

By: Representative Moody

To: Public Health and Welfare

HOUSE BILL NO. 1306
(As Sent to Governor)

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

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

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

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

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

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

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

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

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

24 (3) Child-care facilities shall require that, for any
25 current or prospective caregiver, current criminal records
26 background checks and current child abuse registry checks are
27 obtained. In order to determine the applicant's suitability for
28 employment, the applicant shall be fingerprinted. If no



29 disqualifying record is identified at the state level, the
30 fingerprints shall be forwarded by the Department of Public Safety
31 to the FBI for a national criminal history record check.

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

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

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

53 (7) All fees incurred in compliance with this section shall
54 be borne by the child-care facility. The licensing agency
55 is * * * authorized to charge a fee that shall include the amount
56 required by the Federal Bureau of Investigation for the national
57 criminal history record check in compliance with the Child
58 Protection Act of 1993, as amended and any necessary costs
59 incurred by the licensing agency for the handling and
60 administration of the criminal history background checks.



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

63 43-20-14. (1) The licensing agency may deny a license or
64 refuse to renew a license for any of the reasons set forth in
65 subsection (3) of this section.

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

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

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

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

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

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

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

88 (f) Information received by the licensing agency as a
89 result of the criminal records background check * * * and the
90 child abuse registry check on * * * all operators under Section
91 43-20-8.

92 (4) Before the licensing agency may suspend, revoke or
93 restrict the license of any facility, any licensee affected by



94 that decision of the licensing agency shall be entitled to a
95 hearing in which the licensee may show cause why the license
96 should not be suspended, revoked or restricted.

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

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

