

House Amendments to Senate Bill No. 2576

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

10 **SECTION 1.** Section 97-35-47, Mississippi Code of 1972, is
11 amended as follows:
12 97-35-47. It shall be unlawful for any person to report a
13 crime or any element of a crime, including an allegation of child
14 abuse or neglect, to any law enforcement agency or officer, the
15 Department of Child Protection Services, or any officer of any
16 court, by any means, knowing that * * * the report is false. A
17 violation of this section shall be punishable by imprisonment in
18 the county jail not to exceed one (1) year or by fine not to
19 exceed Five Thousand Dollars (\$5,000.00), or both. In addition to
20 any fine and imprisonment, and upon proper showing made to the
21 court, the defendant shall be ordered to pay as restitution to the
22 law enforcement agency reimbursement for any reasonable costs
23 directly related to the investigation of the falsely reported
24 crime and the prosecution of any person convicted under this
25 section.

26 A report is false under this section if no rational argument
27 can be advanced in its support, when it is unsupported by any
28 credible evidence, when a reasonable person could not have
29 expected its success, or when it is completely untenable.

30 **SECTION 2.** Section 43-21-257, Mississippi Code of 1972, is
31 amended as follows:

32 43-21-257. (1) Unless otherwise provided in this section,
33 any record involving children, including valid and invalid
34 complaints, and the contents thereof maintained by the Department
35 of * * * Child Protection Services, or any other state agency,
36 shall be kept confidential and shall not be disclosed except as
37 provided in Section 43-21-261.

38 (2) The * * * Department of Child Protection Services shall
39 maintain a state central registry containing the number and
40 disposition of all cases together with such other useful
41 information regarding those cases as may be requested and is
42 obtainable from the records of the youth court. The * * *
43 Department of Child Protection Services shall annually publish a
44 statistical record of the number and disposition of all cases, but
45 the names or identity of any children shall not be disclosed in
46 the reports or records. The * * * Department of Child Protection
47 Services shall adopt such rules as may be necessary to carry out
48 this subsection. The central registry files and the contents
49 thereof shall be confidential and shall not be open to public
50 inspection. Any person who discloses or encourages the disclosure
51 of any record involving children from the central registry shall

52 be subject to the penalty in Section 43-21-267. The youth court
53 shall furnish, upon forms provided by the * * * Department of
54 Child Protection Services, the necessary information, and these
55 completed forms shall be forwarded to the * * * Department of
56 Child Protection Services.

57 (3) The Department of * * * Child Protection Services shall
58 maintain a state central registry on neglect and abuse cases
59 containing (a) the name, address and age of each child, (b) the
60 nature of the harm reported, (c) the name and address of the
61 person responsible for the care of the child, and (d) the name and
62 address of the substantiated perpetrator of the harm reported.
63 "Substantiated perpetrator" shall be defined as an individual who
64 has committed an act(s) of sexual abuse or physical abuse that
65 would otherwise be deemed as a felony or any child neglect that
66 would be deemed as a threat to life, as determined upon
67 investigation by the Office of Family and Children's Services.
68 "Substantiation" for the purposes of the Mississippi Department
69 of * * * Child Protection Services Central Registry shall require
70 a criminal conviction or an adjudication by a youth court judge or
71 court of competent jurisdiction, ordering that the name of the
72 perpetrator be listed on the central registry, pending due
73 process. The Department of * * * Child Protection Services shall
74 adopt such rules and administrative procedures, especially those
75 procedures to afford due process to individuals who have been
76 named as substantiated perpetrators before the release of their
77 name from the central registry, as may be necessary to carry out

78 this subsection. The central registry shall be confidential and
79 shall not be open to public inspection. Any person who discloses
80 or encourages the disclosure of any record involving children from
81 the central registry without following the rules and
82 administrative procedures of the department shall be subject to
83 the penalty in Section 43-21-267. The Department of * * * Child
84 Protection Services and its employees are exempt from any civil
85 liability as a result of any action taken pursuant to the
86 compilation and/or release of information on the central registry
87 under this section and any other applicable section of the code,
88 unless determined that an employee has willfully and maliciously
89 violated the rules and administrative procedures of the
90 department, pertaining to the central registry or any section of
91 this code. If an employee is determined to have willfully and
92 maliciously performed such a violation, said employee shall not be
93 exempt from civil liability in this regard.

94 (4) The Mississippi State Department of Health may release
95 the findings of investigations into allegations of abuse within
96 licensed day care centers made under the provisions of Section
97 43-21-353(8) to any parent of a child who is enrolled in the day
98 care center at the time of the alleged abuse or at the time the
99 request for information is made. The findings of any such
100 investigation may also be released to parents who are considering
101 placing children in the day care center. No information
102 concerning those investigations may contain the names or
103 identifying information of individual children.

104 The Department of Health shall not be held civilly liable for
105 the release of information on any findings, recommendations or
106 actions taken pursuant to investigations of abuse that have been
107 conducted under Section 43-21-353(8).

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

110 43-21-261. (1) Except as otherwise provided in this
111 section, records involving children shall not be disclosed, other
112 than to necessary staff of the youth court or a Court-Appointed
113 Special Advocate (CASA) volunteer that may be assigned in an abuse
114 and neglect case, except pursuant to an order of the youth court
115 specifying the person or persons to whom the records may be
116 disclosed, the extent of the records which may be disclosed and
117 the purpose of the disclosure. Such court orders for disclosure
118 shall be limited to those instances in which the youth court
119 concludes, in its discretion, that disclosure is required for the
120 best interests of the child, the public safety * * *, the
121 functioning of the youth court, or to identify a person who
122 knowingly made a false accusation of child abuse or neglect, and
123 then only to the following persons:

124 (a) The judge of another youth court or member of
125 another youth court staff;

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

128 (c) A judge of any other court or members of another
129 court staff;

130 (d) Representatives of a public or private agency
131 providing supervision or having custody of the child under order
132 of the youth court;

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

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

146 (g) To any person pursuant to a finding by a judge of
147 the youth court of compelling circumstances affecting the health,
148 safety or well-being of a child and that such disclosure is in the
149 best interests of the child or an adult who was formerly the
150 subject of a youth court delinquency proceeding * * *;

151 (h) To a person who was the subject of a knowingly made
152 false allegation of child abuse or neglect which has resulted in a
153 conviction of a perpetrator in accordance with Section 97-35-47 or
154 which allegation was referred by the department of child

155 protection services to a prosecutor or law enforcement official in
156 accordance with the provisions of this Section 43-21-353(4).

157 Law enforcement agencies may disclose information to the
158 public concerning the taking of a child into custody for the
159 commission of a delinquent act without the necessity of an order
160 from the youth court. The information released shall not identify
161 the child or his address unless the information involves a child
162 convicted as an adult.

163 (2) Any records involving children which are disclosed under
164 an order of the youth court or pursuant to the terms of this
165 section and the contents thereof shall be kept confidential by the
166 person or agency to whom the record is disclosed unless otherwise
167 provided in the order. Any further disclosure of any records
168 involving children shall be made only under an order of the youth
169 court as provided in this section.

170 (3) Upon request, the parent, guardian or custodian of the
171 child who is the subject of a youth court cause or any attorney
172 for such parent, guardian or custodian, shall have the right to
173 inspect any record, report or investigation which is to be
174 considered by the youth court at a hearing, except that the
175 identity of the reporter shall not be released, nor the name of
176 any other person where the person or agency making the information
177 available finds that disclosure of the information would be likely
178 to endanger the life or safety of such person. The attorney for
179 the parent, guardian or custodian of the child, upon request,
180 shall be provided a copy of any record, report or

181 investigation * * * that is to be considered by the youth court at
182 a hearing, but the identity of the reporter must be redacted and
183 the name of any other person must also be redacted if the person
184 or agency making the information available finds that disclosure
185 of the information would be likely to endanger the life, safety or
186 well-being of the person. A record provided to the attorney under
187 this section * * * must remain in the attorney's control and the
188 attorney may not provide copies or access to another person or
189 entity without prior consent of a court with appropriate
190 jurisdiction.

191 (4) Upon request, the child who is the subject of a youth
192 court cause shall have the right to have his counsel inspect and
193 copy any record, report or investigation which is filed with the
194 youth court or which is to be considered by the youth court at a
195 hearing.

196 (5) (a) The youth court prosecutor or prosecutors, the
197 county attorney, the district attorney, the youth court defender
198 or defenders, or any attorney representing a child shall have the
199 right to inspect and copy any law enforcement record involving
200 children.

201 (b) The Department of * * * Child Protection Services
202 shall disclose to a county prosecuting attorney or district
203 attorney any and all records resulting from an investigation into
204 suspected child abuse or neglect when the case has been referred
205 by the Department of * * * Child Protection Services to the county

206 prosecuting attorney or district attorney for criminal
207 prosecution.

208 (c) Agency records made confidential under the
209 provisions of this section may be disclosed to a court of
210 competent jurisdiction.

211 (d) Records involving children shall be disclosed to
212 the Division of Victim Compensation of the Office of the Attorney
213 General upon the division's request without order of the youth
214 court for purposes of determination of eligibility for victim
215 compensation benefits.

216 (6) Information concerning an investigation into a report of
217 child abuse or child neglect may be disclosed by the Department
218 of * * * Child Protection Services without order of the youth
219 court to any attorney, physician, dentist, intern, resident,
220 nurse, psychologist, social worker, family protection worker,
221 family protection specialist, child caregiver, minister, law
222 enforcement officer, public or private school employee making that
223 report pursuant to Section 43-21-353(1) if the reporter has a
224 continuing professional relationship with the child and a need for
225 such information in order to protect or treat the child.

226 (7) Information concerning an investigation into a report of
227 child abuse or child neglect may be disclosed without further
228 order of the youth court to any interagency child abuse task force
229 established in any county or municipality by order of the youth
230 court of that county or municipality.

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

235 (9) Names and addresses of juveniles adjudicated as
236 delinquent for murder, manslaughter, burglary, arson, armed
237 robbery, aggravated assault, any sex offense as defined in Section
238 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
239 violation of Section 63-11-30, shall not be held confidential and
240 shall be made available to the public.

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

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

249 (12) A classification hearing officer of the State
250 Department of Corrections, as provided in Section 47-5-103, shall
251 have the right to inspect any youth court records, excluding abuse
252 and neglect records, of any offender in the custody of the
253 department who as a child or minor was a juvenile offender or was
254 the subject of a youth court cause of action, and the State Parole
255 Board, as provided in Section 47-7-17, shall have the right to

256 inspect such records when the offender becomes eligible for
257 parole.

258 (13) The youth court shall notify the Department of Public
259 Safety of the name, and any other identifying information such
260 department may require, of any child who is adjudicated delinquent
261 as a result of a violation of the Uniform Controlled Substances
262 Law.

263 (14) The Administrative Office of Courts shall have the
264 right to inspect any youth court records in order that the number
265 of youthful offenders, abused, neglected, truant and dependent
266 children, as well as children in need of special care and children
267 in need of supervision, may be tracked with specificity through
268 the youth court and adult justice system, and to utilize tracking
269 forms for such purpose.

270 (15) Upon a request by a youth court, the Administrative
271 Office of Courts shall disclose all information at its disposal
272 concerning any previous youth court intakes alleging that a child
273 was a delinquent child, child in need of supervision, child in
274 need of special care, truant child, abused child or neglected
275 child, as well as any previous youth court adjudications for the
276 same and all dispositional information concerning a child who at
277 the time of such request comes under the jurisdiction of the youth
278 court making such request.

279 (16) The Administrative Office of Courts may, in its
280 discretion, disclose to the Department of Public Safety any or all
281 of the information involving children contained in the office's

282 youth court data management system known as Mississippi Youth
283 Court Information Delivery System or "MYCIDS."

284 (17) The youth courts of the state shall disclose to the
285 Joint Legislative Committee on Performance Evaluation and
286 Expenditure Review (PEER) any youth court records in order that
287 the number of youthful offenders, abused, neglected, truant and
288 dependent children, as well as children in need of special care
289 and children in need of supervision, may be tracked with
290 specificity through the youth court and adult justice system, and
291 to utilize tracking forms for such purpose. The disclosure
292 prescribed in this subsection shall not require a court order and
293 shall be made in sortable, electronic format where possible. The
294 PEER Committee may seek the assistance of the Administrative
295 Office of Courts in seeking this information. The PEER Committee
296 shall not disclose the identities of any youth who have been
297 adjudicated in the youth courts of the state and shall only use
298 the disclosed information for the purpose of monitoring the
299 effectiveness and efficiency of programs established to assist
300 adjudicated youth, and to ascertain the incidence of adjudicated
301 youth who become adult offenders.

302 (18) In every case where an abuse or neglect allegation has
303 been made, the confidentiality provisions of this section shall
304 not apply to prohibit access to a child's records by any state
305 regulatory agency, any state or local prosecutorial agency or law
306 enforcement agency; however, no identifying information concerning

307 the child in question may be released to the public by such agency
308 except as otherwise provided herein.

309 (19) In every case where there is any indication or
310 suggestion of either abuse or neglect and a child's physical
311 condition is medically labeled as medically "serious" or
312 "critical" or a child dies, the confidentiality provisions of this
313 section shall not apply. In cases of child deaths, the following
314 information may be released by the Mississippi Department of * * *
315 Child Protection Services: (a) child's name; (b) address or
316 location; (c) verification from the Department of * * * Child
317 Protection Services of case status (no case or involvement, case
318 exists, open or active case, case closed); (d) if a case exists,
319 the type of report or case (physical abuse, neglect, etc.), date
320 of intake(s) and investigation(s), and case disposition
321 (substantiated or unsubstantiated). Notwithstanding the
322 aforesaid, the confidentiality provisions of this section shall
323 continue if there is a pending or planned investigation by any
324 local, state or federal governmental agency or institution.

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

330 (21) Information concerning an investigation into a report
331 of child abuse or child neglect may be disclosed without further
332 order of the youth court in any administrative or due process

333 hearing held, pursuant to Section 43-21-257, by the Department
334 of * * * Child Protection Services for individuals whose names
335 will be placed on the central registry as substantiated
336 perpetrators.

337 **SECTION 4.** Section 43-21-353, Mississippi Code of 1972, is
338 amended as follows:

339 43-21-353. (1) Any attorney, physician, dentist, intern,
340 resident, nurse, psychologist, social worker, family protection
341 worker, family protection specialist, child caregiver, minister,
342 law enforcement officer, public or private school employee or any
343 other person having reasonable cause to suspect that a child is a
344 neglected child or an abused child, shall cause an oral report to
345 be made immediately by telephone or otherwise and followed as soon
346 thereafter as possible by a report in writing to the Department
347 of * * * Child Protection Services, and immediately a referral
348 shall be made by the Department of * * * Child Protection Services
349 to the youth court intake unit, which unit shall promptly comply
350 with Section 43-21-357. In the course of an investigation, at the
351 initial time of contact with the individual(s) about whom a report
352 has been made under this Youth Court Act or with the individual(s)
353 responsible for the health or welfare of a child about whom a
354 report has been made under this chapter, the Department of * * *
355 Child Protection Services shall inform the individual of the
356 specific complaints or allegations made against the individual.
357 Consistent with subsection (4), the identity of the person who
358 reported his or her suspicion shall not be disclosed at that

359 point. Where appropriate, the Department of * * * Child
360 Protection Services shall additionally make a referral to the
361 youth court prosecutor.

362 Upon receiving a report that a child has been sexually
363 abused, or burned, tortured, mutilated or otherwise physically
364 abused in such a manner as to cause serious bodily harm, or upon
365 receiving any report of abuse that would be a felony under state
366 or federal law, the Department of * * * Child Protection Services
367 shall immediately notify the law enforcement agency in whose
368 jurisdiction the abuse occurred and shall notify the appropriate
369 prosecutor within forty-eight (48) hours, and the Department
370 of * * * Child Protection Services shall have the duty to provide
371 the law enforcement agency all the names and facts known at the
372 time of the report; this duty shall be of a continuing nature.
373 The law enforcement agency and the Department of * * * Child
374 Protection Services shall investigate the reported abuse
375 immediately and shall file a preliminary report with the
376 appropriate prosecutor's office within twenty-four (24) hours and
377 shall make additional reports as new or additional information or
378 evidence becomes available. The Department of * * * Child
379 Protection Services shall advise the clerk of the youth court and
380 the youth court prosecutor of all cases of abuse reported to the
381 department within seventy-two (72) hours and shall update such
382 report as information becomes available.

383 (2) Any report to the Department of * * * Child Protection
384 Services shall contain the names and addresses of the child and

385 his parents or other persons responsible for his care, if known,
386 the child's age, the nature and extent of the child's injuries,
387 including any evidence of previous injuries * * *, any other
388 information that might be helpful in establishing the cause of the
389 injury, and the identity of the perpetrator.

390 (3) The Department of * * * Child Protection Services shall
391 maintain a statewide incoming wide-area telephone service or
392 similar service for the purpose of receiving reports of suspected
393 cases of child abuse; provided that any attorney, physician,
394 dentist, intern, resident, nurse, psychologist, social worker,
395 family protection worker, family protection specialist, child
396 caregiver, minister, law enforcement officer or public or private
397 school employee who is required to report under subsection (1) of
398 this section shall report in the manner required in subsection
399 (1).

400 (4) Reports of abuse and neglect made under this chapter and
401 the identity of the reporter are confidential except when the
402 court in which the investigation report is filed, in its
403 discretion, determines the testimony of the person reporting to be
404 material to a judicial proceeding or when the identity of the
405 reporter is released to law enforcement agencies and the
406 appropriate prosecutor pursuant to subsection (1). Reports made
407 under this section to any law enforcement agency or prosecutorial
408 officer are for the purpose of criminal investigation and
409 prosecution only and no information from these reports may be
410 released to the public except as provided by Section 43-21-261.

411 Disclosure of any information by the prosecutor shall be according
412 to the Mississippi Uniform Rules of Circuit and County Court
413 Procedure. The identity of the reporting party shall not be
414 disclosed to anyone other than law enforcement officers or
415 prosecutors without an order from the appropriate youth court.
416 Any person disclosing any reports made under this section in a
417 manner not expressly provided for in this section or Section
418 43-21-261 shall be guilty of a misdemeanor and subject to the
419 penalties prescribed by Section 43-21-267. Notwithstanding the
420 confidentiality of the reporter's identity under this section, the
421 Department of Child Protection Services may disclose a reporter's
422 identity to the appropriate law enforcement agency or prosecutor
423 if the department has reason to suspect the reporter has made a
424 fraudulent report, and Child Protection Services must provide to
425 the subject of the alleged fraudulent report written notification
426 of the disclosure.

427 (5) All final dispositions of law enforcement investigations
428 described in subsection (1) of this section shall be determined
429 only by the appropriate prosecutor or court. All final
430 dispositions of investigations by the Department of * * * Child
431 Protection Services as described in subsection (1) of this section
432 shall be determined only by the youth court. Reports made under
433 subsection (1) of this section by the Department of * * * Child
434 Protection Services to the law enforcement agency and to the
435 district attorney's office shall include the following, if known
436 to the department:

437 (a) The name and address of the child;
438 (b) The names and addresses of the parents;
439 (c) The name and address of the suspected perpetrator;
440 (d) The names and addresses of all witnesses, including
441 the reporting party if a material witness to the abuse;
442 (e) A brief statement of the facts indicating that the
443 child has been abused and any other information from the agency
444 files or known to the family protection worker or family
445 protection specialist making the investigation, including medical
446 records or other records, which may assist law enforcement or the
447 district attorney in investigating and/or prosecuting the case;
448 and
449 (f) What, if any, action is being taken by the
450 Department of * * * Child Protection Services.

451 (6) In any investigation of a report made under this chapter
452 of the abuse or neglect of a child as defined in Section
453 43-21-105(m), the Department of * * * Child Protection Services
454 may request the appropriate law enforcement officer with
455 jurisdiction to accompany the department in its investigation, and
456 in such cases the law enforcement officer shall comply with such
457 request.

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

462 (8) If a report is made directly to the Department of * * *
463 Child Protection Services that a child has been abused or
464 neglected in an out-of-home setting, a referral shall be made
465 immediately to the law enforcement agency in whose jurisdiction
466 the abuse occurred and the department shall notify the district
467 attorney's office within forty-eight (48) hours of such report.
468 The Department of * * * Child Protection Services shall
469 investigate the out-of-home setting report of abuse or neglect to
470 determine whether the child who is the subject of the report, or
471 other children in the same environment, comes within the
472 jurisdiction of the youth court and shall report to the youth
473 court the department's findings and recommendation as to whether
474 the child who is the subject of the report or other children in
475 the same environment require the protection of the youth court.
476 The law enforcement agency shall investigate the reported abuse
477 immediately and shall file a preliminary report with the district
478 attorney's office within forty-eight (48) hours and shall make
479 additional reports as new information or evidence becomes
480 available. If the out-of-home setting is a licensed facility, an
481 additional referral shall be made by the Department of * * * Child
482 Protection Services to the licensing agency. The licensing agency
483 shall investigate the report and shall provide the Department
484 of * * * Child Protection Services, the law enforcement agency and
485 the district attorney's office with their written findings from
486 such investigation as well as that licensing agency's
487 recommendations and actions taken.

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

493 **SECTION 5.** This act shall take effect and be in force from
494 and after July 1, 2019.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 97-35-47, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE FALSE REPORT OF CHILD ABUSE OR NEGLECT TO THE
3 DEPARTMENT OF CHILD PROTECTION SERVICES SHALL BE PUNISHABLE AS A
4 MISDEMEANOR; TO AMEND SECTIONS 43-21-257, 43-21-261 AND 43-21-353,
5 MISSISSIPPI CODE OF 1972, TO REVISE THE APPROPRIATE RELEASE OF THE
6 IDENTITY OF A REPORTER WHO KNOWINGLY REPORTED A FALSE ALLEGATION
7 OF CHILD ABUSE OR NEGLECT, AND TO CORRECT REFERENCES TO THE
8 DEPARTMENT OF CHILD PROTECTION SERVICES; AND FOR RELATED PURPOSES.

HR43\SB2576A.J

Andrew Ketchings
Clerk of the House of Representatives