To: Public Health and Human Services

MISSISSIPPI LEGISLATURE
By: Representative Moak

REGULAR SESSION 2007

HOUSE BILL NO. 77

AN ACT TO PROVIDE THAT ANY PERSON WHO IS REQUIRED TO REPORT CASES OF SUSPECTED ABUSE UNDER THE MISSISSIPPI VULNERABLE ADULTS ACT AND HAS REASONABLE CAUSE TO SUSPECT THAT AN ADULT HAS DIED AS A RESULT OF THE ABUSE, MUST REPORT THAT FACT TO THE APPROPRIATE MEDICAL EXAMINER OR CORONER; TO REQUIRE LONG-TERM CARE FACILITIES TO REPORT TO THE APPROPRIATE MEDICAL EXAMINER OR CORONER ALL DEATHS OF RESIDENTS OF THE FACILITY; TO REQUIRE HOSPITALS TO REPORT TO THE APPROPRIATE MEDICAL EXAMINER OR CORONER ALL DEATHS OF INDIVIDUALS IN THE HOSPITAL WHO WERE RESIDENTS OF A LONG-TERM FACILITY WITHIN FIVE DAYS OF ENTERING THE HOSPITAL; TO AMEND SECTION 43-47-7, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

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

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

(3) In all cases of the death of an individual in a hospital who was a resident of a long-term care facility within five (5) days of entering the hospital, the hospital shall immediately report the death to the appropriate medical examiner or coroner. The report is required regardless of whether the facility believes...
the death to be from natural causes or the result of abuse, sexual
abuse, negligence or any other cause.

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

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

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

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

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

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

(i) Attorney, physician, osteopathic physician,
medical examiner, chiropractor or nurse engaged in the admission,

(ii) Health professional or mental health
professional other than one listed in subparagraph (i);
(iii) Practitioner who relies solely on spiritual means for healing;

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

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

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

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

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

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

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

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

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

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

(vi) Actions taken by the reporter, if any, such as notification of the criminal justice agency.
(vii) Any other information available to the reporting person which may establish the cause of abuse, neglect or exploitation that occurred or is occurring.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. This act shall take effect and be in force from and after July 1, 2007.