

By: Senator(s) Hyde-Smith

To: Judiciary, Division B

SENATE BILL NO. 2596

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.

