

By: Representative Sanford

To: Public Health and Human Services

HOUSE BILL NO. 798

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, AFTER THERE HAVE BEEN TWO REPORTS MADE ABOUT THE  
 8 ALLEGED PERPETRATOR WITHIN A PERIOD OF SIX MONTHS AND THE  
 9 APPROPRIATE DEPARTMENT HAS INVESTIGATED THE REPORTS AND DETERMINED  
 10 THAT THE COMPLAINTS OR ALLEGATIONS AGAINST THE ALLEGED PERPETRATOR  
 11 ARE UNFOUNDED; TO PROVIDE THAT THE NAME, ADDRESS AND TELEPHONE  
 12 NUMBER OF THE PERSON WHO MADE THE REPORT SHALL BE REDACTED FROM  
 13 ALL RECORDS IN CONNECTION WITH THE CASE AFTER THE CASE IS CLOSED;  
 14 AND FOR RELATED PURPOSES.

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

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

18 43-21-353. (1) Any attorney, physician, dentist, intern,  
 19 resident, nurse, psychologist, social worker, family protection  
 20 worker, family protection specialist, child caregiver, minister,  
 21 law enforcement officer, public or private school employee or any  
 22 other person having reasonable cause to suspect that a child is a  
 23 neglected child, an abused child, or a victim of commercial sexual  
 24 exploitation or human trafficking shall cause an oral report to be



25 made immediately by telephone or otherwise and followed as soon  
26 thereafter as possible by a report in writing to the Department of  
27 Child Protection Services, which shall contain the information  
28 specified in subsection (2) of this section, and immediately a  
29 referral shall be made by the Department of Child Protection  
30 Services to the youth court intake unit, which unit shall promptly  
31 comply with Section 43-21-357. In the course of an investigation,  
32 at the initial time of contact with the individual(s) about whom a  
33 report has been made under this Youth Court Act or with the  
34 individual(s) responsible for the health or welfare of a child  
35 about whom a report has been made under this chapter, the  
36 Department of Child Protection Services shall inform the  
37 individual of the specific complaints or allegations made against  
38 the individual. Consistent with subsection ( \* \* \*5), the  
39 identity of the person who reported his or her suspicion shall not  
40 be disclosed at that point. Where appropriate, the Department of  
41 Child Protection Services shall additionally make a referral to  
42 the youth court prosecutor.

43       Upon receiving a report that a child has been sexually  
44 abused, is a victim of commercial sexual exploitation or human  
45 trafficking or has been burned, tortured, mutilated or otherwise  
46 physically abused in such a manner as to cause serious bodily  
47 harm, or upon receiving any report of abuse that would be a felony  
48 under state or federal law, the Department of Child Protection  
49 Services shall immediately notify the law enforcement agency in



50 whose jurisdiction the abuse occurred. Within forty-eight (48)  
51 hours, the department must notify the appropriate prosecutor and  
52 the Statewide Human Trafficking Coordinator. The department shall  
53 have the duty to provide the law enforcement agency all the names  
54 and facts known at the time of the report; this duty shall be of a  
55 continuing nature. The law enforcement agency and the department  
56 shall investigate the reported abuse immediately and shall file a  
57 preliminary report with the appropriate prosecutor's office within  
58 twenty-four (24) hours and shall make additional reports as new or  
59 additional information or evidence becomes available. The  
60 department shall advise the clerk of the youth court and the youth  
61 court prosecutor of all cases of abuse reported to the department  
62 within seventy-two (72) hours and shall update such report as  
63 information becomes available. In addition, if the Department of  
64 Child Protection Services determines that a parent or other person  
65 responsible for the care or welfare of an abused or neglected  
66 child maintains active duty status within the military, the  
67 department shall notify the applicable military installation  
68 family advocacy program that there is an allegation of abuse or  
69 neglect that relates to that child.

70 (2) Any report shall contain:

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

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



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

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

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

79           (f) The name, address and telephone number of the  
80 person making the report, when such information is required to be  
81 provided under subsection (3) of this section.

82           (3) If a report is made under subsection (1) of this section  
83 about an individual two (2) times within a period of six (6)  
84 months, and the Department of Child Protection Services has  
85 investigated the complaints or allegations made against the  
86 individual in those two (2) reports and determined that those  
87 complaints or allegations are unfounded, then any further reports  
88 made about the individual must include the name, address and  
89 telephone number of the person making the report.

90           (\* \* \*4) The Department of Child Protection Services shall  
91 maintain a statewide incoming wide-area telephone service or  
92 similar service for the purpose of receiving reports of suspected  
93 cases of child abuse, commercial sexual exploitation or human  
94 trafficking; provided that any attorney, physician, dentist,  
95 intern, resident, nurse, psychologist, social worker, family  
96 protection worker, family protection specialist, child caregiver,  
97 minister, law enforcement officer or public or private school



98 employee who is required to report under subsection (1) of this  
99 section shall report in the manner required in subsection (1).

100 ( \* \* \*5) Reports of abuse, neglect and commercial sexual  
101 exploitation or human trafficking made under this chapter and the  
102 identity of the reporter are confidential except when the court in  
103 which the investigation report is filed, in its discretion,  
104 determines the testimony of the person reporting to be material to  
105 a judicial proceeding or when the identity of the reporter is  
106 released to law enforcement agencies and the appropriate  
107 prosecutor pursuant to subsection (1). Reports made under this  
108 section to any law enforcement agency or prosecutorial officer are  
109 for the purpose of criminal investigation and prosecution only and  
110 no information from these reports may be released to the public  
111 except as provided by Section 43-21-261. Disclosure of any  
112 information by the prosecutor shall be according to the  
113 Mississippi Uniform Rules of Circuit and County Court Procedure.  
114 The identity of the reporting party shall not be disclosed to  
115 anyone other than law enforcement officers or prosecutors without  
116 an order from the appropriate youth court. The name, address and  
117 telephone number of the person who made the report shall be  
118 redacted from all records in connection with the case after the  
119 case is closed. Any person disclosing any reports made under this  
120 section in a manner not expressly provided for in this section or  
121 Section 43-21-261 shall be guilty of a misdemeanor and subject to  
122 the penalties prescribed by Section 43-21-267. Notwithstanding



123 the confidentiality of the reporter's identity under this section,  
124 the Department of Child Protection Services may disclose a  
125 reporter's identity to the appropriate law enforcement agency or  
126 prosecutor if the department has reason to suspect the reporter  
127 has made a fraudulent report, and the Department of Child  
128 Protection Services must provide to the subject of the alleged  
129 fraudulent report written notification of the disclosure.

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

- 140 (a) The name and address of the child;
- 141 (b) The names and addresses of the parents;
- 142 (c) The name and address of the suspected perpetrator;
- 143 (d) The names and addresses of all witnesses, including  
144 the reporting party if a material witness to the abuse;
- 145 (e) A brief statement of the facts indicating that the  
146 child has been abused, including whether the child experienced  
147 commercial sexual exploitation or human trafficking, and any other



148 information from the agency files or known to the family  
149 protection worker or family protection specialist making the  
150 investigation, including medical records or other records, which  
151 may assist law enforcement or the district attorney in  
152 investigating and/or prosecuting the case; and

153 (f) What, if any, action is being taken by the  
154 Department of Child Protection Services.

155 ( \* \* \*7) In any investigation of a report made under this  
156 chapter of the abuse or neglect of a child as defined in Section  
157 43-21-105(1) or (m), the Department of Child Protection Services  
158 may request the appropriate law enforcement officer with  
159 jurisdiction to accompany the department in its investigation, and  
160 in such cases the law enforcement officer shall comply with such  
161 request.

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

166 ( \* \* \*9) If a report is made directly to the Department of  
167 Child Protection Services that a child has been abused or  
168 neglected or experienced commercial sexual exploitation or human  
169 trafficking in an out-of-home setting, a referral shall be made  
170 immediately to the law enforcement agency in whose jurisdiction  
171 the abuse occurred and the department shall notify the district  
172 attorney's office and the Statewide Human Trafficking Coordinator



173 within forty-eight (48) hours of such report. The Department of  
174 Child Protection Services shall investigate the out-of-home  
175 setting report of abuse or neglect to determine whether the child  
176 who is the subject of the report, or other children in the same  
177 environment, comes within the jurisdiction of the youth court and  
178 shall report to the youth court the department's findings and  
179 recommendation as to whether the child who is the subject of the  
180 report or other children in the same environment require the  
181 protection of the youth court. The law enforcement agency shall  
182 investigate the reported abuse immediately and shall file a  
183 preliminary report with the district attorney's office within  
184 forty-eight (48) hours and shall make additional reports as new  
185 information or evidence becomes available. If the out-of-home  
186 setting is a licensed facility, an additional referral shall be  
187 made by the Department of Child Protection Services to the  
188 licensing agency. The licensing agency shall investigate the  
189 report and shall provide the department, the law enforcement  
190 agency and the district attorney's office with their written  
191 findings from such investigation as well as that licensing  
192 agency's recommendations and actions taken.

193 ( \* \* \*10) If a child protective investigation does not  
194 result in an out-of-home placement, a child protective  
195 investigator must provide information to the parent or guardians  
196 about community service programs that provide respite care,  
197 counseling and support for children who have experienced





198 commercial sexual exploitation or human trafficking, voluntary  
199 guardianship or other support services for families in crisis.

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

202 43-47-7. (1) (a) Except as otherwise provided by Section  
203 43-47-37 for vulnerable persons in care facilities and by Section  
204 43-7-65 for the State Ombudsman Program, any person including, but  
205 not limited to, the following, who knows or suspects that a  
206 vulnerable person has been or is being abused, neglected or  
207 exploited shall immediately report such knowledge or suspicion to  
208 the Department of Human Services or to the county department of  
209 human services where the vulnerable person is located. If the  
210 vulnerable person is a minor, then such report may be made to the  
211 Department of Child Protection Services:

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

251 (viii) \* \* \* Name, address and telephone  
252 number \* \* \* of the person or entity making the report \* \* \*, if  
253 the person or entity holds or is required to hold a license under  
254 any provision of Title 73, Mississippi Code of 1972.

255 (xix) Name, address and telephone number of the  
256 person making the report, when the person is not a person  
257 described in subparagraph (viii) of this paragraph (b) and such  
258 information is required to be provided under paragraph (c) of this  
259 subsection.

260 (c) If a report is made under paragraph (a) of this  
261 subsection about an individual two (2) times within a period of  
262 six (6) months, and the appropriate department has investigated  
263 the complaints or allegations made against the individual in those  
264 two (2) reports and determined that those complaints or  
265 allegations are unfounded, then any further reports made about the  
266 individual must include the name, address and telephone number of  
267 the person making the report.

268 ( \* \* \*d) The department, or its designees, shall  
269 report to an appropriate criminal investigative or prosecutive  
270 authority any person required by this section to report or who



271 fails to comply with this section. A person who fails to make a  
272 report as required under this subsection or who, because of the  
273 circumstances, should have known or suspected beyond a reasonable  
274 doubt that a vulnerable person suffers from exploitation, abuse,  
275 neglect or self-neglect but who knowingly fails to comply with  
276 this section shall, upon conviction, be guilty of a misdemeanor  
277 and shall be punished by a fine not exceeding Five Thousand  
278 Dollars (\$5,000.00), or by imprisonment in the county jail for not  
279 more than six (6) months, or both such fine and imprisonment.  
280 However, for purposes of this subsection (1), any recognized legal  
281 financial transaction shall not be considered cause to report the  
282 knowledge or suspicion of the financial exploitation of a  
283 vulnerable person. If a person convicted under this section is a  
284 member of a profession or occupation that is licensed, certified  
285 or regulated by the state, the court shall notify the appropriate  
286 licensing, certifying or regulating entity of the conviction.

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



296 information or evidence becomes available. The Department of  
297 Human Services, upon request, shall forward a statement to the  
298 person making the initial report required by this section as to  
299 what action is being taken, if any.

300 (3) The report may be made orally or in writing, but where  
301 made orally, it shall be followed up by a written report. A  
302 person who fails to report or to otherwise comply with this  
303 section, as provided herein, shall have no civil or criminal  
304 liability, other than that expressly provided for in this section,  
305 to any person or entity in connection with any failure to report  
306 or to otherwise comply with the requirements of this section.

307 (4) Anyone who makes a report required by this section or  
308 who testifies or participates in any judicial proceedings arising  
309 from the report or who participates in a required investigation or  
310 evaluation shall be presumed to be acting in good faith and in so  
311 doing shall be immune from liability, civil or criminal, that  
312 might otherwise be incurred or imposed. However, the immunity  
313 provided under this subsection shall not apply to any suspect or  
314 perpetrator of any abuse, neglect or exploitation.

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

319 (6) The Executive Director of the Department of Human  
320 Services shall establish a statewide central register of reports



321 made pursuant to this section. The central register shall be  
322 capable of receiving reports of vulnerable persons in need of  
323 protective services seven (7) days a week, twenty-four (24) hours  
324 a day. To effectuate this purpose, the executive director shall  
325 establish a single toll-free statewide phone number that all  
326 persons may use to report vulnerable persons in need of protective  
327 services, and that all persons authorized by subsection (7) of  
328 this section may use for determining the existence of prior  
329 reports in order to evaluate the condition or circumstances of the  
330 vulnerable person before them. Such oral reports and evidence of  
331 previous reports shall be transmitted to the appropriate county  
332 department of human services. The central register shall include,  
333 but not be limited to, the following information: the name and  
334 identifying information of the individual reported, the county  
335 department of human services responsible for the investigation of  
336 each such report, the names, affiliations and purposes of any  
337 person requesting or receiving information which the executive  
338 director believes might be helpful in the furtherance of the  
339 purposes of this chapter, the name, address, birth date, social  
340 security number of the perpetrator of abuse, neglect and/or  
341 exploitation, and the type of abuse, neglect and/or exploitation  
342 of which there was substantial evidence upon investigation of the  
343 report. The central register shall inform the person making  
344 reports required under this section of his or her right to request



345 statements from the department as to what action is being taken,  
346 if any.

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

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

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

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



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

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

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

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

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

385 Any person given access to the names or other information  
386 identifying the subject of the report, except the subject of the  
387 report, shall not divulge or make public such identifying  
388 information unless he is a district attorney or other law  
389 enforcement official and the purpose is to initiate court action.  
390 Any person who willfully permits the release of any data or  
391 information obtained pursuant to this section to persons or





392 agencies not permitted to such access by this section shall be  
393 guilty of a misdemeanor.

394 (8) Upon reasonable cause to believe that a caretaker or  
395 other person has abused, neglected or exploited a vulnerable  
396 person, the department shall promptly notify the district attorney  
397 of the county in which the vulnerable person is located and the  
398 Office of the Attorney General, except as provided in Section  
399 43-47-37(2).

400 **SECTION 3.** This act shall take effect and be in force from  
401 and after July 1, 2022.

