

By: Senator(s) Burton

To: Judiciary, Division A

SENATE BILL NO. 2333

1 AN ACT TO AMEND SECTION 43-47-7, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE ABSOLUTE IMMUNITY FOR PERSONS REPORTING ABUSE OF  
3 VULNERABLE ADULTS ABSENT FRAUD; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 43-47-7, Mississippi Code of 1972, is  
6 amended as follows:

7 43-47-7. (1) (a) Except as otherwise provided by Section  
8 43-47-37 for vulnerable adults in care facilities, any person  
9 including, but not limited to, the following, who knows or  
10 suspects that a vulnerable adult has been or is being abused,  
11 neglected or exploited shall immediately report such knowledge or  
12 suspicion to the Department of Human Services or to the county  
13 department of human services where the vulnerable adult is  
14 located:

15 (i) Attorney, physician, osteopathic physician,  
16 medical examiner, chiropractor or nurse engaged in the admission,  
17 examination, care or treatment of vulnerable adults;

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

20 (iii) Practitioner who relies solely on spiritual  
21 means for healing;

22 (iv) Social worker, child protection specialist or  
23 other professional adult care, residential or institutional staff;

24 (v) State, county or municipal criminal justice  
25 employee or law enforcement officer;

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

28                   (vii) Accountant, stockbroker, financial advisor  
29 or consultant, insurance agent or consultant, investment advisor  
30 or consultant, financial planner, or any officer or employee of a  
31 bank, savings and loan, credit union or any other financial  
32 service provider.

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

36                   (i) Name, age, race, sex, physical description and  
37 location of each vulnerable adult alleged to have been abused,  
38 neglected or exploited.

39                   (ii) Names, addresses and telephone numbers of the  
40 vulnerable adult's family members.

41                   (iii) Name, address and telephone number of each  
42 alleged perpetrator.

43                   (iv) Name, address and telephone number of the  
44 caregiver of the vulnerable adult, if different from the alleged  
45 perpetrator.

46                   (v) Description of the neglect, exploitation,  
47 physical or psychological injuries sustained.

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

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

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

58                   (c) The department, or its designees, shall report to  
59 an appropriate criminal investigative or prosecutive authority any  
60 person required by this section to report or who fails to comply

61 with this section. A person who fails to make a report as  
62 required under this subsection or who, because of the  
63 circumstances, should have known or suspected beyond a reasonable  
64 doubt that a vulnerable adult suffers from exploitation, abuse,  
65 neglect or self-neglect but who knowingly fails to comply with  
66 this section shall, upon conviction, be guilty of a misdemeanor  
67 and shall be punished by a fine not exceeding Five Thousand  
68 Dollars (\$5,000.00), or by imprisonment in the county jail for not  
69 more than six (6) months, or both such fine and imprisonment.  
70 However, for purposes of this subsection (1), any recognized legal  
71 financial transaction shall not be considered cause to report the  
72 knowledge or suspicion of the financial exploitation of a  
73 vulnerable adult. If a person convicted under this section is a  
74 member of a profession or occupation that is licensed, certified  
75 or regulated by the state, the court shall notify the appropriate  
76 licensing, certifying or regulating entity of the conviction.

77 (2) Reports received by law enforcement authorities or other  
78 agencies shall be forwarded immediately to the Department of Human  
79 Services or the county department of human services. The  
80 Department of Human Services shall investigate the reported abuse,  
81 neglect or exploitation immediately and shall file a preliminary  
82 report of its findings with the Office of the Attorney General  
83 within forty-eight (48) hours, and shall make additional reports  
84 as new information or evidence becomes available. The Department  
85 of Human Services, upon request, shall forward a statement to the  
86 person making the initial report required by this section as to  
87 what action is being taken, if any.

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

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

95 (4) Anyone who makes a report required by this section or  
96 who testifies or participates in any judicial proceedings arising  
97 from the report or who participates in a required investigation or  
98 evaluation shall be presumed to be acting in good faith and in so  
99 doing shall be absolutely immune from liability, civil or  
100 criminal, that might otherwise be incurred or imposed absent fraud  
101 in making such report. However, the immunity provided under this  
102 subsection shall not apply to any suspect or perpetrator of any  
103 abuse, neglect or exploitation.

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

108 (6) The Executive Director of Human Services shall establish  
109 a statewide central register of reports made pursuant to this  
110 section. The central register shall be capable of receiving  
111 reports of vulnerable adults in need of protective services seven  
112 (7) days a week, twenty-four (24) hours a day. To effectuate this  
113 purpose, the executive director shall establish a single toll-free  
114 statewide phone number that all persons may use to report  
115 vulnerable adults in need of protective services, and that all  
116 persons authorized by subsection (7) of this section may use for  
117 determining the existence of prior reports in order to evaluate  
118 the condition or circumstances of the vulnerable adult before  
119 them. Such oral reports and evidence of previous reports shall be  
120 transmitted to the appropriate county department of human  
121 services. The central register shall include, but not be limited  
122 to, the following information: the name and identifying  
123 information of the individual reported, the county department of  
124 human services responsible for the investigation of each such  
125 report, the names, affiliations and purposes of any person

126 requesting or receiving information which the executive director  
127 believes might be helpful in the furtherance of the purposes of  
128 this chapter, the name, address, birth date, social security  
129 number of the perpetrator of abuse, neglect and/or exploitation,  
130 and the type of abuse, neglect and/or exploitation of which there  
131 was substantial evidence upon investigation of the report. The  
132 central register shall inform the person making reports required  
133 under this section of his or her right to request statements from  
134 the department as to what action is being taken, if any.

135 Each person, business, organization or other entity, whether  
136 public or private, operated for profit, operated for nonprofit or  
137 a voluntary unit of government not responsible for law enforcement  
138 providing care, supervision or treatment of vulnerable adults  
139 shall conduct criminal history records checks on each new employee  
140 of the entity who provides, and/or would provide direct patient  
141 care or services to adults or vulnerable persons, as provided in  
142 Section 43-11-13.

143 The department shall not release data that would be harmful  
144 or detrimental to the vulnerable adult or that would identify or  
145 locate a person who, in good faith, made a report or cooperated in  
146 a subsequent investigation unless ordered to do so by a court of  
147 competent jurisdiction.

148 (7) Reports made pursuant to this section, reports written  
149 or photographs taken concerning such reports in the possession of  
150 the Department of Human Services or the county department of human  
151 services shall be confidential and shall only be made available  
152 to:

153 (a) A physician who has before him a vulnerable adult  
154 whom he reasonably suspects may be abused, neglected or exploited,  
155 as defined in Section 43-47-5;

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

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

161           (d) A district attorney or other law enforcement  
162 official.

163           Notwithstanding the provisions of paragraph (b) of this  
164 subsection, the department may not disclose a report of the  
165 abandonment, exploitation, abuse, neglect or self-neglect of a  
166 vulnerable adult to the vulnerable adult's guardian,  
167 attorney-in-fact, surrogate decision maker, or caregiver who is a  
168 perpetrator or alleged perpetrator of the abandonment,  
169 exploitation, abuse or neglect of the vulnerable adult.

170           Any person given access to the names or other information  
171 identifying the subject of the report, except the subject of the  
172 report, shall not divulge or make public such identifying  
173 information unless he is a district attorney or other law  
174 enforcement official and the purpose is to initiate court action.  
175 Any person who willfully permits the release of any data or  
176 information obtained pursuant to this section to persons or  
177 agencies not permitted to such access by this section shall be  
178 guilty of a misdemeanor.

179           (8) Upon reasonable cause to believe that a caretaker or  
180 other person has abused, neglected or exploited a vulnerable  
181 adult, the department shall promptly notify the district attorney  
182 of the county in which the vulnerable adult is located and the  
183 Office of the Attorney General, except as provided in Section  
184 43-47-37(2).

185           **SECTION 2.** This act shall take effect and be in force from  
186 and after July 1, 2005.