

House Amendments to Senate Bill No. 2388

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

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

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

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

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

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

67 (4) The Department of Human Services and the Office of
68 Family and Children's Services shall seek to employ and use * * *
69 family protection specialists to provide the services of the
70 office, and may employ and use family protection workers to
71 provide those services only in counties in which there is not a
72 sufficient number of * * * family protection specialists to
73 adequately provide those services in the county.

74 (5) (a) There is created a Training and Testing Advisory
75 Council to review the department's program of training and testing
76 of family protection workers and to make recommendations
77 pertaining to the program to the department. The advisory council

78 shall be composed of the following ten (10) members: two (2)
79 employees of the department appointed by the Executive Director of
80 Human Services, including one (1) representative of the Office of
81 Family and Children's Services and one (1) representative of the
82 Division of Aging and Adult Services; the Chairman of the
83 Consortium of Accredited Schools of Social Work in Mississippi;
84 and the executive director or a board member of a professional
85 association or licensing board for each field of study named in
86 paragraph (2)(a) of this section, as follows: the Mississippi
87 Chapter of the National Association of Social Workers; a marriage
88 and family therapist who is a member of the Board of Examiners for
89 Social Workers and Marriage and Family Therapists, to be selected
90 by the four (4) members of the board of examiners who are marriage
91 and family therapists; the Mississippi Nurses' Association; the
92 Mississippi Prosecutors Association; the Mississippi Counseling
93 Association; the Mississippi Psychological Association; and an
94 officer of the Alabama-Mississippi Sociological Association who is
95 a Mississippi resident elected by the executive committee of the
96 association. The executive director of each association
97 (excluding the Alabama-Mississippi Sociological Association) and
98 chairman of the consortium may designate an alternate member to
99 serve in his stead on the advisory counsel. Members of the
100 advisory council shall serve without salary or per diem.

101 (b) A majority of the advisory council members shall
102 select from their membership a chairperson to preside over
103 meetings and a vice chairperson to preside in the absence of the
104 chairperson or when the chairperson is excused. The advisory
105 council shall adopt procedures governing the manner of conducting
106 its business. A majority of the members shall constitute a quorum
107 to do business.

108 (6) This section and Sections 43-15-13, 43-21-261,
109 43-21-353, 43-21-355, 43-21-603, 43-27-107, 43-27-109, 43-47-7,
110 93-21-23 and 97-3-7, Mississippi Code of 1972, shall stand
111 repealed on July 1, 2007.

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

114 43-15-13. (1) For purposes of this section, "children"
115 means persons found within the state who are under the age of
116 twenty-one (21) years, and who were placed in the custody of the
117 Department of Human Services by the youth court of the appropriate
118 county.

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

122 (a) Protecting and promoting the health, safety and
123 welfare of children;

124 (b) Preventing the unnecessary separation of children
125 from their families by identifying family problems, assisting
126 families in resolving their problems and preventing the breakup of
127 the family where the prevention of child removal is desirable and
128 possible when the child can be cared for at home without
129 endangering the child's health and safety;

130 (c) Remediating or assisting in the solution of problems
131 which may result in the neglect, abuse, exploitation or
132 delinquency of children;

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

137 (e) Placing children in suitable adoptive homes
138 approved by a licensed adoption agency or family protection
139 specialist, in cases where restoration to the biological family is
140 not safe, possible or appropriate;

141 (f) Assuring safe and adequate care of children away
142 from their homes, in cases where the child cannot be returned home
143 or cannot be placed for adoption. At the time of placement, the
144 department shall implement concurrent planning, as described in
145 subsection (8) of this section, so that permanency may occur at
146 the earliest opportunity. Consideration of possible failure or

147 delay of reunification should be given, to the end that the
148 placement made is the best available placement to provide
149 permanency for the child; and

150 (g) Providing a family protection specialist or worker
151 or * * * team of such specialists or workers for a family and
152 child throughout the implementation of their permanent living
153 arrangement plan. Wherever feasible, the same family protection
154 specialist or worker or * * * team shall remain on the case until
155 the child is no longer under the jurisdiction of the youth court.

156 (3) The State Department of Human Services shall administer
157 a system of individualized plans and reviews once every six (6)
158 months for each child under its custody within the State of
159 Mississippi, each child who has been adjudged a neglected,
160 abandoned or abused child and whose custody was changed by court
161 order as a result of such adjudication, and each public or private
162 facility licensed by the department. The State Department of
163 Human Services administrative review shall be completed on each
164 child within the first three (3) months and a foster care review
165 once every six (6) months after the child's initial
166 forty-eight-hour shelter hearing. Such system shall be for the
167 purpose of enhancing potential family life for the child by the
168 development of individual plans to return the child to its natural
169 parent or parents, or to refer the child to the appropriate court
170 for termination of parental rights and placement in a permanent
171 relative's home, adoptive home or foster/adoptive home. The goal
172 of the State Department of Human Services shall be to return the
173 child to its natural parent(s) or refer the child to the
174 appropriate court for termination of parental rights and placement
175 in a permanent relative's home, adoptive home or foster/adoptive
176 home within the time periods specified in this subsection or in
177 subsection (4) of this section. In furthering this goal, the
178 department shall establish policy and procedures designed to
179 appropriately place children in permanent homes, such policy to
180 include a system of reviews for all children in foster care, as
181 follows: foster care counselors in the department shall make all

182 possible contact with the child's natural parent(s) and any
183 interested relative for the first two (2) months following the
184 child's entry into the foster care system. For any child who was
185 in foster care before July 1, 1998, and has been in foster care
186 for fifteen (15) of the last twenty-two (22) months regardless of
187 whether the foster care was continuous for all of those twenty-two
188 (22) months, the department shall file a petition to terminate the
189 parental rights of the child's parents. The time period starts to
190 run from the date the court makes a finding of abuse and/or
191 neglect or sixty (60) days from when the child was removed from
192 his or her home, whichever is earlier. The department can choose
193 not to file a termination of parental rights petition if the
194 following apply:

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

196 (b) The department has documented compelling and
197 extraordinary reasons why termination of parental rights would not
198 be in the best interests of the child. Prior to granting or
199 denying a request by the department for an extension of time for
200 filing a termination of parental rights action, the court shall
201 receive a written report on the progress which a parent of such
202 child has made in treatment, to be made to the court in writing by
203 a mental health/substance abuse therapist or counselor.

204 (4) In the case of any child who is placed in foster care on
205 or after July 1, 1998, except in cases of aggravated circumstances
206 prescribed in Section 43-21-603(7)(c) or (d), the child's natural
207 parent(s) will have a reasonable time to be determined by the
208 court, which shall not exceed a six-month period of time, in which
209 to meet the service agreement with the department for the benefit
210 of the child unless the department has documented extraordinary
211 and compelling reasons for extending the time period in the best
212 interest of the child. If this agreement has not been
213 satisfactorily met, simultaneously the child will be referred to
214 the appropriate court for termination of parental rights and
215 placement in a permanent relative's home, adoptive home or a
216 foster/adoptive home. For children under the age of three (3)

217 years, termination of parental rights shall be initiated within
218 six (6) months, unless the department has documented compelling
219 and extraordinary circumstances, and placement in a permanent
220 relative's home, adoptive home or foster/adoptive home within two
221 (2) months. For children who have been abandoned pursuant to the
222 provisions of Section 97-5-1, termination of parental rights shall
223 be initiated within thirty (30) days and placement in an adoptive
224 home shall be initiated without necessity for placement in a
225 foster home. The department need not initiate termination of
226 parental rights proceedings where the child has been placed in
227 durable legal custody or long-term or formalized foster care by a
228 court of competent jurisdiction.

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

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

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

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

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

243 (e) Social services offered and/or utilized to
244 facilitate plans for establishing a permanent home for the child;
245 and

246 (f) Relevant testimony and recommendations from the
247 foster parent of the child, the grandparents of the child, the
248 guardian ad litem of the child, representatives of any private
249 care agency which has cared for the child, the family protection
250 worker or family protection specialist assigned to the case, and
251 any other relevant testimony pertaining to the case.

252 Each child's review plan once every six (6) months shall be
253 filed with the court which awarded custody and shall be made
254 available to natural parents or foster parents upon approval of
255 the court. The court shall make a finding as to the degree of
256 compliance by the agency and the parent(s) with the child's social
257 service plan. The court also shall find that the child's health
258 and safety are the paramount concern. In the interest of the
259 child, the court shall, where appropriate, initiate proceedings on
260 its own motion. The State Department of Human Services shall
261 report to the Legislature as to the number of such children, the
262 findings of the foster care review board and relevant statistical
263 information in foster care in a semiannual report to the
264 Legislature to be submitted to the Joint Oversight Committee of
265 the Department of Human Services. The report shall not refer to
266 the specific name of any child in foster care.

267 (6) The State Department of Human Services, with the
268 cooperation and assistance of the State Department of Health,
269 shall develop and implement a training program for foster care
270 parents to indoctrinate them as to their proper responsibilities
271 upon a child's entry into their foster care. The program shall
272 provide a minimum of twelve (12) clock hours of training. The
273 foster care training program shall be satisfactorily completed by
274 such foster care parents prior to or within ninety (90) days after
275 child placement with such parent. Record of such foster care
276 parent's training program participation shall be filed with the
277 court as part of a foster care child's review plan once every six
278 (6) months.

279 (7) When the Department of Human Services is considering
280 placement of a child in a foster home and when the department
281 deems it to be in the best interest of the child, the department
282 shall give first priority to placing the child in the home of one
283 (1) of the child's relatives within the third degree, as computed
284 by the civil law rule. In placing the child in a relative's home,
285 the department may waive any rule, regulation or policy applicable
286 to placement in foster care that would otherwise require the child

287 to have a separate bed or bedroom or have a bedroom of a certain
288 size, if placing the child in a relative's home would be in the
289 best interest of the child and such requirements cannot be met in
290 the relative's home.

291 (8) The Legislature recognizes that the best interests of
292 the child require that the child be placed in the most permanent
293 living arrangement as soon as is practicably possible. To achieve
294 this goal, the Department of Human Services is directed to conduct
295 concurrent planning so that a permanent living arrangement may
296 occur at the earliest opportunity. Permanent living arrangements
297 may include prevention of placement of a child outside the home of
298 the family when the child can be cared for at home without
299 endangering the child's health or safety; reunification with the
300 family, when safe and appropriate, if temporary placement is
301 necessary; or movement of the child toward the most permanent
302 living arrangement and permanent legal status. When a child is
303 placed in foster care or relative care, the department shall first
304 ensure and document that reasonable efforts were made to prevent
305 or eliminate the need to remove the child from the child's home.
306 The department's first priority shall be to make reasonable
307 efforts to reunify the family when temporary placement of the
308 child occurs or shall request a finding from the court that
309 reasonable efforts are not appropriate or have been unsuccessful.
310 A decision to place a child in foster care or relative care shall
311 be made with consideration of the child's health, safety and best
312 interests. At the time of placement, consideration should also be
313 given so that if reunification fails or is delayed, the placement
314 made is the best available placement to provide a permanent living
315 arrangement for the child. The department shall adopt rules
316 addressing concurrent planning for reunification and a permanent
317 living arrangement. The department shall consider the following
318 factors when determining appropriateness of concurrent planning:

- 319 (a) The likelihood of prompt reunification;
320 (b) The past history of the family;

321 (c) The barriers to reunification being addressed by
322 the family;

323 (d) The level of cooperation of the family;

324 (e) The foster parents' willingness to work with the
325 family to reunite;

326 (f) The willingness and ability of the foster family or
327 relative placement to provide an adoptive home or long-term
328 placement;

329 (g) The age of the child; and

330 (h) Placement of siblings.

331 (9) If the department has placed a child in foster care or
332 relative care pursuant to a court order, the department may not
333 change the child's placement unless the department specifically
334 documents to the court that the current placement is unsafe or
335 unsuitable or that another placement is in the child's best
336 interests unless the new placement is in an adoptive home or other
337 permanent placement. Except in emergency circumstances as
338 determined by the department or where the court orders placement
339 of the child pursuant to Section 43-21-303, the foster parents,
340 grandparents or other relatives of the child shall be given an
341 opportunity to contest the specific reasons documented by the
342 department at least seventy-two (72) hours prior to any such
343 departure, and the court may conduct a review of such placement
344 unless the new placement is in an adoptive home or other permanent
345 placement. When a child is returned to foster care or relative
346 care, the former foster parents or relative placement shall be
347 given the prior right of return placement in order to eliminate
348 additional trauma to the child.

349 (10) The Department of Human Services shall provide the
350 foster parents, grandparents or other relatives with at least a
351 seventy-two-hour notice of departure for any child placed in their
352 foster care or relative care, except in emergency circumstances as
353 determined by the department or where the court orders placement
354 of the child pursuant to Section 43-21-303. The parent/legal
355 guardian, grandparents of the child, guardian ad litem and the

356 court exercising jurisdiction shall be notified in writing when
357 the child leaves foster care or relative care placement,
358 regardless of whether the child's departure was planned or
359 unplanned. The only exceptions to giving a written notice to the
360 parent(s) are when a parent has voluntarily released the child for
361 adoption or the parent's legal rights to the child have been
362 terminated through the appropriate court with jurisdiction.

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

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

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

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

375 (d) Support from the family protection worker or the
376 family protection specialist in efforts to do a better day-to-day
377 job in caring for the child and in working to achieve the agency's
378 objectives for the child and the birth family through provision
379 of:

380 (i) Pertinent information about the child and the
381 birth family.

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

384 (iii) Direct interviews between the family
385 protection worker or specialist and the child, previously
386 discussed and understood by the foster parents;

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

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

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

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

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

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

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

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

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

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

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

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

416 (h) Cooperating with any plan to reunite the foster
417 child with his birth family and work with the birth family to
418 achieve this goal; and

419 (i) Attending dispositional review hearings and
420 termination of parental rights hearings conducted by a court of
421 competent jurisdiction, or providing their recommendations to the
422 court in writing.

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

425 43-21-261. (1) Except as otherwise provided in this
426 section, records involving children shall not be disclosed, other
427 than to necessary staff of the youth court, except pursuant to an
428 order of the youth court specifying the person or persons to whom
429 the records may be disclosed, the extent of the records which may
430 be disclosed and the purpose of the disclosure. Such court orders
431 for disclosure shall be limited to those instances in which the
432 youth court concludes, in its discretion, that disclosure is
433 required for the best interests of the child, the public safety or
434 the functioning of the youth court and then only to the following
435 persons:

436 (a) The judge of another youth court or member of
437 another youth court staff;

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

440 (c) A judge of any other court or members of another
441 court staff;

442 (d) Representatives of a public or private agency
443 providing supervision or having custody of the child under order
444 of the youth court;

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

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

458 (g) To any person pursuant to a finding by a judge of
459 the youth court of compelling circumstances affecting the health

460 or safety of a child and that such disclosure is in the best
461 interests of the child.

462 Law enforcement agencies may disclose information to the
463 public concerning the taking of a child into custody for the
464 commission of a delinquent act without the necessity of an order
465 from the youth court. The information released shall not identify
466 the child or his address unless the information involves a child
467 convicted as an adult.

468 (2) Any records involving children which are disclosed under
469 an order of the youth court and the contents thereof shall be kept
470 confidential by the person or agency to whom the record is
471 disclosed except as provided in the order. Any further disclosure
472 of any records involving children shall be made only under an
473 order of the youth court as provided in this section.

474 (3) Upon request, the parent, guardian or custodian of the
475 child who is the subject of a youth court cause or any attorney
476 for such parent, guardian or custodian, shall have the right to
477 inspect any record, report or investigation which is to be
478 considered by the youth court at a hearing, except that the
479 identity of the reporter shall not be released, nor the name of
480 any other person where the person or agency making the information
481 available finds that disclosure of the information would be likely
482 to endanger the life or safety of such person.

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

487 (5) (a) The youth court prosecutor or prosecutors, the
488 county attorney, the district attorney, the youth court defender
489 or defenders, or any attorney representing a child shall have the
490 right to inspect any law enforcement record involving children.

491 (b) The Department of Human Services shall disclose to
492 a county prosecuting attorney or district attorney any and all
493 records resulting from an investigation into suspected child abuse
494 or neglect when the case has been referred by the Department of

495 Human Services to the county prosecuting attorney or district
496 attorney for criminal prosecution.

497 (c) Agency records made confidential under the
498 provisions of this section may be disclosed to a court of
499 competent jurisdiction.

500 (6) Information concerning an investigation into a report of
501 child abuse or child neglect may be disclosed by the Department of
502 Human Services without order of the youth court to any attorney,
503 physician, dentist, intern, resident, nurse, psychologist, social
504 worker, family protection worker, family protection specialist,
505 child caregiver, minister, law enforcement officer, public or
506 private school employee making that report pursuant to Section
507 43-21-353(1) if the reporter has a continuing professional
508 relationship with the child and a need for such information in
509 order to protect or treat the child.

510 (7) Information concerning an investigation into a report of
511 child abuse or child neglect may be disclosed without further
512 order of the youth court to any interagency child abuse task force
513 established in any county or municipality by order of the youth
514 court of that county or municipality.

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

519 (9) Names and addresses of juveniles adjudicated as
520 delinquent for murder, manslaughter, burglary, arson, armed
521 robbery, aggravated assault, any sex offense as defined in Section
522 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
523 violation of Section 63-11-30, shall not be held confidential and
524 shall be made available to the public.

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

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

533 (12) A classification hearing officer of the State
534 Department of Corrections, as provided in Section 47-5-103, shall
535 have the right to inspect any youth court records, excluding abuse
536 and neglect records, of any offender in the custody of the
537 department who as a child or minor was a juvenile offender or was
538 the subject of a youth court cause of action, and the State Parole
539 Board, as provided in Section 47-7-17, shall have the right to
540 inspect such records when the offender becomes eligible for
541 parole.

542 (13) The youth court shall notify the Department of Public
543 Safety of the name, and any other identifying information such
544 department may require, of any child who is adjudicated delinquent
545 as a result of a violation of the Uniform Controlled Substances
546 Law.

547 (14) The Administrative Office of Courts shall have the
548 right to inspect any youth court records in order that the number
549 of youthful offenders, abused, neglected, truant and dependent
550 children, as well as children in need of special care and children
551 in need of supervision, may be tracked with specificity through
552 the youth court and adult justice system, and to utilize tracking
553 forms for such purpose.

554 (15) Upon a request by a youth court, the Administrative
555 Office of Courts shall disclose all information at its disposal
556 concerning any previous youth court intakes alleging that a child
557 was a delinquent child, child in need of supervision, child in
558 need of special care, truant child, abused child or neglected
559 child, as well as any previous youth court adjudications for the
560 same and all dispositional information concerning a child who at
561 the time of such request comes under the jurisdiction of the youth
562 court making such request.

563 (16) In every case where an abuse or neglect allegation has
564 been made, the confidentiality provisions of this section shall

565 not apply to prohibit access to a child's records by any state
566 regulatory agency, any state or local prosecutorial agency or law
567 enforcement agency; however, no identifying information concerning
568 the child in question may be released to the public by such agency
569 except as otherwise provided herein.

570 (17) In every case where there is any indication or
571 suggestion of either abuse or neglect and a child's physical
572 condition is medically labeled as medically "serious" or
573 "critical" or a child dies, the confidentiality provisions of this
574 section shall not apply. In cases of child deaths, the following
575 information may be released by the Mississippi Department of Human
576 Services: (a) Child's name; (b) address or location; (c)
577 verification from the Department of Human Services of case status
578 (no case or involvement, case exists, open or active case, case
579 closed); (d) if a case exists, the type of report or case
580 (physical abuse, neglect, etc.), date of intake(s) and
581 investigation(s), and case disposition (substantiated or
582 unsubstantiated). Notwithstanding the aforesaid, the
583 confidentiality provisions of this section shall continue if there
584 is a pending or planned investigation by any local, state or
585 federal governmental agency or institution.

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

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

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

598 43-21-353. (1) Any attorney, physician, dentist, intern,
599 resident, nurse, psychologist, social worker, family protection

600 worker, family protection specialist, child caregiver, minister,
601 law enforcement officer, public or private school employee or any
602 other person having reasonable cause to suspect that a child is a
603 neglected child or an abused child, shall cause an oral report to
604 be made immediately by telephone or otherwise and followed as soon
605 thereafter as possible by a report in writing to the Department of
606 Human Services, and immediately a referral shall be made by the
607 Department of Human Services to the youth court intake unit, which
608 unit shall promptly comply with Section 43-21-357. Where
609 appropriate, the Department of Human Services shall additionally
610 make a referral to the youth court prosecutor. Upon receiving a
611 report that a child has been sexually abused, or burned, tortured,
612 mutilated or otherwise physically abused in such a manner as to
613 cause serious bodily harm, or upon receiving any report of abuse
614 that would be a felony under state or federal law, the Department
615 of Human Services shall immediately notify the law enforcement
616 agency in whose jurisdiction the abuse occurred and shall notify
617 the appropriate prosecutor within forty-eight (48) hours, and the
618 Department of Human Services shall have the duty to provide the
619 law enforcement agency all the names and facts known at the time
620 of the report; this duty shall be of a continuing nature. The law
621 enforcement agency and the Department of Human Services shall
622 investigate the reported abuse immediately and shall file a
623 preliminary report with the appropriate prosecutor's office within
624 twenty-four (24) hours and shall make additional reports as new or
625 additional information or evidence becomes available. The
626 Department of Human Services shall advise the clerk of the youth
627 court and the youth court prosecutor of all cases of abuse
628 reported to the department within seventy-two (72) hours and shall
629 update such report as information becomes available.

630 (2) Any report to the Department of Human Services shall
631 contain the names and addresses of the child and his parents or
632 other persons responsible for his care, if known, the child's age,
633 the nature and extent of the child's injuries, including any
634 evidence of previous injuries and any other information that might

635 be helpful in establishing the cause of the injury and the
636 identity of the perpetrator.

637 (3) The Department of Human Services shall maintain a
638 statewide incoming wide-area telephone service or similar service
639 for the purpose of receiving reports of suspected cases of child
640 abuse; provided that any attorney, physician, dentist, intern,
641 resident, nurse, psychologist, social worker, family protection
642 worker, family protection specialist, child caregiver, minister,
643 law enforcement officer or public or private school employee who
644 is required to report under subsection (1) of this section shall
645 report in the manner required in subsection (1).

646 (4) Reports of abuse and neglect made under this chapter and
647 the identity of the reporter are confidential except when the
648 court in which the investigation report is filed, in its
649 discretion, determines the testimony of the person reporting to be
650 material to a judicial proceeding or when the identity of the
651 reporter is released to law enforcement agencies and the
652 appropriate prosecutor pursuant to subsection (1). Reports made
653 under this section to any law enforcement agency or prosecutorial
654 officer are for the purpose of criminal investigation and
655 prosecution only and no information from these reports may be
656 released to the public except as provided by Section 43-21-261.
657 Disclosure of any information by the prosecutor shall be according
658 to the Mississippi Uniform Rules of Circuit and County Court
659 Procedure. The identity of the reporting party shall not be
660 disclosed to anyone other than law enforcement officers or
661 prosecutors without an order from the appropriate youth court.
662 Any person disclosing any reports made under this section in a
663 manner not expressly provided for in this section or Section
664 43-21-261, shall be guilty of a misdemeanor and subject to the
665 penalties prescribed by Section 43-21-267.

666 (5) All final dispositions of law enforcement investigations
667 described in subsection (1) of this section shall be determined
668 only by the appropriate prosecutor or court. All final
669 dispositions of investigations by the Department of Human Services

670 as described in subsection (1) of this section shall be determined
671 only by the youth court. Reports made under subsection (1) of
672 this section by the Department of Human Services to the law
673 enforcement agency and to the district attorney's office shall
674 include the following, if known to the department:

675 (a) The name and address of the child;
676 (b) The names and addresses of the parents;
677 (c) The name and address of the suspected perpetrator;
678 (d) The names and addresses of all witnesses, including
679 the reporting party if a material witness to the abuse;

680 (e) A brief statement of the facts indicating that the
681 child has been abused and any other information from the agency
682 files or known to the family protection worker or family
683 protection specialist making the investigation, including medical
684 records or other records, which may assist law enforcement or the
685 district attorney in investigating and/or prosecuting the case;
686 and

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

689 (6) In any investigation of a report made under this chapter
690 of the abuse or neglect of a child as defined in Section
691 43-21-105(m), the Department of Human Services may request the
692 appropriate law enforcement officer with jurisdiction to accompany
693 the department in its investigation, and in such cases the law
694 enforcement officer shall comply with such request.

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

699 (8) If a report is made directly to the Department of Human
700 Services that a child has been abused or neglected in an
701 out-of-home setting, a referral shall be made immediately to the
702 law enforcement agency in whose jurisdiction the abuse occurred
703 and the department shall notify the district attorney's office
704 within forty-eight (48) hours of such report. The Department of

705 Human Services shall investigate the out-of-home setting report of
706 abuse or neglect to determine whether the child who is the subject
707 of the report, or other children in the same environment, comes
708 within the jurisdiction of the youth court and shall report to the
709 youth court the department's findings and recommendation as to
710 whether the child who is the subject of the report or other
711 children in the same environment require the protection of the
712 youth court. The law enforcement agency shall investigate the
713 reported abuse immediately and shall file a preliminary report
714 with the district attorney's office within forty-eight (48) hours
715 and shall make additional reports as new information or evidence
716 becomes available. If the out-of-home setting is a licensed
717 facility, an additional referral shall be made by the Department
718 of Human Services to the licensing agency. The licensing agency
719 shall investigate the report and shall provide the Department of
720 Human Services, the law enforcement agency and the district
721 attorney's office with their written findings from such
722 investigation as well as that licensing agency's recommendations
723 and actions taken.

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

726 43-21-355. Any attorney, physician, dentist, intern,
727 resident, nurse, psychologist, social worker, family protection
728 worker, family protection specialist, child caregiver, minister,
729 law enforcement officer, school attendance officer, public school
730 district employee, nonpublic school employee, or any other person
731 participating in the making of a required report pursuant to
732 Section 43-21-353 or participating in the judicial proceeding
733 resulting therefrom shall be presumed to be acting in good faith.
734 Any person or institution reporting in good faith shall be immune
735 from any liability, civil or criminal, that might otherwise be
736 incurred or imposed.

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

739 43-21-603. (1) At the beginning of each disposition
740 hearing, the judge shall inform the parties of the purpose of the
741 hearing.

742 (2) All testimony shall be under oath unless waived by all
743 parties and may be in narrative form. The court may consider any
744 evidence that is material and relevant to the disposition of the
745 cause, including hearsay and opinion evidence. At the conclusion
746 of the evidence, the youth court shall give the parties an
747 opportunity to present oral argument.

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

751 (a) The nature of the offense;

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

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

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

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

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

761 (g) Copies of the child's cumulative record from the
762 last school of record, including special education records, if
763 applicable;

764 (h) Recommendation from the school of record based on
765 areas of remediation needed;

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

767 (j) Records of disciplinary actions outside of the
768 school setting.

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

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

773 (b) The family and home situation; and

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

775 (5) If the child has been adjudicated a neglected child or
776 an abused child, before entering a disposition order, the youth
777 court shall consider, among others, the following relevant
778 factors:

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

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

781 (c) The manner in which the parent, guardian or
782 custodian participated in, tolerated or condoned the abuse,
783 neglect or abandonment of the child;

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

786 (e) Relevant testimony and recommendations, where
787 available, from the foster parent of the child, the grandparents
788 of the child, the guardian ad litem of the child, representatives
789 of any private care agency that has cared for the child, the
790 family protection worker or family protection specialist assigned
791 to the case, and any other relevant testimony pertaining to the
792 case.

793 (6) After consideration of all the evidence and the relevant
794 factors, the youth court shall enter a disposition order that
795 shall not recite any of the facts or circumstances upon which the
796 disposition is based, nor shall it recite that a child has been
797 found guilty; but it shall recite that a child is found to be a
798 delinquent child, a child in need of supervision, a neglected
799 child or an abused child.

800 (7) If the youth court orders that the custody or
801 supervision of a child who has been adjudicated abused or
802 neglected be placed with the Department of Human Services or any
803 other person or public or private agency, other than the child's
804 parent, guardian or custodian, the youth court shall find and the
805 disposition order shall recite that:

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

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

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

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

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

822 (ii) The parent has been convicted of murder of
823 another child of that parent, voluntary manslaughter of another
824 child of that parent, aided or abetted, attempted, conspired or
825 solicited to commit that murder or voluntary manslaughter, or a
826 felony assault that results in the serious bodily injury to the
827 surviving child or another child of that parent; or

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

830 (iv) That the effect of the continuation of the
831 child's residence within his own home would be contrary to the
832 welfare of the child and that placement of the child in foster
833 care is in the best interests of the child.

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

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

- 843 (a) The child's current medical history, including
844 medications and diagnosis;
- 845 (b) The child's mental health history;
- 846 (c) Copies of the child's cumulative record from the
847 last school of record, including special education records, if
848 reasonably available;
- 849 (d) Recommendation from the school of record based on
850 areas of remediation needed;
- 851 (e) Disciplinary records from the school of record; and
- 852 (f) Records of disciplinary actions outside of the
853 school setting, if reasonably available.

854 Only individuals who are permitted under the Health Insurance
855 Portability and Accountability Act of 1996 (HIPAA) shall have
856 access to a child's medical records which are contained in an
857 admission packet. The youth court shall provide the admission
858 packet to the training school at or before the child's arrival at
859 the training school. The admittance of any child to a training
860 school shall take place between the hours of 8:00 a.m. and 3:00
861 p.m. on designated admission days.

862 (9) When a child in the jurisdiction of the Youth Court is
863 committed to the custody of the Mississippi Department of Human
864 Services and is believed to be in need of treatment for a mental
865 or emotional disability or infirmity, the Department of Human
866 Services shall file an affidavit alleging that the child is in
867 need of mental health services with the Youth Court. The Youth
868 Court shall refer the child to the appropriate community mental
869 health center for evaluation pursuant to Section 41-21-67. If the
870 prescreening evaluation recommends residential care, the Youth
871 Court shall proceed with civil commitment pursuant to Sections
872 41-21-61 et seq., 43-21-315 and 43-21-611, and the Department of
873 Mental Health, once commitment is ordered, shall provide
874 appropriate care, treatment and services for at least as many
875 adolescents as were provided services in fiscal year 2004 in its
876 facilities.

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

879 43-27-107. The Department of Human Services is authorized to
880 set the qualifications necessary for all family protection
881 specialists employed by the department, which shall at a minimum
882 require that the applicant possess a baccalaureate degree in
883 social work from a college or university accredited by the Council
884 on Social Work Education or Southern Association of Colleges and
885 Schools.

886 The qualifications for employment of a family protection
887 specialist at the senior, advanced and supervisory grades shall
888 require, in addition to those required of a family protection
889 specialist, state licensure as a social worker.

890 The department shall not be required to go through the State
891 Personnel Board or use the qualifications set by the Personnel
892 Board in employing any family protection specialists for the
893 department. All family protection specialists employed by the
894 department shall be state service employees from the date of their
895 employment with the department; however, to carry out its
896 responsibilities, the department may use any available federal
897 funds to employ such additional family protection specialists as
898 it can employ in time-limited positions. All social worker
899 positions existing before July 1, 1998, will remain state service.

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

902 43-27-109. The Department of Human Services may employ a
903 sufficient number of new family protection specialists, * * *
904 youth counselors and clerical staff to reduce the caseload sizes
905 for social workers and youth counselors of the department and to
906 reduce the workload on clerical staff, if funds are appropriated
907 to the department for that purpose.

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

910 43-47-7. (1) (a) Except as otherwise provided by Section
911 43-47-37 for vulnerable adults in care facilities, any person

912 including, but not limited to, the following, who knows or
913 suspects that a vulnerable adult has been or is being abused,
914 neglected or exploited shall immediately report such knowledge or
915 suspicion to the Department of Human Services or to the county
916 department of human services where the vulnerable adult is
917 located:

918 (i) Attorney, physician, osteopathic physician,
919 medical examiner, chiropractor or nurse engaged in the admission,
920 examination, care or treatment of vulnerable adults;

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

923 (iii) Practitioner who relies solely on spiritual
924 means for healing;

925 (iv) Social worker, family protection worker,
926 family protection specialist or other professional adult care,
927 residential or institutional staff;

928 (v) State, county or municipal criminal justice
929 employee or law enforcement officer;

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

932 (vii) Accountant, stockbroker, financial advisor
933 or consultant, insurance agent or consultant, investment advisor
934 or consultant, financial planner, or any officer or employee of a
935 bank, savings and loan, credit union or any other financial
936 service provider.

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

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

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

945 (iii) Name, address and telephone number of each
946 alleged perpetrator.

947 (iv) Name, address and telephone number of the
948 caregiver of the vulnerable adult, if different from the alleged
949 perpetrator.

950 (v) Description of the neglect, exploitation,
951 physical or psychological injuries sustained.

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

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

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

962 (c) The department, or its designees, shall report to
963 an appropriate criminal investigative or prosecutive authority any
964 person required by this section to report or who fails to comply
965 with this section. A person who fails to make a report as
966 required under this subsection or who, because of the
967 circumstances, should have known or suspected beyond a reasonable
968 doubt that a vulnerable adult suffers from exploitation, abuse,
969 neglect or self-neglect but who knowingly fails to comply with
970 this section shall, upon conviction, be guilty of a misdemeanor
971 and shall be punished by a fine not exceeding Five Thousand
972 Dollars (\$5,000.00), or by imprisonment in the county jail for not
973 more than six (6) months, or both such fine and imprisonment.
974 However, for purposes of this subsection (1), any recognized legal
975 financial transaction shall not be considered cause to report the
976 knowledge or suspicion of the financial exploitation of a
977 vulnerable adult. If a person convicted under this section is a
978 member of a profession or occupation that is licensed, certified
979 or regulated by the state, the court shall notify the appropriate
980 licensing, certifying or regulating entity of the conviction.

981 (2) Reports received by law enforcement authorities or other

982 agencies shall be forwarded immediately to the Department of Human
983 Services or the county department of human services. The
984 Department of Human Services shall investigate the reported abuse,
985 neglect or exploitation immediately and shall file a preliminary
986 report of its findings with the Office of the Attorney General
987 within forty-eight (48) hours, and shall make additional reports
988 as new information or evidence becomes available. The Department
989 of Human Services, upon request, shall forward a statement to the
990 person making the initial report required by this section as to
991 what action is being taken, if any.

992 (3) The report may be made orally or in writing, but where
993 made orally, it shall be followed up by a written report. A
994 person who fails to report or to otherwise comply with this
995 section, as provided herein, shall have no civil or criminal
996 liability, other than that expressly provided for in this section,
997 to any person or entity in connection with any failure to report
998 or to otherwise comply with the requirements of this section.

999 (4) Anyone who makes a report required by this section or
1000 who testifies or participates in any judicial proceedings arising
1001 from the report or who participates in a required investigation or
1002 evaluation shall be presumed to be acting in good faith and in so
1003 doing shall be immune from liability, civil or criminal, that
1004 might otherwise be incurred or imposed. However, the immunity
1005 provided under this subsection shall not apply to any suspect or
1006 perpetrator of any abuse, neglect or exploitation.

1007 (5) A person who intentionally makes a false report under
1008 the provisions of this section may be found liable in a civil suit
1009 for any actual damages suffered by the person or persons so
1010 reported and for any punitive damages set by the court or jury.

1011 (6) The Executive Director of Human Services shall establish
1012 a statewide central register of reports made pursuant to this
1013 section. The central register shall be capable of receiving
1014 reports of vulnerable adults in need of protective services seven
1015 (7) days a week, twenty-four (24) hours a day. To effectuate this
1016 purpose, the executive director shall establish a single toll-free

1017 statewide phone number that all persons may use to report
1018 vulnerable adults in need of protective services, and that all
1019 persons authorized by subsection (7) of this section may use for
1020 determining the existence of prior reports in order to evaluate
1021 the condition or circumstances of the vulnerable adult before
1022 them. Such oral reports and evidence of previous reports shall be
1023 transmitted to the appropriate county department of human
1024 services. The central register shall include, but not be limited
1025 to, the following information: the name and identifying
1026 information of the individual reported, the county department of
1027 human services responsible for the investigation of each such
1028 report, the names, affiliations and purposes of any person
1029 requesting or receiving information which the executive director
1030 believes might be helpful in the furtherance of the purposes of
1031 this chapter, the name, address, birth date, social security
1032 number of the perpetrator of abuse, neglect and/or exploitation,
1033 and the type of abuse, neglect and/or exploitation of which there
1034 was substantial evidence upon investigation of the report. The
1035 central register shall inform the person making reports required
1036 under this section of his or her right to request statements from
1037 the department as to what action is being taken, if any.

1038 Each person, business, organization or other entity, whether
1039 public or private, operated for profit, operated for nonprofit or
1040 a voluntary unit of government not responsible for law enforcement
1041 providing care, supervision or treatment of vulnerable adults
1042 shall conduct criminal history records checks on each new employee
1043 of the entity who provides, and/or would provide direct patient
1044 care or services to adults or vulnerable persons, as provided in
1045 Section 43-11-13.

1046 The department shall not release data that would be harmful
1047 or detrimental to the vulnerable adult or that would identify or
1048 locate a person who, in good faith, made a report or cooperated in
1049 a subsequent investigation unless ordered to do so by a court of
1050 competent jurisdiction.

1051 (7) Reports made pursuant to this section, reports written
1052 or photographs taken concerning such reports in the possession of
1053 the Department of Human Services or the county department of human
1054 services shall be confidential and shall only be made available
1055 to:

1056 (a) A physician who has before him a vulnerable adult
1057 whom he reasonably suspects may be abused, neglected or exploited,
1058 as defined in Section 43-47-5;

1059 (b) A duly authorized agency having the responsibility
1060 for the care or supervision of a subject of the report;

1061 (c) A grand jury or a court of competent jurisdiction,
1062 upon finding that the information in the record is necessary for
1063 the determination of charges before the grand jury;

1064 (d) A district attorney or other law enforcement
1065 official.

1066 Notwithstanding the provisions of paragraph (b) of this
1067 subsection, the department may not disclose a report of the
1068 abandonment, exploitation, abuse, neglect or self-neglect of a
1069 vulnerable adult to the vulnerable adult's guardian,
1070 attorney-in-fact, surrogate decision maker, or caregiver who is a
1071 perpetrator or alleged perpetrator of the abandonment,
1072 exploitation, abuse or neglect of the vulnerable adult.

1073 Any person given access to the names or other information
1074 identifying the subject of the report, except the subject of the
1075 report, shall not divulge or make public such identifying
1076 information unless he is a district attorney or other law
1077 enforcement official and the purpose is to initiate court action.
1078 Any person who willfully permits the release of any data or
1079 information obtained pursuant to this section to persons or
1080 agencies not permitted to such access by this section shall be
1081 guilty of a misdemeanor.

1082 (8) Upon reasonable cause to believe that a caretaker or
1083 other person has abused, neglected or exploited a vulnerable
1084 adult, the department shall promptly notify the district attorney
1085 of the county in which the vulnerable adult is located and the

1086 Office of the Attorney General, except as provided in Section
1087 43-47-37(2).

1088 **SECTION 10.** Section 93-21-23, Mississippi Code of 1972, is
1089 amended as follows:

1090 93-21-23. Any licensed doctor of medicine, licensed doctor
1091 of dentistry, intern, resident or registered nurse, psychologist,
1092 social worker, family protection worker, family protection
1093 specialist, preacher, teacher, attorney, law enforcement officer,
1094 or any other person or institution participating in the making of
1095 a report pursuant to this chapter or participating in judicial
1096 proceedings resulting therefrom shall be presumed to be acting in
1097 good faith, and if found to have acted in good faith shall be
1098 immune from any liability, civil or criminal, that might otherwise
1099 be incurred or imposed. The reporting of an abused person shall
1100 not constitute a breach of confidentiality.

1101 **SECTION 11.** Section 97-3-7, Mississippi Code of 1972, is
1102 amended as follows:

1103 97-3-7. (1) A person is guilty of simple assault if he (a)
1104 attempts to cause or purposely, knowingly or recklessly causes
1105 bodily injury to another; or (b) negligently causes bodily injury
1106 to another with a deadly weapon or other means likely to produce
1107 death or serious bodily harm; or (c) attempts by physical menace
1108 to put another in fear of imminent serious bodily harm; and, upon
1109 conviction, he shall be punished by a fine of not more than Five
1110 Hundred Dollars (\$500.00) or by imprisonment in the county jail
1111 for not more than six (6) months, or both. However, a person
1112 convicted of simple assault (a) upon a statewide elected official,
1113 law enforcement officer, fireman, emergency medical personnel,
1114 public health personnel, social worker or family protection
1115 specialist or family protection worker employed by the Department
1116 of Human Services or another agency, superintendent, principal,
1117 teacher or other instructional personnel, school attendance
1118 officer, school bus driver, or a judge of a circuit, chancery,
1119 county, justice or youth court or a judge of the Court of Appeals
1120 or a justice of the Supreme Court, district attorney, legal

1121 assistant to a district attorney, county prosecutor, municipal
1122 prosecutor, court reporter employed by a court, court
1123 administrator, clerk or deputy clerk of the court, or public
1124 defender, while such statewide elected official, judge or justice,
1125 law enforcement officer, fireman, emergency medical personnel,
1126 public health personnel, social worker, family protection
1127 specialist, family protection worker, superintendent, principal,
1128 teacher or other instructional personnel, school attendance
1129 officer, school bus driver, district attorney, legal assistant to
1130 a district attorney, county prosecutor, municipal prosecutor,
1131 court reporter employed by a court, court administrator, clerk or
1132 deputy clerk of the court, or public defender is acting within the
1133 scope of his duty, office or employment, or (b) upon a legislator
1134 while the Legislature is in regular or extraordinary session or
1135 while otherwise acting within the scope of his duty, office or
1136 employment, shall be punished by a fine of not more than One
1137 Thousand Dollars (\$1,000.00) or by imprisonment for not more than
1138 five (5) years, or both.

1139 (2) A person is guilty of aggravated assault if he (a)
1140 attempts to cause serious bodily injury to another, or causes such
1141 injury purposely, knowingly or recklessly under circumstances
1142 manifesting extreme indifference to the value of human life; or
1143 (b) attempts to cause or purposely or knowingly causes bodily
1144 injury to another with a deadly weapon or other means likely to
1145 produce death or serious bodily harm; and, upon conviction, he
1146 shall be punished by imprisonment in the county jail for not more
1147 than one (1) year or in the Penitentiary for not more than twenty
1148 (20) years. However, a person convicted of aggravated assault (a)
1149 upon a statewide elected official, law enforcement officer,
1150 fireman, emergency medical personnel, public health personnel,
1151 social worker, family protection specialist, family protection
1152 worker employed by the Department of Human Services or another
1153 agency, superintendent, principal, teacher or other instructional
1154 personnel, school attendance officer, school bus driver, or a
1155 judge of a circuit, chancery, county, justice or youth court or a

1156 judge of the Court of Appeals or a justice of the Supreme Court,
1157 district attorney, legal assistant to a district attorney, county
1158 prosecutor, municipal prosecutor, court reporter employed by a
1159 court, court administrator, clerk or deputy clerk of the court, or
1160 public defender, while such statewide elected official, judge or
1161 justice, law enforcement officer, fireman, emergency medical
1162 personnel, public health personnel, social worker, family
1163 protection specialist, family protection worker, superintendent,
1164 principal, teacher or other instructional personnel, school
1165 attendance officer, school bus driver, district attorney, legal
1166 assistant to a district attorney, county prosecutor, municipal
1167 prosecutor, court reporter employed by a court, court
1168 administrator, clerk or deputy clerk of the court, or public
1169 defender is acting within the scope of his duty, office or
1170 employment, or (b) upon a legislator while the Legislature is in
1171 regular or extraordinary session or while otherwise acting within
1172 the scope of his duty, office or employment, shall be punished by
1173 a fine of not more than Five Thousand Dollars (\$5,000.00) or by
1174 imprisonment for not more than thirty (30) years, or both.

1175 (3) A person is guilty of simple domestic violence who
1176 commits simple assault as described in subsection (1) of this
1177 section against a family or household member who resides with the
1178 defendant or who formerly resided with the defendant, a current or
1179 former spouse, a person who has a current dating relationship with
1180 the defendant, or a person with whom the defendant has had a
1181 biological or legally adopted child and upon conviction, the
1182 defendant shall be punished as provided under subsection (1) of
1183 this section; however, upon a third or subsequent conviction of
1184 simple domestic violence, whether against the same or another
1185 victim and within five (5) years, the defendant shall be guilty of
1186 a felony and sentenced to a term of imprisonment not less than
1187 five (5) nor more than ten (10) years. In sentencing, the court
1188 shall consider as an aggravating factor whether the crime was
1189 committed in the physical presence or hearing of a child under
1190 sixteen (16) years of age who was, at the time of the offense,

1191 living within either the residence of the victim, the residence of
1192 the perpetrator, or the residence where the offense occurred.

1193 (4) A person is guilty of aggravated domestic violence who
1194 commits aggravated assault as described in subsection (2) of this
1195 section against a family or household member who resides with the
1196 defendant or who formerly resided with the defendant, or a current
1197 or former spouse, a person who has a current dating relationship
1198 with the defendant, or a person with whom the defendant has had a
1199 biological or legally adopted child and upon conviction, the
1200 defendant shall be punished as provided under subsection (2) of
1201 this section; however, upon a third or subsequent offense of
1202 aggravated domestic violence, whether against the same or another
1203 victim and within five (5) years, the defendant shall be guilty of
1204 a felony and sentenced to a term of imprisonment of not less than
1205 five (5) nor more than twenty (20) years. In sentencing, the
1206 court shall consider as an aggravating factor whether the crime
1207 was committed in the physical presence or hearing of a child under
1208 sixteen (16) years of age who was, at the time of the offense,
1209 living within either the residence of the victim, the residence of
1210 the perpetrator, or the residence where the offense occurred.
1211 Reasonable discipline of a child, such as spanking, is not an
1212 offense under this subsection (4).

1213 (5) "Dating relationship" means a social relationship of a
1214 romantic or intimate nature.

1215 (6) Every conviction of domestic violence may require as a
1216 condition of any suspended sentence that the defendant participate
1217 in counseling or treatment to bring about the cessation of
1218 domestic abuse. The defendant may be required to pay all or part
1219 of the cost of the counseling or treatment, in the discretion of
1220 the court.

1221 (7) In any conviction of assault as described in any
1222 subsection of this section which arises from an incident of
1223 domestic violence, the sentencing order shall include the
1224 designation "domestic violence."

1225 **SECTION 12.** This act shall take effect and be in force from
1226 and after July 1, 2006.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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 CREATE A TRAINING AND TESTING ADVISORY COUNCIL TO REVIEW THE
10 DEPARTMENT'S PROGRAM OF TRAINING AND TESTING OF FAMILY PROTECTION
11 WORKERS; TO AMEND SECTION 43-27-107, MISSISSIPPI CODE OF 1972, TO
12 PROVIDE FOR EMPLOYMENT AND QUALIFICATIONS OF FAMILY PROTECTION
13 SPECIALISTS AT THE DEPARTMENT OF HUMAN SERVICES; TO AMEND SECTIONS
14 43-15-13, 43-21-261, 43-21-353, 43-21-355, 43-21-603, 43-27-109,
15 43-47-7, 93-21-23 AND 97-3-7, MISSISSIPPI CODE OF 1972, IN
16 CONFORMITY; AND FOR RELATED PURPOSES.

HR03\SB2388A.1J

Don Richardson
Clerk of the House of Representatives