

By: Representative Moak

To: County Affairs

HOUSE BILL NO. 323

1 AN ACT TO AUTHORIZE COUNTIES TO ESTABLISH INTERAGENCY ELDER
 2 DEATH REVIEW TEAMS TO ASSIST LOCAL AGENCIES IN IDENTIFYING AND
 3 REVIEWING SUSPICIOUS DEATHS OF ELDERLY PERSONS AND FACILITATING
 4 COMMUNICATION AMONG PERSONS WHO PERFORM AUTOPSIES AND THE VARIOUS
 5 PERSONS AND AGENCIES INVOLVED IN CASES OF ABUSE OR NEGLECT OF
 6 ELDERLY PERSONS; TO PROVIDE FOR THE COMPOSITION OF ELDER DEATH
 7 REVIEW TEAMS; TO SPECIFY WHEN INFORMATION AND COMMUNICATIONS OF
 8 ELDER DEATH REVIEW TEAMS MAY AND MAY NOT BE DISCLOSED; AND FOR
 9 RELATED PURPOSES.

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

11 **SECTION 1.** As used in this act, the following terms shall be
 12 defined as follows, unless the context requires otherwise:

13 (a) "Elderly person" means any person who is sixty-five
 14 (65) years of age or older.

15 (b) "Abuse" means the willful or nonaccidental
 16 infliction of physical pain, injury or mental anguish on an
 17 elderly person, the unreasonable confinement of an elderly person,
 18 or the willful deprivation by a caretaker of services that are
 19 necessary to maintain the mental and physical health of an elderly
 20 person. The term "abuse" does not include:

21 (i) The use of any reasonable and necessary force
 22 that may result in an injury used by a peace officer acting within
 23 the course of his or her employment as a peace officer; or

24 (ii) Conduct that is a part of the treatment and
 25 care of, and in furtherance of the health and safety of a patient
 26 or resident of a care facility, as defined in Section 43-47-5.

27 (c) "Neglect" means either the inability of an elderly
 28 person who is living alone to provide for himself the food,
 29 clothing, shelter, health care or other services that are
 30 necessary to maintain his mental and physical health, or failure

31 of a caretaker to supply the elderly person with the food,
32 clothing, shelter, health care, supervision or other services that
33 a reasonably prudent person would do to maintain the elderly
34 person's mental and physical health.

35 **SECTION 2.** (1) Any county may establish an interagency
36 elder death review team to assist local agencies in identifying
37 and reviewing suspicious deaths of elderly persons and
38 facilitating communication among persons who perform autopsies and
39 the various persons and agencies involved in cases of abuse or
40 neglect of elderly persons.

41 (2) Any county may develop a protocol that may be used as a
42 guideline by persons performing autopsies on elderly persons to
43 assist medical examiners or coroners and other persons who perform
44 autopsies in:

45 (a) The identification of abuse or neglect of elderly
46 persons;

47 (b) The determination of whether abuse or neglect of an
48 elderly person contributed to death, or whether abuse or neglect
49 of an elderly person had occurred before, but was not the actual
50 cause of, death; and

51 (c) The proper written reporting procedures for abuse
52 or neglect of elderly persons, including the designation of the
53 cause and mode of death.

54 **SECTION 3.** County elder death review teams may be comprised
55 of, but not limited to, the following:

56 (a) Experts in the field of forensic pathology.

57 (b) Medical personnel with expertise in abuse and
58 neglect of elderly persons.

59 (c) Medical examiners and coroners.

60 (d) District attorneys.

61 (e) County or local staff including, but not limited
62 to:

63 (i) Adult protective services staff.

- 64 (ii) Public administrator, guardian and
65 conservator staff.
- 66 (iii) County health department staff who deal with
67 health issues of elderly persons.
- 68 (iv) County prosecuting attorneys.
- 69 (v) County and state law enforcement personnel.
- 70 (vi) Local long-term care ombudsmen.
- 71 (vii) Geriatric mental health experts.
- 72 (viii) Criminologists.
- 73 (ix) Representatives of local agencies that are
74 involved with oversight of adult protective services and reporting
75 abuse or neglect of elderly persons.
- 76 (x) Local professional associations of persons
77 described in subparagraphs (i) through (ix) of this paragraph.

78 **SECTION 4.** (1) An oral or written communication or a
79 document shared within or produced by an elder death review team
80 related to a death review of an elderly person is confidential and
81 not subject to disclosure or discoverable by another third party.

82 (2) An oral or written communication or a document provided
83 by a third party to an elderly death review team, or between a
84 third party and an elder death review team, is confidential and
85 not subject to disclosure or discoverable by a third party.

86 (3) Notwithstanding subsections (1) and (2) of this section,
87 recommendations of an elder death review team upon the completion
88 of a review may be disclosed at the discretion of a majority of
89 the members of the elder death review team.

90 **SECTION 5.** (1) Each organization represented on an elder
91 death review team may share with other members of the team
92 information in its possession concerning the decedent who is the
93 subject of the review or any person who was in contact with the
94 decedent and any other information deemed by the organization to
95 be pertinent to the review. Any information shared by an
96 organization with other members of a team is confidential. The

97 intent of this subsection is to permit the disclosure to members
98 of the team of any information deemed confidential, privileged, or
99 prohibited from disclosure by any other provision of law.

100 (2) (a) Written and oral information may be disclosed to an
101 elder death review team established under this act. The team may
102 make a request in writing for the information sought and any
103 person with information of the kind described in paragraph (c) of
104 this subsection may rely on the request in determining whether
105 information may be disclosed to the team.

106 (b) No individual or agency that has information
107 governed by this subsection shall be required to disclose
108 information. The intent of this subsection is to allow the
109 voluntary disclosure of information by the individual or agency
110 that has the information.

111 (c) The following information may be disclosed under
112 this subsection:

113 (i) Medical information.

114 (ii) Mental health information.

115 (iii) Information from elderly person abuse
116 reports and investigations, except the identity of persons who
117 have made reports, which shall not be disclosed.

118 (iv) Criminal history information and criminal
119 offender record information.

120 (v) Information pertaining to reports by health
121 practitioners of persons suffering from physical injuries
122 inflicted by means of a firearm or of persons suffering physical
123 injury where the injury is a result of assaultive or abusive
124 conduct.

125 (vi) Information provided to probation officers in
126 the course of the performance of their duties, including, but not
127 limited to, the duty to prepare reports, as well as the
128 information on which these reports are based.

129 (vii) Records relating to in-home supportive
130 services, unless disclosure is prohibited by federal law.

131 (3) Written and oral information may be disclosed under this
132 section notwithstanding the lawyer-client privilege, the
133 physician-patient privilege, and the psychotherapist-patient
134 privilege.

135 **SECTION 6.** Information gathered by the elder death review
136 team and any recommendations made by the team shall be used by the
137 county to develop education, prevention, and if necessary,
138 prosecution strategies that will lead to improved coordination of
139 services for families and the elderly person population.

140 **SECTION 7.** This act shall take effect and be in force from
141 and after July 1, 2004.