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Branning

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2652

1 AN ACT TO CREATE THE MISSISSIPPI VULNERABLE PERSON ABUSE
2 REGISTRY; TO REQUIRE THE DEPARTMENT OF PUBLIC SAFETY TO ESTABLISH
3 A REGISTRY FOR INDIVIDUALS CONVICTED OF CERTAIN CRIMES AGAINST A
4 VULNERABLE PERSON OR FOUND TO HAVE COMMITTED CERTAIN ACTS OF ABUSE
5 AGAINST A VULNERABLE PERSON; TO REQUIRE CERTAIN CARE PROVIDERS TO
6 QUERY THE REGISTRY FOR EMPLOYEES AND PROSPECTIVE EMPLOYEES; TO
7 ALLOW MEMBERS OF THE PUBLIC TO QUERY THE REGISTRY REGARDING HIRING
8 A CARETAKER OR A PERSON WHO WILL BE IN A POSITION OF TRUST OR
9 AUTHORITY TO A VULNERABLE PERSON; TO REQUIRE THE DEPARTMENT OF
10 PUBLIC SAFETY TO ADOPT RULES; TO AMEND SECTION 43-47-7,
11 MISSISSIPPI CODE OF 1972, TO GRANT CERTAIN GOVERNMENTAL
12 AUTHORITIES AND CERTAIN PERSONS AUTHORIZED BY A COURT, INCLUDING
13 GUARDIAN AD LITEMS, ACCESS TO REPORTS OF ABUSE, NEGLECT OR
14 EXPLOITATION OF VULNERABLE PERSONS; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** (1) The Department of Public Safety shall
17 establish and maintain a registry, to be known as the Mississippi
18 Vulnerable Person Abuse Registry, containing the names of any
19 individual for whom any of the following are true:

20 (a) The individual has been convicted of the crime of
21 abuse, neglect, or exploitation of a vulnerable person; and

22 (b) The individual has been found by the department or
23 Attorney General's Office to have committed an act of abuse,
24 neglect, or exploitation of a vulnerable person.



25 (2) The department shall establish and enforce reasonable
26 rules governing the custody, use, and preservation of the reports
27 and records of abuse, neglect, or exploitation of a vulnerable
28 person used in maintaining the registry.

29 (3) The crime for which an individual was convicted under
30 this act or the act for which the department or Attorney General's
31 Office found the individual committed shall be confidential and
32 shall not be used or disclosed for any purpose other than the
33 following:

34 (a) A care facility as required by subsection (6) of
35 this section;

36 (b) A member of the public as allowed by subsection (7)
37 of this section; and

38 (c) The public for disclosure of the findings and
39 information about a case pursuant to this act that resulted in a
40 fatality.

41 (4) (a) A court of competent jurisdiction shall notify the
42 department of any criminal conviction that arises out of a
43 violation of this act.

44 (b) Any agency responsible for investigating any report
45 of abuse, neglect, or exploitation under this act shall notify the
46 department of the outcome of the investigation if the report is
47 determined to have been true or founded.

48 (c) The department shall adopt rules prescribing the
49 process for notifying the department as required by paragraphs (a)



50 and (b) of this subsection. The rules shall include a requirement
51 that documentation verifying the conviction or investigation
52 outcome be submitted to the department.

53 (5) (a) Upon receiving the notifications described in
54 subsection (4) of this section, the department, in addition to
55 entering the individual's name and address on the Mississippi
56 Vulnerable Person Abuse Registry, shall enter information
57 pertaining to the offense or offenses for which the individual was
58 convicted.

59 (b) If the individual whose information is entered on
60 the registry was not convicted of a crime but was found by the
61 department or Attorney General's Office to have otherwise
62 committed acts of abuse, neglect, or exploitation under this act,
63 the department, in addition to entering the individual's name and
64 address on the registry, shall also enter information pertaining
65 to the offense or offenses the individual was found to have
66 committed by the department or the Attorney General's Office.

67 (c) The individual's information, once entered on the
68 registry, shall remain on the registry even if the individual
69 fulfills the obligations of any criminal sentencing against that
70 individual except as provided in subsection (d) of this
71 subsection.

72 (d) The department shall adopt rules requiring due
73 process that includes notice by certified mail or by personal
74 service for individuals found to have committed acts of abuse,



75 neglect, or exploitation under this act. The department shall
76 adopt rules providing a process by which an individual's name and
77 information may be removed from the Mississippi Vulnerable Person
78 Abuse Registry.

79 (6) A care facility shall query the Mississippi Vulnerable
80 Person Abuse Registry with regard to an individual who is an
81 employee or prospective employee of the facility to confirm
82 whether any of the following are true:

83 (a) The individual has been convicted of a crime of
84 abuse, neglect, or exploitation under this act; and

85 (b) The department or the Attorney General's Office has
86 made a finding that the individual has committed an act of abuse,
87 neglect, or exploitation under this act.

88 (7) A member of the public may request permission from the
89 department to query the Mississippi Vulnerable Person Abuse
90 Registry regarding hiring a caretaker or a person who will be in a
91 position of trust or authority to a vulnerable person.

92 (a) The department shall promulgate rules governing the
93 method of request and access to the Mississippi Vulnerable Person
94 Abuse Registry by a member of the public regarding hiring a
95 caretaker or a person who will be in a position of trust or
96 authority to a vulnerable person. The rules shall require a
97 member of the public requesting access to the registry to declare
98 the purpose for which they are requesting access and to provide



99 their own name and address and the name and address of the
100 vulnerable person in need.

101 (b) A member of the public requesting access to query
102 the registry shall only be given access for a limited time as
103 determined by the department.

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

106 43-47-7. (1) (a) Except as otherwise provided by Section
107 43-47-37 for vulnerable persons in care facilities and by Section
108 43-7-65 for the State Ombudsman Program, any person including, but
109 not limited to, the following, who knows or suspects that a
110 vulnerable person has been or is being abused, neglected or
111 exploited shall immediately report such knowledge or suspicion to
112 the Department of Human Services or to the county department of
113 human services where the vulnerable person is located. If the
114 vulnerable person is a minor, then such report may be made to the
115 Department of Child Protection Services:

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

160 (c) The department, or its designees, shall report to
161 an appropriate criminal investigative or prosecutive authority any
162 person required by this section to report or who fails to comply
163 with this section. A person who fails to make a report as
164 required under this subsection or who, because of the
165 circumstances, should have known or suspected beyond a reasonable
166 doubt that a vulnerable person suffers from exploitation, abuse,
167 neglect or self-neglect but who knowingly fails to comply with
168 this section shall, upon conviction, be guilty of a misdemeanor
169 and shall be punished by a fine not exceeding Five Thousand
170 Dollars (\$5,000.00), or by imprisonment in the county jail for not
171 more than six (6) months, or both such fine and imprisonment.
172 However, for purposes of this subsection (1), any recognized legal



173 financial transaction shall not be considered cause to report the
174 knowledge or suspicion of the financial exploitation of a
175 vulnerable person. If a person convicted under this section is a
176 member of a profession or occupation that is licensed, certified
177 or regulated by the state, the court shall notify the appropriate
178 licensing, certifying or regulating entity of the conviction.

179 (2) Reports received by law enforcement authorities or other
180 agencies shall be forwarded immediately to the Department of Human
181 Services or the county department of human services. The
182 Department of Human Services shall investigate the reported abuse,
183 neglect or exploitation immediately and shall file a preliminary
184 report of its findings with the Office of the Attorney General
185 within forty-eight (48) hours if immediate attention is needed, or
186 seventy-two (72) hours if the vulnerable person is not in
187 immediate danger and shall make additional reports as new
188 information or evidence becomes available. The Department of
189 Human Services, upon request, shall forward a statement to the
190 person making the initial report required by this section as to
191 what action is being taken, if any.

192 (3) The report may be made orally or in writing, but where
193 made orally, it shall be followed up by a written report. A
194 person who fails to report or to otherwise comply with this
195 section, as provided herein, shall have no civil or criminal
196 liability, other than that expressly provided for in this section,



197 to any person or entity in connection with any failure to report
198 or to otherwise comply with the requirements of this section.

199 (4) Anyone who makes a report required by this section or
200 who testifies or participates in any judicial proceedings arising
201 from the report or who participates in a required investigation or
202 evaluation shall be presumed to be acting in good faith and in so
203 doing shall be immune from liability, civil or criminal, that
204 might otherwise be incurred or imposed. However, the immunity
205 provided under this subsection shall not apply to any suspect or
206 perpetrator of any abuse, neglect or exploitation.

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

211 (6) The Executive Director of the Department of Human
212 Services shall establish a statewide central register of reports
213 made pursuant to this section. The central register shall be
214 capable of receiving reports of vulnerable persons in need of
215 protective services seven (7) days a week, twenty-four (24) hours
216 a day. To effectuate this purpose, the executive director shall
217 establish a single toll-free statewide phone number that all
218 persons may use to report vulnerable persons in need of protective
219 services, and that all persons authorized by subsection (7) of
220 this section may use for determining the existence of prior
221 reports in order to evaluate the condition or circumstances of the



222 vulnerable person before them. Such oral reports and evidence of
223 previous reports shall be transmitted to the appropriate county
224 department of human services. The central register shall include,
225 but not be limited to, the following information: the name and
226 identifying information of the individual reported, the county
227 department of human services responsible for the investigation of
228 each such report, the names, affiliations and purposes of any
229 person requesting or receiving information which the executive
230 director believes might be helpful in the furtherance of the
231 purposes of this chapter, the name, address, birth date, social
232 security number of the perpetrator of abuse, neglect and/or
233 exploitation, and the type of abuse, neglect and/or exploitation
234 of which there was substantial evidence upon investigation of the
235 report. The central register shall inform the person making
236 reports required under this section of his or her right to request
237 statements from the department as to what action is being taken,
238 if any.

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



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

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

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

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

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

265 (d) A district attorney or other law enforcement
266 official * * *;

267 (e) Federal, state or local governmental entities,
268 social service agencies of another state, or any agent of these
269 entities, having a need for the information in order to carry out
270 their responsibilities under law to protect individuals from
271 abuse, neglect, or exploitation under this chapter; and



272 (f) A guardian ad litem, guardian or conservator
273 authorized by a court to act as a representative for a vulnerable
274 person in need of protective services who is the subject of a
275 report.

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

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

292 (8) Upon reasonable cause to believe that a caretaker or
293 other person has abused, neglected or exploited a vulnerable
294 person, the department shall promptly notify the district attorney
295 of the county in which the vulnerable person is located and the



296 Office of the Attorney General, except as provided in Section
297 43-47-37(2).

298 **SECTION 3.** This act shall take effect and be in force from
299 and after July 1, 2023, and shall stand repealed from and after
300 June 30, 2023.

