

By: Representative Moody

To: Public Health and Welfare

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1306

1 AN ACT TO AMEND SECTIONS 43-20-8 AND 43-20-14, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT AN APPLICANT FOR EMPLOYMENT AT A
3 CHILD CARE FACILITY WHO HAS RECEIVED AN ACCEPTABLE CRIMINAL
4 RECORDS BACKGROUND CHECK MAY BE EMPLOYED ON A TEMPORARY BASIS
5 PENDING THE RESULTS OF THE CHILD ABUSE REGISTRY CHECK; TO PROVIDE
6 THAT ANY EMPLOYMENT CONTRACT WITH THAT PERSON IS VOIDABLE IF THE
7 PERSON RECEIVES A DISQUALIFYING CHILD ABUSE REGISTRY CHECK; AND
8 FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 43-20-8, Mississippi Code of 1972, is
11 amended as follows:

12 43-20-8. (1) The licensing agency shall have powers and
13 duties as set forth below in addition to other duties prescribed
14 under this chapter:

15 (a) Promulgate rules and regulations concerning the
16 licensing and regulation of child-care facilities as defined
17 herein;

18 (b) Have the authority to issue, deny, suspend, revoke,
19 restrict or otherwise take disciplinary action against licensees
20 as provided for in this chapter;

21 (c) Set and collect fees and penalties as provided for
22 in this chapter; and

23 (d) Have such other powers as may be required to carry
24 out the provisions of this chapter.

25 (2) Child-care facilities shall assure that parents have
26 welcome access to the child-care facility at all times.

27 (3) Child-care facilities shall require that, for any
28 current or prospective caregiver, current criminal records
29 background checks and current child abuse registry checks are
30 obtained. In order to determine the applicant's suitability for



31 employment, the applicant shall be fingerprinted. If no
32 disqualifying record is identified at the state level, the
33 fingerprints shall be forwarded by the Department of Public Safety
34 to the FBI for a national criminal history record check. If a
35 criminal records background check with no disqualifying record has
36 been obtained for an applicant, the person may be employed on a
37 temporary basis pending the results of the child abuse registry
38 check, but any employment contract with that person is voidable if
39 the person receives a disqualifying child abuse registry check.

40 (4) The licensing agency shall require to be performed a
41 criminal records background check and a child abuse registry check
42 for * * * all operators of a child-care facility and any person
43 living in a residence used for child care. In order to determine
44 the applicant's suitability for employment, the applicant shall be
45 fingerprinted. If no disqualifying record is identified at the
46 state level, the fingerprints shall be forwarded by the Department
47 of Public Safety to the FBI for a national criminal history record
48 check. If a criminal records background check with no
49 disqualifying record has been obtained for an applicant, the
50 person may be employed on a temporary basis pending the results of
51 the child abuse registry check, but any employment contract with
52 that person is voidable if the person receives a disqualifying
53 child abuse registry check.

54 (5) The licensing agency shall have the authority to exclude
55 a particular crime or crimes or a substantiated finding of child
56 abuse and/or neglect as disqualifying individuals or entities for
57 prospective or current employment or licensure.

58 (6) The licensing agency and its agents, officers,
59 employees, attorneys and representatives shall not be held civilly
60 liable for any findings, recommendations or actions taken pursuant
61 to this section.

62 (7) All fees incurred in compliance with this section shall
63 be borne by the child-care facility. The licensing agency



64 is * * * authorized to charge a fee that shall include the amount
65 required by the Federal Bureau of Investigation for the national
66 criminal history record check in compliance with the Child
67 Protection Act of 1993, as amended and any necessary costs
68 incurred by the licensing agency for the handling and
69 administration of the criminal history background checks.

70 **SECTION 2.** Section 43-20-14, Mississippi Code of 1972, is
71 amended as follows:

72 43-20-14. (1) The licensing agency may deny a license or
73 refuse to renew a license for any of the reasons set forth in
74 subsection (3) of this section.

75 (2) Before the licensing agency may deny or refuse to renew,
76 the applicant or person named on the license shall be entitled to
77 a hearing in order to show cause why the license should not be
78 denied or should be renewed.

79 (3) The licensing agency may suspend, revoke or restrict the
80 license of any child-care facility upon one or more of the
81 following grounds:

82 (a) Fraud, misrepresentation or concealment of material
83 facts;

84 (b) Conviction of an operator for any crime if the
85 licensing agency finds that the act or acts for which the operator
86 was convicted could have a detrimental effect on children cared
87 for by any child care facility;

88 (c) Violation of any of the provisions of this act or
89 of the regulations governing the licensing and regulation of
90 child-care facilities promulgated by the licensing agency;

91 (d) Any conduct, or failure to act, that is found or
92 determined by the licensing agency to threaten the health or
93 safety of children at the facility;

94 (e) Failure by the child-care facility to comply with
95 the provisions of Section 43-20-8(3) regarding background checks
96 of caregivers * * *; and



97 (f) Information received by the licensing agency as a
98 result of the criminal records background check * * * and the
99 child abuse registry check on * * * all operators under Section
100 43-20-8.

101 (4) Before the licensing agency may suspend, revoke or
102 restrict the license of any facility, any licensee affected by
103 that decision of the licensing agency shall be entitled to a
104 hearing in which the licensee may show cause why the license
105 should not be suspended, revoked or restricted.

106 (5) Any licensee who disagrees with or is aggrieved by a
107 decision of the Mississippi State Department of Health in regard
108 to the denial, refusal to renew, suspension, revocation or
109 restriction of the license of the licensee, may appeal to the
110 chancery court of the county in which the facility is located.
111 The appeal shall be filed no later than thirty (30) days after the
112 licensee receives written notice of the final administrative
113 action by the Mississippi State Department of Health as to the
114 suspension, revocation or restriction of the license of the
115 licensee.

116 **SECTION 3.** This act shall take effect and be in force from
117 and after July 1, 2003.

