

By: Representative Moody

To: Public Health and Welfare

HOUSE BILL NO. 1306

1 AN ACT TO AMEND SECTIONS 43-20-8 AND 43-20-14, MISSISSIPPI
2 CODE OF 1972, TO DELETE THE CURRENT CHILD ABUSE REGISTRY
3 INFORMATION REPORT FROM CHILD-CARE LICENSURE REQUIREMENTS; AND FOR
4 RELATED PURPOSES.

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

6 **SECTION 1.** Section 43-20-8, Mississippi Code of 1972, is
7 amended as follows:

8 43-20-8. (1) The licensing agency shall have powers and
9 duties as set forth below in addition to other duties prescribed
10 under this chapter:

11 (a) Promulgate rules and regulations concerning the
12 licensing and regulation of child-care facilities as defined
13 herein;

14 (b) Have the authority to issue, deny, suspend, revoke,
15 restrict or otherwise take disciplinary action against licensees
16 as provided for in this chapter;

17 (c) Set and collect fees and penalties as provided for
18 in this chapter; and

19 (d) Have such other powers as may be required to carry
20 out the provisions of this chapter.

21 (2) Child-care facilities shall assure that parents have
22 welcome access to the child-care facility at all times.

23 (3) Child-care facilities shall require that, for any
24 current or prospective caregiver, current criminal records
25 background checks * * * are obtained. In order to determine the
26 applicant's suitability for employment, the applicant shall be
27 fingerprinted. If no disqualifying record is identified at the
28 state level, the fingerprints shall be forwarded by the Department



29 of Public Safety to the FBI for a national criminal history record
30 check.

31 (4) The licensing agency shall require to be performed a
32 criminal records background check * * * for any and all operators
33 of a child-care facility and any person living in a residence used
34 for child care. In order to determine the applicant's suitability
35 for employment, the applicant shall be fingerprinted. If no
36 disqualifying record is identified at the state level, the
37 fingerprints shall be forwarded by the Department of Public Safety
38 to the FBI for a national criminal history record check.

39 (5) The licensing agency shall have the authority to exclude
40 a particular crime or crimes or a substantiated finding of child
41 abuse and/or neglect as disqualifying individuals or entities for
42 prospective or current employment or licensure.

43 (6) The licensing agency and its agents, officers,
44 employees, attorneys and representatives shall not be held civilly
45 liable for any findings, recommendations or actions taken pursuant
46 to this section.

47 (7) All fees incurred in compliance with this section shall
48 be borne by the child-care facility. The licensing agency is
49 hereby authorized to charge a fee which shall include the amount
50 required by the Federal Bureau of Investigation for the national
51 criminal history record check in compliance with the Child
52 Protection Act of 1993, as amended and any necessary costs
53 incurred by the licensing agency for the handling and
54 administration of the criminal history background checks.

55 **SECTION 2.** Section 43-20-14, Mississippi Code of 1972, is
56 amended as follows:

57 43-20-14. (1) The licensing agency may deny a license or
58 refuse to renew a license for any of the reasons set forth in
59 subsection (3) of this section.

60 (2) Before the licensing agency may deny or refuse to renew,
61 the applicant or person named on the license shall be entitled to



62 a hearing in order to show cause why the license should not be
63 denied or should be renewed.

64 (3) The licensing agency may suspend, revoke or restrict the
65 license of any child-care facility upon one or more of the
66 following grounds:

67 (a) Fraud, misrepresentation or concealment of material
68 facts;

69 (b) Conviction of an operator for any crime if the
70 licensing agency finds that the act or acts for which the operator
71 was convicted could have a detrimental effect on children cared
72 for by any child care facility;

73 (c) Violation of any of the provisions of this act or
74 of the regulations governing the licensing and regulation of
75 child-care facilities promulgated by the licensing agency;

76 (d) Any conduct, or failure to act, which is found or
77 determined by the licensing agency to threaten the health or
78 safety of children at the facility;

79 (e) Failure by the child-care facility to comply with
80 the provisions of Section 43-20-8(3), Mississippi Code of 1972,
81 regarding background checks of caregivers or with Section
82 45-31-12, Mississippi Code of 1972, concerning employment of
83 persons who have been convicted of certain offenses or have had
84 certain actions taken against them in court; and

85 (f) Information received by the licensing agency as a
86 result of the felony conviction records check and the sex offense
87 criminal records check * * * on any and all operators pursuant to
88 Section 43-20-8, Mississippi Code of 1972.

89 (4) Before the licensing agency may suspend, revoke or
90 restrict the license of any facility, any licensee affected by
91 such decision of the licensing agency shall be entitled to a
92 hearing in which the licensee may show cause why the license
93 should not be suspended, revoked or restricted.



94 (5) Any licensee who disagrees with or is aggrieved by a
95 decision of the Mississippi State Department of Health in regard
96 to the denial, refusal to renew, suspension, revocation or
97 restriction of such license, may appeal to the chancery court of
98 the county in which such facility is located. Such appeal shall
99 be filed no later than thirty (30) days after the licensee
100 receives written notice of the final administrative action by the
101 Mississippi State Department of Health as to the suspension,
102 revocation or restriction of the license of such licensee.

103 **SECTION 3.** This act shall take effect and be in force from
104 and after July 1, 2003.

