

By: Representative Moak

To: Public Health and Welfare

HOUSE BILL NO. 1025

1 AN ACT TO PROVIDE THAT ANY PERSON WHO IS REQUIRED TO REPORT
 2 CASES OF SUSPECTED ABUSE UNDER THE MISSISSIPPI VULNERABLE ADULTS
 3 ACT AND HAS REASONABLE CAUSE TO SUSPECT THAT AN ADULT HAS DIED AS
 4 A RESULT OF THE ABUSE, MUST REPORT THAT FACT TO THE APPROPRIATE
 5 MEDICAL EXAMINER OR CORONER; TO REQUIRE A LONG-TERM CARE FACILITY
 6 TO REPORT THE DEATH TO THE APPROPRIATE CORONER IN ALL CASES OF A
 7 DEATH OF A LONG-TERM CARE FACILITY RESIDENT; TO REQUIRE A HOSPITAL
 8 TO REPORT THE DEATH TO THE APPROPRIATE CORONER IN ALL CASES OF
 9 DEATH OF AN INDIVIDUAL IN A HOSPITAL WHO WAS A RESIDENT OF A
 10 LONG-TERM FACILITY WITHIN FIVE DAYS OF ENTERING THE HOSPITAL; TO
 11 AMEND SECTION 43-47-7, IN CONFORMITY WITH THE PROVISIONS OF THIS
 12 ACT; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** (1) Any person or official who is required to
 15 report cases of suspected abuse of adults under the provisions of
 16 the Mississippi Vulnerable Adults Act and who has reasonable cause
 17 to suspect that an adult has died as a result of abuse, sexual
 18 abuse or negligence shall report that fact to the appropriate
 19 medical examiner or coroner.

20 (2) In all cases of the death of a long-term care facility
 21 resident or a hospice facility resident, the long-term care
 22 facility or the hospice facility shall immediately report the
 23 death to the appropriate coroner. The report is required
 24 regardless of whether the facility believes the death to be from
 25 natural causes or the result of abuse, sexual abuse, negligence or
 26 any other cause.

27 (3) In all cases of the death of an individual in a hospital
 28 who was a resident of a long-term care facility within five (5)
 29 days of entering the hospital, the hospital shall immediately
 30 report the death to the appropriate coroner. The report is
 31 required regardless of whether the facility believes the death to



32 be from natural causes or the result of abuse, sexual abuse,
33 negligence or any other cause.

34 (4) (a) The medical examiner or coroner shall accept the
35 report for investigation and, upon finding reasonable cause to
36 suspect that an adult has died as a result of abuse, sexual abuse
37 or negligence, shall report his findings to the police and the
38 appropriate prosecuting attorney. If the institution making the
39 report is a hospital or nursing home, the coroner shall report its
40 findings to the hospital or nursing home unless the findings are
41 part of a pending or ongoing law enforcement investigation.

42 (b) The medical examiner, coroner or hospital shall
43 also report the findings to the Department of Human Services when:

44 (i) Reasonable cause exists to believe the death
45 resulted from abuse, neglect or exploitation of an adult; or

46 (ii) There is a pending investigation concerning
47 allegations of abuse or neglect occurring prior to death, upon
48 request of the department.

49 **SECTION 2.** Section 43-47-7, Mississippi Code of 1972, is
50 amended as follows:

51 43-47-7. (1) (a) Except as otherwise provided by Section
52 43-47-37 for vulnerable adults in care facilities, any person
53 including, but not limited to, the following, who knows or
54 suspects that a vulnerable adult has been or is being abused,
55 neglected or exploited shall immediately report such knowledge or
56 suspicion to the Department of Human Services or to the county
57 department of human services where the vulnerable adult is
58 located:

59 (i) Attorney, physician, osteopathic physician,
60 medical examiner, chiropractor or nurse engaged in the admission,
61 examination, care or treatment of vulnerable adults;

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



64 (iii) Practitioner who relies solely on spiritual
65 means for healing;

66 (iv) Social worker or other professional adult
67 care, residential or institutional staff;

68 (v) State, county or municipal criminal justice
69 employee or law enforcement officer;

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

72 (vii) Accountant, stockbroker, financial advisor
73 or consultant, insurance agent or consultant, investment advisor
74 or consultant, financial planner, or any officer or employee of a
75 bank, savings and loan, credit union or any other financial
76 service provider.

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

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

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

85 (iii) Name, address and telephone number of each
86 alleged perpetrator.

87 (iv) Name, address and telephone number of the
88 caregiver of the vulnerable adult, if different from the alleged
89 perpetrator.

90 (v) Description of the neglect, exploitation,
91 physical or psychological injuries sustained.

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

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



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

102 (c) The department, or its designees, shall report to
103 an appropriate criminal investigative or prosecutive authority any
104 person required by this section to report or who fails to comply
105 with this section. A person who fails to make a report as
106 required under this subsection or who, because of the
107 circumstances, should have known or suspected beyond a reasonable
108 doubt that a vulnerable adult suffers from exploitation, abuse,
109 neglect or self-neglect but who knowingly fails to comply with
110 this section shall, upon conviction, be guilty of a misdemeanor
111 and shall be punished by a fine not exceeding Five Thousand
112 Dollars (\$5,000.00), or by imprisonment in the county jail for not
113 more than six (6) months, or both such fine and imprisonment.
114 However, for purposes of this subsection (1), any recognized legal
115 financial transaction shall not be considered cause to report the
116 knowledge or suspicion of the financial exploitation of a
117 vulnerable adult. If a person convicted under this section is a
118 member of a profession or occupation that is licensed, certified
119 or regulated by the state, the court shall notify the appropriate
120 licensing, certifying or regulating entity of the conviction.

121 (2) Reports received by law enforcement authorities or other
122 agencies shall be forwarded immediately to the Department of Human
123 Services or the county department of human services. The
124 Department of Human Services shall investigate the reported abuse,
125 neglect or exploitation immediately and shall file a preliminary
126 report of its findings with the Office of the Attorney General
127 within forty-eight (48) hours, and shall make additional reports
128 as new information or evidence becomes available. The Department
129 of Human Services, upon request, shall forward a statement to the



130 person making the initial report required by this section as to
131 what action is being taken, if any.

132 (3) The report may be made orally or in writing, but where
133 made orally, it shall be followed up by a written report. A
134 person who fails to report or to otherwise comply with this
135 section, as provided herein, shall have no civil or criminal
136 liability, other than that expressly provided for in this section,
137 to any person or entity in connection with any failure to report
138 or to otherwise comply with the requirements of this section.

139 (4) Anyone who makes a report required by this section or
140 who testifies or participates in any judicial proceedings arising
141 from the report or who participates in a required investigation or
142 evaluation shall be presumed to be acting in good faith and in so
143 doing shall be immune from liability, civil or criminal, that
144 might otherwise be incurred or imposed. However, the immunity
145 provided under this subsection shall not apply to any suspect or
146 perpetrator of any abuse, neglect or exploitation.

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

151 (6) The Executive Director of Human Services shall establish
152 a statewide central register of reports made pursuant to this
153 section. The central register shall be capable of receiving
154 reports of vulnerable adults in need of protective services seven
155 (7) days a week, twenty-four (24) hours a day. To effectuate this
156 purpose the executive director shall establish a single toll-free
157 statewide phone number that all persons may use to report
158 vulnerable adults in need of protective services, and that all
159 persons authorized by subsection (7) of this section may use for
160 determining the existence of prior reports in order to evaluate
161 the condition or circumstances of the vulnerable adult before
162 them. Such oral reports and evidence of previous reports shall be



163 transmitted to the appropriate county department of human
164 services. The central register shall include, but not be limited
165 to, the following information: the name and identifying
166 information of the individual reported, the county department of
167 human services responsible for the investigation of each such
168 report, the names, affiliations and purposes of any person
169 requesting or receiving information which the executive director
170 believes might be helpful in the furtherance of the purposes of
171 this chapter, the name, address, birth date, social security
172 number of the perpetrator of abuse, neglect and/or exploitation,
173 and the type of abuse, neglect and/or exploitation of which there
174 was substantial evidence upon investigation of the report. The
175 central register shall inform the person making reports required
176 under this section of his or her right to request statements from
177 the department as to what action is being taken, if any.

178 Each person, business, organization or other entity, whether
179 public or private, operated for profit, operated for nonprofit or
180 a voluntary unit of government not responsible for law enforcement
181 providing care, supervision or treatment of vulnerable adults
182 shall conduct criminal history records checks on each new employee
183 of the entity who provides, and/or would provide direct patient
184 care or services to adults or vulnerable persons, as provided in
185 Section 43-11-13.

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

191 (7) Reports made pursuant to this section, reports written
192 or photographs taken concerning such reports in the possession of
193 the Department of Human Services or the county department of human
194 services shall be confidential and shall only be made available
195 to:



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

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

201 (c) A grand jury or a court of competent jurisdiction,
202 upon finding that the information in the record is necessary for
203 the determination of charges before the grand jury;

204 (d) A district attorney or other law enforcement
205 official.

206 Notwithstanding the provisions of paragraph (b) of this
207 subsection, the department may not disclose a report of the
208 abandonment, exploitation, abuse, neglect or self-neglect of a
209 vulnerable adult to the vulnerable adult's guardian,
210 attorney-in-fact, surrogate decision maker, or caregiver who is a
211 perpetrator or alleged perpetrator of the abandonment,
212 exploitation, abuse or neglect of the vulnerable adult.

213 Any person given access to the names or other information
214 identifying the subject of the report, except the subject of the
215 report, shall not divulge or make public such identifying
216 information unless he is a district attorney or other law
217 enforcement official and the purpose is to initiate court action.
218 Any person who willfully permits the release of any data or
219 information obtained pursuant to this section to persons or
220 agencies not permitted to such access by this section shall be
221 guilty of a misdemeanor.

222 (8) Upon reasonable cause to believe that a caretaker or
223 other person has abused, neglected or exploited a vulnerable
224 adult, the department shall promptly notify the district attorney
225 of the county in which the vulnerable adult is located and the
226 Office of the Attorney General, except as provided in Section
227 43-47-37(2).



228 (9) Anyone who makes a report, pursuant to this section,
229 shall comply with the provisions of Section 1 of this act.

230 **SECTION 2.** This act shall take effect and be in force from
231 and after July 1, 2003.

