

By: Representatives Ishee, Bentz,  
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To: Public Health and Human  
Services

## 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 BY THE DEPARTMENT; TO PROVIDE  
7 THAT FOR THE PURPOSES OF PROVIDING SERVICES IN CHILD ABUSE OR  
8 NEGLECT CASES, YOUTH COURT PROCEEDINGS, VULNERABLE ADULTS CASES,  
9 AND SUCH OTHER CASES AS DESIGNATED BY THE EXECUTIVE DIRECTOR OF  
10 HUMAN SERVICES, THE CASEWORKER OR SERVICE PROVIDER MAY BE A CHILD  
11 PROTECTION SPECIALIST INSTEAD OF A LICENSED SOCIAL WORKER; TO  
12 AMEND SECTION 73-53-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
13 THE SOCIAL WORKER LICENSURE LAW DOES NOT APPLY TO CHILD PROTECTION  
14 SPECIALISTS EMPLOYED BY THE DEPARTMENT WHILE THE CHILD PROTECTION  
15 SPECIALIST IS ENGAGING IN THE PERFORMANCE OF OFFICIAL DUTIES FOR  
16 THE DEPARTMENT, PROVIDED THAT THE CHILD PROTECTION SPECIALIST DOES  
17 NOT HOLD HIMSELF OR HERSELF OUT TO THE PUBLIC AS A SOCIAL WORKER;  
18 TO AMEND SECTIONS 43-21-261, 43-21-353, 43-21-355, 43-21-603,  
19 43-27-109, 43-47-7, 93-21-23 AND 97-3-7, MISSISSIPPI CODE OF 1972,  
20 TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

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

24 43-1-55. (1) The Office of Family and Children's Services  
25 shall devise formal social worker standards for employment and  
26 service delivery designed to measure the quality of services  
27 delivered to clients, as well as the timeliness of services.  
28 Included in those standards shall be the requirement that all  
29 service workers receive specialized training from the Mississippi  
30 Law Enforcement Officers' Training Academy. Each social worker  
31 shall be assessed annually by a supervisor who is knowledgeable in  
32 the standards promulgated. The \* \* \* standards shall be  
33 applicable to all social workers working under the office.

34 (2) The Office of Family and Children's Services shall  
35 devise formal standards for child protection specialists who are  
36 not licensed social workers. At a minimum, to be employed as a

37 child protection specialist by the Department of Human Services, a  
38 person must have a bachelor's degree in either psychology,  
39 sociology, nursing, criminal justice or a related field, or a  
40 graduate degree in either law, psychology, sociology, nursing,  
41 criminal justice or a related field. The determination of what is  
42 a related field shall be made by certification of the senior judge  
43 of the chancery court district in which the child protection  
44 specialist is located.

45 (3) For the purpose of providing services in child abuse or  
46 neglect cases, youth court proceedings, vulnerable adults cases,  
47 and such other cases as designated by the Executive Director of  
48 Human Services, the caseworker or service provider may be a child  
49 protection specialist instead of a licensed social worker.

50 **SECTION 2.** Section 73-53-5, Mississippi Code of 1972, is  
51 amended as follows:

52 73-53-5. (1) No provision in this chapter shall be  
53 construed to prevent individuals licensed or certified by this  
54 state, whose activities overlap with the practice of social work,  
55 from carrying out the functions covered by their respective  
56 licenses or certificates, or to prevent ministers or individuals  
57 engaged in professional counseling who have recognized  
58 professional degrees in counseling, guidance or a related  
59 counseling field, whose activities overlap with the practice of  
60 social work, from carrying out the functions for which they have  
61 been trained, provided that such ministers or individuals shall  
62 not hold themselves out to the public by any title set out in this  
63 chapter.

64 (2) No provision in this chapter shall be construed to apply  
65 to or in any way interfere with any office, officer, agency or  
66 employee of the United States, while such office, officer, agency  
67 or employee is engaging in the performance of official duties  
68 within the course and scope of such employment or duties.

69 (3) No provision of this chapter shall be construed to apply  
70 to or in any way interfere with an individual who performs  
71 services described by this chapter solely for the benefit of a  
72 member of that individual's family without compensation.

73 (4) No provision of this chapter shall be construed to apply  
74 to or in any way interfere with the activities and services of a  
75 student while pursuing a course of professional education  
76 qualifying as education under this chapter if these activities or  
77 services constitute a part of such student's supervised course of  
78 study and such activities are supervised by a licensee under this  
79 chapter.

80 (5) No provision of this chapter shall apply to or in any  
81 way interfere with any child protection specialist employed by the  
82 Department of Human Services while the child protection specialist  
83 is engaging in the performance of official duties for the  
84 Department of Human Services within the course and scope of  
85 employment or duties, provided that the child protection  
86 specialist does not hold himself or herself out to the public by  
87 any title set out in this chapter.

88 **SECTION 3.** Section 43-21-261, Mississippi Code of 1972, is  
89 amended as follows:

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

101           (a) The judge of another youth court or member of  
102 another youth court staff;

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

105           (c) A judge of any other court or members of another  
106 court staff;

107           (d) Representatives of a public or private agency  
108 providing supervision or having custody of the child under order  
109 of the youth court;

110           (e) Any person engaged in a bona fide research purpose,  
111 provided that no information identifying the subject of the  
112 records shall be made available to the researcher unless it is  
113 absolutely essential to the research purpose and the judge gives  
114 prior written approval, and the child, through his or her  
115 representative, gives permission to release the information;

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

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

127           Law enforcement agencies may disclose information to the  
128 public concerning the taking of a child into custody for the  
129 commission of a delinquent act without the necessity of an order  
130 from the youth court. The information released shall not identify  
131 the child or his address unless the information involves a child  
132 convicted as an adult.

133           (2) Any records involving children which are disclosed under  
134 an order of the youth court and the contents thereof shall be kept  
135 confidential by the person or agency to whom the record is  
136 disclosed except as provided in the order. Any further disclosure  
137 of any records involving children shall be made only under an  
138 order of the youth court as provided in this section.

139           (3) Upon request, the parent, guardian or custodian of the  
140 child who is the subject of a youth court cause or any attorney  
141 for such parent, guardian or custodian, shall have the right to  
142 inspect any record, report or investigation which is to be  
143 considered by the youth court at a hearing, except that the  
144 identity of the reporter shall not be released, nor the name of  
145 any other person where the person or agency making the information  
146 available finds that disclosure of the information would be likely  
147 to endanger the life or safety of such person.

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

152           (5) (a) The youth court prosecutor or prosecutors, the  
153 county attorney, the district attorney, the youth court defender  
154 or defenders, or any attorney representing a child shall have the  
155 right to inspect any law enforcement record involving children.

156                   (b) The Department of Human Services shall disclose to  
157 a county prosecuting attorney or district attorney any and all  
158 records resulting from an investigation into suspected child abuse  
159 or neglect when the case has been referred by the Department of  
160 Human Services to the county prosecuting attorney or district  
161 attorney for criminal prosecution.

162                   (c) Agency records made confidential under the  
163 provisions of this section may be disclosed to a court of  
164 competent jurisdiction.

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

174 (7) Information concerning an investigation into a report of  
175 child abuse or child neglect may be disclosed without further  
176 order of the youth court to any interagency child abuse task force  
177 established in any county or municipality by order of the youth  
178 court of that county or municipality.

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

183 (9) Names and addresses of juveniles adjudicated as  
184 delinquent for murder, manslaughter, burglary, arson, armed  
185 robbery, aggravated assault, any sex offense as defined in Section  
186 45-33-23, for any violation of Section 41-29-139(a)(1) or for any  
187 violation of Section 63-11-30, shall not be held confidential and  
188 shall be made available to the public.

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

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

197           (12) A classification hearing officer of the State  
198 Department of Corrections, as provided in Section 47-5-103, shall  
199 have the right to inspect any youth court records, excluding abuse  
200 and neglect records, of any offender in the custody of the  
201 department who as a child or minor was a juvenile offender or was  
202 the subject of a youth court cause of action, and the State Parole  
203 Board, as provided in Section 47-7-17, shall have the right to  
204 inspect such records when the offender becomes eligible for  
205 parole.

206           (13) The youth court shall notify the Department of Public  
207 Safety of the name, and any other identifying information such  
208 department may require, of any child who is adjudicated delinquent  
209 as a result of a violation of the Uniform Controlled Substances  
210 Law.

211           (14) The Administrative Office of Courts shall have the  
212 right to inspect any youth court records in order that the number  
213 of youthful offenders, abused, neglected, truant and dependent  
214 children, as well as children in need of special care and children  
215 in need of supervision, may be tracked with specificity through  
216 the youth court and adult justice system, and to utilize tracking  
217 forms for such purpose.

218           (15) Upon a request by a youth court, the Administrative  
219 Office of Courts shall disclose all information at its disposal  
220 concerning any previous youth court intakes alleging that a child  
221 was a delinquent child, child in need of supervision, child in  
222 need of special care, truant child, abused child or neglected  
223 child, as well as any previous youth court adjudications for the  
224 same and all dispositional information concerning a child who at  
225 the time of such request comes under the jurisdiction of the youth  
226 court making such request.

227           (16) In every case where an abuse or neglect allegation has  
228 been made, the confidentiality provisions of this section shall  
229 not apply to prohibit access to a child's records by any state

230 regulatory agency, any state or local prosecutorial agency or law  
231 enforcement agency; \* \* \* however, \* \* \* no identifying  
232 information concerning the child in question may be released to  
233 the public by such agency except as otherwise provided herein.

234 (17) In every case where there is any indication or  
235 suggestion of either abuse or neglect and a child's physical  
236 condition is medically labeled as medically "serious" or  
237 "critical" or a child dies, the confidentiality provisions of this  
238 section shall not apply. In cases of child deaths, the following  
239 information may be released by the Mississippi Department of Human  
240 Services: (a) Child's name; (b) address or location; (c)  
241 verification from the Department of Human Services of case status  
242 (no case or involvement, case exists, open or active case, case  
243 closed); (d) if a case exists, the type of report or case  
244 (physical abuse, neglect, etc.), date of intake(s) and  
245 investigation(s), and case disposition (substantiated or  
246 unsubstantiated). Notwithstanding the aforesaid, the  
247 confidentiality provisions of this section shall continue if there  
248 is a pending or planned investigation by any local, state or  
249 federal governmental agency or institution.

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

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

260 **SECTION 4.** Section 43-21-353, Mississippi Code of 1972, is  
261 amended as follows:



262           43-21-353. (1) Any attorney, physician, dentist, intern,  
263 resident, nurse, psychologist, social worker, child protection  
264 specialist, child care giver, minister, law enforcement officer,  
265 public or private school employee or any other person having  
266 reasonable cause to suspect that a child is a neglected child or  
267 an abused child, shall cause an oral report to be made immediately  
268 by telephone or otherwise and followed as soon thereafter as  
269 possible by a report in writing to the Department of Human  
270 Services, and immediately a referral shall be made by the  
271 Department of Human Services to the youth court intake unit, which  
272 unit shall promptly comply with Section 43-21-357. Where  
273 appropriate, the Department of Human Services shall additionally  
274 make a referral to the youth court prosecutor. Upon receiving a  
275 report that a child has been sexually abused, or burned, tortured,  
276 mutilated or otherwise physically abused in such a manner as to  
277 cause serious bodily harm, or upon receiving any report of abuse  
278 that would be a felony under state or federal law, the Department  
279 of Human Services shall immediately notify the law enforcement  
280 agency in whose jurisdiction the abuse occurred and shall notify  
281 the appropriate prosecutor within forty-eight (48) hours, and the  
282 Department of Human Services shall have the duty to provide the  
283 law enforcement agency all the names and facts known at the time  
284 of the report; this duty shall be of a continuing nature. The law  
285 enforcement agency and the Department of Human Services shall  
286 investigate the reported abuse immediately and shall file a  
287 preliminary report with the appropriate prosecutor's office within  
288 twenty-four (24) hours and shall make additional reports as new or  
289 additional information or evidence becomes available. The  
290 Department of Human Services shall advise the clerk of the youth  
291 court and the youth court prosecutor of all cases of abuse  
292 reported to the department within seventy-two (72) hours and shall  
293 update such report as information becomes available.

294           (2) Any report to the Department of Human Services shall  
295 contain the names and addresses of the child and his parents or  
296 other persons responsible for his care, if known, the child's age,  
297 the nature and extent of the child's injuries, including any  
298 evidence of previous injuries and any other information that might  
299 be helpful in establishing the cause of the injury and the  
300 identity of the perpetrator.

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

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

327 manner not expressly provided for in this section or Section  
328 43-21-261, shall be guilty of a misdemeanor and subject to the  
329 penalties prescribed by Section 43-21-267.

330 (5) All final dispositions of law enforcement investigations  
331 described in subsection (1) of this section shall be determined  
332 only by the appropriate prosecutor or court. All final  
333 dispositions of investigations by the Department of Human Services  
334 as described in subsection (1) of this section shall be determined  
335 only by the youth court. Reports made under subsection (1) of  
336 this section by the Department of Human Services to the law  
337 enforcement agency and to the district attorney's office shall  
338 include the following, if known to the department:

- 339 (a) The name and address of the child;
- 340 (b) The names and addresses of the parents;
- 341 (c) The name and address of the suspected perpetrator;
- 342 (d) The names and addresses of all witnesses, including  
343 the reporting party if a material witness to the abuse;
- 344 (e) A brief statement of the facts indicating that the  
345 child has been abused and any other information from the agency  
346 files or known to the social worker or child protection specialist  
347 making the investigation, including medical records or other  
348 records, which may assist law enforcement or the district attorney  
349 in investigating and/or prosecuting the case; and
- 350 (f) What, if any, action is being taken by the  
351 Department of Human Services.

352 (6) In any investigation of a report made under this chapter  
353 of the abuse or neglect of a child as defined in Section  
354 43-21-105(m), the Department of Human Services may request the  
355 appropriate law enforcement officer with jurisdiction to accompany  
356 the department in its investigation, and in such cases the law  
357 enforcement officer shall comply with such request.

358 (7) Anyone who willfully violates any provision of this  
359 section shall be, upon being found guilty, punished by a fine not

360 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in  
361 jail not to exceed one (1) year, or both.

362 (8) If a report is made directly to the Department of Human  
363 Services that a child has been abused or neglected in an  
364 out-of-home setting, a referral shall be made immediately to the  
365 law enforcement agency in whose jurisdiction the abuse occurred  
366 and the department shall notify the district attorney's office  
367 within forty-eight (48) hours of such report. The Department of  
368 Human Services shall investigate the out-of-home setting report of  
369 abuse or neglect to determine whether the child who is the subject  
370 of the report, or other children in the same environment, comes  
371 within the jurisdiction of the youth court and shall report to the  
372 youth court the department's findings and recommendation as to  
373 whether the child who is the subject of the report or other  
374 children in the same environment require the protection of the  
375 youth court. The law enforcement agency shall investigate the  
376 reported abuse immediately and shall file a preliminary report  
377 with the district attorney's office within forty-eight (48) hours  
378 and shall make additional reports as new information or evidence  
379 becomes available. If the out-of-home setting is a licensed  
380 facility, an additional referral shall be made by the Department  
381 of Human Services to the licensing agency. The licensing agency  
382 shall investigate the report and shall provide the Department of  
383 Human Services, the law enforcement agency and the district  
384 attorney's office with their written findings from such  
385 investigation as well as that licensing agency's recommendations  
386 and actions taken.

387 **SECTION 5.** Section 43-21-355, Mississippi Code of 1972, is  
388 amended as follows:

389 43-21-355. Any attorney, physician, dentist, intern,  
390 resident, nurse, psychologist, social worker, child protection  
391 specialist, child care giver, minister, law enforcement officer,  
392 school attendance officer, public school district employee,

393 nonpublic school employee, or any other person participating in  
394 the making of a required report pursuant to Section 43-21-353 or  
395 participating in the judicial proceeding resulting therefrom shall  
396 be presumed to be acting in good faith. Any person or institution  
397 reporting in good faith shall be immune from any liability, civil  
398 or criminal, that might otherwise be incurred or imposed.

399       **SECTION 6.** Section 43-21-603, Mississippi Code of 1972, is  
400 amended as follows:

401       43-21-603. (1) At the beginning of each disposition  
402 hearing, the judge shall inform the parties of the purpose of the  
403 hearing.

404       (2) All testimony shall be under oath unless waived by all  
405 parties and may be in narrative form. The court may consider any  
406 evidence which is material and relevant to the disposition of the  
407 cause, including hearsay and opinion evidence. At the conclusion  
408 of the evidence, the youth court shall give the parties an  
409 opportunity to present oral argument.

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

- 413               (a) The nature of the offense;
- 414               (b) The manner in which the offense was committed;
- 415               (c) The nature and number of a child's prior  
416 adjudicated offenses; and
- 417               (d) The child's need for care and assistance.

418       (4) If the child has been adjudicated a child in need of  
419 supervision, prior to entering a disposition order, the youth  
420 court should consider, among others, the following relevant  
421 factors:

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

425 (5) If the child has been adjudicated a neglected child or  
426 an abused child, prior to entering a disposition order, the youth  
427 court shall consider, among others, the following relevant  
428 factors:

429 (a) The child's physical and mental conditions;

430 (b) The child's need of assistance;

431 (c) The manner in which the parent, guardian or  
432 custodian participated in, tolerated or condoned the abuse,  
433 neglect or abandonment of the child;

434 (d) The ability of a child's parent, guardian or  
435 custodian to provide proper supervision and care of a child; and

436 (e) Relevant testimony and recommendations, where  
437 available, from the foster parent of the child, the grandparents  
438 of the child, the guardian ad litem of the child, representatives  
439 of any private care agency which has cared for the child, the  
440 social worker or child protection specialist assigned to the case,  
441 and any other relevant testimony pertaining to the case.

442 (6) After consideration of all the evidence and the relevant  
443 factors, the youth court shall enter a disposition order which  
444 shall not recite any of the facts or circumstances upon which such  
445 disposition is based, nor shall it recite that a child has been  
446 found guilty; but it shall recite that a child is found to be a  
447 delinquent child, a child in need of supervision, a neglected  
448 child or an abused child.

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

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

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

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

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

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

471                   (ii) The parent has been convicted of murder of  
472 another child of such parent, voluntary manslaughter of another  
473 child of such parent, aided or abetted, attempted, conspired or  
474 solicited to commit such murder or voluntary manslaughter, or a  
475 felony assault that results in the serious bodily injury to the  
476 surviving child or another child of such parent; or

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

479                   (iv) That the effect of the continuation of the  
480 child's residence within his own home would be contrary to the  
481 welfare of the child and that placement of the child in foster  
482 care is in the best interests of the child.

483                   Once the reasonable efforts requirement is bypassed, the  
484 court shall have a permanency hearing pursuant to Section  
485 43-21-613 within thirty (30) days of such finding.

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

489                   **SECTION 7.** Section 43-27-109, Mississippi Code of 1972, is  
490 amended as follows:

491 43-27-109. The Department of Human Services may employ a  
492 sufficient number of new social workers, child protection  
493 specialists, youth counselors and clerical staff to reduce the  
494 case load sizes for social workers and youth counselors of the  
495 department and to reduce the work load on clerical staff, if funds  
496 are appropriated to the department for that purpose.

497 **SECTION 8.** Section 43-47-7, Mississippi Code of 1972, is  
498 amended as follows:

499 43-47-7. (1) (a) Except as otherwise provided by Section  
500 43-47-37 for vulnerable adults in care facilities, any person  
501 including, but not limited to, the following, who knows or  
502 suspects that a vulnerable adult has been or is being abused,  
503 neglected or exploited shall immediately report such knowledge or  
504 suspicion to the Department of Human Services or to the county  
505 department of human services where the vulnerable adult is  
506 located:

507 (i) Attorney, physician, osteopathic physician,  
508 medical examiner, chiropractor or nurse engaged in the admission,  
509 examination, care or treatment of vulnerable adults;

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

512 (iii) Practitioner who relies solely on spiritual  
513 means for healing;

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

516 (v) State, county or municipal criminal justice  
517 employee or law enforcement officer;

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

520 (vii) Accountant, stockbroker, financial advisor  
521 or consultant, insurance agent or consultant, investment advisor  
522 or consultant, financial planner, or any officer or employee of a



523 bank, savings and loan, credit union or any other financial  
524 service provider.

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

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

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

533 (iii) Name, address and telephone number of each  
534 alleged perpetrator.

535 (iv) Name, address and telephone number of the  
536 caregiver of the vulnerable adult, if different from the alleged  
537 perpetrator.

538 (v) Description of the neglect, exploitation,  
539 physical or psychological injuries sustained.

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

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

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

550 (c) The department, or its designees, shall report to  
551 an appropriate criminal investigative or prosecutive authority any  
552 person required by this section to report or who fails to comply  
553 with this section. A person who fails to make a report as  
554 required under this subsection or who, because of the  
555 circumstances, should have known or suspected beyond a reasonable

556 doubt that a vulnerable adult suffers from exploitation, abuse,  
557 neglect or self-neglect but who knowingly fails to comply with  
558 this section shall, upon conviction, be guilty of a misdemeanor  
559 and shall be punished by a fine not exceeding Five Thousand  
560 Dollars (\$5,000.00), or by imprisonment in the county jail for not  
561 more than six (6) months, or both such fine and imprisonment.  
562 However, for purposes of this subsection (1), any recognized legal  
563 financial transaction shall not be considered cause to report the  
564 knowledge or suspicion of the financial exploitation of a  
565 vulnerable adult. If a person convicted under this section is a  
566 member of a profession or occupation that is licensed, certified  
567 or regulated by the state, the court shall notify the appropriate  
568 licensing, certifying or regulating entity of the conviction.

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

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

587 (4) Anyone who makes a report required by this section or  
588 who testifies or participates in any judicial proceedings arising

589 from the report or who participates in a required investigation or  
590 evaluation shall be presumed to be acting in good faith and in so  
591 doing shall be immune from liability, civil or criminal, that  
592 might otherwise be incurred or imposed. However, the immunity  
593 provided under this subsection shall not apply to any suspect or  
594 perpetrator of any abuse, neglect or exploitation.

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

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

622 was substantial evidence upon investigation of the report. The  
623 central register shall inform the person making reports required  
624 under this section of his or her right to request statements from  
625 the department as to what action is being taken, if any.

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

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

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

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

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

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

652 (d) A district attorney or other law enforcement  
653 official.

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

661 Any person given access to the names or other information  
662 identifying the subject of the report, except the subject of the  
663 report, shall not divulge or make public such identifying  
664 information unless he is a district attorney or other law  
665 enforcement official and the purpose is to initiate court action.  
666 Any person who willfully permits the release of any data or  
667 information obtained pursuant to this section to persons or  
668 agencies not permitted to such access by this section shall be  
669 guilty of a misdemeanor.

670 (8) Upon reasonable cause to believe that a caretaker or  
671 other person has abused, neglected or exploited a vulnerable  
672 adult, the department shall promptly notify the district attorney  
673 of the county in which the vulnerable adult is located and the  
674 Office of the Attorney General, except as provided in Section  
675 43-47-37(2).

676 **SECTION 9.** Section 93-21-23, Mississippi Code of 1972, is  
677 amended as follows:

678 93-21-23. Any licensed doctor of medicine, licensed doctor  
679 of dentistry, intern, resident or registered nurse, psychologist,  
680 social worker, child protection specialist, preacher, teacher,  
681 attorney, law enforcement officer, or any other person or  
682 institution participating in the making of a report pursuant to  
683 this chapter or participating in judicial proceedings resulting  
684 therefrom shall be presumed to be acting in good faith, and if  
685 found to have acted in good faith shall be immune from any  
686 liability, civil or criminal, that might otherwise be incurred or

687 imposed. The reporting of an abused person shall not constitute a  
688 breach of confidentiality.

689 **SECTION 10.** Section 97-3-7, Mississippi Code of 1972, is  
690 amended as follows:

691 97-3-7. (1) A person is guilty of simple assault if he (a)  
692 attempts to cause or purposely, knowingly or recklessly causes  
693 bodily injury to another; or (b) negligently causes bodily injury  
694 to another with a deadly weapon or other means likely to produce  
695 death or serious bodily harm; or (c) attempts by physical menace  
696 to put another in fear of imminent serious bodily harm; and, upon  
697 conviction, he shall be punished by a fine of not more than Five  
698 Hundred Dollars (\$500.00) or by imprisonment in the county jail  
699 for not more than six (6) months, or both. \* \* \* However, a  
700 person convicted of simple assault (a) upon a statewide elected  
701 official, law enforcement officer, fireman, emergency medical  
702 personnel, public health personnel, social worker or child  
703 protection specialist employed by the Department of Human Services  
704 or another agency, superintendent, principal, teacher or other  
705 instructional personnel, school attendance officer, school bus  
706 driver, or a judge of a circuit, chancery, county, justice or  
707 youth court or a judge of the Court of Appeals or a justice of the  
708 Supreme Court, district attorney, legal assistant to a district  
709 attorney, county prosecutor, municipal prosecutor, court reporter  
710 employed by a court, court administrator, clerk or deputy clerk of  
711 the court, or public defender, while such statewide elected  
712 official, judge or justice, law enforcement officer, fireman,  
713 emergency medical personnel, public health personnel, social  
714 worker, child protection specialist, superintendent, principal,  
715 teacher or other instructional personnel, school attendance  
716 officer, school bus driver, district attorney, legal assistant to  
717 a district attorney, county prosecutor, municipal prosecutor,  
718 court reporter employed by a court, court administrator, clerk or  
719 deputy clerk of the court, or public defender is acting within the

720 scope of his duty, office or employment, or (b) upon a legislator  
721 while the Legislature is in regular or extraordinary session or  
722 while otherwise acting within the scope of his duty, office or  
723 employment, shall be punished by a fine of not more than One  
724 Thousand Dollars (\$1,000.00) or by imprisonment for not more than  
725 five (5) years, or both.

726 (2) A person is guilty of aggravated assault if he (a)  
727 attempts to cause serious bodily injury to another, or causes such  
728 injury purposely, knowingly or recklessly under circumstances  
729 manifesting extreme indifference to the value of human life; or  
730 (b) attempts to cause or purposely or knowingly causes bodily  
731 injury to another with a deadly weapon or other means likely to  
732 produce death or serious bodily harm; and, upon conviction, he  
733 shall be punished by imprisonment in the county jail for not more  
734 than one (1) year or in the Penitentiary for not more than twenty  
735 (20) years. \* \* \* However, a person convicted of aggravated  
736 assault (a) upon a statewide elected official, law enforcement  
737 officer, fireman, emergency medical personnel, public health  
738 personnel, social worker or child protection specialist employed  
739 by the Department of Human Services or another agency,  
740 superintendent, principal, teacher or other instructional  
741 personnel, school attendance officer, school bus driver, or a  
742 judge of a circuit, chancery, county, justice or youth court or a  
743 judge of the Court of Appeals or a justice of the Supreme Court,  
744 district attorney, legal assistant to a district attorney, county  
745 prosecutor, municipal prosecutor, court reporter employed by a  
746 court, court administrator, clerk or deputy clerk of the court, or  
747 public defender, while such statewide elected official, judge or  
748 justice, law enforcement officer, fireman, emergency medical  
749 personnel, public health personnel, social worker, child  
750 protection specialist, superintendent, principal, teacher or other  
751 instructional personnel, school attendance officer, school bus  
752 driver, district attorney, legal assistant to a district attorney,

753 county prosecutor, municipal prosecutor, court reporter employed  
754 by a court, court administrator, clerk or deputy clerk of the  
755 court, or public defender is acting within the scope of his duty,  
756 office or employment, or (b) upon a legislator while the  
757 Legislature is in regular or extraordinary session or while  
758 otherwise acting within the scope of his duty, office or  
759 employment, shall be punished by a fine of not more than Five  
760 Thousand Dollars (\$5,000.00) or by imprisonment for not more than  
761 thirty (30) years, or both.

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

780 (4) A person is guilty of aggravated domestic violence who  
781 commits aggravated assault as described in subsection (2) of this  
782 section against a family or household member who resides with the  
783 defendant or who formerly resided with the defendant, or a current  
784 or former spouse, a person who has a current dating relationship  
785 with the defendant, or a person with whom the defendant has had a



786 biological or legally adopted child and upon conviction, the  
787 defendant shall be punished as provided under subsection (2) of  
788 this section; however, upon a third or subsequent offense of  
789 aggravated domestic violence, whether against the same or another  
790 victim and within five (5) years, the defendant shall be guilty of  
791 a felony and sentenced to a term of imprisonment of not less than  
792 five (5) nor more than twenty (20) years. In sentencing, the  
793 court shall consider as an aggravating factor whether the crime  
794 was committed in the physical presence or hearing of a child under  
795 sixteen (16) years of age who was, at the time of the offense,  
796 living within either the residence of the victim, the residence of  
797 the perpetrator, or the residence where the offense occurred.  
798 Reasonable discipline of a child, such as spanking, is not an  
799 offense under this subsection (4).

800 (5) "Dating relationship" means a social relationship of a  
801 romantic or intimate nature.

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

808 (7) In any conviction of assault as described in any  
809 subsection of this section which arises from an incident of  
810 domestic violence, the sentencing order shall include the  
811 designation "domestic violence."

812 **SECTION 11.** This act shall take effect and be in force from  
813 and after July 1, 2004.