

By: Representative Ladner

To: Public Health and Human Services

HOUSE BILL NO. 114

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; AND  
 10 FOR RELATED PURPOSES.

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

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

14 43-21-353. (1) Any attorney, physician, dentist, intern,  
 15 resident, nurse, psychologist, social worker, family protection  
 16 worker, family protection specialist, child caregiver, minister,  
 17 law enforcement officer, public or private school employee or any  
 18 other person having reasonable cause to suspect that a child is a  
 19 neglected child or an abused child, shall cause an oral report to  
 20 be made immediately by telephone or otherwise and followed as soon  
 21 thereafter as possible by a report in writing to the Department  
 22 of \* \* \* Child Protection Services, which shall contain the



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

38       Upon receiving a report that a child has been sexually  
39 abused, or burned, tortured, mutilated or otherwise physically  
40 abused in such a manner as to cause serious bodily harm, or upon  
41 receiving any report of abuse that would be a felony under state  
42 or federal law, the Department of \* \* \* Child Protection Services  
43 shall immediately notify the law enforcement agency in whose  
44 jurisdiction the abuse occurred and shall notify the appropriate  
45 prosecutor within forty-eight (48) hours, and the Department  
46 of \* \* \* Child Protection Services shall have the duty to provide  
47 the law enforcement agency all the names and facts known at the



48 time of the report; this duty shall be of a continuing nature.  
49 The law enforcement agency and the Department of \* \* \* Child  
50 Protection Services shall investigate the reported abuse  
51 immediately and shall file a preliminary report with the  
52 appropriate prosecutor's office within twenty-four (24) hours and  
53 shall make additional reports as new or additional information or  
54 evidence becomes available. The Department of \* \* \* Child  
55 Protection Services shall advise the clerk of the youth court and  
56 the youth court prosecutor of all cases of abuse reported to the  
57 department within seventy-two (72) hours and shall update such  
58 report as information becomes available.

59 (2) Any report made to the Department of \* \* \* Child  
60 Protection Services under subsection (1) of this section shall  
61 contain:

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

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

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

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

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

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



72           (3) The Department of \* \* \* Child Protection Services shall  
73 maintain a statewide incoming wide-area telephone service or  
74 similar service for the purpose of receiving reports of suspected  
75 cases of child abuse; provided that any attorney, physician,  
76 dentist, intern, resident, nurse, psychologist, social worker,  
77 family protection worker, family protection specialist, child  
78 caregiver, minister, law enforcement officer or public or private  
79 school employee who is required to report under subsection (1) of  
80 this section shall report in the manner required in subsection  
81 (1).

82           (4) Reports of abuse and neglect made under this chapter and  
83 the identity of the reporter are confidential except when the  
84 court in which the investigation report is filed, in its  
85 discretion, determines the testimony of the person reporting to be  
86 material to a judicial proceeding or when the identity of the  
87 reporter is released to law enforcement agencies and the  
88 appropriate prosecutor pursuant to subsection (1). Reports made  
89 under this section to any law enforcement agency or prosecutorial  
90 officer are for the purpose of criminal investigation and  
91 prosecution only and no information from these reports may be  
92 released to the public except as provided by Section 43-21-261.  
93 Disclosure of any information by the prosecutor shall be according  
94 to the Mississippi Uniform Rules of Circuit and County Court  
95 Procedure. The identity of the reporting party shall not be  
96 disclosed to anyone other than law enforcement officers or



97 prosecutors without an order from the appropriate youth court.  
98 The name, address and telephone number of the person who made the  
99 report shall be redacted from all records in connection with the  
100 case after the case is closed. Any person disclosing any reports  
101 made under this section in a manner not expressly provided for in  
102 this section or Section 43-21-261 shall be guilty of a misdemeanor  
103 and subject to the penalties prescribed by Section 43-21-267.

104 (5) All final dispositions of law enforcement investigations  
105 described in subsection (1) of this section shall be determined  
106 only by the appropriate prosecutor or court. All final  
107 dispositions of investigations by the Department of \* \* \* Child  
108 Protection Services as described in subsection (1) of this section  
109 shall be determined only by the youth court. Reports made under  
110 subsection (1) of this section by the Department of \* \* \* Child  
111 Protection Services to the law enforcement agency and to the  
112 district attorney's office shall include the following, if known  
113 to the department:

- 114 (a) The name and address of the child;  
115 (b) The names and addresses of the parents;  
116 (c) The name and address of the suspected perpetrator;  
117 (d) The names and addresses of all witnesses, including  
118 the reporting party if a material witness to the abuse;  
119 (e) A brief statement of the facts indicating that the  
120 child has been abused and any other information from the agency  
121 files or known to the family protection worker or family



122 protection specialist making the investigation, including medical  
123 records or other records, which may assist law enforcement or the  
124 district attorney in investigating and/or prosecuting the case;  
125 and

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

128 (6) In any investigation of a report made under this chapter  
129 of the abuse or neglect of a child as defined in Section  
130 43-21-105(l) or (m), the Department of \* \* \* Child Protection  
131 Services may request the appropriate law enforcement officer with  
132 jurisdiction to accompany the department in its investigation, and  
133 in such cases the law enforcement officer shall comply with such  
134 request.

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

139 (8) If a report is made directly to the Department of \* \* \*  
140 Child Protection Services that a child has been abused or  
141 neglected in an out-of-home setting, a referral shall be made  
142 immediately to the law enforcement agency in whose jurisdiction  
143 the abuse occurred and the department shall notify the district  
144 attorney's office within forty-eight (48) hours of such report.  
145 The Department of \* \* \* Child Protection Services shall  
146 investigate the out-of-home setting report of abuse or neglect to



147 determine whether the child who is the subject of the report, or  
148 other children in the same environment, comes within the  
149 jurisdiction of the youth court and shall report to the youth  
150 court the department's findings and recommendation as to whether  
151 the child who is the subject of the report or other children in  
152 the same environment require the protection of the youth court.  
153 The law enforcement agency shall investigate the reported abuse  
154 immediately and shall file a preliminary report with the district  
155 attorney's office within forty-eight (48) hours and shall make  
156 additional reports as new information or evidence becomes  
157 available. If the out-of-home setting is a licensed facility, an  
158 additional referral shall be made by the Department of \* \* \* Child  
159 Protection Services to the licensing agency. The licensing agency  
160 shall investigate the report and shall provide the Department  
161 of \* \* \* Child Protection Services, the law enforcement agency and  
162 the district attorney's office with their written findings from  
163 such investigation as well as that licensing agency's  
164 recommendations and actions taken.

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

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



172 43-47-7. (1) (a) Except as otherwise provided by Section  
173 43-47-37 for vulnerable persons in care facilities and by Section  
174 43-7-65 for the State Ombudsman Program, any person including, but  
175 not limited to, the following, who knows or suspects that a  
176 vulnerable person has been or is being abused, neglected or  
177 exploited shall immediately report such knowledge or suspicion to  
178 the Department of Human Services or to the county department of  
179 human services where the vulnerable person is located:

180 (i) Attorney, physician, osteopathic physician,  
181 medical examiner, chiropractor or nurse engaged in the admission,  
182 examination, care or treatment of vulnerable persons;

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

185 (iii) Practitioner who relies solely on spiritual  
186 means for healing;

187 (iv) Social worker, family protection worker,  
188 family protection specialist or other professional care,  
189 residential or institutional staff;

190 (v) State, county or municipal criminal justice  
191 employee or law enforcement officer;

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

194 (vii) Accountant, stockbroker, financial advisor  
195 or consultant, insurance agent or consultant, investment advisor  
196 or consultant, financial planner, or any officer or employee of a





197 bank, savings and loan, credit union or any other financial  
198 service provider.

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

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

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

207 (iii) Name, address and telephone number of each  
208 alleged perpetrator.

209 (iv) Name, address and telephone number of the  
210 caregiver of the vulnerable person, if different from the alleged  
211 perpetrator.

212 (v) Description of the neglect, exploitation,  
213 physical or psychological injuries sustained.

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

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

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



221 (c) The department, or its designees, shall report to  
222 an appropriate criminal investigative or prosecutive authority any  
223 person required by this section to report or who fails to comply  
224 with this section. A person who fails to make a report as  
225 required under this subsection or who, because of the  
226 circumstances, should have known or suspected beyond a reasonable  
227 doubt that a vulnerable person suffers from exploitation, abuse,  
228 neglect or self-neglect but who knowingly fails to comply with  
229 this section shall, upon conviction, be guilty of a misdemeanor  
230 and shall be punished by a fine not exceeding Five Thousand  
231 Dollars (\$5,000.00), or by imprisonment in the county jail for not  
232 more than six (6) months, or both such fine and imprisonment.  
233 However, for purposes of this subsection (1), any recognized legal  
234 financial transaction shall not be considered cause to report the  
235 knowledge or suspicion of the financial exploitation of a  
236 vulnerable person. If a person convicted under this section is a  
237 member of a profession or occupation that is licensed, certified  
238 or regulated by the state, the court shall notify the appropriate  
239 licensing, certifying or regulating entity of the conviction.

240 (2) Reports received by law enforcement authorities or other  
241 agencies shall be forwarded immediately to the Department of Human  
242 Services or the county department of human services. The  
243 Department of Human Services shall investigate the reported abuse,  
244 neglect or exploitation immediately and shall file a preliminary  
245 report of its findings with the Office of the Attorney General



246 within forty-eight (48) hours if immediate attention is needed, or  
247 seventy-two (72) hours if the vulnerable person is not in  
248 immediate danger and shall make additional reports as new  
249 information or evidence becomes available. The Department of  
250 Human Services, upon request, shall forward a statement to the  
251 person making the initial report required by this section as to  
252 what action is being taken, if any.

253 (3) The report may be made orally or in writing, but where  
254 made orally, it shall be followed up by a written report. A  
255 person who fails to report or to otherwise comply with this  
256 section, as provided herein, shall have no civil or criminal  
257 liability, other than that expressly provided for in this section,  
258 to any person or entity in connection with any failure to report  
259 or to otherwise comply with the requirements of this section.

260 (4) Anyone who makes a report required by this section or  
261 who testifies or participates in any judicial proceedings arising  
262 from the report or who participates in a required investigation or  
263 evaluation shall be presumed to be acting in good faith and in so  
264 doing shall be immune from liability, civil or criminal, that  
265 might otherwise be incurred or imposed. However, the immunity  
266 provided under this subsection shall not apply to any suspect or  
267 perpetrator of any abuse, neglect or exploitation.

268 (5) A person who intentionally makes a false report under  
269 the provisions of this section may be found liable in a civil suit



270 for any actual damages suffered by the person or persons so  
271 reported and for any punitive damages set by the court or jury.

272 (6) The Executive Director of the Department of Human  
273 Services shall establish a statewide central register of reports  
274 made pursuant to this section. The central register shall be  
275 capable of receiving reports of vulnerable persons in need of  
276 protective services seven (7) days a week, twenty-four (24) hours  
277 a day. To effectuate this purpose, the executive director shall  
278 establish a single toll-free statewide phone number that all  
279 persons may use to report vulnerable persons in need of protective  
280 services, and that all persons authorized by subsection (7) of  
281 this section may use for determining the existence of prior  
282 reports in order to evaluate the condition or circumstances of the  
283 vulnerable person before them. Such oral reports and evidence of  
284 previous reports shall be transmitted to the appropriate county  
285 department of human services. The central register shall include,  
286 but not be limited to, the following information: the name and  
287 identifying information of the individual reported, the county  
288 department of human services responsible for the investigation of  
289 each such report, the names, affiliations and purposes of any  
290 person requesting or receiving information which the executive  
291 director believes might be helpful in the furtherance of the  
292 purposes of this chapter, the name, address, birth date, social  
293 security number of the perpetrator of abuse, neglect and/or  
294 exploitation, and the type of abuse, neglect and/or exploitation



295 of which there was substantial evidence upon investigation of the  
296 report. The central register shall inform the person making  
297 reports required under this section of his or her right to request  
298 statements from the department as to what action is being taken,  
299 if any.

300 Each person, business, organization or other entity, whether  
301 public or private, operated for profit, operated for nonprofit or  
302 a voluntary unit of government not responsible for law enforcement  
303 providing care, supervision or treatment of vulnerable persons  
304 shall conduct criminal history records checks on each new employee  
305 of the entity who provides, and/or would provide direct patient  
306 care or services to adults or vulnerable persons, as provided in  
307 Section 43-11-13.

308 The department shall not release data that would be harmful  
309 or detrimental to the vulnerable person or that would identify or  
310 locate a person who, in good faith, made a report or cooperated in  
311 a subsequent investigation unless ordered to do so by a court of  
312 competent jurisdiction.

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

316 (7) Reports made pursuant to this section, reports written  
317 or photographs taken concerning such reports in the possession of  
318 the Department of Human Services or the county department of human



319 services shall be confidential and shall only be made available  
320 to:

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

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

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

329 (d) A district attorney or other law enforcement  
330 official.

331 Notwithstanding the provisions of paragraph (b) of this  
332 subsection, the department may not disclose a report of the  
333 abandonment, exploitation, abuse, neglect or self-neglect of a  
334 vulnerable person to the vulnerable person's guardian,  
335 attorney-in-fact, surrogate decision maker, or caregiver who is a  
336 perpetrator or alleged perpetrator of the abandonment,  
337 exploitation, abuse or neglect of the vulnerable person.

338 Any person given access to the names or other information  
339 identifying the subject of the report, except the subject of the  
340 report, shall not divulge or make public such identifying  
341 information unless he is a district attorney or other law  
342 enforcement official and the purpose is to initiate court action.

343 Any person who willfully permits the release of any data or



344 information obtained pursuant to this section to persons or  
345 agencies not permitted to such access by this section shall be  
346 guilty of a misdemeanor.

347 (8) Upon reasonable cause to believe that a caretaker or  
348 other person has abused, neglected or exploited a vulnerable  
349 person, the department shall promptly notify the district attorney  
350 of the county in which the vulnerable person is located and the  
351 Office of the Attorney General, except as provided in Section  
352 43-47-37(2).

353 **SECTION 3.** This act shall take effect and be in force from  
354 and after July 1, 2019.

