

By: Senator(s) Boyd

To: Judiciary, Division B;
Accountability, Efficiency,
Transparency

SENATE BILL NO. 2559

1 AN ACT TO AMEND SECTIONS 43-47-7 AND 81-5-55, MISSISSIPPI
2 CODE OF 1972, TO MAKE CERTAIN INFORMATION AVAILABLE TO THE
3 SECRETARY OF STATE IN CERTAIN CASES OF EXPLOITATION OR SUSPECTED
4 EXPLOITATION OF A VULNERABLE PERSON; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 43-47-7, Mississippi Code of 1972, is
7 amended as follows:

8 43-47-7. (1) (a) Except as otherwise provided by Section
9 43-47-37 for vulnerable persons in care facilities and by Section
10 43-7-65 for the State Ombudsman Program, any person including, but
11 not limited to, the following, who knows or suspects that a
12 vulnerable person has been or is being abused, neglected or
13 exploited shall immediately report such knowledge or suspicion to
14 the Department of Human Services or to the county department of
15 human services where the vulnerable person is located. If the
16 vulnerable person is a minor, then such report may be made to the
17 Department of Child Protection Services:



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

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

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

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

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

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

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

37 (b) To the extent possible, a report made pursuant to
38 paragraph (a) must contain, but need not be limited to, the
39 following information:

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



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

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

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

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

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

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

57 In addition to the above, any person or entity holding or
58 required to hold a license as specified in Title 73, Professions
59 and Vocations, Mississippi Code of 1972, shall be required to give
60 his, her or its name, address and telephone number in the report
61 of the alleged abuse, neglect or exploitation.

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



68 doubt that a vulnerable person suffers from exploitation, abuse,
69 neglect or self-neglect but who knowingly fails to comply with
70 this section shall, upon conviction, be guilty of a misdemeanor
71 and shall be punished by a fine not exceeding Five Thousand
72 Dollars (\$5,000.00), or by imprisonment in the county jail for not
73 more than six (6) months, or both such fine and imprisonment.
74 However, for purposes of this subsection (1), any recognized legal
75 financial transaction shall not be considered cause to report the
76 knowledge or suspicion of the financial exploitation of a
77 vulnerable person. If a person convicted under this section is a
78 member of a profession or occupation that is licensed, certified
79 or regulated by the state, the court shall notify the appropriate
80 licensing, certifying or regulating entity of the conviction.

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



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

94 (3) The report may be made orally or in writing, but where
95 made orally, it shall be followed up by a written report. A
96 person who fails to report or to otherwise comply with this
97 section, as provided herein, shall have no civil or criminal
98 liability, other than that expressly provided for in this section,
99 to any person or entity in connection with any failure to report
100 or to otherwise comply with the requirements of this section.

101 (4) Anyone who makes a report required by this section or
102 who testifies or participates in any judicial proceedings arising
103 from the report or who participates in a required investigation or
104 evaluation shall be presumed to be acting in good faith and in so
105 doing shall be immune from liability, civil or criminal, that
106 might otherwise be incurred or imposed. However, the immunity
107 provided under this subsection shall not apply to any suspect or
108 perpetrator of any abuse, neglect or exploitation.

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

113 (6) The Executive Director of the Department of Human
114 Services shall establish a statewide central register of reports
115 made pursuant to this section. The central register shall be
116 capable of receiving reports of vulnerable persons in need of



117 protective services seven (7) days a week, twenty-four (24) hours
118 a day. To effectuate this purpose, the executive director shall
119 establish a single toll-free statewide phone number that all
120 persons may use to report vulnerable persons in need of protective
121 services, and that all persons authorized by subsection (7) of
122 this section may use for determining the existence of prior
123 reports in order to evaluate the condition or circumstances of the
124 vulnerable person before them. Such oral reports and evidence of
125 previous reports shall be transmitted to the appropriate county
126 department of human services. The central register shall include,
127 but not be limited to, the following information: the name and
128 identifying information of the individual reported, the county
129 department of human services responsible for the investigation of
130 each such report, the names, affiliations and purposes of any
131 person requesting or receiving information which the executive
132 director believes might be helpful in the furtherance of the
133 purposes of this chapter, the name, address, birth date, social
134 security number of the perpetrator of abuse, neglect and/or
135 exploitation, and the type of abuse, neglect and/or exploitation
136 of which there was substantial evidence upon investigation of the
137 report. The central register shall inform the person making
138 reports required under this section of his or her right to request
139 statements from the department as to what action is being taken,
140 if any.



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

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

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

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

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



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

167 (d) A district attorney or other law enforcement
168 official * * *;

169 (e) In cases of suspected financial exploitation, the
170 Secretary of State.

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

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

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



189 person, the department shall promptly notify the district attorney
190 of the county in which the vulnerable person is located and the
191 Office of the Attorney General, except as provided in Section
192 43-47-37(2).

193 **SECTION 2.** Section 81-5-55, Mississippi Code of 1972, is
194 amended as follows:

195 81-5-55. (1) In no instance shall the name of any
196 depositor, or the amount of his deposit, be disclosed to anyone,
197 except to report to approved parties, such as credit bureaus,
198 account verification services and others, the forcible closure of
199 a deposit account due to misuse, such as fraud, kiting or chronic
200 bad check writing or when required to be done in legal
201 proceedings, for verification of public assistance in cases in
202 which the Department of Human Services or the Division of Medicaid
203 certifies that it has on file an effective written authorization
204 from the depositor authorizing the disclosure of that information,
205 for verification of the financial exploitation of a vulnerable
206 person in cases in which the Attorney General submits a written
207 authorization, for the determination of the financial exploitation
208 of a vulnerable person in cases in which the Secretary of State
209 has received a report of suspected financial exploitation, or in
210 case of insolvency of banks. The parties referred to in this
211 section must be approved by the Commissioner of Banking and
212 Consumer Finance and must satisfactorily demonstrate their
213 reliability and credibility of their activities. Disclosure of



214 depositor information to any affiliate or agent providing services
215 on behalf of the bank shall not be considered disclosure of
216 depositor information within the meaning of this section. The
217 term "affiliate" means a corporation or business entity that
218 controls, is controlled by or is under common control with the
219 bank. The term "agent" means anyone who has an agreement,
220 arrangement or understanding to transact business for the bank by
221 the authority and on account of the bank, provided that the
222 agreement binds the agent to the same degree of confidentiality of
223 disclosure of bank records as the bank. Any violation of this
224 provision shall be considered a misdemeanor and, upon conviction
225 thereof, in any court of competent jurisdiction, the person shall
226 be punished by a fine of not more than One Thousand Dollars
227 (\$1,000.00) or imprisoned in the county jail not more than six (6)
228 months, or both, and in addition thereto, shall be liable upon his
229 bond to any person damaged thereby.

230 (2) This section shall not be construed to prohibit the
231 disclosure to the State Treasurer, State Auditor, Legislative
232 Budget Office, Joint Legislative Committee on Performance
233 Evaluation and Expenditure Review or the Department of Finance and
234 Administration, of any information about any type of account or
235 investment, including certificates of deposit, owned by any public
236 entity of the State of Mississippi.

237 (3) This section shall not be construed to prohibit, or to
238 impose liability for, the disclosure of information to:



239 (a) The Department of Human Services, the Child Support
240 Unit of the Department of Human Services, the Division of
241 Medicaid, or their contractors or agents, pursuant to Chapter 13
242 or Chapter 19, Title 43, Mississippi Code of 1972; * * *

243 (b) The Department of Revenue pursuant to Chapter 13,
244 Title 85 * * *; or

245 (c) The Secretary of State's Office for reports made
246 under Title 75, Chapter 71, Mississippi Code of 1972.

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

