

By: Representative Henley

To: Judiciary B

HOUSE BILL NO. 1030

1 AN ACT TO AMEND SECTION 43-21-353, MISSISSIPPI CODE OF 1972,
2 TO CREATE PENALTIES FOR MAKING A FALSE REPORT OF CHILD ABUSE AND
3 NEGLECT; AND FOR RELATED PURPOSES.

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

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

7 43-21-353. (1) Any attorney, physician, dentist, intern,
8 resident, nurse, psychologist, social worker, family protection
9 worker, family protection specialist, child caregiver, minister,
10 law enforcement officer, public or private school employee or any
11 other person having reasonable cause to suspect that a child is a
12 neglected child or an abused child, shall cause an oral report to
13 be made immediately by telephone or otherwise and followed as soon
14 thereafter as possible by a report in writing to the Department of
15 Human Services, and immediately a referral shall be made by the
16 Department of Human Services to the youth court intake unit, which
17 unit shall promptly comply with Section 43-21-357. In the course
18 of an investigation, at the initial time of contact with the



19 individual(s) about whom a report has been made under this Youth
20 Court Act or with the individual(s) responsible for the health or
21 welfare of a child about whom a report has been made under this
22 chapter, the Department of Human Services shall inform the
23 individual of the specific complaints or allegations made against
24 the individual. Consistent with subsection (4), the identity of
25 the person who reported his or her suspicion shall not be
26 disclosed. Where appropriate, the Department of Human Services
27 shall additionally make a referral to the youth court prosecutor.

28 Upon receiving a report that a child has been sexually
29 abused, or burned, tortured, mutilated or otherwise physically
30 abused in such a manner as to cause serious bodily harm, or upon
31 receiving any report of abuse that would be a felony under state
32 or federal law, the Department of Human Services shall immediately
33 notify the law enforcement agency in whose jurisdiction the abuse
34 occurred and shall notify the appropriate prosecutor within
35 forty-eight (48) hours, and the Department of Human Services shall
36 have the duty to provide the law enforcement agency all the names
37 and facts known at the time of the report; this duty shall be of a
38 continuing nature. The law enforcement agency and the Department
39 of Human Services shall investigate the reported abuse immediately
40 and shall file a preliminary report with the appropriate
41 prosecutor's office within twenty-four (24) hours and shall make
42 additional reports as new or additional information or evidence
43 becomes available. The Department of Human Services shall advise



44 the clerk of the youth court and the youth court prosecutor of all
45 cases of abuse reported to the department within seventy-two (72)
46 hours and shall update such report as information becomes
47 available.

48 (2) Any report to the Department of Human Services shall
49 contain the names and addresses of the child and his parents or
50 other persons responsible for his care, if known, the child's age,
51 the nature and extent of the child's injuries, including any
52 evidence of previous injuries * * *,any other information that
53 might be helpful in establishing the cause of the injury, and the
54 identity of the perpetrator.

55 (3) The Department of Human Services shall maintain a
56 statewide incoming wide-area telephone service or similar service
57 for the purpose of receiving reports of suspected cases of child
58 abuse; provided that any attorney, physician, dentist, intern,
59 resident, nurse, psychologist, social worker, family protection
60 worker, family protection specialist, child caregiver, minister,
61 law enforcement officer or public or private school employee who
62 is required to report under subsection (1) of this section shall
63 report in the manner required in subsection (1).

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



69 reporter is released to law enforcement agencies and the
70 appropriate prosecutor pursuant to subsection (1). Reports made
71 under this section to any law enforcement agency or prosecutorial
72 officer are for the purpose of criminal investigation and
73 prosecution only and no information from these reports may be
74 released to the public except as provided by Section 43-21-261.
75 Disclosure of any information by the prosecutor shall be according
76 to the Mississippi Uniform Rules of Circuit and County Court
77 Procedure. The identity of the reporting party shall not be
78 disclosed to anyone other than law enforcement officers or
79 prosecutors without an order from the appropriate youth court.
80 Any person disclosing any reports made under this section in a
81 manner not expressly provided for in this section or Section
82 43-21-261 shall be guilty of a misdemeanor and subject to the
83 penalties prescribed by Section 43-21-267.

84 (5) All final dispositions of law enforcement investigations
85 described in subsection (1) of this section shall be determined
86 only by the appropriate prosecutor or court. All final
87 dispositions of investigations by the Department of Human Services
88 as described in subsection (1) of this section shall be determined
89 only by the youth court. Reports made under subsection (1) of
90 this section by the Department of Human Services to the law
91 enforcement agency and to the district attorney's office shall
92 include the following, if known to the department:

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



(b) The names and addresses of the parents;
(c) The name and address of the suspected perpetrator;
(d) The names and addresses of all witnesses, including the reporting party if a material witness to the abuse;
(e) A brief statement of the facts indicating that the child has been abused and any other information from the agency files or known to the family protection worker or family protection specialist making the investigation, including medical records or other records, which may assist law enforcement or the district attorney in investigating and/or prosecuting the case;
and

(f) What, if any, action is being taken by the Department of Human Services.

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

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

(8) If a report is made directly to the Department of Human Services that a child has been abused or neglected in an



119 out-of-home setting, a referral shall be made immediately to the
120 law enforcement agency in whose jurisdiction the abuse occurred
121 and the department shall notify the district attorney's office
122 within forty-eight (48) hours of such report. The Department of
123 Human Services shall investigate the out-of-home setting report of
124 abuse or neglect to determine whether the child who is the subject
125 of the report, or other children in the same environment, comes
126 within the jurisdiction of the youth court and shall report to the
127 youth court the department's findings and recommendation as to
128 whether the child who is the subject of the report or other
129 children in the same environment require the protection of the
130 youth court. The law enforcement agency shall investigate the
131 reported abuse immediately and shall file a preliminary report
132 with the district attorney's office within forty-eight (48) hours
133 and shall make additional reports as new information or evidence
134 becomes available. If the out-of-home setting is a licensed
135 facility, an additional referral shall be made by the Department
136 of Human Services to the licensing agency. The licensing agency
137 shall investigate the report and shall provide the Department of
138 Human Services, the law enforcement agency and the district
139 attorney's office with their written findings from such
140 investigation as well as that licensing agency's recommendations
141 and actions taken.

142 (9) If a child protective investigation does not result in
143 an out-of-home placement, a child protective investigator must



144 provide information to the parent or guardians about community
145 service programs that provide respite care, voluntary guardianship
146 or other support services for families in crisis.

147 (10) Any person who knowingly makes a false report of abuse
148 and neglect of a child, or counsels another to make a false report
149 of such shall be civilly liable for damages suffered by the
150 subject of the report, including reasonable attorney's fees and
151 any other costs incurred as a result of the filing of the false
152 report.

153 **SECTION 2.** This act shall take effect and be in force from
154 and after July 1, 2019.

