

By: Representative Moak

To: Public Health and Human Services

HOUSE BILL NO. 278

1 AN ACT TO PROVIDE THAT ANY PERSON WHO IS REQUIRED TO REPORT
 2 CASES OF SUSPECTED ABUSE UNDER THE MISSISSIPPI VULNERABLE ADULTS
 3 ACT AND HAS REASONABLE CAUSE TO SUSPECT THAT AN ADULT HAS DIED AS
 4 A RESULT OF THE ABUSE, MUST REPORT THAT FACT TO THE APPROPRIATE
 5 MEDICAL EXAMINER OR CORONER; TO REQUIRE LONG-TERM CARE FACILITIES
 6 TO REPORT TO THE APPROPRIATE MEDICAL EXAMINER OR CORONER ALL
 7 DEATHS OF RESIDENTS OF THE FACILITY; TO REQUIRE HOSPITALS TO
 8 REPORT TO THE APPROPRIATE MEDICAL EXAMINER OR CORONER ALL DEATHS
 9 OF INDIVIDUALS IN THE HOSPITAL WHO WERE RESIDENTS OF A LONG-TERM
 10 FACILITY WITHIN FIVE DAYS OF ENTERING THE HOSPITAL; TO AMEND
 11 SECTION 43-47-7, IN CONFORMITY WITH THE PROVISIONS OF THIS ACT;
 12 AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** (1) Any person or official who is required to
 15 report cases of suspected abuse of adults under the provisions of
 16 the Mississippi Vulnerable Adults Act and who has reasonable cause
 17 to suspect that an adult has died as a result of abuse, sexual
 18 abuse or negligence, shall report that fact to the appropriate
 19 medical examiner or coroner.

20 (2) In all cases of the death of a long-term care facility
 21 resident or a hospice facility resident, the long-term care
 22 facility or the hospice facility shall immediately report the
 23 death to the appropriate medical examiner or coroner. The report
 24 is required regardless of whether the facility believes the death
 25 to be from natural causes or the result of abuse, sexual abuse,
 26 negligence or any other cause.

27 (3) In all cases of the death of an individual in a hospital
 28 who was a resident of a long-term care facility within five (5)
 29 days of entering the hospital, the hospital shall immediately
 30 report the death to the appropriate medical examiner or coroner.
 31 The report is required regardless of whether the facility believes

32 the death to be from natural causes or the result of abuse, sexual
33 abuse, negligence or any other cause.

34 (4) (a) The medical examiner or coroner shall accept the
35 report for investigation and, upon finding reasonable cause to
36 suspect that an adult has died as a result of abuse, sexual abuse
37 or negligence, shall report his findings to the police and the
38 appropriate prosecuting attorney. If the institution making the
39 report is a hospital or nursing home, the medical examiner or
40 coroner shall report his findings to the hospital or nursing home
41 unless the findings are part of a pending or ongoing law
42 enforcement investigation.

43 (b) The medical examiner, coroner or hospital shall
44 also report the findings to the Department of Human Services when:

45 (i) Reasonable cause exists to believe the death
46 resulted from abuse, neglect or exploitation of an adult; or

47 (ii) There is a pending investigation concerning
48 allegations of abuse or neglect occurring before death, upon
49 request of the department.

50 **SECTION 2.** Section 43-47-7, Mississippi Code of 1972, is
51 amended as follows:

52 43-47-7. (1) (a) Except as otherwise provided by Section
53 43-47-37 for vulnerable adults in care facilities, any person
54 including, but not limited to, the following, who knows or
55 suspects that a vulnerable adult has been or is being abused,
56 neglected or exploited shall immediately report such knowledge or
57 suspicion to the Department of Human Services or to the county
58 department of human services where the vulnerable adult is
59 located:

60 (i) Attorney, physician, osteopathic physician,
61 medical examiner, chiropractor or nurse engaged in the admission,
62 examination, care or treatment of vulnerable adults;

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

65 (iii) Practitioner who relies solely on spiritual
66 means for healing;

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

69 (v) State, county or municipal criminal justice
70 employee or law enforcement officer;

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

73 (vii) Accountant, stockbroker, financial advisor
74 or consultant, insurance agent or consultant, investment advisor
75 or consultant, financial planner, or any officer or employee of a
76 bank, savings and loan, credit union or any other financial
77 service provider.

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

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

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

86 (iii) Name, address and telephone number of each
87 alleged perpetrator.

88 (iv) Name, address and telephone number of the
89 caregiver of the vulnerable adult, if different from the alleged
90 perpetrator.

91 (v) Description of the neglect, exploitation,
92 physical or psychological injuries sustained.

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

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

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

103 (c) The department, or its designees, shall report to
104 an appropriate criminal investigative or prosecutive authority any
105 person required by this section to report or who fails to comply
106 with this section. A person who fails to make a report as
107 required under this subsection or who, because of the
108 circumstances, should have known or suspected beyond a reasonable
109 doubt that a vulnerable adult suffers from exploitation, abuse,
110 neglect or self-neglect but who knowingly fails to comply with
111 this section shall, upon conviction, be guilty of a misdemeanor
112 and shall be punished by a fine not exceeding Five Thousand
113 Dollars (\$5,000.00), or by imprisonment in the county jail for not
114 more than six (6) months, or both such fine and imprisonment.
115 However, for purposes of this subsection (1), any recognized legal
116 financial transaction shall not be considered cause to report the
117 knowledge or suspicion of the financial exploitation of a
118 vulnerable adult. If a person convicted under this section is a
119 member of a profession or occupation that is licensed, certified
120 or regulated by the state, the court shall notify the appropriate
121 licensing, certifying or regulating entity of the conviction.

122 (2) Reports received by law enforcement authorities or other
123 agencies shall be forwarded immediately to the Department of Human
124 Services or the county department of human services. The
125 Department of Human Services shall investigate the reported abuse,
126 neglect or exploitation immediately and shall file a preliminary
127 report of its findings with the Office of the Attorney General
128 within forty-eight (48) hours, and shall make additional reports
129 as new information or evidence becomes available. The Department
130 of Human Services, upon request, shall forward a statement to the

131 person making the initial report required by this section as to
132 what action is being taken, if any.

133 (3) The report may be made orally or in writing, but where
134 made orally, it shall be followed up by a written report. A
135 person who fails to report or to otherwise comply with this
136 section, as provided herein, shall have no civil or criminal
137 liability, other than that expressly provided for in this section,
138 to any person or entity in connection with any failure to report
139 or to otherwise comply with the requirements of this section.

140 (4) Anyone who makes a report required by this section or
141 who testifies or participates in any judicial proceedings arising
142 from the report or who participates in a required investigation or
143 evaluation shall be presumed to be acting in good faith and in so
144 doing shall be immune from liability, civil or criminal, that
145 might otherwise be incurred or imposed. However, the immunity
146 provided under this subsection shall not apply to any suspect or
147 perpetrator of any abuse, neglect or exploitation.

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

152 (6) The Executive Director of Human Services shall establish
153 a statewide central register of reports made pursuant to this
154 section. The central register shall be capable of receiving
155 reports of vulnerable adults in need of protective services seven
156 (7) days a week, twenty-four (24) hours a day. To effectuate this
157 purpose, the executive director shall establish a single toll-free
158 statewide phone number that all persons may use to report
159 vulnerable adults in need of protective services, and that all
160 persons authorized by subsection (7) of this section may use for
161 determining the existence of prior reports in order to evaluate
162 the condition or circumstances of the vulnerable adult before
163 them. Such oral reports and evidence of previous reports shall be

164 transmitted to the appropriate county department of human
165 services. The central register shall include, but not be limited
166 to, the following information: the name and identifying
167 information of the individual reported, the county department of
168 human services responsible for the investigation of each such
169 report, the names, affiliations and purposes of any person
170 requesting or receiving information which the executive director
171 believes might be helpful in the furtherance of the purposes of
172 this chapter, the name, address, birth date, social security
173 number of the perpetrator of abuse, neglect and/or exploitation,
174 and the type of abuse, neglect and/or exploitation of which there
175 was substantial evidence upon investigation of the report. The
176 central register shall inform the person making reports required
177 under this section of his or her right to request statements from
178 the department as to what action is being taken, if any.

179 Each person, business, organization or other entity, whether
180 public or private, operated for profit, operated for nonprofit or
181 a voluntary unit of government not responsible for law enforcement
182 providing care, supervision or treatment of vulnerable adults
183 shall conduct criminal history records checks on each new employee
184 of the entity who provides, and/or would provide direct patient
185 care or services to adults or vulnerable persons, as provided in
186 Section 43-11-13.

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

192 (7) Reports made pursuant to this section, reports written
193 or photographs taken concerning such reports in the possession of
194 the Department of Human Services or the county department of human
195 services shall be confidential and shall only be made available
196 to:

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

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

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

205 (d) A district attorney or other law enforcement
206 official.

207 Notwithstanding the provisions of paragraph (b) of this
208 subsection, the department may not disclose a report of the
209 abandonment, exploitation, abuse, neglect or self-neglect of a
210 vulnerable adult to the vulnerable adult's guardian,
211 attorney-in-fact, surrogate decision maker, or caregiver who is a
212 perpetrator or alleged perpetrator of the abandonment,
213 exploitation, abuse or neglect of the vulnerable adult.

214 Any person given access to the names or other information
215 identifying the subject of the report, except the subject of the
216 report, shall not divulge or make public such identifying
217 information unless he is a district attorney or other law
218 enforcement official and the purpose is to initiate court action.
219 Any person who willfully permits the release of any data or
220 information obtained pursuant to this section to persons or
221 agencies not permitted to such access by this section shall be
222 guilty of a misdemeanor.

223 (8) Upon reasonable cause to believe that a caretaker or
224 other person has abused, neglected or exploited a vulnerable
225 adult, the department shall promptly notify the district attorney
226 of the county in which the vulnerable adult is located and the
227 Office of the Attorney General, except as provided in Section
228 43-47-37(2).

229 (9) Anyone who makes a report under this section shall
230 comply with the provisions of Section 1 of this act.

231 **SECTION 3.** This act shall take effect and be in force from
232 and after July 1, 2006.