SENATE BILL NO. 2272

AN ACT TO AMEND SECTIONS 43-20-8 AND 43-20-14, MISSISSIPPI CODE OF 1972, TO DELETE THE CURRENT CHILD ABUSE REGISTRY INFORMATION REPORT FROM CHILD-CARE LICENSURE REQUIREMENTS; 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 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 for any and all operators of a child-care facility and any person living in a residence used for child care. 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 hereby authorized to charge a fee which 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, which 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), Mississippi Code of 1972,
regarding background checks of caregivers or with Section
45-31-12, Mississippi Code of 1972, concerning employment of
persons who have been convicted of certain offenses or have had
certain actions taken against them in court; and

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

(4) Before the licensing agency may suspend, revoke or
restrict the license of any facility, any licensee affected by
such 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 such license, may appeal to the chancery court of
the county in which such facility is located. Such 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 such licensee.

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