

By: Representative Yates

To: Judiciary A

HOUSE BILL NO. 1458

1 AN ACT TO AMEND SECTION 43-21-351, MISSISSIPPI CODE OF 1972,
2 TO SPECIFY THAT THE DEPARTMENT OF CHILD PROTECTION SERVICES MAY
3 MAKE CERTAIN WRITTEN OR ORAL REPORTS REGARDING CHILDREN TO THE
4 INTAKE UNIT OF A YOUTH COURT TO ESTABLISH JURISDICTION OF THE
5 COURT; TO AMEND SECTION 43-21-353, MISSISSIPPI CODE OF 1972, TO
6 REQUIRE THE DEPARTMENT TO DEVELOP AND IMPLEMENT TRIAGE PROCEDURES
7 FOR HANDLING SUCH REPORTS; TO AMEND SECTION 43-21-357, MISSISSIPPI
8 CODE OF 1972, TO PROVIDE THAT IF THE YOUTH COURT UNIT RECEIVES A
9 REPORT OF ABUSE OR NEGLECT OF A CHILD, THEN THE COURT MUST
10 IMMEDIATELY MAKE A REPORT OF SUCH THROUGH THE MISSISSIPPI
11 CENTRALIZED INTAKE AND ASSESSMENT UNIT WITHIN THE MISSISSIPPI
12 DEPARTMENT OF CHILD PROTECTION SERVICES; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 43-21-351, Mississippi Code of 1972, is
15 amended as follows:

16 43-21-351. (1) * * * The Department of Child Protection
17 Services may make a written or oral report to the intake unit
18 alleging facts sufficient to establish the jurisdiction of the
19 youth court. The report shall bear a permanent number that will
20 be assigned by the court in accordance with the standards
21 established by the Administrative Office of Courts pursuant to
22 Section 9-21-9(d), and shall be preserved until destroyed on order
23 of the court.



24 (2) There shall be in each youth court of the state an
25 intake officer who shall be responsible for the accurate and
26 timely entering of all intake and case information into the
27 Mississippi Youth Court Information Delivery System (MYCIDS) for
28 the Department of Human Services Division of Youth Services,
29 truancy matters, and the Department of Child Protection Services.
30 It shall be the responsibility of the youth court judge or referee
31 of each county to ensure that the intake officer is carrying out
32 the responsibility of this section.

39 (4) The Mississippi Judicial College, in conjunction with
40 the Administrative Office of Courts, shall develop training
41 materials on MYCIDS:

42 (a) To ensure the accurate and timely entrance of all
43 intake and case information throughout the state by intake
44 officers;

45 (b) To ensure that youth court judges are equipped to
46 oversee the functions of each intake officer.

49 **SECTION 2.** Section 43-21-353, Mississippi Code of 1972, is
50 amended as follows:

51 43-21-353. (1) Any attorney, physician, dentist, intern,
52 resident, nurse, psychologist, social worker, family protection
53 worker, family protection specialist, child caregiver, minister,
54 law enforcement officer, public or private school employee or any
55 other person having reasonable cause to suspect that a child is a
56 neglected child, an abused child, or a victim of commercial sexual
57 exploitation or human trafficking shall cause * * * a report to be
58 made immediately by telephone or otherwise * * * to the Department
59 of Child Protection Services * * *.

60 (2) The Department of Child Protection Services shall
61 develop and implement triage procedures for accepting, documenting
62 and assigning reports under this section. The procedures
63 established by the department shall include the following:

64 (a) The department shall advise the * * * youth court
65 intake unit, within seventy-two (72) hours of the report being
66 assigned for investigation or within twenty-four (24) hours of a
67 child being removed from a home, which intake unit shall promptly
68 comply with Section 43-21-357.

69 (b) In the course of an investigation, at the initial
70 time of contact with the individual(s) about whom a report has
71 been made under this Youth Court Act or with the individual(s)
72 responsible for the health or welfare of a child about whom a
73 report has been made under this chapter, the Department of Child



74 Protection Services shall inform the individual of the specific
75 complaints or allegations made against the individual. Consistent
76 with subsection (4), the identity of the person who reported his
77 or her suspicion shall not be disclosed at that point. Where
78 appropriate, the Department of Child Protection Services shall
79 additionally make a referral to the youth court prosecutor.

80 (c) Upon receiving a report that a child has been sexually
81 abused, is a victim of commercial sexual exploitation or human
82 trafficking or has been burned, tortured, mutilated or otherwise
83 physically abused in such a manner as to cause serious bodily
84 harm, or upon receiving any report of abuse that would be a felony
85 under state or federal law, the Department of Child Protection
86 Services shall immediately notify the law enforcement agency in
87 whose jurisdiction the abuse occurred. Within forty-eight (48)
88 hours, the department must notify the appropriate prosecutor and
89 the Statewide Human Trafficking Coordinator. The department shall
90 have the duty to provide the law enforcement agency all the names
91 and facts known at the time of the report; this duty shall be of a
92 continuing nature. The law enforcement agency and the department
93 shall investigate the reported abuse immediately and shall file a
94 preliminary report with the appropriate prosecutor's office within
95 twenty-four (24) hours and shall make additional reports as new or
96 additional information or evidence becomes available. The
97 department shall advise the clerk of the youth court and the youth
98 court prosecutor of all cases of abuse reported to the department



99 under this subsection (c) within seventy-two (72) hours and shall
100 update such report as information becomes available. In addition,
101 if the Department of Child Protection Services determines that a
102 parent or other person responsible for the care or welfare of an
103 abused or neglected child maintains active duty status within the
104 military, the department shall notify the applicable military
105 installation family advocacy program that there is an allegation
106 of abuse or neglect that relates to that child.

107 (2) Any report shall contain the names and addresses of the
108 child and his parents or other persons responsible for his care,
109 if known, the child's age, the nature and extent of the child's
110 injuries, including any evidence of previous injuries, any other
111 information that might be helpful in establishing the cause of the
112 injury, and the identity of the perpetrator.

113 (3) The Department of Child Protection Services shall
114 maintain a statewide incoming wide-area telephone service or
115 similar service for the purpose of receiving reports of suspected
116 cases of child abuse, commercial sexual exploitation or human
117 trafficking; provided that any attorney, physician, dentist,
118 intern, resident, nurse, psychologist, social worker, family
119 protection worker, family protection specialist, child caregiver,
120 minister, law enforcement officer or public or private school
121 employee who is required to report under subsection (1) of this
122 section shall report in the manner required in subsection (1).



(4) Reports of abuse, neglect and commercial sexual exploitation or human trafficking made under this chapter and the identity of the reporter are confidential except when the court in which the investigation report is filed, in its discretion, determines the testimony of the person reporting to be material to a judicial proceeding or when the identity of the reporter is released to law enforcement agencies and the appropriate prosecutor pursuant to subsection (1). Reports made under this section to any law enforcement agency or prosecutorial officer are for the purpose of criminal investigation and prosecution only and no information from these reports may be released to the public except as provided by Section 43-21-261. Disclosure of any information by the prosecutor shall be according to the Mississippi Uniform Rules of Circuit and County Court Procedure. The identity of the reporting party shall not be disclosed to anyone other than law enforcement officers or prosecutors without an order from the appropriate youth court. Any person disclosing any reports made under this section in a manner not expressly provided for in this section or Section 43-21-261 shall be guilty of a misdemeanor and subject to the penalties prescribed by Section 43-21-267. Notwithstanding the confidentiality of the reporter's identity under this section, the Department of Child Protection Services may disclose a reporter's identity to the appropriate law enforcement agency or prosecutor if the department has reason to suspect the reporter has made a fraudulent report,



148 and the Department of Child Protection Services must provide to
149 the subject of the alleged fraudulent report written notification
150 of the disclosure.

151 (5) All final dispositions of law enforcement investigations
152 described in subsection (1) of this section shall be determined
153 only by the appropriate prosecutor or court. All final
154 dispositions of investigations by the Department of Child
155 Protection Services as described in subsection (1) of this section
156 shall be determined only by the youth court. Reports made under
157 subsection (1) of this section by the Department of Child
158 Protection Services to the law enforcement agency and to the
159 district attorney's office shall include the following, if known
160 to the department:

161 (a) The name and address of the child;
162 (b) The names and addresses of the parents;
163 (c) The name and address of the suspected perpetrator;
164 (d) The names and addresses of all witnesses, including
165 the reporting party if a material witness to the abuse;
166 (e) A brief statement of the facts indicating that the
167 child has been abused, including whether the child experienced
168 commercial sexual exploitation or human trafficking, and any other
169 information from the agency files or known to the family
170 protection worker or family protection specialist making the
171 investigation, including medical records or other records, which



172 may assist law enforcement or the district attorney in
173 investigating and/or prosecuting the case; and

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

176 (6) In any investigation of a report made under this chapter
177 of the abuse or neglect of a child as defined in Section
178 43-21-105(l) or (m), the Department of Child Protection Services
179 may request the appropriate law enforcement officer with
180 jurisdiction to accompany the department in its investigation, and
181 in such cases the law enforcement officer shall comply with such
182 request.

183 (7) Anyone who willfully violates any provision of this
184 section shall be, upon being found guilty, punished by a fine not
185 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in
186 jail not to exceed one (1) year, or both.

187 (8) If a report is made directly to the Department of Child
188 Protection Services that a child has been abused or neglected or
189 experienced commercial sexual exploitation or human trafficking in
190 an out-of-home setting, a referral shall be made immediately to
191 the law enforcement agency in whose jurisdiction the abuse
192 occurred and the department shall notify the district attorney's
193 office and the Statewide Human Trafficking Coordinator within
194 forty-eight (48) hours of such report. The Department of Child
195 Protection Services shall investigate the out-of-home setting
196 report of abuse or neglect to determine whether the child who is



197 the subject of the report, or other children in the same
198 environment, comes within the jurisdiction of the youth court and
199 shall report to the youth court the department's findings and
200 recommendation as to whether the child who is the subject of the
201 report or other children in the same environment require the
202 protection of the youth court. The law enforcement agency shall
203 investigate the reported abuse immediately and shall file a
204 preliminary report with the district attorney's office within
205 forty-eight (48) hours and shall make additional reports as new
206 information or evidence becomes available. If the out-of-home
207 setting is a licensed facility, an additional referral shall be
208 made by the Department of Child Protection Services to the
209 licensing agency. The licensing agency shall investigate the
210 report and shall provide the department, the law enforcement
211 agency and the district attorney's office with their written
212 findings from such investigation as well as that licensing
213 agency's recommendations and actions taken.

214 (9) If a child protective investigation does not result in
215 an out-of-home placement, a child protective investigator must
216 provide information to the parent or guardians about community
217 service programs that provide respite care, counseling and support
218 for children who have experienced commercial sexual exploitation
219 or human trafficking, voluntary guardianship or other support
220 services for families in crisis.

221 **SECTION 3.** Section 43-21-357, Mississippi Code of 1972, is
222 amended as follows:

223 43-21-357. (1) After receiving a report, the youth court
224 intake unit shall promptly make a preliminary inquiry to determine
225 whether the interest of the child, other children in the same
226 environment or the public requires the youth court to take further
227 action. As part of the preliminary inquiry, the youth court
228 intake unit may request or the youth court may order the
229 Department of Child Protection Services, the Department of Human
230 Services - Division of Youth Services, any successor agency or any
231 other qualified public employee to make an investigation or report
232 concerning the child and any other children in the same
233 environment, and present the findings thereof to the youth court
234 intake unit. * * * If the youth court intake unit receives a
235 neglect or abuse report, the youth court intake unit shall
236 immediately make a report through the Mississippi Centralized
237 Intake and Assessment Unit within the Mississippi Department of
238 Child Protection Services. The Department of Child Protection
239 Services shall thereafter document and assign the report. If it
240 appears from the preliminary inquiry that the child or other
241 children in the same environment are within the jurisdiction of
242 the court, the youth court intake unit shall recommend to the
243 youth court:

244 (a) That the youth court take no action;
245 (b) That an informal adjustment be made;



