

By: Representatives Bennett, Ladner

To: Judiciary A

HOUSE BILL NO. 844

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.

