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To: Public Health and Human
Services

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 816

1 AN ACT TO AMEND SECTION 43-1-55, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE OFFICE OF FAMILY AND CHILDREN'S SERVICES OF THE
3 DEPARTMENT OF HUMAN SERVICES SHALL DEVISE FORMAL STANDARDS FOR
4 CHILD PROTECTION SPECIALISTS WHO ARE NOT LICENSED SOCIAL WORKERS;
5 TO SPECIFY THE MINIMUM EDUCATIONAL QUALIFICATIONS TO BE EMPLOYED
6 AS A CHILD PROTECTION SPECIALIST; TO PROVIDE THAT BEFORE A PERSON
7 MAY PROVIDE SERVICES AS A CHILD PROTECTION SPECIALIST, THE PERSON
8 MUST COMPLETE FOUR WEEKS OF INTENSIVE TRAINING AND MUST TAKE AND
9 RECEIVE A PASSING SCORE ON A CERTIFICATION TEST; TO PROVIDE THAT
10 UPON RECEIVING A PASSING SCORE ON THE CERTIFICATION TEST, THE
11 PERSON SHALL BE CERTIFIED AS A CHILD PROTECTION SPECIALIST BY THE
12 DEPARTMENT; TO PROVIDE THAT FOR THE PURPOSES OF PROVIDING SERVICES
13 IN CHILD ABUSE OR NEGLECT CASES, YOUTH COURT PROCEEDINGS,
14 VULNERABLE ADULTS CASES, AND SUCH OTHER CASES AS DESIGNATED BY THE
15 EXECUTIVE DIRECTOR OF HUMAN SERVICES, THE CASEWORKER OR SERVICE
16 PROVIDER MAY BE A CHILD PROTECTION SPECIALIST WHOSE WORK IS
17 OVERSEEN BY A LICENSED SOCIAL WORKER; TO PROVIDE THAT THE
18 DEPARTMENT AND THE OFFICE SHALL SEEK TO EMPLOY AND USE LICENSED
19 SOCIAL WORKERS TO PROVIDE THE SERVICES OF THE OFFICE, AND MAY
20 EMPLOY AND USE CHILD PROTECTION SPECIALISTS TO PROVIDE THOSE
21 SERVICES ONLY IN COUNTIES IN WHICH THERE IS NOT A SUFFICIENT
22 NUMBER OF LICENSED SOCIAL WORKERS TO ADEQUATELY PROVIDE THOSE
23 SERVICES IN THE COUNTY; TO AMEND SECTION 43-27-109, MISSISSIPPI
24 CODE OF 1972, TO DIRECT THE DEPARTMENT OF HUMAN SERVICES TO EMPLOY
25 A SUFFICIENT NUMBER OF APPROPRIATE STAFF TO OPERATE FAMILY
26 RESOURCE CENTERS IN VARIOUS LOCATIONS THROUGHOUT THE STATE;
27 TO AMEND SECTIONS 43-21-261, 43-21-353, 43-21-355, 43-21-603,
28 43-47-7, 93-21-23 AND 97-3-7, MISSISSIPPI CODE OF 1972, TO CONFORM
29 TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

31 **SECTION 1.** Section 43-1-55, Mississippi Code of 1972, is
32 amended as follows:

33 43-1-55. (1) The Office of Family and Children's Services
34 shall devise formal social worker standards for employment and
35 service delivery designed to measure the quality of services
36 delivered to clients, as well as the timeliness of services.
37 Each social worker shall be assessed annually by a supervisor who
38 is knowledgeable in the standards promulgated. The * * *
39 standards shall be applicable to all social workers working under
40 the office.

41 (2) The Office of Family and Children's Services shall
42 devise formal standards for child protection specialists of the
43 Department of Human Services who are not licensed social workers.
44 Those standards shall require that:

45 (a) In order to be employed as a child protection
46 specialist, a person must have a bachelor's degree in either
47 psychology, sociology, nursing, criminal justice or a related
48 field, or a graduate degree in either law, psychology, sociology,
49 nursing, criminal justice or a related field. The determination
50 of what is a related field shall be made by certification of the
51 State Personnel Board; and

52 (b) Before a person may provide services as a child
53 protection specialist, the person shall complete four (4) weeks of
54 intensive training provided by the training unit of the Office of
55 Family and Children's Services, and shall take and receive a
56 passing score on the certification test administered by the
57 training unit upon completion of the four-week training. Upon
58 receiving a passing score on the certification test, the person
59 shall be certified as a child protection specialist by the
60 Department of Human Services. Any person who does not receive a
61 passing score on the certification test shall not be employed or
62 maintain employment as a child protection specialist for the
63 department.

64 (3) For the purpose of providing services in child abuse or
65 neglect cases, youth court proceedings, vulnerable adults cases,
66 and such other cases as designated by the Executive Director of
67 Human Services, the caseworker or service provider may be a child
68 protection specialist whose work is overseen by a licensed social
69 worker.

70 (4) The Department of Human Services and the Office of
71 Family and Children's Services shall seek to employ and use
72 licensed social workers to provide the services of the office, and
73 may employ and use child protection specialists to provide those

74 services only in counties in which there is not a sufficient
75 number of licensed social workers to adequately provide those
76 services in the county.

77 (5) This section and Sections 43-21-261, 43-21-353, 43-21-
78 355, 43-21-603, 43-27-109, 43-47-7, 93-21-23 and 97-3-7 shall
79 stand repealed on July 1, 2006.

80 **SECTION 2.** Section 43-21-261, Mississippi Code of 1972, is
81 amended as follows:

82 43-21-261. (1) Except as otherwise provided in this
83 section, records involving children shall not be disclosed, other
84 than to necessary staff of the youth court, except pursuant to an
85 order of the youth court specifying the person or persons to whom
86 the records may be disclosed, the extent of the records which may
87 be disclosed and the purpose of the disclosure. Such court orders
88 for disclosure shall be limited to those instances in which the
89 youth court concludes, in its discretion, that disclosure is
90 required for the best interests of the child, the public safety or
91 the functioning of the youth court and then only to the following
92 persons:

93 (a) The judge of another youth court or member of
94 another youth court staff;

95 (b) The court of the parties in a child custody or
96 adoption cause in another court;

97 (c) A judge of any other court or members of another
98 court staff;

99 (d) Representatives of a public or private agency
100 providing supervision or having custody of the child under order
101 of the youth court;

102 (e) Any person engaged in a bona fide research purpose,
103 provided that no information identifying the subject of the
104 records shall be made available to the researcher unless it is
105 absolutely essential to the research purpose and the judge gives

106 prior written approval, and the child, through his or her
107 representative, gives permission to release the information;

108 (f) The Mississippi Employment Security Commission, or
109 its duly authorized representatives, for the purpose of a child's
110 enrollment into the Job Corps Training Program as authorized by
111 Title IV of the Comprehensive Employment Training Act of 1973 (29
112 USCS Section 923 et seq.). However, no records, reports,
113 investigations or information derived therefrom pertaining to
114 child abuse or neglect shall be disclosed; and

115 (g) To any person pursuant to a finding by a judge of
116 the youth court of compelling circumstances affecting the health
117 or safety of a child and that such disclosure is in the best
118 interests of the child.

119 Law enforcement agencies may disclose information to the
120 public concerning the taking of a child into custody for the
121 commission of a delinquent act without the necessity of an order
122 from the youth court. The information released shall not identify
123 the child or his address unless the information involves a child
124 convicted as an adult.

125 (2) Any records involving children which are disclosed under
126 an order of the youth court and the contents thereof shall be kept
127 confidential by the person or agency to whom the record is
128 disclosed except as provided in the order. Any further disclosure
129 of any records involving children shall be made only under an
130 order of the youth court as provided in this section.

131 (3) Upon request, the parent, guardian or custodian of the
132 child who is the subject of a youth court cause or any attorney
133 for such parent, guardian or custodian, shall have the right to
134 inspect any record, report or investigation which is to be
135 considered by the youth court at a hearing, except that the
136 identity of the reporter shall not be released, nor the name of
137 any other person where the person or agency making the information

138 available finds that disclosure of the information would be likely
139 to endanger the life or safety of such person.

140 (4) Upon request, the child who is the subject of a youth
141 court cause shall have the right to have his counsel inspect and
142 copy any record, report or investigation which is filed with the
143 youth court.

144 (5) (a) The youth court prosecutor or prosecutors, the
145 county attorney, the district attorney, the youth court defender
146 or defenders, or any attorney representing a child shall have the
147 right to inspect any law enforcement record involving children.

148 (b) The Department of Human Services shall disclose to
149 a county prosecuting attorney or district attorney any and all
150 records resulting from an investigation into suspected child abuse
151 or neglect when the case has been referred by the Department of
152 Human Services to the county prosecuting attorney or district
153 attorney for criminal prosecution.

154 (c) Agency records made confidential under the
155 provisions of this section may be disclosed to a court of
156 competent jurisdiction.

157 (6) Information concerning an investigation into a report of
158 child abuse or child neglect may be disclosed by the Department of
159 Human Services without order of the youth court to any attorney,
160 physician, dentist, intern, resident, nurse, psychologist, social
161 worker, child protection specialist, child care giver, minister,
162 law enforcement officer, public or private school employee making
163 that report pursuant to Section 43-21-353(1) if the reporter has a
164 continuing professional relationship with the child and a need for
165 such information in order to protect or treat the child.

166 (7) Information concerning an investigation into a report of
167 child abuse or child neglect may be disclosed without further
168 order of the youth court to any interagency child abuse task force
169 established in any county or municipality by order of the youth
170 court of that county or municipality.

171 (8) Names and addresses of juveniles twice adjudicated as
172 delinquent for an act which would be a felony if committed by an
173 adult or for the unlawful possession of a firearm shall not be
174 held confidential and shall be made available to the public.

175 (9) Names and addresses of juveniles adjudicated as
176 delinquent for murder, manslaughter, burglary, arson, armed
177 robbery, aggravated assault, any sex offense as defined in Section
178 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
179 violation of Section 63-11-30, shall not be held confidential and
180 shall be made available to the public.

181 (10) The judges of the circuit and county courts, and
182 presentence investigators for the circuit courts, as provided in
183 Section 47-7-9, shall have the right to inspect any youth court
184 records of a person convicted of a crime for sentencing purposes
185 only.

186 (11) The victim of an offense committed by a child who is
187 the subject of a youth court cause shall have the right to be
188 informed of the child's disposition by the youth court.

189 (12) A classification hearing officer of the State
190 Department of Corrections, as provided in Section 47-5-103, shall
191 have the right to inspect any youth court records, excluding abuse
192 and neglect records, of any offender in the custody of the
193 department who as a child or minor was a juvenile offender or was
194 the subject of a youth court cause of action, and the State Parole
195 Board, as provided in Section 47-7-17, shall have the right to
196 inspect such records when the offender becomes eligible for
197 parole.

198 (13) The youth court shall notify the Department of Public
199 Safety of the name, and any other identifying information such
200 department may require, of any child who is adjudicated delinquent
201 as a result of a violation of the Uniform Controlled Substances
202 Law.

203 (14) The Administrative Office of Courts shall have the
204 right to inspect any youth court records in order that the number
205 of youthful offenders, abused, neglected, truant and dependent
206 children, as well as children in need of special care and children
207 in need of supervision, may be tracked with specificity through
208 the youth court and adult justice system, and to utilize tracking
209 forms for such purpose.

210 (15) Upon a request by a youth court, the Administrative
211 Office of Courts shall disclose all information at its disposal
212 concerning any previous youth court intakes alleging that a child
213 was a delinquent child, child in need of supervision, child in
214 need of special care, truant child, abused child or neglected
215 child, as well as any previous youth court adjudications for the
216 same and all dispositional information concerning a child who at
217 the time of such request comes under the jurisdiction of the youth
218 court making such request.

219 (16) In every case where an abuse or neglect allegation has
220 been made, the confidentiality provisions of this section shall
221 not apply to prohibit access to a child's records by any state
222 regulatory agency, any state or local prosecutorial agency or law
223 enforcement agency; * * * however, * * * no identifying
224 information concerning the child in question may be released to
225 the public by such agency except as otherwise provided herein.

226 (17) In every case where there is any indication or
227 suggestion of either abuse or neglect and a child's physical
228 condition is medically labeled as medically "serious" or
229 "critical" or a child dies, the confidentiality provisions of this
230 section shall not apply. In cases of child deaths, the following
231 information may be released by the Mississippi Department of Human
232 Services: (a) Child's name; (b) address or location; (c)
233 verification from the Department of Human Services of case status
234 (no case or involvement, case exists, open or active case, case
235 closed); (d) if a case exists, the type of report or case

236 (physical abuse, neglect, etc.), date of intake(s) and
237 investigation(s), and case disposition (substantiated or
238 unsubstantiated). Notwithstanding the aforesaid, the
239 confidentiality provisions of this section shall continue if there
240 is a pending or planned investigation by any local, state or
241 federal governmental agency or institution.

242 (18) Any member of a foster care review board designated by
243 the Department of Human Services shall have the right to inspect
244 youth court records relating to the abuse, neglect or child in
245 need of supervision cases assigned to such member for review.

246 (19) Information concerning an investigation into a report
247 of child abuse or child neglect may be disclosed without further
248 order of the youth court in any administrative or due process
249 hearing held, pursuant to Section 43-21-257, by the Department of
250 Human Services for individuals whose names will be placed on the
251 central registry as substantiated perpetrators.

252 **SECTION 3.** Section 43-21-353, Mississippi Code of 1972, is
253 amended as follows:

254 43-21-353. (1) Any attorney, physician, dentist, intern,
255 resident, nurse, psychologist, social worker, child protection
256 specialist, child care giver, minister, law enforcement officer,
257 public or private school employee or any other person having
258 reasonable cause to suspect that a child is a neglected child or
259 an abused child, shall cause an oral report to be made immediately
260 by telephone or otherwise and followed as soon thereafter as
261 possible by a report in writing to the Department of Human
262 Services, and immediately a referral shall be made by the
263 Department of Human Services to the youth court intake unit, which
264 unit shall promptly comply with Section 43-21-357. Where
265 appropriate, the Department of Human Services shall additionally
266 make a referral to the youth court prosecutor. Upon receiving a
267 report that a child has been sexually abused, or burned, tortured,
268 mutilated or otherwise physically abused in such a manner as to

269 cause serious bodily harm, or upon receiving any report of abuse
270 that would be a felony under state or federal law, the Department
271 of Human Services shall immediately notify the law enforcement
272 agency in whose jurisdiction the abuse occurred and shall notify
273 the appropriate prosecutor within forty-eight (48) hours, and the
274 Department of Human Services shall have the duty to provide the
275 law enforcement agency all the names and facts known at the time
276 of the report; this duty shall be of a continuing nature. The law
277 enforcement agency and the Department of Human Services shall
278 investigate the reported abuse immediately and shall file a
279 preliminary report with the appropriate prosecutor's office within
280 twenty-four (24) hours and shall make additional reports as new or
281 additional information or evidence becomes available. The
282 Department of Human Services shall advise the clerk of the youth
283 court and the youth court prosecutor of all cases of abuse
284 reported to the department within seventy-two (72) hours and shall
285 update such report as information becomes available.

286 (2) Any report to the Department of Human Services shall
287 contain the names and addresses of the child and his parents or
288 other persons responsible for his care, if known, the child's age,
289 the nature and extent of the child's injuries, including any
290 evidence of previous injuries and any other information that might
291 be helpful in establishing the cause of the injury and the
292 identity of the perpetrator.

293 (3) The Department of Human Services shall maintain a
294 statewide incoming wide-area telephone service or similar service
295 for the purpose of receiving reports of suspected cases of child
296 abuse; provided that any attorney, physician, dentist, intern,
297 resident, nurse, psychologist, social worker, child protection
298 specialist, child care giver, minister, law enforcement officer or
299 public or private school employee who is required to report under
300 subsection (1) of this section shall report in the manner required
301 in subsection (1).

302 (4) Reports of abuse and neglect made under this chapter and
303 the identity of the reporter are confidential except when the
304 court in which the investigation report is filed, in its
305 discretion, determines the testimony of the person reporting to be
306 material to a judicial proceeding or when the identity of the
307 reporter is released to law enforcement agencies and the
308 appropriate prosecutor pursuant to subsection (1). Reports made
309 under this section to any law enforcement agency or prosecutorial
310 officer are for the purpose of criminal investigation and
311 prosecution only and no information from these reports may be
312 released to the public except as provided by Section 43-21-261.
313 Disclosure of any information by the prosecutor shall be according
314 to the Mississippi Uniform Rules of Circuit and County Court
315 Procedure. The identity of the reporting party shall not be
316 disclosed to anyone other than law enforcement officers or
317 prosecutors without an order from the appropriate youth court.
318 Any person disclosing any reports made under this section in a
319 manner not expressly provided for in this section or Section
320 43-21-261, shall be guilty of a misdemeanor and subject to the
321 penalties prescribed by Section 43-21-267.

322 (5) All final dispositions of law enforcement investigations
323 described in subsection (1) of this section shall be determined
324 only by the appropriate prosecutor or court. All final
325 dispositions of investigations by the Department of Human Services
326 as described in subsection (1) of this section shall be determined
327 only by the youth court. Reports made under subsection (1) of
328 this section by the Department of Human Services to the law
329 enforcement agency and to the district attorney's office shall
330 include the following, if known to the department:

- 331 (a) The name and address of the child;
- 332 (b) The names and addresses of the parents;
- 333 (c) The name and address of the suspected perpetrator;

334 (d) The names and addresses of all witnesses, including
335 the reporting party if a material witness to the abuse;

336 (e) A brief statement of the facts indicating that the
337 child has been abused and any other information from the agency
338 files or known to the social worker or child protection specialist
339 making the investigation, including medical records or other
340 records, which may assist law enforcement or the district attorney
341 in investigating and/or prosecuting the case; and

342 (f) What, if any, action is being taken by the
343 Department of Human Services.

344 (6) In any investigation of a report made under this chapter
345 of the abuse or neglect of a child as defined in Section
346 43-21-105(m), the Department of Human Services may request the
347 appropriate law enforcement officer with jurisdiction to accompany
348 the department in its investigation, and in such cases the law
349 enforcement officer shall comply with such request.

350 (7) Anyone who willfully violates any provision of this
351 section shall be, upon being found guilty, punished by a fine not
352 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in
353 jail not to exceed one (1) year, or both.

354 (8) If a report is made directly to the Department of Human
355 Services that a child has been abused or neglected in an
356 out-of-home setting, a referral shall be made immediately to the
357 law enforcement agency in whose jurisdiction the abuse occurred
358 and the department shall notify the district attorney's office
359 within forty-eight (48) hours of such report. The Department of
360 Human Services shall investigate the out-of-home setting report of
361 abuse or neglect to determine whether the child who is the subject
362 of the report, or other children in the same environment, comes
363 within the jurisdiction of the youth court and shall report to the
364 youth court the department's findings and recommendation as to
365 whether the child who is the subject of the report or other
366 children in the same environment require the protection of the

367 youth court. The law enforcement agency shall investigate the
368 reported abuse immediately and shall file a preliminary report
369 with the district attorney's office within forty-eight (48) hours
370 and shall make additional reports as new information or evidence
371 becomes available. If the out-of-home setting is a licensed
372 facility, an additional referral shall be made by the Department
373 of Human Services to the licensing agency. The licensing agency
374 shall investigate the report and shall provide the Department of
375 Human Services, the law enforcement agency and the district
376 attorney's office with their written findings from such
377 investigation as well as that licensing agency's recommendations
378 and actions taken.

379 **SECTION 4.** Section 43-21-355, Mississippi Code of 1972, is
380 amended as follows:

381 43-21-355. Any attorney, physician, dentist, intern,
382 resident, nurse, psychologist, social worker, child protection
383 specialist, child care giver, minister, law enforcement officer,
384 school attendance officer, public school district employee,
385 nonpublic school employee, or any other person participating in
386 the making of a required report pursuant to Section 43-21-353 or
387 participating in the judicial proceeding resulting therefrom shall
388 be presumed to be acting in good faith. Any person or institution
389 reporting in good faith shall be immune from any liability, civil
390 or criminal, that might otherwise be incurred or imposed.

391 **SECTION 5.** Section 43-21-603, Mississippi Code of 1972, is
392 amended as follows:

393 43-21-603. (1) At the beginning of each disposition
394 hearing, the judge shall inform the parties of the purpose of the
395 hearing.

396 (2) All testimony shall be under oath unless waived by all
397 parties and may be in narrative form. The court may consider any
398 evidence which is material and relevant to the disposition of the
399 cause, including hearsay and opinion evidence. At the conclusion

400 of the evidence, the youth court shall give the parties an
401 opportunity to present oral argument.

402 (3) If the child has been adjudicated a delinquent child,
403 prior to entering a disposition order, the youth court should
404 consider, among others, the following relevant factors:

- 405 (a) The nature of the offense;
- 406 (b) The manner in which the offense was committed;
- 407 (c) The nature and number of a child's prior
408 adjudicated offenses; and
- 409 (d) The child's need for care and assistance.

410 (4) If the child has been adjudicated a child in need of
411 supervision, prior to entering a disposition order, the youth
412 court should consider, among others, the following relevant
413 factors:

- 414 (a) The nature and history of the child's conduct;
- 415 (b) The family and home situation; and
- 416 (c) The child's need of care and assistance.

417 (5) If the child has been adjudicated a neglected child or
418 an abused child, prior to entering a disposition order, the youth
419 court shall consider, among others, the following relevant
420 factors:

- 421 (a) The child's physical and mental conditions;
- 422 (b) The child's need of assistance;
- 423 (c) The manner in which the parent, guardian or
424 custodian participated in, tolerated or condoned the abuse,
425 neglect or abandonment of the child;
- 426 (d) The ability of a child's parent, guardian or
427 custodian to provide proper supervision and care of a child; and
- 428 (e) Relevant testimony and recommendations, where
429 available, from the foster parent of the child, the grandparents
430 of the child, the guardian ad litem of the child, representatives
431 of any private care agency which has cared for the child, the

432 social worker or child protection specialist assigned to the case,
433 and any other relevant testimony pertaining to the case.

434 (6) After consideration of all the evidence and the relevant
435 factors, the youth court shall enter a disposition order which
436 shall not recite any of the facts or circumstances upon which such
437 disposition is based, nor shall it recite that a child has been
438 found guilty; but it shall recite that a child is found to be a
439 delinquent child, a child in need of supervision, a neglected
440 child or an abused child.

441 (7) In the event that the youth court orders that the
442 custody or supervision of a child who has been adjudicated abused
443 or neglected be placed with the Department of Human Services or
444 any other person or public or private agency, other than the
445 child's parent, guardian or custodian, the youth court shall find
446 and the disposition order shall recite that:

447 (a) (i) Reasonable efforts have been made to maintain
448 the child within his own home, but that the circumstances warrant
449 his removal and there is no reasonable alternative to custody; or

450 (ii) The circumstances are of such an emergency
451 nature that no reasonable efforts have been made to maintain the
452 child within his own home, and that there is no reasonable
453 alternative to custody; and

454 (b) That the effect of the continuation of the child's
455 residence within his own home would be contrary to the welfare of
456 the child and that the placement of the child in foster care is in
457 the best interests of the child; or

458 (c) Reasonable efforts to maintain the child within his
459 home shall not be required if the court determines that:

460 (i) The parent has subjected the child to
461 aggravated circumstances including, but not limited to,
462 abandonment, torture, chronic abuse and sexual abuse; or

463 (ii) The parent has been convicted of murder of
464 another child of such parent, voluntary manslaughter of another

465 child of such parent, aided or abetted, attempted, conspired or
466 solicited to commit such murder or voluntary manslaughter, or a
467 felony assault that results in the serious bodily injury to the
468 surviving child or another child of such parent; or

469 (iii) The parental rights of the parent to a
470 sibling have been terminated involuntarily; and

471 (iv) That the effect of the continuation of the
472 child's residence within his own home would be contrary to the
473 welfare of the child and that placement of the child in foster
474 care is in the best interests of the child.

475 Once the reasonable efforts requirement is bypassed, the
476 court shall have a permanency hearing pursuant to Section
477 43-21-613 within thirty (30) days of such finding.

478 (8) Upon a written motion by a party, the youth court shall
479 make written findings of fact and conclusions of law upon which it
480 relies for the disposition order.

481 **SECTION 6.** Section 43-27-109, Mississippi Code of 1972, is
482 amended as follows:

483 43-27-109. (1) The Department of Human Services may employ
484 a sufficient number of new social workers, child protection
485 specialists, youth counselors and clerical staff to reduce the
486 case load sizes for social workers and youth counselors of the
487 department and to reduce the work load on clerical staff, if funds
488 are appropriated to the department for that purpose.

489 (2) The Department of Human Services shall employ a
490 sufficient number of social workers, youth counselors, clerical
491 staff and other appropriate staff to operate family resource
492 centers in various locations throughout the state.

493 **SECTION 7.** Section 43-47-7, Mississippi Code of 1972, is
494 amended as follows:

495 43-47-7. (1) (a) Except as otherwise provided by Section
496 43-47-37 for vulnerable adults in care facilities, any person
497 including, but not limited to, the following, who knows or

498 suspects that a vulnerable adult has been or is being abused,
499 neglected or exploited shall immediately report such knowledge or
500 suspicion to the Department of Human Services or to the county
501 department of human services where the vulnerable adult is
502 located:

503 (i) Attorney, physician, osteopathic physician,
504 medical examiner, chiropractor or nurse engaged in the admission,
505 examination, care or treatment of vulnerable adults;

506 (ii) Health professional or mental health
507 professional other than one listed in subparagraph (i);

508 (iii) Practitioner who relies solely on spiritual
509 means for healing;

510 (iv) Social worker, child protection specialist or
511 other professional adult care, residential or institutional staff;

512 (v) State, county or municipal criminal justice
513 employee or law enforcement officer;

514 (vi) Human rights advocacy committee or long-term
515 care ombudsman council member; or

516 (vii) Accountant, stockbroker, financial advisor
517 or consultant, insurance agent or consultant, investment advisor
518 or consultant, financial planner, or any officer or employee of a
519 bank, savings and loan, credit union or any other financial
520 service provider.

521 (b) To the extent possible, a report made pursuant to
522 paragraph (a) must contain, but need not be limited to, the
523 following information:

524 (i) Name, age, race, sex, physical description and
525 location of each vulnerable adult alleged to have been abused,
526 neglected or exploited.

527 (ii) Names, addresses and telephone numbers of the
528 vulnerable adult's family members.

529 (iii) Name, address and telephone number of each
530 alleged perpetrator.

531 (iv) Name, address and telephone number of the
532 caregiver of the vulnerable adult, if different from the alleged
533 perpetrator.

534 (v) Description of the neglect, exploitation,
535 physical or psychological injuries sustained.

536 (vi) Actions taken by the reporter, if any, such
537 as notification of the criminal justice agency.

538 (vii) Any other information available to the
539 reporting person which may establish the cause of abuse, neglect
540 or exploitation that occurred or is occurring.

541 In addition to the above, any person or entity holding or
542 required to hold a license as specified in Title 73, Professions
543 and Vocations, Mississippi Code of 1972, shall be required to give
544 his, her or its name, address and telephone number in the report
545 of the alleged abuse, neglect or exploitation.

546 (c) The department, or its designees, shall report to
547 an appropriate criminal investigative or prosecutive authority any
548 person required by this section to report or who fails to comply
549 with this section. A person who fails to make a report as
550 required under this subsection or who, because of the
551 circumstances, should have known or suspected beyond a reasonable
552 doubt that a vulnerable adult suffers from exploitation, abuse,
553 neglect or self-neglect but who knowingly fails to comply with
554 this section shall, upon conviction, be guilty of a misdemeanor
555 and shall be punished by a fine not exceeding Five Thousand
556 Dollars (\$5,000.00), or by imprisonment in the county jail for not
557 more than six (6) months, or both such fine and imprisonment.
558 However, for purposes of this subsection (1), any recognized legal
559 financial transaction shall not be considered cause to report the
560 knowledge or suspicion of the financial exploitation of a
561 vulnerable adult. If a person convicted under this section is a
562 member of a profession or occupation that is licensed, certified
563 or regulated by the state, the court shall notify the appropriate

564 licensing, certifying or regulating entity of the conviction.

565 (2) Reports received by law enforcement authorities or other
566 agencies shall be forwarded immediately to the Department of Human
567 Services or the county department of human services. The
568 Department of Human Services shall investigate the reported abuse,
569 neglect or exploitation immediately and shall file a preliminary
570 report of its findings with the Office of the Attorney General
571 within forty-eight (48) hours, and shall make additional reports
572 as new information or evidence becomes available. The Department
573 of Human Services, upon request, shall forward a statement to the
574 person making the initial report required by this section as to
575 what action is being taken, if any.

576 (3) The report may be made orally or in writing, but where
577 made orally, it shall be followed up by a written report. A
578 person who fails to report or to otherwise comply with this
579 section, as provided herein, shall have no civil or criminal
580 liability, other than that expressly provided for in this section,
581 to any person or entity in connection with any failure to report
582 or to otherwise comply with the requirements of this section.

583 (4) Anyone who makes a report required by this section or
584 who testifies or participates in any judicial proceedings arising
585 from the report or who participates in a required investigation or
586 evaluation shall be presumed to be acting in good faith and in so
587 doing shall be immune from liability, civil or criminal, that
588 might otherwise be incurred or imposed. However, the immunity
589 provided under this subsection shall not apply to any suspect or
590 perpetrator of any abuse, neglect or exploitation.

591 (5) A person who intentionally makes a false report under
592 the provisions of this section may be found liable in a civil suit
593 for any actual damages suffered by the person or persons so
594 reported and for any punitive damages set by the court or jury.

595 (6) The Executive Director of Human Services shall establish
596 a statewide central register of reports made pursuant to this

597 section. The central register shall be capable of receiving
598 reports of vulnerable adults in need of protective services seven
599 (7) days a week, twenty-four (24) hours a day. To effectuate this
600 purpose the executive director shall establish a single toll-free
601 statewide phone number that all persons may use to report
602 vulnerable adults in need of protective services, and that all
603 persons authorized by subsection (7) of this section may use for
604 determining the existence of prior reports in order to evaluate
605 the condition or circumstances of the vulnerable adult before
606 them. Such oral reports and evidence of previous reports shall be
607 transmitted to the appropriate county department of human
608 services. The central register shall include, but not be limited
609 to, the following information: the name and identifying
610 information of the individual reported, the county department of
611 human services responsible for the investigation of each such
612 report, the names, affiliations and purposes of any person
613 requesting or receiving information which the executive director
614 believes might be helpful in the furtherance of the purposes of
615 this chapter, the name, address, birth date, social security
616 number of the perpetrator of abuse, neglect and/or exploitation,
617 and the type of abuse, neglect and/or exploitation of which there
618 was substantial evidence upon investigation of the report. The
619 central register shall inform the person making reports required
620 under this section of his or her right to request statements from
621 the department as to what action is being taken, if any.

622 Each person, business, organization or other entity, whether
623 public or private, operated for profit, operated for nonprofit or
624 a voluntary unit of government not responsible for law enforcement
625 providing care, supervision or treatment of vulnerable adults
626 shall conduct criminal history records checks on each new employee
627 of the entity who provides, and/or would provide direct patient
628 care or services to adults or vulnerable persons, as provided in
629 Section 43-11-13.

630 The department shall not release data that would be harmful
631 or detrimental to the vulnerable adult or that would identify or
632 locate a person who, in good faith, made a report or cooperated in
633 a subsequent investigation unless ordered to do so by a court of
634 competent jurisdiction.

635 (7) Reports made pursuant to this section, reports written
636 or photographs taken concerning such reports in the possession of
637 the Department of Human Services or the county department of human
638 services shall be confidential and shall only be made available
639 to:

640 (a) A physician who has before him a vulnerable adult
641 whom he reasonably suspects may be abused, neglected or exploited,
642 as defined in Section 43-47-5;

643 (b) A duly authorized agency having the responsibility
644 for the care or supervision of a subject of the report;

645 (c) A grand jury or a court of competent jurisdiction,
646 upon finding that the information in the record is necessary for
647 the determination of charges before the grand jury;

648 (d) A district attorney or other law enforcement
649 official.

650 Notwithstanding the provisions of paragraph (b) of this
651 subsection, the department may not disclose a report of the
652 abandonment, exploitation, abuse, neglect or self-neglect of a
653 vulnerable adult to the vulnerable adult's guardian,
654 attorney-in-fact, surrogate decision maker, or caregiver who is a
655 perpetrator or alleged perpetrator of the abandonment,
656 exploitation, abuse or neglect of the vulnerable adult.

657 Any person given access to the names or other information
658 identifying the subject of the report, except the subject of the
659 report, shall not divulge or make public such identifying
660 information unless he is a district attorney or other law
661 enforcement official and the purpose is to initiate court action.
662 Any person who willfully permits the release of any data or

663 information obtained pursuant to this section to persons or
664 agencies not permitted to such access by this section shall be
665 guilty of a misdemeanor.

666 (8) Upon reasonable cause to believe that a caretaker or
667 other person has abused, neglected or exploited a vulnerable
668 adult, the department shall promptly notify the district attorney
669 of the county in which the vulnerable adult is located and the
670 Office of the Attorney General, except as provided in Section
671 43-47-37(2).

672 **SECTION 8.** Section 93-21-23, Mississippi Code of 1972, is
673 amended as follows:

674 93-21-23. Any licensed doctor of medicine, licensed doctor
675 of dentistry, intern, resident or registered nurse, psychologist,
676 social worker, child protection specialist, preacher, teacher,
677 attorney, law enforcement officer, or any other person or
678 institution participating in the making of a report pursuant to
679 this chapter or participating in judicial proceedings resulting
680 therefrom shall be presumed to be acting in good faith, and if
681 found to have acted in good faith shall be immune from any
682 liability, civil or criminal, that might otherwise be incurred or
683 imposed. The reporting of an abused person shall not constitute a
684 breach of confidentiality.

685 **SECTION 9.** Section 97-3-7, Mississippi Code of 1972, is
686 amended as follows:

687 97-3-7. (1) A person is guilty of simple assault if he (a)
688 attempts to cause or purposely, knowingly or recklessly causes
689 bodily injury to another; or (b) negligently causes bodily injury
690 to another with a deadly weapon or other means likely to produce
691 death or serious bodily harm; or (c) attempts by physical menace
692 to put another in fear of imminent serious bodily harm; and, upon
693 conviction, he shall be punished by a fine of not more than Five
694 Hundred Dollars (\$500.00) or by imprisonment in the county jail
695 for not more than six (6) months, or both. * * * However, a

696 person convicted of simple assault (a) upon a statewide elected
697 official, law enforcement officer, fireman, emergency medical
698 personnel, public health personnel, social worker or child
699 protection specialist employed by the Department of Human Services
700 or another agency, superintendent, principal, teacher or other
701 instructional personnel, school attendance officer, school bus
702 driver, or a judge of a circuit, chancery, county, justice or
703 youth court or a judge of the Court of Appeals or a justice of the
704 Supreme Court, district attorney, legal assistant to a district
705 attorney, county prosecutor, municipal prosecutor, court reporter
706 employed by a court, court administrator, clerk or deputy clerk of
707 the court, or public defender, while such statewide elected
708 official, judge or justice, law enforcement officer, fireman,
709 emergency medical personnel, public health personnel, social
710 worker, child protection specialist, superintendent, principal,
711 teacher or other instructional personnel, school attendance
712 officer, school bus driver, district attorney, legal assistant to
713 a district attorney, county prosecutor, municipal prosecutor,
714 court reporter employed by a court, court administrator, clerk or
715 deputy clerk of the court, or public defender is acting within the
716 scope of his duty, office or employment, or (b) upon a legislator
717 while the Legislature is in regular or extraordinary session or
718 while otherwise acting within the scope of his duty, office or
719 employment, shall be punished by a fine of not more than One
720 Thousand Dollars (\$1,000.00) or by imprisonment for not more than
721 five (5) years, or both.

722 (2) A person is guilty of aggravated assault if he (a)
723 attempts to cause serious bodily injury to another, or causes such
724 injury purposely, knowingly or recklessly under circumstances
725 manifesting extreme indifference to the value of human life; or
726 (b) attempts to cause or purposely or knowingly causes bodily
727 injury to another with a deadly weapon or other means likely to
728 produce death or serious bodily harm; and, upon conviction, he

729 shall be punished by imprisonment in the county jail for not more
730 than one (1) year or in the Penitentiary for not more than twenty
731 (20) years. * * * However, a person convicted of aggravated
732 assault (a) upon a statewide elected official, law enforcement
733 officer, fireman, emergency medical personnel, public health
734 personnel, social worker or child protection specialist employed
735 by the Department of Human Services or another agency,
736 superintendent, principal, teacher or other instructional
737 personnel, school attendance officer, school bus driver, or a
738 judge of a circuit, chancery, county, justice or youth court or a
739 judge of the Court of Appeals or a justice of the Supreme Court,
740 district attorney, legal assistant to a district attorney, county
741 prosecutor, municipal prosecutor, court reporter employed by a
742 court, court administrator, clerk or deputy clerk of the court, or
743 public defender, while such statewide elected official, judge or
744 justice, law enforcement officer, fireman, emergency medical
745 personnel, public health personnel, social worker, child
746 protection specialist, superintendent, principal, teacher or other
747 instructional personnel, school attendance officer, school bus
748 driver, district attorney, legal assistant to a district attorney,
749 county prosecutor, municipal prosecutor, court reporter employed
750 by a court, court administrator, clerk or deputy clerk of the
751 court, or public defender is acting within the scope of his duty,
752 office or employment, or (b) upon a legislator while the
753 Legislature is in regular or extraordinary session or while
754 otherwise acting within the scope of his duty, office or
755 employment, shall be punished by a fine of not more than Five
756 Thousand Dollars (\$5,000.00) or by imprisonment for not more than
757 thirty (30) years, or both.

758 (3) A person is guilty of simple domestic violence who
759 commits simple assault as described in subsection (1) of this
760 section against a family or household member who resides with the
761 defendant or who formerly resided with the defendant, a current or

762 former spouse, a person who has a current dating relationship with
763 the defendant, or a person with whom the defendant has had a
764 biological or legally adopted child and upon conviction, the
765 defendant shall be punished as provided under subsection (1) of
766 this section; however, upon a third or subsequent conviction of
767 simple domestic violence, whether against the same or another
768 victim and within five (5) years, the defendant shall be guilty of
769 a felony and sentenced to a term of imprisonment not less than
770 five (5) nor more than ten (10) years. In sentencing, the court
771 shall consider as an aggravating factor whether the crime was
772 committed in the physical presence or hearing of a child under
773 sixteen (16) years of age who was, at the time of the offense,
774 living within either the residence of the victim, the residence of
775 the perpetrator, or the residence where the offense occurred.

776 (4) A person is guilty of aggravated domestic violence who
777 commits aggravated assault as described in subsection (2) of this
778 section against a family or household member who resides with the
779 defendant or who formerly resided with the defendant, or a current
780 or former spouse, a person who has a current dating relationship
781 with the defendant, or a person with whom the defendant has had a
782 biological or legally adopted child and upon conviction, the
783 defendant shall be punished as provided under subsection (2) of
784 this section; however, upon a third or subsequent offense of
785 aggravated domestic violence, whether against the same or another
786 victim and within five (5) years, the defendant shall be guilty of
787 a felony and sentenced to a term of imprisonment of not less than
788 five (5) nor more than twenty (20) years. In sentencing, the
789 court shall consider as an aggravating factor whether the crime
790 was committed in the physical presence or hearing of a child under
791 sixteen (16) years of age who was, at the time of the offense,
792 living within either the residence of the victim, the residence of
793 the perpetrator, or the residence where the offense occurred.

794 Reasonable discipline of a child, such as spanking, is not an
795 offense under this subsection (4).

796 (5) "Dating relationship" means a social relationship of a
797 romantic or intimate nature.

798 (6) Every conviction of domestic violence may require as a
799 condition of any suspended sentence that the defendant participate
800 in counseling or treatment to bring about the cessation of
801 domestic abuse. The defendant may be required to pay all or part
802 of the cost of the counseling or treatment, in the discretion of
803 the court.

804 (7) In any conviction of assault as described in any
805 subsection of this section which arises from an incident of
806 domestic violence, the sentencing order shall include the
807 designation "domestic violence."

808 **SECTION 10.** This act shall take effect and be in force from
809 and after July 1, 2004.