

By: Representative Warren

To: Public Health and Human Services

HOUSE BILL NO. 532

1 AN ACT TO AMEND SECTION 43-1-55, MISSISSIPPI CODE OF 1972, TO
 2 EXTEND THE DATE OF THE REPEALER ON THE SECTION THAT PROVIDES FOR
 3 FORMAL STANDARDS FOR CHILD PROTECTION SPECIALISTS OF THE
 4 DEPARTMENT OF HUMAN SERVICES THAT ARE NOT LICENSED SOCIAL WORKERS,
 5 AND AUTHORIZES CHILD PROTECTION SPECIALISTS WHOSE WORK IS OVERSEEN
 6 BY LICENSED SOCIAL WORKERS TO PROVIDE SERVICES IN CHILD ABUSE OR
 7 NEGLECT CASES, YOUTH COURT PROCEEDINGS AND VULNERABLE ADULTS
 8 CASES; TO REENACT SECTIONS 43-21-261, 43-21-353, 43-21-355,
 9 43-21-603, 43-27-109, 43-47-7, 93-21-23 AND 97-3-7, MISSISSIPPI
 10 CODE OF 1972, WHICH RELATE TO SERVICES PROVIDED BY CHILD
 11 PROTECTION SPECIALISTS; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 43-1-55, Mississippi Code of 1972, is
 14 amended as follows:

15 43-1-55. (1) The Office of Family and Children's Services
 16 shall devise formal social worker standards for employment and
 17 service delivery designed to measure the quality of services
 18 delivered to clients, as well as the timeliness of services. Each
 19 social worker shall be assessed annually by a supervisor who is
 20 knowledgeable in the standards promulgated. The standards shall
 21 be applicable to all social workers working under the office.

22 (2) The Office of Family and Children's Services shall
 23 devise formal standards for child protection specialists of the
 24 Department of Human Services who are not licensed social workers.
 25 Those standards shall require that:

26 (a) In order to be employed as a child protection
 27 specialist, a person must have a bachelor's degree in either
 28 psychology, sociology, nursing, criminal justice or a related
 29 field, or a graduate degree in either law, psychology, sociology,
 30 nursing, criminal justice or a related field. The determination

31 of what is a related field shall be made by certification of the
32 State Personnel Board; and

33 (b) Before a person may provide services as a child
34 protection specialist, the person shall complete four (4) weeks of
35 intensive training provided by the training unit of the Office of
36 Family and Children's Services, and shall take and receive a
37 passing score on the certification test administered by the
38 training unit upon completion of the four-week training. Upon
39 receiving a passing score on the certification test, the person
40 shall be certified as a child protection specialist by the
41 Department of Human Services. Any person who does not receive a
42 passing score on the certification test shall not be employed or
43 maintain employment as a child protection specialist for the
44 department. Further, a person, qualified as a child protection
45 specialist through the procedures set forth above, shall not
46 conduct forensic interviews of children until the specialist
47 receives additional specialized training in child forensic
48 interview protocols and techniques by a course or curriculum
49 approved by the Department of Human Services to be not less than
50 forty (40) hours.

51 (3) For the purpose of providing services in child abuse or
52 neglect cases, youth court proceedings, vulnerable adults cases,
53 and such other cases as designated by the Executive Director of
54 Human Services, the caseworker or service provider may be a child
55 protection specialist whose work is overseen by a licensed social
56 worker.

57 (4) The Department of Human Services and the Office of
58 Family and Children's Services shall seek to employ and use
59 licensed social workers to provide the services of the office, and
60 may employ and use child protection specialists to provide those
61 services only in counties in which there is not a sufficient
62 number of licensed social workers to adequately provide those
63 services in the county.

64 (5) This section and Sections 43-21-261, 43-21-353,
65 43-21-355, 43-21-603, 43-27-109, 43-47-7, 93-21-23 and 97-3-7
66 shall stand repealed on July 1, 2008.

67 **SECTION 2.** Section 43-21-261, Mississippi Code of 1972, is
68 reenacted as follows:

69 43-21-261. (1) Except as otherwise provided in this
70 section, records involving children shall not be disclosed, other
71 than to necessary staff of the youth court, except pursuant to an
72 order of the youth court specifying the person or persons to whom
73 the records may be disclosed, the extent of the records which may
74 be disclosed and the purpose of the disclosure. Such court orders
75 for disclosure shall be limited to those instances in which the
76 youth court concludes, in its discretion, that disclosure is
77 required for the best interests of the child, the public safety or
78 the functioning of the youth court and then only to the following
79 persons:

80 (a) The judge of another youth court or member of
81 another youth court staff;

82 (b) The court of the parties in a child custody or
83 adoption cause in another court;

84 (c) A judge of any other court or members of another
85 court staff;

86 (d) Representatives of a public or private agency
87 providing supervision or having custody of the child under order
88 of the youth court;

89 (e) Any person engaged in a bona fide research purpose,
90 provided that no information identifying the subject of the
91 records shall be made available to the researcher unless it is
92 absolutely essential to the research purpose and the judge gives
93 prior written approval, and the child, through his or her
94 representative, gives permission to release the information;

95 (f) The Mississippi Employment Security Commission, or
96 its duly authorized representatives, for the purpose of a child's

97 enrollment into the Job Corps Training Program as authorized by
98 Title IV of the Comprehensive Employment Training Act of 1973 (29
99 USCS Section 923 et seq.). However, no records, reports,
100 investigations or information derived therefrom pertaining to
101 child abuse or neglect shall be disclosed; and

102 (g) To any person pursuant to a finding by a judge of
103 the youth court of compelling circumstances affecting the health
104 or safety of a child and that such disclosure is in the best
105 interests of the child.

106 Law enforcement agencies may disclose information to the
107 public concerning the taking of a child into custody for the
108 commission of a delinquent act without the necessity of an order
109 from the youth court. The information released shall not identify
110 the child or his address unless the information involves a child
111 convicted as an adult.

112 (2) Any records involving children which are disclosed under
113 an order of the youth court and the contents thereof shall be kept
114 confidential by the person or agency to whom the record is
115 disclosed except as provided in the order. Any further disclosure
116 of any records involving children shall be made only under an
117 order of the youth court as provided in this section.

118 (3) Upon request, the parent, guardian or custodian of the
119 child who is the subject of a youth court cause or any attorney
120 for such parent, guardian or custodian, shall have the right to
121 inspect any record, report or investigation which is to be
122 considered by the youth court at a hearing, except that the
123 identity of the reporter shall not be released, nor the name of
124 any other person where the person or agency making the information
125 available finds that disclosure of the information would be likely
126 to endanger the life or safety of such person.

127 (4) Upon request, the child who is the subject of a youth
128 court cause shall have the right to have his counsel inspect and

129 copy any record, report or investigation which is filed with the
130 youth court.

131 (5) (a) The youth court prosecutor or prosecutors, the
132 county attorney, the district attorney, the youth court defender
133 or defenders, or any attorney representing a child shall have the
134 right to inspect any law enforcement record involving children.

135 (b) The Department of Human Services shall disclose to
136 a county prosecuting attorney or district attorney any and all
137 records resulting from an investigation into suspected child abuse
138 or neglect when the case has been referred by the Department of
139 Human Services to the county prosecuting attorney or district
140 attorney for criminal prosecution.

141 (c) Agency records made confidential under the
142 provisions of this section may be disclosed to a court of
143 competent jurisdiction.

144 (6) Information concerning an investigation into a report of
145 child abuse or child neglect may be disclosed by the Department of
146 Human Services without order of the youth court to any attorney,
147 physician, dentist, intern, resident, nurse, psychologist, social
148 worker, child protection specialist, child care giver, minister,
149 law enforcement officer, public or private school employee making
150 that report pursuant to Section 43-21-353(1) if the reporter has a
151 continuing professional relationship with the child and a need for
152 such information in order to protect or treat the child.

153 (7) Information concerning an investigation into a report of
154 child abuse or child neglect may be disclosed without further
155 order of the youth court to any interagency child abuse task force
156 established in any county or municipality by order of the youth
157 court of that county or municipality.

158 (8) Names and addresses of juveniles twice adjudicated as
159 delinquent for an act which would be a felony if committed by an
160 adult or for the unlawful possession of a firearm shall not be
161 held confidential and shall be made available to the public.

162 (9) Names and addresses of juveniles adjudicated as
163 delinquent for murder, manslaughter, burglary, arson, armed
164 robbery, aggravated assault, any sex offense as defined in Section
165 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
166 violation of Section 63-11-30, shall not be held confidential and
167 shall be made available to the public.

168 (10) The judges of the circuit and county courts, and
169 presentence investigators for the circuit courts, as provided in
170 Section 47-7-9, shall have the right to inspect any youth court
171 records of a person convicted of a crime for sentencing purposes
172 only.

173 (11) The victim of an offense committed by a child who is
174 the subject of a youth court cause shall have the right to be
175 informed of the child's disposition by the youth court.

176 (12) A classification hearing officer of the State
177 Department of Corrections, as provided in Section 47-5-103, shall
178 have the right to inspect any youth court records, excluding abuse
179 and neglect records, of any offender in the custody of the
180 department who as a child or minor was a juvenile offender or was
181 the subject of a youth court cause of action, and the State Parole
182 Board, as provided in Section 47-7-17, shall have the right to
183 inspect such records when the offender becomes eligible for
184 parole.

185 (13) The youth court shall notify the Department of Public
186 Safety of the name, and any other identifying information such
187 department may require, of any child who is adjudicated delinquent
188 as a result of a violation of the Uniform Controlled Substances
189 Law.

190 (14) The Administrative Office of Courts shall have the
191 right to inspect any youth court records in order that the number
192 of youthful offenders, abused, neglected, truant and dependent
193 children, as well as children in need of special care and children
194 in need of supervision, may be tracked with specificity through

195 the youth court and adult justice system, and to utilize tracking
196 forms for such purpose.

197 (15) Upon a request by a youth court, the Administrative
198 Office of Courts shall disclose all information at its disposal
199 concerning any previous youth court intakes alleging that a child
200 was a delinquent child, child in need of supervision, child in
201 need of special care, truant child, abused child or neglected
202 child, as well as any previous youth court adjudications for the
203 same and all dispositional information concerning a child who at
204 the time of such request comes under the jurisdiction of the youth
205 court making such request.

206 (16) In every case where an abuse or neglect allegation has
207 been made, the confidentiality provisions of this section shall
208 not apply to prohibit access to a child's records by any state
209 regulatory agency, any state or local prosecutorial agency or law
210 enforcement agency; however, no identifying information concerning
211 the child in question may be released to the public by such agency
212 except as otherwise provided herein.

213 (17) In every case where there is any indication or
214 suggestion of either abuse or neglect and a child's physical
215 condition is medically labeled as medically "serious" or
216 "critical" or a child dies, the confidentiality provisions of this
217 section shall not apply. In cases of child deaths, the following
218 information may be released by the Mississippi Department of Human
219 Services: (a) child's name; (b) address or location; (c)
220 verification from the Department of Human Services of case status
221 (no case or involvement, case exists, open or active case, case
222 closed); (d) if a case exists, the type of report or case
223 (physical abuse, neglect, etc.), date of intake(s) and
224 investigation(s), and case disposition (substantiated or
225 unsubstantiated). Notwithstanding the aforesaid, the
226 confidentiality provisions of this section shall continue if there

227 is a pending or planned investigation by any local, state or
228 federal governmental agency or institution.

229 (18) Any member of a foster care review board designated by
230 the Department of Human Services shall have the right to inspect
231 youth court records relating to the abuse, neglect or child in
232 need of supervision cases assigned to such member for review.

233 (19) Information concerning an investigation into a report
234 of child abuse or child neglect may be disclosed without further
235 order of the youth court in any administrative or due process
236 hearing held, pursuant to Section 43-21-257, by the Department of
237 Human Services for individuals whose names will be placed on the
238 central registry as substantiated perpetrators.

239 **SECTION 3.** Section 43-21-353, Mississippi Code of 1972, is
240 reenacted as follows:

241 43-21-353. (1) Any attorney, physician, dentist, intern,
242 resident, nurse, psychologist, social worker, child protection
243 specialist, child care giver, minister, law enforcement officer,
244 public or private school employee or any other person having
245 reasonable cause to suspect that a child is a neglected child or
246 an abused child, shall cause an oral report to be made immediately
247 by telephone or otherwise and followed as soon thereafter as
248 possible by a report in writing to the Department of Human
249 Services, and immediately a referral shall be made by the
250 Department of Human Services to the youth court intake unit, which
251 unit shall promptly comply with Section 43-21-357. Where
252 appropriate, the Department of Human Services shall additionally
253 make a referral to the youth court prosecutor. Upon receiving a
254 report that a child has been sexually abused, or burned, tortured,
255 mutilated or otherwise physically abused in such a manner as to
256 cause serious bodily harm, or upon receiving any report of abuse
257 that would be a felony under state or federal law, the Department
258 of Human Services shall immediately notify the law enforcement
259 agency in whose jurisdiction the abuse occurred and shall notify

260 the appropriate prosecutor within forty-eight (48) hours, and the
261 Department of Human Services shall have the duty to provide the
262 law enforcement agency all the names and facts known at the time
263 of the report; this duty shall be of a continuing nature. The law
264 enforcement agency and the Department of Human Services shall
265 investigate the reported abuse immediately and shall file a
266 preliminary report with the appropriate prosecutor's office within
267 twenty-four (24) hours and shall make additional reports as new or
268 additional information or evidence becomes available. The
269 Department of Human Services shall advise the clerk of the youth
270 court and the youth court prosecutor of all cases of abuse
271 reported to the department within seventy-two (72) hours and shall
272 update such report as information becomes available.

273 (2) Any report to the Department of Human Services shall
274 contain the names and addresses of the child and his parents or
275 other persons responsible for his care, if known, the child's age,
276 the nature and extent of the child's injuries, including any
277 evidence of previous injuries and any other information that might
278 be helpful in establishing the cause of the injury and the
279 identity of the perpetrator.

280 (3) The Department of Human Services shall maintain a
281 statewide incoming wide-area telephone service or similar service
282 for the purpose of receiving reports of suspected cases of child
283 abuse; provided that any attorney, physician, dentist, intern,
284 resident, nurse, psychologist, social worker, child protection
285 specialist, child care giver, minister, law enforcement officer or
286 public or private school employee who is required to report under
287 subsection (1) of this section shall report in the manner required
288 in subsection (1).

289 (4) Reports of abuse and neglect made under this chapter and
290 the identity of the reporter are confidential except when the
291 court in which the investigation report is filed, in its
292 discretion, determines the testimony of the person reporting to be

293 material to a judicial proceeding or when the identity of the
294 reporter is released to law enforcement agencies and the
295 appropriate prosecutor pursuant to subsection (1). Reports made
296 under this section to any law enforcement agency or prosecutorial
297 officer are for the purpose of criminal investigation and
298 prosecution only and no information from these reports may be
299 released to the public except as provided by Section 43-21-261.
300 Disclosure of any information by the prosecutor shall be according
301 to the Mississippi Uniform Rules of Circuit and County Court
302 Procedure. The identity of the reporting party shall not be
303 disclosed to anyone other than law enforcement officers or
304 prosecutors without an order from the appropriate youth court.
305 Any person disclosing any reports made under this section in a
306 manner not expressly provided for in this section or Section
307 43-21-261, shall be guilty of a misdemeanor and subject to the
308 penalties prescribed by Section 43-21-267.

309 (5) All final dispositions of law enforcement investigations
310 described in subsection (1) of this section shall be determined
311 only by the appropriate prosecutor or court. All final
312 dispositions of investigations by the Department of Human Services
313 as described in subsection (1) of this section shall be determined
314 only by the youth court. Reports made under subsection (1) of
315 this section by the Department of Human Services to the law
316 enforcement agency and to the district attorney's office shall
317 include the following, if known to the department:

- 318 (a) The name and address of the child;
- 319 (b) The names and addresses of the parents;
- 320 (c) The name and address of the suspected perpetrator;
- 321 (d) The names and addresses of all witnesses, including
322 the reporting party if a material witness to the abuse;
- 323 (e) A brief statement of the facts indicating that the
324 child has been abused and any other information from the agency
325 files or known to the social worker or child protection specialist

326 making the investigation, including medical records or other
327 records, which may assist law enforcement or the district attorney
328 in investigating and/or prosecuting the case; and

329 (f) What, if any, action is being taken by the
330 Department of Human Services.

331 (6) In any investigation of a report made under this chapter
332 of the abuse or neglect of a child as defined in Section
333 43-21-105(m), the Department of Human Services may request the
334 appropriate law enforcement officer with jurisdiction to accompany
335 the department in its investigation, and in such cases the law
336 enforcement officer shall comply with such request.

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

341 (8) If a report is made directly to the Department of Human
342 Services that a child has been abused or neglected in an
343 out-of-home setting, a referral shall be made immediately to the
344 law enforcement agency in whose jurisdiction the abuse occurred
345 and the department shall notify the district attorney's office
346 within forty-eight (48) hours of such report. The Department of
347 Human Services shall investigate the out-of-home setting report of
348 abuse or neglect to determine whether the child who is the subject
349 of the report, or other children in the same environment, comes
350 within the jurisdiction of the youth court and shall report to the
351 youth court the department's findings and recommendation as to
352 whether the child who is the subject of the report or other
353 children in the same environment require the protection of the
354 youth court. The law enforcement agency shall investigate the
355 reported abuse immediately and shall file a preliminary report
356 with the district attorney's office within forty-eight (48) hours
357 and shall make additional reports as new information or evidence
358 becomes available. If the out-of-home setting is a licensed

359 facility, an additional referral shall be made by the Department
360 of Human Services to the licensing agency. The licensing agency
361 shall investigate the report and shall provide the Department of
362 Human Services, the law enforcement agency and the district
363 attorney's office with their written findings from such
364 investigation as well as that licensing agency's recommendations
365 and actions taken.

366 **SECTION 4.** Section 43-21-355, Mississippi Code of 1972, is
367 reenacted as follows:

368 43-21-355. Any attorney, physician, dentist, intern,
369 resident, nurse, psychologist, social worker, child protection
370 specialist, child care giver, minister, law enforcement officer,
371 school attendance officer, public school district employee,
372 nonpublic school employee, or any other person participating in
373 the making of a required report pursuant to Section 43-21-353 or
374 participating in the judicial proceeding resulting therefrom shall
375 be presumed to be acting in good faith. Any person or institution
376 reporting in good faith shall be immune from any liability, civil
377 or criminal, that might otherwise be incurred or imposed.

378 **SECTION 5.** Section 43-21-603, Mississippi Code of 1972, is
379 reenacted as follows:

380 43-21-603. (1) At the beginning of each disposition
381 hearing, the judge shall inform the parties of the purpose of the
382 hearing.

383 (2) All testimony shall be under oath unless waived by all
384 parties and may be in narrative form. The court may consider any
385 evidence that is material and relevant to the disposition of the
386 cause, including hearsay and opinion evidence. At the conclusion
387 of the evidence, the youth court shall give the parties an
388 opportunity to present oral argument.

389 (3) If the child has been adjudicated a delinquent child,
390 before entering a disposition order, the youth court should
391 consider, among others, the following relevant factors:

- 392 (a) The nature of the offense;
- 393 (b) The manner in which the offense was committed;
- 394 (c) The nature and number of a child's prior
395 adjudicated offenses;
- 396 (d) The child's need for care and assistance;
- 397 (e) The child's current medical history, including
398 medication and diagnosis;
- 399 (f) The child's mental health history, which may
400 include, but not be limited to, the Massachusetts Youth Screening
401 Instrument version 2 (MAYSI-2);
- 402 (g) Copies of the child's cumulative record from the
403 last school of record, including special education records, if
404 applicable;
- 405 (h) Recommendation from the school of record based on
406 areas of remediation needed;
- 407 (i) Disciplinary records from the school of record; and
- 408 (j) Records of disciplinary actions outside of the
409 school setting.

410 (4) If the child has been adjudicated a child in need of
411 supervision, before entering a disposition order, the youth court
412 should consider, among others, the following relevant factors:

- 413 (a) The nature and history of the child's conduct;
- 414 (b) The family and home situation; and
- 415 (c) The child's need of care and assistance.

416 (5) If the child has been adjudicated a neglected child or
417 an abused child, before entering a disposition order, the youth
418 court shall consider, among others, the following relevant
419 factors:

- 420 (a) The child's physical and mental conditions;
- 421 (b) The child's need of assistance;
- 422 (c) The manner in which the parent, guardian or
423 custodian participated in, tolerated or condoned the abuse,
424 neglect or abandonment of the child;

425 (d) The ability of a child's parent, guardian or
426 custodian to provide proper supervision and care of a child; and

427 (e) Relevant testimony and recommendations, where
428 available, from the foster parent of the child, the grandparents
429 of the child, the guardian ad litem of the child, representatives
430 of any private care agency that has cared for the child, the
431 social worker or child protection specialist assigned to the case,
432 and any other relevant testimony pertaining to the case.

433 (6) After consideration of all the evidence and the relevant
434 factors, the youth court shall enter a disposition order that
435 shall not recite any of the facts or circumstances upon which the
436 disposition is based, nor shall it recite that a child has been
437 found guilty; but it shall recite that a child is found to be a
438 delinquent child, a child in need of supervision, a neglected
439 child or an abused child.

440 (7) If the youth court orders that the custody or
441 supervision of a child who has been adjudicated abused or
442 neglected be placed with the Department of Human Services or any
443 other person or public or private agency, other than the child's
444 parent, guardian or custodian, the youth court shall find and the
445 disposition order shall recite that:

446 (a) (i) Reasonable efforts have been made to maintain
447 the child within his own home, but that the circumstances warrant
448 his removal and there is no reasonable alternative to custody; or

449 (ii) The circumstances are of such an emergency
450 nature that no reasonable efforts have been made to maintain the
451 child within his own home, and that there is no reasonable
452 alternative to custody; and

453 (b) That the effect of the continuation of the child's
454 residence within his own home would be contrary to the welfare of
455 the child and that the placement of the child in foster care is in
456 the best interests of the child; or

457 (c) Reasonable efforts to maintain the child within his
458 home shall not be required if the court determines that:

459 (i) The parent has subjected the child to
460 aggravated circumstances, including, but not limited to,
461 abandonment, torture, chronic abuse and sexual abuse; or

462 (ii) The parent has been convicted of murder of
463 another child of that parent, voluntary manslaughter of another
464 child of that parent, aided or abetted, attempted, conspired or
465 solicited to commit that murder or voluntary manslaughter, or a
466 felony assault that results in the serious bodily injury to the
467 surviving child or another child of that parent; or

468 (iii) The parental rights of the parent to a
469 sibling have been terminated involuntarily; and

470 (iv) That the effect of the continuation of the
471 child's residence within his own home would be contrary to the
472 welfare of the child and that placement of the child in foster
473 care is in the best interests of the child.

474 Once the reasonable efforts requirement is bypassed, the
475 court shall have a permanency hearing under Section 43-21-613
476 within thirty (30) days of the finding.

477 (8) Upon a written motion by a party, the youth court shall
478 make written findings of fact and conclusions of law upon which it
479 relies for the disposition order. If the disposition ordered by
480 the youth court includes placing the child in the custody of a
481 training school, an admission packet shall be prepared for the
482 child that contains the following information:

483 (a) The child's current medical history, including
484 medications and diagnosis;

485 (b) The child's mental health history;

486 (c) Copies of the child's cumulative record from the
487 last school of record, including special education records, if
488 reasonably available;

489 (d) Recommendation from the school of record based on
490 areas of remediation needed;

491 (e) Disciplinary records from the school of record; and

492 (f) Records of disciplinary actions outside of the
493 school setting, if reasonably available.

494 Only individuals who are permitted under the Health Insurance
495 Portability and Accountability Act of 1996 (HIPAA) shall have
496 access to a child's medical records which are contained in an
497 admission packet. The youth court shall provide the admission
498 packet to the training school at or before the child's arrival at
499 the training school. The admittance of any child to a training
500 school shall take place between the hours of 8:00 a.m. and 3:00
501 p.m. on designated admission days.

502 (9) When a child in the jurisdiction of the Youth Court is
503 committed to the custody of the Mississippi Department of Human
504 Services and is believed to be in need of treatment for a mental
505 or emotional disability or infirmity, the Department of Human
506 Services shall file an affidavit alleging that the child is in
507 need of mental health services with the Youth Court. The Youth
508 Court shall refer the child to the appropriate community mental
509 health center for evaluation pursuant to Section 41-21-67. If
510 said prescreening evaluation recommends residential care, the
511 Youth Court shall proceed with civil commitment pursuant to
512 Sections 41-21-61 et seq., 43-21-315 and 43-21-611, and the
513 Department of Mental Health, once commitment is ordered, shall
514 provide appropriate care, treatment and services for at least as
515 many adolescents as were provided services in fiscal year 2004 in
516 its facilities.

517 **SECTION 6.** Section 43-27-109, Mississippi Code of 1972, is
518 reenacted as follows:

519 43-27-109. The Department of Human Services may employ a
520 sufficient number of new social workers, child protection
521 specialists, youth counselors and clerical staff to reduce the

522 case load sizes for social workers and youth counselors of the
523 department and to reduce the work load on clerical staff, if funds
524 are appropriated to the department for that purpose.

525 **SECTION 7.** Section 43-47-7, Mississippi Code of 1972, is
526 reenacted as follows:

527 43-47-7. (1) (a) Except as otherwise provided by Section
528 43-47-37 for vulnerable adults in care facilities, any person
529 including, but not limited to, the following, who knows or
530 suspects that a vulnerable adult has been or is being abused,
531 neglected or exploited shall immediately report such knowledge or
532 suspicion to the Department of Human Services or to the county
533 department of human services where the vulnerable adult is
534 located:

535 (i) Attorney, physician, osteopathic physician,
536 medical examiner, chiropractor or nurse engaged in the admission,
537 examination, care or treatment of vulnerable adults;

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

540 (iii) Practitioner who relies solely on spiritual
541 means for healing;

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

544 (v) State, county or municipal criminal justice
545 employee or law enforcement officer;

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

548 (vii) Accountant, stockbroker, financial advisor
549 or consultant, insurance agent or consultant, investment advisor
550 or consultant, financial planner, or any officer or employee of a
551 bank, savings and loan, credit union or any other financial
552 service provider.

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

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

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

561 (iii) Name, address and telephone number of each
562 alleged perpetrator.

563 (iv) Name, address and telephone number of the
564 caregiver of the vulnerable adult, if different from the alleged
565 perpetrator.

566 (v) Description of the neglect, exploitation,
567 physical or psychological injuries sustained.

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

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

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

578 (c) The department, or its designees, shall report to
579 an appropriate criminal investigative or prosecutive authority any
580 person required by this section to report or who fails to comply
581 with this section. A person who fails to make a report as
582 required under this subsection or who, because of the
583 circumstances, should have known or suspected beyond a reasonable
584 doubt that a vulnerable adult suffers from exploitation, abuse,
585 neglect or self-neglect but who knowingly fails to comply with

586 this section shall, upon conviction, be guilty of a misdemeanor
587 and shall be punished by a fine not exceeding Five Thousand
588 Dollars (\$5,000.00), or by imprisonment in the county jail for not
589 more than six (6) months, or both such fine and imprisonment.
590 However, for purposes of this subsection (1), any recognized legal
591 financial transaction shall not be considered cause to report the
592 knowledge or suspicion of the financial exploitation of a
593 vulnerable adult. If a person convicted under this section is a
594 member of a profession or occupation that is licensed, certified
595 or regulated by the state, the court shall notify the appropriate
596 licensing, certifying or regulating entity of the conviction.

597 (2) Reports received by law enforcement authorities or other
598 agencies shall be forwarded immediately to the Department of Human
599 Services or the county department of human services. The
600 Department of Human Services shall investigate the reported abuse,
601 neglect or exploitation immediately and shall file a preliminary
602 report of its findings with the Office of the Attorney General
603 within forty-eight (48) hours, and shall make additional reports
604 as new information or evidence becomes available. The Department
605 of Human Services, upon request, shall forward a statement to the
606 person making the initial report required by this section as to
607 what action is being taken, if any.

608 (3) The report may be made orally or in writing, but where
609 made orally, it shall be followed up by a written report. A
610 person who fails to report or to otherwise comply with this
611 section, as provided herein, shall have no civil or criminal
612 liability, other than that expressly provided for in this section,
613 to any person or entity in connection with any failure to report
614 or to otherwise comply with the requirements of this section.

615 (4) Anyone who makes a report required by this section or
616 who testifies or participates in any judicial proceedings arising
617 from the report or who participates in a required investigation or
618 evaluation shall be presumed to be acting in good faith and in so

619 doing shall be immune from liability, civil or criminal, that
620 might otherwise be incurred or imposed. However, the immunity
621 provided under this subsection shall not apply to any suspect or
622 perpetrator of any abuse, neglect or exploitation.

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

627 (6) The Executive Director of Human Services shall establish
628 a statewide central register of reports made pursuant to this
629 section. The central register shall be capable of receiving
630 reports of vulnerable adults in need of protective services seven
631 (7) days a week, twenty-four (24) hours a day. To effectuate this
632 purpose the executive director shall establish a single toll-free
633 statewide phone number that all persons may use to report
634 vulnerable adults in need of protective services, and that all
635 persons authorized by subsection (7) of this section may use for
636 determining the existence of prior reports in order to evaluate
637 the condition or circumstances of the vulnerable adult before
638 them. Such oral reports and evidence of previous reports shall be
639 transmitted to the appropriate county department of human
640 services. The central register shall include, but not be limited
641 to, the following information: the name and identifying
642 information of the individual reported, the county department of
643 human services responsible for the investigation of each such
644 report, the names, affiliations and purposes of any person
645 requesting or receiving information which the executive director
646 believes might be helpful in the furtherance of the purposes of
647 this chapter, the name, address, birth date, social security
648 number of the perpetrator of abuse, neglect and/or exploitation,
649 and the type of abuse, neglect and/or exploitation of which there
650 was substantial evidence upon investigation of the report. The
651 central register shall inform the person making reports required

652 under this section of his or her right to request statements from
653 the department as to what action is being taken, if any.

654 Each person, business, organization or other entity, whether
655 public or private, operated for profit, operated for nonprofit or
656 a voluntary unit of government not responsible for law enforcement
657 providing care, supervision or treatment of vulnerable adults
658 shall conduct criminal history records checks on each new employee
659 of the entity who provides, and/or would provide direct patient
660 care or services to adults or vulnerable persons, as provided in
661 Section 43-11-13.

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

667 (7) Reports made pursuant to this section, reports written
668 or photographs taken concerning such reports in the possession of
669 the Department of Human Services or the county department of human
670 services shall be confidential and shall only be made available
671 to:

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

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

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

680 (d) A district attorney or other law enforcement
681 official.

682 Notwithstanding the provisions of paragraph (b) of this
683 subsection, the department may not disclose a report of the
684 abandonment, exploitation, abuse, neglect or self-neglect of a

685 vulnerable adult to the vulnerable adult's guardian,
686 attorney-in-fact, surrogate decision maker, or caregiver who is a
687 perpetrator or alleged perpetrator of the abandonment,
688 exploitation, abuse or neglect of the vulnerable adult.

689 Any person given access to the names or other information
690 identifying the subject of the report, except the subject of the
691 report, shall not divulge or make public such identifying
692 information unless he is a district attorney or other law
693 enforcement official and the purpose is to initiate court action.
694 Any person who willfully permits the release of any data or
695 information obtained pursuant to this section to persons or
696 agencies not permitted to such access by this section shall be
697 guilty of a misdemeanor.

698 (8) Upon reasonable cause to believe that a caretaker or
699 other person has abused, neglected or exploited a vulnerable
700 adult, the department shall promptly notify the district attorney
701 of the county in which the vulnerable adult is located and the
702 Office of the Attorney General, except as provided in Section
703 43-47-37(2).

704 **SECTION 8.** Section 93-21-23, Mississippi Code of 1972, is
705 reenacted as follows:

706 93-21-23. Any licensed doctor of medicine, licensed doctor
707 of dentistry, intern, resident or registered nurse, psychologist,
708 social worker, child protection specialist, preacher, teacher,
709 attorney, law enforcement officer, or any other person or
710 institution participating in the making of a report pursuant to
711 this chapter or participating in judicial proceedings resulting
712 therefrom shall be presumed to be acting in good faith, and if
713 found to have acted in good faith shall be immune from any
714 liability, civil or criminal, that might otherwise be incurred or
715 imposed. The reporting of an abused person shall not constitute a
716 breach of confidentiality.

717 **SECTION 9.** Section 97-3-7, Mississippi Code of 1972, is
718 reenacted as follows:

719 97-3-7. (1) A person is guilty of simple assault if he (a)
720 attempts to cause or purposely, knowingly or recklessly causes
721 bodily injury to another; or (b) negligently causes bodily injury
722 to another with a deadly weapon or other means likely to produce
723 death or serious bodily harm; or (c) attempts by physical menace
724 to put another in fear of imminent serious bodily harm; and, upon
725 conviction, he shall be punished by a fine of not more than Five
726 Hundred Dollars (\$500.00) or by imprisonment in the county jail
727 for not more than six (6) months, or both. However, a person
728 convicted of simple assault (a) upon a statewide elected official,
729 law enforcement officer, fireman, emergency medical personnel,
730 public health personnel, social worker or child protection
731 specialist employed by the Department of Human Services or another
732 agency, superintendent, principal, teacher or other instructional
733 personnel, school attendance officer, school bus driver, or a
734 judge of a circuit, chancery, county, justice or youth court or a
735 judge of the Court of Appeals or a justice of the Supreme Court,
736 district attorney, legal assistant to a district attorney, county
737 prosecutor, municipal prosecutor, court reporter employed by a
738 court, court administrator, clerk or deputy clerk of the court, or
739 public defender, while such statewide elected official, judge or
740 justice, law enforcement officer, fireman, emergency medical
741 personnel, public health personnel, social worker, child
742 protection specialist, superintendent, principal, teacher or other
743 instructional personnel, school attendance officer, school bus
744 driver, district attorney, legal assistant to a district attorney,
745 county prosecutor, municipal prosecutor, court reporter employed
746 by a court, court administrator, clerk or deputy clerk of the
747 court, or public defender is acting within the scope of his duty,
748 office or employment, or (b) upon a legislator while the
749 Legislature is in regular or extraordinary session or while

750 otherwise acting within the scope of his duty, office or
751 employment, shall be punished by a fine of not more than One
752 Thousand Dollars (\$1,000.00) or by imprisonment for not more than
753 five (5) years, or both.

754 (2) A person is guilty of aggravated assault if he (a)
755 attempts to cause serious bodily injury to another, or causes such
756 injury purposely, knowingly or recklessly under circumstances
757 manifesting extreme indifference to the value of human life; or
758 (b) attempts to cause or purposely or knowingly causes bodily
759 injury to another with a deadly weapon or other means likely to
760 produce death or serious bodily harm; and, upon conviction, he
761 shall be punished by imprisonment in the county jail for not more
762 than one (1) year or in the Penitentiary for not more than twenty
763 (20) years. However, a person convicted of aggravated assault (a)
764 upon a statewide elected official, law enforcement officer,
765 fireman, emergency medical personnel, public health personnel,
766 social worker or child protection specialist employed by the
767 Department of Human Services or another agency, superintendent,
768 principal, teacher or other instructional personnel, school
769 attendance officer, school bus driver, or a judge of a circuit,
770 chancery, county, justice or youth court or a judge of the Court
771 of Appeals or a justice of the Supreme Court, district attorney,
772 legal assistant to a district attorney, county prosecutor,
773 municipal prosecutor, court reporter employed by a court, court
774 administrator, clerk or deputy clerk of the court, or public
775 defender, while such statewide elected official, judge or justice,
776 law enforcement officer, fireman, emergency medical personnel,
777 public health personnel, social worker, child protection
778 specialist, superintendent, principal, teacher or other
779 instructional personnel, school attendance officer, school bus
780 driver, district attorney, legal assistant to a district attorney,
781 county prosecutor, municipal prosecutor, court reporter employed
782 by a court, court administrator, clerk or deputy clerk of the

783 court, or public defender is acting within the scope of his duty,
784 office or employment, or (b) upon a legislator while the
785 Legislature is in regular or extraordinary session or while
786 otherwise acting within the scope of his duty, office or
787 employment, shall be punished by a fine of not more than Five
788 Thousand Dollars (\$5,000.00) or by imprisonment for not more than
789 thirty (30) years, or both.

790 (3) A person is guilty of simple domestic violence who
791 commits simple assault as described in subsection (1) of this
792 section against a family or household member who resides with the
793 defendant or who formerly resided with the defendant, a current or
794 former spouse, a person who has a current dating relationship with
795 the defendant, or a person with whom the defendant has had a
796 biological or legally adopted child and upon conviction, the
797 defendant shall be punished as provided under subsection (1) of
798 this section; however, upon a third or subsequent conviction of
799 simple domestic violence, whether against the same or another
800 victim and within five (5) years, the defendant shall be guilty of
801 a felony and sentenced to a term of imprisonment not less than
802 five (5) nor more than ten (10) years. In sentencing, the court
803 shall consider as an aggravating factor whether the crime was
804 committed in the physical presence or hearing of a child under
805 sixteen (16) years of age who was, at the time of the offense,
806 living within either the residence of the victim, the residence of
807 the perpetrator, or the residence where the offense occurred.

808 (4) A person is guilty of aggravated domestic violence who
809 commits aggravated assault as described in subsection (2) of this
810 section against a family or household member who resides with the
811 defendant or who formerly resided with the defendant, or a current
812 or former spouse, a person who has a current dating relationship
813 with the defendant, or a person with whom the defendant has had a
814 biological or legally adopted child and upon conviction, the
815 defendant shall be punished as provided under subsection (2) of

816 this section; however, upon a third or subsequent offense of
817 aggravated domestic violence, whether against the same or another
818 victim and within five (5) years, the defendant shall be guilty of
819 a felony and sentenced to a term of imprisonment of not less than
820 five (5) nor more than twenty (20) years. In sentencing, the
821 court shall consider as an aggravating factor whether the crime
822 was committed in the physical presence or hearing of a child under
823 sixteen (16) years of age who was, at the time of the offense,
824 living within either the residence of the victim, the residence of
825 the perpetrator, or the residence where the offense occurred.
826 Reasonable discipline of a child, such as spanking, is not an
827 offense under this subsection (4).

828 (5) "Dating relationship" means a social relationship of a
829 romantic or intimate nature.

830 (6) Every conviction of domestic violence may require as a
831 condition of any suspended sentence that the defendant participate
832 in counseling or treatment to bring about the cessation of
833 domestic abuse. The defendant may be required to pay all or part
834 of the cost of the counseling or treatment, in the discretion of
835 the court.

836 (7) In any conviction of assault as described in any
837 subsection of this section which arises from an incident of
838 domestic violence, the sentencing order shall include the
839 designation "domestic violence."

840 **SECTION 10.** This act shall take effect and be in force from
841 and after July 1, 2006.