

By: Representative Hopkins

To: Youth and Family  
Affairs; Judiciary B

HOUSE BILL NO. 386

1 AN ACT TO AMEND SECTIONS 43-21-353 AND 43-47-7, MISSISSIPPI  
2 CODE OF 1972, TO REQUIRE PERSONS WHO MAKE REPORTS TO THE  
3 DEPARTMENT OF HUMAN SERVICES ABOUT THE SUSPECTED NEGLECT OR ABUSE  
4 OF A CHILD OR THE SUSPECTED ABUSE, NEGLECT OR EXPLOITATION OF A  
5 VULNERABLE PERSON TO PROVIDE THEIR NAME, ADDRESS AND TELEPHONE  
6 NUMBER TO THE DEPARTMENT; 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, which shall contain the information specified in  
19 subsection (2) of this section, and immediately a referral shall  
20 be made by the Department of Human Services to the youth court



21 intake unit, which unit shall promptly comply with Section  
22 43-21-357. In the course of an investigation, at the initial time  
23 of contact with the individual(s) about whom a report has been  
24 made under this Youth Court Act or with the individual(s)  
25 responsible for the health or welfare of a child about whom a  
26 report has been made under this chapter, the Department of Human  
27 Services shall inform the individual of the specific complaints or  
28 allegations made against the individual. Consistent with  
29 subsection (4), the identity of the person who reported his or her  
30 suspicion shall not be disclosed. Where appropriate, the  
31 Department of Human Services shall additionally make a referral to  
32 the youth court prosecutor.

33       Upon receiving a report that a child has been sexually  
34 abused, or burned, tortured, mutilated or otherwise physically  
35 abused in such a manner as to cause serious bodily harm, or upon  
36 receiving any report of abuse that would be a felony under state  
37 or federal law, the Department of Human Services shall immediately  
38 notify the law enforcement agency in whose jurisdiction the abuse  
39 occurred and shall notify the appropriate prosecutor within  
40 forty-eight (48) hours, and the Department of Human Services shall  
41 have the duty to provide the law enforcement agency all the names  
42 and facts known at the time of the report; this duty shall be of a  
43 continuing nature. The law enforcement agency and the Department  
44 of Human Services shall investigate the reported abuse immediately  
45 and shall file a preliminary report with the appropriate



46 prosecutor's office within twenty-four (24) hours and shall make  
47 additional reports as new or additional information or evidence  
48 becomes available. The Department of Human Services shall advise  
49 the clerk of the youth court and the youth court prosecutor of all  
50 cases of abuse reported to the department within seventy-two (72)  
51 hours and shall update such report as information becomes  
52 available.

53 (2) Any report made to the Department of Human Services  
54 under subsection (1) of this section shall contain:

55 (a) The names and addresses of the child and his  
56 parents or other persons responsible for his care, if known \* \* \*;

57 (b) The child's age \* \* \*;

58 (c) The nature and extent of the child's injuries,  
59 including any evidence of previous injuries \* \* \*;

60 (d) Any other information that might be helpful in  
61 establishing the cause of the injury \* \* \*;

62 (e) The identity of the perpetrator \* \* \*; and

63 (f) The name, address and telephone number of the  
64 person making the report.

65 (3) The Department of Human Services shall maintain a  
66 statewide incoming wide-area telephone service or similar service  
67 for the purpose of receiving reports of suspected cases of child  
68 abuse; provided that any attorney, physician, dentist, intern,  
69 resident, nurse, psychologist, social worker, family protection  
70 worker, family protection specialist, child caregiver, minister,



71 law enforcement officer or public or private school employee who  
72 is required to report under subsection (1) of this section shall  
73 report in the manner required in subsection (1).

74 (4) Reports of abuse and neglect made under this chapter and  
75 the identity of the reporter are confidential except when the  
76 court in which the investigation report is filed, in its  
77 discretion, determines the testimony of the person reporting to be  
78 material to a judicial proceeding or when the identity of the  
79 reporter is released to law enforcement agencies and the  
80 appropriate prosecutor pursuant to subsection (1). Reports made  
81 under this section to any law enforcement agency or prosecutorial  
82 officer are for the purpose of criminal investigation and  
83 prosecution only and no information from these reports may be  
84 released to the public except as provided by Section 43-21-261.  
85 Disclosure of any information by the prosecutor shall be according  
86 to the Mississippi Uniform Rules of Circuit and County Court  
87 Procedure. The identity of the reporting party shall not be  
88 disclosed to anyone other than law enforcement officers or  
89 prosecutors without an order from the appropriate youth court.  
90 Any person disclosing any reports made under this section in a  
91 manner not expressly provided for in this section or Section  
92 43-21-261 shall be guilty of a misdemeanor and subject to the  
93 penalties prescribed by Section 43-21-267.

94 (5) All final dispositions of law enforcement investigations  
95 described in subsection (1) of this section shall be determined



96 only by the appropriate prosecutor or court. All final  
97 dispositions of investigations by the Department of Human Services  
98 as described in subsection (1) of this section shall be determined  
99 only by the youth court. Reports made under subsection (1) of  
100 this section by the Department of Human Services to the law  
101 enforcement agency and to the district attorney's office shall  
102 include the following, if known to the department:

- 103 (a) The name and address of the child;
- 104 (b) The names and addresses of the parents;
- 105 (c) The name and address of the suspected perpetrator;
- 106 (d) The names and addresses of all witnesses, including  
107 the reporting party if a material witness to the abuse;
- 108 (e) A brief statement of the facts indicating that the  
109 child has been abused and any other information from the agency  
110 files or known to the family protection worker or family  
111 protection specialist making the investigation, including medical  
112 records or other records, which may assist law enforcement or the  
113 district attorney in investigating and/or prosecuting the case;  
114 and

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

117 (6) In any investigation of a report made under this chapter  
118 of the abuse or neglect of a child as defined in Section  
119 43-21-105(1) or (m), the Department of Human Services may request  
120 the appropriate law enforcement officer with jurisdiction to



121 accompany the department in its investigation, and in such cases  
122 the law enforcement officer shall comply with such request.

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

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



146 of Human Services to the licensing agency. The licensing agency  
147 shall investigate the report and shall provide the Department of  
148 Human Services, the law enforcement agency and the district  
149 attorney's office with their written findings from such  
150 investigation as well as that licensing agency's recommendations  
151 and actions taken.

152 (9) If a child protective investigation does not result in  
153 an out-of-home placement, a child protective investigator must  
154 provide information to the parent or guardians about community  
155 service programs that provide respite care, voluntary guardianship  
156 or other support services for families in crisis.

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

159 43-47-7. (1) (a) Except as otherwise provided by Section  
160 43-47-37 for vulnerable persons in care facilities, any person  
161 including, but not limited to, the following, who knows or  
162 suspects that a vulnerable person has been or is being abused,  
163 neglected or exploited shall immediately report such knowledge or  
164 suspicion to the Department of Human Services or to the county  
165 department of human services where the vulnerable person is  
166 located:

167 (i) Attorney, physician, osteopathic physician,  
168 medical examiner, chiropractor or nurse engaged in the admission,  
169 examination, care or treatment of vulnerable persons;



170 (ii) Health professional or mental health  
171 professional other than one listed in subparagraph (i);  
172 (iii) Practitioner who relies solely on spiritual  
173 means for healing;  
174 (iv) Social worker, family protection worker,  
175 family protection specialist or other professional care,  
176 residential or institutional staff;  
177 (v) State, county or municipal criminal justice  
178 employee or law enforcement officer;  
179 (vi) Human rights advocacy committee or long-term  
180 care ombudsman council member; or  
181 (vii) Accountant, stockbroker, financial advisor  
182 or consultant, insurance agent or consultant, investment advisor  
183 or consultant, financial planner, or any officer or employee of a  
184 bank, savings and loan, credit union or any other financial  
185 service provider.

186 (b) To the extent possible, a report made \* \* \* under  
187 paragraph (a) must contain, but need not be limited to, the  
188 following information:

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

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





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

196 (iv) Name, address and telephone number of the  
197 caregiver of the vulnerable person, if different from the alleged  
198 perpetrator.

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

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

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

206 (viii) \* \* \* Name, address and telephone  
207 number \* \* \* of the person making the report \* \* \*.

208 (c) The department, or its designees, shall report to  
209 an appropriate criminal investigative or prosecutive authority any  
210 person required by this section to report or who fails to comply  
211 with this section. A person who fails to make a report as  
212 required under this subsection or who, because of the  
213 circumstances, should have known or suspected beyond a reasonable  
214 doubt that a vulnerable person suffers from exploitation, abuse,  
215 neglect or self-neglect but who knowingly fails to comply with  
216 this section shall, upon conviction, be guilty of a misdemeanor  
217 and shall be punished by a fine not exceeding Five Thousand  
218 Dollars (\$5,000.00), or by imprisonment in the county jail for not



219 more than six (6) months, or both such fine and imprisonment.  
220 However, for purposes of this subsection (1), any recognized legal  
221 financial transaction shall not be considered cause to report the  
222 knowledge or suspicion of the financial exploitation of a  
223 vulnerable person. If a person convicted under this section is a  
224 member of a profession or occupation that is licensed, certified  
225 or regulated by the state, the court shall notify the appropriate  
226 licensing, certifying or regulating entity of the conviction.

227 (2) Reports received by law enforcement authorities or other  
228 agencies shall be forwarded immediately to the Department of Human  
229 Services or the county department of human services. The  
230 Department of Human Services shall investigate the reported abuse,  
231 neglect or exploitation immediately and shall file a preliminary  
232 report of its findings with the Office of the Attorney General  
233 within forty-eight (48) hours if immediate attention is needed, or  
234 seventy-two (72) hours if the vulnerable person is not in  
235 immediate danger and shall make additional reports as new  
236 information or evidence becomes available. The Department of  
237 Human Services, upon request, shall forward a statement to the  
238 person making the initial report required by this section as to  
239 what action is being taken, if any.

240 (3) The report may be made orally or in writing, but where  
241 made orally, it shall be followed up by a written report. A  
242 person who fails to report or to otherwise comply with this  
243 section, as provided herein, shall have no civil or criminal



244 liability, other than that expressly provided for in this section,  
245 to any person or entity in connection with any failure to report  
246 or to otherwise comply with the requirements of this section.

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

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

259 (6) The Executive Director of the Department of Human  
260 Services shall establish a statewide central register of reports  
261 made pursuant to this section. The central register shall be  
262 capable of receiving reports of vulnerable persons in need of  
263 protective services seven (7) days a week, twenty-four (24) hours  
264 a day. To effectuate this purpose, the executive director shall  
265 establish a single toll-free statewide phone number that all  
266 persons may use to report vulnerable persons in need of protective  
267 services, and that all persons authorized by subsection (7) of  
268 this section may use for determining the existence of prior



269 reports in order to evaluate the condition or circumstances of the  
270 vulnerable person before them. Such oral reports and evidence of  
271 previous reports shall be transmitted to the appropriate county  
272 department of human services. The central register shall include,  
273 but not be limited to, the following information: the name and  
274 identifying information of the individual reported, the county  
275 department of human services responsible for the investigation of  
276 each such report, the names, affiliations and purposes of any  
277 person requesting or receiving information which the executive  
278 director believes might be helpful in the furtherance of the  
279 purposes of this chapter, the name, address, birth date, social  
280 security number of the perpetrator of abuse, neglect and/or  
281 exploitation, and the type of abuse, neglect and/or exploitation  
282 of which there was substantial evidence upon investigation of the  
283 report. The central register shall inform the person making  
284 reports required under this section of his or her right to request  
285 statements from the department as to what action is being taken,  
286 if any.

287 Each person, business, organization or other entity, whether  
288 public or private, operated for profit, operated for nonprofit or  
289 a voluntary unit of government not responsible for law enforcement  
290 providing care, supervision or treatment of vulnerable persons  
291 shall conduct criminal history records checks on each new employee  
292 of the entity who provides, and/or would provide direct patient



293 care or services to adults or vulnerable persons, as provided in  
294 Section 43-11-13.

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

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

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

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

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

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

315 Notwithstanding the provisions of paragraph (b) of this  
316 subsection, the department may not disclose a report of the  
317 abandonment, exploitation, abuse, neglect or self-neglect of a



318 vulnerable person to the vulnerable person's guardian,  
319 attorney-in-fact, surrogate decision maker, or caregiver who is a  
320 perpetrator or alleged perpetrator of the abandonment,  
321 exploitation, abuse or neglect of the vulnerable person.

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

331 (8) Upon reasonable cause to believe that a caretaker or  
332 other person has abused, neglected or exploited a vulnerable  
333 person, the department shall promptly notify the district attorney  
334 of the county in which the vulnerable person is located and the  
335 Office of the Attorney General, except as provided in Section  
336 43-47-37(2).

337 **SECTION 3.** This act shall take effect and be in force from  
338 and after July 1, 2017.

