

By: Representatives Ishee, Bentz,  
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Upshaw

To: Public Health and Human  
Services

HOUSE BILL NO. 816  
(As Passed the House)

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 A PERSON QUALIFIED AS A CHILD  
13 PROTECTION SPECIALIST SHALL NOT CONDUCT FORENSIC INTERVIEWS OF  
14 CHILDREN UNTIL AFTER RECEIVING ADDITIONAL SPECIALIZED TRAINING; TO  
15 PROVIDE THAT FOR THE PURPOSES OF PROVIDING SERVICES IN CHILD ABUSE  
16 OR NEGLECT CASES, YOUTH COURT PROCEEDINGS, VULNERABLE ADULTS  
17 CASES, AND SUCH OTHER CASES AS DESIGNATED BY THE EXECUTIVE  
18 DIRECTOR OF HUMAN SERVICES, THE CASEWORKER OR SERVICE PROVIDER MAY  
19 BE A CHILD PROTECTION SPECIALIST WHOSE WORK IS OVERSEEN BY A  
20 LICENSED SOCIAL WORKER; TO PROVIDE THAT THE DEPARTMENT AND THE  
21 OFFICE SHALL SEEK TO EMPLOY AND USE LICENSED SOCIAL WORKERS TO  
22 PROVIDE THE SERVICES OF THE OFFICE, AND MAY EMPLOY AND USE CHILD  
23 PROTECTION SPECIALISTS TO PROVIDE THOSE SERVICES ONLY IN COUNTIES  
24 IN WHICH THERE IS NOT A SUFFICIENT NUMBER OF LICENSED SOCIAL  
25 WORKERS TO ADEQUATELY PROVIDE THOSE SERVICES IN THE COUNTY; TO  
26 AMEND SECTION 43-27-109, MISSISSIPPI CODE OF 1972, TO DIRECT THE  
27 DEPARTMENT OF HUMAN SERVICES TO EMPLOY A SUFFICIENT NUMBER OF  
28 APPROPRIATE STAFF TO OPERATE FAMILY RESOURCE CENTERS IN VARIOUS  
29 LOCATIONS THROUGHOUT THE STATE; TO AMEND SECTIONS 43-21-261,  
30 43-21-353, 43-21-355, 43-21-603, 43-47-7, 93-21-23 AND 97-3-7,  
31 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS;  
32 AND FOR RELATED PURPOSES.

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

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

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

42 standards shall be applicable to all social workers working under  
43 the office.

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

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

55 (b) Before a person may provide services as a child  
56 protection specialist, the person shall complete four (4) weeks of  
57 intensive training provided by the training unit of the Office of  
58 Family and Children's Services, and shall take and receive a  
59 passing score on the certification test administered by the  
60 training unit upon completion of the four-week training. Upon  
61 receiving a passing score on the certification test, the person  
62 shall be certified as a child protection specialist by the  
63 Department of Human Services. Any person who does not receive a  
64 passing score on the certification test shall not be employed or  
65 maintain employment as a child protection specialist for the  
66 department. Further, a person, qualified as a child protection  
67 specialist through the procedures set forth above, shall not  
68 conduct forensic interviews of children until the specialist  
69 receives additional specialized training in child forensic  
70 interview protocols and techniques by a course or curriculum  
71 approved by the Department of Human Services to be not less than  
72 forty (40) hours.

73 (3) For the purpose of providing services in child abuse or  
74 neglect cases, youth court proceedings, vulnerable adults cases,

75 and such other cases as designated by the Executive Director of  
76 Human Services, the caseworker or service provider may be a child  
77 protection specialist whose work is overseen by a licensed social  
78 worker.

79 (4) The Department of Human Services and the Office of  
80 Family and Children's Services shall seek to employ and use  
81 licensed social workers to provide the services of the office, and  
82 may employ and use child protection specialists to provide those  
83 services only in counties in which there is not a sufficient  
84 number of licensed social workers to adequately provide those  
85 services in the county.

86 (5) This section and Sections 43-21-261, 43-21-353,  
87 43-21-355, 43-21-603, 43-27-109, 43-47-7, 93-21-23 and 97-3-7  
88 shall stand repealed on July 1, 2006.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

173 continuing professional relationship with the child and a need for  
174 such information in order to protect or treat the child.

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

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

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

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

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

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

205 inspect such records when the offender becomes eligible for  
206 parole.

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

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

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

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

235 (17) In every case where there is any indication or  
236 suggestion of either abuse or neglect and a child's physical  
237 condition is medically labeled as medically "serious" or

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

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

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

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

263 43-21-353. (1) Any attorney, physician, dentist, intern,  
264 resident, nurse, psychologist, social worker, child protection  
265 specialist, child care giver, minister, law enforcement officer,  
266 public or private school employee or any other person having  
267 reasonable cause to suspect that a child is a neglected child or  
268 an abused child, shall cause an oral report to be made immediately  
269 by telephone or otherwise and followed as soon thereafter as  
270 possible by a report in writing to the Department of Human



271 Services, and immediately a referral shall be made by the  
272 Department of Human Services to the youth court intake unit, which  
273 unit shall promptly comply with Section 43-21-357. Where  
274 appropriate, the Department of Human Services shall additionally  
275 make a referral to the youth court prosecutor. Upon receiving a  
276 report that a child has been sexually abused, or burned, tortured,  
277 mutilated or otherwise physically abused in such a manner as to  
278 cause serious bodily harm, or upon receiving any report of abuse  
279 that would be a felony under state or federal law, the Department  
280 of Human Services shall immediately notify the law enforcement  
281 agency in whose jurisdiction the abuse occurred and shall notify  
282 the appropriate prosecutor within forty-eight (48) hours, and the  
283 Department of Human Services shall have the duty to provide the  
284 law enforcement agency all the names and facts known at the time  
285 of the report; this duty shall be of a continuing nature. The law  
286 enforcement agency and the Department of Human Services shall  
287 investigate the reported abuse immediately and shall file a  
288 preliminary report with the appropriate prosecutor's office within  
289 twenty-four (24) hours and shall make additional reports as new or  
290 additional information or evidence becomes available. The  
291 Department of Human Services shall advise the clerk of the youth  
292 court and the youth court prosecutor of all cases of abuse  
293 reported to the department within seventy-two (72) hours and shall  
294 update such report as information becomes available.

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

302 (3) The Department of Human Services shall maintain a  
303 statewide incoming wide-area telephone service or similar service

304 for the purpose of receiving reports of suspected cases of child  
305 abuse; provided that any attorney, physician, dentist, intern,  
306 resident, nurse, psychologist, social worker, child protection  
307 specialist, child care giver, minister, law enforcement officer or  
308 public or private school employee who is required to report under  
309 subsection (1) of this section shall report in the manner required  
310 in subsection (1).

311 (4) Reports of abuse and neglect made under this chapter and  
312 the identity of the reporter are confidential except when the  
313 court in which the investigation report is filed, in its  
314 discretion, determines the testimony of the person reporting to be  
315 material to a judicial proceeding or when the identity of the  
316 reporter is released to law enforcement agencies and the  
317 appropriate prosecutor pursuant to subsection (1). Reports made  
318 under this section to any law enforcement agency or prosecutorial  
319 officer are for the purpose of criminal investigation and  
320 prosecution only and no information from these reports may be  
321 released to the public except as provided by Section 43-21-261.  
322 Disclosure of any information by the prosecutor shall be according  
323 to the Mississippi Uniform Rules of Circuit and County Court  
324 Procedure. The identity of the reporting party shall not be  
325 disclosed to anyone other than law enforcement officers or  
326 prosecutors without an order from the appropriate youth court.  
327 Any person disclosing any reports made under this section in a  
328 manner not expressly provided for in this section or Section  
329 43-21-261, shall be guilty of a misdemeanor and subject to the  
330 penalties prescribed by Section 43-21-267.

331 (5) All final dispositions of law enforcement investigations  
332 described in subsection (1) of this section shall be determined  
333 only by the appropriate prosecutor or court. All final  
334 dispositions of investigations by the Department of Human Services  
335 as described in subsection (1) of this section shall be determined  
336 only by the youth court. Reports made under subsection (1) of

337 this section by the Department of Human Services to the law  
338 enforcement agency and to the district attorney's office shall  
339 include the following, if known to the department:

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

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

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

363 (8) If a report is made directly to the Department of Human  
364 Services that a child has been abused or neglected in an  
365 out-of-home setting, a referral shall be made immediately to the  
366 law enforcement agency in whose jurisdiction the abuse occurred  
367 and the department shall notify the district attorney's office  
368 within forty-eight (48) hours of such report. The Department of  
369 Human Services shall investigate the out-of-home setting report of

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

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

390       43-21-355. Any attorney, physician, dentist, intern,  
391 resident, nurse, psychologist, social worker, child protection  
392 specialist, child care giver, minister, law enforcement officer,  
393 school attendance officer, public school district employee,  
394 nonpublic school employee, or any other person participating in  
395 the making of a required report pursuant to Section 43-21-353 or  
396 participating in the judicial proceeding resulting therefrom shall  
397 be presumed to be acting in good faith. Any person or institution  
398 reporting in good faith shall be immune from any liability, civil  
399 or criminal, that might otherwise be incurred or imposed.

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

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

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

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

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

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

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

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

- 430 (a) The child's physical and mental conditions;
- 431 (b) The child's need of assistance;
- 432 (c) The manner in which the parent, guardian or  
433 custodian participated in, tolerated or condoned the abuse,  
434 neglect or abandonment of the child;

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

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

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

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

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

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

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

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

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

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

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

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

484 Once the reasonable efforts requirement is bypassed, the  
485 court shall have a permanency hearing pursuant to Section  
486 43-21-613 within thirty (30) days of such finding.

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

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

492 43-27-109. (1) The Department of Human Services may employ  
493 a sufficient number of new social workers, child protection  
494 specialists, youth counselors and clerical staff to reduce the  
495 case load sizes for social workers and youth counselors of the  
496 department and to reduce the work load on clerical staff, if funds  
497 are appropriated to the department for that purpose.

498 (2) The Department of Human Services shall employ a  
499 sufficient number of social workers, youth counselors, clerical

500 staff and other appropriate staff to operate family resource  
501 centers in various locations throughout the state.

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

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

512 (i) Attorney, physician, osteopathic physician,  
513 medical examiner, chiropractor or nurse engaged in the admission,  
514 examination, care or treatment of vulnerable adults;

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

517 (iii) Practitioner who relies solely on spiritual  
518 means for healing;

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

521 (v) State, county or municipal criminal justice  
522 employee or law enforcement officer;

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

525 (vii) Accountant, stockbroker, financial advisor  
526 or consultant, insurance agent or consultant, investment advisor  
527 or consultant, financial planner, or any officer or employee of a  
528 bank, savings and loan, credit union or any other financial  
529 service provider.

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



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

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

538 (iii) Name, address and telephone number of each  
539 alleged perpetrator.

540 (iv) Name, address and telephone number of the  
541 caregiver of the vulnerable adult, if different from the alleged  
542 perpetrator.

543 (v) Description of the neglect, exploitation,  
544 physical or psychological injuries sustained.

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

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

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

555 (c) The department, or its designees, shall report to  
556 an appropriate criminal investigative or prosecutive authority any  
557 person required by this section to report or who fails to comply  
558 with this section. A person who fails to make a report as  
559 required under this subsection or who, because of the  
560 circumstances, should have known or suspected beyond a reasonable  
561 doubt that a vulnerable adult suffers from exploitation, abuse,  
562 neglect or self-neglect but who knowingly fails to comply with  
563 this section shall, upon conviction, be guilty of a misdemeanor  
564 and shall be punished by a fine not exceeding Five Thousand  
565 Dollars (\$5,000.00), or by imprisonment in the county jail for not

566 more than six (6) months, or both such fine and imprisonment.  
567 However, for purposes of this subsection (1), any recognized legal  
568 financial transaction shall not be considered cause to report the  
569 knowledge or suspicion of the financial exploitation of a  
570 vulnerable adult. If a person convicted under this section is a  
571 member of a profession or occupation that is licensed, certified  
572 or regulated by the state, the court shall notify the appropriate  
573 licensing, certifying or regulating entity of the conviction.

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

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

592 (4) Anyone who makes a report required by this section or  
593 who testifies or participates in any judicial proceedings arising  
594 from the report or who participates in a required investigation or  
595 evaluation shall be presumed to be acting in good faith and in so  
596 doing shall be immune from liability, civil or criminal, that  
597 might otherwise be incurred or imposed. However, the immunity

598 provided under this subsection shall not apply to any suspect or  
599 perpetrator of any abuse, neglect or exploitation.

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

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

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

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

644 (7) Reports made pursuant to this section, reports written  
645 or photographs taken concerning such reports in the possession of  
646 the Department of Human Services or the county department of human  
647 services shall be confidential and shall only be made available  
648 to:

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

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

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

657 (d) A district attorney or other law enforcement  
658 official.

659 Notwithstanding the provisions of paragraph (b) of this  
660 subsection, the department may not disclose a report of the  
661 abandonment, exploitation, abuse, neglect or self-neglect of a  
662 vulnerable adult to the vulnerable adult's guardian,  
663 attorney-in-fact, surrogate decision maker, or caregiver who is a

664 perpetrator or alleged perpetrator of the abandonment,  
665 exploitation, abuse or neglect of the vulnerable adult.

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

675 (8) Upon reasonable cause to believe that a caretaker or  
676 other person has abused, neglected or exploited a vulnerable  
677 adult, the department shall promptly notify the district attorney  
678 of the county in which the vulnerable adult is located and the  
679 Office of the Attorney General, except as provided in Section  
680 43-47-37(2).

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

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

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

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

729 Thousand Dollars (\$1,000.00) or by imprisonment for not more than  
730 five (5) years, or both.

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

762 Legislature is in regular or extraordinary session or while  
763 otherwise acting within the scope of his duty, office or  
764 employment, shall be punished by a fine of not more than Five  
765 Thousand Dollars (\$5,000.00) or by imprisonment for not more than  
766 thirty (30) years, or both.

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

785 (4) A person is guilty of aggravated domestic violence who  
786 commits aggravated assault as described in subsection (2) of this  
787 section against a family or household member who resides with the  
788 defendant or who formerly resided with the defendant, or a current  
789 or former spouse, a person who has a current dating relationship  
790 with the defendant, or a person with whom the defendant has had a  
791 biological or legally adopted child and upon conviction, the  
792 defendant shall be punished as provided under subsection (2) of  
793 this section; however, upon a third or subsequent offense of  
794 aggravated domestic violence, whether against the same or another



795 victim and within five (5) years, the defendant shall be guilty of  
796 a felony and sentenced to a term of imprisonment of not less than  
797 five (5) nor more than twenty (20) years. In sentencing, the  
798 court shall consider as an aggravating factor whether the crime  
799 was committed in the physical presence or hearing of a child under  
800 sixteen (16) years of age who was, at the time of the offense,  
801 living within either the residence of the victim, the residence of  
802 the perpetrator, or the residence where the offense occurred.  
803 Reasonable discipline of a child, such as spanking, is not an  
804 offense under this subsection (4).

805 (5) "Dating relationship" means a social relationship of a  
806 romantic or intimate nature.

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

813 (7) In any conviction of assault as described in any  
814 subsection of this section which arises from an incident of  
815 domestic violence, the sentencing order shall include the  
816 designation "domestic violence."

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