency or to the agency or entity designated by the licensing agency to conduct the criminal history check. The nursing home applying for the criminal history check will be promptly notified of any disqualifying record found by the criminal history check.

(2) A licensed nursing home may make an offer of temporary employment to a prospective employee pending the results of a criminal history check on the person. In those instances, the
licensed nursing home shall provide to the licensing agency the
name and relevant information relating to the person within
seventy-two (72) hours after the date the person accepts temporary
employment.

(3) The licensing agency and its agents, officers, employees,
attorneys and representatives, and the licensed nursing
facilities, their agents, officers, employees, attorneys and
representatives, shall not be held civilly liable for any
findings, recommendations or actions taken pursuant to this
section.

(4) All fees incurred in compliance with this section shall
be borne by the nursing home requesting the criminal history
check. The licensing agency may charge a fee, which shall include
the amount required by the Mississippi Department of Public
Safety, the Federal Bureau of Investigation for the national
criminal history check, or an other agency or entity designated by
the licensing agency for the record check, in addition to any
necessary costs incurred by the licensing agency for the handling
and administration of the criminal history checks. Costs incurred
by a nursing home provider implementing this section shall be
reimbursed as an allowable cost under Section 43-13-116.

SECTION 2. Section 43-11-13, Mississippi Code of 1972, is
amended as follows:

43-11-13. (1) The licensing agency shall adopt, amend,
promulgate and enforce such rules, regulations and standards,
including classifications, with respect to all institutions for
the aged or infirm to be licensed under this chapter as may be
designed to further the accomplishment of the purpose of this
chapter in promoting adequate care of individuals in such
institutions in the interest of public health, safety and welfare.
Such rules, regulations and standards shall be adopted and
promulgated by the licensing agency and shall be recorded and
indexed in a book to be maintained by the licensing agency in its
main office in the State of Mississippi, entitled "Rules,
Regulations and Minimum Standards for Institutions for the Aged or
Infirm" and the book shall be open and available to all
institutions for the aged or infirm and the public generally at
all reasonable times. Upon the adoption of such rules,
regulations and standards, the licensing agency shall mail copies
thereof to all such institutions in the state which have filed
with the agency their names and addresses for this purpose, but
the failure to mail the same or the failure of the institutions to
receive the same shall in no way affect the validity thereof. The
rules, regulations and standards may be amended by the licensing
agency from time to time as necessary to promote the health,
safety and welfare of persons living in those institutions.

(2) The licensee shall keep posted in a conspicuous place on
the licensed premises all current rules, regulations and minimum
standards applicable to fire protection measures as adopted by the
licensing agency. The licensee shall furnish to the licensing
agency at least once each six (6) months a certificate of approval
and inspection by state or local fire authorities. Failure to
comply with state laws and/or municipal ordinances and current
rules, regulations and minimum standards as adopted by the
licensing agency, relative to fire prevention measures, shall be
prima facie evidence for revocation of license.

(3) The State Board of Health shall promulgate rules and
regulations restricting the storage, quantity and classes of drugs
allowed in personal care homes. Residents requiring
administration of Schedule II Narcotics as defined in the Uniform
Controlled Substances Law may be admitted to a personal care home.
Schedule drugs may only be allowed in a personal care home if they
are administered or stored utilizing proper procedures under the
direct supervision of a licensed physician or nurse.

(4) The licensing agency shall promulgate rules and
regulations to implement Section 43-11-16.
SECTION 3. This act shall take effect and be in force from and after July 1, 2001.