HOUSE BILL NO. 3

AN ACT TO AUTHORIZE COUNTIES TO ESTABLISH INTERAGENCY ELDER DEATH REVIEW TEAMS TO ASSIST LOCAL AGENCIES IN IDENTIFYING AND REVIEWING SUSPICIOUS DEATHS OF ELDERLY PERSONS AND FACILITATING COMMUNICATION AMONG PERSONS WHO PERFORM AUTOPSIES AND THE VARIOUS PERSONS AND AGENCIES INVOLVED IN CASES OF ABUSE OR NEGLECT OF ELDERLY PERSONS; TO PROVIDE FOR THE COMPOSITION OF ELDER DEATH REVIEW TEAMS; TO SPECIFY WHEN INFORMATION AND COMMUNICATIONS OF ELDER DEATH REVIEW TEAMS MAY AND MAY NOT BE DISCLOSED; AND FOR RELATED PURPOSES.

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

SECTION 1. As used in this act, the following terms shall be defined as follows, unless the context requires otherwise:

(a) "Elderly person" means any person who is sixty-five (65) years of age or older.

(b) "Abuse" means the willful or nonaccidental infliction of physical pain, injury or mental anguish on an elderly person, the unreasonable confinement of an elderly person, or the willful deprivation by a caretaker of services that are necessary to maintain the mental and physical health of an elderly person. The term "abuse" does not include:

   (i) The use of any reasonable and necessary force that may result in an injury used by a peace officer acting within the course of his or her employment as a peace officer; or

   (ii) Conduct that is a part of the treatment and care of, and in furtherance of the health and safety of a patient or resident of a care facility, as defined in Section 43-47-5.

(c) "Neglect" means either the inability of an elderly person who is living alone to provide for himself the food, clothing, shelter, health care or other services that are necessary to maintain his mental and physical health, or failure...
of a caretaker to supply the elderly person with the food,
clothing, shelter, health care, supervision or other services that
a reasonably prudent person would do to maintain the elderly
person's mental and physical health.

SECTION 2. (1) Any county may establish an interagency
ever death review team to assist local agencies in identifying
and reviewing suspicious deaths of elderly persons and
facilitating communication among persons who perform autopsies and
the various persons and agencies involved in cases of abuse or
neglect of elderly persons.

(2) Any county may develop a protocol that may be used as a
guideline by persons performing autopsies on elderly persons to
assist medical examiners or coroners and other persons who perform
autopsies in:

(a) The identification of abuse or neglect of elderly
persons;

(b) The determination of whether abuse or neglect of an
elderly person contributed to death, or whether abuse or neglect
of an elderly person had occurred before, but was not the actual
cause of, death; and

(c) The proper written reporting procedures for abuse
or neglect of elderly persons, including the designation of the
cause and mode of death.

SECTION 3. County elder death review teams may be comprised
of, but not limited to, the following:

(a) Experts in the field of forensic pathology.

(b) Medical personnel with expertise in abuse and
neglect of elderly persons.

(c) Medical examiners and coroners.

(d) District attorneys.

(e) County or local staff including, but not limited
to:

(i) Adult protective services staff.
(ii) Public administrator, guardian and conservator staff.

(iii) County health department staff who deal with health issues of elderly persons.

(iv) County prosecuting attorneys.

(v) County and state law enforcement personnel.

(vi) Local long-term care ombudsmen.

(vii) Geriatric mental health experts.

(viii) Criminologists.

(ix) Representatives of local agencies that are involved with oversight of adult protective services and reporting abuse or neglect of elderly persons.

(x) Local professional associations of persons described in subparagraphs (i) through (ix) of this paragraph.

SECTION 4. (1) An oral or written communication or a document shared within or produced by an elder death review team related to a death review of an elderly person is confidential and not subject to disclosure or discoverable by another third party.

(2) An oral or written communication or a document provided by a third party to an elderly death review team, or between a third party and an elder death review team, is confidential and not subject to disclosure or discoverable by a third party.

(3) Notwithstanding subsections (1) and (2) of this section, recommendations of an elder death review team upon the completion of a review may be disclosed at the discretion of a majority of the members of the elder death review team.

SECTION 5. (1) Each organization represented on an elder death review team may share with other members of the team information in its possession concerning the decedent who is the subject of the review or any person who was in contact with the decedent and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential. The
intent of this subsection is to permit the disclosure to members
of the team of any information deemed confidential, privileged, or
prohibited from disclosure by any other provision of law.

(2) (a) Written and oral information may be disclosed to an
elder death review team established under this act. The team may
make a request in writing for the information sought and any
person with information of the kind described in paragraph (c) of
this subsection may rely on the request in determining whether
information may be disclosed to the team.

(b) No individual or agency that has information
governed by this subsection shall be required to disclose
information. The intent of this subsection is to allow the
voluntary disclosure of information by the individual or agency
that has the information.

(c) The following information may be disclosed under
this subsection:

(i) Medical information.

(ii) Mental health information.

(iii) Information from elderly person abuse
reports and investigations, except the identity of persons who
have made reports, which shall not be disclosed.

(iv) Criminal history information and criminal
offender record information.

(v) Information pertaining to reports by health
practitioners of persons suffering from physical injuries
inflicted by means of a firearm or of persons suffering physical
injury where the injury is a result of assaultive or abusive
conduct.

(vi) Information provided to probation officers in
the course of the performance of their duties, including, but not
limited to, the duty to prepare reports, as well as the
information on which these reports are based.
(vii) Records relating to in-home supportive services, unless disclosure is prohibited by federal law.

(3) Written and oral information may be disclosed under this section notwithstanding the lawyer-client privilege, the physician-patient privilege, and the psychotherapist-patient privilege.

SECTION 6. Information gathered by the elder death review team and any recommendations made by the team shall be used by the county to develop education, prevention, and if necessary, prosecution strategies that will lead to improved coordination of services for families and the elderly person population.

SECTION 7. This act shall take effect and be in force from and after July 1, 2003.