

By: Senator(s) Burton

To: Public Health and Welfare

SENATE BILL NO. 2426

1 AN ACT TO CODIFY SECTIONS 43-15-301 AND 43-15-311,  
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 WHICH IS NOT LICENSED OR ACCREDITED BY THE STATE OF MISSISSIPPI;  
6 TO PROVIDE FOR MANDATORY SUBMISSION OF ALL SUCH APPLICANTS AT  
7 CHILD CARE SERVICES TO THE MISSISSIPPI SEXUAL OFFENDER REGISTRY  
8 FOR VERIFICATION; TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS OF  
9 THIS ACT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** The following provision shall be codified as

12 Section 43-15-301, Mississippi Code of 1972:

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

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 daycare  
18 worker, boy or girl scout leader or master or worker, summer camp  
19 counselor or worker, guidance counselor or school administrator.  
20 It shall not include any employment or volunteer service at a  
21 child care facility, institution, residential home which is  
22 licensed by the State of Mississippi and required to conduct  
23 criminal record background checks for employees and volunteers, or  
24 any public school or accredited private school required to conduct  
25 criminal record background checks under Section 37-9-17.

26 (b) "Employer" means every person, firm, association,  
27 partnership or corporation offering or conducting child care  
28 services as defined in Section (1)(a) of this section.

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

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

36 (e) "Sex Offense" shall hold the same definition as  
37 Section 45-33-23(g) et seq., Mississippi Code of 1972.

38 (2) An employer offering or conducting a child care service  
39 shall not employ or permit to volunteer an applicant convicted of  
40 any sex offense as defined in Section 45-33-23(g) et seq.,  
41 Mississippi Code of 1972.

42 (3) An employer offering or conducting a child care service  
43 shall be required to submit an applicant's name to the Mississippi  
44 Sexual Offender Registry for verification that the applicant is  
45 not a sexual offender. If an applicant's name is listed on the  
46 registry, an employer is required to notify the Department of  
47 Public Safety 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 pursuant to  
50 subsection (2) of this section may not, on or after, January 1,  
51 2005, own or operate a child care service as defined by subsection  
52 (1) of this section.

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

55 43-15-303. (1) An applicant is guilty of a felony if,  
56 having been convicted of one or more paragraphs of Section  
57 43-15-301, he knowingly undertakes employment or volunteer service  
58 of any type of child care service. Upon conviction under  
59 subsection (1) of this section, a person shall be imprisoned in  
60 the State Penitentiary for not less than five (5) years but no  
61 greater than fifteen (15) years.

62 (2) An applicant is guilty of a felony if, having been  
63 convicted of a sexual offense as defined by Section 45-33-23(g) et

64 seq., Mississippi Code of 1972, he knowingly fails to provide  
65 information of such conviction when applying or volunteering for  
66 service or employment at any type of child care service. Upon  
67 conviction under subsection (2) of this section, a person shall be  
68 imprisoned in the State Penitentiary for not less than one (1)  
69 year but no greater than five (5) years.

70 (3) An employer is guilty of a misdemeanor if, having  
71 received an application for employment or volunteer services,  
72 fails to run the applicant's name through the Mississippi Sexual  
73 Offender Registry. Upon conviction under subsection (3) of this  
74 section, a person shall be fined One Hundred Thousand Dollars  
75 (\$100,000.00) and/or imprisoned not less than one (1) month but no  
76 greater than six (6) months.

77 **SECTION 3.** This act shall take effect and be in force from  
78 and after July 1, 2004.