

By: Representative Holland

To: Public Health and Human Services

HOUSE BILL NO. 886

1 AN ACT TO AMEND SECTION 43-1-55, MISSISSIPPI CODE OF 1972, TO  
2 DELETE THE AUTOMATIC REPEALER ON SECTIONS OF THE CODE RELATING TO  
3 CHILD PROTECTION SPECIALISTS EMPLOYED BY THE DEPARTMENT OF HUMAN  
4 SERVICES; TO REENACT SECTIONS 43-21-261, 43-21-353, 43-21-355,  
5 43-21-603, 43-27-109, 43-47-7, 93-21-23 AND 97-3-7, MISSISSIPPI  
6 CODE OF 1972, WHICH RELATE TO THE RESPONSIBILITIES OF CHILD  
7 PROTECTION SPECIALISTS; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 43-1-55, Mississippi Code of 1972, is  
10 amended as follows:

11 43-1-55. (1) The Office of Family and Children's Services  
12 shall devise formal social worker standards for employment and  
13 service delivery designed to measure the quality of services  
14 delivered to clients, as well as the timeliness of services. Each  
15 social worker shall be assessed annually by a supervisor who is  
16 knowledgeable in the standards promulgated. The standards shall  
17 be applicable to all social workers working under the office.

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

22 (a) In order to be employed as a child protection  
23 specialist, a person must have a bachelor's degree in either  
24 psychology, sociology, nursing, criminal justice or a related  
25 field, or a graduate degree in either law, psychology, sociology,  
26 nursing, criminal justice or a related field. The determination  
27 of what is a related field shall be made by certification of the  
28 State Personnel Board; and

29           (b) Before a person may provide services as a child  
30 protection specialist, the person shall complete four (4) weeks of  
31 intensive training provided by the training unit of the Office of  
32 Family and Children's Services, and shall take and receive a  
33 passing score on the certification test administered by the  
34 training unit upon completion of the four-week training. Upon  
35 receiving a passing score on the certification test, the person  
36 shall be certified as a child protection specialist by the  
37 Department of Human Services. Any person who does not receive a  
38 passing score on the certification test shall not be employed or  
39 maintain employment as a child protection specialist for the  
40 department. Further, a person, qualified as a child protection  
41 specialist through the procedures set forth above, shall not  
42 conduct forensic interviews of children until the specialist  
43 receives additional specialized training in child forensic  
44 interview protocols and techniques by a course or curriculum  
45 approved by the Department of Human Services to be not less than  
46 forty (40) hours.

47           (3) For the purpose of providing services in child abuse or  
48 neglect cases, youth court proceedings, vulnerable adults cases,  
49 and such other cases as designated by the Executive Director of  
50 Human Services, the caseworker or service provider may be a child  
51 protection specialist whose work is overseen by a licensed social  
52 worker.

53           (4) The Department of Human Services and the Office of  
54 Family and Children's Services shall seek to employ and use  
55 licensed social workers to provide the services of the office, and  
56 may employ and use child protection specialists to provide those  
57 services only in counties in which there is not a sufficient  
58 number of licensed social workers to adequately provide those  
59 services in the county.

60           \* \* \*

61           **SECTION 2.** Section 43-21-261, Mississippi Code of 1972, is  
62 reenacted as follows:

63           43-21-261. (1) Except as otherwise provided in this  
64 section, records involving children shall not be disclosed, other  
65 than to necessary staff of the youth court, except pursuant to an  
66 order of the youth court specifying the person or persons to whom  
67 the records may be disclosed, the extent of the records which may  
68 be disclosed and the purpose of the disclosure. Such court orders  
69 for disclosure shall be limited to those instances in which the  
70 youth court concludes, in its discretion, that disclosure is  
71 required for the best interests of the child, the public safety or  
72 the functioning of the youth court and then only to the following  
73 persons:

74           (a) The judge of another youth court or member of  
75 another youth court staff;

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

78           (c) A judge of any other court or members of another  
79 court staff;

80           (d) Representatives of a public or private agency  
81 providing supervision or having custody of the child under order  
82 of the youth court;

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

89           (f) The Mississippi Employment Security Commission, or  
90 its duly authorized representatives, for the purpose of a child's  
91 enrollment into the Job Corps Training Program as authorized by  
92 Title IV of the Comprehensive Employment Training Act of 1973 (29  
93 USCS Section 923 et seq.). However, no records, reports,

94 investigations or information derived therefrom pertaining to  
95 child abuse or neglect shall be disclosed; and

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

100 Law enforcement agencies may disclose information to the  
101 public concerning the taking of a child into custody for the  
102 commission of a delinquent act without the necessity of an order  
103 from the youth court. The information released shall not identify  
104 the child or his address unless the information involves a child  
105 convicted as an adult.

106 (2) Any records involving children which are disclosed under  
107 an order of the youth court and the contents thereof shall be kept  
108 confidential by the person or agency to whom the record is  
109 disclosed except as provided in the order. Any further disclosure  
110 of any records involving children shall be made only under an  
111 order of the youth court as provided in this section.

112 (3) Upon request, the parent, guardian or custodian of the  
113 child who is the subject of a youth court cause or any attorney  
114 for such parent, guardian or custodian, shall have the right to  
115 inspect any record, report or investigation which is to be  
116 considered by the youth court at a hearing, except that the  
117 identity of the reporter shall not be released, nor the name of  
118 any other person where the person or agency making the information  
119 available finds that disclosure of the information would be likely  
120 to endanger the life or safety of such person.

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

125 (5) (a) The youth court prosecutor or prosecutors, the  
126 county attorney, the district attorney, the youth court defender

127 or defenders, or any attorney representing a child shall have the  
128 right to inspect any law enforcement record involving children.

129 (b) The Department of Human Services shall disclose to  
130 a county prosecuting attorney or district attorney any and all  
131 records resulting from an investigation into suspected child abuse  
132 or neglect when the case has been referred by the Department of  
133 Human Services to the county prosecuting attorney or district  
134 attorney for criminal prosecution.

135 (c) Agency records made confidential under the  
136 provisions of this section may be disclosed to a court of  
137 competent jurisdiction.

138 (6) Information concerning an investigation into a report of  
139 child abuse or child neglect may be disclosed by the Department of  
140 Human Services without order of the youth court to any attorney,  
141 physician, dentist, intern, resident, nurse, psychologist, social  
142 worker, child protection specialist, child care giver, minister,  
143 law enforcement officer, public or private school employee making  
144 that report pursuant to Section 43-21-353(1) if the reporter has a  
145 continuing professional relationship with the child and a need for  
146 such information in order to protect or treat the child.

147 (7) Information concerning an investigation into a report of  
148 child abuse or child neglect may be disclosed without further  
149 order of the youth court to any interagency child abuse task force  
150 established in any county or municipality by order of the youth  
151 court of that county or municipality.

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

156 (9) Names and addresses of juveniles adjudicated as  
157 delinquent for murder, manslaughter, burglary, arson, armed  
158 robbery, aggravated assault, any sex offense as defined in Section  
159 45-33-23, for any violation of Section 41-29-139(a)(1) or for any

160 violation of Section 63-11-30, shall not be held confidential and  
161 shall be made available to the public.

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

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

170 (12) A classification hearing officer of the State  
171 Department of Corrections, as provided in Section 47-5-103, shall  
172 have the right to inspect any youth court records, excluding abuse  
173 and neglect records, of any offender in the custody of the  
174 department who as a child or minor was a juvenile offender or was  
175 the subject of a youth court cause of action, and the State Parole  
176 Board, as provided in Section 47-7-17, shall have the right to  
177 inspect such records when the offender becomes eligible for  
178 parole.

179 (13) The youth court shall notify the Department of Public  
180 Safety of the name, and any other identifying information such  
181 department may require, of any child who is adjudicated delinquent  
182 as a result of a violation of the Uniform Controlled Substances  
183 Law.

184 (14) The Administrative Office of Courts shall have the  
185 right to inspect any youth court records in order that the number  
186 of youthful offenders, abused, neglected, truant and dependent  
187 children, as well as children in need of special care and children  
188 in need of supervision, may be tracked with specificity through  
189 the youth court and adult justice system, and to utilize tracking  
190 forms for such purpose.

191 (15) Upon a request by a youth court, the Administrative  
192 Office of Courts shall disclose all information at its disposal

193 concerning any previous youth court intakes alleging that a child  
194 was a delinquent child, child in need of supervision, child in  
195 need of special care, truant child, abused child or neglected  
196 child, as well as any previous youth court adjudications for the  
197 same and all dispositional information concerning a child who at  
198 the time of such request comes under the jurisdiction of the youth  
199 court making such request.

200 (16) In every case where an abuse or neglect allegation has  
201 been made, the confidentiality provisions of this section shall  
202 not apply to prohibit access to a child's records by any state  
203 regulatory agency, any state or local prosecutorial agency or law  
204 enforcement agency; however, no identifying information concerning  
205 the child in question may be released to the public by such agency  
206 except as otherwise provided herein.

207 (17) In every case where there is any indication or  
208 suggestion of either abuse or neglect and a child's physical  
209 condition is medically labeled as medically "serious" or  
210 "critical" or a child dies, the confidentiality provisions of this  
211 section shall not apply. In cases of child deaths, the following  
212 information may be released by the Mississippi Department of Human  
213 Services: (a) Child's name; (b) address or location; (c)  
214 verification from the Department of Human Services of case status  
215 (no case or involvement, case exists, open or active case, case  
216 closed); (d) if a case exists, the type of report or case  
217 (physical abuse, neglect, etc.), date of intake(s) and  
218 investigation(s), and case disposition (substantiated or  
219 unsubstantiated). Notwithstanding the aforesaid, the  
220 confidentiality provisions of this section shall continue if there  
221 is a pending or planned investigation by any local, state or  
222 federal governmental agency or institution.

223 (18) Any member of a foster care review board designated by  
224 the Department of Human Services shall have the right to inspect

225 youth court records relating to the abuse, neglect or child in  
226 need of supervision cases assigned to such member for review.

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

233 **SECTION 3.** Section 43-21-353, Mississippi Code of 1972, is  
234 reenacted as follows:

235 43-21-353. (1) Any attorney, physician, dentist, intern,  
236 resident, nurse, psychologist, social worker, child protection  
237 specialist, child care giver, minister, law enforcement officer,  
238 public or private school employee or any other person having  
239 reasonable cause to suspect that a child is a neglected child or  
240 an abused child, shall cause an oral report to be made immediately  
241 by telephone or otherwise and followed as soon thereafter as  
242 possible by a report in writing to the Department of Human  
243 Services, and immediately a referral shall be made by the  
244 Department of Human Services to the youth court intake unit, which  
245 unit shall promptly comply with Section 43-21-357. Where  
246 appropriate, the Department of Human Services shall additionally  
247 make a referral to the youth court prosecutor. Upon receiving a  
248 report that a child has been sexually abused, or burned, tortured,  
249 mutilated or otherwise physically abused in such a manner as to  
250 cause serious bodily harm, or upon receiving any report of abuse  
251 that would be a felony under state or federal law, the Department  
252 of Human Services shall immediately notify the law enforcement  
253 agency in whose jurisdiction the abuse occurred and shall notify  
254 the appropriate prosecutor within forty-eight (48) hours, and the  
255 Department of Human Services shall have the duty to provide the  
256 law enforcement agency all the names and facts known at the time  
257 of the report; this duty shall be of a continuing nature. The law



258 enforcement agency and the Department of Human Services shall  
259 investigate the reported abuse immediately and shall file a  
260 preliminary report with the appropriate prosecutor's office within  
261 twenty-four (24) hours and shall make additional reports as new or  
262 additional information or evidence becomes available. The  
263 Department of Human Services shall advise the clerk of the youth  
264 court and the youth court prosecutor of all cases of abuse  
265 reported to the department within seventy-two (72) hours and shall  
266 update such report as information becomes available.

267 (2) Any report to the Department of Human Services shall  
268 contain the names and addresses of the child and his parents or  
269 other persons responsible for his care, if known, the child's age,  
270 the nature and extent of the child's injuries, including any  
271 evidence of previous injuries and any other information that might  
272 be helpful in establishing the cause of the injury and the  
273 identity of the perpetrator.

274 (3) The Department of Human Services shall maintain a  
275 statewide incoming wide-area telephone service or similar service  
276 for the purpose of receiving reports of suspected cases of child  
277 abuse; provided that any attorney, physician, dentist, intern,  
278 resident, nurse, psychologist, social worker, child protection  
279 specialist, child care giver, minister, law enforcement officer or  
280 public or private school employee who is required to report under  
281 subsection (1) of this section shall report in the manner required  
282 in subsection (1).

283 (4) Reports of abuse and neglect made under this chapter and  
284 the identity of the reporter are confidential except when the  
285 court in which the investigation report is filed, in its  
286 discretion, determines the testimony of the person reporting to be  
287 material to a judicial proceeding or when the identity of the  
288 reporter is released to law enforcement agencies and the  
289 appropriate prosecutor pursuant to subsection (1). Reports made  
290 under this section to any law enforcement agency or prosecutorial

291 officer are for the purpose of criminal investigation and  
292 prosecution only and no information from these reports may be  
293 released to the public except as provided by Section 43-21-261.  
294 Disclosure of any information by the prosecutor shall be according  
295 to the Mississippi Uniform Rules of Circuit and County Court  
296 Procedure. The identity of the reporting party shall not be  
297 disclosed to anyone other than law enforcement officers or  
298 prosecutors without an order from the appropriate youth court.  
299 Any person disclosing any reports made under this section in a  
300 manner not expressly provided for in this section or Section  
301 43-21-261, shall be guilty of a misdemeanor and subject to the  
302 penalties prescribed by Section 43-21-267.

303 (5) All final dispositions of law enforcement investigations  
304 described in subsection (1) of this section shall be determined  
305 only by the appropriate prosecutor or court. All final  
306 dispositions of investigations by the Department of Human Services  
307 as described in subsection (1) of this section shall be determined  
308 only by the youth court. Reports made under subsection (1) of  
309 this section by the Department of Human Services to the law  
310 enforcement agency and to the district attorney's office shall  
311 include the following, if known to the department:

- 312 (a) The name and address of the child;
- 313 (b) The names and addresses of the parents;
- 314 (c) The name and address of the suspected perpetrator;
- 315 (d) The names and addresses of all witnesses, including  
316 the reporting party if a material witness to the abuse;
- 317 (e) A brief statement of the facts indicating that the  
318 child has been abused and any other information from the agency  
319 files or known to the social worker or child protection specialist  
320 making the investigation, including medical records or other  
321 records, which may assist law enforcement or the district attorney  
322 in investigating and/or prosecuting the case; and

323 (f) What, if any, action is being taken by the  
324 Department of Human Services.

325 (6) In any investigation of a report made under this chapter  
326 of the abuse or neglect of a child as defined in Section  
327 43-21-105(m), the Department of Human Services may request the  
328 appropriate law enforcement officer with jurisdiction to accompany  
329 the department in its investigation, and in such cases the law  
330 enforcement officer shall comply with such request.

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

335 (8) If a report is made directly to the Department of Human  
336 Services that a child has been abused or neglected in an  
337 out-of-home setting, a referral shall be made immediately to the  
338 law enforcement agency in whose jurisdiction the abuse occurred  
339 and the department shall notify the district attorney's office  
340 within forty-eight (48) hours of such report. The Department of  
341 Human Services shall investigate the out-of-home setting report of  
342 abuse or neglect to determine whether the child who is the subject  
343 of the report, or other children in the same environment, comes  
344 within the jurisdiction of the youth court and shall report to the  
345 youth court the department's findings and recommendation as to  
346 whether the child who is the subject of the report or other  
347 children in the same environment require the protection of the  
348 youth court. The law enforcement agency shall investigate the  
349 reported abuse immediately and shall file a preliminary report  
350 with the district attorney's office within forty-eight (48) hours  
351 and shall make additional reports as new information or evidence  
352 becomes available. If the out-of-home setting is a licensed  
353 facility, an additional referral shall be made by the Department  
354 of Human Services to the licensing agency. The licensing agency  
355 shall investigate the report and shall provide the Department of

356 Human Services, the law enforcement agency and the district  
357 attorney's office with their written findings from such  
358 investigation as well as that licensing agency's recommendations  
359 and actions taken.

360 **SECTION 4.** Section 43-21-355, Mississippi Code of 1972, is  
361 reenacted as follows:

362 43-21-355. Any attorney, physician, dentist, intern,  
363 resident, nurse, psychologist, social worker, child protection  
364 specialist, child care giver, minister, law enforcement officer,  
365 school attendance officer, public school district employee,  
366 nonpublic school employee, or any other person participating in  
367 the making of a required report pursuant to Section 43-21-353 or  
368 participating in the judicial proceeding resulting therefrom shall  
369 be presumed to be acting in good faith. Any person or institution  
370 reporting in good faith shall be immune from any liability, civil  
371 or criminal, that might otherwise be incurred or imposed.

372 **SECTION 5.** Section 43-21-603, Mississippi Code of 1972, is  
373 reenacted as follows:

374 43-21-603. (1) At the beginning of each disposition  
375 hearing, the judge shall inform the parties of the purpose of the  
376 hearing.

377 (2) All testimony shall be under oath unless waived by all  
378 parties and may be in narrative form. The court may consider any  
379 evidence that is material and relevant to the disposition of the  
380 cause, including hearsay and opinion evidence. At the conclusion  
381 of the evidence, the youth court shall give the parties an  
382 opportunity to present oral argument.

383 (3) If the child has been adjudicated a delinquent child,  
384 before entering a disposition order, the youth court should  
385 consider, among others, the following relevant factors:

- 386 (a) The nature of the offense;
- 387 (b) The manner in which the offense was committed;

388           (c) The nature and number of a child's prior  
389 adjudicated offenses;

390           (d) The child's need for care and assistance;

391           (e) The child's current medical history, including  
392 medication and diagnosis;

393           (f) The child's mental health history, which may  
394 include, but not be limited to, the Massachusetts Youth Screening  
395 Instrument version 2 (MAYSI-2);

396           (g) Copies of the child's cumulative record from the  
397 last school of record, including special education records, if  
398 applicable;

399           (h) Recommendation from the school of record based on  
400 areas of remediation needed;

401           (i) Disciplinary records from the school of record; and

402           (j) Records of disciplinary actions outside of the  
403 school setting.

404           (4) If the child has been adjudicated a child in need of  
405 supervision, before entering a disposition order, the youth court  
406 should consider, among others, the following relevant factors:

407           (a) The nature and history of the child's conduct;

408           (b) The family and home situation; and

409           (c) The child's need of care and assistance.

410           (5) If the child has been adjudicated a neglected child or  
411 an abused child, before entering a disposition order, the youth  
412 court shall consider, among others, the following relevant  
413 factors:

414           (a) The child's physical and mental conditions;

415           (b) The child's need of assistance;

416           (c) The manner in which the parent, guardian or  
417 custodian participated in, tolerated or condoned the abuse,  
418 neglect or abandonment of the child;

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

421 (e) Relevant testimony and recommendations, where  
422 available, from the foster parent of the child, the grandparents  
423 of the child, the guardian ad litem of the child, representatives  
424 of any private care agency that has cared for the child, the  
425 social worker or child protection specialist assigned to the case,  
426 and any other relevant testimony pertaining to the case.

427 (6) After consideration of all the evidence and the relevant  
428 factors, the youth court shall enter a disposition order that  
429 shall not recite any of the facts or circumstances upon which the  
430 disposition is based, nor shall it recite that a child has been  
431 found guilty; but it shall recite that a child is found to be a  
432 delinquent child, a child in need of supervision, a neglected  
433 child or an abused child.

434 (7) If the youth court orders that the custody or  
435 supervision of a child who has been adjudicated abused or  
436 neglected be placed with the Department of Human Services or any  
437 other person or public or private agency, other than the child's  
438 parent, guardian or custodian, the youth court shall find and the  
439 disposition order shall recite that:

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

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

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

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

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

456                   (ii) The parent has been convicted of murder of  
457 another child of that parent, voluntary manslaughter of another  
458 child of that parent, aided or abetted, attempted, conspired or  
459 solicited to commit that murder or voluntary manslaughter, or a  
460 felony assault that results in the serious bodily injury to the  
461 surviving child or another child of that parent; or

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

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

468           Once the reasonable efforts requirement is bypassed, the  
469 court shall have a permanency hearing under Section 43-21-613  
470 within thirty (30) days of the finding.

471           (8) Upon a written motion by a party, the youth court shall  
472 make written findings of fact and conclusions of law upon which it  
473 relies for the disposition order. If the disposition ordered by  
474 the youth court includes placing the child in the custody of a  
475 training school, an admission packet shall be prepared for the  
476 child that contains the following information:

477                   (a) The child's current medical history, including  
478 medications and diagnosis;

479                   (b) The child's mental health history;

480                   (c) Copies of the child's cumulative record from the  
481 last school of record, including special education records, if  
482 reasonably available;

483                   (d) Recommendation from the school of record based on  
484 areas of remediation needed;

485                   (e) Disciplinary records from the school of record; and

486 (f) Records of disciplinary actions outside of the  
487 school setting, if reasonably available.

488 Only individuals who are permitted under the Health Insurance  
489 Portability and Accountability Act of 1996 (HIPAA) shall have  
490 access to a child's medical records which are contained in an  
491 admission packet. The youth court shall provide the admission  
492 packet to the training school at or before the child's arrival at  
493 the training school. The admittance of any child to a training  
494 school shall take place between the hours of 8:00 a.m. and 3:00  
495 p.m. on designated admission days.

496 (9) When a child in the jurisdiction of the Youth Court is  
497 committed to the custody of the Mississippi Department of Human  
498 Services and is believed to be in need of treatment for a mental  
499 or emotional disability or infirmity, the Department of Human  
500 Services shall file an affidavit alleging that the child is in  
501 need of mental health services with the Youth Court. The Youth  
502 Court shall refer the child to the appropriate community mental  
503 health center for evaluation pursuant to Section 41-21-67. If  
504 said prescreening evaluation recommends residential care, the  
505 Youth Court shall proceed with civil commitment pursuant to  
506 Sections 41-21-61 et seq., 43-21-315 and 43-21-611, and the  
507 Department of Mental Health, once commitment is ordered, shall  
508 provide appropriate care, treatment and services for at least as  
509 many adolescents as were provided services in fiscal year 2004 in  
510 its facilities.

511 **SECTION 6.** Section 43-27-109, Mississippi Code of 1972, is  
512 reenacted as follows:

513 43-27-109. The Department of Human Services may employ a  
514 sufficient number of new social workers, child protection  
515 specialists, youth counselors and clerical staff to reduce the  
516 case load sizes for social workers and youth counselors of the  
517 department and to reduce the work load on clerical staff, if funds  
518 are appropriated to the department for that purpose.



519           **SECTION 7.** Section 43-47-7, Mississippi Code of 1972, is  
520 reenacted as follows:

521           43-47-7. (1) (a) Except as otherwise provided by Section  
522 43-47-37 for vulnerable adults in care facilities, any person  
523 including, but not limited to, the following, who knows or  
524 suspects that a vulnerable adult has been or is being abused,  
525 neglected or exploited shall immediately report such knowledge or  
526 suspicion to the Department of Human Services or to the county  
527 department of human services where the vulnerable adult is  
528 located:

529                       (i) Attorney, physician, osteopathic physician,  
530 medical examiner, chiropractor or nurse engaged in the admission,  
531 examination, care or treatment of vulnerable adults;

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

534                       (iii) Practitioner who relies solely on spiritual  
535 means for healing;

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

538                       (v) State, county or municipal criminal justice  
539 employee or law enforcement officer;

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

542                       (vii) Accountant, stockbroker, financial advisor  
543 or consultant, insurance agent or consultant, investment advisor  
544 or consultant, financial planner, or any officer or employee of a  
545 bank, savings and loan, credit union or any other financial  
546 service provider.

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

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

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

555 (iii) Name, address and telephone number of each  
556 alleged perpetrator.

557 (iv) Name, address and telephone number of the  
558 caregiver of the vulnerable adult, if different from the alleged  
559 perpetrator.

560 (v) Description of the neglect, exploitation,  
561 physical or psychological injuries sustained.

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

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

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

572 (c) The department, or its designees, shall report to  
573 an appropriate criminal investigative or prosecutive authority any  
574 person required by this section to report or who fails to comply  
575 with this section. A person who fails to make a report as  
576 required under this subsection or who, because of the  
577 circumstances, should have known or suspected beyond a reasonable  
578 doubt that a vulnerable adult suffers from exploitation, abuse,  
579 neglect or self-neglect but who knowingly fails to comply with  
580 this section shall, upon conviction, be guilty of a misdemeanor  
581 and shall be punished by a fine not exceeding Five Thousand  
582 Dollars (\$5,000.00), or by imprisonment in the county jail for not

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

591 (2) Reports received by law enforcement authorities or other  
592 agencies shall be forwarded immediately to the Department of Human  
593 Services or the county department of human services. The  
594 Department of Human Services shall investigate the reported abuse,  
595 neglect or exploitation immediately and shall file a preliminary  
596 report of its findings with the Office of the Attorney General  
597 within forty-eight (48) hours, and shall make additional reports  
598 as new information or evidence becomes available. The Department  
599 of Human Services, upon request, shall forward a statement to the  
600 person making the initial report required by this section as to  
601 what action is being taken, if any.

602 (3) The report may be made orally or in writing, but where  
603 made orally, it shall be followed up by a written report. A  
604 person who fails to report or to otherwise comply with this  
605 section, as provided herein, shall have no civil or criminal  
606 liability, other than that expressly provided for in this section,  
607 to any person or entity in connection with any failure to report  
608 or to otherwise comply with the requirements of this section.

609 (4) Anyone who makes a report required by this section or  
610 who testifies or participates in any judicial proceedings arising  
611 from the report or who participates in a required investigation or  
612 evaluation shall be presumed to be acting in good faith and in so  
613 doing shall be immune from liability, civil or criminal, that  
614 might otherwise be incurred or imposed. However, the immunity

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

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

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

648 Each person, business, organization or other entity, whether  
649 public or private, operated for profit, operated for nonprofit or  
650 a voluntary unit of government not responsible for law enforcement  
651 providing care, supervision or treatment of vulnerable adults  
652 shall conduct criminal history records checks on each new employee  
653 of the entity who provides, and/or would provide direct patient  
654 care or services to adults or vulnerable persons, as provided in  
655 Section 43-11-13.

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

661 (7) Reports made pursuant to this section, reports written  
662 or photographs taken concerning such reports in the possession of  
663 the Department of Human Services or the county department of human  
664 services shall be confidential and shall only be made available  
665 to:

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

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

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

674 (d) A district attorney or other law enforcement  
675 official.

676 Notwithstanding the provisions of paragraph (b) of this  
677 subsection, the department may not disclose a report of the  
678 abandonment, exploitation, abuse, neglect or self-neglect of a  
679 vulnerable adult to the vulnerable adult's guardian,  
680 attorney-in-fact, surrogate decision maker, or caregiver who is a

681 perpetrator or alleged perpetrator of the abandonment,  
682 exploitation, abuse or neglect of the vulnerable adult.

683 Any person given access to the names or other information  
684 identifying the subject of the report, except the subject of the  
685 report, shall not divulge or make public such identifying  
686 information unless he is a district attorney or other law  
687 enforcement official and the purpose is to initiate court action.  
688 Any person who willfully permits the release of any data or  
689 information obtained pursuant to this section to persons or  
690 agencies not permitted to such access by this section shall be  
691 guilty of a misdemeanor.

692 (8) Upon reasonable cause to believe that a caretaker or  
693 other person has abused, neglected or exploited a vulnerable  
694 adult, the department shall promptly notify the district attorney  
695 of the county in which the vulnerable adult is located and the  
696 Office of the Attorney General, except as provided in Section  
697 43-47-37(2).

698 **SECTION 8.** Section 93-21-23, Mississippi Code of 1972, is  
699 reenacted as follows:

700 93-21-23. Any licensed doctor of medicine, licensed doctor  
701 of dentistry, intern, resident or registered nurse, psychologist,  
702 social worker, child protection specialist, preacher, teacher,  
703 attorney, law enforcement officer, or any other person or  
704 institution participating in the making of a report pursuant to  
705 this chapter or participating in judicial proceedings resulting  
706 therefrom shall be presumed to be acting in good faith, and if  
707 found to have acted in good faith shall be immune from any  
708 liability, civil or criminal, that might otherwise be incurred or  
709 imposed. The reporting of an abused person shall not constitute a  
710 breach of confidentiality.

711 **SECTION 9.** Section 97-3-7, Mississippi Code of 1972, is  
712 reenacted as follows:

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

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

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



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

784 (3) A person is guilty of simple domestic violence who  
785 commits simple assault as described in subsection (1) of this  
786 section against a family or household member who resides with the  
787 defendant or who formerly resided with the defendant, a current or  
788 former spouse, a person who has a current dating relationship with  
789 the defendant, or a person with whom the defendant has had a  
790 biological or legally adopted child and upon conviction, the  
791 defendant shall be punished as provided under subsection (1) of  
792 this section; however, upon a third or subsequent conviction of  
793 simple domestic violence, whether against the same or another  
794 victim and within five (5) years, the defendant shall be guilty of  
795 a felony and sentenced to a term of imprisonment not less than  
796 five (5) nor more than ten (10) years. In sentencing, the court  
797 shall consider as an aggravating factor whether the crime was  
798 committed in the physical presence or hearing of a child under  
799 sixteen (16) years of age who was, at the time of the offense,  
800 living within either the residence of the victim, the residence of  
801 the perpetrator, or the residence where the offense occurred.

802 (4) A person is guilty of aggravated domestic violence who  
803 commits aggravated assault as described in subsection (2) of this  
804 section against a family or household member who resides with the  
805 defendant or who formerly resided with the defendant, or a current  
806 or former spouse, a person who has a current dating relationship  
807 with the defendant, or a person with whom the defendant has had a  
808 biological or legally adopted child and upon conviction, the  
809 defendant shall be punished as provided under subsection (2) of  
810 this section; however, upon a third or subsequent offense of  
811 aggravated domestic violence, whether against the same or another

812 victim and within five (5) years, the defendant shall be guilty of  
813 a felony and sentenced to a term of imprisonment of not less than  
814 five (5) nor more than twenty (20) years. In sentencing, the  
815 court shall consider as an aggravating factor whether the crime  
816 was committed in the physical presence or hearing of a child under  
817 sixteen (16) years of age who was, at the time of the offense,  
818 living within either the residence of the victim, the residence of  
819 the perpetrator, or the residence where the offense occurred.  
820 Reasonable discipline of a child, such as spanking, is not an  
821 offense under this subsection (4).

822 (5) "Dating relationship" means a social relationship of a  
823 romantic or intimate nature.

824 (6) Every conviction of domestic violence may require as a  
825 condition of any suspended sentence that the defendant participate  
826 in counseling or treatment to bring about the cessation of  
827 domestic abuse. The defendant may be required to pay all or part  
828 of the cost of the counseling or treatment, in the discretion of  
829 the court.

830 (7) In any conviction of assault as described in any  
831 subsection of this section which arises from an incident of  
832 domestic violence, the sentencing order shall include the  
833 designation "domestic violence."

834 **SECTION 10.** This act shall take effect and be in force from  
835 and after June 30, 2006.