

By: Representative Franks

To: Public Health and
Welfare; Judiciary B

HOUSE BILL NO. 1319

1 AN ACT TO AMEND SECTION 43-47-5, MISSISSIPPI CODE OF 1972, TO
 2 PROVIDE THAT THE DEPARTMENT OF HUMAN SERVICES SHALL BE AUTHORIZED
 3 AND DIRECTED TO INVESTIGATE ANY ALLEGATION OF ABUSE, NEGLECT OR
 4 EXPLOITATION OF A PATIENT IN A CARE FACILITY IF THE ALLEGED ACTION
 5 OCCURRED AT A PRIVATE RESIDENCE; TO AMEND SECTION 43-47-7,
 6 MISSISSIPPI CODE OF 1972, TO ADD LICENSED MEDICAL PERSONNEL AND
 7 OTHER ENTITIES TO THE ENUMERATION OF MANDATED REPORTERS OF ABUSE,
 8 NEGLECT AND EXPLOITATION UNDER THE VULNERABLE ADULTS ACT AND TO
 9 PRESCRIBE CRIMINAL PENALTIES FOR FAILING TO MAKE SUCH REQUIRED
 10 REPORTS, TO PROVIDE THAT ADULT CENTRAL REGISTRY CRIMINAL
 11 BACKGROUND CHECKS SHALL BE MANDATORY ON EMPLOYEES, PROSPECTIVE
 12 EMPLOYEES, VOLUNTEERS AND PROSPECTIVE VOLUNTEERS OF ADULT CARE
 13 FACILITIES UNDER THE VULNERABLE ADULTS ACT AND TO PROVIDE FOR THE
 14 CONFIDENTIALITY OF SUCH REPORTS BY THE DEPARTMENT OF HUMAN
 15 SERVICES; TO AMEND SECTION 43-47-9, MISSISSIPPI CODE OF 1972, TO
 16 PROVIDE THAT A COURT MAY AUTHORIZE THE EVALUATION OF AN ABUSED
 17 ADULT UPON SHOWING OF PROBABLE CAUSE, INCLUDING AN EVALUATION OF
 18 THE FINANCIAL RECORDS OF THE VULNERABLE ADULT; TO AMEND SECTION
 19 43-11-13, MISSISSIPPI CODE OF 1972, TO DIRECT THE STATE DEPARTMENT
 20 OF HEALTH TO REQUIRE ALL LICENSED NURSING FACILITIES TO CONDUCT
 21 CRIMINAL RECORD BACKGROUND CHECKS AND ADULT CENTRAL REGISTRY
 22 CHECKS ON EMPLOYEES, PROSPECTIVE EMPLOYEES AND VOLUNTEERS, TO
 23 PROVIDE IMMUNITY AND TO AUTHORIZE THE DEPARTMENT TO CHARGE THE
 24 LICENSEE A FEE FOR SUCH CRIMINAL RECORD CHECKS; TO PROVIDE
 25 ENHANCED PENALTIES FOR CRIMES COMMITTED AGAINST PERSONS AGED 65 OR
 26 OLDER; TO REQUIRE NOTICE OF PENALTY ENHANCEMENT; TO PROVIDE FOR A
 27 SEPARATE SENTENCING PROCEEDING; TO PROVIDE THAT PENALTIES MAY BE
 28 DOUBLED; AND FOR RELATED PURPOSES.

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

30 SECTION 1. Section 43-47-5, Mississippi Code of 1972, is
 31 amended as follows:

32 43-47-5. For the purposes of this chapter, the following
 33 words shall have the meanings ascribed herein unless the context
 34 otherwise requires:

35 (a) "Abuse" shall mean the willful infliction of
 36 physical pain, injury or mental anguish on a vulnerable adult, the
 37 unreasonable confinement of a vulnerable adult, or the willful
 38 deprivation by a caretaker of services which are necessary to

39 maintain the mental and physical health of a vulnerable adult.
40 "Abuse" shall not mean conduct which is a part of the treatment
41 and care of, and in furtherance of the health and safety of a
42 patient or resident of a care facility.

43 (b) "Care facility" shall mean:

44 (i) Any institution or place for the aged or
45 infirm as defined in, and required to be licensed under, the
46 provisions of Section 43-11-1 et seq.; and

47 (ii) Any long-term care facility as defined in
48 Section 43-7-55; and

49 (iii) Any hospital as defined in, and required to
50 be licensed under, the provisions of Section 41-9-1 et seq.; and

51 (iv) Any home health agency as defined in, and
52 required to be licensed under, the provisions of Section 41-71-1
53 et seq.; and

54 (v) Any hospice as defined in, and required to be
55 licensed under, the provisions of Chapter 85 of Title 41.

56 (c) "Caretaker" shall mean an individual, corporation,
57 partnership or other organization which has assumed the
58 responsibility for the care of a vulnerable adult, but shall not
59 include the Division of Medicaid, a licensed hospital, or a
60 licensed nursing home within the state.

61 (d) "Court" shall mean the chancery court of the county
62 in which the vulnerable adult resides or is located.

63 (e) "Department" shall mean the Department of Human
64 Services.

65 (f) "Emergency" shall mean a situation in which:

66 (i) A vulnerable adult is in substantial danger of
67 death or irreparable harm if protective services are not provided
68 immediately;

69 (ii) The vulnerable adult is unable to consent to
70 services;

71 (iii) No responsible, able or willing caretaker,
72 if any, is available to consent to emergency services; and

73 (iv) There is insufficient time to utilize the
74 procedure provided in Section 43-47-13.

75 (g) "Emergency services" shall mean those services
76 necessary to maintain a vulnerable adult's vital functions and
77 without which there is reasonable belief that the vulnerable adult
78 would suffer irreparable harm or death, and may include taking
79 physical custody of the adult.

80 (h) "Essential services" shall mean those social work,
81 medical, psychiatric or legal services necessary to safeguard a
82 vulnerable adult's rights and resources and to maintain the
83 physical or mental well-being of the person. These services shall
84 include, but not be limited to, the provision of medical care for
85 physical and mental health needs, assistance in personal hygiene,
86 food, clothing, adequately heated and ventilated shelter,
87 protection from health and safety hazards, protection from
88 physical mistreatment and protection from exploitation. The words
89 "essential services" shall not include taking a vulnerable adult
90 into physical custody without his consent except as provided for
91 in Section 43-47-15 and as otherwise provided by the general laws
92 of the state.

93 (i) "Exploitation" shall mean the illegal or improper
94 use of a vulnerable adult or his resources for another's profit or
95 advantage.

96 (j) "Lacks the capacity to consent" shall mean that a
97 vulnerable adult, because of physical or mental incapacity, lacks
98 sufficient understanding or capacity to make or communicate
99 responsible decisions concerning his person, including, but not
100 limited to, provisions for health care, food, clothing or shelter.
101 This may be reasonably determined by the department in emergency
102 situations; in all other instances, the court shall make the
103 determination following the procedures in Sections 43-47-13 and

104 43-47-15 or as otherwise provided by the general laws of the
105 state.

106 (k) "Neglect" shall mean either the inability of a
107 vulnerable adult who is living alone to provide for himself the
108 food, clothing, shelter, health care or other services which are
109 necessary to maintain his mental and physical health, or failure
110 of a caretaker to supply the vulnerable adult with the food,
111 clothing, shelter, health care, supervision or other services
112 which are necessary to maintain his mental and physical health.

113 (l) "Protective services" shall mean services provided
114 by the state or other government or private organizations,
115 agencies or individuals which are necessary to protect a
116 vulnerable adult from abuse, neglect or exploitation. They shall
117 include, but not be limited to, investigation, evaluation of the
118 need for services and provision of essential services on behalf of
119 a vulnerable adult.

120 (m) "Vulnerable adult" shall mean a person eighteen
121 (18) years of age or older or any minor not covered by the Youth
122 Court Act who is present in the state and who, regardless of
123 residence, is unable to protect his or her own rights, interests,
124 and/or vital concerns and who cannot seek help without assistance
125 because of physical, mental or emotional impairment. The term
126 "vulnerable adult" shall also include all residents or patients,
127 regardless of age, in a care facility for the purposes of Sections
128 43-47-19 and 43-47-37 only. Nothing in this chapter shall be
129 construed as authorizing the Department of Human Services to
130 perform any investigation, evaluation or examination or provide
131 protective services, essential services or emergency services
132 regarding any resident or patient in a care facility.

133 Notwithstanding the provisions of this subsection, the department
134 shall not be prohibited from investigating, and shall have the
135 authority and responsibility to fully investigate, in accordance
136 with the provisions of this chapter, any allegation of abuse,

137 neglect, and/or exploitation regarding a patient in a care
138 facility, if the alleged abuse, neglect, and/or exploitation
139 occurred at a private residence.

140 SECTION 2. Section 43-47-7, Mississippi Code of 1972, is
141 amended as follows:

142 43-47-7. (1) (a) Except as otherwise provided by Section
143 43-47-37 for vulnerable adults in care facilities, any person
144 including, but not limited to, the following, who knows or
145 suspects that a vulnerable adult has been or is being abused,
146 neglected or exploited shall immediately report such knowledge or
147 suspicion to the Mississippi Department of Human Services * * *:

148 (i) Physician, osteopathic physician, medical
149 examiner, chiropractic physician, nurse or hospital personnel
150 engaged in the admission, examination, care or treatment of
151 disabled adults or elderly persons;

152 (ii) Health professional or mental health
153 professional other than one listed in subsection (1);

154 (iii) Practitioner who relies solely on spiritual
155 means for healing;

156 (iv) Nursing home staff, assisted living facility
157 staff, adult day care center staff, adult family-care home staff,
158 social worker or other professional adult care, residential or
159 institutional staff;

160 (v) State, county or municipal criminal justice
161 employee or law enforcement officer;

162 (vi) Human rights advocacy committee or long-term
163 care ombudsman council member; or

164 (vii) Bank, savings and loan or credit union
165 officer, trustee or employee.

166 (b) To the extent possible, a report made pursuant to
167 paragraph (a) must contain, but need not be limited to, the
168 following information:

169 (i) Name, age, race, sex, physical description and
170 location of each vulnerable adult alleged to have been abused,
171 neglected or exploited.

172 (ii) Names, addresses and telephone numbers of the
173 vulnerable adult's family members.

174 (iii) Name, address and telephone number of each
175 alleged perpetrator.

176 (iv) Name, address and telephone number of the
177 caregiver of the vulnerable adult, if different from the alleged
178 perpetrator.

179 (v) Description of the physical or psychological
180 injuries sustained.

181 (vi) Actions taken by the reporter; if any, such
182 as notification of the criminal justice agency.

183 (vii) Any other information available to the
184 reporting person which may establish the cause of abuse, neglect
185 or exploitation that occurred or is occurring.

186 In addition to above, any person or entity holding or
187 required to hold a license as specified in Title 73, Professions
188 and Vocations, of the Mississippi Code of 1972, shall be required
189 to give his, her or its name, address and telephone number in the
190 report of the alleged abuse, neglect or exploitation.

191 (c) The department or its designees shall report to an
192 appropriate criminal investigative or prosecutive authority any
193 person required by this section to report or who fails to comply
194 with this section. A person who fails to make a report as
195 required under this subsection or who, because of the
196 circumstances, should have known or suspected that a vulnerable
197 adult suffers from abandonment, exploitation, abuse, neglect or
198 self-neglect but who knowingly fails to comply with this section
199 shall, upon conviction, be guilty of a misdemeanor and shall be
200 punished by a fine of not exceeding Five Thousand Dollars
201 (\$5,000.00), or by imprisonment in the county jail for not more

202 than six (6) months, or both such fine and imprisonment. If a
203 person convicted under this section is a member of a profession or
204 occupation that is licensed, certified or regulated by the state,
205 the court shall notify the appropriate licensing, certifying or
206 regulating entity of the conviction.

207 (2) Reports received by law enforcement authorities or other
208 agencies shall be forwarded immediately to the Department of Human
209 Services or the county welfare department.

210 (3) The report may be made orally or in writing, but where
211 made orally, it shall be followed up by a written report.

212 (4) Anyone who makes a report pursuant to this section, who
213 testifies or participates in any judicial proceedings arising from
214 the report or who participates in a required investigation or
215 evaluation shall be presumed to be acting in good faith and in so
216 doing shall be immune from liability, civil or criminal, that
217 might otherwise be incurred or imposed.

218 (5) A person who intentionally makes a false report under
219 the provisions of this section may be found liable in a civil suit
220 for any actual damages suffered by the person or persons so
221 reported and for any punitive damages set by the court or jury.

222 (6) The Executive Director of the Department of Human
223 Services shall establish a statewide central register of reports
224 made pursuant to this section. The central register shall be
225 capable of receiving reports of vulnerable adults in need of
226 protective services seven (7) days a week, twenty-four (24) hours
227 a day. To effectuate this purpose the executive director shall
228 establish a single toll-free statewide phone number that all
229 persons may use to report vulnerable adults in need of protective
230 services, and that all persons authorized by subsection (7) of
231 this section may use for determining the existence of prior
232 reports in order to evaluate the condition or circumstances of the
233 vulnerable adult before them. Such oral reports and evidence of
234 previous reports shall be transmitted to the appropriate county

235 welfare department. The central register shall include, but not
236 be limited to, the following information: the name and identifying
237 information of the individual reported, the county welfare
238 department responsible for the investigation of each such report,
239 the names, affiliations and purposes of any person requesting or
240 receiving information which the executive director believes might
241 be helpful in the furtherance of the purposes of this chapter.

242 Upon request, a vulnerable adult who is the subject of a
243 report or, if the vulnerable adult is legally incapacitated, the
244 guardian or guardian ad litem of the vulnerable adult shall be
245 entitled to receive a copy of all information contained in the
246 registry pertaining to his or her case.

247 Each person, business, organization or other entity, whether
248 public or private, operated for profit, operated for nonprofit or
249 a voluntary unit of government not responsible for law enforcement
250 providing care, supervision or treatment of adults or vulnerable
251 persons shall conduct criminal records and adult central registry
252 checks on each employee, prospective employee, volunteer or
253 prospective volunteer of the entity who provides, and/or would
254 provide services to adults or vulnerable persons.

255 The department shall not release data that would be harmful
256 or detrimental to the vulnerable adult or that would identify or
257 locate a person who, in good faith, made a report or cooperated in
258 a subsequent investigation unless ordered to do so by a court of
259 competent jurisdiction.

260 (7) Reports made pursuant to this section, reports written
261 or photographs taken concerning such reports in the possession of
262 the Department of Human Services or the county welfare department
263 shall be confidential and shall only be made available to:

264 (a) A physician who has before him a vulnerable adult
265 whom he reasonably suspects may be abused, neglected or exploited,
266 as defined in Section 43-47-5;

267 (b) A duly authorized agency having the responsibility
268 for the care or supervision of a subject of the report;

269 (c) Any person who is the subject of the report;

270 (d) A grand jury or a court of competent jurisdiction,
271 upon finding that the information in the record is necessary for
272 the determination of charges before the grand jury;

273 (e) A district attorney or other law enforcement
274 official.

275 Notwithstanding subsection 7(b) hereof, the department may
276 not disclose a report of the abandonment, exploitation, abuse,
277 neglect or self-neglect of a vulnerable adult to the vulnerable
278 adult's guardian, attorney-in-fact, surrogate decision maker, or
279 care giver who is a perpetrator or alleged perpetrator of the
280 abandonment, exploitation, abuse or neglect of the vulnerable
281 adult.

282 Any person given access to the names or other information
283 identifying the subject of the report, except the subject of the
284 report, shall not divulge or make public such identifying
285 information unless he is a district attorney or other law
286 enforcement official and the purpose is to initiate court action.
287 Any person who willfully permits the release of any data or
288 information obtained pursuant to this section to persons or
289 agencies not permitted to such access by this section shall be
290 guilty of a misdemeanor.

291 (8) Upon reasonable cause to believe that a caretaker or
292 other person has abused, neglected or exploited a vulnerable
293 adult, the department shall promptly notify the district attorney
294 of the county in which the vulnerable adult is located, except as
295 provided in Section 43-47-37(2).

296 SECTION 3. Section 43-47-9, Mississippi Code of 1972, is
297 amended as follows:

298 43-47-9. (1) Upon receipt of a report pursuant to Section
299 43-47-7 that a vulnerable adult is in need of protective services,

300 the department shall initiate an investigation and/or evaluation
301 within forty-eight (48) hours to determine whether the vulnerable
302 adult is in need of protective services and what services are
303 needed. The evaluation shall include any necessary visits and
304 interviews with the adult, and if appropriate, with the alleged
305 perpetrator of the dependent adult abuse and with any person
306 believed to have knowledge of the circumstances of the case. When
307 a caretaker of a vulnerable adult refuses to allow the department
308 reasonable access to conduct an investigation to determine if the
309 vulnerable adult is in need of protective services, the department
310 may petition the court for an order for injunctive relief
311 enjoining the caretaker from interfering with the investigation.
312 The department may provide necessary protective services and may
313 establish a sliding fee schedule for those persons able to pay a
314 portion of the protective services.

315 (2) The staff and physicians of local health departments,
316 mental health clinics and other public or private agencies,
317 including law enforcement agencies, shall cooperate fully with the
318 department in the performance of its duties. These duties include
319 immediate, in-residence evaluations and medical examinations and
320 treatment where the department deems it necessary. Provided,
321 however, that upon receipt of a report of abuse, neglect or
322 exploitation of a vulnerable adult confined in a licensed hospital
323 or licensed nursing home facility in the state, the department
324 shall immediately refer this report to the proper authority at the
325 State Department of Health for investigation under Section
326 43-47-37.

327 Upon a showing of probable cause that an adult has been
328 abused, a court may authorize a person, also authorized by the
329 department, to make an evaluation, to enter the residence of, and
330 to examine the dependent adult. Upon a showing of probable cause
331 that a dependent adult has been financially exploited, a court may
332 authorize a person, also authorized by the department, to make an

333 evaluation, and to gain access to the financial records of the
334 dependent adult.

335 (3) The department may contract with an agency or private
336 physician for the purpose of providing immediate, accessible
337 evaluations in the location that the department deems most
338 appropriate.

339 SECTION 4. Section 43-11-13, Mississippi Code of 1972, is
340 amended as follows:

341 43-11-13. (1) The licensing agency shall adopt, amend,
342 promulgate and enforce such rules, regulations and standards,
343 including classifications, with respect to all institutions for
344 the aged or infirm to be licensed hereunder as may be designed to
345 further the accomplishment of the purpose of this chapter in
346 promoting adequate care of individuals in such institutions in the
347 interest of public health, safety and welfare. Such rules,
348 regulations and standards shall be adopted and promulgated by the
349 licensing agency and shall be recorded and indexed in a book to be
350 maintained by the licensing agency in its main office in the State
351 of Mississippi, entitled "Rules, Regulations and Minimum Standards
352 for Institutions for the Aged or Infirm" and said book shall be
353 open and available to all institutions for the aged or infirm and
354 the public generally at all reasonable times. Upon the adoption
355 of such rules, regulations and standards, the licensing agency
356 shall mail copies thereof to all such institutions in the state
357 which have filed with said agency their names and addresses for
358 this purpose, but the failure to mail the same or the failure of
359 the institutions to receive the same shall in nowise affect the
360 validity thereof. Said rules, regulations and standards may be
361 amended by the licensing agency from time to time as necessary to
362 promote the health, safety and welfare of persons living in said
363 institutions.

364 (2) The licensee shall keep posted in a conspicuous place on
365 the licensed premises all current rules, regulations and minimum

366 standards applicable to fire protection measures as adopted by the
367 licensing agency. The licensee shall furnish to the licensing
368 agency at least once each six (6) months a certificate of approval
369 and inspection by state or local fire authorities. Failure to
370 comply with state laws and/or municipal ordinances and current
371 rules, regulations and minimum standards as adopted by the
372 licensing agency, relative to fire prevention measures, shall be
373 prima facie evidence for revocation of license.

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

382 (4) The licensing agency shall require that all licensees
383 conduct criminal records background checks and adult central
384 registry checks on each employee, prospective employee, volunteer
385 or prospective volunteer who provides or would provide personal
386 care or have personal contact with any resident of an institution
387 for the aged or infirm. In order to conduct the criminal records
388 background check, each employee, prospective employee, volunteer
389 or prospective volunteer shall be fingerprinted. If no
390 disqualifying record is identified at the state level, the
391 fingerprints shall be forwarded by the Department of Public Safety
392 to the Federal Bureau of Investigation for a national criminal
393 history record check.

394 (5) The licensing agency and its agents, officers,
395 employees, attorneys and representatives shall not be held civilly
396 liable for any findings, recommendation or actions taken pursuant
397 to this section.

398 (6) All fees incurred in compliance with this section shall
399 be borne by the institution for the aged or infirm. The licensing
400 agency is hereby authorized to charge a fee which shall include
401 the amount required by the Federal Bureau of Investigation for the
402 national criminal history record check and any necessary costs
403 incurred by the licensing agency for the handling and
404 administration of the criminal history background checks.

405 SECTION 5. The penalty for any felony or misdemeanor shall
406 be subject to enhancement as provided in this act if the felony or
407 misdemeanor was committed if the defendant knew or should have
408 known that the victim is sixty-five (65) years of age or older.

409 SECTION 6. (1) For enhancement of the penalty for a felony
410 offense to apply, the prosecuting attorney if the defendant is
411 charged by information, or grand jury if an indictment is
412 returned, shall provide notice upon the information or indictment
413 that the prosecutor will seek the enhanced penalty provided in
414 this act. The notice shall be in a clause separate from and in
415 addition to the substantive offense charged and shall not be
416 considered as an element of the offense charged.

417 (2) For enhancement of the penalty for a misdemeanor to
418 apply, the affiant, the prosecuting attorney if the defendant is
419 charged by information, or grand jury if an indictment is
420 returned, shall provide written notice that the enhanced penalty
421 will be sought as provided in this act. The notice shall be in a
422 clause separate from and in addition to the substantive offense
423 charge and shall not be considered as an element of the offense
424 charged.

425 (3) There shall be no mention in the guilt or innocence
426 phase of the trial or in any documents or evidence seen by the
427 jury that an enhanced penalty may be sought.

428 SECTION 7. (1) Upon conviction or adjudication of guilt of
429 a defendant where notice has been duly given that an enhanced
430 penalty will be sought as provided in this act, the court shall

431 conduct a separate sentencing proceeding to determine the
432 sentence. The proceeding shall be conducted by the trial judge
433 before the trial jury as soon as practicable. If, through
434 impossibility or inability, the trial jury is unable to reconvene
435 for a hearing on the issue of penalty, having determined the guilt
436 of the accused, the trial judge shall summon a jury to determine
437 whether an enhanced penalty should be imposed. If trial by jury
438 has been waived, or if the defendant pleaded guilty, the
439 sentencing proceeding shall be conducted before a jury impaneled
440 for that purpose. Provided, however, that if the defendant enters
441 a plea of guilty and waives trial by jury for the sentencing
442 proceeding, the sentencing proceeding shall be conducted before
443 the trial judge sitting without a jury. In the proceeding,
444 evidence may be presented as to any matter that the court deems
445 relevant to sentence. However, this subsection shall not be
446 construed to authorize the introduction of any evidence secured in
447 violation of the Constitution of the United States or of the State
448 of Mississippi. The state and the defendant or his counsel or
449 both defendant and counsel shall be permitted to present arguments
450 for or against any sentence sought.

451 (2) In order to impose an enhanced penalty under the
452 provisions of this act, the jury must find beyond a reasonable
453 doubt:

454 (a) That the defendant perceived, knew, or had
455 reasonable grounds to know or perceive that the victim was within
456 the class delineated; and

457 (b) That the defendant maliciously and with specific
458 intent committed the offense because the victim was within the
459 class delineated.

460 (3) That the victim was within the class delineated means
461 that the reason the underlying crime was committed was because the
462 defendant knew or should have known that the victim is sixty-five
463 (65) years of age or older.

464 SECTION 8. In the event it is found beyond a reasonable
465 doubt that the offense was committed and the defendant knew or
466 should have known that the victim is sixty-five (65) years of age
467 or older, then the penalty for the offense may be enhanced by
468 punishment for a term of imprisonment of up to twice that
469 authorized by law for the offense committed, or a fine of up to
470 twice that authorized by law for the offense committed, or both.

471 SECTION 9. This act shall take effect and be in force from
472 and after July 1, 2001.