

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2262

1 AN ACT TO CODIFY SECTIONS 43-15-301 THROUGH 43-15-311,
2 MISSISSIPPI CODE OF 1972, TO PROHIBIT PERSONS CONVICTED OF CERTAIN
3 OFFENSES FROM EMPLOYMENT OR VOLUNTEER SERVICE AT ANY CHILD CARE
4 SERVICE, FACILITY, SCHOOL, INSTITUTION OR RESIDENTIAL HOME NOT
5 LICENSED OR ACCREDITED BY THE STATE OF MISSISSIPPI; TO PROVIDE FOR
6 MANDATORY FINGERPRINTS FOR ALL SUCH APPLICANTS AT CHILD CARE
7 SERVICES; TO DEFINE THOSE OFFENSES BARRING EMPLOYMENT OR VOLUNTEER
8 SERVICE; TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS OF THIS ACT;
9 AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** The following provision shall be codified as

12 Section 43-15-301, Mississippi Code of 1972:

13 43-15-301. (1) As used in this act:

14 (a) "Child care service" means any employment or
15 volunteer service involving the care, instruction or guidance of
16 minor children, including, but not limited to, service as a
17 teacher, coach or worker of any type in child athletics, a daycare
18 worker, boy or girl scout leader or master or worker, summer camp
19 counselor or worker, guidance counselor or school administrator.

20 It shall not include any employment or volunteer service at a
21 child care facility, institution, residential home which is
22 licensed by the State of Mississippi and required to conduct
23 criminal record background checks for employees and volunteers, or
24 any public school or accredited private school required to conduct
25 criminal record background checks under Section 37-9-17.

26 (b) "Employer" means every person, firm, association,
27 partnership or corporation offering or conducting child care
28 services as defined in Section (1)(a) of this section.

29 (c) "Applicant" means any person who is being
30 considered for employment or for a volunteer by an employer.

31 (d) "Convicted" means any adjudicated finding of guilt,
32 any adjudicated finding that the applicant is physically or
33 mentally incompetent, any adjudicated finding that the applicant
34 is not guilty by reason of insanity, or any plea of nolo
35 contendere.

36 **SECTION 2.** The following provision shall be codified as
37 Section 43-15-303, Mississippi Code of 1972:

38 43-15-303. (1) Every employer offering or conducting a
39 child care service shall require each applicant for employment or
40 volunteer to submit two (2) sets of fingerprints prepared for
41 submittal by the employer to the Attorney General's Office for the
42 purpose of obtaining criminal record summary information from the
43 Attorney General's Office and the Federal Bureau of Investigation.

44 (2) Upon receiving the identification cards, the Attorney
45 General's Office shall ascertain whether the applicant has been
46 arrested or convicted of any crime insofar as the fact can be
47 ascertained from the information available to the office and
48 forward the information to the employer submitting the
49 fingerprints not more than twenty (20) working days after
50 receiving the identification cards.

51 (3) An employer shall not employ or permit an applicant to
52 volunteer until the Attorney General's Office completes its check
53 of the applicant's criminal history file, both in this
54 jurisdiction and other jurisdictions, as set forth in this act.

55 **SECTION 3.** The following provision shall be codified as
56 Section 43-15-305, Mississippi Code of 1972:

57 43-15-305. (1) An employer offering or conducting a child
58 care service shall not employ or permit to volunteer an applicant
59 convicted of any felony prohibited under any of the following
60 provisions of the Mississippi statutes or under any similar
61 statute of another jurisdiction:

62 (a) All felonious crimes contained in Chapter 3 of
63 Title 97, Mississippi Code of 1972, relating to crimes against the
64 person.

65 (b) All felonious crimes contained in Chapter 5 of
66 Title 97, Mississippi Code of 1972, relating to offenses affecting
67 children.

68 (c) All felonious crimes contained in Chapter 29 of
69 Title 97, Mississippi Code of 1972, relating to crimes against
70 public morals and decency.

71 (d) All felonious crimes contained in Chapter 35 of
72 Title 97, Mississippi Code of 1972, relating to crimes against
73 public peace and safety.

74 (e) All felonious crimes contained in Chapter 37 of
75 Title 97, Mississippi Code of 1972, relating to weapons and
76 explosives.

77 (f) All felonious crimes contained in Chapter 41 of
78 Title 97, Mississippi Code of 1972, relating to cruelty to
79 animals.

80 (2) An employer offering or conducting a child care service
81 shall not employ or permit to volunteer an applicant convicted of
82 any misdemeanor prohibited under any of the following provisions
83 of the Mississippi statutes or under any similar state of another
84 jurisdiction:

85 (a) Section 97-5-39(1), relating to the contribution to
86 the neglect or delinquency of any child.

87 (b) Section 97-27-31, relating to the sale of poisons
88 to minors.

89 (c) Section 97-29-31, relating to indecent exposure.

90 (d) Section 97-29-43, relating to the teaching of
91 polygamy.

92 (e) Section 97-29-45, relating to obscene telephone
93 communications.

94 (f) Section 97-29-101, relating to the distribution of
95 obscene materials.

96 (g) Section 97-29-105, relating to the distribution of
97 unlawful sexual devices.

98 (h) Section 97-35-11, relating to the disturbance of
99 another by abusive language or indecent exposure.

100 **SECTION 4.** The following provision shall be codified as
101 Section 43-15-307, Mississippi Code of 1972:

102 43-15-307. (1) An employer offering or conducting a child
103 care service may employ or permit to volunteer an applicant who
104 was convicted of a misdemeanor prohibited under any of the
105 following provisions of the Mississippi statutes or under any
106 similar state of another jurisdiction if at least two (2) years
107 has expired from the time of discharge from any sentence:

108 (a) Section 97-29-19, relating to the disinterment of
109 dead bodies.

110 (b) Section 97-29-23, relating to the opening of
111 graves.

112 (c) Section 97-29-25, relating to the desecration of
113 cemeteries.

114 (d) Section 97-29-47, relating to public profanity or
115 drunkenness.

116 (e) Section 97-35-1, relating to disorderly conduct,
117 intoxication or drinking intoxicating liquors on buses.

118 (2) An employer offering or conducting a child care service
119 may employ or permit to volunteer an applicant who was convicted
120 of a misdemeanor prohibited under any of the following provisions
121 of the Mississippi statutes or under any similar state of another
122 jurisdiction if at least eight (8) years has expired from the time
123 of discharge from any sentence:

124 (a) Section 97-37-13, relating to providing weapons to
125 minors or intoxicated persons.

126 (b) Section 97-37-15, relating to parental duty to
127 prevent children from carrying concealed weapons.

128 (c) Section 97-41-1, relating to cruelty to animals.

129 (d) Section 97-41-5, relating to carrying an animal in
130 a cruel manner.

131 (e) Section 97-41-7, relating to confinement depriving
132 creatures of food or water.

133 (f) Section 97-41-9, relating to the failure to feed or
134 sustain an animal.

135 (g) Section 97-41-11, relating to the fighting of
136 animals.

137 (h) Section 97-41-16, relating to maliciously injuring
138 dogs.

139 (i) Section 97-41-17, relating to the poisoning of
140 animals.

141 (j) Section 97-41-21, relating to the harassment of
142 guide dogs.

143 **SECTION 5.** The following provision shall be codified as
144 Section 43-15-309, Mississippi Code of 1972:

145 43-15-309. An employer offering or conducting a child care
146 service may not knowingly employ or permit to volunteer an
147 applicant who is suffering from habitual drunkenness or from
148 narcotic addiction or dependence.

149 **SECTION 6.** The following provision shall be codified as
150 Section 43-15-310, Mississippi Code of 1972:

151 43-15-310. A person who would be prohibited from employment
152 or volunteer service by a child care service provider pursuant to
153 this act may not, on or after November 1, 2004, own or operate a
154 child care service as defined by Section 1 of this act.

155 **SECTION 7.** The following provision shall be codified as
156 Section 43-15-311, Mississippi Code of 1972:

157 43-15-311. (1) An applicant is guilty of a felony if,
158 having been convicted of one or more paragraphs of Section

159 43-15-305, he knowingly undertakes employment or volunteer service
160 of any type involving the care, instruction or guidance of minor
161 children. Upon conviction under subsection (1) of this section, a
162 person shall be imprisoned in the State Penitentiary for not less
163 than five (5) years but no greater than fifteen (15) years.

164 (2) An applicant is guilty of a felony if, having been
165 convicted of one or more paragraphs of Section 43-15-305, he
166 knowingly fails to provide information of such conviction when
167 applying or volunteering for service or employment of any type
168 involving the care, instruction or guidance of minor children.
169 Upon conviction under subsection (3) of this section, a person
170 shall be imprisoned in the State Penitentiary for not less than
171 one (1) year but no greater than five (5) years.

172 **SECTION 8.** This act shall take effect and be in force from
173 and after July 1, 2004.