

By: Senator(s) Younger

To: Public Health and Welfare

SENATE BILL NO. 2460
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 43-21-353 AND 43-47-7, MISSISSIPPI
2 CODE OF 1972, TO REQUIRE PERSONS WHO MAKE REPORTS TO THE
3 DEPARTMENT OF CHILD PROTECTION SERVICES AND THE DEPARTMENT OF
4 HUMAN SERVICES ABOUT THE SUSPECTED NEGLECT OR ABUSE OF A CHILD OR
5 THE SUSPECTED ABUSE, NEGLECT OR EXPLOITATION OF A VULNERABLE
6 PERSON TO PROVIDE THEIR NAME, ADDRESS AND TELEPHONE NUMBER TO THE
7 DEPARTMENT; TO PROVIDE THAT THE NAME, ADDRESS AND TELEPHONE NUMBER
8 OF THE PERSON WHO MADE THE REPORT SHALL BE REDACTED FROM ALL
9 RECORDS IN CONNECTION WITH THE CASE AFTER THE CASE IS CLOSED; TO
10 PROVIDE THAT IN CASES OF REPORTS OF CHILD ABUSE OR NEGLECT TO THE
11 DEPARTMENT OF CHILD PROTECTION SERVICES, IF THE DEPARTMENT
12 DETERMINES THAT A PARENT OR OTHER PERSON RESPONSIBLE FOR THE CARE
13 OR WELFARE OF AN ABUSED OR NEGLECTED CHILD MAINTAINS ACTIVE DUTY
14 STATUS WITHIN THE MILITARY, THEN THE DEPARTMENT SHALL NOTIFY THE
15 APPLICABLE MILITARY INSTALLATION FAMILY ADVOCACY PROGRAM THAT
16 THERE IS AN ALLEGATION OF ABUSE OR NEGLECT THAT RELATES TO THAT
17 CHILD; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** Section 43-21-353, Mississippi Code of 1972, is
20 amended as follows:

21 43-21-353. (1) Any attorney, physician, dentist, intern,
22 resident, nurse, psychologist, social worker, family protection
23 worker, family protection specialist, child caregiver, minister,
24 law enforcement officer, public or private school employee or any
25 other person having reasonable cause to suspect that a child is a



26 neglected child or an abused child, shall cause an oral report to
27 be made immediately by telephone or otherwise and followed as soon
28 thereafter as possible by a report in writing to the Department
29 of * * * Child Protection Services, which shall contain the
30 information specified in subsection (2) of this section, and
31 immediately a referral shall be made by the Department of * * *
32 Child Protection Services to the youth court intake unit, which
33 unit shall promptly comply with Section 43-21-357. In the course
34 of an investigation, at the initial time of contact with the
35 individual(s) about whom a report has been made under this Youth
36 Court Act or with the individual(s) responsible for the health or
37 welfare of a child about whom a report has been made under this
38 chapter, the Department of * * * Child Protection Services shall
39 inform the individual of the specific complaints or allegations
40 made against the individual. Consistent with subsection (4), the
41 identity of the person who reported his or her suspicion shall not
42 be disclosed. Where appropriate, the Department of * * * Child
43 Protection Services shall additionally make a referral to the
44 youth court prosecutor.

45 Upon receiving a report that a child has been sexually
46 abused, or burned, tortured, mutilated or otherwise physically
47 abused in such a manner as to cause serious bodily harm, or upon
48 receiving any report of abuse that would be a felony under state
49 or federal law, the Department of * * * Child Protection Services
50 shall immediately notify the law enforcement agency in whose



51 jurisdiction the abuse occurred and shall notify the appropriate
52 prosecutor within forty-eight (48) hours, and the Department
53 of * * * Child Protection Services shall have the duty to provide
54 the law enforcement agency all the names and facts known at the
55 time of the report; this duty shall be of a continuing nature.
56 The law enforcement agency and the Department of * * * Child
57 Protection Services shall investigate the reported abuse
58 immediately and shall file a preliminary report with the
59 appropriate prosecutor's office within twenty-four (24) hours and
60 shall make additional reports as new or additional information or
61 evidence becomes available. The Department of * * * Child
62 Protection Services shall advise the clerk of the youth court and
63 the youth court prosecutor of all cases of abuse reported to the
64 department within seventy-two (72) hours and shall update such
65 report as information becomes available. In addition, if the
66 Department of Child Protection Services determines that a parent
67 or other person responsible for the care or welfare of an abused
68 or neglected child maintains active duty status within the
69 military, the department shall notify the applicable military
70 installation family advocacy program that there is an allegation
71 of abuse or neglect that relates to that child.

72 (2) Any report made to the Department of * * * Child
73 Protection Services under subsection (1) of this section shall
74 contain:



75 (a) The names and addresses of the child and his
76 parents or other persons responsible for his care, if known * * *;
77 (b) The child's age * * *;
78 (c) The nature and extent of the child's injuries,
79 including any evidence of previous injuries * * *;
80 (d) Any other information that might be helpful in
81 establishing the cause of the injury * * *;
82 (e) The identity of the perpetrator * * *; and
83 (f) The name, address and telephone number of the
84 person making the report.

85 (3) The Department of * * * Child Protection Services shall
86 maintain a statewide incoming wide-area telephone service or
87 similar service for the purpose of receiving reports of suspected
88 cases of child abuse; provided that any attorney, physician,
89 dentist, intern, resident, nurse, psychologist, social worker,
90 family protection worker, family protection specialist, child
91 caregiver, minister, law enforcement officer or public or private
92 school employee who is required to report under subsection (1) of
93 this section shall report in the manner required in subsection
94 (1).

95 (4) Reports of abuse and neglect made under this chapter and
96 the identity of the reporter are confidential except when the
97 court in which the investigation report is filed, in its
98 discretion, determines the testimony of the person reporting to be
99 material to a judicial proceeding or when the identity of the



100 reporter is released to law enforcement agencies and the
101 appropriate prosecutor pursuant to subsection (1). Reports made
102 under this section to any law enforcement agency or prosecutorial
103 officer are for the purpose of criminal investigation and
104 prosecution only and no information from these reports may be
105 released to the public except as provided by Section 43-21-261.
106 Disclosure of any information by the prosecutor shall be according
107 to the Mississippi Uniform Rules of Circuit and County Court
108 Procedure. The identity of the reporting party shall not be
109 disclosed to anyone other than law enforcement officers or
110 prosecutors without an order from the appropriate youth court.
111 The name, address and telephone number of the person who made the
112 report shall be redacted from all records in connection with the
113 case after the case is closed. Any person disclosing any reports
114 made under this section in a manner not expressly provided for in
115 this section or Section 43-21-261 shall be guilty of a misdemeanor
116 and subject to the penalties prescribed by Section 43-21-267.

117 (5) All final dispositions of law enforcement investigations
118 described in subsection (1) of this section shall be determined
119 only by the appropriate prosecutor or court. All final
120 dispositions of investigations by the Department of * * * Child
121 Protection Services as described in subsection (1) of this section
122 shall be determined only by the youth court. Reports made under
123 subsection (1) of this section by the Department of * * * Child
124 Protection Services to the law enforcement agency and to the



125 district attorney's office shall include the following, if known
126 to the department:

127 (a) The name and address of the child;

128 (b) The names and addresses of the parents;

129 (c) The name and address of the suspected perpetrator;

130 (d) The names and addresses of all witnesses, including
131 the reporting party if a material witness to the abuse;

132 (e) A brief statement of the facts indicating that the
133 child has been abused and any other information from the agency
134 files or known to the family protection worker or family
135 protection specialist making the investigation, including medical
136 records or other records, which may assist law enforcement or the
137 district attorney in investigating and/or prosecuting the case;
138 and

139 (f) What, if any, action is being taken by the
140 Department of * * * Child Protection Services.

141 (6) In any investigation of a report made under this chapter
142 of the abuse or neglect of a child as defined in Section
143 43-21-105(l) or (m), the Department of * * * Child Protection
144 Services may request the appropriate law enforcement officer with
145 jurisdiction to accompany the department in its investigation, and
146 in such cases the law enforcement officer shall comply with such
147 request.

148 (7) Anyone who willfully violates any provision of this
149 section shall be, upon being found guilty, punished by a fine not



150 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in
151 jail not to exceed one (1) year, or both.

152 (8) If a report is made directly to the Department of * * *
153 Child Protection Services that a child has been abused or
154 neglected in an out-of-home setting, a referral shall be made
155 immediately to the law enforcement agency in whose jurisdiction
156 the abuse occurred and the department shall notify the district
157 attorney's office within forty-eight (48) hours of such report.
158 The Department of * * * Child Protection Services shall
159 investigate the out-of-home setting report of abuse or neglect to
160 determine whether the child who is the subject of the report, or
161 other children in the same environment, comes within the
162 jurisdiction of the youth court and shall report to the youth
163 court the department's findings and recommendation as to whether
164 the child who is the subject of the report or other children in
165 the same environment require the protection of the youth court.
166 The law enforcement agency shall investigate the reported abuse
167 immediately and shall file a preliminary report with the district
168 attorney's office within forty-eight (48) hours and shall make
169 additional reports as new information or evidence becomes
170 available. If the out-of-home setting is a licensed facility, an
171 additional referral shall be made by the Department of * * * Child
172 Protection Services to the licensing agency. The licensing agency
173 shall investigate the report and shall provide the Department
174 of * * * Child Protection Services, the law enforcement agency and



175 the district attorney's office with their written findings from
176 such investigation as well as that licensing agency's
177 recommendations and actions taken.

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

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

185 43-47-7. (1) (a) Except as otherwise provided by Section
186 43-47-37 for vulnerable persons in care facilities and by Section
187 43-7-65 for the State Ombudsman Program, any person including, but
188 not limited to, the following, who knows or suspects that a
189 vulnerable person has been or is being abused, neglected or
190 exploited shall immediately report such knowledge or suspicion to
191 the Department of Human Services or to the county department of
192 human services where the vulnerable person is located:

193 (i) Attorney, physician, osteopathic physician,
194 medical examiner, chiropractor or nurse engaged in the admission,
195 examination, care or treatment of vulnerable persons;

196 (ii) Health professional or mental health
197 professional other than one listed in subparagraph (i);

198 (iii) Practitioner who relies solely on spiritual
199 means for healing;



200 (iv) Social worker, family protection worker,
201 family protection specialist or other professional care,
202 residential or institutional staff;

203 (v) State, county or municipal criminal justice
204 employee or law enforcement officer;

205 (vi) Human rights advocacy committee or Long-Term
206 care ombudsman council member; or

207 (vii) Accountant, stockbroker, financial advisor
208 or consultant, insurance agent or consultant, investment advisor
209 or consultant, financial planner, or any officer or employee of a
210 bank, savings and loan, credit union or any other financial
211 service provider.

212 (b) To the extent possible, a report made * * * under
213 paragraph (a) must contain, but need not be limited to, the
214 following information:

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

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

220 (iii) Name, address and telephone number of each
221 alleged perpetrator.

222 (iv) Name, address and telephone number of the
223 caregiver of the vulnerable person, if different from the alleged
224 perpetrator.



225 (v) Description of the neglect, exploitation,
226 physical or psychological injuries sustained.

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

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

232 (viii) * * * Name, address and telephone
233 number * * * of the person making the report * * *.

234 (c) The department, or its designees, shall report to
235 an appropriate criminal investigative or prosecutive authority any
236 person required by this section to report or who fails to comply
237 with this section. A person who fails to make a report as
238 required under this subsection or who, because of the
239 circumstances, should have known or suspected beyond a reasonable
240 doubt that a vulnerable person suffers from exploitation, abuse,
241 neglect or self-neglect but who knowingly fails to comply with
242 this section shall, upon conviction, be guilty of a misdemeanor
243 and shall be punished by a fine not exceeding Five Thousand
244 Dollars (\$5,000.00), or by imprisonment in the county jail for not
245 more than six (6) months, or both such fine and imprisonment.
246 However, for purposes of this subsection (1), any recognized legal
247 financial transaction shall not be considered cause to report the
248 knowledge or suspicion of the financial exploitation of a
249 vulnerable person. If a person convicted under this section is a



250 member of a profession or occupation that is licensed, certified
251 or regulated by the state, the court shall notify the appropriate
252 licensing, certifying or regulating entity of the conviction.

253 (2) Reports received by law enforcement authorities or other
254 agencies shall be forwarded immediately to the Department of Human
255 Services or the county department of human services. The
256 Department of Human Services shall investigate the reported abuse,
257 neglect or exploitation immediately and shall file a preliminary
258 report of its findings with the Office of the Attorney General
259 within forty-eight (48) hours if immediate attention is needed, or
260 seventy-two (72) hours if the vulnerable person is not in
261 immediate danger and shall make additional reports as new
262 information or evidence becomes available. The Department of
263 Human Services, upon request, shall forward a statement to the
264 person making the initial report required by this section as to
265 what action is being taken, if any.

266 (3) The report may be made orally or in writing, but where
267 made orally, it shall be followed up by a written report. A
268 person who fails to report or to otherwise comply with this
269 section, as provided herein, shall have no civil or criminal
270 liability, other than that expressly provided for in this section,
271 to any person or entity in connection with any failure to report
272 or to otherwise comply with the requirements of this section.

273 (4) Anyone who makes a report required by this section or
274 who testifies or participates in any judicial proceedings arising



275 from the report or who participates in a required investigation or
276 evaluation shall be presumed to be acting in good faith and in so
277 doing shall be immune from liability, civil or criminal, that
278 might otherwise be incurred or imposed. However, the immunity
279 provided under this subsection shall not apply to any suspect or
280 perpetrator of any abuse, neglect or exploitation.

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

285 (6) The Executive Director of the Department of Human
286 Services shall establish a statewide central register of reports
287 made pursuant to this section. The central register shall be
288 capable of receiving reports of vulnerable persons in need of
289 protective services seven (7) days a week, twenty-four (24) hours
290 a day. To effectuate this purpose, the executive director shall
291 establish a single toll-free statewide phone number that all
292 persons may use to report vulnerable persons in need of protective
293 services, and that all persons authorized by subsection (7) of
294 this section may use for determining the existence of prior
295 reports in order to evaluate the condition or circumstances of the
296 vulnerable person before them. Such oral reports and evidence of
297 previous reports shall be transmitted to the appropriate county
298 department of human services. The central register shall include,
299 but not be limited to, the following information: the name and



300 identifying information of the individual reported, the county
301 department of human services responsible for the investigation of
302 each such report, the names, affiliations and purposes of any
303 person requesting or receiving information which the executive
304 director believes might be helpful in the furtherance of the
305 purposes of this chapter, the name, address, birth date, social
306 security number of the perpetrator of abuse, neglect and/or
307 exploitation, and the type of abuse, neglect and/or exploitation
308 of which there was substantial evidence upon investigation of the
309 report. The central register shall inform the person making
310 reports required under this section of his or her right to request
311 statements from the department as to what action is being taken,
312 if any.

313 Each person, business, organization or other entity, whether
314 public or private, operated for profit, operated for nonprofit or
315 a voluntary unit of government not responsible for law enforcement
316 providing care, supervision or treatment of vulnerable persons
317 shall conduct criminal history records checks on each new employee
318 of the entity who provides, and/or would provide direct patient
319 care or services to adults or vulnerable persons, as provided in
320 Section 43-11-13.

321 The department shall not release data that would be harmful
322 or detrimental to the vulnerable person or that would identify or
323 locate a person who, in good faith, made a report or cooperated in



324 a subsequent investigation unless ordered to do so by a court of
325 competent jurisdiction.

326 The name, address and telephone number of the person who made
327 the report under this section shall be redacted from all records
328 in connection with the case after the case is closed.

329 (7) Reports made pursuant to this section, reports written
330 or photographs taken concerning such reports in the possession of
331 the Department of Human Services or the county department of human
332 services shall be confidential and shall only be made available
333 to:

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

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

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

342 (d) A district attorney or other law enforcement
343 official.

344 Notwithstanding the provisions of paragraph (b) of this
345 subsection, the department may not disclose a report of the
346 abandonment, exploitation, abuse, neglect or self-neglect of a
347 vulnerable person to the vulnerable person's guardian,
348 attorney-in-fact, surrogate decision maker, or caregiver who is a



349 perpetrator or alleged perpetrator of the abandonment,
350 exploitation, abuse or neglect of the vulnerable person.

351 Any person given access to the names or other information
352 identifying the subject of the report, except the subject of the
353 report, shall not divulge or make public such identifying
354 information unless he is a district attorney or other law
355 enforcement official and the purpose is to initiate court action.
356 Any person who willfully permits the release of any data or
357 information obtained pursuant to this section to persons or
358 agencies not permitted to such access by this section shall be
359 guilty of a misdemeanor.

360 (8) Upon reasonable cause to believe that a caretaker or
361 other person has abused, neglected or exploited a vulnerable
362 person, the department shall promptly notify the district attorney
363 of the county in which the vulnerable person is located and the
364 Office of the Attorney General, except as provided in Section
365 43-47-37(2).

366 **SECTION 3.** This act shall take effect and be in force from
367 and after July 1, 2018.

