

By: Representative Anderson

To: Workforce Development;  
Judiciary A

HOUSE BILL NO. 1146

1 AN ACT TO PROHIBIT EMPLOYERS FROM INQUIRING EITHER ORALLY OR  
2 IN WRITING REGARDING AN APPLICANT'S CRIMINAL HISTORY; TO PROVIDE  
3 EXCEPTIONS; TO BRING FORWARD SECTIONS 47-27-12, 37-9-17, 37-13-89,  
4 37-28-49, 37-33-157, 37-115-41, 37-173-23, 37-175-23, 41-4-7,  
5 41-29-112, 41-125-11, 43-1-4, 43-11-13, 43-15-6, 43-20-8, 43-47-7,  
6 67-1-57 AND 81-1-65, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF  
7 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** It shall be an unlawful employment practice for  
10 any employer, except for law enforcement agency positions or  
11 positions related to law enforcement agencies, to inquire either  
12 orally or in writing whether the applicant has ever been arrested,  
13 charged or convicted of any crime; except:

14 (a) If a federal or state law or regulation creates a  
15 mandatory or presumptive disqualification from employment based on  
16 a person's conviction of one or more specified criminal offenses,  
17 an employer may include a question or otherwise inquire whether  
18 the applicant has ever been convicted of any of those offenses; or

19 (b) If a standard fidelity bond or an equivalent bond  
20 is required for the position for which the applicant is seeking



21 employment and his or her conviction of one or more specified  
22 criminal offenses would disqualify the applicant from obtaining  
23 such a bond, an employer may include a question or otherwise  
24 inquire whether the applicant has ever been convicted of any of  
25 those offenses; and

26 (c) Notwithstanding the foregoing, any employer may ask  
27 an applicant for information about his or her criminal convictions  
28 at the first interview or thereafter, in accordance with all  
29 applicable state and federal laws.

30 **SECTION 2.** Section 45-27-12, Mississippi Code of 1972, is  
31 brought forward as follows:

32 45-27-12. (1) State conviction information and arrest  
33 information which is contained in the center's database or the  
34 nonexistence of such information in the center's database shall be  
35 made available for the following noncriminal justice purposes:

36 (a) To any local, state or federal governmental agency  
37 that requests the information for the enforcement of a local,  
38 state or federal law;

39 (b) To any individual, nongovernmental entity or any  
40 employer authorized either by the subject of record in writing or  
41 by state or federal law to receive such information; and

42 (c) To any federal agency or central repository in  
43 another state requesting the information for purposes authorized  
44 by law.



45           (2) Information disseminated for noncriminal justice  
46 purposes as specified in this section shall be used only for the  
47 purpose for which it was made available and may not be  
48 re-disseminated.

49           (3) No agency or individual shall confirm the existence or  
50 nonexistence of criminal history record information to any person  
51 or organization that would not be eligible to receive the  
52 information pursuant to this section.

53           (4) Upon request for a check pursuant to this section, the  
54 nongovernmental entity or employer must provide proper  
55 identification and authorization information from the subject of  
56 the record to be checked and adhere to policies established by the  
57 center for such record checks.

58           (5) Any individual or his attorney who is the subject of the  
59 record to be checked, upon positive verification of the  
60 individual's identity, may request to review the disseminated  
61 information and shall follow the procedure set forth in Section  
62 45-27-11. If the individual wishes to correct the record as it  
63 appears in the center's system, the person shall follow the  
64 procedure set forth in Section 45-27-11. The right of a person to  
65 review the person's criminal history record information shall not  
66 be used by a prospective employer or others as a means to  
67 circumvent procedures or fees for accessing records for  
68 noncriminal justice purposes.



69 (6) The center may impose procedures, including the  
70 submission of fingerprints, fees or restrictions, as are  
71 reasonably necessary to assure the record's security, to verify  
72 the identities of those who seek to inspect them, and to maintain  
73 an orderly and efficient mechanism for access. All fees shall be  
74 assessed and deposited in accordance with the provisions of  
75 Section 45-27-8.

76 (7) Local agencies may release their own agency records  
77 according to their own policies.

78 (8) Release of the above-described information for  
79 noncriminal justice purposes shall be made only by the center,  
80 under the limitations of this section, and such compiled records  
81 will not be released or disclosed for noncriminal justice purposes  
82 by other agencies in the state.

83 **SECTION 3.** Section 37-9-17, Mississippi Code of 1972, is  
84 brought forward as follows:

85 37-9-17. (1) On or before April 1 of each year, the  
86 principal of each school shall recommend to the superintendent of  
87 the local school district the licensed employees or  
88 noninstructional employees to be employed for the school involved  
89 except those licensed employees or noninstructional employees who  
90 have been previously employed and who have a contract valid for  
91 the ensuing scholastic year. If such recommendations meet with  
92 the approval of the superintendent, the superintendent shall  
93 recommend the employment of such licensed employees or



94 noninstructional employees to the local school board, and, unless  
95 good reason to the contrary exists, the board shall elect the  
96 employees so recommended. If, for any reason, the local school  
97 board shall decline to elect any employee so recommended,  
98 additional recommendations for the places to be filled shall be  
99 made by the principal to the superintendent and then by the  
100 superintendent to the local school board as provided above. The  
101 school board of any local school district shall be authorized to  
102 designate a personnel supervisor or another principal employed by  
103 the school district to recommend to the superintendent licensed  
104 employees or noninstructional employees; however, this  
105 authorization shall be restricted to no more than two (2)  
106 positions for each employment period for each school in the local  
107 school district. Any noninstructional employee employed upon the  
108 recommendation of a personnel supervisor or another principal  
109 employed by the local school district must have been employed by  
110 the local school district at the time the superintendent was  
111 elected or appointed to office; a noninstructional employee  
112 employed under this authorization may not be paid compensation in  
113 excess of the statewide average compensation for such  
114 noninstructional position with comparable experience, as  
115 established by the State Department of Education. The school  
116 board of any local school district shall be authorized to  
117 designate a personnel supervisor or another principal employed by  
118 the school district to accept the recommendations of principals or



119 their designees for licensed employees or noninstructional  
120 employees and to transmit approved recommendations to the local  
121 school board; however, this authorization shall be restricted to  
122 no more than two (2) positions for each employment period for each  
123 school in the local school district.

124 When the licensed employees have been elected as provided in  
125 the preceding paragraph, the superintendent of the district shall  
126 enter into a contract with such persons in the manner provided in  
127 this chapter.

128 If, at the commencement of the scholastic year, any licensed  
129 employee shall present to the superintendent a license of a higher  
130 grade than that specified in such individual's contract, such  
131 individual may, if funds are available from adequate education  
132 program funds of the district, or from district funds, be paid  
133 from such funds the amount to which such higher grade license  
134 would have entitled the individual, had the license been held at  
135 the time the contract was executed.

136 (2) Superintendents/directors of schools under the purview  
137 of the State Board of Education, the superintendent of the local  
138 school district and any private firm under contract with the local  
139 public school district to provide substitute teachers to teach  
140 during the absence of a regularly employed schoolteacher shall  
141 require, through the appropriate governmental authority, that  
142 current criminal records background checks and current child abuse  
143 registry checks are obtained, and that such criminal record



144 information and registry checks are on file for any new hires  
145 applying for employment as a licensed or nonlicensed employee at a  
146 school and not previously employed in such school under the  
147 purview of the State Board of Education or at such local school  
148 district prior to July 1, 2000. In order to determine the  
149 applicant's suitability for employment, the applicant shall be  
150 fingerprinted. If no disqualifying record is identified at the  
151 state level, the fingerprints shall be forwarded by the Department  
152 of Public Safety to the Federal Bureau of Investigation for a  
153 national criminal history record check. The fee for such  
154 fingerprinting and criminal history record check shall be paid by  
155 the applicant, not to exceed Fifty Dollars (\$50.00); however, the  
156 State Board of Education, the school board of the local school  
157 district or a private firm under contract with a local school  
158 district to provide substitute teachers to teach during the  
159 temporary absence of the regularly employed schoolteacher, in its  
160 discretion, may elect to pay the fee for the fingerprinting and  
161 criminal history record check on behalf of any applicant. Under  
162 no circumstances shall a member of the State Board of Education,  
163 superintendent/director of schools under the purview of the State  
164 Board of Education, local school district superintendent, local  
165 school board member or any individual other than the subject of  
166 the criminal history record checks disseminate information  
167 received through any such checks except insofar as required to  
168 fulfill the purposes of this section. Any nonpublic school which



169 is accredited or approved by the State Board of Education may  
170 avail itself of the procedures provided for herein and shall be  
171 responsible for the same fee charged in the case of local public  
172 schools of this state. The determination whether the applicant  
173 has a disqualifying crime, as set forth in subsection (3) of this  
174 section, shall be made by the appropriate governmental authority,  
175 and the appropriate governmental authority shall notify the  
176 private firm whether a disqualifying crime exists.

177 (3) If such fingerprinting or criminal record checks  
178 disclose a felony conviction, guilty plea or plea of nolo  
179 contendere to a felony of possession or sale of drugs, murder,  
180 manslaughter, armed robbery, rape, sexual battery, sex offense  
181 listed in Section 45-33-23(h), child abuse, arson, grand larceny,  
182 burglary, gratification of lust or aggravated assault which has  
183 not been reversed on appeal or for which a pardon has not been  
184 granted, the new hire shall not be eligible to be employed at such  
185 school. Any employment contract for a new hire executed by the  
186 superintendent of the local school district or any employment of a  
187 new hire by a superintendent/director of a new school under the  
188 purview of the State Board of Education or by a private firm shall  
189 be voidable if the new hire receives a disqualifying criminal  
190 record check. However, the State Board of Education or the school  
191 board may, in its discretion, allow any applicant aggrieved by the  
192 employment decision under this section to appear before the  
193 respective board, or before a hearing officer designated for such





194 purpose, to show mitigating circumstances which may exist and  
195 allow the new hire to be employed at the school. The State Board  
196 of Education or local school board may grant waivers for such  
197 mitigating circumstances, which shall include, but not be limited  
198 to: (a) age at which the crime was committed; (b) circumstances  
199 surrounding the crime; (c) length of time since the conviction and  
200 criminal history since the conviction; (d) work history; (e)  
201 current employment and character references; (f) other evidence  
202 demonstrating the ability of the person to perform the employment  
203 responsibilities competently and that the person does not pose a  
204 threat to the health or safety of the children at the school.

205 (4) No local school district, local school district  
206 employee, member of the State Board of Education or employee of a  
207 school under the purview of the State Board of Education shall be  
208 held liable in any employment discrimination suit in which an  
209 allegation of discrimination is made regarding an employment  
210 decision authorized under this Section 37-9-17.

211 **SECTION 4.** Section 37-13-89, Mississippi Code of 1972, is  
212 brought forward as follows:

213 37-13-89. (1) In each school district within the state,  
214 there shall be employed the number of school attendance officers  
215 determined by the Office of Compulsory School Attendance  
216 Enforcement to be necessary to adequately enforce the provisions  
217 of the Mississippi Compulsory School Attendance Law; however, this  
218 number shall not exceed one hundred fifty-three (153) school



219 attendance officers at any time. From and after July 1, 1998, all  
220 school attendance officers employed pursuant to this section shall  
221 be employees of the State Department of Education. The State  
222 Department of Education shall employ all persons employed as  
223 school attendance officers by district attorneys before July 1,  
224 1998, and shall assign them to school attendance responsibilities  
225 in the school district in which they were employed before July 1,  
226 1998. The first twelve (12) months of employment for each school  
227 attendance officer shall be the probationary period of state  
228 service.

229 (2) (a) The State Department of Education shall obtain  
230 current criminal records background checks and current child abuse  
231 registry checks on all persons applying for the position of school  
232 attendance officer after July 2, 2002. The criminal records  
233 information and registry checks must be kept on file for any new  
234 hires. In order to determine an applicant's suitability for  
235 employment as a school attendance officer, the applicant must be  
236 fingerprinted. If no disqualifying record is identified at the  
237 state level, the Department of Public Safety shall forward the  
238 fingerprints to the Federal Bureau of Investigation (FBI) for a  
239 national criminal history record check. The applicant shall pay  
240 the fee, not to exceed Fifty Dollars (\$50.00), for the  
241 fingerprinting and criminal records background check; however, the  
242 State Department of Education, in its discretion, may pay the fee  
243 for the fingerprinting and criminal records background check on



244 behalf of any applicant. Under no circumstances may a member of  
245 the State Board of Education, employee of the State Department of  
246 Education or any person other than the subject of the criminal  
247 records background check disseminate information received through  
248 any such checks except insofar as required to fulfill the purposes  
249 of this subsection.

250 (b) If the fingerprinting or criminal records check  
251 discloses a felony conviction, guilty plea or plea of nolo  
252 contendere to a felony of possession or sale of drugs, murder,  
253 manslaughter, armed robbery, rape, sexual battery, sex offense  
254 listed in Section 45-33-23(h), child abuse, arson, grand larceny,  
255 burglary, gratification of lust or aggravated assault which has  
256 not been reversed on appeal or for which a pardon has not been  
257 granted, the applicant is not eligible to be employed as a school  
258 attendance officer. Any employment of an applicant pending the  
259 results of the fingerprinting and criminal records check is  
260 voidable if the new hire receives a disqualifying criminal records  
261 check. However, the State Board of Education, in its discretion,  
262 may allow an applicant aggrieved by an employment decision under  
263 this subsection to appear before the board, or before a hearing  
264 officer designated for that purpose, to show mitigating  
265 circumstances that may exist and allow the new hire to be employed  
266 as a school attendance officer. The State Board of Education may  
267 grant waivers for mitigating circumstances, which may include, but  
268 are not necessarily limited to: (i) age at which the crime was



269 committed; (ii) circumstances surrounding the crime; (iii) length  
270 of time since the conviction and criminal history since the  
271 conviction; (iv) work history; (v) current employment and  
272 character references; and (vi) other evidence demonstrating the  
273 ability of the person to perform the responsibilities of a school  
274 attendance officer competently and that the person does not pose a  
275 threat to the health or safety of children.

276 (c) A member of the State Board of Education or  
277 employee of the State Department of Education may not be held  
278 liable in any employment discrimination suit in which an  
279 allegation of discrimination is made regarding an employment  
280 decision authorized under this section.

281 (3) Each school attendance officer shall possess a college  
282 degree with a major in a behavioral science or a related field or  
283 shall have no less than three (3) years combined actual experience  
284 as a school teacher, school administrator, law enforcement officer  
285 possessing such degree, and/or social worker; however, these  
286 requirements shall not apply to persons employed as school  
287 attendance officers before January 1, 1987. School attendance  
288 officers also shall satisfy any additional requirements that may  
289 be established by the State Personnel Board for the position of  
290 school attendance officer.

291 (4) It shall be the duty of each school attendance officer  
292 to:



293 (a) Cooperate with any public agency to locate and  
294 identify all compulsory-school-age children who are not attending  
295 school;

296 (b) Cooperate with all courts of competent  
297 jurisdiction;

298 (c) Investigate all cases of nonattendance and unlawful  
299 absences by compulsory-school-age children not enrolled in a  
300 nonpublic school;

301 (d) Provide appropriate counseling to encourage all  
302 school-age children to attend school until they have completed  
303 high school;

304 (e) Attempt to secure the provision of social or  
305 welfare services that may be required to enable any child to  
306 attend school;

307 (f) Contact the home or place of residence of a  
308 compulsory-school-age child and any other place in which the  
309 officer is likely to find any compulsory-school-age child when the  
310 child is absent from school during school hours without a valid  
311 written excuse from school officials, and when the child is found,  
312 the officer shall notify the parents and school officials as to  
313 where the child was physically located;

314 (g) Contact promptly the home of each  
315 compulsory-school-age child in the school district within the  
316 officer's jurisdiction who is not enrolled in school or is not in  
317 attendance at public school and is without a valid written excuse



318 from school officials; if no valid reason is found for the  
319 nonenrollment or absence from the school, the school attendance  
320 officer shall give written notice to the parent, guardian or  
321 custodian of the requirement for the child's enrollment or  
322 attendance;

323 (h) Collect and maintain information concerning  
324 absenteeism, dropouts and other attendance-related problems, as  
325 may be required by law or the Office of Compulsory School  
326 Attendance Enforcement; and

327 (i) Perform all other duties relating to compulsory  
328 school attendance established by the State Department of Education  
329 or district school attendance supervisor, or both.

330 (5) While engaged in the performance of his duties, each  
331 school attendance officer shall carry on his person a badge  
332 identifying him as a school attendance officer under the Office of  
333 Compulsory School Attendance Enforcement of the State Department  
334 of Education and an identification card designed by the State  
335 Superintendent of Public Education and issued by the school  
336 attendance officer supervisor. Neither the badge nor the  
337 identification card shall bear the name of any elected public  
338 official.

339 (6) The State Personnel Board shall develop a salary scale  
340 for school attendance officers as part of the variable  
341 compensation plan. The various pay ranges of the salary scale  
342 shall be based upon factors including, but not limited to,



343 education, professional certification and licensure, and number of  
344 years of experience. School attendance officers shall be paid in  
345 accordance with this salary scale. The minimum salaries under the  
346 scale shall be no less than the following:

347 (a) For school attendance officers holding a bachelor's  
348 degree or any other attendance officer who does not hold such a  
349 degree, the annual salary shall be based on years of experience as  
350 a school attendance officer or related field of service or  
351 employment, no less than as follows:

352	Years of Experience	Salary
353	0 - 4 years	\$19,650.00
354	5 - 8 years	21,550.00
355	9 - 12 years	23,070.00
356	13 - 16 years	24,590.00
357	Over 17 years	26,110.00

358 (b) For school attendance officers holding a license as  
359 a social worker, the annual salary shall be based on years of  
360 experience as a school attendance officer or related field of  
361 service or employment, no less than as follows:

362	Years of Experience	Salary
363	0 - 4 years	\$20,650.00
364	5 - 8 years	22,950.00
365	9 - 12 years	24,790.00
366	13 - 16 years	26,630.00
367	17 - 20 years	28,470.00



368 Over 21 years 30,310.00

369 (c) For school attendance officers holding a master's  
370 degree in a behavioral science or a related field, the annual  
371 salary shall be based on years of experience as a school  
372 attendance officer or related field of service or employment, no  
373 less than as follows:

374	Years of Experience	Salary
375	0 - 4 years	\$21,450.00
376	5 - 8 years	24,000.00
377	9 - 12 years	26,040.00
378	13 - 16 years	28,080.00
379	17 - 20 years	30,120.00
380	Over 21 years	32,160.00

381 (7) (a) Each school attendance officer employed by a  
382 district attorney on June 30, 1998, who became an employee of the  
383 State Department of Education on July 1, 1998, shall be awarded  
384 credit for personal leave and major medical leave for his  
385 continuous service as a school attendance officer under the  
386 district attorney, and if applicable, the youth or family court or  
387 a state agency. The credit for personal leave shall be in an  
388 amount equal to one-third (1/3) of the maximum personal leave the  
389 school attendance officer could have accumulated had he been  
390 credited with such leave under Section 25-3-93 during his  
391 employment with the district attorney, and if applicable, the  
392 youth or family court or a state agency. The credit for major





393 medical leave shall be in an amount equal to one-half (1/2) of the  
394 maximum major medical leave the school attendance officer could  
395 have accumulated had he been credited with such leave under  
396 Section 25-3-95 during his employment with the district attorney,  
397 and if applicable, the youth or family court or a state agency.  
398 However, if a district attorney who employed a school attendance  
399 officer on June 30, 1998, certifies, in writing, to the State  
400 Department of Education that the school attendance officer had  
401 accumulated, pursuant to a personal leave policy or major medical  
402 leave policy lawfully adopted by the district attorney, a number  
403 of days of unused personal leave or major medical leave, or both,  
404 which is greater than the number of days to which the school  
405 attendance officer is entitled under this paragraph, the State  
406 Department of Education shall authorize the school attendance  
407 officer to retain the actual unused personal leave or major  
408 medical leave, or both, certified by the district attorney,  
409 subject to the maximum amount of personal leave and major medical  
410 leave the school attendance officer could have accumulated had he  
411 been credited with such leave under Sections 25-3-93 and 25-3-95.

412 (b) For the purpose of determining the accrual rate for  
413 personal leave under Section 25-3-93 and major medical leave under  
414 Section 25-3-95, the State Department of Education shall give  
415 consideration to all continuous service rendered by a school  
416 attendance officer before July 1, 1998, in addition to the service



417 rendered by the school attendance officer as an employee of the  
418 department.

419 (c) In order for a school attendance officer to be  
420 awarded credit for personal leave and major medical leave or to  
421 retain the actual unused personal leave and major medical leave  
422 accumulated by him before July 1, 1998, the district attorney who  
423 employed the school attendance officer must certify, in writing,  
424 to the State Department of Education the hire date of the school  
425 attendance officer. For each school attendance officer employed  
426 by the youth or family court or a state agency before being  
427 designated an employee of the district attorney who has not had a  
428 break in continuous service, the hire date shall be the date that  
429 the school attendance officer was hired by the youth or family  
430 court or state agency. The department shall prescribe the date by  
431 which the certification must be received by the department and  
432 shall provide written notice to all district attorneys of the  
433 certification requirement and the date by which the certification  
434 must be received.

435 (8) (a) School attendance officers shall maintain regular  
436 office hours on a year-round basis; however, during the school  
437 term, on those days that teachers in all of the school districts  
438 served by a school attendance officer are not required to report  
439 to work, the school attendance officer also shall not be required  
440 to report to work. (For purposes of this subsection, a school  
441 district's school term is that period of time identified as the



442 school term in contracts entered into by the district with  
443 licensed personnel.) A school attendance officer shall be  
444 required to report to work on any day recognized as an official  
445 state holiday if teachers in any school district served by that  
446 school attendance officer are required to report to work on that  
447 day, regardless of the school attendance officer's status as an  
448 employee of the State Department of Education, and compensatory  
449 leave may not be awarded to the school attendance officer for  
450 working during that day. However, a school attendance officer may  
451 be allowed by the school attendance officer's supervisor to use  
452 earned leave on such days.

453 (b) The State Department of Education annually shall  
454 designate a period of six (6) consecutive weeks in the summer  
455 between school years during which school attendance officers shall  
456 not be required to report to work. A school attendance officer  
457 who elects to work at any time during that period may not be  
458 awarded compensatory leave for such work and may not opt to be  
459 absent from work at any time other than during the six (6) weeks  
460 designated by the department unless the school attendance officer  
461 uses personal leave or major medical leave accrued under Section  
462 25-3-93 or 25-3-95 for such absence.

463 (9) The State Department of Education shall provide all  
464 continuing education and training courses that school attendance  
465 officers are required to complete under state law or rules and  
466 regulations of the department.



467           **SECTION 5.** Section 37-28-49, Mississippi Code of 1972, is  
468 brought forward as follows:

469           37-28-49. (1) Charter school teachers and other school  
470 personnel, as well as members of the governing board and any  
471 education service provider with whom a charter school contracts,  
472 are subject to criminal history record checks and fingerprinting  
473 requirements applicable to employees of other public schools. The  
474 authorizer shall require that current criminal records background  
475 checks and current child abuse registry checks are obtained, and  
476 that the criminal record information and registry checks are on  
477 file at the charter school for any new hires applying for  
478 employment. In order to determine an applicant's suitability for  
479 employment, the applicant must be fingerprinted. If no  
480 disqualifying record is identified at the state level, the  
481 fingerprints must be forwarded by the Department of Public Safety  
482 to the Federal Bureau of Investigation for a national criminal  
483 history record check. Under no circumstances may a member of the  
484 Mississippi Charter School Authorizer Board, member of the charter  
485 school governing board or any individual other than the subject of  
486 the criminal history record checks disseminate information  
487 received through the checks except as may be required to fulfill  
488 the purposes of this section. The determination whether the  
489 applicant has a disqualifying crime, as set forth in subsection  
490 (2) of this section, must be made by the appropriate state or



491 federal governmental authority, which must notify the charter  
492 school whether a disqualifying crime exists.

493 (2) If the fingerprinting or criminal record checks disclose  
494 a felony conviction, guilty plea or plea of nolo contendere to a  
495 felony of possession or sale of drugs, murder, manslaughter, armed  
496 robbery, rape, sexual battery, sex offense listed in Section  
497 45-33-23(g), child abuse, arson, grand larceny, burglary,  
498 gratification of lust or aggravated assault which has not been  
499 reversed on appeal or for which a pardon has not been granted, the  
500 new hire is not eligible to be employed at the charter school.  
501 However, the charter school, in its discretion, may allow any  
502 applicant aggrieved by the employment decision under this section  
503 to show mitigating circumstances that exist and may allow, subject  
504 to the approval of the Mississippi Charter School Authorizer  
505 Board, the new hire to be employed at the school. The authorizer  
506 may approve the employment depending on the mitigating  
507 circumstances, which may include, but need not be limited to: (a)  
508 age at which the crime was committed; (b) circumstances  
509 surrounding the crime; (c) length of time since the conviction and  
510 criminal history since the conviction; (d) work history; (e)  
511 current employment and character references; and (f) other  
512 evidence demonstrating the ability of the person to perform the  
513 employment responsibilities competently and that the person does  
514 not pose a threat to the health or safety of children.



515 (3) No charter school, charter school employee, member of  
516 the charter school governing board, the Mississippi Charter School  
517 Authorizer Board or member or employee of the Mississippi Charter  
518 School Authorizer Board employee may be held liable in any  
519 employment discrimination suit in which an allegation of  
520 discrimination is made regarding an employment decision authorized  
521 under this section.

522 (4) A charter school shall terminate any teacher or  
523 administrator for committing one or more of the following acts:

524 (a) Engaging in unethical conduct relating to an  
525 educator-student relationship as identified by the Mississippi  
526 Charter School Authorizer Board;

527 (b) Fondling a student as described in Section 97-5-23  
528 or engaging in any type of sexual involvement with a student as  
529 described in Section 97-3-95; or

530 (c) Failure to report sexual involvement of a charter  
531 school employee with a student as required by Section 97-5-24.

532 **SECTION 6.** Section 37-33-157, Mississippi Code of 1972, is  
533 brought forward as follows:

534 37-33-157. The Department of Rehabilitation Services shall  
535 provide the rehabilitation services authorized by law and by the  
536 rules, regulations and policies of the board to every individual  
537 determined to be eligible therefor, and in carrying out the  
538 purposes of this chapter the department is authorized, when



539 consistent with the rules, regulations and policies of the State  
540 Board of Rehabilitation Services:

541 (a) To expend funds received either by appropriation or  
542 directly from federal or private sources.

543 (b) To cooperate with other departments, agencies and  
544 institutions, both public and private, in providing the services  
545 authorized by this chapter to disabled individuals, in studying  
546 the problems involved therein, and in establishing, developing and  
547 providing in conformity with the purposes of this chapter, such  
548 programs, facilities and services as may be necessary or  
549 desirable.

550 (c) To enter into reciprocal agreements with other  
551 states to provide for the services authorized by this chapter to  
552 residents of the states concerned.

553 (d) To conduct research and compile statistics relating  
554 to the provision of services to or the need of services by  
555 disabled individuals.

556 (e) To enter into contractual arrangements with the  
557 federal government and with other authorized public agencies or  
558 persons for performance of services related to rehabilitation.

559 (f) To contract with schools, hospitals and other  
560 agencies, and with doctors, optometrists, nurses, technicians and  
561 other persons, for training, physical restoration, transportation  
562 and other rehabilitation services.



563           (g) To take such action as may be necessary to enable  
564 the department to apply for, accept and receive for the state and  
565 its residents the full benefits available under the federal  
566 Vocational Rehabilitation Act, and any amendments thereto, and  
567 under any other federal legislation or program having as its  
568 purpose the providing of, improvement or extension of, vocational  
569 rehabilitation services.

570           (h) To establish an Office on the Deaf and Hard of  
571 Hearing to provide services and activities authorized under  
572 Section 37-33-171.

573           (i) To own in the name of the State of Mississippi  
574 certain real property described in Section 7 of Chapter 512, Laws  
575 of 2005, and to construct, renovate or repair under the  
576 supervision of the Department of Finance and Administration any  
577 buildings on such property.

578           (j) To borrow money from the Mississippi Development  
579 Bank or other financial institution for the purpose of  
580 construction, repair and renovation, furnishing or equipping  
581 facilities owned or under the supervision of the department;  
582 however, the department shall certify the following to the  
583 Mississippi Development Bank or other financial institution prior  
584 to entering into any loan:

585                   (i) The available revenue that the department  
586 intends to utilize to repay the loan; and





587 (ii) That the department does not intend to  
588 request an additional appropriation from state source funding to  
589 pay debt service on any loan entered into under this paragraph.

590 (k) To fingerprint and perform a current criminal  
591 history record check, child abuse registry check, sex offender  
592 registry check, and vulnerable adult abuse or neglect check on any  
593 person performing services for or on behalf of the department  
594 including, but not limited to, every employee, volunteer,  
595 contractual worker, and independent contractor.

596 (l) To use the results of the fingerprinting and  
597 background checks performed under paragraph (k) for the purposes  
598 of employment decisions and/or actions and service provision to  
599 consumers of the department's services. The department and its  
600 agents, officers, employees, attorneys and representatives shall  
601 be exempt from liability for any findings, recommendations or  
602 actions taken under this paragraph.

603 **SECTION 7.** Section 37-115-41, Mississippi Code of 1972, is  
604 brought forward as follows:

605 37-115-41. (1) For the purposes of this section:

606 (a) "Applicant" means any person who is applying to  
607 become an employee of UMMC.

608 (b) "Employee" means an employee, contractor, temporary  
609 worker or consultant.

610 (c) "UMMC" means the University of Mississippi Medical  
611 Center.



612           (2) The University of Mississippi Medical Center shall  
613 fingerprint and perform a criminal history record check on all new  
614 employees that work in or provide direct patient care. In  
615 addition, UMMC shall perform a disciplinary check with the  
616 professional licensing agency of the employee, if any, to  
617 determine if any disciplinary action has been taken against the  
618 employee by that agency. Except as otherwise provided in this  
619 section, no employee of UMMC hired on or after July 1, 2004, shall  
620 be permitted to provide direct patient care until the results of  
621 the criminal history record check have revealed no disqualifying  
622 record or the employee has been granted a waiver. In order to  
623 determine the applicant's suitability for employment, the  
624 applicant shall be fingerprinted. Fingerprints shall be submitted  
625 to the Department of Public Safety by UMMC via scanning or other  
626 electronic method, with the results processed through the  
627 Department of Public Safety's Criminal Information Center. If no  
628 disqualifying record is identified at the state level, the  
629 applicant's fingerprints shall be forwarded by the Department of  
630 Public Safety to the Federal Bureau of Investigation for a  
631 national criminal history record check. If the criminal history  
632 record check discloses a felony conviction, guilty plea or plea of  
633 nolo contendere to a felony of possession or sale of drugs,  
634 murder, manslaughter, armed robbery, rape, sexual battery, sex  
635 offense listed in Section 45-33-23(h), child abuse, arson, grand  
636 larceny, burglary, gratification of lust or aggravated assault, or



637 felonious abuse and/or battery of a vulnerable adult that has not  
638 been reversed on appeal or for which a pardon has not been  
639 granted, the applicant shall not be eligible to be employed at  
640 UMMC.

641 (3) Notwithstanding the provisions of subsection (2) of this  
642 section, any such applicant may be employed on a temporary basis  
643 pending the results of the criminal history record check. Any  
644 employment contract with an applicant during the application  
645 process shall be voidable upon receipt of a disqualifying criminal  
646 history record check if no waiver is granted under subsection (4)  
647 of this section.

648 (4) UMMC may, in its discretion, allow any applicant  
649 aggrieved by an employment decision under this section to appear  
650 before the UMMC hiring officer, or his or her designee, to show  
651 mitigating circumstances that may exist and allow the applicant to  
652 be employed at UMMC. UMMC, upon report and recommendation of the  
653 hiring officer, may grant waivers for those mitigating  
654 circumstances, which shall include, but not be limited to: (a)  
655 age at which the crime was committed; (b) circumstances  
656 surrounding the crime; (c) length of time since the conviction and  
657 criminal history since the conviction; (d) work history; (e)  
658 current employment and character references; and (f) other  
659 evidence demonstrating the ability of the individual to perform  
660 the employment responsibilities competently and that the



661 individual does not pose a threat to the health or safety of the  
662 patients admitted to UMMC.

663 (5) Upon the receipt of an applicant's criminal history  
664 record check that reveals no disqualifying event, UMMC shall,  
665 within two (2) weeks of the notification of no disqualifying  
666 event, provide the applicant with a notarized letter signed by the  
667 vice chancellor, or his or her authorized designee, confirming the  
668 applicant's suitability for employment based on his or her  
669 criminal history record check. An applicant or employee may use  
670 that letter for a period of two (2) years from the date of the  
671 letter to seek employment at any covered entity, as defined in  
672 Section 43-11-13(5), without the necessity of an additional  
673 criminal history record check under Section 43-11-13(5). Any  
674 covered entity presented with the letter may rely on the letter  
675 for a period of two (2) years from the date of the letter without  
676 having to conduct or have conducted a criminal history record  
677 check on the applicant or employee.

678 (6) UMMC may charge a fee not to exceed Fifty Dollars  
679 (\$50.00) for fingerprinting applicants, students, employees,  
680 contractors, consultants, outside agency personnel, visiting  
681 faculty, researchers or any other individual(s) that may provide  
682 direct services to UMMC.

683 (7) UMMC and its agents, officers, employees, attorneys and  
684 representatives shall be presumed to be acting in good faith for  
685 any employment decision or action taken under this section. The



686 presumption of good faith may be overcome by a preponderance of  
687 the evidence in any civil action. UMMC or its agents, officers,  
688 employees, attorneys and representatives shall not be held liable  
689 in any employment decision or action based in whole or in part on  
690 compliance with or attempts to comply in good faith with the  
691 requirements of this section.

692 **SECTION 8.** Section 37-173-23, Mississippi Code of 1972, is  
693 brought forward as follows:

694 37-173-23. Teachers and other school personnel shall be  
695 subject to criminal history record checks and fingerprinting  
696 requirements applicable to other public schools under Section  
697 37-9-17(2) and (3).

698 **SECTION 9.** Section 37-175-23, Mississippi Code of 1972, is  
699 brought forward as follows:

700 37-175-23. Teachers and other school personnel shall be  
701 subject to criminal history record checks and fingerprinting  
702 requirements applicable to other public schools under Section  
703 37-9-17(2) and (3).

704 **SECTION 10.** Section 41-4-7, Mississippi Code of 1972, is  
705 brought forward as follows:

706 41-4-7. The State Board of Mental Health shall have the  
707 following powers and duties:

708 (a) To appoint a full-time Executive Director of the  
709 Department of Mental Health, who shall be employed by the board  
710 and shall serve as executive secretary to the board. The first



711 director shall be a duly licensed physician with special interest  
712 and competence in psychiatry, and shall possess a minimum of three  
713 (3) years' experience in clinical and administrative psychiatry.  
714 Subsequent directors shall possess at least a master's degree or  
715 its equivalent, and shall possess at least ten (10) years'  
716 administrative experience in the field of mental health. The  
717 salary of the executive director shall be determined by the board;

718 (b) To appoint a Medical Director for the Department of  
719 Mental Health. The medical director shall provide clinical  
720 oversight in the implementation of evidence-based and best  
721 practices; provide clinical leadership in the integration of  
722 mental health, intellectual disability and addiction services with  
723 community partners in the public and private sectors; and provide  
724 oversight regarding standards of care. The medical director shall  
725 serve at the will and pleasure of the board, and will undergo an  
726 annual review of job performance and future service to the  
727 department;

728 (c) To cooperate with the Strategic Planning and Best  
729 Practices Committee created in Section 41-4-10, Mississippi Code  
730 of 1972, in establishing and implementing its state strategic  
731 plan;

732 (d) To develop a strategic plan for the development of  
733 services for persons with mental illness, persons with  
734 developmental disabilities and other clients of the public mental  
735 health system. Such strategic planning program shall require that



736 the board, acting through the Strategic Planning and Best  
737 Practices Committee, perform the following functions respecting  
738 the delivery of services:

739 (i) Establish measures for determining the  
740 efficiency and effectiveness of the services specified in Section  
741 41-4-1(2);

742 (ii) Conducting studies of community-based care in  
743 other jurisdictions to determine which services offered in these  
744 jurisdictions have the potential to provide the citizens of  
745 Mississippi with more effective and efficient community-based  
746 care;

747 (iii) Evaluating the efficiency and effectiveness  
748 of the services specified in Section 41-4-1(2);

749 (iv) Recommending to the Legislature by January 1,  
750 2014, any necessary additions, deletions or other changes  
751 necessary to the services specified in Section 41-4-1(2);

752 (v) Implementing by July 1, 2012, a system of  
753 performance measures for the services specified in Section  
754 41-4-1(2);

755 (vi) Recommending to the Legislature any changes  
756 that the department believes are necessary to the current laws  
757 addressing civil commitment;

758 (vii) Conducting any other activities necessary to  
759 the evaluation and study of the services specified in Section  
760 41-4-1(2);



761 (viii) Assisting in conducting all necessary  
762 strategic planning for the delivery of all other services of the  
763 department. Such planning shall be conducted so as to produce a  
764 single strategic plan for the services delivered by the public  
765 mental health system and shall establish appropriate mission  
766 statements, goals, objectives and performance indicators for all  
767 programs and services of the public mental health system. For  
768 services other than those specified in Section 41-4-1(2), the  
769 committee shall recommend to the State Board of Mental Health a  
770 strategic plan that the board may adopt or modify;

771 (e) To set up state plans for the purpose of  
772 controlling and treating any and all forms of mental and emotional  
773 illness, alcoholism, drug misuse and developmental disabilities;

774 (f) To supervise, coordinate and establish standards  
775 for all operations and activities of the state related to mental  
776 health and providing mental health services. Nothing in this  
777 chapter shall preclude the services of a psychiatric/mental health  
778 nurse practitioner in accordance with an established nurse  
779 practitioner/physician protocol. A physician, licensed  
780 psychologist, psychiatric/mental health nurse practitioner in  
781 accordance with an established nurse practitioner/physician  
782 protocol, physician assistant, licensed professional counselor,  
783 licensed marriage and family therapists, or licensed clinical  
784 social worker shall certify each client's record annually after  
785 seeing the client in person or by telemedicine, and more often if





786 medically indicated by physically visiting the client and  
787 certifying same in the record. The board shall have the authority  
788 to develop and implement all standards and plans and shall have  
789 the authority to establish appropriate actions, including  
790 financially punitive actions, to ensure enforcement of these  
791 established standards, in accordance with the Administrative  
792 Procedures Law (Section 25-43-1.101 et seq.). The regional  
793 community mental health/intellectual disability centers shall  
794 comply with all of the board's established standards that are  
795 applicable to those centers, and the board may withhold any state  
796 funds that otherwise would be allocated or paid to any of those  
797 centers that does not comply with the board's established  
798 standards. This paragraph (f) shall stand repealed on July 1,  
799 2017;

800 (g) To enter into contracts with any other state or  
801 federal agency, or with any private person, organization or group  
802 capable of contracting, if it finds such action to be in the  
803 public interest;

804 (h) To collect reasonable fees for its services;  
805 however, if it is determined that a person receiving services is  
806 unable to pay the total fee, the department shall collect any  
807 amount such person is able to pay;

808 (i) To certify, coordinate and establish minimum  
809 standards and establish minimum required services, as specified in  
810 Section 41-4-1(2), for regional mental health and intellectual



811 disability commissions and other community service providers for  
812 community or regional programs and services in adult mental  
813 health, children and youth mental health, intellectual  
814 disabilities, alcoholism, drug misuse, developmental disabilities,  
815 compulsive gambling, addictive disorders and related programs  
816 throughout the state. Such regional mental health and  
817 intellectual disability commissions and other community service  
818 providers shall, on or before July 1 of each year, submit an  
819 annual operational plan to the State Department of Mental Health  
820 for approval or disapproval based on the minimum standards and  
821 minimum required services established by the department for  
822 certification and itemize the services specified in Section  
823 41-4-1(2). As part of the annual operation plan required by this  
824 paragraph (i) submitted by any regional community mental health  
825 center or by any other reasonable certification deemed acceptable  
826 by the department, the community mental health center shall state  
827 those services specified in Section 41-4-1(2) that it will provide  
828 and also those services that it will not provide. If the  
829 department finds deficiencies in the plan of any regional  
830 commission or community service provider based on the minimum  
831 standards and minimum required services established for  
832 certification, the department shall give the regional commission  
833 or community service provider a six-month probationary period to  
834 bring its standards and services up to the established minimum  
835 standards and minimum required services. After the six-month



836 probationary period, if the department determines that the  
837 regional commission or community service provider still does not  
838 meet the minimum standards and minimum required services  
839 established for certification, the department may remove the  
840 certification of the commission or provider and from and after  
841 July 1, 2011, the commission or provider shall be ineligible for  
842 state funds from Medicaid reimbursement or other funding sources  
843 for those services. However, the department shall not mandate a  
844 standard or service, or decertify a regional commission or  
845 community service provider for not meeting a standard or service,  
846 if the standard or service does not have funding appropriated by  
847 the Legislature or have a state, federal or local funding source  
848 identified by the department. No county shall be required to levy  
849 millage to provide a mandated standard or service above the  
850 minimum rate required by Section 41-19-39. After the six-month  
851 probationary period, the department may identify an appropriate  
852 community service provider to provide any core services in that  
853 county that are not provided by a community mental health center.  
854 However, the department shall not offer reimbursement or other  
855 accommodations to a community service provider of core services  
856 that were not offered to the decertified community mental health  
857 center for the same or similar services. The State Board of  
858 Mental Health shall promulgate rules and regulations necessary to  
859 implement the provisions of this paragraph (i), in accordance with  
860 the Administrative Procedures Law (Section 25-43-1.101 et seq.);



861           (j) To establish and promulgate reasonable minimum  
862 standards for the construction and operation of state and all  
863 Department of Mental Health certified facilities, including  
864 reasonable minimum standards for the admission, diagnosis, care,  
865 treatment, transfer of patients and their records, and also  
866 including reasonable minimum standards for providing day care,  
867 outpatient care, emergency care, inpatient care and follow-up  
868 care, when such care is provided for persons with mental or  
869 emotional illness, an intellectual disability, alcoholism, drug  
870 misuse and developmental disabilities;

871           (k) To implement best practices for all services  
872 specified in Section 41-4-1(2), and to establish and implement all  
873 other services delivered by the Department of Mental Health. To  
874 carry out this responsibility, the board shall require the  
875 department to establish a division responsible for developing best  
876 practices based on a comprehensive analysis of the mental health  
877 environment to determine what the best practices for each service  
878 are. In developing best practices, the board shall consider the  
879 cost and benefits associated with each practice with a goal of  
880 implementing only those practices that are cost-effective  
881 practices for service delivery. Such best practices shall be  
882 utilized by the board in establishing performance standards and  
883 evaluations of the community mental health centers' services  
884 required by paragraph (d) of this section;



885           (1) To assist community or regional programs consistent  
886 with the purposes of this chapter by making grants and contracts  
887 from available funds;

888           (m) To establish and collect reasonable fees for  
889 necessary inspection services incidental to certification or  
890 compliance;

891           (n) To accept gifts, trusts, bequests, grants,  
892 endowments or transfers of property of any kind;

893           (o) To receive monies coming to it by way of fees for  
894 services or by appropriations;

895           (p) To serve as the single state agency in receiving  
896 and administering any and all funds available from any source for  
897 the purpose of service delivery, training, research and education  
898 in regard to all forms of mental illness, intellectual  
899 disabilities, alcoholism, drug misuse and developmental  
900 disabilities, unless such funds are specifically designated to a  
901 particular agency or institution by the federal government, the  
902 Mississippi Legislature or any other grantor;

903           (q) To establish mental health holding centers for the  
904 purpose of providing short-term emergency mental health treatment,  
905 places for holding persons awaiting commitment proceedings or  
906 awaiting placement in a state mental health facility following  
907 commitment, and for diverting placement in a state mental health  
908 facility. These mental health holding facilities shall be readily  
909 accessible, available statewide, and be in compliance with



910 emergency services' minimum standards. They shall be  
911 comprehensive and available to triage and make appropriate  
912 clinical disposition, including the capability to access inpatient  
913 services or less restrictive alternatives, as needed, as  
914 determined by medical staff. Such facility shall have medical,  
915 nursing and behavioral services available on a  
916 twenty-four-hour-a-day basis. The board may provide for all or  
917 part of the costs of establishing and operating the holding  
918 centers in each district from such funds as may be appropriated to  
919 the board for such use, and may participate in any plan or  
920 agreement with any public or private entity under which the entity  
921 will provide all or part of the costs of establishing and  
922 operating a holding center in any district;

923 (r) To certify/license case managers, mental health  
924 therapists, intellectual disability therapists, mental  
925 health/intellectual disability program administrators, addiction  
926 counselors and others as deemed appropriate by the board. Persons  
927 already professionally licensed by another state board or agency  
928 are not required to be certified/licensed under this section by  
929 the Department of Mental Health. The department shall not use  
930 professional titles in its certification/licensure process for  
931 which there is an independent licensing procedure. Such  
932 certification/licensure shall be valid only in the state mental  
933 health system, in programs funded and/or certified by the  
934 Department of Mental Health, and/or in programs certified/licensed



935 by the State Department of Health that are operated by the state  
936 mental health system serving persons with mental illness, an  
937 intellectual disability, a developmental disability or addictions,  
938 and shall not be transferable;

939 (s) To develop formal mental health worker  
940 qualifications for regional mental health and intellectual  
941 disability commissions and other community service providers. The  
942 State Personnel Board shall develop and promulgate a recommended  
943 salary scale and career ladder for all regional mental  
944 health/intellectual disability center therapists and case managers  
945 who work directly with clients. The State Personnel Board shall  
946 also develop and promulgate a career ladder for all direct care  
947 workers employed by the State Department of Mental Health;

948 (t) The employees of the department shall be governed  
949 by personnel merit system rules and regulations, the same as other  
950 employees in state services;

951 (u) To establish such rules and regulations as may be  
952 necessary in carrying out the provisions of this chapter,  
953 including the establishment of a formal grievance procedure to  
954 investigate and attempt to resolve consumer complaints;

955 (v) To grant easements for roads, utilities and any  
956 other purpose it finds to be in the public interest;

957 (w) To survey statutory designations, building markers  
958 and the names given to mental health/intellectual disability  
959 facilities and proceedings in order to recommend deletion of



960 obsolete and offensive terminology relative to the mental  
961 health/intellectual disability system. Based upon a  
962 recommendation of the executive director, the board shall have the  
963 authority to name/rename any facility operated under the auspices  
964 of the Department of Mental Health for the sole purpose of  
965 deleting such terminology;

966 (x) To ensure an effective case management system  
967 directed at persons who have been discharged from state and  
968 private psychiatric hospitals to ensure their continued well-being  
969 in the community;

970 (y) To develop formal service delivery standards  
971 designed to measure the quality of services delivered to community  
972 clients, as well as the timeliness of services to community  
973 clients provided by regional mental health/intellectual disability  
974 commissions and other community services providers;

975 (z) To establish regional state offices to provide  
976 mental health crisis intervention centers and services available  
977 throughout the state to be utilized on a case-by-case emergency  
978 basis. The regional services director, other staff and delivery  
979 systems shall meet the minimum standards of the Department of  
980 Mental Health;

981 (aa) To require performance contracts with community  
982 mental health/intellectual disability service providers to contain  
983 performance indicators to measure successful outcomes, including  
984 diversion of persons from inpatient psychiatric hospitals,





985 rapid/timely response to emergency cases, client satisfaction with  
986 services and other relevant performance measures;

987 (bb) To enter into interagency agreements with other  
988 state agencies, school districts and other local entities as  
989 determined necessary by the department to ensure that local mental  
990 health service entities are fulfilling their responsibilities to  
991 the overall state plan for behavioral services;

992 (cc) To establish and maintain a toll-free grievance  
993 reporting telephone system for the receipt and referral for  
994 investigation of all complaints by clients of state and community  
995 mental health/intellectual disability facilities;

996 (dd) To establish a peer review/quality assurance  
997 evaluation system that assures that appropriate assessment,  
998 diagnosis and treatment is provided according to established  
999 professional criteria and guidelines;

1000 (ee) To develop and implement state plans for the  
1001 purpose of assisting with the care and treatment of persons with  
1002 Alzheimer's disease and other dementia. This plan shall include  
1003 education and training of service providers, caregivers in the  
1004 home setting and others who deal with persons with Alzheimer's  
1005 disease and other dementia, and development of adult day care,  
1006 family respite care and counseling programs to assist families who  
1007 maintain persons with Alzheimer's disease and other dementia in  
1008 the home setting. No agency shall be required to provide any  
1009 services under this section until such time as sufficient funds



1010 have been appropriated or otherwise made available by the  
1011 Legislature specifically for the purposes of the treatment of  
1012 persons with Alzheimer's and other dementia;

1013           (ff) Working with the advice and consent of the  
1014 administration of Ellisville State School, to enter into  
1015 negotiations with the Economic Development Authority of Jones  
1016 County for the purpose of negotiating the possible exchange, lease  
1017 or sale of lands owned by Ellisville State School to the Economic  
1018 Development Authority of Jones County. It is the intent of the  
1019 Mississippi Legislature that such negotiations shall ensure that  
1020 the financial interest of the persons with an intellectual  
1021 disability served by Ellisville State School will be held  
1022 paramount in the course of these negotiations. The Legislature  
1023 also recognizes the importance of economic development to the  
1024 citizens of the State of Mississippi and Jones County, and  
1025 encourages fairness to the Economic Development Authority of Jones  
1026 County. Any negotiations proposed which would result in the  
1027 recommendation for exchange, lease or sale of lands owned by  
1028 Ellisville State School must have the approval of the State Board  
1029 of Mental Health. The State Board of Mental Health may and has  
1030 the final authority as to whether or not these negotiations result  
1031 in the exchange, lease or sale of the properties it currently  
1032 holds in trust for persons with an intellectual disability served  
1033 at Ellisville State School.



1034           If the State Board of Mental Health authorizes the sale of  
1035 lands owned by Ellisville State School, as provided for under this  
1036 paragraph (ff), the monies derived from the sale shall be placed  
1037 into a special fund that is created in the State Treasury to be  
1038 known as the "Ellisville State School Client's Trust Fund." The  
1039 principal of the trust fund shall remain inviolate and shall never  
1040 be expended. Any interest earned on the principal may be expended  
1041 solely for the benefits of clients served at Ellisville State  
1042 School. The State Treasurer shall invest the monies of the trust  
1043 fund in any of the investments authorized for the Mississippi  
1044 Prepaid Affordable College Tuition Program under Section 37-155-9,  
1045 and those investments shall be subject to the limitations  
1046 prescribed by Section 37-155-9. Unexpended amounts remaining in  
1047 the trust fund at the end of a fiscal year shall not lapse into  
1048 the State General Fund, and any interest earned on amounts in the  
1049 trust fund shall be deposited to the credit of the trust fund.  
1050 The administration of Ellisville State School may use any interest  
1051 earned on the principal of the trust fund, upon appropriation by  
1052 the Legislature, as needed for services or facilities by the  
1053 clients of Ellisville State School. Ellisville State School shall  
1054 make known to the Legislature, through the Legislative Budget  
1055 Committee and the respective Appropriations Committees of the  
1056 House and Senate, its proposed use of interest earned on the  
1057 principal of the trust fund for any fiscal year in which it  
1058 proposes to make expenditures thereof. The State Treasurer shall



1059 provide Ellisville State School with an annual report on the  
1060 Ellisville State School Client's Trust Fund to indicate the total  
1061 monies in the trust fund, interest earned during the year,  
1062 expenses paid from the trust fund and such other related  
1063 information.

1064       Nothing in this section shall be construed as applying to or  
1065 affecting mental health/intellectual disability services provided  
1066 by hospitals as defined in Section 41-9-3(a), and/or their  
1067 subsidiaries and divisions, which hospitals, subsidiaries and  
1068 divisions are licensed and regulated by the Mississippi State  
1069 Department of Health unless such hospitals, subsidiaries or  
1070 divisions voluntarily request certification by the Mississippi  
1071 State Department of Mental Health.

1072       All new programs authorized under this section shall be  
1073 subject to the availability of funds appropriated therefor by the  
1074 Legislature;

1075               (gg) Working with the advice and consent of the  
1076 administration of Boswell Regional Center, to enter into  
1077 negotiations with the Economic Development Authority of Simpson  
1078 County for the purpose of negotiating the possible exchange, lease  
1079 or sale of lands owned by Boswell Regional Center to the Economic  
1080 Development Authority of Simpson County. It is the intent of the  
1081 Mississippi Legislature that such negotiations shall ensure that  
1082 the financial interest of the persons with an intellectual  
1083 disability served by Boswell Regional Center will be held



1084 paramount in the course of these negotiations. The Legislature  
1085 also recognizes the importance of economic development to the  
1086 citizens of the State of Mississippi and Simpson County, and  
1087 encourages fairness to the Economic Development Authority of  
1088 Simpson County. Any negotiations proposed which would result in  
1089 the recommendation for exchange, lease or sale of lands owned by  
1090 Boswell Regional Center must have the approval of the State Board  
1091 of Mental Health. The State Board of Mental Health may and has  
1092 the final authority as to whether or not these negotiations result  
1093 in the exchange, lease or sale of the properties it currently  
1094 holds in trust for persons with an intellectual disability served  
1095 at Boswell Regional Center. In any such exchange, lease or sale  
1096 of such lands owned by Boswell Regional Center, title to all  
1097 minerals, oil and gas on such lands shall be reserved, together  
1098 with the right of ingress and egress to remove same, whether such  
1099 provisions be included in the terms of any such exchange, lease or  
1100 sale or not.

1101 If the State Board of Mental Health authorizes the sale of  
1102 lands owned by Boswell Regional Center, as provided for under this  
1103 paragraph (gg), the monies derived from the sale shall be placed  
1104 into a special fund that is created in the State Treasury to be  
1105 known as the "Boswell Regional Center Client's Trust Fund." The  
1106 principal of the trust fund shall remain inviolate and shall never  
1107 be expended. Any earnings on the principal may be expended solely  
1108 for the benefits of clients served at Boswell Regional Center.



1109 The State Treasurer shall invest the monies of the trust fund in  
1110 any of the investments authorized for the Mississippi Prepaid  
1111 Affordable College Tuition Program under Section 37-155-9, and  
1112 those investments shall be subject to the limitations prescribed  
1113 by Section 37-155-9. Unexpended amounts remaining in the trust  
1114 fund at the end of a fiscal year shall not lapse into the State  
1115 General Fund, and any earnings on amounts in the trust fund shall  
1116 be deposited to the credit of the trust fund. The administration  
1117 of Boswell Regional Center may use any earnings on the principal  
1118 of the trust fund, upon appropriation by the Legislature, as  
1119 needed for services or facilities by the clients of Boswell  
1120 Regional Center. Boswell Regional Center shall make known to the  
1121 Legislature, through the Legislative Budget Committee and the  
1122 respective Appropriations Committees of the House and Senate, its  
1123 proposed use of the earnings on the principal of the trust fund  
1124 for any fiscal year in which it proposes to make expenditures  
1125 thereof. The State Treasurer shall provide Boswell Regional  
1126 Center with an annual report on the Boswell Regional Center  
1127 Client's Trust Fund to indicate the total monies in the trust  
1128 fund, interest and other income earned during the year, expenses  
1129 paid from the trust fund and such other related information.

1130       Nothing in this section shall be construed as applying to or  
1131 affecting mental health/intellectual disability services provided  
1132 by hospitals as defined in Section 41-9-3(a), and/or their  
1133 subsidiaries and divisions, which hospitals, subsidiaries and



1134 divisions are licensed and regulated by the Mississippi State  
1135 Department of Health unless such hospitals, subsidiaries or  
1136 divisions voluntarily request certification by the Mississippi  
1137 State Department of Mental Health.

1138 All new programs authorized under this section shall be  
1139 subject to the availability of funds appropriated therefor by the  
1140 Legislature;

1141 (hh) Notwithstanding any other section of the code, the  
1142 Board of Mental Health shall be authorized to fingerprint and  
1143 perform a criminal history record check on every employee or  
1144 volunteer. Every employee and volunteer shall provide a valid  
1145 current social security number and/or driver's license number  
1146 which shall be furnished to conduct the criminal history record  
1147 check. If no disqualifying record is identified at the state  
1148 level, fingerprints shall be forwarded to the Federal Bureau of  
1149 Investigation for a national criminal history record check;

1150 (ii) The Department of Mental Health shall have the  
1151 authority for the development of a consumer friendly single point  
1152 of intake and referral system within its service areas for persons  
1153 with mental illness, an intellectual disability, developmental  
1154 disabilities or alcohol or substance abuse who need assistance  
1155 identifying or accessing appropriate services. The department  
1156 will develop and implement a comprehensive evaluation procedure  
1157 ensuring that, where appropriate, the affected person or their  
1158 parent or legal guardian will be involved in the assessment and



1159 planning process. The department, as the point of intake and as  
1160 service provider, shall have the authority to determine the  
1161 appropriate institutional, hospital or community care setting for  
1162 persons who have been diagnosed with mental illness, an  
1163 intellectual disability, developmental disabilities and/or alcohol  
1164 or substance abuse, and may provide for the least restrictive  
1165 placement if the treating professional believes such a setting is  
1166 appropriate, if the person affected or their parent or legal  
1167 guardian wants such services, and if the department can do so with  
1168 a reasonable modification of the program without creating a  
1169 fundamental alteration of the program. The least restrictive  
1170 setting could be an institution, hospital or community setting,  
1171 based upon the needs of the affected person or their parent or  
1172 legal guardian;

1173 (jj) To have the sole power and discretion to enter  
1174 into, sign, execute and deliver long-term or multiyear leases of  
1175 real and personal property owned by the Department of Mental  
1176 Health to and from other state and federal agencies and private  
1177 entities deemed to be in the public's best interest. Any monies  
1178 derived from such leases shall be deposited into the funds of the  
1179 Department of Mental Health for its exclusive use. Leases to  
1180 private entities shall be approved by the Department of Finance  
1181 and Administration and all leases shall be filed with the  
1182 Secretary of State;





1183 (kk) To certify and establish minimum standards and  
1184 minimum required services for county facilities used for housing,  
1185 feeding and providing medical treatment for any person who has  
1186 been involuntarily ordered admitted to a treatment center by a  
1187 court of competent jurisdiction. The minimum standard for the  
1188 initial assessment of those persons being housed in county  
1189 facilities is for the assessment to be performed by a physician,  
1190 preferably a psychiatrist, or by a nurse practitioner, preferably  
1191 a psychiatric nurse practitioner. If the department finds  
1192 deficiencies in any such county facility or its provider based on  
1193 the minimum standards and minimum required services established  
1194 for certification, the department shall give the county or its  
1195 provider a six-month probationary period to bring its standards  
1196 and services up to the established minimum standards and minimum  
1197 required services. After the six-month probationary period, if  
1198 the department determines that the county or its provider still  
1199 does not meet the minimum standards and minimum required services,  
1200 the department may remove the certification of the county or  
1201 provider and require the county to contract with another county  
1202 having a certified facility to hold those persons for that period  
1203 of time pending transportation and admission to a state treatment  
1204 facility. Any cost incurred by a county receiving an  
1205 involuntarily committed person from a county with a decertified  
1206 holding facility shall be reimbursed by the home county to the  
1207 receiving county.



1208           **SECTION 11.** Section 41-29-112, Mississippi Code of 1972, is  
1209 brought forward as follows:

1210           41-29-112. (1) The Director of the Bureau of Narcotics is  
1211 authorized to retain on a contractual basis such persons as he  
1212 shall deem necessary to detect and apprehend violators of the  
1213 criminal statutes pertaining to the possession, sale or use of  
1214 narcotics or other dangerous drugs.

1215           (2) Those persons contracting with the Director of the  
1216 Bureau of Narcotics, pursuant to subsection (1), shall be known  
1217 as, and are hereinafter referred to as, "special contract agents."

1218           (3) The investigative services provided for in this section  
1219 shall be designed to support local law enforcement efforts.

1220           (4) Special contract investigators shall have all powers  
1221 necessary and incidental to the fulfillment of their contractual  
1222 obligations, including the power of arrest when authorized by the  
1223 Director of the Bureau of Narcotics.

1224           (5) No person shall be a special contract investigator  
1225 unless he is at least eighteen (18) years of age.

1226           (6) The Director of the Bureau of Narcotics shall conduct a  
1227 background investigation of all potential special contract  
1228 investigators. If the background investigation discloses a  
1229 criminal record, the applicant shall not be retained without the  
1230 express approval of the Director of the Bureau of Narcotics. Any  
1231 matters pertaining to special contract investigators shall be



1232 exempt from the provisions of a law relating to meetings open to  
1233 the public, approved as now or hereafter amended.

1234 (7) Any contract pursuant to subsection (1) shall be:

1235 (a) Reduced to writing; and

1236 (b) Terminable upon written notice by either party, and  
1237 shall in any event terminate one (1) year from the date of  
1238 signing; and

1239 (c) Approved as to form by the Attorney General.

1240 Such contracts shall not be public records and shall not be  
1241 available for inspection under the provisions of a law providing  
1242 for the inspection of public records as now or hereafter amended.

1243 (8) Special contract investigators shall not be considered  
1244 employees of the Bureau of Narcotics for any purpose.

1245 (9) The Director of the Bureau of Narcotics shall have all  
1246 powers necessary and incidental to the effective operation of this  
1247 section.

1248 (10) Notwithstanding any other provisions contained in this  
1249 section, all said contracts and related matters shall be made  
1250 available to the Legislative Budget Office and the State Fiscal  
1251 Management Board.

1252 **SECTION 12.** Section 41-125-11, Mississippi Code of 1972, is  
1253 brought forward as follows:

1254 41-125-11. The licensing agency shall require criminal  
1255 record background screening and fingerprinting for personnel by  
1256 the Mississippi Department of Public Safety.



1257           **SECTION 13.** Section 43-1-4, Mississippi Code of 1972, is  
1258 brought forward as follows:

1259           43-1-4. The Department of Human Services shall have the  
1260 following powers and duties:

1261           (a) To provide basic services and assistance statewide  
1262 to needy and disadvantaged individuals and families.

1263           (b) To promote integration of the many services and  
1264 programs within its jurisdiction at the client level thus  
1265 improving the efficiency and effectiveness of service delivery and  
1266 providing easier access to clients.

1267           (c) To develop a statewide comprehensive service  
1268 delivery plan in coordination with the Board of Health, the Board  
1269 of Mental Health, and the Department of Finance and  
1270 Administration. Such plan shall be developed and presented to the  
1271 Governor by January 1, 1990.

1272           (d) To employ personnel and expend funds appropriated  
1273 to the department to carry out the duties and responsibilities  
1274 assigned to the department by law.

1275           (e) To fingerprint and perform a criminal history  
1276 record check on every employee or volunteer (i) who has direct  
1277 access to clients of the department who are children or vulnerable  
1278 adults, or (ii) who is in a position of fiduciary responsibility.  
1279 Every such employee and volunteer shall provide a valid current  
1280 social security number and/or driver's license number which shall  
1281 be furnished to conduct the criminal history record check. If no



1282 disqualifying record is identified at the state level,  
1283 fingerprints shall be forwarded to the Federal Bureau of  
1284 Investigation for a national criminal history record check.

1285         **SECTION 14.** Section 43-11-13, Mississippi Code of 1972, is  
1286 brought forward as follows:

1287         43-11-13. (1) The licensing agency shall adopt, amend,  
1288 promulgate and enforce such rules, regulations and standards,  
1289 including classifications, with respect to all institutions for  
1290 the aged or infirm to be licensed under this chapter as may be  
1291 designed to further the accomplishment of the purpose of this  
1292 chapter in promoting adequate care of individuals in those  
1293 institutions in the interest of public health, safety and welfare.  
1294 Those rules, regulations and standards shall be adopted and  
1295 promulgated by the licensing agency and shall be recorded and  
1296 indexed in a book to be maintained by the licensing agency in its  
1297 main office in the State of Mississippi, entitled "Rules,  
1298 Regulations and Minimum Standards for Institutions for the Aged or  
1299 Infirm" and the book shall be open and available to all  
1300 institutions for the aged or infirm and the public generally at  
1301 all reasonable times. Upon the adoption of those rules,  
1302 regulations and standards, the licensing agency shall mail copies  
1303 thereof to all those institutions in the state that have filed  
1304 with the agency their names and addresses for this purpose, but  
1305 the failure to mail the same or the failure of the institutions to  
1306 receive the same shall in no way affect the validity thereof. The



1307 rules, regulations and standards may be amended by the licensing  
1308 agency, from time to time, as necessary to promote the health,  
1309 safety and welfare of persons living in those institutions.

1310 (2) The licensee shall keep posted in a conspicuous place on  
1311 the licensed premises all current rules, regulations and minimum  
1312 standards applicable to fire protection measures as adopted by the  
1313 licensing agency. The licensee shall furnish to the licensing  
1314 agency at least once each six (6) months a certificate of approval  
1315 and inspection by state or local fire authorities. Failure to  
1316 comply with state laws and/or municipal ordinances and current  
1317 rules, regulations and minimum standards as adopted by the  
1318 licensing agency, relative to fire prevention measures, shall be  
1319 prima facie evidence for revocation of license.

1320 (3) The State Board of Health shall promulgate rules and  
1321 regulations restricting the storage, quantity and classes of drugs  
1322 allowed in personal care homes and adult foster care facilities.  
1323 Residents requiring administration of Schedule II Narcotics as  
1324 defined in the Uniform Controlled Substances Law may be admitted  
1325 to a personal care home. Schedule drugs may only be allowed in a  
1326 personal care home if they are administered or stored utilizing  
1327 proper procedures under the direct supervision of a licensed  
1328 physician or nurse.

1329 (4) (a) Notwithstanding any determination by the licensing  
1330 agency that skilled nursing services would be appropriate for a  
1331 resident of a personal care home, that resident, the resident's



1332 guardian or the legally recognized responsible party for the  
1333 resident may consent in writing for the resident to continue to  
1334 reside in the personal care home, if approved in writing by a  
1335 licensed physician. However, no personal care home shall allow  
1336 more than two (2) residents, or ten percent (10%) of the total  
1337 number of residents in the facility, whichever is greater, to  
1338 remain in the personal care home under the provisions of this  
1339 subsection (4). This consent shall be deemed to be appropriately  
1340 informed consent as described in the regulations promulgated by  
1341 the licensing agency. After that written consent has been  
1342 obtained, the resident shall have the right to continue to reside  
1343 in the personal care home for as long as the resident meets the  
1344 other conditions for residing in the personal care home. A copy  
1345 of the written consent and the physician's approval shall be  
1346 forwarded by the personal care home to the licensing agency.

1347 (b) The State Board of Health shall promulgate rules  
1348 and regulations restricting the handling of a resident's personal  
1349 deposits by the director of a personal care home. Any funds given  
1350 or provided for the purpose of supplying extra comforts,  
1351 conveniences or services to any resident in any personal care  
1352 home, and any funds otherwise received and held from, for or on  
1353 behalf of any such resident, shall be deposited by the director or  
1354 other proper officer of the personal care home to the credit of  
1355 that resident in an account that shall be known as the Resident's  
1356 Personal Deposit Fund. No more than one (1) month's charge for



1357 the care, support, maintenance and medical attention of the  
1358 resident shall be applied from the account at any one time. After  
1359 the death, discharge or transfer of any resident for whose benefit  
1360 any such fund has been provided, any unexpended balance remaining  
1361 in his personal deposit fund shall be applied for the payment of  
1362 care, cost of support, maintenance and medical attention that is  
1363 accrued. If any unexpended balance remains in that resident's  
1364 personal deposit fund after complete reimbursement has been made  
1365 for payment of care, support, maintenance and medical attention,  
1366 and the director or other proper officer of the personal care home  
1367 has been or shall be unable to locate the person or persons  
1368 entitled to the unexpended balance, the director or other proper  
1369 officer may, after the lapse of one (1) year from the date of that  
1370 death, discharge or transfer, deposit the unexpended balance to  
1371 the credit of the personal care home's operating fund.

1372 (c) The State Board of Health shall promulgate rules  
1373 and regulations requiring personal care homes to maintain records  
1374 relating to health condition, medicine dispensed and administered,  
1375 and any reaction to that medicine. The director of the personal  
1376 care home shall be responsible for explaining the availability of  
1377 those records to the family of the resident at any time upon  
1378 reasonable request.

1379 (d) This subsection (4) shall stand repealed on July 1,  
1380 2017.

1381 (5) (a) For the purposes of this subsection (5):





1382 (i) "Licensed entity" means a hospital, nursing  
1383 home, personal care home, home health agency, hospice or adult  
1384 foster care facility;

1385 (ii) "Covered entity" means a licensed entity or a  
1386 health care professional staffing agency;

1387 (iii) "Employee" means any individual employed by  
1388 a covered entity, and also includes any individual who by contract  
1389 provides to the patients, residents or clients being served by the  
1390 covered entity direct, hands-on, medical patient care in a  
1391 patient's, resident's or client's room or in treatment or recovery  
1392 rooms. The term "employee" does not include health care  
1393 professional/vocational technical students performing clinical  
1394 training in a licensed entity under contracts between their  
1395 schools and the licensed entity, and does not include students at  
1396 high schools located in Mississippi who observe the treatment and  
1397 care of patients in a licensed entity as part of the requirements  
1398 of an allied-health course taught in the high school, if:

1399 1. The student is under the supervision of a  
1400 licensed health care provider; and

1401 2. The student has signed an affidavit that  
1402 is on file at the student's school stating that he or she has not  
1403 been convicted of or pleaded guilty or nolo contendere to a felony  
1404 listed in paragraph (d) of this subsection (5), or that any such  
1405 conviction or plea was reversed on appeal or a pardon was granted  
1406 for the conviction or plea. Before any student may sign such an



1407 affidavit, the student's school shall provide information to the  
1408 student explaining what a felony is and the nature of the felonies  
1409 listed in paragraph (d) of this subsection (5).

1410         However, the health care professional/vocational technical  
1411 academic program in which the student is enrolled may require the  
1412 student to obtain criminal history record checks. In such  
1413 incidences, paragraph (a)(iii)1 and 2 of this subsection (5) does  
1414 not preclude the licensing entity from processing submitted  
1415 fingerprints of students from healthcare-related  
1416 professional/vocational technical programs who, as part of their  
1417 program of study, conduct observations and provide clinical care  
1418 and services in a covered entity.

1419         (b) Under regulations promulgated by the State Board of  
1420 Health, the licensing agency shall require to be performed a  
1421 criminal history record check on (i) every new employee of a  
1422 covered entity who provides direct patient care or services and  
1423 who is employed on or after July 1, 2003, and (ii) every employee  
1424 of a covered entity employed before July 1, 2003, who has a  
1425 documented disciplinary action by his or her present employer. In  
1426 addition, the licensing agency shall require the covered entity to  
1427 perform a disciplinary check with the professional licensing  
1428 agency of each employee, if any, to determine if any disciplinary  
1429 action has been taken against the employee by that agency.

1430         Except as otherwise provided in paragraph (c) of this  
1431 subsection (5), no such employee hired on or after July 1, 2003,



1432 shall be permitted to provide direct patient care until the  
1433 results of the criminal history record check have revealed no  
1434 disqualifying record or the employee has been granted a waiver.  
1435 In order to determine the employee applicant's suitability for  
1436 employment, the applicant shall be fingerprinted. Fingerprints  
1437 shall be submitted to the licensing agency from scanning, with the  
1438 results processed through the Department of Public Safety's  
1439 Criminal Information Center. The fingerprints shall then be  
1440 forwarded by the Department of Public Safety to the Federal Bureau  
1441 of Investigation for a national criminal history record check.  
1442 The licensing agency shall notify the covered entity of the  
1443 results of an employee applicant's criminal history record check.  
1444 If the criminal history record check discloses a felony  
1445 conviction, guilty plea or plea of nolo contendere to a felony of  
1446 possession or sale of drugs, murder, manslaughter, armed robbery,  
1447 rape, sexual battery, sex offense listed in Section 45-33-23(h),  
1448 child abuse, arson, grand larceny, burglary, gratification of lust  
1449 or aggravated assault, or felonious abuse and/or battery of a  
1450 vulnerable adult that has not been reversed on appeal or for which  
1451 a pardon has not been granted, the employee applicant shall not be  
1452 eligible to be employed by the covered entity.

1453 (c) Any such new employee applicant may, however, be  
1454 employed on a temporary basis pending the results of the criminal  
1455 history record check, but any employment contract with the new  
1456 employee shall be voidable if the new employee receives a



1457 disqualifying criminal history record check and no waiver is  
1458 granted as provided in this subsection (5).

1459 (d) Under regulations promulgated by the State Board of  
1460 Health, the licensing agency shall require every employee of a  
1461 covered entity employed before July 1, 2003, to sign an affidavit  
1462 stating that he or she has not been convicted of or pleaded guilty  
1463 or nolo contendere to a felony of possession or sale of drugs,  
1464 murder, manslaughter, armed robbery, rape, sexual battery, any sex  
1465 offense listed in Section 45-33-23(h), child abuse, arson, grand  
1466 larceny, burglary, gratification of lust, aggravated assault, or  
1467 felonious abuse and/or battery of a vulnerable adult, or that any  
1468 such conviction or plea was reversed on appeal or a pardon was  
1469 granted for the conviction or plea. No such employee of a covered  
1470 entity hired before July 1, 2003, shall be permitted to provide  
1471 direct patient care until the employee has signed the affidavit  
1472 required by this paragraph (d). All such existing employees of  
1473 covered entities must sign the affidavit required by this  
1474 paragraph (d) within six (6) months of the final adoption of the  
1475 regulations promulgated by the State Board of Health. If a person  
1476 signs the affidavit required by this paragraph (d), and it is  
1477 later determined that the person actually had been convicted of or  
1478 pleaded guilty or nolo contendere to any of the offenses listed in  
1479 this paragraph (d) and the conviction or plea has not been  
1480 reversed on appeal or a pardon has not been granted for the  
1481 conviction or plea, the person is guilty of perjury. If the



1482 offense that the person was convicted of or pleaded guilty or nolo  
1483 contendere to was a violent offense, the person, upon a conviction  
1484 of perjury under this paragraph, shall be punished as provided in  
1485 Section 97-9-61. If the offense that the person was convicted of  
1486 or pleaded guilty or nolo contendere to was a nonviolent offense,  
1487 the person, upon a conviction of perjury under this paragraph,  
1488 shall be punished by a fine of not more than Five Hundred Dollars  
1489 (\$500.00), or by imprisonment in the county jail for not more than  
1490 six (6) months, or by both such fine and imprisonment.

1491 (e) The covered entity may, in its discretion, allow  
1492 any employee who is unable to sign the affidavit required by  
1493 paragraph (d) of this subsection (5) or any employee applicant  
1494 aggrieved by an employment decision under this subsection (5) to  
1495 appear before the covered entity's hiring officer, or his or her  
1496 designee, to show mitigating circumstances that may exist and  
1497 allow the employee or employee applicant to be employed by the  
1498 covered entity. The covered entity, upon report and  
1499 recommendation of the hiring officer, may grant waivers for those  
1500 mitigating circumstances, which shall include, but not be limited  
1501 to: (i) age at which the crime was committed; (ii) circumstances  
1502 surrounding the crime; (iii) length of time since the conviction  
1503 and criminal history since the conviction; (iv) work history; (v)  
1504 current employment and character references; and (vi) other  
1505 evidence demonstrating the ability of the individual to perform  
1506 the employment responsibilities competently and that the



1507 individual does not pose a threat to the health or safety of the  
1508 patients of the covered entity.

1509 (f) The licensing agency may charge the covered entity  
1510 submitting the fingerprints a fee not to exceed Fifty Dollars  
1511 (\$50.00), which covered entity may, in its discretion, charge the  
1512 same fee, or a portion thereof, to the employee applicant. Any  
1513 increase in the fee charged by the licensing agency under this  
1514 paragraph shall be in accordance with the provisions of Section  
1515 41-3-65. Any costs incurred by a covered entity implementing this  
1516 subsection (5) shall be reimbursed as an allowable cost under  
1517 Section 43-13-116.

1518 (g) If the results of an employee applicant's criminal  
1519 history record check reveals no disqualifying event, then the  
1520 covered entity shall, within two (2) weeks of the notification of  
1521 no disqualifying event, provide the employee applicant with a  
1522 notarized letter signed by the chief executive officer of the  
1523 covered entity, or his or her authorized designee, confirming the  
1524 employee applicant's suitability for employment based on his or  
1525 her criminal history record check. An employee applicant may use  
1526 that letter for a period of two (2) years from the date of the  
1527 letter to seek employment with any covered entity without the  
1528 necessity of an additional criminal history record check. Any  
1529 covered entity presented with the letter may rely on the letter  
1530 with respect to an employee applicant's criminal background and is  
1531 not required for a period of two (2) years from the date of the



1532 letter to conduct or have conducted a criminal history record  
1533 check as required in this subsection (5).

1534 (h) The licensing agency, the covered entity, and their  
1535 agents, officers, employees, attorneys and representatives, shall  
1536 be presumed to be acting in good faith for any employment decision  
1537 or action taken under this subsection (5). The presumption of  
1538 good faith may be overcome by a preponderance of the evidence in  
1539 any civil action. No licensing agency, covered entity, nor their  
1540 agents, officers, employees, attorneys and representatives shall  
1541 be held liable in any employment decision or action based in whole  
1542 or in part on compliance with or attempts to comply with the  
1543 requirements of this subsection (5).

1544 (i) The licensing agency shall promulgate regulations  
1545 to implement this subsection (5).

1546 (j) The provisions of this subsection (5) shall not  
1547 apply to:

1548 (i) Applicants and employees of the University of  
1549 Mississippi Medical Center for whom criminal history record checks  
1550 and fingerprinting are obtained in accordance with Section  
1551 37-115-41; or

1552 (ii) Health care professional/vocational technical  
1553 students for whom criminal history record checks and  
1554 fingerprinting are obtained in accordance with Section 37-29-232.



1555 (6) The State Board of Health shall promulgate rules,  
1556 regulations and standards regarding the operation of adult foster  
1557 care facilities.

1558 **SECTION 15.** Section 43-15-6, Mississippi Code of 1972, is  
1559 brought forward as follows:

1560 43-15-6. (1) Any person, institution, facility, clinic,  
1561 organization or other entity that provides services to children in  
1562 a residential setting where care, lodging, maintenance, and  
1563 counseling or therapy for alcohol or controlled substance abuse or  
1564 for any other emotional disorder or mental illness is provided for  
1565 children, whether for compensation or not, that holds himself,  
1566 herself, or itself out to the public as providing such services,  
1567 and that is entrusted with the care of the children to whom he,  
1568 she, or it provides services, because of the nature of the  
1569 services and the setting in which the services are provided shall  
1570 be subject to the provisions of this section.

1571 (2) Each entity to which this section applies shall  
1572 complete, through the appropriate governmental authority, a  
1573 national criminal history record information check and a child  
1574 abuse registry check for each owner, operator, employee,  
1575 prospective employee, volunteer or prospective volunteer of the  
1576 entity and/or any other that has or may have unsupervised access  
1577 to a child served by the entity. In order to determine the  
1578 applicant's suitability for employment, the entity shall ensure  
1579 that the applicant be fingerprinted by local law enforcement, and





1580 the results forwarded to the Department of Public Safety. If no  
1581 disqualifying record is identified at the state level, the  
1582 fingerprints shall be forwarded by the Department of Public Safety  
1583 to the FBI for a national criminal history record check.

1584 (3) An owner, operator, employee, prospective employee,  
1585 volunteer or prospective volunteer of the entity and/or any other  
1586 that has or may have unsupervised access to a child who has a  
1587 criminal history of conviction or pending indictment of a crime,  
1588 whether a misdemeanor or a felony, that bears upon an individual's  
1589 fitness to have responsibility for the safety and well-being of  
1590 children as set forth in this chapter may not provide child care  
1591 or operate, or be licensed as, a residential child care program,  
1592 foster parent, or foster home.

1593 (4) All fees incurred in compliance with this section shall  
1594 be borne by the individual or entity to which subsection (1)  
1595 applies.

1596 (5) The Department of Human Services shall have the  
1597 authority to set fees, to exclude a particular crime or crimes or  
1598 a substantiated finding of child abuse and/or neglect as  
1599 disqualifying individuals or entities from providing foster care  
1600 or residential child care, and adopt such other rules and  
1601 regulations as may be required to carry out the provisions of this  
1602 section.

1603 (6) Any entity that violates the provisions of this section  
1604 by failure to complete sex offense criminal history record



1605 information and felony conviction record information checks, as  
1606 required under subsection (3) of this section, shall be subject to  
1607 a penalty of up to Ten Thousand Dollars (\$10,000.00) for each such  
1608 violation and may be enjoined from further operation until it  
1609 complies with this section in actions maintained by the Attorney  
1610 General.

1611 (7) The Department of Human Services and/or its officers,  
1612 employees, attorneys, agents and representatives shall not be held  
1613 civilly liable for any findings, recommendations or actions taken  
1614 pursuant to this section.

1615 **SECTION 16.** Section 43-20-8, Mississippi Code of 1972, is  
1616 brought forward as follows:

1617 43-20-8. (1) The licensing agency shall have powers and  
1618 duties as set forth below, in addition to other duties prescribed  
1619 under this chapter:

1620 (a) Promulgate rules and regulations concerning the  
1621 licensing and regulation of child care facilities as defined in  
1622 Section 43-20-5;

1623 (b) Have the authority to issue, deny, suspend, revoke,  
1624 restrict or otherwise take disciplinary action against licensees  
1625 as provided for in this chapter;

1626 (c) Set and collect fees and penalties as provided for  
1627 in this chapter; any increase in the fees charged by the licensing  
1628 agency under this paragraph shall be in accordance with the  
1629 provisions of Section 41-3-65; and



1630 (d) Have such other powers as may be required to carry  
1631 out the provisions of this chapter.

1632 (2) Child care facilities shall assure that parents have  
1633 welcome access to the child care facility at all times and shall  
1634 comply with the provisions of Chapter 520, Laws of 2006.

1635 (3) Each child care facility shall develop and maintain a  
1636 current list of contact persons for each child provided care by  
1637 that facility. An agreement may be made between the child care  
1638 facility and the child's parent, guardian or contact person at the  
1639 time of registration to inform the parent, guardian or contact  
1640 person if the child does not arrive at the facility within a  
1641 reasonable time.

1642 (4) Child care facilities shall require that, for any  
1643 current or prospective caregiver, all criminal records, background  
1644 and sex offender registry checks and current child abuse registry  
1645 checks are obtained. In order to determine the applicant's  
1646 suitability for employment, the applicant shall be fingerprinted.  
1647 If no disqualifying record is identified at the state level, the  
1648 fingerprints shall be forwarded by the Department of Public Safety  
1649 to the FBI for a national criminal history record check.

1650 (5) The licensing agency shall require to be performed a  
1651 criminal records background check and a child abuse registry check  
1652 for all operators of a child care facility and any person living  
1653 in a residence used for child care. The Department of Human  
1654 Services shall have the authority to disclose to the State



1655 Department of Health any potential applicant whose name is listed  
1656 on the Child Abuse Central Registry or has a pending  
1657 administrative review. That information shall remain confidential  
1658 by all parties. In order to determine the applicant's suitability  
1659 for employment, the applicant shall be fingerprinted. If no  
1660 disqualifying record is identified at the state level, the  
1661 fingerprints shall be forwarded by the Department of Public Safety  
1662 to the FBI for a national criminal history record check.

1663 (6) The licensing agency shall have the authority to exclude  
1664 a particular crime or crimes or a substantiated finding of child  
1665 abuse and/or neglect as disqualifying individuals or entities for  
1666 prospective or current employment or licensure.

1667 (7) The licensing agency and its agents, officers,  
1668 employees, attorneys and representatives shall not be held civilly  
1669 liable for any findings, recommendations or actions taken under  
1670 this section.

1671 (8) All fees incurred in compliance with this section shall  
1672 be borne by the child care facility. The licensing agency is  
1673 authorized to charge a fee that includes the amount required by  
1674 the Federal Bureau of Investigation for the national criminal  
1675 history record check in compliance with the Child Protection Act  
1676 of 1993, as amended, and any necessary costs incurred by the  
1677 licensing agency for the handling and administration of the  
1678 criminal history background checks.



1679           (9) From and after January 1, 2008, the State Board of  
1680 Health shall develop regulations to ensure that all children  
1681 enrolled or enrolling in a state licensed child care center  
1682 receive age-appropriate immunization against invasive pneumococcal  
1683 disease as recommended by the Advisory Committee on immunization  
1684 practices of the Centers for Disease Control and Prevention. The  
1685 State Board of Health shall include, within its regulations,  
1686 protocols for children under the age of twenty-four (24) months to  
1687 catch up on missed doses. If the State Board of Health has  
1688 adopted regulations before January 1, 2008, that would otherwise  
1689 meet the requirements of this subsection, then this subsection  
1690 shall stand repealed on January 1, 2008.

1691           **SECTION 17.** Section 43-47-7, Mississippi Code of 1972, is  
1692 brought forward as follows:

1693           43-47-7. (1) (a) Except as otherwise provided by Section  
1694 43-47-37 for vulnerable persons in care facilities, any person  
1695 including, but not limited to, the following, who knows or  
1696 suspects that a vulnerable person has been or is being abused,  
1697 neglected or exploited shall immediately report such knowledge or  
1698 suspicion to the Department of Human Services or to the county  
1699 department of human services where the vulnerable person is  
1700 located:

1701                           (i) Attorney, physician, osteopathic physician,  
1702 medical examiner, chiropractor or nurse engaged in the admission,  
1703 examination, care or treatment of vulnerable persons;



1704 (ii) Health professional or mental health  
1705 professional other than one listed in subparagraph (i);  
1706 (iii) Practitioner who relies solely on spiritual  
1707 means for healing;  
1708 (iv) Social worker, family protection worker,  
1709 family protection specialist or other professional care,  
1710 residential or institutional staff;  
1711 (v) State, county or municipal criminal justice  
1712 employee or law enforcement officer;  
1713 (vi) Human rights advocacy committee or long-term  
1714 care ombudsman council member; or  
1715 (vii) Accountant, stockbroker, financial advisor  
1716 or consultant, insurance agent or consultant, investment advisor  
1717 or consultant, financial planner, or any officer or employee of a  
1718 bank, savings and loan, credit union or any other financial  
1719 service provider.  
1720 (b) To the extent possible, a report made pursuant to  
1721 paragraph (a) must contain, but need not be limited to, the  
1722 following information:  
1723 (i) Name, age, race, sex, physical description and  
1724 location of each vulnerable person alleged to have been abused,  
1725 neglected or exploited.  
1726 (ii) Names, addresses and telephone numbers of the  
1727 vulnerable person's family members.



1728 (iii) Name, address and telephone number of each  
1729 alleged perpetrator.

1730 (iv) Name, address and telephone number of the  
1731 caregiver of the vulnerable person, if different from the alleged  
1732 perpetrator.

1733 (v) Description of the neglect, exploitation,  
1734 physical or psychological injuries sustained.

1735 (vi) Actions taken by the reporter, if any, such  
1736 as notification of the criminal justice agency.

1737 (vii) Any other information available to the  
1738 reporting person which may establish the cause of abuse, neglect  
1739 or exploitation that occurred or is occurring.

1740 In addition to the above, any person or entity holding or  
1741 required to hold a license as specified in Title 73, Professions  
1742 and Vocations, Mississippi Code of 1972, shall be required to give  
1743 his, her or its name, address and telephone number in the report  
1744 of the alleged abuse, neglect or exploitation.

1745 (c) The department, or its designees, shall report to  
1746 an appropriate criminal investigative or prosecutive authority any  
1747 person required by this section to report or who fails to comply  
1748 with this section. A person who fails to make a report as  
1749 required under this subsection or who, because of the  
1750 circumstances, should have known or suspected beyond a reasonable  
1751 doubt that a vulnerable person suffers from exploitation, abuse,  
1752 neglect or self-neglect but who knowingly fails to comply with



1753 this section shall, upon conviction, be guilty of a misdemeanor  
1754 and shall be punished by a fine not exceeding Five Thousand  
1755 Dollars (\$5,000.00), or by imprisonment in the county jail for not  
1756 more than six (6) months, or both such fine and imprisonment.  
1757 However, for purposes of this subsection (1), any recognized legal  
1758 financial transaction shall not be considered cause to report the  
1759 knowledge or suspicion of the financial exploitation of a  
1760 vulnerable person. If a person convicted under this section is a  
1761 member of a profession or occupation that is licensed, certified  
1762 or regulated by the state, the court shall notify the appropriate  
1763 licensing, certifying or regulating entity of the conviction.

1764 (2) Reports received by law enforcement authorities or other  
1765 agencies shall be forwarded immediately to the Department of Human  
1766 Services or the county department of human services. The  
1767 Department of Human Services shall investigate the reported abuse,  
1768 neglect or exploitation immediately and shall file a preliminary  
1769 report of its findings with the Office of the Attorney General  
1770 within forty-eight (48) hours if immediate attention is needed, or  
1771 seventy-two (72) hours if the vulnerable person is not in  
1772 immediate danger and shall make additional reports as new  
1773 information or evidence becomes available. The Department of  
1774 Human Services, upon request, shall forward a statement to the  
1775 person making the initial report required by this section as to  
1776 what action is being taken, if any.





1777           (3) The report may be made orally or in writing, but where  
1778 made orally, it shall be followed up by a written report. A  
1779 person who fails to report or to otherwise comply with this  
1780 section, as provided herein, shall have no civil or criminal  
1781 liability, other than that expressly provided for in this section,  
1782 to any person or entity in connection with any failure to report  
1783 or to otherwise comply with the requirements of this section.

1784           (4) Anyone who makes a report required by this section or  
1785 who testifies or participates in any judicial proceedings arising  
1786 from the report or who participates in a required investigation or  
1787 evaluation shall be presumed to be acting in good faith and in so  
1788 doing shall be immune from liability, civil or criminal, that  
1789 might otherwise be incurred or imposed. However, the immunity  
1790 provided under this subsection shall not apply to any suspect or  
1791 perpetrator of any abuse, neglect or exploitation.

1792           (5) A person who intentionally makes a false report under  
1793 the provisions of this section may be found liable in a civil suit  
1794 for any actual damages suffered by the person or persons so  
1795 reported and for any punitive damages set by the court or jury.

1796           (6) The Executive Director of the Department of Human  
1797 Services shall establish a statewide central register of reports  
1798 made pursuant to this section. The central register shall be  
1799 capable of receiving reports of vulnerable persons in need of  
1800 protective services seven (7) days a week, twenty-four (24) hours  
1801 a day. To effectuate this purpose, the executive director shall



1802 establish a single toll-free statewide phone number that all  
1803 persons may use to report vulnerable persons in need of protective  
1804 services, and that all persons authorized by subsection (7) of  
1805 this section may use for determining the existence of prior  
1806 reports in order to evaluate the condition or circumstances of the  
1807 vulnerable person before them. Such oral reports and evidence of  
1808 previous reports shall be transmitted to the appropriate county  
1809 department of human services. The central register shall include,  
1810 but not be limited to, the following information: the name and  
1811 identifying information of the individual reported, the county  
1812 department of human services responsible for the investigation of  
1813 each such report, the names, affiliations and purposes of any  
1814 person requesting or receiving information which the executive  
1815 director believes might be helpful in the furtherance of the  
1816 purposes of this chapter, the name, address, birth date, social  
1817 security number of the perpetrator of abuse, neglect and/or  
1818 exploitation, and the type of abuse, neglect and/or exploitation  
1819 of which there was substantial evidence upon investigation of the  
1820 report. The central register shall inform the person making  
1821 reports required under this section of his or her right to request  
1822 statements from the department as to what action is being taken,  
1823 if any.

1824       Each person, business, organization or other entity, whether  
1825 public or private, operated for profit, operated for nonprofit or  
1826 a voluntary unit of government not responsible for law enforcement



1827 providing care, supervision or treatment of vulnerable persons  
1828 shall conduct criminal history records checks on each new employee  
1829 of the entity who provides, and/or would provide direct patient  
1830 care or services to adults or vulnerable persons, as provided in  
1831 Section 43-11-13.

1832 The department shall not release data that would be harmful  
1833 or detrimental to the vulnerable person or that would identify or  
1834 locate a person who, in good faith, made a report or cooperated in  
1835 a subsequent investigation unless ordered to do so by a court of  
1836 competent jurisdiction.

1837 (7) Reports made pursuant to this section, reports written  
1838 or photographs taken concerning such reports in the possession of  
1839 the Department of Human Services or the county department of human  
1840 services shall be confidential and shall only be made available  
1841 to:

1842 (a) A physician who has before him a vulnerable person  
1843 whom he reasonably suspects may be abused, neglected or exploited,  
1844 as defined in Section 43-47-5;

1845 (b) A duly authorized agency having the responsibility  
1846 for the care or supervision of a subject of the report;

1847 (c) A grand jury or a court of competent jurisdiction,  
1848 upon finding that the information in the record is necessary for  
1849 the determination of charges before the grand jury;

1850 (d) A district attorney or other law enforcement  
1851 official.



1852           Notwithstanding the provisions of paragraph (b) of this  
1853 subsection, the department may not disclose a report of the  
1854 abandonment, exploitation, abuse, neglect or self-neglect of a  
1855 vulnerable person to the vulnerable person's guardian,  
1856 attorney-in-fact, surrogate decision maker, or caregiver who is a  
1857 perpetrator or alleged perpetrator of the abandonment,  
1858 exploitation, abuse or neglect of the vulnerable person.

1859           Any person given access to the names or other information  
1860 identifying the subject of the report, except the subject of the  
1861 report, shall not divulge or make public such identifying  
1862 information unless he is a district attorney or other law  
1863 enforcement official and the purpose is to initiate court action.  
1864 Any person who willfully permits the release of any data or  
1865 information obtained pursuant to this section to persons or  
1866 agencies not permitted to such access by this section shall be  
1867 guilty of a misdemeanor.

1868           (8) Upon reasonable cause to believe that a caretaker or  
1869 other person has abused, neglected or exploited a vulnerable  
1870 person, the department shall promptly notify the district attorney  
1871 of the county in which the vulnerable person is located and the  
1872 Office of the Attorney General, except as provided in Section  
1873 43-47-37(2).

1874           **SECTION 18.** Section 67-1-57, Mississippi Code of 1972, is  
1875 brought forward as follows:



1876           67-1-57. Before a permit is issued the department shall  
1877 satisfy itself:

1878           (a) That the applicant, if an individual, or if a  
1879 partnership, each of the members of the partnership, or if a  
1880 corporation, each of its principal officers and directors, or if a  
1881 limited liability company, each member of the limited liability  
1882 company, is of good moral character and, in addition, enjoys a  
1883 reputation of being a peaceable, law-abiding citizen of the  
1884 community in which he resides, and is generally fit for the trust  
1885 to be reposed in him, is not less than twenty-one (21) years of  
1886 age, and has not been convicted of a felony in any state or  
1887 federal court.

1888           (b) That, except in the case of an application for a  
1889 solicitor's permit, the applicant is the true and actual owner of  
1890 the business for which the permit is desired, and that he intends  
1891 to carry on the business authorized for himself and not as the  
1892 agent of any other person, and that he intends to superintend in  
1893 person the management of the business or that he will designate a  
1894 manager to manage the business for him. All managers must be  
1895 approved by the department prior to completing any managerial  
1896 tasks on behalf of the permittee and must possess all of the  
1897 qualifications required of a permittee; however, a felony  
1898 conviction, other than a crime of violence, does not automatically  
1899 disqualify a person from being approved as a manager if the person  
1900 was released from incarceration at least three (3) years prior to



1901 application for approval as a manager. A felony conviction, other  
1902 than a crime of violence, may be considered by the department in  
1903 determining whether all other qualifications are met.

1904 (c) That the applicant for a package retailer's permit,  
1905 if an individual, is a resident of the State of Mississippi. If  
1906 the applicant is a partnership, each member of the partnership  
1907 must be a resident of the state. If the applicant is a limited  
1908 liability company, each member of the limited liability company  
1909 must be a resident of the state. If the applicant is a  
1910 corporation, the designated manager of the corporation must be a  
1911 resident of the state.

1912 (d) That the place for which the permit is to be issued  
1913 is an appropriate one considering the character of the premises  
1914 and the surrounding neighborhood.

1915 (e) That the place for which the permit is to be issued  
1916 is within the corporate limits of an incorporated municipality or  
1917 qualified resort area or club which comes within the provisions of  
1918 this chapter.

1919 (f) That the applicant is not indebted to the state for  
1920 any taxes, fees or payment of penalties imposed by any law of the  
1921 State of Mississippi or by any rule or regulation of the  
1922 commission.

1923 (g) That the applicant is not in the habit of using  
1924 alcoholic beverages to excess and is not physically or mentally



1925 incapacitated, and that the applicant has the ability to read and  
1926 write the English language.

1927 (h) That the commission does not believe and has no  
1928 reason to believe that the applicant will sell or knowingly permit  
1929 any agent, servant or employee to unlawfully sell liquor in a dry  
1930 area or in any other manner contrary to law.

1931 (i) That the applicant is not residentially domiciled  
1932 with any person whose permit or license has been cancelled for  
1933 cause within the twelve (12) months next preceding the date of the  
1934 present application for a permit.

1935 (j) That the commission has not, in the exercise of its  
1936 discretion which is reserved and preserved to it, refused to grant  
1937 permits under the restrictions of this section, as well as under  
1938 any other pertinent provision of this chapter.

1939 (k) That there are not sufficient legal reasons to deny  
1940 a permit on the ground that the premises for which the permit is  
1941 sought has previously been operated, used or frequented for any  
1942 purpose or in any manner that is lewd, immoral or offensive to  
1943 public decency. In the granting or withholding of any permit to  
1944 sell alcoholic beverages at retail, the commission in forming its  
1945 conclusions may give consideration to any recommendations made in  
1946 writing by the district or county attorney or county, circuit or  
1947 chancery judge of the county, or the sheriff of the county, or the  
1948 mayor or chief of police of an incorporated city or town wherein



1949 the applicant proposes to conduct his business and to any  
1950 recommendations made by representatives of the commission.

1951 (1) That the applicant and the applicant's key  
1952 employees, as determined by the commission, do not have a  
1953 disqualifying criminal record. In order to obtain a criminal  
1954 record history check, the applicant shall submit to the commission  
1955 a set of fingerprints from any local law enforcement agency for  
1956 each person for whom the records check is required. The  
1957 commission shall forward the fingerprints to the Mississippi  
1958 Department of Public Safety. If no disqualifying record is  
1959 identified at the state level, the Department of Public Safety  
1960 shall forward the fingerprints to the Federal Bureau of  
1961 Investigation for a national criminal history record check. Costs  
1962 for processing the set or sets of fingerprints shall be borne by  
1963 the applicant. The commission shall not deny employment to an  
1964 employee of the applicant prior to the identification of a  
1965 disqualifying record or other disqualifying information.

1966 **SECTION 19.** Section 81-1-65, Mississippi Code of 1972, is  
1967 brought forward as follows:

1968 81-1-65. The commissioner shall employ such assistants, to  
1969 be known as state banking examiners, as may be necessary for the  
1970 efficient operation of the department, to aid him in the discharge  
1971 of the duties and responsibilities imposed upon him by law. The  
1972 minimum qualifications for such employment shall be possession of  
1973 a bachelor's degree from a recognized college or university, or





1974 three (3) years' experience as a bank examiner, bank officer or  
1975 employee, small loan company officer or employee, or other  
1976 consumer finance officer or employee and such other qualifications  
1977 set out for banking examiners in the plan for the state personnel  
1978 system. However, notwithstanding any provisions to the contrary,  
1979 any person who is serving as a state banking examiner in the  
1980 former Department of Bank Supervision on March 21, 1980, shall be  
1981 qualified to serve as a state banking examiner in the department.  
1982 The state bank examiners shall not, directly or indirectly, be  
1983 connected with any banking business in Mississippi or elsewhere  
1984 during their respective terms of office, after four (4) months  
1985 from the time of qualifying as an examiner.

1986         The commissioner may employ such additional employees as may  
1987 be necessary to carry out those duties and responsibilities  
1988 imposed upon him by law, who shall possess such qualifications set  
1989 out for their particular position in the plan for the state  
1990 personnel system.

1991         No examiner or other employee related by consanguinity or  
1992 affinity to the commissioner within the third degree computed  
1993 according to the civil law shall be employed by him.

1994         The examiners and all other persons employed by the  
1995 commissioner under the provisions of this section shall be  
1996 compensated as provided in the compensation plan for the state  
1997 personnel system, unless otherwise provided by law. The



1998 compensation for such employees shall be payable monthly out of  
1999 the funds of the department.

2000 The commissioner shall be responsible for all acts of the  
2001 examiners and the other employees. Any examiner or other employee  
2002 may be dismissed only in accordance with the laws, rules and  
2003 regulations applicable to the state personnel system.

2004 As a condition of employment with the department, the  
2005 commissioner shall require all employees and applicants for  
2006 employment with the department to be fingerprinted to determine  
2007 their suitability for employment as examiners or assistants as  
2008 needed. If no disqualifying record is identified at the state  
2009 level, the Department of Public Safety shall forward the  
2010 fingerprints to the Federal Bureau of Investigation (FBI) for a  
2011 national criminal history record check. The Department of Banking  
2012 and Consumer Finance shall pay all of the costs in connection with  
2013 the criminal history record check procedure. These record checks  
2014 shall not be used by the Department of Banking and Consumer  
2015 Finance for any purpose other than to determine suitability for  
2016 employment with the department.

2017 **SECTION 20.** This act shall take effect and be in force from  
2018 and after July 1, 2017.

