

By: Senator(s) Nunnelee

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2811

1 AN ACT RELATING TO THE EMPLOYMENT POSITIONS OF "SOCIAL
 2 WORKER," "CHILD PROTECTION SPECIALIST" AND "LICENSED PROTECTIVE
 3 SERVICE WORKER" WITHIN THE OFFICE OF FAMILY AND CHILDREN'S
 4 SERVICES AND THE DIVISION OF AGING AND ADULT SERVICES IN THE
 5 MISSISSIPPI DEPARTMENT OF HUMAN SERVICES; TO AMEND SECTION
 6 43-1-55, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE EMPLOYMENT
 7 POSITION OF PROTECTIVE SERVICE WORKERS AND SET FORTH THE DATE THAT
 8 THE CHILD PROTECTION SPECIALISTS MUST OBTAIN A NEW LICENSE TO
 9 CONTINUE EMPLOYMENT WITH THE DEPARTMENT, AND TO DELETE REPEALERS
 10 ON CERTAIN SECTIONS RELATING TO CHILD PROTECTION SPECIALISTS; TO
 11 AMEND SECTION 73-53-3, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
 12 EXAMINATION OF CANDIDATES FOR LICENSURE AS A PROTECTIVE SERVICE
 13 WORKER; TO AMEND 73-53-11, MISSISSIPPI CODE OF 1972, TO DEFINE
 14 CERTAIN DUTIES OF THE BOARD OF EXAMINERS FOR SOCIAL WORKERS AND
 15 MARRIAGE AND FAMILY THERAPISTS WITH RESPECT TO SUCH EXAMINATIONS;
 16 TO AMEND SECTION 73-53-13, MISSISSIPPI CODE OF 1972, TO DEFINE THE
 17 QUALIFICATIONS FOR THE PROTECTIVE SERVICE WORKER LICENSE; TO AMEND
 18 SECTION 73-53-15, MISSISSIPPI CODE OF 1972, TO ESTABLISH THE FEE
 19 FOR RENEWAL OF THE PROTECTIVE SERVICE WORKER LICENSE; TO AMEND
 20 SECTIONS 43-15-13, 43-21-261, 43-21-353, 43-21-355, 43-21-603,
 21 43-27-107, 43-27-109, 43-47-7, 73-53-7, 93-21-23 AND 97-3-7,
 22 MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

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

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

26 43-1-55. (1) The Office of Family and Children's Services
 27 and the Division of Aging and Adult Services shall devise
 28 formal * * * standards for employment as a protective service
 29 worker within their respective offices and for service delivery
 30 designed to measure the quality of services delivered to clients,
 31 as well as the timeliness of services. Each protective service
 32 worker shall be assessed annually by a supervisor who is
 33 knowledgeable in the standards promulgated. The standards devised
 34 by each office shall be applicable to all protective service
 35 workers working under that office.

36 (2) The Office of Family and Children's Services shall
 37 devise formal standards for child protection specialists of the

38 Department of Human Services who are not licensed social workers.
39 Those standards shall require that:

40 (a) In order to be employed as a child protection
41 specialist, a person must have a bachelor's degree in either
42 psychology, sociology, nursing, criminal justice or a related
43 field, or a graduate degree in either law, psychology, sociology,
44 nursing, criminal justice or a related field. The determination
45 of what is a related field shall be made by certification of the
46 State Personnel Board; and

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

65 (3) For the purpose of providing services in child abuse or
66 neglect cases, youth court proceedings, vulnerable adults cases,
67 and such other cases as designated by the Executive Director of
68 Human Services, the caseworker or service provider may be a child
69 protection specialist whose work is overseen by a licensed social
70 worker.

71 (4) The Department of Human Services and the Office of
72 Family and Children's Services shall seek to employ and use
73 licensed protective service workers to provide the services of the
74 office, and may employ and use child protection specialists to
75 provide those services only in counties in which there is not a
76 sufficient number of licensed protective service workers to
77 adequately provide those services in the county.

78 (5) * * * Child protection specialists employed by the
79 Department of Human Services before July 1, 2006, may continue to
80 serve without licensure as a protective service worker in the
81 Office of Family and Children's Services or the Division of Aging
82 and Adult Services for up to three (3) years from and after July
83 1, 2006. By July 1, 2009, all persons who qualified for the
84 position of protective service worker by virtue of previous
85 employment as a child protection specialist must obtain a license
86 pursuant to Section 73-53-13, Mississippi Code of 1972, to be
87 eligible for continued employment by the department.

88 **SECTION 2.** Section 73-53-3, Mississippi Code of 1972, is
89 amended as follows:

90 73-53-3. As used in this chapter:

91 (a) "Board" means the Board of Examiners for Social
92 Workers and Marriage and Family Therapists created under Section
93 73-53-8.

94 (b) "Social work practice" means the professional
95 activity directed at enhancing, protecting or restoring people's
96 capacity for social functioning, whether impaired by physical,
97 environmental or emotional factors.

98 (c) "Clinical social work practice" means the
99 application of social work methods and values in diagnosis and
100 treatment directed at enhancing, protecting or restoring people's
101 capacity for social functioning, whether impaired by physical,
102 environmental or emotional factors.

103 (d) "Examination(s)" means that test or exam which is
104 endorsed and prescribed by the American Association of State
105 Social Work Boards or, in the case of applicants for the
106 protective service worker license, that test or exam which is
107 developed and prescribed by the Office of Family and Children's
108 Services and approved by the board for licensure as a protective
109 service worker.

110 **SECTION 3.** Section 73-53-11, Mississippi Code of 1972, is
111 amended as follows:

112 73-53-11. (1) In addition to the duties set forth elsewhere
113 in this chapter and in Sections 73-54-1 through 73-54-39, the
114 board shall:

115 (a) At least once every two (2) years recommend
116 modifications or amendments to this chapter to the Governor;

117 (b) Review the quality and availability of social work
118 services provided in this state and make recommendations for
119 change to the Legislature. Beginning with the quarter ending
120 October 1, 2006, and within thirty (30) days after each quarter
121 thereafter, the board shall report to the Chairman of the Senate
122 Public Health and Welfare Committee and the Chairman of the House
123 Human Services Committee the following statistics:

124 For each public and private college and university in
125 Mississippi that offers a degree in social work, compile

126 (i) The number of students or graduates who sat
127 for each administration of the exam required for licensure as a
128 social worker;

129 (ii) The number of students or graduates who
130 received a passing score on said exam;

131 (iii) The number of students or graduates who sat
132 for each administration of the exam required for licensure as a
133 protective service worker;

134 (iv) The number of students or graduates who
135 received a passing score on the protective service worker exam;
136 and

137 (v) The major field of study in which each student
138 or graduate is earning or has earned a baccalaureate degree; and

139 (c) Recommend to the appropriate law enforcement
140 official the bringing of civil actions to seek injunctions and
141 other relief against unlicensed individuals for violations of this
142 chapter.

143 (2) The board shall approve, oversee and be responsible for
144 all examinations for licensure under this chapter, including the
145 examination for licensure as a protective service worker developed
146 by the Office of Family and Children's Services of the Mississippi
147 Department of Human Services. The board shall pass on all
148 applicants who apply to be licensed.

149 (3) The board shall be responsible for all disciplinary
150 functions carried out in this state regarding all licensees under
151 this chapter.

152 (4) The board shall be responsible for all disputed matters
153 involving whether an applicant shall be licensed.

154 (5) The board shall have such other powers as may be
155 required to carry out the provisions of this chapter.

156 **SECTION 4.** Section 73-53-13, Mississippi Code of 1972, is
157 amended as follows:

158 73-53-13. The board shall issue the appropriate license to
159 applicants who meet the qualifications of this section.

160 (a) Prerequisites - "social worker": A license as a
161 "social worker" shall be issued to an applicant who meets the
162 following qualifications:

163 (i) Has a baccalaureate degree in social work from
164 a college or university accredited by the Council on Social Work
165 Education or Southern Association of Colleges and Schools and has
166 satisfactorily completed an examination for this license; or

167 (ii) Has a comparable license or registration from
168 another state or territory of the United States that imposes
169 qualifications substantially similar to those of this chapter.

170 (b) Prerequisites - "protective service worker": A
171 license as a "protective service worker" shall be issued to an
172 applicant who meets the following qualifications:

173 (i) Has a baccalaureate degree in either social
174 work, psychology, sociology, missiology, counseling, nursing,
175 criminal justice or a related field, or a graduate degree in one
176 of the aforementioned fields or in law, theology, marriage and
177 family therapy, or a related field from an accredited college or
178 university or from a seminary. The determination of what is a
179 related field shall be made by certification of the State
180 Personnel Board. A degree in social work shall enjoy preferment
181 above degrees in other fields of study; and

182 (ii) Has satisfactorily completed an examination
183 for this license.

184 (c) Prerequisites - "master social worker": A license
185 as a "master social worker" shall be issued to an applicant who
186 meets the following qualifications:

187 (i) Has a doctorate or master's degree from a
188 school of social work accredited by the Council on Social Work
189 Education; and

190 (ii) Has satisfactorily completed an examination
191 for this license; or

192 (iii) Has a comparable license or registration
193 from another state or territory of the United States that imposes
194 qualifications substantially similar to those of this chapter.

195 (d) Prerequisites - "certified social worker": A
196 license as a "certified social worker" shall be issued to an
197 applicant who meets the following qualifications:

198 (i) Is licensed under this section as a "master
199 social worker"; and

200 (ii) Has twenty-four (24) months of experience
201 acceptable to the board, under appropriate supervision; and
202 (iii) Has satisfactorily completed a state
203 examination for this license; or
204 (iv) Has a comparable license or registration from
205 another state or territory of the United States that imposes
206 qualifications substantially similar to those of this chapter.

207 (e) In addition to the above qualifications, an
208 applicant for any of the above licenses must prove to the board's
209 satisfaction:

210 (i) Age of at least twenty-one (21) years, and
211 (ii) Good moral character, which is a continuing
212 requirement for licensure, and
213 (iii) United States citizenship or status as a
214 legal resident alien, and
215 (iv) Absence of conviction of a felony related to
216 the practice of social work for the last fifteen (15) years, and
217 (v) That the applicant has not been declared
218 mentally incompetent by any court, and if any such decree has ever
219 been rendered, that the decree has since been changed, and
220 (vi) Freedom from dependency on alcohol or drugs.

221 (f) Only individuals licensed as "certified social
222 workers" shall be permitted to call themselves "clinical social
223 workers."

224 Each application or filing made under this section shall
225 include the social security number(s) of the applicant in
226 accordance with Section 93-11-64, Mississippi Code of 1972.

227 **SECTION 5.** Section 73-53-15, Mississippi Code of 1972, is
228 amended as follows:

229 73-53-15. All original licenses shall be valid for one (1)
230 year, unless earlier suspended or revoked by the board, and each
231 person to whom a license is issued shall pay a fee of not more
232 than Fifty Dollars (\$50.00) therefor to the board. Licenses shall

233 be renewed biennially after initial licensure upon payment of a
234 fee of not more than One Hundred Dollars (\$100.00) for licensed
235 protective service workers, One Hundred Fifty Dollars (\$150.00)
236 for licensed social workers, Two Hundred Dollars (\$200.00) for
237 licensed master social workers and Two Hundred Dollars (\$200.00)
238 for licensed certified social workers, and being in compliance
239 with such additional requirements as the board shall promulgate.

240 **SECTION 6.** Section 43-15-13, Mississippi Code of 1972, is
241 amended as follows:

242 43-15-13. (1) For purposes of this section, "children"
243 means persons found within the state who are under the age of
244 twenty-one (21) years, and who were placed in the custody of the
245 Department of Human Services by the youth court of the appropriate
246 county.

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

250 (a) Protecting and promoting the health, safety and
251 welfare of children;

252 (b) Preventing the unnecessary separation of children
253 from their families by identifying family problems, assisting
254 families in resolving their problems and preventing the breakup of
255 the family where the prevention of child removal is desirable and
256 possible when the child can be cared for at home without
257 endangering the child's health and safety;

258 (c) Remediating or assisting in the solution of problems
259 which may result in the neglect, abuse, exploitation or
260 delinquency of children;

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

265 (e) Placing children in suitable adoptive homes
266 approved by a licensed adoption agency or licensed protective
267 service worker, in cases where restoration to the biological
268 family is not safe, possible or appropriate;

269 (f) Assuring safe and adequate care of children away
270 from their homes, in cases where the child cannot be returned home
271 or cannot be placed for adoption. At the time of placement, the
272 department shall implement concurrent planning, as described in
273 subsection (8) of this section, so that permanency may occur at
274 the earliest opportunity. Consideration of possible failure or
275 delay of reunification should be given, to the end that the
276 placement made is the best available placement to provide
277 permanency for the child; and

278 (g) Providing a protective service worker or * * * team
279 of such workers for a family and child throughout the
280 implementation of their permanent living arrangement plan.
281 Wherever feasible, the same protective service worker or * * *
282 team shall remain on the case until the child is no longer under
283 the jurisdiction of the youth court.

284 (3) The State Department of Human Services shall administer
285 a system of individualized plans and reviews once every six (6)
286 months for each child under its custody within the State of
287 Mississippi, each child who has been adjudged a neglected,
288 abandoned or abused child and whose custody was changed by court
289 order as a result of such adjudication, and each public or private
290 facility licensed by the department. The State Department of
291 Human Services administrative review shall be completed on each
292 child within the first three (3) months and a foster care review
293 once every six (6) months after the child's initial
294 forty-eight-hour shelter hearing. Such system shall be for the
295 purpose of enhancing potential family life for the child by the
296 development of individual plans to return the child to its natural
297 parent or parents, or to refer the child to the appropriate court

298 for termination of parental rights and placement in a permanent
299 relative's home, adoptive home or foster/adoptive home. The goal
300 of the State Department of Human Services shall be to return the
301 child to its natural parent(s) or refer the child to the
302 appropriate court for termination of parental rights and placement
303 in a permanent relative's home, adoptive home or foster/adoptive
304 home within the time periods specified in this subsection or in
305 subsection (4) of this section. In furthering this goal, the
306 department shall establish policy and procedures designed to
307 appropriately place children in permanent homes, such policy to
308 include a system of reviews for all children in foster care, as
309 follows: foster care counselors in the department shall make all
310 possible contact with the child's natural parent(s) and any
311 interested relative for the first two (2) months following the
312 child's entry into the foster care system. For any child who was
313 in foster care before July 1, 1998, and has been in foster care
314 for fifteen (15) of the last twenty-two (22) months regardless of
315 whether the foster care was continuous for all of those twenty-two
316 (22) months, the department shall file a petition to terminate the
317 parental rights of the child's parents. The time period starts to
318 run from the date the court makes a finding of abuse and/or
319 neglect or sixty (60) days from when the child was removed from
320 his or her home, whichever is earlier. The department can choose
321 not to file a termination of parental rights petition if the
322 following apply:

- 323 (a) The child is being cared for by a relative; and/or
- 324 (b) The department has documented compelling and
325 extraordinary reasons why termination of parental rights would not
326 be in the best interests of the child. Prior to granting or
327 denying a request by the department for an extension of time for
328 filing a termination of parental rights action, the court shall
329 receive a written report on the progress which a parent of such

330 child has made in treatment, to be made to the court in writing by
331 a mental health/substance abuse therapist or counselor.

332 (4) In the case of any child who is placed in foster care on
333 or after July 1, 1998, except in cases of aggravated circumstances
334 prescribed in Section 43-21-603(7)(c) or (d), the child's natural
335 parent(s) will have a reasonable time to be determined by the
336 court, which shall not exceed a six-month period of time, in which
337 to meet the service agreement with the department for the benefit
338 of the child unless the department has documented extraordinary
339 and compelling reasons for extending the time period in the best
340 interest of the child. If this agreement has not been
341 satisfactorily met, simultaneously the child will be referred to
342 the appropriate court for termination of parental rights and
343 placement in a permanent relative's home, adoptive home or a
344 foster/adoptive home. For children under the age of three (3)
345 years, termination of parental rights shall be initiated within
346 six (6) months, unless the department has documented compelling
347 and extraordinary circumstances, and placement in a permanent
348 relative's home, adoptive home or foster/adoptive home within two
349 (2) months. For children who have been abandoned pursuant to the
350 provisions of Section 97-5-1, termination of parental rights shall
351 be initiated within thirty (30) days and placement in an adoptive
352 home shall be initiated without necessity for placement in a
353 foster home. The department need not initiate termination of
354 parental rights proceedings where the child has been placed in
355 durable legal custody or long-term or formalized foster care by a
356 court of competent jurisdiction.

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

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

365 (b) The extent of communication with the child by
366 parents, parent or guardian;

367 (c) The degree of compliance by the agency and the
368 parents with the social service plan established;

369 (d) The methods of achieving the goal and the plan
370 establishing a permanent home for the child;

371 (e) Social services offered and/or utilized to
372 facilitate plans for establishing a permanent home for the child;
373 and

374 (f) Relevant testimony and recommendations from the
375 foster parent of the child, the grandparents of the child, the
376 guardian ad litem of the child, representatives of any private
377 care agency which has cared for the child, the protective service
378 worker assigned to the case, and any other relevant testimony
379 pertaining to the case.

380 Each child's review plan once every six (6) months shall be
381 filed with the court which awarded custody and shall be made
382 available to natural parents or foster parents upon approval of
383 the court. The court shall make a finding as to the degree of
384 compliance by the agency and the parent(s) with the child's social
385 service plan. The court also shall find that the child's health
386 and safety are the paramount concern. In the interest of the
387 child, the court shall, where appropriate, initiate proceedings on
388 its own motion. The State Department of Human Services shall
389 report to the Legislature as to the number of such children, the
390 findings of the foster care review board and relevant statistical
391 information in foster care in a semiannual report to the
392 Legislature to be submitted to the Joint Oversight Committee of
393 the Department of Human Services. The report shall not refer to
394 the specific name of any child in foster care.

395 (6) The State Department of Human Services, with the
396 cooperation and assistance of the State Department of Health,
397 shall develop and implement a training program for foster care
398 parents to indoctrinate them as to their proper responsibilities
399 upon a child's entry into their foster care. The program shall
400 provide a minimum of twelve (12) clock hours of training. The
401 foster care training program shall be satisfactorily completed by
402 such foster care parents prior to or within ninety (90) days after
403 child placement with such parent. Record of such foster care
404 parent's training program participation shall be filed with the
405 court as part of a foster care child's review plan once every six
406 (6) months.

407 (7) When the Department of Human Services is considering
408 placement of a child in a foster home and when the department
409 deems it to be in the best interest of the child, the department
410 shall give first priority to placing the child in the home of one
411 (1) of the child's relatives within the third degree, as computed
412 by the civil law rule. In placing the child in a relative's home,
413 the department may waive any rule, regulation or policy applicable
414 to placement in foster care that would otherwise require the child
415 to have a separate bed or bedroom or have a bedroom of a certain
416 size, if placing the child in a relative's home would be in the
417 best interest of the child and such requirements cannot be met in
418 the relative's home.

419 (8) The Legislature recognizes that the best interests of
420 the child require that the child be placed in the most permanent
421 living arrangement as soon as is practicably possible. To achieve
422 this goal, the Department of Human Services is directed to conduct
423 concurrent planning so that a permanent living arrangement may
424 occur at the earliest opportunity. Permanent living arrangements
425 may include prevention of placement of a child outside the home of
426 the family when the child can be cared for at home without
427 endangering the child's health or safety; reunification with the

428 family, when safe and appropriate, if temporary placement is
429 necessary; or movement of the child toward the most permanent
430 living arrangement and permanent legal status. When a child is
431 placed in foster care or relative care, the department shall first
432 ensure and document that reasonable efforts were made to prevent
433 or eliminate the need to remove the child from the child's home.
434 The department's first priority shall be to make reasonable
435 efforts to reunify the family when temporary placement of the
436 child occurs or shall request a finding from the court that
437 reasonable efforts are not appropriate or have been unsuccessful.
438 A decision to place a child in foster care or relative care shall
439 be made with consideration of the child's health, safety and best
440 interests. At the time of placement, consideration should also be
441 given so that if reunification fails or is delayed, the placement
442 made is the best available placement to provide a permanent living
443 arrangement for the child. The department shall adopt rules
444 addressing concurrent planning for reunification and a permanent
445 living arrangement. The department shall consider the following
446 factors when determining appropriateness of concurrent planning:
447 (a) The likelihood of prompt reunification;
448 (b) The past history of the family;
449 (c) The barriers to reunification being addressed by
450 the family;
451 (d) The level of cooperation of the family;
452 (e) The foster parents' willingness to work with the
453 family to reunite;
454 (f) The willingness and ability of the foster family or
455 relative placement to provide an adoptive home or long-term
456 placement;
457 (g) The age of the child; and
458 (h) Placement of siblings.
459 (9) If the department has placed a child in foster care or
460 relative care pursuant to a court order, the department may not

461 change the child's placement unless the department specifically
462 documents to the court that the current placement is unsafe or
463 unsuitable or that another placement is in the child's best
464 interests unless the new placement is in an adoptive home or other
465 permanent placement. Except in emergency circumstances as
466 determined by the department or where the court orders placement
467 of the child pursuant to Section 43-21-303, the foster parents,
468 grandparents or other relatives of the child shall be given an
469 opportunity to contest the specific reasons documented by the
470 department at least seventy-two (72) hours prior to any such
471 departure, and the court may conduct a review of such placement
472 unless the new placement is in an adoptive home or other permanent
473 placement. When a child is returned to foster care or relative
474 care, the former foster parents or relative placement shall be
475 given the prior right of return placement in order to eliminate
476 additional trauma to the child.

477 (10) The Department of Human Services shall provide the
478 foster parents, grandparents or other relatives with at least a
479 seventy-two-hour notice of departure for any child placed in their
480 foster care or relative care, except in emergency circumstances as
481 determined by the department or where the court orders placement
482 of the child pursuant to Section 43-21-303. The parent/legal
483 guardian, grandparents of the child, guardian ad litem and the
484 court exercising jurisdiction shall be notified in writing when
485 the child leaves foster care or relative care placement,
486 regardless of whether the child's departure was planned or
487 unplanned. The only exceptions to giving a written notice to the
488 parent(s) are when a parent has voluntarily released the child for
489 adoption or the parent's legal rights to the child have been
490 terminated through the appropriate court with jurisdiction.

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

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

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

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

503 (d) Support from the protective service worker in
504 efforts to do a better day-to-day job in caring for the child and
505 in working to achieve the agency's objectives for the child and
506 the birth family through provision of:

507 (i) Pertinent information about the child and the
508 birth family.

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

511 (iii) Direct interviews between the protective
512 service worker and the child, previously discussed and understood
513 by the foster parents;

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

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

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

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

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

- 525 (a) Understanding the department's function in regard
526 to the foster care program and related social service programs;
- 527 (b) Sharing with the department any information which
528 may contribute to the care of foster children;
- 529 (c) Functioning within the established goals and
530 objectives to improve the general welfare of the foster child;
- 531 (d) Recognizing the problems in foster home placement
532 that will require professional advice and assistance and that such
533 help should be utilized to its full potential;
- 534 (e) Recognizing that the foster family will be one of
535 the primary resources for preparing a child for any future plans
536 that are made, including return to birth parent(s), termination of
537 parental rights or reinstitutionalization;
- 538 (f) Expressing their view of agency practices which
539 relate to the foster child with the appropriate staff member;
- 540 (g) Understanding that all information shared with the
541 foster parents about the child and his/her birth parent(s) must be
542 held in the strictest of confidence;
- 543 (h) Cooperating with any plan to reunite the foster
544 child with his birth family and work with the birth family to
545 achieve this goal; and
- 546 (i) Attending dispositional review hearings and
547 termination of parental rights hearings conducted by a court of
548 competent jurisdiction, or providing their recommendations to the
549 court in writing.

550 **SECTION 7.** Section 43-21-261, Mississippi Code of 1972, is
551 amended as follows:

552 43-21-261. (1) Except as otherwise provided in this
553 section, records involving children shall not be disclosed, other
554 than to necessary staff of the youth court, except pursuant to an
555 order of the youth court specifying the person or persons to whom
556 the records may be disclosed, the extent of the records which may
557 be disclosed and the purpose of the disclosure. Such court orders

558 for disclosure shall be limited to those instances in which the
559 youth court concludes, in its discretion, that disclosure is
560 required for the best interests of the child, the public safety or
561 the functioning of the youth court and then only to the following
562 persons:

563 (a) The judge of another youth court or member of
564 another youth court staff;

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

567 (c) A judge of any other court or members of another
568 court staff;

569 (d) Representatives of a public or private agency
570 providing supervision or having custody of the child under order
571 of the youth court;

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

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

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

589 Law enforcement agencies may disclose information to the
590 public concerning the taking of a child into custody for the

591 commission of a delinquent act without the necessity of an order
592 from the youth court. The information released shall not identify
593 the child or his address unless the information involves a child
594 convicted as an adult.

595 (2) Any records involving children which are disclosed under
596 an order of the youth court and the contents thereof shall be kept
597 confidential by the person or agency to whom the record is
598 disclosed except as provided in the order. Any further disclosure
599 of any records involving children shall be made only under an
600 order of the youth court as provided in this section.

601 (3) Upon request, the parent, guardian or custodian of the
602 child who is the subject of a youth court cause or any attorney
603 for such parent, guardian or custodian, shall have the right to
604 inspect any record, report or investigation which is to be
605 considered by the youth court at a hearing, except that the
606 identity of the reporter shall not be released, nor the name of
607 any other person where the person or agency making the information
608 available finds that disclosure of the information would be likely
609 to endanger the life or safety of such person.

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

614 (5) (a) The youth court prosecutor or prosecutors, the
615 county attorney, the district attorney, the youth court defender
616 or defenders, or any attorney representing a child shall have the
617 right to inspect any law enforcement record involving children.

618 (b) The Department of Human Services shall disclose to
619 a county prosecuting attorney or district attorney any and all
620 records resulting from an investigation into suspected child abuse
621 or neglect when the case has been referred by the Department of
622 Human Services to the county prosecuting attorney or district
623 attorney for criminal prosecution.

624 (c) Agency records made confidential under the
625 provisions of this section may be disclosed to a court of
626 competent jurisdiction.

627 (6) Information concerning an investigation into a report of
628 child abuse or child neglect may be disclosed by the Department of
629 Human Services without order of the youth court to any attorney,
630 physician, dentist, intern, resident, nurse, psychologist, social
631 worker, protective service worker, * * * child caregiver,
632 minister, law enforcement officer, public or private school
633 employee making that report pursuant to Section 43-21-353(1) if
634 the reporter has a continuing professional relationship with the
635 child and a need for such information in order to protect or treat
636 the child.

637 (7) Information concerning an investigation into a report of
638 child abuse or child neglect may be disclosed without further
639 order of the youth court to any interagency child abuse task force
640 established in any county or municipality by order of the youth
641 court of that county or municipality.

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

646 (9) Names and addresses of juveniles adjudicated as
647 delinquent for murder, manslaughter, burglary, arson, armed
648 robbery, aggravated assault, any sex offense as defined in Section
649 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
650 violation of Section 63-11-30, shall not be held confidential and
651 shall be made available to the public.

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

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

660 (12) A classification hearing officer of the State
661 Department of Corrections, as provided in Section 47-5-103, shall
662 have the right to inspect any youth court records, excluding abuse
663 and neglect records, of any offender in the custody of the
664 department who as a child or minor was a juvenile offender or was
665 the subject of a youth court cause of action, and the State Parole
666 Board, as provided in Section 47-7-17, shall have the right to
667 inspect such records when the offender becomes eligible for
668 parole.

669 (13) The youth court shall notify the Department of Public
670 Safety of the name, and any other identifying information such
671 department may require, of any child who is adjudicated delinquent
672 as a result of a violation of the Uniform Controlled Substances
673 Law.

674 (14) The Administrative Office of Courts shall have the
675 right to inspect any youth court records in order that the number
676 of youthful offenders, abused, neglected, truant and dependent
677 children, as well as children in need of special care and children
678 in need of supervision, may be tracked with specificity through
679 the youth court and adult justice system, and to utilize tracking
680 forms for such purpose.

681 (15) Upon a request by a youth court, the Administrative
682 Office of Courts shall disclose all information at its disposal
683 concerning any previous youth court intakes alleging that a child
684 was a delinquent child, child in need of supervision, child in
685 need of special care, truant child, abused child or neglected
686 child, as well as any previous youth court adjudications for the
687 same and all dispositional information concerning a child who at
688 the time of such request comes under the jurisdiction of the youth
689 court making such request.

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

697 (17) In every case where there is any indication or
698 suggestion of either abuse or neglect and a child's physical
699 condition is medically labeled as medically "serious" or
700 "critical" or a child dies, the confidentiality provisions of this
701 section shall not apply. In cases of child deaths, the following
702 information may be released by the Mississippi Department of Human
703 Services: (a) Child's name; (b) address or location; (c)
704 verification from the Department of Human Services of case status
705 (no case or involvement, case exists, open or active case, case
706 closed); (d) if a case exists, the type of report or case
707 (physical abuse, neglect, etc.), date of intake(s) and
708 investigation(s), and case disposition (substantiated or
709 unsubstantiated). Notwithstanding the aforesaid, the
710 confidentiality provisions of this section shall continue if there
711 is a pending or planned investigation by any local, state or
712 federal governmental agency or institution.

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

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

723 **SECTION 8.** Section 43-21-353, Mississippi Code of 1972, is
724 amended as follows:

725 43-21-353. (1) Any attorney, physician, dentist, intern,
726 resident, nurse, psychologist, social worker, protective service
727 worker, * * * child caregiver, minister, law enforcement officer,
728 public or private school employee or any other person having
729 reasonable cause to suspect that a child is a neglected child or
730 an abused child, shall cause an oral report to be made immediately
731 by telephone or otherwise and followed as soon thereafter as
732 possible by a report in writing to the Department of Human
733 Services, and immediately a referral shall be made by the
734 Department of Human Services to the youth court intake unit, which
735 unit shall promptly comply with Section 43-21-357. Where
736 appropriate, the Department of Human Services shall additionally
737 make a referral to the youth court prosecutor. Upon receiving a
738 report that a child has been sexually abused, or burned, tortured,
739 mutilated or otherwise physically abused in such a manner as to
740 cause serious bodily harm, or upon receiving any report of abuse
741 that would be a felony under state or federal law, the Department
742 of Human Services shall immediately notify the law enforcement
743 agency in whose jurisdiction the abuse occurred and shall notify
744 the appropriate prosecutor within forty-eight (48) hours, and the
745 Department of Human Services shall have the duty to provide the
746 law enforcement agency all the names and facts known at the time
747 of the report; this duty shall be of a continuing nature. The law
748 enforcement agency and the Department of Human Services shall
749 investigate the reported abuse immediately and shall file a
750 preliminary report with the appropriate prosecutor's office within
751 twenty-four (24) hours and shall make additional reports as new or
752 additional information or evidence becomes available. The
753 Department of Human Services shall advise the clerk of the youth
754 court and the youth court prosecutor of all cases of abuse

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

757 (2) Any report to the Department of Human Services shall
758 contain the names and addresses of the child and his parents or
759 other persons responsible for his care, if known, the child's age,
760 the nature and extent of the child's injuries, including any
761 evidence of previous injuries and any other information that might
762 be helpful in establishing the cause of the injury and the
763 identity of the perpetrator.

764 (3) The Department of Human Services shall maintain a
765 statewide incoming wide-area telephone service or similar service
766 for the purpose of receiving reports of suspected cases of child
767 abuse; provided that any attorney, physician, dentist, intern,
768 resident, nurse, psychologist, social worker, protective service
769 worker, * * * child caregiver, minister, law enforcement officer
770 or public or private school employee who is required to report
771 under subsection (1) of this section shall report in the manner
772 required in subsection (1).

773 (4) Reports of abuse and neglect made under this chapter and
774 the identity of the reporter are confidential except when the
775 court in which the investigation report is filed, in its
776 discretion, determines the testimony of the person reporting to be
777 material to a judicial proceeding or when the identity of the
778 reporter is released to law enforcement agencies and the
779 appropriate prosecutor pursuant to subsection (1). Reports made
780 under this section to any law enforcement agency or prosecutorial
781 officer are for the purpose of criminal investigation and
782 prosecution only and no information from these reports may be
783 released to the public except as provided by Section 43-21-261.
784 Disclosure of any information by the prosecutor shall be according
785 to the Mississippi Uniform Rules of Circuit and County Court
786 Procedure. The identity of the reporting party shall not be
787 disclosed to anyone other than law enforcement officers or

788 prosecutors without an order from the appropriate youth court.
789 Any person disclosing any reports made under this section in a
790 manner not expressly provided for in this section or Section
791 43-21-261, shall be guilty of a misdemeanor and subject to the
792 penalties prescribed by Section 43-21-267.

793 (5) All final dispositions of law enforcement investigations
794 described in subsection (1) of this section shall be determined
795 only by the appropriate prosecutor or court. All final
796 dispositions of investigations by the Department of Human Services
797 as described in subsection (1) of this section shall be determined
798 only by the youth court. Reports made under subsection (1) of
799 this section by the Department of Human Services to the law
800 enforcement agency and to the district attorney's office shall
801 include the following, if known to the department:

- 802 (a) The name and address of the child;
- 803 (b) The names and addresses of the parents;
- 804 (c) The name and address of the suspected perpetrator;
- 805 (d) The names and addresses of all witnesses, including
806 the reporting party if a material witness to the abuse;
- 807 (e) A brief statement of the facts indicating that the
808 child has been abused and any other information from the agency
809 files or known to the protective service worker * * * making the
810 investigation, including medical records or other records, which
811 may assist law enforcement or the district attorney in
812 investigating and/or prosecuting the case; and
- 813 (f) What, if any, action is being taken by the
814 Department of Human Services.

815 (6) In any investigation of a report made under this chapter
816 of the abuse or neglect of a child as defined in Section
817 43-21-105(m), the Department of Human Services may request the
818 appropriate law enforcement officer with jurisdiction to accompany
819 the department in its investigation, and in such cases the law
820 enforcement officer shall comply with such request.

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

825 (8) If a report is made directly to the Department of Human
826 Services that a child has been abused or neglected in an
827 out-of-home setting, a referral shall be made immediately to the
828 law enforcement agency in whose jurisdiction the abuse occurred
829 and the department shall notify the district attorney's office
830 within forty-eight (48) hours of such report. The Department of
831 Human Services shall investigate the out-of-home setting report of
832 abuse or neglect to determine whether the child who is the subject
833 of the report, or other children in the same environment, comes
834 within the jurisdiction of the youth court and shall report to the
835 youth court the department's findings and recommendation as to
836 whether the child who is the subject of the report or other
837 children in the same environment require the protection of the
838 youth court. The law enforcement agency shall investigate the
839 reported abuse immediately and shall file a preliminary report
840 with the district attorney's office within forty-eight (48) hours
841 and shall make additional reports as new information or evidence
842 becomes available. If the out-of-home setting is a licensed
843 facility, an additional referral shall be made by the Department
844 of Human Services to the licensing agency. The licensing agency
845 shall investigate the report and shall provide the Department of
846 Human Services, the law enforcement agency and the district
847 attorney's office with their written findings from such
848 investigation as well as that licensing agency's recommendations
849 and actions taken.

850 **SECTION 9.** Section 43-21-355, Mississippi Code of 1972, is
851 amended as follows:

852 43-21-355. Any attorney, physician, dentist, intern,
853 resident, nurse, psychologist, social worker, protective service

854 worker, * * * child caregiver, minister, law enforcement officer,
855 school attendance officer, public school district employee,
856 nonpublic school employee, or any other person participating in
857 the making of a required report pursuant to Section 43-21-353 or
858 participating in the judicial proceeding resulting therefrom shall
859 be presumed to be acting in good faith. Any person or institution
860 reporting in good faith shall be immune from any liability, civil
861 or criminal, that might otherwise be incurred or imposed.

862 **SECTION 10.** Section 43-21-603, Mississippi Code of 1972, is
863 amended as follows:

864 43-21-603. (1) At the beginning of each disposition
865 hearing, the judge shall inform the parties of the purpose of the
866 hearing.

867 (2) All testimony shall be under oath unless waived by all
868 parties and may be in narrative form. The court may consider any
869 evidence that is material and relevant to the disposition of the
870 cause, including hearsay and opinion evidence. At the conclusion
871 of the evidence, the youth court shall give the parties an
872 opportunity to present oral argument.

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

876 (a) The nature of the offense;

877 (b) The manner in which the offense was committed;

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

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

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

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

886 (g) Copies of the child's cumulative record from the
887 last school of record, including special education records, if
888 applicable;

889 (h) Recommendation from the school of record based on
890 areas of remediation needed;

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

892 (j) Records of disciplinary actions outside of the
893 school setting.

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

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

898 (b) The family and home situation; and

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

900 (5) If the child has been adjudicated a neglected child or
901 an abused child, before entering a disposition order, the youth
902 court shall consider, among others, the following relevant
903 factors:

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

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

906 (c) The manner in which the parent, guardian or
907 custodian participated in, tolerated or condoned the abuse,
908 neglect or abandonment of the child;

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

911 (e) Relevant testimony and recommendations, where
912 available, from the foster parent of the child, the grandparents
913 of the child, the guardian ad litem of the child, representatives
914 of any private care agency that has cared for the child, the
915 protective service worker * * * assigned to the case, and any
916 other relevant testimony pertaining to the case.

917 (6) After consideration of all the evidence and the relevant
918 factors, the youth court shall enter a disposition order that

919 shall not recite any of the facts or circumstances upon which the
920 disposition is based, nor shall it recite that a child has been
921 found guilty; but it shall recite that a child is found to be a
922 delinquent child, a child in need of supervision, a neglected
923 child or an abused child.

924 (7) If the youth court orders that the custody or
925 supervision of a child who has been adjudicated abused or
926 neglected be placed with the Department of Human Services or any
927 other person or public or private agency, other than the child's
928 parent, guardian or custodian, the youth court shall find and the
929 disposition order shall recite that:

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

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

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

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

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

946 (ii) The parent has been convicted of murder of
947 another child of that parent, voluntary manslaughter of another
948 child of that parent, aided or abetted, attempted, conspired or
949 solicited to commit that murder or voluntary manslaughter, or a
950 felony assault that results in the serious bodily injury to the
951 surviving child or another child of that parent; or

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

954 (iv) That the effect of the continuation of the
955 child's residence within his own home would be contrary to the
956 welfare of the child and that placement of the child in foster
957 care is in the best interests of the child.

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

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

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

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

970 (c) Copies of the child's cumulative record from the
971 last school of record, including special education records, if
972 reasonably available;

973 (d) Recommendation from the school of record based on
974 areas of remediation needed;

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

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

978 Only individuals who are permitted under the Health Insurance
979 Portability and Accountability Act of 1996 (HIPAA) shall have
980 access to a child's medical records which are contained in an
981 admission packet. The youth court shall provide the admission
982 packet to the training school at or before the child's arrival at
983 the training school. The admittance of any child to a training

984 school shall take place between the hours of 8:00 a.m. and 3:00
985 p.m. on designated admission days.

986 (9) When a child in the jurisdiction of the Youth Court is
987 committed to the custody of the Mississippi Department of Human
988 Services and is believed to be in need of treatment for a mental
989 or emotional disability or infirmity, the Department of Human
990 Services shall file an affidavit alleging that the child is in
991 need of mental health services with the Youth Court. The Youth
992 Court shall refer the child to the appropriate community mental
993 health center for evaluation pursuant to Section 41-21-67. If
994 said prescreening evaluation recommends residential care, the
995 Youth Court shall proceed with civil commitment pursuant to
996 Sections 41-21-61 et seq., 43-21-315 and 43-21-611, and the
997 Department of Mental Health, once commitment is ordered, shall
998 provide appropriate care, treatment and services for at least as
999 many adolescents as were provided services in fiscal year 2004 in
1000 its facilities.

1001 **SECTION 11.** Section 43-27-107, Mississippi Code of 1972, is
1002 amended as follows:

1003 43-27-107. The Department of Human Services is authorized to
1004 set the qualifications necessary for all protective service
1005 workers employed by the department, which shall at a minimum
1006 require state licensure as a protective service worker, and shall
1007 not be required to go through the State Personnel Board or use the
1008 qualifications set by the Personnel Board in employing protective
1009 service workers for the department. All protective service
1010 workers employed by the department shall be state service
1011 employees from the date of their employment with the department;
1012 however, to carry out its responsibilities, the department may use
1013 any available federal funds to employ such additional protective
1014 service workers as it can employ in time-limited positions. All
1015 social worker positions existing before July 1, 1998, will remain
1016 state service.

1017 **SECTION 12.** Section 43-27-109, Mississippi Code of 1972, is
1018 amended as follows:

1019 43-27-109. The Department of Human Services may employ a
1020 sufficient number of new protective service workers, * * * youth
1021 counselors and clerical staff to reduce the case load sizes for
1022 social workers and youth counselors of the department and to
1023 reduce the work load on clerical staff, if funds are appropriated
1024 to the department for that purpose.

1025 **SECTION 13.** Section 43-47-7, Mississippi Code of 1972, is
1026 amended as follows:

1027 43-47-7. (1) (a) Except as otherwise provided by Section
1028 43-47-37 for vulnerable adults in care facilities, any person
1029 including, but not limited to, the following, who knows or
1030 suspects that a vulnerable adult has been or is being abused,
1031 neglected or exploited shall immediately report such knowledge or
1032 suspicion to the Department of Human Services or to the county
1033 department of human services where the vulnerable adult is
1034 located:

1035 (i) Attorney, physician, osteopathic physician,
1036 medical examiner, chiropractor or nurse engaged in the admission,
1037 examination, care or treatment of vulnerable adults;

1038 (ii) Health professional or mental health
1039 professional other than one listed in subparagraph (i);

1040 (iii) Practitioner who relies solely on spiritual
1041 means for healing;

1042 (iv) Social worker, protective service
1043 worker * * * or other professional adult care, residential or
1044 institutional staff;

1045 (v) State, county or municipal criminal justice
1046 employee or law enforcement officer;

1047 (vi) Human rights advocacy committee or long-term
1048 care ombudsman council member; or

1049 (vii) Accountant, stockbroker, financial advisor
1050 or consultant, insurance agent or consultant, investment advisor
1051 or consultant, financial planner, or any officer or employee of a
1052 bank, savings and loan, credit union or any other financial
1053 service provider.

1054 (b) To the extent possible, a report made pursuant to
1055 paragraph (a) must contain, but need not be limited to, the
1056 following information:

1057 (i) Name, age, race, sex, physical description and
1058 location of each vulnerable adult alleged to have been abused,
1059 neglected or exploited.

1060 (ii) Names, addresses and telephone numbers of the
1061 vulnerable adult's family members.

1062 (iii) Name, address and telephone number of each
1063 alleged perpetrator.

1064 (iv) Name, address and telephone number of the
1065 caregiver of the vulnerable adult, if different from the alleged
1066 perpetrator.

1067 (v) Description of the neglect, exploitation,
1068 physical or psychological injuries sustained.

1069 (vi) Actions taken by the reporter, if any, such
1070 as notification of the criminal justice agency.

1071 (vii) Any other information available to the
1072 reporting person which may establish the cause of abuse, neglect
1073 or exploitation that occurred or is occurring.

1074 In addition to the above, any person or entity holding or
1075 required to hold a license as specified in Title 73, Professions
1076 and Vocations, Mississippi Code of 1972, shall be required to give
1077 his, her or its name, address and telephone number in the report
1078 of the alleged abuse, neglect or exploitation.

1079 (c) The department, or its designees, shall report to
1080 an appropriate criminal investigative or prosecutive authority any
1081 person required by this section to report or who fails to comply

1082 with this section. A person who fails to make a report as
1083 required under this subsection or who, because of the
1084 circumstances, should have known or suspected beyond a reasonable
1085 doubt that a vulnerable adult suffers from exploitation, abuse,
1086 neglect or self-neglect but who knowingly fails to comply with
1087 this section shall, upon conviction, be guilty of a misdemeanor
1088 and shall be punished by a fine not exceeding Five Thousand
1089 Dollars (\$5,000.00), or by imprisonment in the county jail for not
1090 more than six (6) months, or both such fine and imprisonment.
1091 However, for purposes of this subsection (1), any recognized legal
1092 financial transaction shall not be considered cause to report the
1093 knowledge or suspicion of the financial exploitation of a
1094 vulnerable adult. If a person convicted under this section is a
1095 member of a profession or occupation that is licensed, certified
1096 or regulated by the state, the court shall notify the appropriate
1097 licensing, certifying or regulating entity of the conviction.

1098 (2) Reports received by law enforcement authorities or other
1099 agencies shall be forwarded immediately to the Department of Human
1100 Services or the county department of human services. The
1101 Department of Human Services shall investigate the reported abuse,
1102 neglect or exploitation immediately and shall file a preliminary
1103 report of its findings with the Office of the Attorney General
1104 within forty-eight (48) hours, and shall make additional reports
1105 as new information or evidence becomes available. The Department
1106 of Human Services, upon request, shall forward a statement to the
1107 person making the initial report required by this section as to
1108 what action is being taken, if any.

1109 (3) The report may be made orally or in writing, but where
1110 made orally, it shall be followed up by a written report. A
1111 person who fails to report or to otherwise comply with this
1112 section, as provided herein, shall have no civil or criminal
1113 liability, other than that expressly provided for in this section,

1114 to any person or entity in connection with any failure to report
1115 or to otherwise comply with the requirements of this section.

1116 (4) Anyone who makes a report required by this section or
1117 who testifies or participates in any judicial proceedings arising
1118 from the report or who participates in a required investigation or
1119 evaluation shall be presumed to be acting in good faith and in so
1120 doing shall be immune from liability, civil or criminal, that
1121 might otherwise be incurred or imposed. However, the immunity
1122 provided under this subsection shall not apply to any suspect or
1123 perpetrator of any abuse, neglect or exploitation.

1124 (5) A person who intentionally makes a false report under
1125 the provisions of this section may be found liable in a civil suit
1126 for any actual damages suffered by the person or persons so
1127 reported and for any punitive damages set by the court or jury.

1128 (6) The Executive Director of Human Services shall establish
1129 a statewide central register of reports made pursuant to this
1130 section. The central register shall be capable of receiving
1131 reports of vulnerable adults in need of protective services seven
1132 (7) days a week, twenty-four (24) hours a day. To effectuate this
1133 purpose, the executive director shall establish a single toll-free
1134 statewide phone number that all persons may use to report
1135 vulnerable adults in need of protective services, and that all
1136 persons authorized by subsection (7) of this section may use for
1137 determining the existence of prior reports in order to evaluate
1138 the condition or circumstances of the vulnerable adult before
1139 them. Such oral reports and evidence of previous reports shall be
1140 transmitted to the appropriate county department of human
1141 services. The central register shall include, but not be limited
1142 to, the following information: the name and identifying
1143 information of the individual reported, the county department of
1144 human services responsible for the investigation of each such
1145 report, the names, affiliations and purposes of any person
1146 requesting or receiving information which the executive director

1147 believes might be helpful in the furtherance of the purposes of
1148 this chapter, the name, address, birth date, social security
1149 number of the perpetrator of abuse, neglect and/or exploitation,
1150 and the type of abuse, neglect and/or exploitation of which there
1151 was substantial evidence upon investigation of the report. The
1152 central register shall inform the person making reports required
1153 under this section of his or her right to request statements from
1154 the department as to what action is being taken, if any.

1155 Each person, business, organization or other entity, whether
1156 public or private, operated for profit, operated for nonprofit or
1157 a voluntary unit of government not responsible for law enforcement
1158 providing care, supervision or treatment of vulnerable adults
1159 shall conduct criminal history records checks on each new employee
1160 of the entity who provides, and/or would provide direct patient
1161 care or services to adults or vulnerable persons, as provided in
1162 Section 43-11-13.

1163 The department shall not release data that would be harmful
1164 or detrimental to the vulnerable adult or that would identify or
1165 locate a person who, in good faith, made a report or cooperated in
1166 a subsequent investigation unless ordered to do so by a court of
1167 competent jurisdiction.

1168 (7) Reports made pursuant to this section, reports written
1169 or photographs taken concerning such reports in the possession of
1170 the Department of Human Services or the county department of human
1171 services shall be confidential and shall only be made available
1172 to:

1173 (a) A physician who has before him a vulnerable adult
1174 whom he reasonably suspects may be abused, neglected or exploited,
1175 as defined in Section 43-47-5;

1176 (b) A duly authorized agency having the responsibility
1177 for the care or supervision of a subject of the report;

1178 (c) A grand jury or a court of competent jurisdiction,
1179 upon finding that the information in the record is necessary for
1180 the determination of charges before the grand jury;

1181 (d) A district attorney or other law enforcement
1182 official.

1183 Notwithstanding the provisions of paragraph (b) of this
1184 subsection, the department may not disclose a report of the
1185 abandonment, exploitation, abuse, neglect or self-neglect of a
1186 vulnerable adult to the vulnerable adult's guardian,
1187 attorney-in-fact, surrogate decision maker, or caregiver who is a
1188 perpetrator or alleged perpetrator of the abandonment,
1189 exploitation, abuse or neglect of the vulnerable adult.

1190 Any person given access to the names or other information
1191 identifying the subject of the report, except the subject of the
1192 report, shall not divulge or make public such identifying
1193 information unless he is a district attorney or other law
1194 enforcement official and the purpose is to initiate court action.
1195 Any person who willfully permits the release of any data or
1196 information obtained pursuant to this section to persons or
1197 agencies not permitted to such access by this section shall be
1198 guilty of a misdemeanor.

1199 (8) Upon reasonable cause to believe that a caretaker or
1200 other person has abused, neglected or exploited a vulnerable
1201 adult, the department shall promptly notify the district attorney
1202 of the county in which the vulnerable adult is located and the
1203 Office of the Attorney General, except as provided in Section
1204 43-47-37(2).

1205 **SECTION 14.** Section 73-53-7, Mississippi Code of 1972, is
1206 amended as follows:

1207 73-53-7. (1) Except as hereinafter provided, all
1208 individuals not exempt from licensure who are not licensed under
1209 this chapter are prohibited from performing services for
1210 compensation for which licensure is required by this chapter, and

1211 are also prohibited from holding themselves out to the public by
1212 any title or description of services set out in this chapter or by
1213 any title or description of services likely to cause public
1214 confusion with any title or description of services set out in
1215 this chapter.

1216 * * *

1217 (2) Any person not licensed under this chapter on July 1,
1218 1993, who has been actively engaged in the practice of social work
1219 for not less than five (5) years before July 1, 1993, as an
1220 employee of the State of Mississippi or any agency, political
1221 subdivision or municipality thereof or any community action agency
1222 or Head Start agency, shall be issued a license as a social worker
1223 by the board, if the person applies for such license before
1224 September 1, 1994, and at the time that the application is made,
1225 the person is so actively engaged. Any person born on May 24,
1226 1949, who has eight (8) years of social work practice as an
1227 employee of any of the specified entities before July 1, 1993, who
1228 is an employee of any of the specified entities on July 1, 2000,
1229 regardless of whether the current employment position is
1230 designated as a social worker, shall be issued a license as a
1231 social worker by the board if the person applies for the license
1232 before September 1, 2000. The license shall be issued by the
1233 board upon application therefor, the submission of proof
1234 satisfactory to the board of the applicant's employment in the
1235 practice of social work as provided in this subsection, and the
1236 payment of the appropriate fee.

1237 (3) From and after July 1, 2001, any person violating the
1238 provisions of this chapter shall be guilty of a misdemeanor and,
1239 upon conviction, shall be fined not more than Five Hundred Dollars
1240 (\$500.00) for his first offense, nor more than One Thousand
1241 Dollars (\$1,000.00) for each subsequent offense.

1242 **SECTION 15.** Section 93-21-23, Mississippi Code of 1972, is
1243 amended as follows:

1244 93-21-23. Any licensed doctor of medicine, licensed doctor
1245 of dentistry, intern, resident or registered nurse, psychologist,
1246 social worker, protective service worker, * * * preacher, teacher,
1247 attorney, law enforcement officer, or any other person or
1248 institution participating in the making of a report pursuant to
1249 this chapter or participating in judicial proceedings resulting
1250 therefrom shall be presumed to be acting in good faith, and if
1251 found to have acted in good faith shall be immune from any
1252 liability, civil or criminal, that might otherwise be incurred or
1253 imposed. The reporting of an abused person shall not constitute a
1254 breach of confidentiality.

1255 **SECTION 16.** Section 97-3-7, Mississippi Code of 1972, is
1256 amended as follows:

1257 97-3-7. (1) A person is guilty of simple assault if he (a)
1258 attempts to cause or purposely, knowingly or recklessly causes
1259 bodily injury to another; or (b) negligently causes bodily injury
1260 to another with a deadly weapon or other means likely to produce
1261 death or serious bodily harm; or (c) attempts by physical menace
1262 to put another in fear of imminent serious bodily harm; and, upon
1263 conviction, he shall be punished by a fine of not more than Five
1264 Hundred Dollars (\$500.00) or by imprisonment in the county jail
1265 for not more than six (6) months, or both. However, a person
1266 convicted of simple assault (a) upon a statewide elected official,
1267 law enforcement officer, fireman, emergency medical personnel,
1268 public health personnel, protective service worker * * * employed
1269 by the Department of Human Services or another agency,
1270 superintendent, principal, teacher or other instructional
1271 personnel, school attendance officer, school bus driver, or a
1272 judge of a circuit, chancery, county, justice or youth court or a
1273 judge of the Court of Appeals or a justice of the Supreme Court,
1274 district attorney, legal assistant to a district attorney, county
1275 prosecutor, municipal prosecutor, court reporter employed by a
1276 court, court administrator, clerk or deputy clerk of the court, or

1277 public defender, while such statewide elected official, judge or
1278 justice, law enforcement officer, fireman, emergency medical
1279 personnel, public health personnel, protective service
1280 worker, * * * superintendent, principal, teacher or other
1281 instructional personnel, school attendance officer, school bus
1282 driver, district attorney, legal assistant to a district attorney,
1283 county prosecutor, municipal prosecutor, court reporter employed
1284 by a court, court administrator, clerk or deputy clerk of the
1285 court, or public defender is acting within the scope of his duty,
1286 office or employment, or (b) upon a legislator while the
1287 Legislature is in regular or extraordinary session or while
1288 otherwise acting within the scope of his duty, office or
1289 employment, shall be punished by a fine of not more than One
1290 Thousand Dollars (\$1,000.00) or by imprisonment for not more than
1291 five (5) years, or both.

1292 (2) A person is guilty of aggravated assault if he (a)
1293 attempts to cause serious bodily injury to another, or causes such
1294 injury purposely, knowingly or recklessly under circumstances
1295 manifesting extreme indifference to the value of human life; or
1296 (b) attempts to cause or purposely or knowingly causes bodily
1297 injury to another with a deadly weapon or other means likely to
1298 produce death or serious bodily harm; and, upon conviction, he
1299 shall be punished by imprisonment in the county jail for not more
1300 than one (1) year or in the Penitentiary for not more than twenty
1301 (20) years. However, a person convicted of aggravated assault (a)
1302 upon a statewide elected official, law enforcement officer,
1303 fireman, emergency medical personnel, public health personnel,
1304 protective service worker * * * employed by the Department of
1305 Human Services or another agency, superintendent, principal,
1306 teacher or other instructional personnel, school attendance
1307 officer, school bus driver, or a judge of a circuit, chancery,
1308 county, justice or youth court or a judge of the Court of Appeals
1309 or a justice of the Supreme Court, district attorney, legal

1310 assistant to a district attorney, county prosecutor, municipal
1311 prosecutor, court reporter employed by a court, court
1312 administrator, clerk or deputy clerk of the court, or public
1313 defender, while such statewide elected official, judge or justice,
1314 law enforcement officer, fireman, emergency medical personnel,
1315 public health personnel, protective service worker, * * *
1316 superintendent, principal, teacher or other instructional
1317 personnel, school attendance officer, school bus driver, district
1318 attorney, legal assistant to a district attorney, county
1319 prosecutor, municipal prosecutor, court reporter employed by a
1320 court, court administrator, clerk or deputy clerk of the court, or
1321 public defender is acting within the scope of his duty, office or
1322 employment, or (b) upon a legislator while the Legislature is in
1323 regular or extraordinary session or while otherwise acting within
1324 the scope of his duty, office or employment, shall be punished by
1325 a fine of not more than Five Thousand Dollars (\$5,000.00) or by
1326 imprisonment for not more than thirty (30) years, or both.

1327 (3) A person is guilty of simple domestic violence who
1328 commits simple assault as described in subsection (1) of this
1329 section against a family or household member who resides with the
1330 defendant or who formerly resided with the defendant, a current or
1331 former spouse, a person who has a current dating relationship with
1332 the defendant, or a person with whom the defendant has had a
1333 biological or legally adopted child and upon conviction, the
1334 defendant shall be punished as provided under subsection (1) of
1335 this section; however, upon a third or subsequent conviction of
1336 simple domestic violence, whether against the same or another
1337 victim and within five (5) years, the defendant shall be guilty of
1338 a felony and sentenced to a term of imprisonment not less than
1339 five (5) nor more than ten (10) years. In sentencing, the court
1340 shall consider as an aggravating factor whether the crime was
1341 committed in the physical presence or hearing of a child under
1342 sixteen (16) years of age who was, at the time of the offense,

1343 living within either the residence of the victim, the residence of
1344 the perpetrator, or the residence where the offense occurred.

1345 (4) A person is guilty of aggravated domestic violence who
1346 commits aggravated assault as described in subsection (2) of this
1347 section against a family or household member who resides with the
1348 defendant or who formerly resided with the defendant, or a current
1349 or former spouse, a person who has a current dating relationship
1350 with the defendant, or a person with whom the defendant has had a
1351 biological or legally adopted child and upon conviction, the
1352 defendant shall be punished as provided under subsection (2) of
1353 this section; however, upon a third or subsequent offense of
1354 aggravated domestic violence, whether against the same or another
1355 victim and within five (5) years, the defendant shall be guilty of
1356 a felony and sentenced to a term of imprisonment of not less than
1357 five (5) nor more than twenty (20) years. In sentencing, the
1358 court shall consider as an aggravating factor whether the crime
1359 was committed in the physical presence or hearing of a child under
1360 sixteen (16) years of age who was, at the time of the offense,
1361 living within either the residence of the victim, the residence of
1362 the perpetrator, or the residence where the offense occurred.
1363 Reasonable discipline of a child, such as spanking, is not an
1364 offense under this subsection (4).

1365 (5) "Dating relationship" means a social relationship of a
1366 romantic or intimate nature.

1367 (6) Every conviction of domestic violence may require as a
1368 condition of any suspended sentence that the defendant participate
1369 in counseling or treatment to bring about the cessation of
1370 domestic abuse. The defendant may be required to pay all or part
1371 of the cost of the counseling or treatment, in the discretion of
1372 the court.

1373 (7) In any conviction of assault as described in any
1374 subsection of this section which arises from an incident of

1375 domestic violence, the sentencing order shall include the
1376 designation "domestic violence."

1377 **SECTION 17.** This act shall take effect and be in force from
1378 and after July 1, 2006.