

By: Senator(s) Fillingane

To: Judiciary, Division B

SENATE BILL NO. 2236

1 AN ACT TO AMEND SECTION 43-21-353, MISSISSIPPI CODE OF 1972,  
2 TO CREATE A CRIMINAL PENALTY AND CIVIL ACTION FOR FALSELY  
3 REPORTING TO THE DEPARTMENT OF HUMAN SERVICES THAT ANOTHER HAS  
4 ABUSED OR NEGLECTED A CHILD, KNOWING SUCH REPORT TO BE FALSE, AND  
5 TO CLARIFY THE REQUIRED CONTENTS OF REPORTS OF CHILD ABUSE OR  
6 NEGLECT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 43-21-353, Mississippi Code of 1972, is  
9 amended as follows:

10 43-21-353. (1) Any attorney, physician, dentist, intern,  
11 resident, nurse, psychologist, social worker, family protection  
12 worker, family protection specialist, child caregiver, minister,  
13 law enforcement officer, public or private school employee or any  
14 other person having reasonable cause to suspect that a child is a  
15 neglected child or an abused child, shall cause an oral report to  
16 be made immediately by telephone or otherwise and followed as soon  
17 thereafter as possible by a report in writing to the Department of  
18 Human Services, and immediately a referral shall be made by the  
19 Department of Human Services to the youth court intake unit, which  
20 unit shall promptly comply with Section 43-21-357. In the course  
21 of an investigation, at the initial time of contact with the  
22 individual(s) about whom a report has been made under this Youth  
23 Court Act or with the individual(s) responsible for the health or  
24 welfare of a child about whom a report has been made under this  
25 chapter, the Department of Human Services shall inform the  
26 individual of the specific complaints or allegations made against  
27 the individual. Consistent with subsection (4), the identity of  
28 the person who reported his or her suspicion shall not be



29 disclosed. Where appropriate, the Department of Human Services  
30 shall additionally make a referral to the youth court prosecutor.

31 Upon receiving a report that a child has been sexually  
32 abused, or burned, tortured, mutilated or otherwise physically  
33 abused in such a manner as to cause serious bodily harm, or upon  
34 receiving any report of abuse that would be a felony under state  
35 or federal law, the Department of Human Services shall immediately  
36 notify the law enforcement agency in whose jurisdiction the abuse  
37 occurred and shall notify the appropriate prosecutor within  
38 forty-eight (48) hours, and the Department of Human Services shall  
39 have the duty to provide the law enforcement agency all the names  
40 and facts known at the time of the report; this duty shall be of a  
41 continuing nature. The law enforcement agency and the Department  
42 of Human Services shall investigate the reported abuse immediately  
43 and shall file a preliminary report with the appropriate  
44 prosecutor's office within twenty-four (24) hours and shall make  
45 additional reports as new or additional information or evidence  
46 becomes available. The Department of Human Services shall advise  
47 the clerk of the youth court and the youth court prosecutor of all  
48 cases of abuse reported to the department within seventy-two (72)  
49 hours and shall update such report as information becomes  
50 available.

51 (2) Any report to the Department of Human Services shall  
52 contain, if known, the names and addresses of the child and his  
53 parents or other persons responsible for his care, \* \* \* the  
54 child's age, the nature and extent of the child's injuries,  
55 including any evidence of previous injuries and any other  
56 information that might be helpful in establishing the cause of the  
57 injury and the identity of the perpetrator.

58 (3) The Department of Human Services shall maintain a  
59 statewide incoming wide-area telephone service or similar service  
60 for the purpose of receiving reports of suspected cases of child  
61 abuse; provided that any attorney, physician, dentist, intern,



62 resident, nurse, psychologist, social worker, family protection  
63 worker, family protection specialist, child caregiver, minister,  
64 law enforcement officer or public or private school employee who  
65 is required to report under subsection (1) of this section shall  
66 report in the manner required in subsection (1).

67 (4) Reports of abuse and neglect made under this chapter and  
68 the identity of the reporter are confidential except when the  
69 court in which the investigation report is filed, in its  
70 discretion, determines the testimony of the person reporting to be  
71 material to a judicial proceeding or when the identity of the  
72 reporter is released to law enforcement agencies and the  
73 appropriate prosecutor pursuant to subsection (1). Reports made  
74 under this section to any law enforcement agency or prosecutorial  
75 officer are for the purpose of criminal investigation and  
76 prosecution only and no information from these reports may be  
77 released to the public except as provided by Section 43-21-261.  
78 Disclosure of any information by the prosecutor shall be according  
79 to the Mississippi Uniform Rules of Circuit and County Court  
80 Procedure. The identity of the reporting party shall not be  
81 disclosed to anyone other than law enforcement officers or  
82 prosecutors without an order from the appropriate youth court.  
83 Any person disclosing any reports made under this section in a  
84 manner not expressly provided for in this section or Section  
85 43-21-261, shall be guilty of a misdemeanor and subject to the  
86 penalties prescribed by Section 43-21-267.

87 (5) All final dispositions of law enforcement investigations  
88 described in subsection (1) of this section shall be determined  
89 only by the appropriate prosecutor or court. All final  
90 dispositions of investigations by the Department of Human Services  
91 as described in subsection (1) of this section shall be determined  
92 only by the youth court. Reports made under subsection (1) of  
93 this section by the Department of Human Services to the law



94 enforcement agency and to the district attorney's office shall  
95 include the following, if known to the department:

96 (a) The name and address of the child;

97 (b) The names and addresses of the parents;

98 (c) The name and address of the suspected perpetrator;

99 (d) The names and addresses of all witnesses, including  
100 the reporting party if a material witness to the abuse;

101 (e) A brief statement of the facts indicating that the  
102 child has been abused and any other information from the agency  
103 files or known to the family protection worker or family  
104 protection specialist making the investigation, including medical  
105 records or other records, which may assist law enforcement or the  
106 district attorney in investigating and/or prosecuting the case;  
107 and

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

110 (6) In any investigation of a report made under this chapter  
111 of the abuse or neglect of a child as defined in Section  
112 43-21-105(m), the Department of Human Services may request the  
113 appropriate law enforcement officer with jurisdiction to accompany  
114 the department in its investigation, and in such cases the law  
115 enforcement officer shall comply with such request.

116 (7) A person who falsely reports that a child is a neglected  
117 child or an abused child, knowing such report to be false,  
118 violates this section. In addition to the penalty provided in  
119 this section, such person may be found liable in a civil suit for  
120 any actual damages suffered by the person or persons so reported  
121 and for any punitive damages set by the court or jury.

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



126       (9) If a report is made directly to the Department of Human  
127 Services that a child has been abused or neglected in an  
128 out-of-home setting, a referral shall be made immediately to the  
129 law enforcement agency in whose jurisdiction the abuse occurred  
130 and the department shall notify the district attorney's office  
131 within forty-eight (48) hours of such report. The Department of  
132 Human Services shall investigate the out-of-home setting report of  
133 abuse or neglect to determine whether the child who is the subject  
134 of the report, or other children in the same environment, comes  
135 within the jurisdiction of the youth court and shall report to the  
136 youth court the department's findings and recommendation as to  
137 whether the child who is the subject of the report or other  
138 children in the same environment require the protection of the  
139 youth court. The law enforcement agency shall investigate the  
140 reported abuse immediately and shall file a preliminary report  
141 with the district attorney's office within forty-eight (48) hours  
142 and shall make additional reports as new information or evidence  
143 becomes available. If the out-of-home setting is a licensed  
144 facility, an additional referral shall be made by the Department  
145 of Human Services to the licensing agency. The licensing agency  
146 shall investigate the report and shall provide the Department of  
147 Human Services, the law enforcement agency and the district  
148 attorney's office with their written findings from such  
149 investigation as well as that licensing agency's recommendations  
150 and actions taken.

151       **SECTION 2.** This act shall take effect and be in force from  
152 and after July 1, 2009.

