

By: Representative Scoggin

To: Judiciary B

HOUSE BILL NO. 1201

1 AN ACT TO AMEND SECTION 43-47-7, MISSISSIPPI CODE OF 1972, TO  
 2 ADD THE SECRETARY OF STATE TO THE LIST OF AGENCIES THAT SHALL  
 3 RECEIVE REPORTS OF FINANCIAL ABUSE OF A VULNERABLE PERSON; TO  
 4 AMEND SECTION 81-5-55, MISSISSIPPI CODE OF 1972, TO AUTHORIZE  
 5 RELEASE OF CERTAIN FINANCIAL RECORDS WHEN FINANCIAL ABUSE OF A  
 6 VULNERABLE PERSON IS SUSPECTED; AND FOR RELATED PURPOSES.

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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



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

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

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

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

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



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



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

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

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

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

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



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

169 (d) A district attorney or other law enforcement  
170 official \* \* \*;

171 (e) The Secretary of State, only in cases of financial  
172 exploitation.

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

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

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





191 person, the department shall promptly notify the district attorney  
192 of the county in which the vulnerable person is located and the  
193 Office of the Attorney General, except as provided in Section  
194 43-47-37(2).

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

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



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

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

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



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

245 (b) The Department of Revenue pursuant to Chapter 13,  
246 Title 85 \* \* \*; or

247 (c) The Secretary of State's office pursuant to reports  
248 under Chapter 71, Title 75.

249 **SECTION 3.** This act shall take effect and be in force from  
250 and after July 1, 2023.

