

By: Representative Ladner

To: Judiciary B

HOUSE BILL NO. 568

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, an abused child, or a victim of commercial sexual
20 exploitation or human trafficking shall cause an oral report to be
21 made immediately by telephone or otherwise and followed as soon
22 thereafter as possible by a report in writing to the Department of



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

39 Upon receiving a report that a child has been sexually
40 abused, is a victim of commercial sexual exploitation or human
41 trafficking or has been burned, tortured, mutilated or otherwise
42 physically abused in such a manner as to cause serious bodily
43 harm, or upon receiving any report of abuse that would be a felony
44 under state or federal law, the Department of Child Protection
45 Services shall immediately notify the law enforcement agency in
46 whose jurisdiction the abuse occurred. Within forty-eight (48)
47 hours, the department must notify the appropriate prosecutor and



the Statewide Human Trafficking Coordinator. The department shall have the duty to provide the law enforcement agency all the names and facts known at the time of the report; this duty shall be of a continuing nature. The law enforcement agency and the department shall investigate the reported abuse immediately and shall file a preliminary report with the appropriate prosecutor's office within twenty-four (24) hours and shall make additional reports as new or additional information or evidence becomes available. The department shall advise the clerk of the youth court and the youth court prosecutor of all cases of abuse reported to the department within seventy-two (72) hours and shall update such report as information becomes available. In addition, if the Department of Child Protection Services determines that a parent or other person responsible for the care or welfare of an abused or neglected child maintains active duty status within the military, the department shall notify the applicable military installation family advocacy program that there is an allegation of abuse or neglect that relates to that child.

(2) Any report made shall under subsection (1) of this section contain:

- (a) The names and addresses of the child and his parents or other persons responsible for his care, if known * * *;
- (b) The child's age * * *;
- (c) The nature and extent of the child's injuries, including any evidence of previous injuries * * *;



73 (d) Any other information that might be helpful in
74 establishing the cause of the injury * * *;

75 (e) The identity of the perpetrator * * *; and

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

78 (3) The Department of Child Protection Services shall
79 maintain a statewide incoming wide-area telephone service or
80 similar service for the purpose of receiving reports of suspected
81 cases of child abuse, commercial sexual exploitation or human
82 trafficking; provided that any attorney, physician, dentist,
83 intern, resident, nurse, psychologist, social worker, family
84 protection worker, family protection specialist, child caregiver,
85 minister, law enforcement officer or public or private school
86 employee who is required to report under subsection (1) of this
87 section shall report in the manner required in subsection (1).

88 (4) Reports of abuse, neglect and commercial sexual
89 exploitation or human trafficking made under this chapter and the
90 identity of the reporter are confidential except when the court in
91 which the investigation report is filed, in its discretion,
92 determines the testimony of the person reporting to be material to
93 a judicial proceeding or when the identity of the reporter is
94 released to law enforcement agencies and the appropriate
95 prosecutor pursuant to subsection (1). Reports made under this
96 section to any law enforcement agency or prosecutorial officer are
97 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. The name, address and telephone number of the person who made the report shall be redacted from all records in connection with the case after the case is closed. 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. Notwithstanding the confidentiality of the reporter's identity under this section, the Department of Child Protection Services may 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.

(5) 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.

(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(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



148 in such cases the law enforcement officer shall comply with such
149 request.

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

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



information or evidence becomes available. If the out-of-home setting is a licensed facility, an additional referral shall be made by the Department of Child Protection Services to the licensing agency. The licensing agency shall investigate the report and shall provide the department, the law enforcement agency and the district attorney's office with their written findings from such investigation as well as that licensing agency's recommendations and actions taken.

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

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

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



vulnerable person is a minor, then such report may be made to the Department of Child Protection Services:

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

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

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

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

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

(vi) Human rights advocacy committee or long-term care ombudsman council member; or

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

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



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

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

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

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

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

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

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

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

(c) The department, or its designees, shall report to an appropriate criminal investigative or prosecutive authority any person required by this section to report or who fails to comply with this section. A person who fails to make a report as required under this subsection or who, because of the circumstances, should have known or suspected beyond a reasonable



doubt that a vulnerable person suffers from exploitation, abuse, neglect or self-neglect but who knowingly fails to comply with this section shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by imprisonment in the county jail for not more than six (6) months, or both such fine and imprisonment.

However, for purposes of this subsection (1), any recognized legal financial transaction shall not be considered cause to report the knowledge or suspicion of the financial exploitation of a vulnerable person. If a person convicted under this section is a member of a profession or occupation that is licensed, certified or regulated by the state, the court shall notify the appropriate licensing, certifying or regulating entity of the conviction.

(2) Reports received by law enforcement authorities or other agencies shall be forwarded immediately to the Department of Human Services or the county department of human services. The Department of Human Services shall investigate the reported abuse, neglect or exploitation immediately and shall file a preliminary report of its findings with the Office of the Attorney General within forty-eight (48) hours if immediate attention is needed, or seventy-two (72) hours if the vulnerable person is not in immediate danger and shall make additional reports as new information or evidence becomes available. The Department of Human Services, upon request, shall forward a statement to the



271 person making the initial report required by this section as to
272 what action is being taken, if any.

273 (3) The report may be made orally or in writing, but where
274 made orally, it shall be followed up by a written report. A
275 person who fails to report or to otherwise comply with this
276 section, as provided herein, shall have no civil or criminal
277 liability, other than that expressly provided for in this section,
278 to any person or entity in connection with any failure to report
279 or to otherwise comply with the requirements of this section.

280 (4) Anyone who makes a report required by this section or
281 who testifies or participates in any judicial proceedings arising
282 from the report or who participates in a required investigation or
283 evaluation shall be presumed to be acting in good faith and in so
284 doing shall be immune from liability, civil or criminal, that
285 might otherwise be incurred or imposed. However, the immunity
286 provided under this subsection shall not apply to any suspect or
287 perpetrator of any abuse, neglect or exploitation.

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

292 (6) The Executive Director of the Department of Human
293 Services shall establish a statewide central register of reports
294 made pursuant to this section. The central register shall be
295 capable of receiving reports of vulnerable persons in need of



296 protective services seven (7) days a week, twenty-four (24) hours
297 a day. To effectuate this purpose, the executive director shall
298 establish a single toll-free statewide phone number that all
299 persons may use to report vulnerable persons in need of protective
300 services, and that all persons authorized by subsection (7) of
301 this section may use for determining the existence of prior
302 reports in order to evaluate the condition or circumstances of the
303 vulnerable person before them. Such oral reports and evidence of
304 previous reports shall be transmitted to the appropriate county
305 department of human services. The central register shall include,
306 but not be limited to, the following information: the name and
307 identifying information of the individual reported, the county
308 department of human services responsible for the investigation of
309 each such report, the names, affiliations and purposes of any
310 person requesting or receiving information which the executive
311 director believes might be helpful in the furtherance of the
312 purposes of this chapter, the name, address, birth date, social
313 security number of the perpetrator of abuse, neglect and/or
314 exploitation, and the type of abuse, neglect and/or exploitation
315 of which there was substantial evidence upon investigation of the
316 report. The central register shall inform the person making
317 reports required under this section of his or her right to request
318 statements from the department as to what action is being taken,
319 if any.



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

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

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

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

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



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

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

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

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

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

(8) Upon reasonable cause to believe that a caretaker or other person has abused, neglected or exploited a vulnerable



369 person, the department shall promptly notify the district attorney
370 of the county in which the vulnerable person is located and the
371 Office of the Attorney General, except as provided in Section
372 43-47-37(2).

373 **SECTION 3.** This act shall take effect and be in force from
374 and after July 1, 2021.

