

By: Senator(s) Hill, Moran, Doty, Younger,
Caughman, Whaley, Carter, Harkins, England,
Tate, McLendon, Seymour, Parks, Polk,
McDaniel

To: Public Health and
Welfare

SENATE BILL NO. 2236

1 AN ACT TO AMEND SECTION 43-21-257, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE DEPARTMENT OF CHILD PROTECTION SERVICES TO REMOVE
3 FROM THE CENTRAL REGISTRY THE NAME OF ANY SUBSTANTIATED
4 PERPETRATOR WHO WAS LATER DETERMINED TO BE WRONGFULLY CONVICTED OR
5 ADJUDICATED; TO AMEND SECTION 43-21-353, MISSISSIPPI CODE OF 1972,
6 TO REQUIRE THE DEPARTMENT OF CHILD PROTECTION SERVICES TO RECORD
7 THE NAME OF A REPORTER WHEN RECEIVING A REPORT OF CHILD ABUSE; TO
8 REQUIRE THE DEPARTMENT OF CHILD PROTECTION SERVICES TO DISCLOSE
9 THE NAME OF A REPORTER TO THE ALLEGED PERPETRATOR IN CASES OF
10 FALSE REPORTS AND PURGE ITS RECORDS OF ANY REFERENCE TO THE
11 IDENTITY OF THE ALLEGED PERPETRATOR; TO REQUIRE A COURT TO STRIKE
12 FALSE REPORTS FROM ITS RECORDS; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 43-21-257, Mississippi Code of 1972, is
15 amended as follows:

16 43-21-257. (1) Unless otherwise provided in this section,
17 any record involving children, including valid and invalid
18 complaints, and the contents thereof maintained by the Department
19 of Human Services or the Department of Child Protection Services,
20 or any other state agency, shall be kept confidential and shall
21 not be disclosed except as provided in Section 43-21-261.

22 (2) The Office of Youth Services shall maintain a state
23 central registry containing the number and disposition of all



24 cases together with such other useful information regarding those
25 cases as may be requested and is obtainable from the records of
26 the youth court. The Office of Youth Services shall annually
27 publish a statistical record of the number and disposition of all
28 cases, but the names or identity of any children shall not be
29 disclosed in the reports or records. The Office of Youth Services
30 shall adopt such rules as may be necessary to carry out this
31 subsection. The central registry files and the contents thereof
32 shall be confidential and shall not be open to public inspection.
33 Any person who discloses or encourages the disclosure of any
34 record involving children from the central registry shall be
35 subject to the penalty in Section 43-21-267. The youth court
36 shall furnish, upon forms provided by the Office of Youth
37 Services, the necessary information, and these completed forms
38 shall be forwarded to the Office of Youth Services. The
39 Department of Human Services and its employees are exempt from any
40 civil liability as a result of any action taken pursuant to the
41 compilation or release of information on the central registry
42 under this section and any other applicable section of this code,
43 unless determined that an employee has willfully and maliciously
44 violated the rules and administrative procedures of the department
45 pertaining to the central registry or any section of this code.
46 If an employee is determined to have willfully and maliciously
47 performed such a violation, said employee shall not be exempt from
48 civil liability in this regard.



(3) The Department of Child Protection Services shall maintain a state central registry on neglect and abuse cases containing (a) the name, address and age of each child, (b) the nature of the harm reported, (c) the name and address of the person responsible for the care of the child, and (d) the name and address of the substantiated perpetrator of the harm reported. "Substantiated perpetrator" shall be defined as an individual who has committed an act(s) of sexual abuse or physical abuse that would otherwise be deemed as a felony or any child neglect that would be deemed as a threat to life. A name is to be added to the registry only based upon a criminal conviction or an adjudication by a youth court judge or court of competent jurisdiction, ordering that the name of the perpetrator be listed on the central registry. The central registry shall be confidential and shall not be open to public inspection. Any person who discloses or encourages the disclosure of any record involving children from the central registry without following the rules and administrative procedures of the department shall be subject to the penalty in Section 43-21-267. The Department of Child Protection Services and its employees are exempt from any civil liability as a result of any action taken pursuant to the compilation or release of information on the central registry under this section and any other applicable section of this code, unless determined that an employee has willfully and maliciously violated the rules and administrative procedures of the department



pertaining to the central registry or any section of this code.
If an employee is determined to have willfully and maliciously
performed such a violation, said employee shall not be exempt from
civil liability in this regard. If it is later determined that a
person has been wrongly convicted or adjudicated, the Department
of Child Protection Services shall remove the name and address of
that person from the state central registry and purge any
reference to the identity of the person from their records.

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

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

SECTION 2. Section 43-21-353, Mississippi Code of 1972, is
amended as follows:



43-21-353. (1) Any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, public or private school employee or any other person having reasonable cause to suspect that a child is a neglected child, an abused child, or a victim of commercial sexual exploitation or human trafficking shall cause an oral report to be made immediately by telephone or otherwise and followed as soon thereafter as possible by a report in writing to the Department of Child Protection Services, and immediately a referral shall be made by the Department of Child Protection Services to the youth court intake unit, which unit shall promptly comply with Section 43-21-357. In the course of an investigation, at the initial time of contact with the individual(s) about whom a report has been made under this Youth Court Act or with the individual(s) responsible for the health or welfare of a child about whom a report has been made under this chapter, the Department of Child Protection Services shall inform the individual of the specific complaints or allegations made against the individual. Consistent with subsection (4), the identity of the person who reported his or her suspicion shall not be disclosed at that point. Where appropriate, the Department of Child Protection Services shall additionally make a referral to the youth court prosecutor.

Upon receiving a report that a child has been sexually abused, is a victim of commercial sexual exploitation or human



123 trafficking or has been burned, tortured, mutilated or otherwise
124 physically abused in such a manner as to cause serious bodily
125 harm, or upon receiving any report of abuse that would be a felony
126 under state or federal law, the Department of Child Protection
127 Services shall immediately notify the law enforcement agency in
128 whose jurisdiction the abuse occurred. Within forty-eight (48)
129 hours, the department must notify the appropriate prosecutor and
130 the Statewide Human Trafficking Coordinator. The department shall
131 have the duty to provide the law enforcement agency all the names
132 and facts known at the time of the report; this duty shall be of a
133 continuing nature. The law enforcement agency and the department
134 shall investigate the reported abuse immediately and shall file a
135 preliminary report with the appropriate prosecutor's office within
136 twenty-four (24) hours and shall make additional reports as new or
137 additional information or evidence becomes available. The
138 department shall advise the clerk of the youth court and the youth
139 court prosecutor of all cases of abuse reported to the department
140 within seventy-two (72) hours and shall update such report as
141 information becomes available. In addition, if the Department of
142 Child Protection Services determines that a parent or other person
143 responsible for the care or welfare of an abused or neglected
144 child maintains active duty status within the military, the
145 department shall notify the applicable military installation
146 family advocacy program that there is an allegation of abuse or
147 neglect that relates to that child.



148 (2) Any report shall contain the name of the reporter, the
149 names and addresses of the child and his parents or other persons
150 responsible for his care, if known, the child's age, the nature
151 and extent of the child's injuries, including any evidence of
152 previous injuries, any other information that might be helpful in
153 establishing the cause of the injury, and the identity of the
154 perpetrator.

155 (3) The Department of Child Protection Services shall
156 maintain a statewide incoming wide-area telephone service or
157 similar service for the purpose of receiving reports of suspected
158 cases of child abuse, commercial sexual exploitation or human
159 trafficking; provided that any attorney, physician, dentist,
160 intern, resident, nurse, psychologist, social worker, family
161 protection worker, family protection specialist, child caregiver,
162 minister, law enforcement officer or public or private school
163 employee who is required to report under subsection (1) of this
164 section shall report in the manner required in subsection (1).

165 (4) Reports of abuse, neglect and commercial sexual
166 exploitation or human trafficking made under this chapter and the
167 identity of the reporter are confidential except when the court in
168 which the investigation report is filed, in its discretion,
169 determines the testimony of the person reporting to be material to
170 a judicial proceeding or when the identity of the reporter is
171 released to law enforcement agencies and the appropriate
172 prosecutor pursuant to subsection (1). Reports made under this



section to any law enforcement agency or prosecutorial officer are for the purpose of criminal investigation and prosecution only and no information from these reports may be released to the public except as provided by Section 43-21-261. Disclosure of any information by the prosecutor shall be according to the Mississippi Uniform Rules of Circuit and County Court Procedure. The identity of the reporting party shall not be disclosed to anyone other than law enforcement officers or prosecutors without an order from the appropriate youth court. Any person disclosing any reports made under this section in a manner not expressly provided for in this section or Section 43-21-261 shall be guilty of a misdemeanor and subject to the penalties prescribed by Section 43-21-267.

(5) (a) Notwithstanding the confidentiality of the reporter's identity under this section, the Department of Child Protection Services * * * shall disclose a reporter's identity to the appropriate law enforcement agency or prosecutor if the department has reason to suspect the reporter has made a fraudulent report, and the Department of Child Protection Services must provide to the subject of the alleged fraudulent report written notification of the disclosure. If a reporter is determined to have made a false report knowingly, the Department of Child Protection Services shall disclose the identity of the reporter to the person who was alleged to have been the perpetrator in the false report and purge any reference to the



identity of the alleged perpetrator from its records, and any
court in which the report was filed shall strike the report and
purge any reference to the identity of the alleged perpetrator
from its records.

(b) A civil cause of action for injunctive relief and
compensatory damages is created in favor of any person who was
alleged to have been the perpetrator in a false report under this
section. This cause of action shall be in addition to any other
civil or criminal proceeding authorized by the laws of this state
or by federal law.

(c) Any person is entitled to the rights created under
Section 43-21-257(3) and this subsection (5) from and after
January 1, 2017.

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

(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, including whether the child experienced commercial sexual exploitation or human trafficking, 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 Child Protection Services.

(* * *7) 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(1) or (m), the Department of Child Protection 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.

(* * *8) 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.



247 (* * *9) If a report is made directly to the Department of
248 Child Protection Services that a child has been abused or
249 neglected or experienced commercial sexual exploitation or human
250 trafficking in an out-of-home setting, a referral shall be made
251 immediately to the law enforcement agency in whose jurisdiction
252 the abuse occurred and the department shall notify the district
253 attorney's office and the Statewide Human Trafficking Coordinator
254 within forty-eight (48) hours of such report. The Department of
255 Child Protection Services shall investigate the out-of-home
256 setting report of abuse or neglect to determine whether the child
257 who is the subject of the report, or other children in the same
258 environment, comes within the jurisdiction of the youth court and
259 shall report to the youth court the department's findings and
260 recommendation as to whether the child who is the subject of the
261 report or other children in the same environment require the
262 protection of the youth court. The law enforcement agency shall
263 investigate the reported abuse immediately and shall file a
264 preliminary report with the district attorney's office within
265 forty-eight (48) hours and shall make additional reports as new
266 information or evidence becomes available. If the out-of-home
267 setting is a licensed facility, an additional referral shall be
268 made by the Department of Child Protection Services to the
269 licensing agency. The licensing agency shall investigate the
270 report and shall provide the department, the law enforcement
271 agency and the district attorney's office with their written



272 findings from such investigation as well as that licensing
273 agency's recommendations and actions taken.

274 (* * *10) If a child protective investigation does not
275 result in an out-of-home placement, a child protective
276 investigator must provide information to the parent or guardians
277 about community service programs that provide respite care,
278 counseling and support for children who have experienced
279 commercial sexual exploitation or human trafficking, voluntary
280 guardianship or other support services for families in crisis.

281 **SECTION 3.** This act shall take effect and be in force from
282 and after July 1, 2020.

