

By: Senator(s) Nunnelee, Dearing

To: Public Health and Welfare

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2388

1 AN ACT RELATING TO THE EMPLOYMENT POSITIONS OF "SOCIAL
2 WORKER," "CHILD PROTECTION SPECIALIST," "FAMILY PROTECTION WORKER"
3 AND "FAMILY PROTECTION SPECIALIST" WITHIN THE OFFICE OF FAMILY AND
4 CHILDREN'S SERVICES AND THE DIVISION OF AGING AND ADULT SERVICES
5 IN THE MISSISSIPPI DEPARTMENT OF HUMAN SERVICES; TO AMEND SECTION
6 43-1-55, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE EMPLOYMENT
7 POSITION OF FAMILY PROTECTION WORKERS AND TO DELETE REPEALERS ON
8 CERTAIN SECTIONS RELATING TO CHILD PROTECTION SPECIALISTS; TO
9 AMEND SECTION 43-27-107, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
10 EMPLOYMENT AND QUALIFICATIONS OF FAMILY PROTECTION SPECIALISTS AT
11 THE DEPARTMENT OF HUMAN SERVICES; TO AMEND SECTIONS 43-15-13,
12 43-21-261, 43-21-353, 43-21-355, 43-21-603, 43-27-109, 43-47-7,
13 93-21-23 AND 97-3-7, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND
14 FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 43-1-55, Mississippi Code of 1972, is
17 amended as follows:

18 43-1-55. (1) The Office of Family and Children's Services
19 and the Division of Aging and Adult Services shall devise
20 formal * * * standards for employment as a family protection
21 worker and as a family protection specialist within their
22 respective offices and for service delivery designed to measure
23 the quality of services delivered to clients, as well as the
24 timeliness of services. Each family protection worker and family
25 protection specialist shall be assessed annually by a supervisor
26 who is knowledgeable in the standards promulgated. The standards
27 devised by each office shall be applicable to all family
28 protection workers and family protection specialists working under
29 that office.

30 (2) The Office of Family and Children's Services shall
31 devise formal standards for family protection workers of the
32 Department of Human Services who are not licensed social workers.
33 Those standards shall require that:

34 (a) In order to be employed as a family protection
35 worker, a person must have a bachelor's degree in either
36 psychology, sociology, nursing, criminal justice, family studies,
37 anthropology or a related field, or a graduate degree in either
38 law, psychology, sociology, nursing, criminal justice, counseling,
39 marriage and family therapy or a related field. The determination
40 of what is a related field shall be made by certification of the
41 State Personnel Board; and

42 (b) Before a person may provide services as a family
43 protection worker, the person shall complete four (4) weeks of
44 intensive training provided by the training unit of the Office of
45 Family and Children's Services, and shall take and receive a
46 passing score on the certification test administered by the
47 training unit upon completion of the four-week training. Upon
48 receiving a passing score on the certification test, the person
49 shall be certified as a family protection worker by the Department
50 of Human Services. Any person who does not receive a passing
51 score on the certification test shall not be employed or maintain
52 employment as a family protection worker for the department.
53 Further, a person, qualified as a family protection worker through
54 the procedures set forth above, shall not conduct forensic
55 interviews of children until the worker receives additional
56 specialized training in child forensic interview protocols and
57 techniques by a course or curriculum approved by the Department of
58 Human Services to be not less than forty (40) hours.

59 (3) For the purpose of providing services in child abuse or
60 neglect cases, youth court proceedings, vulnerable adults cases,
61 and such other cases as designated by the Executive Director of
62 Human Services, the caseworker or service provider may be a family
63 protection worker whose work is overseen by a family protection
64 specialist.

65 (4) The Department of Human Services and the Office of
66 Family and Children's Services shall seek to employ and use * * *

67 family protection specialists to provide the services of the
68 office, and may employ and use family protection workers to
69 provide those services only in counties in which there is not a
70 sufficient number of * * * family protection specialists to
71 adequately provide those services in the county.

72 * * *

73 **SECTION 2.** Section 43-15-13, Mississippi Code of 1972, is
74 amended as follows:

75 43-15-13. (1) For purposes of this section, "children"
76 means persons found within the state who are under the age of
77 twenty-one (21) years, and who were placed in the custody of the
78 Department of Human Services by the youth court of the appropriate
79 county.

80 (2) The Department of Human Services shall establish a
81 foster care placement program for children whose custody lies with
82 the department, with the following objectives:

83 (a) Protecting and promoting the health, safety and
84 welfare of children;

85 (b) Preventing the unnecessary separation of children
86 from their families by identifying family problems, assisting
87 families in resolving their problems and preventing the breakup of
88 the family where the prevention of child removal is desirable and
89 possible when the child can be cared for at home without
90 endangering the child's health and safety;

91 (c) Remediating or assisting in the solution of problems
92 which may result in the neglect, abuse, exploitation or
93 delinquency of children;

94 (d) Restoring to their families children who have been
95 removed, by the provision of services to the child and the
96 families when the child can be cared for at home without
97 endangering the child's health and safety;

98 (e) Placing children in suitable adoptive homes
99 approved by a licensed adoption agency or * * * family protection

100 specialist, in cases where restoration to the biological family is
101 not safe, possible or appropriate;

102 (f) Assuring safe and adequate care of children away
103 from their homes, in cases where the child cannot be returned home
104 or cannot be placed for adoption. At the time of placement, the
105 department shall implement concurrent planning, as described in
106 subsection (8) of this section, so that permanency may occur at
107 the earliest opportunity. Consideration of possible failure or
108 delay of reunification should be given, to the end that the
109 placement made is the best available placement to provide
110 permanency for the child; and

111 (g) Providing a family protection specialist or worker
112 or * * * team of such specialists or workers for a family and
113 child throughout the implementation of their permanent living
114 arrangement plan. Wherever feasible, the same family protection
115 specialist or worker or * * * team shall remain on the case until
116 the child is no longer under the jurisdiction of the youth court.

117 (3) The State Department of Human Services shall administer
118 a system of individualized plans and reviews once every six (6)
119 months for each child under its custody within the State of
120 Mississippi, each child who has been adjudged a neglected,
121 abandoned or abused child and whose custody was changed by court
122 order as a result of such adjudication, and each public or private
123 facility licensed by the department. The State Department of
124 Human Services administrative review shall be completed on each
125 child within the first three (3) months and a foster care review
126 once every six (6) months after the child's initial
127 forty-eight-hour shelter hearing. Such system shall be for the
128 purpose of enhancing potential family life for the child by the
129 development of individual plans to return the child to its natural
130 parent or parents, or to refer the child to the appropriate court
131 for termination of parental rights and placement in a permanent
132 relative's home, adoptive home or foster/adoptive home. The goal

133 of the State Department of Human Services shall be to return the
134 child to its natural parent(s) or refer the child to the
135 appropriate court for termination of parental rights and placement
136 in a permanent relative's home, adoptive home or foster/adoptive
137 home within the time periods specified in this subsection or in
138 subsection (4) of this section. In furthering this goal, the
139 department shall establish policy and procedures designed to
140 appropriately place children in permanent homes, such policy to
141 include a system of reviews for all children in foster care, as
142 follows: foster care counselors in the department shall make all
143 possible contact with the child's natural parent(s) and any
144 interested relative for the first two (2) months following the
145 child's entry into the foster care system. For any child who was
146 in foster care before July 1, 1998, and has been in foster care
147 for fifteen (15) of the last twenty-two (22) months regardless of
148 whether the foster care was continuous for all of those twenty-two
149 (22) months, the department shall file a petition to terminate the
150 parental rights of the child's parents. The time period starts to
151 run from the date the court makes a finding of abuse and/or
152 neglect or sixty (60) days from when the child was removed from
153 his or her home, whichever is earlier. The department can choose
154 not to file a termination of parental rights petition if the
155 following apply:

156 (a) The child is being cared for by a relative; and/or

157 (b) The department has documented compelling and
158 extraordinary reasons why termination of parental rights would not
159 be in the best interests of the child. Prior to granting or
160 denying a request by the department for an extension of time for
161 filing a termination of parental rights action, the court shall
162 receive a written report on the progress which a parent of such
163 child has made in treatment, to be made to the court in writing by
164 a mental health/substance abuse therapist or counselor.

165 (4) In the case of any child who is placed in foster care on
166 or after July 1, 1998, except in cases of aggravated circumstances
167 prescribed in Section 43-21-603(7)(c) or (d), the child's natural
168 parent(s) will have a reasonable time to be determined by the
169 court, which shall not exceed a six-month period of time, in which
170 to meet the service agreement with the department for the benefit
171 of the child unless the department has documented extraordinary
172 and compelling reasons for extending the time period in the best
173 interest of the child. If this agreement has not been
174 satisfactorily met, simultaneously the child will be referred to
175 the appropriate court for termination of parental rights and
176 placement in a permanent relative's home, adoptive home or a
177 foster/adoptive home. For children under the age of three (3)
178 years, termination of parental rights shall be initiated within
179 six (6) months, unless the department has documented compelling
180 and extraordinary circumstances, and placement in a permanent
181 relative's home, adoptive home or foster/adoptive home within two
182 (2) months. For children who have been abandoned pursuant to the
183 provisions of Section 97-5-1, termination of parental rights shall
184 be initiated within thirty (30) days and placement in an adoptive
185 home shall be initiated without necessity for placement in a
186 foster home. The department need not initiate termination of
187 parental rights proceedings where the child has been placed in
188 durable legal custody or long-term or formalized foster care by a
189 court of competent jurisdiction.

190 (5) The foster care review once every six (6) months shall
191 be conducted by the youth court or its designee(s), and/or by
192 personnel within the State Department of Human Services or by a
193 designee or designees of the department and may include others
194 appointed by the department, and the review shall include at a
195 minimum an evaluation of the child based on the following:

196 (a) The extent of the care and support provided by the
197 parents or parent, while the child is in temporary custody;

198 (b) The extent of communication with the child by
199 parents, parent or guardian;
200 (c) The degree of compliance by the agency and the
201 parents with the social service plan established;
202 (d) The methods of achieving the goal and the plan
203 establishing a permanent home for the child;
204 (e) Social services offered and/or utilized to
205 facilitate plans for establishing a permanent home for the child;
206 and
207 (f) Relevant testimony and recommendations from the
208 foster parent of the child, the grandparents of the child, the
209 guardian ad litem of the child, representatives of any private
210 care agency which has cared for the child, the family protection
211 worker or family protection specialist assigned to the case, and
212 any other relevant testimony pertaining to the case.

213 Each child's review plan once every six (6) months shall be
214 filed with the court which awarded custody and shall be made
215 available to natural parents or foster parents upon approval of
216 the court. The court shall make a finding as to the degree of
217 compliance by the agency and the parent(s) with the child's social
218 service plan. The court also shall find that the child's health
219 and safety are the paramount concern. In the interest of the
220 child, the court shall, where appropriate, initiate proceedings on
221 its own motion. The State Department of Human Services shall
222 report to the Legislature as to the number of such children, the
223 findings of the foster care review board and relevant statistical
224 information in foster care in a semiannual report to the
225 Legislature to be submitted to the Joint Oversight Committee of
226 the Department of Human Services. The report shall not refer to
227 the specific name of any child in foster care.

228 (6) The State Department of Human Services, with the
229 cooperation and assistance of the State Department of Health,
230 shall develop and implement a training program for foster care

231 parents to indoctrinate them as to their proper responsibilities
232 upon a child's entry into their foster care. The program shall
233 provide a minimum of twelve (12) clock hours of training. The
234 foster care training program shall be satisfactorily completed by
235 such foster care parents prior to or within ninety (90) days after
236 child placement with such parent. Record of such foster care
237 parent's training program participation shall be filed with the
238 court as part of a foster care child's review plan once every six
239 (6) months.

240 (7) When the Department of Human Services is considering
241 placement of a child in a foster home and when the department
242 deems it to be in the best interest of the child, the department
243 shall give first priority to placing the child in the home of one
244 (1) of the child's relatives within the third degree, as computed
245 by the civil law rule. In placing the child in a relative's home,
246 the department may waive any rule, regulation or policy applicable
247 to placement in foster care that would otherwise require the child
248 to have a separate bed or bedroom or have a bedroom of a certain
249 size, if placing the child in a relative's home would be in the
250 best interest of the child and such requirements cannot be met in
251 the relative's home.

252 (8) The Legislature recognizes that the best interests of
253 the child require that the child be placed in the most permanent
254 living arrangement as soon as is practicably possible. To achieve
255 this goal, the Department of Human Services is directed to conduct
256 concurrent planning so that a permanent living arrangement may
257 occur at the earliest opportunity. Permanent living arrangements
258 may include prevention of placement of a child outside the home of
259 the family when the child can be cared for at home without
260 endangering the child's health or safety; reunification with the
261 family, when safe and appropriate, if temporary placement is
262 necessary; or movement of the child toward the most permanent
263 living arrangement and permanent legal status. When a child is

264 placed in foster care or relative care, the department shall first
265 ensure and document that reasonable efforts were made to prevent
266 or eliminate the need to remove the child from the child's home.
267 The department's first priority shall be to make reasonable
268 efforts to reunify the family when temporary placement of the
269 child occurs or shall request a finding from the court that
270 reasonable efforts are not appropriate or have been unsuccessful.
271 A decision to place a child in foster care or relative care shall
272 be made with consideration of the child's health, safety and best
273 interests. At the time of placement, consideration should also be
274 given so that if reunification fails or is delayed, the placement
275 made is the best available placement to provide a permanent living
276 arrangement for the child. The department shall adopt rules
277 addressing concurrent planning for reunification and a permanent
278 living arrangement. The department shall consider the following
279 factors when determining appropriateness of concurrent planning:
280 (a) The likelihood of prompt reunification;
281 (b) The past history of the family;
282 (c) The barriers to reunification being addressed by
283 the family;
284 (d) The level of cooperation of the family;
285 (e) The foster parents' willingness to work with the
286 family to reunite;
287 (f) The willingness and ability of the foster family or
288 relative placement to provide an adoptive home or long-term
289 placement;
290 (g) The age of the child; and
291 (h) Placement of siblings.
292 (9) If the department has placed a child in foster care or
293 relative care pursuant to a court order, the department may not
294 change the child's placement unless the department specifically
295 documents to the court that the current placement is unsafe or
296 unsuitable or that another placement is in the child's best

297 interests unless the new placement is in an adoptive home or other
298 permanent placement. Except in emergency circumstances as
299 determined by the department or where the court orders placement
300 of the child pursuant to Section 43-21-303, the foster parents,
301 grandparents or other relatives of the child shall be given an
302 opportunity to contest the specific reasons documented by the
303 department at least seventy-two (72) hours prior to any such
304 departure, and the court may conduct a review of such placement
305 unless the new placement is in an adoptive home or other permanent
306 placement. When a child is returned to foster care or relative
307 care, the former foster parents or relative placement shall be
308 given the prior right of return placement in order to eliminate
309 additional trauma to the child.

310 (10) The Department of Human Services shall provide the
311 foster parents, grandparents or other relatives with at least a
312 seventy-two-hour notice of departure for any child placed in their
313 foster care or relative care, except in emergency circumstances as
314 determined by the department or where the court orders placement
315 of the child pursuant to Section 43-21-303. The parent/legal
316 guardian, grandparents of the child, guardian ad litem and the
317 court exercising jurisdiction shall be notified in writing when
318 the child leaves foster care or relative care placement,
319 regardless of whether the child's departure was planned or
320 unplanned. The only exceptions to giving a written notice to the
321 parent(s) are when a parent has voluntarily released the child for
322 adoption or the parent's legal rights to the child have been
323 terminated through the appropriate court with jurisdiction.

324 (11) The Department of Human Services shall extend the
325 following rights to foster care parents:

326 (a) A clear understanding of their role as foster
327 parents and the roles of the birth parent(s) and the placement
328 agency in respect to the child in care;

329 (b) Respect, consideration, trust and value as a family
330 who is making an important contribution to the agency's
331 objectives;

332 (c) Involvement in all the agency's crucial decisions
333 regarding the foster child as team members who have pertinent
334 information based on their day-to-day knowledge of the child in
335 care;

336 (d) Support from the family protection worker or the
337 family protection specialist in efforts to do a better day-to-day
338 job in caring for the child and in working to achieve the agency's
339 objectives for the child and the birth family through provision
340 of:

341 (i) Pertinent information about the child and the
342 birth family.

343 (ii) Help in using appropriate resources to meet
344 the child's needs.

345 (iii) Direct interviews between the family
346 protection worker or specialist and the child, previously
347 discussed and understood by the foster parents;

348 (e) The opportunity to develop confidence in making
349 day-to-day decisions in regard to the child;

350 (f) The opportunity to learn and grow in their vocation
351 through planned foster parent education;

352 (g) The opportunity to be heard regarding agency
353 practices that they may question; and

354 (h) Reimbursement for costs of the foster child's care
355 in the form of a board payment based on the age of the foster
356 child as prescribed in Section 43-15-17.

357 (12) The Department of Human Services shall require the
358 following responsibilities from participating foster parents:

359 (a) Understanding the department's function in regard
360 to the foster care program and related social service programs;

361 (b) Sharing with the department any information which
362 may contribute to the care of foster children;

363 (c) Functioning within the established goals and
364 objectives to improve the general welfare of the foster child;

365 (d) Recognizing the problems in foster home placement
366 that will require professional advice and assistance and that such
367 help should be utilized to its full potential;

368 (e) Recognizing that the foster family will be one of
369 the primary resources for preparing a child for any future plans
370 that are made, including return to birth parent(s), termination of
371 parental rights or reinstitutionalization;

372 (f) Expressing their view of agency practices which
373 relate to the foster child with the appropriate staff member;

374 (g) Understanding that all information shared with the
375 foster parents about the child and his/her birth parent(s) must be
376 held in the strictest of confidence;

377 (h) Cooperating with any plan to reunite the foster
378 child with his birth family and work with the birth family to
379 achieve this goal; and

380 (i) Attending dispositional review hearings and
381 termination of parental rights hearings conducted by a court of
382 competent jurisdiction, or providing their recommendations to the
383 court in writing.

384 **SECTION 3.** Section 43-21-261, Mississippi Code of 1972, is
385 amended as follows:

386 43-21-261. (1) Except as otherwise provided in this
387 section, records involving children shall not be disclosed, other
388 than to necessary staff of the youth court, except pursuant to an
389 order of the youth court specifying the person or persons to whom
390 the records may be disclosed, the extent of the records which may
391 be disclosed and the purpose of the disclosure. Such court orders
392 for disclosure shall be limited to those instances in which the
393 youth court concludes, in its discretion, that disclosure is

394 required for the best interests of the child, the public safety or
395 the functioning of the youth court and then only to the following
396 persons:

397 (a) The judge of another youth court or member of
398 another youth court staff;

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

401 (c) A judge of any other court or members of another
402 court staff;

403 (d) Representatives of a public or private agency
404 providing supervision or having custody of the child under order
405 of the youth court;

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

412 (f) The Mississippi Employment Security Commission, or
413 its duly authorized representatives, for the purpose of a child's
414 enrollment into the Job Corps Training Program as authorized by
415 Title IV of the Comprehensive Employment Training Act of 1973 (29
416 USCS Section 923 et seq.). However, no records, reports,
417 investigations or information derived therefrom pertaining to
418 child abuse or neglect shall be disclosed; and

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

423 Law enforcement agencies may disclose information to the
424 public concerning the taking of a child into custody for the
425 commission of a delinquent act without the necessity of an order
426 from the youth court. The information released shall not identify

427 the child or his address unless the information involves a child
428 convicted as an adult.

429 (2) Any records involving children which are disclosed under
430 an order of the youth court and the contents thereof shall be kept
431 confidential by the person or agency to whom the record is
432 disclosed except as provided in the order. Any further disclosure
433 of any records involving children shall be made only under an
434 order of the youth court as provided in this section.

435 (3) Upon request, the parent, guardian or custodian of the
436 child who is the subject of a youth court cause or any attorney
437 for such parent, guardian or custodian, shall have the right to
438 inspect any record, report or investigation which is to be
439 considered by the youth court at a hearing, except that the
440 identity of the reporter shall not be released, nor the name of
441 any other person where the person or agency making the information
442 available finds that disclosure of the information would be likely
443 to endanger the life or safety of such person.

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

448 (5) (a) The youth court prosecutor or prosecutors, the
449 county attorney, the district attorney, the youth court defender
450 or defenders, or any attorney representing a child shall have the
451 right to inspect any law enforcement record involving children.

452 (b) The Department of Human Services shall disclose to
453 a county prosecuting attorney or district attorney any and all
454 records resulting from an investigation into suspected child abuse
455 or neglect when the case has been referred by the Department of
456 Human Services to the county prosecuting attorney or district
457 attorney for criminal prosecution.

458 (c) Agency records made confidential under the
459 provisions of this section may be disclosed to a court of
460 competent jurisdiction.

461 (6) Information concerning an investigation into a report of
462 child abuse or child neglect may be disclosed by the Department of
463 Human Services without order of the youth court to any attorney,
464 physician, dentist, intern, resident, nurse, psychologist, social
465 worker, family protection worker, family protection specialist,
466 child caregiver, minister, law enforcement officer, public or
467 private school employee making that report pursuant to Section
468 43-21-353(1) if the reporter has a continuing professional
469 relationship with the child and a need for such information in
470 order to protect or treat the child.

471 (7) Information concerning an investigation into a report of
472 child abuse or child neglect may be disclosed without further
473 order of the youth court to any interagency child abuse task force
474 established in any county or municipality by order of the youth
475 court of that county or municipality.

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

480 (9) Names and addresses of juveniles adjudicated as
481 delinquent for murder, manslaughter, burglary, arson, armed
482 robbery, aggravated assault, any sex offense as defined in Section
483 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
484 violation of Section 63-11-30, shall not be held confidential and
485 shall be made available to the public.

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

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

494 (12) A classification hearing officer of the State
495 Department of Corrections, as provided in Section 47-5-103, shall
496 have the right to inspect any youth court records, excluding abuse
497 and neglect records, of any offender in the custody of the
498 department who as a child or minor was a juvenile offender or was
499 the subject of a youth court cause of action, and the State Parole
500 Board, as provided in Section 47-7-17, shall have the right to
501 inspect such records when the offender becomes eligible for
502 parole.

503 (13) The youth court shall notify the Department of Public
504 Safety of the name, and any other identifying information such
505 department may require, of any child who is adjudicated delinquent
506 as a result of a violation of the Uniform Controlled Substances
507 Law.

508 (14) The Administrative Office of Courts shall have the
509 right to inspect any youth court records in order that the number
510 of youthful offenders, abused, neglected, truant and dependent
511 children, as well as children in need of special care and children
512 in need of supervision, may be tracked with specificity through
513 the youth court and adult justice system, and to utilize tracking
514 forms for such purpose.

515 (15) Upon a request by a youth court, the Administrative
516 Office of Courts shall disclose all information at its disposal
517 concerning any previous youth court intakes alleging that a child
518 was a delinquent child, child in need of supervision, child in
519 need of special care, truant child, abused child or neglected
520 child, as well as any previous youth court adjudications for the
521 same and all dispositional information concerning a child who at
522 the time of such request comes under the jurisdiction of the youth
523 court making such request.

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

531 (17) In every case where there is any indication or
532 suggestion of either abuse or neglect and a child's physical
533 condition is medically labeled as medically "serious" or
534 "critical" or a child dies, the confidentiality provisions of this
535 section shall not apply. In cases of child deaths, the following
536 information may be released by the Mississippi Department of Human
537 Services: (a) Child's name; (b) address or location; (c)
538 verification from the Department of Human Services of case status
539 (no case or involvement, case exists, open or active case, case
540 closed); (d) if a case exists, the type of report or case
541 (physical abuse, neglect, etc.), date of intake(s) and
542 investigation(s), and case disposition (substantiated or
543 unsubstantiated). Notwithstanding the aforesaid, the
544 confidentiality provisions of this section shall continue if there
545 is a pending or planned investigation by any local, state or
546 federal governmental agency or institution.

547 (18) Any member of a foster care review board designated by
548 the Department of Human Services shall have the right to inspect
549 youth court records relating to the abuse, neglect or child in
550 need of supervision cases assigned to such member for review.

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

557 **SECTION 4.** Section 43-21-353, Mississippi Code of 1972, is
558 amended as follows:

559 43-21-353. (1) Any attorney, physician, dentist, intern,
560 resident, nurse, psychologist, social worker, family protection
561 worker, family protection specialist, child caregiver, minister,
562 law enforcement officer, public or private school employee or any
563 other person having reasonable cause to suspect that a child is a
564 neglected child or an abused child, shall cause an oral report to
565 be made immediately by telephone or otherwise and followed as soon
566 thereafter as possible by a report in writing to the Department of
567 Human Services, and immediately a referral shall be made by the
568 Department of Human Services to the youth court intake unit, which
569 unit shall promptly comply with Section 43-21-357. Where
570 appropriate, the Department of Human Services shall additionally
571 make a referral to the youth court prosecutor. Upon receiving a
572 report that a child has been sexually abused, or burned, tortured,
573 mutilated or otherwise physically abused in such a manner as to
574 cause serious bodily harm, or upon receiving any report of abuse
575 that would be a felony under state or federal law, the Department
576 of Human Services shall immediately notify the law enforcement
577 agency in whose jurisdiction the abuse occurred and shall notify
578 the appropriate prosecutor within forty-eight (48) hours, and the
579 Department of Human Services shall have the duty to provide the
580 law enforcement agency all the names and facts known at the time
581 of the report; this duty shall be of a continuing nature. The law
582 enforcement agency and the Department of Human Services shall
583 investigate the reported abuse immediately and shall file a
584 preliminary report with the appropriate prosecutor's office within
585 twenty-four (24) hours and shall make additional reports as new or
586 additional information or evidence becomes available. The
587 Department of Human Services shall advise the clerk of the youth
588 court and the youth court prosecutor of all cases of abuse

589 reported to the department within seventy-two (72) hours and shall
590 update such report as information becomes available.

591 (2) Any report to the Department of Human Services shall
592 contain the names and addresses of the child and his parents or
593 other persons responsible for his care, if known, the child's age,
594 the nature and extent of the child's injuries, including any
595 evidence of previous injuries and any other information that might
596 be helpful in establishing the cause of the injury and the
597 identity of the perpetrator.

598 (3) The Department of Human Services shall maintain a
599 statewide incoming wide-area telephone service or similar service
600 for the purpose of receiving reports of suspected cases of child
601 abuse; provided that any attorney, physician, dentist, intern,
602 resident, nurse, psychologist, social worker, family protection
603 worker, family protection specialist, child caregiver, minister,
604 law enforcement officer or public or private school employee who
605 is required to report under subsection (1) of this section shall
606 report in the manner required in subsection (1).

607 (4) Reports of abuse and neglect made under this chapter and
608 the identity of the reporter are confidential except when the
609 court in which the investigation report is filed, in its
610 discretion, determines the testimony of the person reporting to be
611 material to a judicial proceeding or when the identity of the
612 reporter is released to law enforcement agencies and the
613 appropriate prosecutor pursuant to subsection (1). Reports made
614 under this section to any law enforcement agency or prosecutorial
615 officer are for the purpose of criminal investigation and
616 prosecution only and no information from these reports may be
617 released to the public except as provided by Section 43-21-261.
618 Disclosure of any information by the prosecutor shall be according
619 to the Mississippi Uniform Rules of Circuit and County Court
620 Procedure. The identity of the reporting party shall not be
621 disclosed to anyone other than law enforcement officers or

622 prosecutors without an order from the appropriate youth court.
623 Any person disclosing any reports made under this section in a
624 manner not expressly provided for in this section or Section
625 43-21-261, shall be guilty of a misdemeanor and subject to the
626 penalties prescribed by Section 43-21-267.

627 (5) All final dispositions of law enforcement investigations
628 described in subsection (1) of this section shall be determined
629 only by the appropriate prosecutor or court. All final
630 dispositions of investigations by the Department of Human Services
631 as described in subsection (1) of this section shall be determined
632 only by the youth court. Reports made under subsection (1) of
633 this section by the Department of Human Services to the law
634 enforcement agency and to the district attorney's office shall
635 include the following, if known to the department:

636 (a) The name and address of the child;
637 (b) The names and addresses of the parents;
638 (c) The name and address of the suspected perpetrator;
639 (d) The names and addresses of all witnesses, including
640 the reporting party if a material witness to the abuse;

641 (e) A brief statement of the facts indicating that the
642 child has been abused and any other information from the agency
643 files or known to the family protection worker or family
644 protection specialist making the investigation, including medical
645 records or other records, which may assist law enforcement or the
646 district attorney in investigating and/or prosecuting the case;
647 and

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

650 (6) In any investigation of a report made under this chapter
651 of the abuse or neglect of a child as defined in Section
652 43-21-105(m), the Department of Human Services may request the
653 appropriate law enforcement officer with jurisdiction to accompany

654 the department in its investigation, and in such cases the law
655 enforcement officer shall comply with such request.

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

660 (8) If a report is made directly to the Department of Human
661 Services that a child has been abused or neglected in an
662 out-of-home setting, a referral shall be made immediately to the
663 law enforcement agency in whose jurisdiction the abuse occurred
664 and the department shall notify the district attorney's office
665 within forty-eight (48) hours of such report. The Department of
666 Human Services shall investigate the out-of-home setting report of
667 abuse or neglect to determine whether the child who is the subject
668 of the report, or other children in the same environment, comes
669 within the jurisdiction of the youth court and shall report to the
670 youth court the department's findings and recommendation as to
671 whether the child who is the subject of the report or other
672 children in the same environment require the protection of the
673 youth court. The law enforcement agency shall investigate the
674 reported abuse immediately and shall file a preliminary report
675 with the district attorney's office within forty-eight (48) hours
676 and shall make additional reports as new information or evidence
677 becomes available. If the out-of-home setting is a licensed
678 facility, an additional referral shall be made by the Department
679 of Human Services to the licensing agency. The licensing agency
680 shall investigate the report and shall provide the Department of
681 Human Services, the law enforcement agency and the district
682 attorney's office with their written findings from such
683 investigation as well as that licensing agency's recommendations
684 and actions taken.

685 **SECTION 5.** Section 43-21-355, Mississippi Code of 1972, is
686 amended as follows:

687 43-21-355. Any attorney, physician, dentist, intern,
688 resident, nurse, psychologist, social worker, family protection
689 worker, family protection specialist, child caregiver, minister,
690 law enforcement officer, school attendance officer, public school
691 district employee, nonpublic school employee, or any other person
692 participating in the making of a required report pursuant to
693 Section 43-21-353 or participating in the judicial proceeding
694 resulting therefrom shall be presumed to be acting in good faith.
695 Any person or institution reporting in good faith shall be immune
696 from any liability, civil or criminal, that might otherwise be
697 incurred or imposed.

698 **SECTION 6.** Section 43-21-603, Mississippi Code of 1972, is
699 amended as follows:

700 43-21-603. (1) At the beginning of each disposition
701 hearing, the judge shall inform the parties of the purpose of the
702 hearing.

703 (2) All testimony shall be under oath unless waived by all
704 parties and may be in narrative form. The court may consider any
705 evidence that is material and relevant to the disposition of the
706 cause, including hearsay and opinion evidence. At the conclusion
707 of the evidence, the youth court shall give the parties an
708 opportunity to present oral argument.

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

- 712 (a) The nature of the offense;
- 713 (b) The manner in which the offense was committed;
- 714 (c) The nature and number of a child's prior
715 adjudicated offenses;
- 716 (d) The child's need for care and assistance;
- 717 (e) The child's current medical history, including
718 medication and diagnosis;

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

722 (g) Copies of the child's cumulative record from the
723 last school of record, including special education records, if
724 applicable;

725 (h) Recommendation from the school of record based on
726 areas of remediation needed;

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

728 (j) Records of disciplinary actions outside of the
729 school setting.

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

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

734 (b) The family and home situation; and

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

736 (5) If the child has been adjudicated a neglected child or
737 an abused child, before entering a disposition order, the youth
738 court shall consider, among others, the following relevant
739 factors:

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

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

742 (c) The manner in which the parent, guardian or
743 custodian participated in, tolerated or condoned the abuse,
744 neglect or abandonment of the child;

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

747 (e) Relevant testimony and recommendations, where
748 available, from the foster parent of the child, the grandparents
749 of the child, the guardian ad litem of the child, representatives
750 of any private care agency that has cared for the child, the
751 family protection worker or family protection specialist assigned

752 to the case, and any other relevant testimony pertaining to the
753 case.

754 (6) After consideration of all the evidence and the relevant
755 factors, the youth court shall enter a disposition order that
756 shall not recite any of the facts or circumstances upon which the
757 disposition is based, nor shall it recite that a child has been
758 found guilty; but it shall recite that a child is found to be a
759 delinquent child, a child in need of supervision, a neglected
760 child or an abused child.

761 (7) If the youth court orders that the custody or
762 supervision of a child who has been adjudicated abused or
763 neglected be placed with the Department of Human Services or any
764 other person or public or private agency, other than the child's
765 parent, guardian or custodian, the youth court shall find and the
766 disposition order shall recite that:

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

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

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

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

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

783 (ii) The parent has been convicted of murder of
784 another child of that parent, voluntary manslaughter of another

785 child of that parent, aided or abetted, attempted, conspired or
786 solicited to commit that murder or voluntary manslaughter, or a
787 felony assault that results in the serious bodily injury to the
788 surviving child or another child of that parent; or

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

791 (iv) That the effect of the continuation of the
792 child's residence within his own home would be contrary to the
793 welfare of the child and that placement of the child in foster
794 care is in the best interests of the child.

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

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

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

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

807 (c) Copies of the child's cumulative record from the
808 last school of record, including special education records, if
809 reasonably available;

810 (d) Recommendation from the school of record based on
811 areas of remediation needed;

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

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

815 Only individuals who are permitted under the Health Insurance
816 Portability and Accountability Act of 1996 (HIPAA) shall have
817 access to a child's medical records which are contained in an

818 admission packet. The youth court shall provide the admission
819 packet to the training school at or before the child's arrival at
820 the training school. The admittance of any child to a training
821 school shall take place between the hours of 8:00 a.m. and 3:00
822 p.m. on designated admission days.

823 (9) When a child in the jurisdiction of the Youth Court is
824 committed to the custody of the Mississippi Department of Human
825 Services and is believed to be in need of treatment for a mental
826 or emotional disability or infirmity, the Department of Human
827 Services shall file an affidavit alleging that the child is in
828 need of mental health services with the Youth Court. The Youth
829 Court shall refer the child to the appropriate community mental
830 health center for evaluation pursuant to Section 41-21-67. If
831 said prescreening evaluation recommends residential care, the
832 Youth Court shall proceed with civil commitment pursuant to
833 Sections 41-21-61 et seq., 43-21-315 and 43-21-611, and the
834 Department of Mental Health, once commitment is ordered, shall
835 provide appropriate care, treatment and services for at least as
836 many adolescents as were provided services in fiscal year 2004 in
837 its facilities.

838 **SECTION 7.** Section 43-27-107, Mississippi Code of 1972, is
839 amended as follows:

840 43-27-107. The Department of Human Services is authorized to
841 set the qualifications necessary for all family protection
842 specialists employed by the department, which shall at a minimum
843 require that the applicant possess a baccalaureate degree in
844 social work from a college or university accredited by the Council
845 on Social Work Education or Southern Association of Colleges and
846 Schools.

847 The qualifications for employment of a family protection
848 specialist at the senior and advanced grades shall require, in
849 addition to those required of a family protection specialist,
850 state licensure as a social worker.

851 The department shall not be required to go through the State
852 Personnel Board or use the qualifications set by the Personnel
853 Board in employing any family protection specialists for the
854 department. All family protection specialists employed by the
855 department shall be state service employees from the date of their
856 employment with the department; however, to carry out its
857 responsibilities, the department may use any available federal
858 funds to employ such additional family protection specialists as
859 it can employ in time-limited positions. All social worker
860 positions existing before July 1, 1998, will remain state service.

861 **SECTION 8.** Section 43-27-109, Mississippi Code of 1972, is
862 amended as follows:

863 43-27-109. The Department of Human Services may employ a
864 sufficient number of new family protection specialists, * * *
865 youth counselors and clerical staff to reduce the caseload sizes
866 for social workers and youth counselors of the department and to
867 reduce the workload on clerical staff, if funds are appropriated
868 to the department for that purpose.

869 **SECTION 9.** Section 43-47-7, Mississippi Code of 1972, is
870 amended as follows:

871 43-47-7. (1) (a) Except as otherwise provided by Section
872 43-47-37 for vulnerable adults in care facilities, any person
873 including, but not limited to, the following, who knows or
874 suspects that a vulnerable adult has been or is being abused,
875 neglected or exploited shall immediately report such knowledge or
876 suspicion to the Department of Human Services or to the county
877 department of human services where the vulnerable adult is
878 located:

879 (i) Attorney, physician, osteopathic physician,
880 medical examiner, chiropractor or nurse engaged in the admission,
881 examination, care or treatment of vulnerable adults;

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

884 (iii) Practitioner who relies solely on spiritual
885 means for healing;

886 (iv) Social worker, family protection worker,
887 family protection specialist or other professional adult care,
888 residential or institutional staff;

889 (v) State, county or municipal criminal justice
890 employee or law enforcement officer;

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

893 (vii) Accountant, stockbroker, financial advisor
894 or consultant, insurance agent or consultant, investment advisor
895 or consultant, financial planner, or any officer or employee of a
896 bank, savings and loan, credit union or any other financial
897 service provider.

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

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

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

906 (iii) Name, address and telephone number of each
907 alleged perpetrator.

908 (iv) Name, address and telephone number of the
909 caregiver of the vulnerable adult, if different from the alleged
910 perpetrator.

911 (v) Description of the neglect, exploitation,
912 physical or psychological injuries sustained.

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

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

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

923 (c) The department, or its designees, shall report to
924 an appropriate criminal investigative or prosecutive authority any
925 person required by this section to report or who fails to comply
926 with this section. A person who fails to make a report as
927 required under this subsection or who, because of the
928 circumstances, should have known or suspected beyond a reasonable
929 doubt that a vulnerable adult suffers from exploitation, abuse,
930 neglect or self-neglect but who knowingly fails to comply with
931 this section shall, upon conviction, be guilty of a misdemeanor
932 and shall be punished by a fine not exceeding Five Thousand
933 Dollars (\$5,000.00), or by imprisonment in the county jail for not
934 more than six (6) months, or both such fine and imprisonment.
935 However, for purposes of this subsection (1), any recognized legal
936 financial transaction shall not be considered cause to report the
937 knowledge or suspicion of the financial exploitation of a
938 vulnerable adult. If a person convicted under this section is a
939 member of a profession or occupation that is licensed, certified
940 or regulated by the state, the court shall notify the appropriate
941 licensing, certifying or regulating entity of the conviction.

942 (2) Reports received by law enforcement authorities or other
943 agencies shall be forwarded immediately to the Department of Human
944 Services or the county department of human services. The
945 Department of Human Services shall investigate the reported abuse,
946 neglect or exploitation immediately and shall file a preliminary
947 report of its findings with the Office of the Attorney General

948 within forty-eight (48) hours, and shall make additional reports
949 as new information or evidence becomes available. The Department
950 of Human Services, upon request, shall forward a statement to the
951 person making the initial report required by this section as to
952 what action is being taken, if any.

953 (3) The report may be made orally or in writing, but where
954 made orally, it shall be followed up by a written report. A
955 person who fails to report or to otherwise comply with this
956 section, as provided herein, shall have no civil or criminal
957 liability, other than that expressly provided for in this section,
958 to any person or entity in connection with any failure to report
959 or to otherwise comply with the requirements of this section.

960 (4) Anyone who makes a report required by this section or
961 who testifies or participates in any judicial proceedings arising
962 from the report or who participates in a required investigation or
963 evaluation shall be presumed to be acting in good faith and in so
964 doing shall be immune from liability, civil or criminal, that
965 might otherwise be incurred or imposed. However, the immunity
966 provided under this subsection shall not apply to any suspect or
967 perpetrator of any abuse, neglect or exploitation.

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

972 (6) The Executive Director of Human Services shall establish
973 a statewide central register of reports made pursuant to this
974 section. The central register shall be capable of receiving
975 reports of vulnerable adults in need of protective services seven
976 (7) days a week, twenty-four (24) hours a day. To effectuate this
977 purpose, the executive director shall establish a single toll-free
978 statewide phone number that all persons may use to report
979 vulnerable adults in need of protective services, and that all
980 persons authorized by subsection (7) of this section may use for

981 determining the existence of prior reports in order to evaluate
982 the condition or circumstances of the vulnerable adult before
983 them. Such oral reports and evidence of previous reports shall be
984 transmitted to the appropriate county department of human
985 services. The central register shall include, but not be limited
986 to, the following information: the name and identifying
987 information of the individual reported, the county department of
988 human services responsible for the investigation of each such
989 report, the names, affiliations and purposes of any person
990 requesting or receiving information which the executive director
991 believes might be helpful in the furtherance of the purposes of
992 this chapter, the name, address, birth date, social security
993 number of the perpetrator of abuse, neglect and/or exploitation,
994 and the type of abuse, neglect and/or exploitation of which there
995 was substantial evidence upon investigation of the report. The
996 central register shall inform the person making reports required
997 under this section of his or her right to request statements from
998 the department as to what action is being taken, if any.

999 Each person, business, organization or other entity, whether
1000 public or private, operated for profit, operated for nonprofit or
1001 a voluntary unit of government not responsible for law enforcement
1002 providing care, supervision or treatment of vulnerable adults
1003 shall conduct criminal history records checks on each new employee
1004 of the entity who provides, and/or would provide direct patient
1005 care or services to adults or vulnerable persons, as provided in
1006 Section 43-11-13.

1007 The department shall not release data that would be harmful
1008 or detrimental to the vulnerable adult or that would identify or
1009 locate a person who, in good faith, made a report or cooperated in
1010 a subsequent investigation unless ordered to do so by a court of
1011 competent jurisdiction.

1012 (7) Reports made pursuant to this section, reports written
1013 or photographs taken concerning such reports in the possession of

1014 the Department of Human Services or the county department of human
1015 services shall be confidential and shall only be made available
1016 to:

1017 (a) A physician who has before him a vulnerable adult
1018 whom he reasonably suspects may be abused, neglected or exploited,
1019 as defined in Section 43-47-5;

1020 (b) A duly authorized agency having the responsibility
1021 for the care or supervision of a subject of the report;

1022 (c) A grand jury or a court of competent jurisdiction,
1023 upon finding that the information in the record is necessary for
1024 the determination of charges before the grand jury;

1025 (d) A district attorney or other law enforcement
1026 official.

1027 Notwithstanding the provisions of paragraph (b) of this
1028 subsection, the department may not disclose a report of the
1029 abandonment, exploitation, abuse, neglect or self-neglect of a
1030 vulnerable adult to the vulnerable adult's guardian,
1031 attorney-in-fact, surrogate decision maker, or caregiver who is a
1032 perpetrator or alleged perpetrator of the abandonment,
1033 exploitation, abuse or neglect of the vulnerable adult.

1034 Any person given access to the names or other information
1035 identifying the subject of the report, except the subject of the
1036 report, shall not divulge or make public such identifying
1037 information unless he is a district attorney or other law
1038 enforcement official and the purpose is to initiate court action.
1039 Any person who willfully permits the release of any data or
1040 information obtained pursuant to this section to persons or
1041 agencies not permitted to such access by this section shall be
1042 guilty of a misdemeanor.

1043 (8) Upon reasonable cause to believe that a caretaker or
1044 other person has abused, neglected or exploited a vulnerable
1045 adult, the department shall promptly notify the district attorney
1046 of the county in which the vulnerable adult is located and the

1047 Office of the Attorney General, except as provided in Section
1048 43-47-37(2).

1049 **SECTION 10.** Section 93-21-23, Mississippi Code of 1972, is
1050 amended as follows:

1051 93-21-23. Any licensed doctor of medicine, licensed doctor
1052 of dentistry, intern, resident or registered nurse, psychologist,
1053 social worker, family protection worker, family protection
1054 specialist, preacher, teacher, attorney, law enforcement officer,
1055 or any other person or institution participating in the making of
1056 a report pursuant to this chapter or participating in judicial
1057 proceedings resulting therefrom shall be presumed to be acting in
1058 good faith, and if found to have acted in good faith shall be
1059 immune from any liability, civil or criminal, that might otherwise
1060 be incurred or imposed. The reporting of an abused person shall
1061 not constitute a breach of confidentiality.

1062 **SECTION 11.** Section 97-3-7, Mississippi Code of 1972, is
1063 amended as follows:

1064 97-3-7. (1) A person is guilty of simple assault if he (a)
1065 attempts to cause or purposely, knowingly or recklessly causes
1066 bodily injury to another; or (b) negligently causes bodily injury
1067 to another with a deadly weapon or other means likely to produce
1068 death or serious bodily harm; or (c) attempts by physical menace
1069 to put another in fear of imminent serious bodily harm; and, upon
1070 conviction, he shall be punished by a fine of not more than Five
1071 Hundred Dollars (\$500.00) or by imprisonment in the county jail
1072 for not more than six (6) months, or both. However, a person
1073 convicted of simple assault (a) upon a statewide elected official,
1074 law enforcement officer, fireman, emergency medical personnel,
1075 public health personnel, social worker or family protection
1076 specialist or family protection worker employed by the Department
1077 of Human Services or another agency, superintendent, principal,
1078 teacher or other instructional personnel, school attendance
1079 officer, school bus driver, or a judge of a circuit, chancery,

1080 county, justice or youth court or a judge of the Court of Appeals
1081 or a justice of the Supreme Court, district attorney, legal
1082 assistant to a district attorney, county prosecutor, municipal
1083 prosecutor, court reporter employed by a court, court
1084 administrator, clerk or deputy clerk of the court, or public
1085 defender, while such statewide elected official, judge or justice,
1086 law enforcement officer, fireman, emergency medical personnel,
1087 public health personnel, social worker, family protection
1088 specialist, family protection worker, superintendent, principal,
1089 teacher or other instructional personnel, school attendance
1090 officer, school bus driver, district attorney, legal assistant to
1091 a district attorney, county prosecutor, municipal prosecutor,
1092 court reporter employed by a court, court administrator, clerk or
1093 deputy clerk of the court, or public defender is acting within the
1094 scope of his duty, office or employment, or (b) upon a legislator
1095 while the Legislature is in regular or extraordinary session or
1096 while otherwise acting within the scope of his duty, office or
1097 employment, shall be punished by a fine of not more than One
1098 Thousand Dollars (\$1,000.00) or by imprisonment for not more than
1099 five (5) years, or both.

1100 (2) A person is guilty of aggravated assault if he (a)
1101 attempts to cause serious bodily injury to another, or causes such
1102 injury purposely, knowingly or recklessly under circumstances
1103 manifesting extreme indifference to the value of human life; or
1104 (b) attempts to cause or purposely or knowingly causes bodily
1105 injury to another with a deadly weapon or other means likely to
1106 produce death or serious bodily harm; and, upon conviction, he
1107 shall be punished by imprisonment in the county jail for not more
1108 than one (1) year or in the Penitentiary for not more than twenty
1109 (20) years. However, a person convicted of aggravated assault (a)
1110 upon a statewide elected official, law enforcement officer,
1111 fireman, emergency medical personnel, public health personnel,
1112 social worker, family protection specialist, family protection

1113 worker employed by the Department of Human Services or another
1114 agency, superintendent, principal, teacher or other instructional
1115 personnel, school attendance officer, school bus driver, or a
1116 judge of a circuit, chancery, county, justice or youth court or a
1117 judge of the Court of Appeals or a justice of the Supreme Court,
1118 district attorney, legal assistant to a district attorney, county
1119 prosecutor, municipal prosecutor, court reporter employed by a
1120 court, court administrator, clerk or deputy clerk of the court, or
1121 public defender, while such statewide elected official, judge or
1122 justice, law enforcement officer, fireman, emergency medical
1123 personnel, public health personnel, social worker, family
1124 protection specialist, family protection worker, superintendent,
1125 principal, teacher or other instructional personnel, school
1126 attendance officer, school bus driver, district attorney, legal
1127 assistant to a district attorney, county prosecutor, municipal
1128 prosecutor, court reporter employed by a court, court
1129 administrator, clerk or deputy clerk of the court, or public
1130 defender is acting within the scope of his duty, office or
1131 employment, or (b) upon a legislator while the Legislature is in
1132 regular or extraordinary session or while otherwise acting within
1133 the scope of his duty, office or employment, shall be punished by
1134 a fine of not more than Five Thousand Dollars (\$5,000.00) or by
1135 imprisonment for not more than thirty (30) years, or both.

1136 (3) A person is guilty of simple domestic violence who
1137 commits simple assault as described in subsection (1) of this
1138 section against a family or household member who resides with the
1139 defendant or who formerly resided with the defendant, a current or
1140 former spouse, a person who has a current dating relationship with
1141 the defendant, or a person with whom the defendant has had a
1142 biological or legally adopted child and upon conviction, the
1143 defendant shall be punished as provided under subsection (1) of
1144 this section; however, upon a third or subsequent conviction of
1145 simple domestic violence, whether against the same or another

1146 victim and within five (5) years, the defendant shall be guilty of
1147 a felony and sentenced to a term of imprisonment not less than
1148 five (5) nor more than ten (10) years. In sentencing, the court
1149 shall consider as an aggravating factor whether the crime was
1150 committed in the physical presence or hearing of a child under
1151 sixteen (16) years of age who was, at the time of the offense,
1152 living within either the residence of the victim, the residence of
1153 the perpetrator, or the residence where the offense occurred.

1154 (4) A person is guilty of aggravated domestic violence who
1155 commits aggravated assault as described in subsection (2) of this
1156 section against a family or household member who resides with the
1157 defendant or who formerly resided with the defendant, or a current
1158 or former spouse, a person who has a current dating relationship
1159 with the defendant, or a person with whom the defendant has had a
1160 biological or legally adopted child and upon conviction, the
1161 defendant shall be punished as provided under subsection (2) of
1162 this section; however, upon a third or subsequent offense of
1163 aggravated domestic violence, whether against the same or another
1164 victim and within five (5) years, the defendant shall be guilty of
1165 a felony and sentenced to a term of imprisonment of not less than
1166 five (5) nor more than twenty (20) years. In sentencing, the
1167 court shall consider as an aggravating factor whether the crime
1168 was committed in the physical presence or hearing of a child under
1169 sixteen (16) years of age who was, at the time of the offense,
1170 living within either the residence of the victim, the residence of
1171 the perpetrator, or the residence where the offense occurred.
1172 Reasonable discipline of a child, such as spanking, is not an
1173 offense under this subsection (4).

1174 (5) "Dating relationship" means a social relationship of a
1175 romantic or intimate nature.

1176 (6) Every conviction of domestic violence may require as a
1177 condition of any suspended sentence that the defendant participate
1178 in counseling or treatment to bring about the cessation of

1179 domestic abuse. The defendant may be required to pay all or part
1180 of the cost of the counseling or treatment, in the discretion of
1181 the court.

1182 (7) In any conviction of assault as described in any
1183 subsection of this section which arises from an incident of
1184 domestic violence, the sentencing order shall include the
1185 designation "domestic violence."

1186 **SECTION 12.** This act shall take effect and be in force from
1187 and after July 1, 2006.