

By: Representative Gipson

To: Public Health and Human Services

HOUSE BILL NO. 779

1 AN ACT TO AMEND SECTION 41-111-1, MISSISSIPPI CODE OF 1972,
 2 TO REQUIRE THAT ALL CHILD DEATHS THAT ARE REPORTED TO THE CHILD
 3 DEATH REVIEW PANEL BE PROMPTLY REPORTED BY THE REVIEW PANEL TO THE
 4 DEPARTMENT OF CHILD PROTECTION SERVICES AND TO THE APPROPRIATE LAW
 5 ENFORCEMENT AGENCY OR AGENCIES FOR INVESTIGATION; TO EXTEND THE
 6 DATE OF THE REPEALER ON THIS SECTION; TO AMEND SECTION 41-61-63,
 7 MISSISSIPPI CODE OF 1972, TO REQUIRE THAT THE RESULTS OF
 8 INVESTIGATIONS OF CHILD DEATHS BY MEDICAL EXAMINERS BE REPORTED TO
 9 THE DEPARTMENT OF CHILD PROTECTION SERVICES WITHIN THREE DAYS OF
 10 THE CONCLUSION OF THE DEATH INVESTIGATION; TO AMEND SECTION
 11 43-21-261, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF
 12 HUMAN SERVICES AND THE DEPARTMENT OF CHILD PROTECTION SERVICES TO
 13 PROMPTLY REPORT ALL CHILD DEATHS TO THE APPROPRIATE LAW
 14 ENFORCEMENT AGENCY OR AGENCIES FOR INVESTIGATION; AND FOR RELATED
 15 PURPOSES.

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

17 **SECTION 1.** Section 41-111-1, Mississippi Code of 1972, is
 18 amended as follows:

19 41-111-1. (1) There is created the Child Death Review
 20 Panel, whose primary purpose is to foster the reduction of infant
 21 and child mortality and morbidity in Mississippi and to improve
 22 the health status of infants and children.

23 (2) The Child Death Review Panel shall be composed of
 24 seventeen (17) voting members: the State Medical Examiner or his



25 representative, a pathologist on staff at the University of
26 Mississippi Medical Center, an appointee of the Lieutenant
27 Governor, an appointee of the Speaker of the House of
28 Representatives, and one (1) representative from each of the
29 following: the State Coroners Association, the Mississippi
30 Chapter of the American Academy of Pediatrics, the Office of Vital
31 Statistics in the State Department of Health, the Attorney
32 General's office, the State Sheriff's Association, the Mississippi
33 Police Chiefs Association, the Department of Human Services, the
34 Children's Advocacy Center, the State Chapter of the March of
35 Dimes, the State SIDS Alliance, the Mississippi Children's Safe
36 Center, Safe Kids Mississippi, and the Mississippi State Fire
37 Marshal's office.

38 (3) The Chairman of the Child Death Review Panel shall be
39 elected annually by the Review Panel membership. The Review Panel
40 shall develop and implement such procedures and policies necessary
41 for its operation, including obtaining and protecting confidential
42 records from the agencies and officials specified in subsection
43 (4) of this section. The Review Panel shall be assigned to the
44 State Department of Health for administrative purposes only, and
45 the department shall designate staff to assist the Review Panel.

46 (4) The Child Death Review Panel shall submit a report
47 annually to the Chairmen of the House Public Health and Human
48 Services Committee and the Senate Public Health and Welfare
49 Committee on or before December 1. The report shall include the



50 numbers, causes and relevant demographic information on child and
51 infant deaths in Mississippi, and appropriate recommendations to
52 the Legislature on how to most effectively direct state resources
53 to decrease infant and child deaths in Mississippi. Data for the
54 Review Panel's review and reporting shall be provided to the
55 Review Panel, upon the request of the Review Panel, by the State
56 Medical Examiner's office, State Department of Health, Department
57 of Human Services, Department of Child Protection Services,
58 medical examiners, coroners, health care providers, law
59 enforcement agencies, any other agencies or officials having
60 information that is necessary for the Review Panel to carry out
61 its duties under this section. All child deaths that are reported
62 to the Review Panel shall be promptly reported by the Review Panel
63 to the Department of Child Protection Services and to the
64 appropriate law enforcement agency or agencies for investigation.
65 The State Department of Health shall also be responsible for
66 printing and distributing the annual report(s) on child and infant
67 deaths in Mississippi.

68 (5) This section shall stand repealed on July 1, * * * 2020.

69 **SECTION 2.** Section 41-61-63, Mississippi Code of 1972, is
70 amended as follows:

71 41-61-63. (1) The State Medical Examiner shall:

72 (a) Provide assistance, consultation and training to
73 county medical examiners, county medical examiner investigators
74 and law enforcement officials.



75 (b) Keep complete records of all relevant information
76 concerning deaths or crimes requiring investigation by the medical
77 examiners.

78 (c) Promulgate rules and regulations regarding the
79 manner and techniques to be employed while conducting autopsies;
80 the nature, character and extent of investigations to be made into
81 deaths affecting the public interest to allow a medical examiner
82 to render a full and complete analysis and report; the format and
83 matters to be contained in all reports rendered by the medical
84 examiners; and all other things necessary to carry out the
85 purposes of Sections 41-61-51 through 41-61-79. The State Medical
86 Examiner shall make such amendments to these rules and regulations
87 as may be necessary. All medical examiners, coroners and law
88 enforcement officers shall be subject to such rules.

89 (d) Cooperate with the crime detection and medical
90 examiner laboratories authorized by Section 45-1-17, the
91 University of Mississippi Medical Center, the Attorney General,
92 law enforcement agencies, the courts and the State of Mississippi.

93 (2) In addition, the medical examiners shall:

94 (a) Upon receipt of notification of a death affecting
95 the public interest, make inquiries regarding the cause and manner
96 of death, reduce the findings to writing and promptly make a full
97 report to the State Medical Examiner on forms prescribed for that
98 purpose. The medical examiner shall be authorized to inspect and
99 copy the medical reports of the decedent whose death is under



100 investigation. However, the records copied shall be maintained as
101 confidential so as to protect the doctor/patient privilege. The
102 medical examiners shall be authorized to request the issuance of
103 subpoenas, through the proper court, for the attendance of persons
104 and for the production of documents as may be required by their
105 investigation.

106 (b) Complete the medical examiner's portion of the
107 certificate of death within seventy-two (72) hours of assuming
108 jurisdiction over a death, and forward the certificate to the
109 funeral director or to the family. The medical examiner's portion
110 of the certificate of death shall include the decedent's name, the
111 date and time of death, the cause of death and the certifier's
112 signature. If determination of the cause and/or manner of death
113 are pending an autopsy or toxicological or other studies, these
114 sections on the certificate may be marked "pending," with
115 amendment and completion to follow the completion of the
116 postmortem studies. The State Medical Examiner shall be
117 authorized to amend a death certificate; however, the State
118 Medical Examiner is not authorized to change or amend any death
119 certificate after he has resigned or been removed from his office
120 as the State Medical Examiner. Where an attending physician
121 refuses to sign a certificate of death, or in case of any death,
122 the State Medical Examiner or properly qualified designee may sign
123 the death certificate.



124 (c) Cooperate with other agencies as provided for the
125 State Medical Examiner in subsection (1)(d) of this section.

126 (d) In all investigations of deaths affecting the
127 public interest where an autopsy will not be performed, obtain or
128 attempt to obtain postmortem blood, urine and/or vitreous fluids.
129 Medical examiners may also obtain rectal temperature measurements,
130 known hair samples, radiographs, gunshot residue/wiping studies,
131 fingerprints, palm prints and other noninvasive studies as the
132 case warrants and/or as directed by the State Medical Examiner.
133 Decisions shall be made in consultation with investigating law
134 enforcement officials and/or the State Medical Examiner. The cost
135 of all studies not performed by the Mississippi Forensics
136 Laboratory shall be borne by the county. County medical examiner
137 investigators shall be authorized to obtain these postmortem
138 specimens themselves following successful completion of the death
139 investigation training school.

140 (e) In all investigations of deaths occurring in the
141 manner specified in subsection (2)(j) of Section 41-61-59, a death
142 investigation shall be performed by the medical examiners in
143 accordance with the child death investigation protocol established
144 by the State Medical Examiner. The results of the death
145 investigation shall be reported to the State Medical Examiner on
146 forms prescribed for that purpose by the State Medical Examiner
147 and to appropriate authorities, including police and the



148 Department of Child * * * Protection Services, within three (3)
149 days of the conclusion of the death investigation.

150 (3) The medical examiner shall not use his position or
151 authority to favor any particular funeral home or funeral homes.

152 **SECTION 3.** Section 43-21-261, Mississippi Code of 1972, is
153 amended as follows:

154 43-21-261. (1) Except as otherwise provided in this
155 section, records involving children shall not be disclosed, other
156 than to necessary staff of the youth court or a Court-Appointed
157 Special Advocate (CASA) volunteer that may be assigned in an abuse
158 and neglect case, except pursuant to an order of the youth court
159 specifying the person or persons to whom the records may be
160 disclosed, the extent of the records which may be disclosed and
161 the purpose of the disclosure. Such court orders for disclosure
162 shall be limited to those instances in which the youth court
163 concludes, in its discretion, that disclosure is required for the
164 best interests of the child, the public safety or the functioning
165 of the youth court and then only to the following persons:

166 (a) The judge of another youth court or member of
167 another youth court staff;

168 (b) The court of the parties in a child custody or
169 adoption cause in another court;

170 (c) A judge of any other court or members of another
171 court staff;



172 (d) Representatives of a public or private agency
173 providing supervision or having custody of the child under order
174 of the youth court;

175 (e) Any person engaged in a bona fide research purpose,
176 provided that no information identifying the subject of the
177 records shall be made available to the researcher unless it is
178 absolutely essential to the research purpose and the judge gives
179 prior written approval, and the child, through his or her
180 representative, gives permission to release the information;

181 (f) The Mississippi Department of Employment Security,
182 or its duly authorized representatives, for the purpose of a
183 child's enrollment into the Job Corps Training Program as
184 authorized by Title IV of the Comprehensive Employment Training
185 Act of 1973 (29 USCS Section 923 et seq.). However, no records,
186 reports, investigations or information derived therefrom
187 pertaining to child abuse or neglect shall be disclosed;

188 (g) To any person pursuant to a finding by a judge of
189 the youth court of compelling circumstances affecting the health,
190 safety or well-being of a child and that such disclosure is in the
191 best interests of the child or an adult who was formerly the
192 subject of a youth court delinquency proceeding.

193 Law enforcement agencies may disclose information to the
194 public concerning the taking of a child into custody for the
195 commission of a delinquent act without the necessity of an order
196 from the youth court. The information released shall not identify



197 the child or his address unless the information involves a child
198 convicted as an adult.

199 (2) Any records involving children which are disclosed under
200 an order of the youth court or pursuant to the terms of this
201 section and the contents thereof shall be kept confidential by the
202 person or agency to whom the record is disclosed unless otherwise
203 provided in the order. Any further disclosure of any records
204 involving children shall be made only under an order of the youth
205 court as provided in this section.

206 (3) Upon request, the parent, guardian or custodian of the
207 child who is the subject of a youth court cause or any attorney
208 for such parent, guardian or custodian, shall have the right to
209 inspect any record, report or investigation which is to be
210 considered by the youth court at a hearing, except that the
211 identity of the reporter shall not be released, nor the name of
212 any other person where the person or agency making the information
213 available finds that disclosure of the information would be likely
214 to endanger the life or safety of such person. The attorney for
215 the parent, guardian or custodian of the child, upon request,
216 shall be provided a copy of any record, report or investigation,
217 that is to be considered by the youth court at a hearing, but the
218 identity of the reporter must be redacted and the name of any
219 other person must also be redacted if the person or agency making
220 the information available finds that disclosure of the information
221 would be likely to endanger the life, safety or well-being of the



222 person. A record provided to the attorney under this section,
223 must remain in the attorney's control and the attorney may not
224 provide copies or access to another person or entity without prior
225 consent of a court with appropriate jurisdiction.

226 (4) Upon request, the child who is the subject of a youth
227 court cause shall have the right to have his counsel inspect and
228 copy any record, report or investigation which is filed with the
229 youth court or which is to be considered by the youth court at a
230 hearing.

231 (5) (a) The youth court prosecutor or prosecutors, the
232 county attorney, the district attorney, the youth court defender
233 or defenders, or any attorney representing a child shall have the
234 right to inspect and copy any law enforcement record involving
235 children.

236 (b) The Department of * * * Child Protection Services
237 shall disclose to a county prosecuting attorney or district
238 attorney any and all records resulting from an investigation into
239 suspected child abuse or neglect when the case has been referred
240 by the Department of * * * Child Protection Services to the county
241 prosecuting attorney or district attorney for criminal
242 prosecution.

243 (c) Agency records made confidential under the
244 provisions of this section may be disclosed to a court of
245 competent jurisdiction.



246 (d) Records involving children shall be disclosed to
247 the Division of Victim Compensation of the Office of the Attorney
248 General upon the division's request without order of the youth
249 court for purposes of determination of eligibility for victim
250 compensation benefits.

251 (6) Information concerning an investigation into a report of
252 child abuse or child neglect may be disclosed by the Department
253 of * * * Child Protection Services without order of the youth
254 court to any attorney, physician, dentist, intern, resident,
255 nurse, psychologist, social worker, family protection worker,
256 family protection specialist, child caregiver, minister, law
257 enforcement officer, public or private school employee making that
258 report pursuant to Section 43-21-353(1) if the reporter has a
259 continuing professional relationship with the child and a need for
260 such information in order to protect or treat the child.

261 (7) Information concerning an investigation into a report of
262 child abuse or child neglect may be disclosed without further
263 order of the youth court to any interagency child abuse task force
264 established in any county or municipality by order of the youth
265 court of that county or municipality.

266 (8) Names and addresses of juveniles twice adjudicated as
267 delinquent for an act which would be a felony if committed by an
268 adult or for the unlawful possession of a firearm shall not be
269 held confidential and shall be made available to the public.



270 (9) Names and addresses of juveniles adjudicated as
271 delinquent for murder, manslaughter, burglary, arson, armed
272 robbery, aggravated assault, any sex offense as defined in Section
273 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
274 violation of Section 63-11-30, shall not be held confidential and
275 shall be made available to the public.

276 (10) The judges of the circuit and county courts, and
277 presentence investigators for the circuit courts, as provided in
278 Section 47-7-9, shall have the right to inspect any youth court
279 records of a person convicted of a crime for sentencing purposes
280 only.

281 (11) The victim of an offense committed by a child who is
282 the subject of a youth court cause shall have the right to be
283 informed of the child's disposition by the youth court.

284 (12) A classification hearing officer of the State
285 Department of Corrections, as provided in Section 47-5-103, shall
286 have the right to inspect any youth court records, excluding abuse
287 and neglect records, of any offender in the custody of the
288 department who as a child or minor was a juvenile offender or was
289 the subject of a youth court cause of action, and the State Parole
290 Board, as provided in Section 47-7-17, shall have the right to
291 inspect such records when the offender becomes eligible for
292 parole.

293 (13) The youth court shall notify the Department of Public
294 Safety of the name, and any other identifying information such



295 department may require, of any child who is adjudicated delinquent
296 as a result of a violation of the Uniform Controlled Substances
297 Law.

298 (14) The Administrative Office of Courts shall have the
299 right to inspect any youth court records in order that the number
300 of youthful offenders, abused, neglected, truant and dependent
301 children, as well as children in need of special care and children
302 in need of supervision, may be tracked with specificity through
303 the youth court and adult justice system, and to utilize tracking
304 forms for such purpose.

305 (15) Upon a request by a youth court, the Administrative
306 Office of Courts shall disclose all information at its disposal
307 concerning any previous youth court intakes alleging that a child
308 was a delinquent child, child in need of supervision, child in
309 need of special care, truant child, abused child or neglected
310 child, as well as any previous youth court adjudications for the
311 same and all dispositional information concerning a child who at
312 the time of such request comes under the jurisdiction of the youth
313 court making such request.

314 (16) The Administrative Office of Courts may, in its
315 discretion, disclose to the Department of Public Safety any or all
316 of the information involving children contained in the office's
317 youth court data management system known as Mississippi Youth
318 Court Information Delivery System or "MYCIDS."



319 (17) The youth courts of the state shall disclose to the
320 Joint Legislative Committee on Performance Evaluation and
321 Expenditure Review (PEER) any youth court records in order that
322 the number of youthful offenders, abused, neglected, truant and
323 dependent children, as well as children in need of special care
324 and children in need of supervision, may be tracked with
325 specificity through the youth court and adult justice system, and
326 to utilize tracking forms for such purpose. The disclosure
327 prescribed in this subsection shall not require a court order and
328 shall be made in sortable, electronic format where possible. The
329 PEER Committee may seek the assistance of the Administrative
330 Office of Courts in seeking this information. The PEER Committee
331 shall not disclose the identities of any youth who have been
332 adjudicated in the youth courts of the state and shall only use
333 the disclosed information for the purpose of monitoring the
334 effectiveness and efficiency of programs established to assist
335 adjudicated youth, and to ascertain the incidence of adjudicated
336 youth who become adult offenders.

337 (18) In every case where an abuse or neglect allegation has
338 been made, the confidentiality provisions of this section shall
339 not apply to prohibit access to a child's records by any state
340 regulatory agency, any state or local prosecutorial agency or law
341 enforcement agency; however, no identifying information concerning
342 the child in question may be released to the public by such agency
343 except as otherwise provided herein.



344 (19) In every case where there is any indication or
345 suggestion of either abuse or neglect and a child's physical
346 condition is medically labeled as medically "serious" or
347 "critical" or a child dies, the confidentiality provisions of this
348 section shall not apply. In cases of child deaths, the following
349 information may be released by the Mississippi Department of Human
350 Services and the Department of Child Protection Services: (a)
351 child's name; (b) address or location; (c) verification from the
352 Department of Human Services or the Department of Child Protection
353 Services of case status (no case or involvement, case exists, open
354 or active case, case closed); (d) if a case exists, the type of
355 report or case (physical abuse, neglect, etc.), date of intake(s)
356 and investigation(s), and case disposition (substantiated or
357 unsubstantiated). The Department of Human Services and the
358 Department of Child Protection Services shall promptly report all
359 child deaths to the appropriate law enforcement agency or agencies
360 for investigation. Notwithstanding the aforesaid, the
361 confidentiality provisions of this section shall continue if there
362 is a pending or planned investigation by any local, state or
363 federal governmental agency or institution.

364 (20) Any member of a foster care review board designated by
365 the Department of * * * Child Protection Services shall have the
366 right to inspect youth court records relating to the abuse,
367 neglect or child in need of supervision cases assigned to such
368 member for review.



369 (21) Information concerning an investigation into a report
370 of child abuse or child neglect may be disclosed without further
371 order of the youth court in any administrative or due process
372 hearing held, pursuant to Section 43-21-257, by the Department
373 of * * * Child Protection Services for individuals whose names
374 will be placed on the central registry as substantiated
375 perpetrators.

376 **SECTION 4.** This act shall take effect and be in force from
377 and after July 1, 2018.

