

By: Senator(s) Burton

To: Public Health and Welfare

SENATE BILL NO. 2079

1 AN ACT TO REQUIRE FINGERPRINTING AND CRIMINAL BACKGROUND
2 CHECKS FOR HEALTH CARE PROFESSIONAL/VOCATIONAL TECHNICAL STUDENTS;
3 AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** (1) For purposes of this section, health care
6 professional/vocational technical student shall be defined as a
7 student enrolled in an academic program in medicine, nursing,
8 dentistry, occupational therapy, physical therapy, social
9 services, nutrition services, speech therapy, or other allied
10 health professional whose purpose is to prepare professionals to
11 render patient care services.

12 (2) The dean or director of the health care
13 professional/vocational technical academic program shall ensure
14 that criminal records background checks and fingerprinting are
15 obtained on their students prior to their beginning any clinical
16 rotation in a licensed health care entity and that such criminal
17 record information and registry checks are on file at the academic
18 institution. In order to determine the student's suitability for
19 the clinical rotation, the student shall be fingerprinted. If no
20 disqualifying record is identified at the state level, the
21 fingerprints shall be forwarded by the Department of Public
22 Safety, the Department of Health, or any other legally authorized
23 entity to the FBI for a national criminal history record check.
24 The fee for such fingerprinting and criminal history record check
25 shall be paid by the applicant, not to exceed one hundred
26 (\$100.00); however, the academic institution in which the student
27 is enrolled, in its discretion, may elect to pay the fee for the

28 fingerprinting and criminal record check on behalf of any
29 applicant. Under no circumstances shall the academic institution
30 representative or any individual other than the subject of the
31 criminal history record checks disseminate information received
32 through any such checks except insofar as required to fulfill the
33 purposes of this section.

34 (3) If such fingerprinting or criminal record checks
35 disclose a felony conviction, guilty plea or plea of nolo
36 contendere to a felony possession or sale of drugs, murder,
37 manslaughter, armed robbery, rape, sexual battery, sex offense
38 listed in Section 45-31-3(I), child abuse, arson, grand larceny,
39 burglary, gratification of lust or aggravated assault which has
40 not been reversed on appeal or for which a pardon has not been
41 granted, the student shall not be eligible to be admitted to such
42 health professional academic program of study. Any preadmission
43 agreement executed by the health professional academic program
44 shall be voidable if the student receives a disqualifying criminal
45 record check. However, the academic health program administration
46 may, in its discretion, allow any applicant aggrieved by the
47 admissions decision under this section to appear before an appeals
48 committee or before a hearing officer designated for such purpose,
49 to show mitigating circumstances which may exist and allow the
50 student to be admitted to or continue in the program of study.
51 The health profession academic program may grant waivers for such
52 mitigating circumstances, which shall include, but not be limited
53 to: (a) age at which the crime was committed; (b) circumstances
54 surrounding the crime; (c) length of time since the conviction and
55 criminal history since the conviction; (d) work history;
56 (e) current employment and character references; (f) other
57 evidence demonstrating the ability of the student to perform the
58 clinical responsibilities competently and that the student does
59 not pose a threat to the health or safety of patients in the
60 licensed entities in which they will be conducting clinical

61 experiences. The health professional academic program shall
62 provide assurance to the licensed entity in which the clinical
63 rotation is planned that the results of a health professional
64 student's criminal history record check would not prohibit their
65 being able to conduct their clinical activities in the facility,
66 institution, or organization. Such criminal history record check
67 shall be valid for the course of academic study provided that
68 annual disclosure statements are provided to the health
69 professional academic program regarding any criminal activity that
70 may have occurred during the student's tenure with the health
71 professional academic program. The criminal history record check
72 may be repeated at the discretion of the health professional
73 academic program based on information obtained during the annual
74 disclosure statements. In extenuating circumstances, should a
75 criminal history record check be initiated and the results not be
76 available at the time the clinical rotation begins, the academic
77 institution in which the student is enrolled, at its discretion,
78 may require a signed affidavit from the student assuring
79 compliance with this act. Said affidavit will be considered null
80 and void within sixty (60) days of its signature.

81 (4) Criminal history record checks that are done as part of
82 the requirements for participation in the health professional/
83 vocational technical academic program may not be used for any
84 other purpose than those activities associated with their program
85 of study. Students who may be employed as health professionals
86 outside of their program of study may be required to obtain
87 additional criminal history record checks as part of their
88 employment agreement.

89 (5) No health professional/vocational technical academic
90 program or academic health program employee shall be held liable
91 in any admissions discrimination suit in which an allegation of
92 discrimination is made regarding an admissions decision authorized
93 under this section.

94 **SECTION 2.** This act shall take effect and be in force from
95 and after July 1, 2004.