

By: Representatives Formby, Fillingane,  
Wells-Smith

To: Public Health and Human  
Services; Judiciary B

HOUSE BILL NO. 1321

1 AN ACT TO CODIFY SECTIONS 43-15-301 AND 43-15-303,  
2 MISSISSIPPI CODE OF 1972, TO PROHIBIT PERSONS CONVICTED OF CERTAIN  
3 SEX OFFENSES FROM EMPLOYMENT OR VOLUNTEER SERVICE AT ANY CHILD  
4 CARE SERVICE INVOLVING THE CARE, INSTRUCTION OR GUIDANCE OF MINORS  
5 THAT IS NOT LICENSED OR ACCREDITED BY THE STATE OF MISSISSIPPI; TO  
6 PROVIDE FOR MANDATORY SUBMISSION OF ALL THOSE APPLICANTS AT CHILD  
7 CARE SERVICES TO THE MISSISSIPPI SEXUAL OFFENDER REGISTRY FOR  
8 VERIFICATION; TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS OF THIS  
9 ACT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** The following shall be codified as Section  
12 43-15-301, Mississippi Code of 1972:

13 43-15-301. (1) As used in this article:

14 (a) "Child care service" means any employment or  
15 volunteer service involving the care, instruction or guidance of  
16 minor children, including, but not limited to, service as a  
17 teacher, coach or worker of any type in child athletics, a day  
18 care worker, boy or girl scout leader or master or worker, summer  
19 camp counselor or worker, guidance counselor or school  
20 administrator. The term does not include any employment or  
21 volunteer service at a child care facility, institution,  
22 residential home that is licensed by the State of Mississippi and  
23 required to conduct criminal record background checks for  
24 employees and volunteers, or any public school or accredited  
25 private school required to conduct criminal record background  
26 checks under Section 37-9-17.

27 (b) "Employer" means every person, firm, association,  
28 partnership or corporation offering or conducting a child care  
29 service.

30 (c) "Applicant" means any person who is being  
31 considered for employment or for a volunteer by an employer.

32 (d) "Convicted" means any adjudicated finding of guilt,  
33 any adjudicated finding that the applicant is physically or  
34 mentally incompetent, any adjudicated finding that the applicant  
35 is not guilty by reason of insanity, or any plea of nolo  
36 contendere.

37 (e) "Sex offense" has the same definition as in Section  
38 45-33-23(g).

39 (2) An employer offering or conducting a child care service  
40 shall not employ or permit to volunteer an applicant convicted of  
41 any sex offense.

42 (3) An employer offering or conducting a child care service  
43 shall submit an applicant's name to the Mississippi Sexual  
44 Offender Registry for verification that the applicant is not a  
45 sexual offender. If an applicant's name is listed on the  
46 registry, an employer shall notify the Department of Public Safety  
47 within seventy-two (72) hours.

48 (4) A person who would be prohibited from employment or  
49 volunteer service by a child care service provider under  
50 subsection (2) of this section may not, on or after, January 1,  
51 2005, own or operate a child care service.

52 **SECTION 2.** The following shall be codified as Section  
53 43-15-303, Mississippi Code of 1972:

54 43-15-303. (1) An applicant is guilty of a felony if,  
55 having been convicted of a sex offense, he knowingly undertakes  
56 employment or volunteer service of any type of child care service.  
57 Upon conviction under this subsection, a person shall be  
58 imprisoned in the State Penitentiary for not less than five (5)  
59 years nor more than fifteen (15) years.

60 (2) An applicant is guilty of a felony if, having been  
61 convicted of a sex offense, he knowingly fails to provide  
62 information of that conviction when applying or volunteering for

63 service or employment at any type of child care service. Upon  
64 conviction under this subsection (2), a person shall be imprisoned  
65 in the State Penitentiary for not less than one (1) year nor more  
66 than five (5) years.

67 (3) An employer is guilty of a misdemeanor if, having  
68 received an application for employment or volunteer services, the  
69 employer fails to run the applicant's name through the Mississippi  
70 Sexual Offender Registry. Upon conviction under this subsection,  
71 a person shall be fined One Hundred Thousand Dollars (\$100,000.00)  
72 and/or imprisoned for not less than one (1) month nor more than  
73 six (6) months.

74 **SECTION 3.** Sections 1 and 2 of this act shall be codified as  
75 a new article in Chapter 15, Title 43, Mississippi Code of 1972.

76 **SECTION 4.** This act shall take effect and be in force from  
77 and after July 1, 2004.