HOUSE BILL NO. 1306  
(As Sent to Governor)

AN ACT TO AMEND SECTIONS 43-20-8 AND 43-20-14, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE DEPARTMENT OF HUMAN SERVICES SHALL DISCLOSE TO THE STATE DEPARTMENT OF HEALTH ANY APPLICANT FOR EMPLOYMENT AT A CHILD CARE FACILITY WHOSE NAME IS ON THE CHILD ABUSE CENTRAL REGISTRY; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

(3) Child-care facilities shall require that, for any current or prospective caregiver, current criminal records background checks and current child abuse registry checks are obtained. In order to determine the applicant's suitability for employment, the applicant shall be fingerprinted. If no
disqualifying record is identified at the state level, the
fingerprints shall be forwarded by the Department of Public Safety
to the FBI for a national criminal history record check.

(4) The licensing agency shall require to be performed a
criminal records background check and a child abuse registry check
for all operators of a child-care facility and any person
living in a residence used for child care. The Department of
Human Services shall have the authority to disclose to the State
Department of Health any potential applicant whose name is listed
on the Child Abuse Central Registry or has a pending
administrative review. Such information shall remain confidential
by all parties. In order to determine the applicant's suitability
for employment, the applicant shall be fingerprinted. If no
disqualifying record is identified at the state level, the
fingerprints shall be forwarded by the Department of Public Safety
to the FBI for a national criminal history record check.

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

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

(7) All fees incurred in compliance with this section shall
be borne by the child-care facility. The licensing agency
is authorized to charge a fee that shall include the amount
required by the Federal Bureau of Investigation for the national
criminal history record check in compliance with the Child
Protection Act of 1993, as amended and any necessary costs
incurred by the licensing agency for the handling and
administration of the criminal history background checks.
SECTION 2. Section 43-20-14, Mississippi Code of 1972, is amended as follows:

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

(2) Before the licensing agency may deny or refuse to renew, the applicant or person named on the license shall be entitled to a hearing in order to show cause why the license should not be denied or should be renewed.

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

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

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

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

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

(e) Failure by the child-care facility to comply with the provisions of Section 43-20-8(3) regarding background checks of caregivers; and

(f) Information received by the licensing agency as a result of the criminal records background check and the child abuse registry check on all operators under Section 43-20-8.

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

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

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