

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 PROPOSED TO**

**Senate Bill NO. 2501**

**By Representative(s) Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

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

35 43-47-5. For the purposes of this chapter, the following  
36 words shall have the meanings ascribed herein unless the context  
37 otherwise requires:

38 (a) "Abuse" shall mean the willful or nonaccidental  
39 infliction of physical pain, injury or mental anguish on a  
40 vulnerable adult, the unreasonable confinement of a vulnerable  
41 adult, or the willful deprivation by a caretaker of services which  
42 are necessary to maintain the mental and physical health of a  
43 vulnerable adult. "Abuse" shall include sexual abuse. "Abuse"  
44 shall not mean conduct which is a part of the treatment and care  
45 of, and in furtherance of the health and safety of a patient or  
46 resident of a care facility. "Abuse" includes, but is not limited  
47 to, a single incident.

48 (b) "Care facility" shall mean:

49 (i) Any institution or place for the aged or

50 infirm as defined in, and required to be licensed under, the  
51 provisions of Section 43-11-1 et seq.; and

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

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

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

59 (v) Any hospice as defined in, and required to be  
60 licensed under, the provisions of Chapter 85 of Title 41; and

61 (vi) Any adult day services facility, which shall  
62 mean a community-based group program for adults designed to meet  
63 the needs of adults with impairments through individual plans of  
64 care, which are structured, comprehensive, planned, nonresidential  
65 programs providing a variety of health, social and related support  
66 services in a protective setting, enabling participants to live in  
67 the community. Exempted from this definition shall be any program  
68 licensed and certified by the Mississippi Department of Mental  
69 Health and any adult day services program provided to ten (10) or  
70 fewer individuals by a licensed institution for the aged or  
71 infirm.

72 (c) "Caretaker" shall mean an individual, corporation,  
73 partnership or other organization which has assumed the  
74 responsibility for the care of a vulnerable adult, but shall not  
75 include the Division of Medicaid, a licensed hospital, or a  
76 licensed nursing home within the state.

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

79 (e) "Department" shall mean the Department of Human

80 Services.

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

82 (i) A vulnerable adult is in substantial danger of  
83 serious harm, death or irreparable harm if protective services are  
84 not provided immediately;

85 (ii) The vulnerable adult is unable to consent to  
86 services;

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

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

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

96 (h) "Essential services" shall mean those social work,  
97 medical, psychiatric or legal services necessary to safeguard a  
98 vulnerable adult's rights and resources and to maintain the  
99 physical or mental well-being of the person. These services shall  
100 include, but not be limited to, the provision of medical care for  
101 physical and mental health needs, assistance in personal hygiene,  
102 food, clothing, adequately heated and ventilated shelter,  
103 protection from health and safety hazards, protection from  
104 physical mistreatment and protection from exploitation. The words  
105 "essential services" shall not include taking a vulnerable adult  
106 into physical custody without his consent except as provided for  
107 in Section 43-47-15 and as otherwise provided by the general laws  
108 of the state.

109 (i) "Exploitation" shall mean the illegal or improper

110 use of a vulnerable adult or his resources for another's profit or  
111 advantage with or without the consent of the vulnerable adult.

112 "Exploitation" includes, but is not limited to, a single incident.

113 (j) "Lacks the capacity to consent" shall mean that a  
114 vulnerable adult, because of physical or mental incapacity, lacks  
115 sufficient understanding or capacity to make or communicate  
116 responsible decisions concerning his person, including, but not  
117 limited to, provisions for health care, food, clothing or shelter.  
118 This may be reasonably determined by the department in emergency  
119 situations; in all other instances, the court shall make the  
120 determination following the procedures in Sections 43-47-13 and  
121 43-47-15 or as otherwise provided by the general laws of the  
122 state.

123 (k) "Neglect" shall mean either the inability of a  
124 vulnerable adult who is living alone to provide for himself the  
125 food, clothing, shelter, health care or other services which are  
126 necessary to maintain his mental and physical health, or failure  
127 of a caretaker to supply the vulnerable adult with the food,  
128 clothing, shelter, health care, supervision or other services  
129 which a reasonably prudent person would do to maintain the  
130 vulnerable adult's mental and physical health. "Neglect"  
131 includes, but is not limited to, a single incident.

132 (l) "Protective services" shall mean services provided  
133 by the state or other government or private organizations,  
134 agencies or individuals which are necessary to protect a  
135 vulnerable adult from abuse, neglect or exploitation. They shall  
136 include, but not be limited to, investigation, evaluation of the  
137 need for services and provision of essential services on behalf of  
138 a vulnerable adult.

139 (m) "Vulnerable adult" shall mean a person eighteen

140 (18) years of age or older or any minor whose ability to perform  
141 the normal activities of daily living or to provide for his or her  
142 own care or protection is impaired due to a mental, emotional,  
143 physical or developmental disability or dysfunction, or brain  
144 damage or the infirmities of aging. The term "vulnerable adult"  
145 shall also include all residents or patients, regardless of age,  
146 in a care facility for the purposes of Sections 43-47-19 and  
147 43-47-37 only. The department shall not be prohibited from  
148 investigating, and shall have the authority and responsibility to  
149 fully investigate, in accordance with the provisions of this  
150 chapter, any allegation of abuse, neglect, and/or exploitation  
151 regarding a patient in a care facility, if the alleged abuse,  
152 neglect and/or exploitation occurred at a private residence.

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

155 43-47-7. (1) (a) Except as otherwise provided by Section  
156 43-47-37 for vulnerable adults in care facilities, any person  
157 including, but not limited to, the following, who knows or  
158 suspects beyond a reasonable doubt that a vulnerable adult has  
159 been or is being abused, neglected or exploited shall immediately  
160 report such knowledge or suspicion to the Department of Human  
161 Services or to the county \* \* \* department of human services where  
162 the vulnerable adult is located:

163 (i) Physician, osteopathic physician, medical  
164 examiner, chiropractor or nurse engaged in the admission,  
165 examination, care or treatment of vulnerable adults;

166 (ii) Health professional or mental health  
167 professional other than one listed in subparagraph (i);

168 (iii) Practitioner who relies solely on spiritual  
169 means for healing;

170                   (iv) Social worker or other professional adult  
171 care, residential or institutional staff;

172                   (v) State, county or municipal criminal justice  
173 employee or law enforcement officer;

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

176                   (vii) Bank, savings and loan, credit union or any  
177 other financial institution officer, trustee or employee.

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

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

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

186                   (iii) Name, address and telephone number of each  
187 alleged perpetrator.

188                   (iv) Name address and telephone number of the  
189 caregiver of the vulnerable adult, if different from the alleged  
190 perpetrator.

191                   (v) Description of the neglect, exploitation,  
192 physical or psychological injuries sustained.

193                   (vi) Actions taken by the reporter, if any, such  
194 as notification of the criminal justice agency.

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

198                   In addition to the above, any person or entity holding or  
199 required to hold a license as specified in Title 73, Professions

200 and Vocations, Mississippi Code of 1972, shall be required to give  
201 his, her or its name, address and telephone number in the report  
202 of the alleged abuse, neglect or exploitation.

203 (c) The department, or its designees, shall report to  
204 an appropriate criminal investigative or prosecutive authority any  
205 person required by this section to report or who fails to comply  
206 with this section. A person who fails to make a report as  
207 required under this subsection or who, because of the  
208 circumstances, should have known or suspected beyond a reasonable  
209 doubt that a vulnerable adult suffers from exploitation, abuse,  
210 neglect or self-neglect but who knowingly fails to comply with  
211 this section shall, upon conviction, be guilty of a misdemeanor  
212 and shall be punished by a fine not exceeding Five Hundred Dollars  
213 (\$500.00), or by imprisonment in the county jail for not more than  
214 six (6) months, or both such fine and imprisonment. However, for  
215 purposes of this subsection (1), any recognized legal banking  
216 transaction shall not be considered cause to report the knowledge  
217 or suspicion of the financial exploitation of a vulnerable adult.  
218 If a person convicted under this section is a member of a  
219 profession or occupation that is licensed, certified or regulated  
220 by the state, the court shall notify the appropriate licensing,  
221 certifying or regulating entity of the conviction.

222 (2) Reports received by law enforcement authorities or other  
223 agencies shall be forwarded immediately to the Department of Human  
224 Services or the county \* \* \* department of human services.

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

227 (4) Anyone who makes a report required by this section, who  
228 testifies or participates in any judicial proceedings arising from  
229 the report or who participates in a required investigation or

230 evaluation shall be presumed to be acting in good faith and in so  
231 doing shall be immune from liability, civil or criminal, that  
232 might otherwise be incurred or imposed. However, the immunity  
233 provided under this subsection shall not apply to any suspect or  
234 perpetrator of any abuse, neglect or exploitation.

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

239 (6) The Executive Director of \* \* \* Human Services shall  
240 establish a statewide central register of reports made pursuant to  
241 this section. The central register shall be capable of receiving  
242 reports of vulnerable adults in need of protective services seven  
243 (7) days a week, twenty-four (24) hours a day. To effectuate this  
244 purpose the executive director shall establish a single toll-free  
245 statewide phone number that all persons may use to report  
246 vulnerable adults in need of protective services, and that all  
247 persons authorized by subsection (7) of this section may use for  
248 determining the existence of prior reports in order to evaluate  
249 the condition or circumstances of the vulnerable adult before  
250 them. Such oral reports and evidence of previous reports shall be  
251 transmitted to the appropriate county \* \* \* department of human  
252 services. The central register shall include, but not be limited  
253 to, the following information: the name and identifying  
254 information of the individual reported, the county \* \* \*  
255 department of human services responsible for the investigation of  
256 each such report, the names, affiliations and purposes of any  
257 person requesting or receiving information which the executive  
258 director believes might be helpful in the furtherance of the  
259 purposes of this chapter, the name, address, birth date, social



260 security number of the perpetrator of abuse, neglect and/or  
261 exploitation, and the type of abuse, neglect and/or exploitation  
262 of which there was substantial evidence upon investigation of the  
263 report.

264 Each person, business, organization or other entity, whether  
265 public or private, operated for profit, operated for nonprofit or  
266 a voluntary unit of government not responsible for law enforcement  
267 providing care, supervision or treatment of vulnerable adults  
268 shall conduct criminal history records checks on each new employee  
269 of the entity who provides, and/or would provide direct patient  
270 care or services to adults or vulnerable persons, as provided in  
271 Section 43-11-13.

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

277 (7) Reports made pursuant to this section, reports written  
278 or photographs taken concerning such reports in the possession of  
279 the Department of Human Services or the county \* \* \* department of of  
280 human services shall be confidential and shall only be made  
281 available to:

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

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

287 \* \* \*

288 (c) A grand jury or a court of competent jurisdiction,  
289 upon finding that the information in the record is necessary for

290 the determination of charges before the grand jury;

291           (d) A district attorney or other law enforcement  
292 official.

293           Notwithstanding the provisions of paragraph (b) of this  
294 subsection, the department may not disclose a report of the  
295 abandonment, exploitation, abuse, neglect or self-neglect of a  
296 vulnerable adult to the vulnerable adult's guardian,  
297 attorney-in-fact, surrogate decision maker, or caregiver who is a  
298 perpetrator or alleged perpetrator of the abandonment,  
299 exploitation, abuse or neglect of the vulnerable adult.

300           Any person given access to the names or other information  
301 identifying the subject of the report, except the subject of the  
302 report, shall not divulge or make public such identifying  
303 information unless he is a district attorney or other law  
304 enforcement official and the purpose is to initiate court action.

305           Any person who willfully permits the release of any data or  
306 information obtained pursuant to this section to persons or  
307 agencies not permitted to such access by this section shall be  
308 guilty of a misdemeanor.

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

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

316           43-47-9. (1) Upon receipt of a report pursuant to Section  
317 43-47-7 that a vulnerable adult is in need of protective services,  
318 the department shall initiate an investigation and/or evaluation  
319 within forty-eight (48) hours to determine whether the vulnerable

320 adult is in need of protective services and what services are  
321 needed. The evaluation shall include any necessary visits and  
322 interviews with the adult, and if appropriate, with the alleged  
323 perpetrator of the vulnerable adult abuse and with any person  
324 believed to have knowledge of the circumstances of the case. When  
325 a caretaker of a vulnerable adult refuses to allow the department  
326 reasonable access to conduct an investigation to determine if the  
327 vulnerable adult is in need of protective services, the department  
328 may petition the court for an order for injunctive relief  
329 enjoining the caretaker from interfering with the investigation.

330 (2) The staff and physicians of local health departments,  
331 mental health clinics and other public or private agencies,  
332 including law enforcement agencies, shall cooperate fully with the  
333 department in the performance of its duties. These duties include  
334 immediate, in-residence evaluations and medical examinations and  
335 treatment where the department deems it necessary. \* \* \*

336 However, \* \* \* upon receipt of a report of abuse, neglect or  
337 exploitation of a vulnerable adult confined in a licensed hospital  
338 or licensed nursing home facility in the state, the department  
339 shall immediately refer this report to the proper authority at the  
340 State Department of Health for investigation under Section  
341 43-47-37.

342 Upon a showing of probable cause that a vulnerable adult has  
343 been abused, a court may authorize a qualified third party to make  
344 an evaluation to enter the residence of, and to examine the  
345 vulnerable adult. Upon a showing of probable cause that a  
346 vulnerable adult has been financially exploited, a court may  
347 authorize a qualified third party, also authorized by the  
348 department, to make an evaluation, and to gain access to the  
349 financial records of the vulnerable adult.

350 (3) The department may contract with an agency or private  
351 physician for the purpose of providing immediate, accessible  
352 evaluations in the location that the department deems most  
353 appropriate.

354 SECTION 4. Section 43-47-19, Mississippi Code of 1972, is  
355 amended as follows:

356 43-47-19. (1) It shall be unlawful for any person to abuse,  
357 neglect or exploit any vulnerable adult.

358 (2) Any person who willfully commits an act or omits the  
359 performance of any duty, which act or omission contributes to,  
360 tends to contribute to or results in physical pain, injury, mental  
361 anguish, unreasonable confinement, or deprivation of services  
362 which are necessary to maintain the mental and physical health of  
363 a vulnerable adult, or neglect \* \* \* of any vulnerable adult shall  
364 be guilty of a misdemeanor and, upon conviction thereof, shall be  
365 punished by a fine not to exceed One Thousand Dollars (\$1,000.00)  
366 or by imprisonment not to exceed one (1) year in the county jail,  
367 or by both such fine and imprisonment. Any accepted medical  
368 procedure performed in the usual scope of practice shall not be a  
369 violation of this subsection.

370 Any person who willfully exploits a vulnerable adult shall be  
371 guilty of a misdemeanor and, upon conviction thereof, shall be  
372 punished by a fine not to exceed One Thousand Dollars (\$1,000.00)  
373 or by imprisonment not to exceed one (1) year in the county jail  
374 or by both such fine and imprisonment.

375 (3) Any person who willfully inflicts physical pain or  
376 injury upon a vulnerable adult shall be guilty of felonious abuse  
377 and/or battery of a vulnerable adult and, upon conviction thereof,  
378 may be punished by imprisonment in the State Penitentiary for not  
379 more than twenty (20) years.

380 (4) Nothing contained in this section shall prevent  
381 proceedings against a person under any statute of this state or  
382 municipal ordinance defining any act as a crime or misdemeanor.

383 SECTION 5. Section 43-47-23, Mississippi Code of 1972, is  
384 amended as follows:

385 43-47-23. The department and the court are authorized to  
386 seek the cooperation of all public agencies, departments,  
387 societies, organizations or agencies having for their object the  
388 protection or aid of adults. These agencies, departments,  
389 societies and organizations shall provide any such assistance as  
390 is necessary.

391 SECTION 6. Section 43-47-27, Mississippi Code of 1972, is  
392 amended as follows:

393 43-47-27. The department shall adopt standards and other  
394 procedures and guidelines with forms to insure the effective  
395 implementation of the provisions of this chapter no later than  
396 October 1, 2001.

397 SECTION 7. Section 43-47-31, Mississippi Code of 1972, is  
398 amended as follows:

399 43-47-31. (1) Nothing in this chapter shall be construed to  
400 authorize, permit or require any emergency or protective services  
401 in contravention of the stated or implied objection of such person  
402 based upon his right of privacy, which is grounded in the federal  
403 courts and the courts of this state, except in a situation where  
404 the vulnerable adult is in imminent danger of serious harm.

405 (2) Nothing in this chapter shall be construed to mean a  
406 person is neglected or in need of emergency or protective services  
407 for the sole reason he is being furnished or relies upon treatment  
408 by spiritual means through prayer alone in accordance with the  
409 tenets and practices of a recognized church or religious

410 denominations.

411 (3) Nothing in this chapter shall be construed to authorize,  
412 permit or require any medical care or treatment in contravention  
413 of the stated or implied objection of such person.

414 SECTION 8. Section 43-47-33, Mississippi Code of 1972, is  
415 amended as follows:

416 43-47-33. The department shall establish a comprehensive,  
417 aggressive program to educate the general public of (a) the  
418 existence and provisions of the Mississippi Vulnerable Adults Act  
419 of 1986; (b) the duty to report the abuse, neglect or exploitation  
420 of any and all vulnerable adults, and (c) criminal sanctions  
421 associated with violations of the Mississippi Vulnerable Adults  
422 Act.

423 SECTION 9. Section 43-47-35, Mississippi Code of 1972, is  
424 amended as follows:

425 43-47-35. It is the intent of the Legislature that the \* \* \*  
426 department \* \* \* shall implement the provisions of this chapter in  
427 the event federal funding is made available therefor under a  
428 social services block grant, or in the event any other federal or  
429 state funding is made available to provide for protective services  
430 for vulnerable adults.

431 SECTION 10. Section 43-47-37, Mississippi Code of 1972, is  
432 amended as follows:

433 43-47-37. (1) Any person who, within the scope of his  
434 employment at a care facility as defined in Section 43-47-5(b), or  
435 in his professional or personal capacity, has knowledge of or  
436 reasonable cause to believe that any patient or resident of a care  
437 facility has been the victim of abuse, neglect or exploitation  
438 shall report immediately the abuse, neglect or exploitation.

439 (2) The reporting of conduct as required by subsection (1)

440 of this section shall be made:

441 (a) By any employee of any home health agency, orally  
442 or telephonically, within twenty-four (24) hours of discovery,  
443 excluding Saturdays, Sundays and legal holidays, to the \* \* \*  
444 department \* \* \* and the Medicaid Fraud Control Unit of the  
445 Attorney General's office.

446 (b) By a home health agency, in writing within  
447 seventy-two (72) hours of discovery to the \* \* \* department \* \* \*  
448 and the Medicaid Fraud Control Unit. \* \* \* Upon initial review,  
449 the Medicaid Fraud Control Unit shall make a determination whether  
450 or not the person suspected of committing the reported abuse,  
451 neglect or exploitation was an employee of the home health agency.  
452 If so, the Medicaid Fraud Control Unit shall determine whether  
453 there is substantial potential for criminal prosecution, and upon  
454 a positive determination, shall investigate and prosecute the  
455 complaint or refer it to an appropriate criminal investigative or  
456 prosecutive authority. If the alleged perpetrator is not an  
457 employee of the home health agency, the department shall  
458 investigate and process the complaint or refer it to an  
459 appropriate investigative or prosecutive authority.

460 (c) By all other care facilities, orally or  
461 telephonically, within twenty-four (24) hours of discovery,  
462 excluding Saturdays, Sundays and legal holidays, to the \* \* \*  
463 State Department of Health and the Medicaid Fraud Control Unit of  
464 the Attorney General's office.

465 (d) By all other care facilities, in writing, within  
466 seventy-two (72) hours of the discovery, to the \* \* \* State  
467 Department of Health and the Medicaid Fraud Control Unit. If,  
468 upon initial review by the \* \* \* State Department of Health and  
469 the Medicaid Fraud Control Unit, a determination is made that

470 there is substantial potential for criminal prosecution, the unit  
471 will investigate and prosecute the complaint or refer it to an  
472 appropriate criminal investigative or prosecutive authority.

473 (3) The contents of the reports required by subsections (1)  
474 and (2) of this section shall contain the following information  
475 unless the information is unobtainable by the person reporting:

476 (a) The name, address, telephone number, occupation and  
477 employer's address and telephone number of the person reporting;

478 (b) The name and address of the patient or resident who  
479 is believed to be the victim of abuse or exploitation;

480 (c) The details, observations and beliefs concerning  
481 the incident;

482 (d) Any statements relating to incident made by the  
483 patient or resident;

484 (e) The date, time and place of the incident;

485 (f) The name of any individual(s) believed to have  
486 knowledge of the incident;

487 (g) The name of the individual(s) believed to be  
488 responsible for the incident and their connection to the patient  
489 or resident; and

490 (h) Such other information that may be required by  
491 the \* \* \* State Department of Health and/or the Medicaid Fraud  
492 Control Unit, as requested.

493 (4) Any other individual who has knowledge of or reasonable  
494 cause to believe that any patient or resident of a care facility  
495 has been the victim of abuse, exploitation or any other criminal  
496 offense may make a report to the State Department of Health and  
497 the Medicaid Fraud Control Unit.

498 (5) (a) Any individual who, in good faith, makes a report  
499 as provided in this section or who testifies in an official



500 proceeding regarding matters arising out of this section shall be  
501 immune from all criminal and civil liability \* \* \*. The immunity  
502 granted under this subsection shall not apply to any suspect or  
503 perpetrator of abuse, neglect or exploitation of any vulnerable  
504 adult, or of any other criminal act under any statute of this  
505 state or municipal ordinance defining any act as a crime or  
506 misdemeanor.

507 (b) No person shall terminate from employment, demote,  
508 reject for promotion or otherwise sanction, punish or retaliate  
509 against any individual who, in good faith, makes a report as  
510 provided in this section or who testifies in any official  
511 proceeding regarding matters arising out of this section.

512 (6) Any care facility that complies in good faith with the  
513 requirements of this section to report the abuse or exploitation  
514 of a patient or resident in the care facility shall not be  
515 sanctioned by the State Department of Health for the occurrence of  
516 such abuse or exploitation if the care facility demonstrates that  
517 it adequately trained its employees and that the abuse or  
518 exploitation was caused by factors beyond the control of the care  
519 facility.

520 (7) Every person who knowingly fails to make the report as  
521 required by subsections (1), (2) and (3) of this section or  
522 attempts to induce another, by threat or otherwise, to fail to  
523 make a report as required by subsections (1), (2) and (3) of this  
524 section shall, upon conviction, be guilty of a misdemeanor and  
525 shall be punished by a fine of not exceeding Five Hundred Dollars  
526 (\$500.00), or by imprisonment in the county jail for not more than  
527 six (6) months, or both such fine and imprisonment.

528 (8) Copies of Sections 43-47-7 and 43-47-37 shall be posted  
529 prominently in every health care facility.

530 (9) If, after initial inquiry or investigation, the Medicaid  
531 Fraud Control Unit determines that there is reasonable cause to  
532 believe that an employee of a home health agency has abused,  
533 neglected or exploited a vulnerable adult, the unit shall notify  
534 the Mississippi State Department of Health of the alleged abuse,  
535 neglect or exploitation.

536 (10) Upon a judicial determination of evidence that an  
537 employee of a care facility has abused, neglected or exploited a  
538 vulnerable adult, the appropriate investigative agency shall  
539 immediately provide the following information to the central  
540 registry: name, address, birth date, social security number of  
541 perpetrator; type of abuse, neglect and or exploitation; name,  
542 address, birth date, social security number of victim; and date of  
543 incident and report.

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

546 43-11-13. (1) The licensing agency shall adopt, amend,  
547 promulgate and enforce such rules, regulations and standards,  
548 including classifications, with respect to all institutions for  
549 the aged or infirm to be licensed under this chapter as may be  
550 designed to further the accomplishment of the purpose of this  
551 chapter in promoting adequate care of individuals in such  
552 institutions in the interest of public health, safety and welfare.

553 Such rules, regulations and standards shall be adopted and  
554 promulgated by the licensing agency and shall be recorded and  
555 indexed in a book to be maintained by the licensing agency in its  
556 main office in the State of Mississippi, entitled "Rules,  
557 Regulations and Minimum Standards for Institutions for the Aged or  
558 Infirm" and the book shall be open and available to all  
559 institutions for the aged or infirm and the public generally at

560 all reasonable times. Upon the adoption of such rules,  
561 regulations and standards, the licensing agency shall mail copies  
562 thereof to all such institutions in the state which have filed  
563 with the agency their names and addresses for this purpose, but  
564 the failure to mail the same or the failure of the institutions to  
565 receive the same shall in no way affect the validity thereof. The  
566 rules, regulations and standards may be amended by the licensing  
567 agency, from time to time, as necessary to promote the health,  
568 safety and welfare of persons living in those institutions.

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

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

587 (4) (a) Pursuant to regulations promulgated by the State  
588 Department of Health, the licensing agency shall require to be  
589 performed a criminal history record check on every new employee of

590 a licensed institution for the aged or infirm or care facility who  
591 provides direct patient care or services. Except as otherwise  
592 provided, no new employee shall be permitted to provide direct  
593 patient care or services until the results of the criminal history  
594 record check have revealed no disqualifying record. Every new  
595 employee shall provide a valid current social security number  
596 and/or driver's license number which shall be furnished to the  
597 licensing agency or the agency designated by the licensing agency  
598 to conduct the criminal history record check. The institution for  
599 the aged or infirm or care facility applying for the criminal  
600 history record check will be promptly notified of any  
601 disqualifying record found by the criminal history record check.  
602 In order to determine the applicant's suitability for employment,  
603 the applicant shall be fingerprinted. If no disqualifying record  
604 is identified at the state level, the fingerprints shall be  
605 forwarded by the Department of Public Safety to the Federal Bureau  
606 of Investigation for a national criminal history record check.

607 (b) A licensed institution for the aged or infirm or  
608 care facility may make an offer of temporary employment to a  
609 prospective employee pending the results of a criminal history  
610 record check on the person. In such instances, the licensed  
611 institution for the aged or infirm or care facility shall provide  
612 to the licensing agency the name and relevant information relating  
613 to the person within seventy-two (72) hours after the date the  
614 person accepts temporary employment.

615 (c) All fees incurred in compliance with this section  
616 shall be borne by the institution or facility requesting the  
617 criminal history record check. The licensing agency is  
618 authorized to charge the institution for the aged or infirm or  
619 care facility a fee which shall include the amount required by the

620 Mississippi Department of Public Safety, the Federal Bureau of  
621 Investigation or any other agency designated by the licensing  
622 agency for the national criminal history record check in addition  
623 to any necessary costs incurred by the licensing agency for the  
624 handling and administration of the criminal history record checks.

625 Costs incurred by a nursing home provider implementing this act  
626 shall be reimbursed as an allowable cost under Section 43-13-116.

627 (d) The licensing agency, care facility, and their  
628 agents, officers, employees, attorneys and representatives shall  
629 be presumed to be acting in good faith for any employment decision  
630 or action taken under paragraphs (a) and (b) of this subsection.  
631 The presumption of good faith may be overcome by a preponderance  
632 of the evidence in any civil action.

633 (e) The licensing agency shall promulgate regulations  
634 to implement this subsection (4).

635 SECTION 12. (1) Except as otherwise provided in subsection  
636 (3), a person, knowing that the information is misleading or  
637 inaccurate, shall not intentionally, willfully or recklessly place  
638 or direct another to place in a patient's medical record or chart  
639 misleading or inaccurate information regarding the diagnosis,  
640 care, treatment or cause of a patient's condition. A violation of  
641 this subsection is punishable as follows: a person who  
642 intentionally or willfully or recklessly violates this subsection  
643 is guilty of a misdemeanor, punishable by imprisonment for not  
644 more than one (1) year, or a fine of not more than One Thousand  
645 Dollars (\$1,000.00), or both.

646 (2) Except as otherwise provided in subsection (3), a person  
647 shall not intentionally or willfully alter or destroy or direct  
648 another to alter or destroy a patient's medical records or charts  
649 for the purpose of concealing his or her responsibility for the

650 patient's injury, sickness or death. A person who violates this  
651 subsection is guilty of a misdemeanor punishable by imprisonment  
652 for not more than one (1) year, or a fine of not more than One  
653 Thousand Dollars (\$1,000.00), or both.

654 (3) Subsections (1) and (2) do not apply to either of the  
655 following:

656 (a) Destruction of a patient's original medical record  
657 or chart if all of the information contained in or on the medical  
658 record or chart is otherwise retained by means of mechanical or  
659 electronic recording, chemical reproduction, or other equivalent  
660 techniques that accurately reproduce all of the information  
661 contained in or on the original.

662 (b) Supplementation of information or correction of an  
663 error in a patient's medical record or chart in a manner that  
664 reasonably discloses that the supplementation or correction was  
665 performed and that does not conceal or alter prior entries.

666 SECTION 13. This act shall take effect and be in force from  
667 and after July 1, 2001.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT RELATING TO THE MISSISSIPPI VULNERABLE ADULTS ACT; TO  
2 AMEND SECTION 43-47-5, MISSISSIPPI CODE OF 1972, TO DEFINE  
3 "VULNERABLE ADULT," CLARIFY CERTAIN DEFINITIONS AND DEFINE CERTAIN  
4 PROHIBITIONS ON THE INVESTIGATION AND PROVISION OF PROTECTIVE  
5 SERVICES REGARDING RESIDENTS OR PATIENTS IN A CARE FACILITY; TO  
6 AMEND SECTION 43-47-7, MISSISSIPPI CODE OF 1972, TO ADD CERTAIN  
7 LICENSED MEDICAL PERSONNEL AND OTHER ENTITIES TO THE ENUMERATION  
8 OF MANDATED REPORTERS OF ABUSE, NEGLECT AND EXPLOITATION UNDER THE  
9 VULNERABLE ADULTS ACT, TO PRESCRIBE CRIMINAL PENALTIES FOR FAILING  
10 TO MAKE SUCH REQUIRED REPORTS, AND TO PROVIDE FOR THE  
11 CONFIDENTIALITY OF SUCH REPORTS; TO AMEND SECTION 43-47-9,  
12 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A COURT MAY AUTHORIZE  
13 THE EVALUATION OF AN ABUSED ADULT UPON SHOWING OF PROBABLE CAUSE,  
14 INCLUDING AN EVALUATION OF THE FINANCIAL RECORDS OF THE VULNERABLE  
15 ADULT; TO AMEND SECTIONS 43-47-23, 43-47-27, 43-47-31, 43-47-33  
16 AND 43-47-35, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE  
17 PRECEDING PROVISIONS; TO AMEND SECTION 43-47-37, MISSISSIPPI CODE  
18 OF 1972, TO CLARIFY REPORTING REQUIREMENTS FOR VICTIMS OF ABUSE,

19 NEGLECT OR EXPLOITATION AND TO CLARIFY IMMUNITY EXTENDED TO THE  
20 REPORTERS OF SUCH ABUSE AND NEGLECT; TO AMEND SECTION 43-47-19,  
21 MISSISSIPPI CODE OF 1972, TO CLARIFY AND INCREASE CRIMINAL  
22 PENALTIES FOR THE ABUSE, NEGLECT OR FINANCIAL EXPLOITATION OF  
23 VULNERABLE ADULTS; TO AMEND SECTION 43-11-13, MISSISSIPPI CODE OF  
24 1972, TO DIRECT THE STATE DEPARTMENT OF HEALTH TO REQUIRE ALL  
25 LICENSED NURSING FACILITIES TO CONDUCT CRIMINAL HISTORY RECORD  
26 CHECKS ON APPLICANTS FOR EMPLOYMENT AT NURSING FACILITIES WHO WILL  
27 PROVIDE DIRECT CARE; TO AUTHORIZE THE DEPARTMENT TO CHARGE AND  
28 COLLECT FROM THE LICENSEE A FEE FOR SUCH CRIMINAL RECORD CHECKS;  
29 TO ENACT STANDARDS FOR ENTRIES IN PATIENT MEDICAL RECORDS OR  
30 CHARTS; TO ENACT PENALTIES FOR VIOLATION OF THE STANDARDS; AND FOR  
31 RELATED PURPOSES.