

House Amendments to Senate Bill No. 2652

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

15 SECTION 1. (1) The Department of Public Safety shall
16 establish and maintain a registry, to be known as the Mississippi
17 Vulnerable Person Abuse Registry, containing the name of any
18 individual who has been convicted of the crime of abuse, neglect,
19 or exploitation of a vulnerable person.

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

24 (3) The crime for which an individual was convicted under
25 this act shall be confidential and shall not be used or disclosed
26 for any purpose other than the following:

27 (a) A care facility as required by subsection (6) of
28 this section;

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

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

34 (4) (a) A court of competent jurisdiction shall notify the
35 department of any criminal conviction that arises out of a
36 violation of this act.

37 (b) The department shall adopt rules prescribing the
38 process for notifying the department as required by paragraph (a)
39 of this subsection. The rules shall include a requirement that
40 documentation verifying the conviction be submitted to the
41 department.

42 (5) (a) Upon receiving the notifications described in
43 subsection (4) of this section, the department, in addition to
44 entering the individual's name and address on the Mississippi
45 Vulnerable Person Abuse Registry, shall enter information
46 pertaining to the offense or offenses for which the individual was
47 convicted.

48 (b) The individual's information, once entered on the
49 registry, shall remain on the registry even if the individual
50 fulfills the obligations of any criminal sentencing against that
51 individual except as provided in paragraph (c) of this subsection.

52 (c) The department shall adopt rules requiring due
53 process that includes notice by certified mail or by personal
54 service for individuals found to have committed acts of abuse,
55 neglect, or exploitation under this act. The department shall
56 adopt rules providing a process by which an individual's name and

57 information may be removed from the Mississippi Vulnerable Person
58 Abuse Registry.

59 (6) A care facility shall query the Mississippi Vulnerable
60 Person Abuse Registry with regard to an individual who is an
61 employee or prospective employee of the facility to confirm
62 whether the individual has been convicted of a crime of abuse,
63 neglect, or exploitation under this act.

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

68 (a) The department shall promulgate rules governing the
69 method of request and access to the Mississippi Vulnerable Person
70 Abuse Registry by a member of the public regarding hiring a
71 caretaker or a person who will be in a position of trust or
72 authority to a vulnerable person. The rules shall require a
73 member of the public requesting access to the registry to declare
74 the purpose for which they are requesting access and to provide
75 their own name and address and the name and address of the
76 vulnerable person in need.

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

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

82 43-47-7. (1) (a) Except as otherwise provided by Section
83 43-47-37 for vulnerable persons in care facilities and by Section
84 43-7-65 for the State Ombudsman Program, any person including, but
85 not limited to, the following, who knows or suspects that a
86 vulnerable person has been or is being abused, neglected or
87 exploited shall immediately report such knowledge or suspicion to
88 the Department of Human Services or to the county department of
89 human services where the vulnerable person is located. If the
90 vulnerable person is a minor, then such report may be made to the
91 Department of Child Protection Services:

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

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

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

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

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

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

106 (vii) Accountant, stockbroker, financial advisor
107 or consultant, insurance agent or consultant, investment advisor

108 or consultant, financial planner, or any officer or employee of a
109 bank, savings and loan, credit union or any other financial
110 service provider.

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

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

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

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

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

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

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

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

131 In addition to the above, any person or entity holding or
132 required to hold a license as specified in Title 73, Professions
133 and Vocations, Mississippi Code of 1972, shall be required to give

134 his, her or its name, address and telephone number in the report
135 of the alleged abuse, neglect or exploitation.

136 (c) The department, or its designees, shall report to
137 an appropriate criminal investigative or prosecutive authority any
138 person required by this section to report or who fails to comply
139 with this section. A person who fails to make a report as
140 required under this subsection or who, because of the
141 circumstances, should have known or suspected beyond a reasonable
142 doubt that a vulnerable person suffers from exploitation, abuse,
143 neglect or self-neglect but who knowingly fails to comply with
144 this section shall, upon conviction, be guilty of a misdemeanor
145 and shall be punished by a fine not exceeding Five Thousand
146 Dollars (\$5,000.00), or by imprisonment in the county jail for not
147 more than six (6) months, or both such fine and imprisonment.
148 However, for purposes of this subsection (1), any recognized legal
149 financial transaction shall not be considered cause to report the
150 knowledge or suspicion of the financial exploitation of a
151 vulnerable person. If a person convicted under this section is a
152 member of a profession or occupation that is licensed, certified
153 or regulated by the state, the court shall notify the appropriate
154 licensing, certifying or regulating entity of the conviction.

155 (2) Reports received by law enforcement authorities or other
156 agencies shall be forwarded immediately to the Department of Human
157 Services or the county department of human services. The
158 Department of Human Services shall investigate the reported abuse,
159 neglect or exploitation immediately and shall file a preliminary

160 report of its findings with the Office of the Attorney General
161 within forty-eight (48) hours if immediate attention is needed, or
162 seventy-two (72) hours if the vulnerable person is not in
163 immediate danger and shall make additional reports as new
164 information or evidence becomes available. The Department of
165 Human Services, upon request, shall forward a statement to the
166 person making the initial report required by this section as to
167 what action is being taken, if any.

168 (3) The report may be made orally or in writing, but where
169 made orally, it shall be followed up by a written report. A
170 person who fails to report or to otherwise comply with this
171 section, as provided herein, shall have no civil or criminal
172 liability, other than that expressly provided for in this section,
173 to any person or entity in connection with any failure to report
174 or to otherwise comply with the requirements of this section.

175 (4) Anyone who makes a report required by this section or
176 who testifies or participates in any judicial proceedings arising
177 from the report or who participates in a required investigation or
178 evaluation shall be presumed to be acting in good faith and in so
179 doing shall be immune from liability, civil or criminal, that
180 might otherwise be incurred or imposed. However, the immunity
181 provided under this subsection shall not apply to any suspect or
182 perpetrator of any abuse, neglect or exploitation.

183 (5) A person who intentionally makes a false report under
184 the provisions of this section may be found liable in a civil suit

185 for any actual damages suffered by the person or persons so
186 reported and for any punitive damages set by the court or jury.

187 (6) The Executive Director of the Department of Human
188 Services shall establish a statewide central register of reports
189 made pursuant to this section. The central register shall be
190 capable of receiving reports of vulnerable persons in need of
191 protective services seven (7) days a week, twenty-four (24) hours
192 a day. To effectuate this purpose, the executive director shall
193 establish a single toll-free statewide phone number that all
194 persons may use to report vulnerable persons in need of protective
195 services, and that all persons authorized by subsection (7) of
196 this section may use for determining the existence of prior
197 reports in order to evaluate the condition or circumstances of the
198 vulnerable person before them. Such oral reports and evidence of
199 previous reports shall be transmitted to the appropriate county
200 department of human services. The central register shall include,
201 but not be limited to, the following information: the name and
202 identifying information of the individual reported, the county
203 department of human services responsible for the investigation of
204 each such report, the names, affiliations and purposes of any
205 person requesting or receiving information which the executive
206 director believes might be helpful in the furtherance of the
207 purposes of this chapter, the name, address, birth date, social
208 security number of the perpetrator of abuse, neglect and/or
209 exploitation, and the type of abuse, neglect and/or exploitation
210 of which there was substantial evidence upon investigation of the

211 report. The central register shall inform the person making
212 reports required under this section of his or her right to request
213 statements from the department as to what action is being taken,
214 if any.

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

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

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

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

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

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

241 (d) A district attorney or other law enforcement
242 official * * *;

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

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

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

259 Any person given access to the names or other information
260 identifying the subject of the report, except the subject of the
261 report, shall not divulge or make public such identifying

262 information unless he is a district attorney or other law
263 enforcement official and the purpose is to initiate court action.
264 Any person who willfully permits the release of any data or
265 information obtained pursuant to this section to persons or
266 agencies not permitted to such access by this section shall be
267 guilty of a misdemeanor.

268 (8) Upon reasonable cause to believe that a caretaker or
269 other person has abused, neglected or exploited a vulnerable
270 person, the department shall promptly notify the district attorney
271 of the county in which the vulnerable person is located and the
272 Office of the Attorney General, except as provided in Section
273 43-47-37(2).

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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

HR26\SB2652A.J

Andrew Ketchings
Clerk of the House of Representatives