

By: Senator(s) Nunnelee, Dearing

To: Public Health and Welfare

SENATE BILL NO. 2388  
(As Sent to Governor)

1 AN ACT RELATING TO THE EMPLOYMENT POSITIONS OF "SOCIAL  
2 WORKER," "CHILD PROTECTION SPECIALIST," "FAMILY PROTECTION WORKER"  
3 AND "FAMILY PROTECTION SPECIALIST" WITHIN THE OFFICE OF FAMILY AND  
4 CHILDREN'S SERVICES AND THE DIVISION OF AGING AND ADULT SERVICES  
5 IN THE MISSISSIPPI DEPARTMENT OF HUMAN SERVICES; TO AMEND SECTION  
6 43-1-55, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE EMPLOYMENT  
7 POSITION OF FAMILY PROTECTION WORKERS AND TO DELETE REPEALERS ON  
8 CERTAIN SECTIONS RELATING TO CHILD PROTECTION SPECIALISTS; TO  
9 CREATE A TRAINING AND TESTING ADVISORY COUNCIL TO REVIEW THE  
10 DEPARTMENT'S PROGRAM OF TRAINING AND TESTING OF FAMILY PROTECTION  
11 WORKERS; TO AMEND SECTION 43-27-107, MISSISSIPPI CODE OF 1972, TO  
12 PROVIDE FOR EMPLOYMENT AND QUALIFICATIONS OF FAMILY PROTECTION  
13 SPECIALISTS AT THE DEPARTMENT OF HUMAN SERVICES; TO AMEND SECTIONS  
14 43-15-13, 43-21-261, 43-21-353, 43-21-355, 43-21-603, 43-27-109,  
15 43-47-7, 93-21-23 AND 97-3-7, MISSISSIPPI CODE OF 1972, IN  
16 CONFORMITY; AND FOR RELATED PURPOSES.

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

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

20 43-1-55. (1) The Office of Family and Children's Services  
21 and the Division of Aging and Adult Services shall devise  
22 formal \* \* \* standards for employment as a family protection  
23 worker and as a family protection specialist within their  
24 respective offices and for service delivery designed to measure  
25 the quality of services delivered to clients, as well as the  
26 timeliness of services. Each family protection worker and family  
27 protection specialist shall be assessed annually by a supervisor  
28 who is a licensed social worker who is knowledgeable in the  
29 standards promulgated. The standards devised by each office shall  
30 be applicable to all family protection workers and family  
31 protection specialists working under that office.

32 (2) The Office of Family and Children's Services shall  
33 devise formal standards for family protection workers of the

34 Department of Human Services who are not licensed social workers.  
35 Those standards shall require that:

36 (a) In order to be employed as a family protection  
37 worker, a person must have a bachelor's degree in either  
38 psychology, sociology, nursing, family studies, or a related  
39 field, or a graduate degree in either \* \* \* psychology, sociology,  
40 nursing, criminal justice, counseling, marriage and family therapy  
41 or a related field. The determination of what is a related field  
42 shall be made by certification of the State Personnel Board; and

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

60 (3) For the purpose of providing services in child abuse or  
61 neglect cases, youth court proceedings, vulnerable adults cases,  
62 and such other cases as designated by the Executive Director of  
63 Human Services, the caseworker or service provider shall be a  
64 family protection specialist or a family protection worker whose  
65 work is overseen by a family protection specialist who is a  
66 licensed social worker.

67           (4) The Department of Human Services and the Office of  
68 Family and Children's Services shall seek to employ and use \* \* \*  
69 family protection specialists to provide the services of the  
70 office, and may employ and use family protection workers to  
71 provide those services only in counties in which there is not a  
72 sufficient number of \* \* \* family protection specialists to  
73 adequately provide those services in the county.

74           (5) (a) There is created a Training and Testing Advisory  
75 Council to review the department's program of training and testing  
76 of family protection workers and to make recommendations  
77 pertaining to the program to the department. The advisory council  
78 shall be composed of the following ten (10) members: two (2)  
79 employees of the department appointed by the Executive Director of  
80 Human Services, including one (1) representative of the Office of  
81 Family and Children's Services and one (1) representative of the  
82 Division of Aging and Adult Services; the Chairman of the  
83 Consortium of Accredited Schools of Social Work in Mississippi;  
84 and the executive director or a board member of a professional  
85 association or licensing board for each field of study named in  
86 paragraph (2)(a) of this section, as follows: the Mississippi  
87 Chapter of the National Association of Social Workers; a marriage  
88 and family therapist who is a member of the Board of Examiners for  
89 Social Workers and Marriage and Family Therapists, to be selected  
90 by the four (4) members of the board of examiners who are marriage  
91 and family therapists; the Mississippi Nurses' Association; the  
92 Mississippi Prosecutors Association; the Mississippi Counseling  
93 Association; the Mississippi Psychological Association; and an  
94 officer of the Alabama-Mississippi Sociological Association who is  
95 a Mississippi resident elected by the executive committee of the  
96 association. The executive director of each association  
97 (excluding the Alabama-Mississippi Sociological Association) and  
98 chairman of the consortium may designate an alternate member to

99 serve in his stead on the advisory council. Members of the  
100 advisory council shall serve without salary or per diem.

101 (b) A majority of the advisory council members shall  
102 select from their membership a chairperson to preside over  
103 meetings and a vice chairperson to preside in the absence of the  
104 chairperson or when the chairperson is excused. The advisory  
105 council shall adopt procedures governing the manner of conducting  
106 its business. A majority of the members shall constitute a quorum  
107 to do business.

108 (6) This section and Section \* \* \* 43-27-107, Mississippi  
109 Code of 1972, shall stand repealed on July 1, 2009.

110 **SECTION 2.** Section 43-15-13, Mississippi Code of 1972, is  
111 amended as follows:

112 43-15-13. (1) For purposes of this section, "children"  
113 means persons found within the state who are under the age of  
114 twenty-one (21) years, and who were placed in the custody of the  
115 Department of Human Services by the youth court of the appropriate  
116 county.

117 (2) The Department of Human Services shall establish a  
118 foster care placement program for children whose custody lies with  
119 the department, with the following objectives:

120 (a) Protecting and promoting the health, safety and  
121 welfare of children;

122 (b) Preventing the unnecessary separation of children  
123 from their families by identifying family problems, assisting  
124 families in resolving their problems and preventing the breakup of  
125 the family where the prevention of child removal is desirable and  
126 possible when the child can be cared for at home without  
127 endangering the child's health and safety;

128 (c) Remediating or assisting in the solution of problems  
129 which may result in the neglect, abuse, exploitation or  
130 delinquency of children;

131 (d) Restoring to their families children who have been  
132 removed, by the provision of services to the child and the  
133 families when the child can be cared for at home without  
134 endangering the child's health and safety;

135 (e) Placing children in suitable adoptive homes  
136 approved by a licensed adoption agency or family protection  
137 specialist, in cases where restoration to the biological family is  
138 not safe, possible or appropriate;

139 (f) Assuring safe and adequate care of children away  
140 from their homes, in cases where the child cannot be returned home  
141 or cannot be placed for adoption. At the time of placement, the  
142 department shall implement concurrent planning, as described in  
143 subsection (8) of this section, so that permanency may occur at  
144 the earliest opportunity. Consideration of possible failure or  
145 delay of reunification should be given, to the end that the  
146 placement made is the best available placement to provide  
147 permanency for the child; and

148 (g) Providing a family protection specialist or worker  
149 or \* \* \* team of such specialists or workers for a family and  
150 child throughout the implementation of their permanent living  
151 arrangement plan. Wherever feasible, the same family protection  
152 specialist or worker or \* \* \* team shall remain on the case until  
153 the child is no longer under the jurisdiction of the youth court.

154 (3) The State Department of Human Services shall administer  
155 a system of individualized plans and reviews once every six (6)  
156 months for each child under its custody within the State of  
157 Mississippi, each child who has been adjudged a neglected,  
158 abandoned or abused child and whose custody was changed by court  
159 order as a result of such adjudication, and each public or private  
160 facility licensed by the department. The State Department of  
161 Human Services administrative review shall be completed on each  
162 child within the first three (3) months and a foster care review  
163 once every six (6) months after the child's initial

164 forty-eight-hour shelter hearing. Such system shall be for the  
165 purpose of enhancing potential family life for the child by the  
166 development of individual plans to return the child to its natural  
167 parent or parents, or to refer the child to the appropriate court  
168 for termination of parental rights and placement in a permanent  
169 relative's home, adoptive home or foster/adoptive home. The goal  
170 of the State Department of Human Services shall be to return the  
171 child to its natural parent(s) or refer the child to the  
172 appropriate court for termination of parental rights and placement  
173 in a permanent relative's home, adoptive home or foster/adoptive  
174 home within the time periods specified in this subsection or in  
175 subsection (4) of this section. In furthering this goal, the  
176 department shall establish policy and procedures designed to  
177 appropriately place children in permanent homes, such policy to  
178 include a system of reviews for all children in foster care, as  
179 follows: foster care counselors in the department shall make all  
180 possible contact with the child's natural parent(s) and any  
181 interested relative for the first two (2) months following the  
182 child's entry into the foster care system. For any child who was  
183 in foster care before July 1, 1998, and has been in foster care  
184 for fifteen (15) of the last twenty-two (22) months regardless of  
185 whether the foster care was continuous for all of those twenty-two  
186 (22) months, the department shall file a petition to terminate the  
187 parental rights of the child's parents. The time period starts to  
188 run from the date the court makes a finding of abuse and/or  
189 neglect or sixty (60) days from when the child was removed from  
190 his or her home, whichever is earlier. The department can choose  
191 not to file a termination of parental rights petition if the  
192 following apply:

- 193 (a) The child is being cared for by a relative; and/or  
194 (b) The department has documented compelling and  
195 extraordinary reasons why termination of parental rights would not  
196 be in the best interests of the child. Prior to granting or

197 denying a request by the department for an extension of time for  
198 filing a termination of parental rights action, the court shall  
199 receive a written report on the progress which a parent of such  
200 child has made in treatment, to be made to the court in writing by  
201 a mental health/substance abuse therapist or counselor.

202 (4) In the case of any child who is placed in foster care on  
203 or after July 1, 1998, except in cases of aggravated circumstances  
204 prescribed in Section 43-21-603(7)(c) or (d), the child's natural  
205 parent(s) will have a reasonable time to be determined by the  
206 court, which shall not exceed a six-month period of time, in which  
207 to meet the service agreement with the department for the benefit  
208 of the child unless the department has documented extraordinary  
209 and compelling reasons for extending the time period in the best  
210 interest of the child. If this agreement has not been  
211 satisfactorily met, simultaneously the child will be referred to  
212 the appropriate court for termination of parental rights and  
213 placement in a permanent relative's home, adoptive home or a  
214 foster/adoptive home. For children under the age of three (3)  
215 years, termination of parental rights shall be initiated within  
216 six (6) months, unless the department has documented compelling  
217 and extraordinary circumstances, and placement in a permanent  
218 relative's home, adoptive home or foster/adoptive home within two  
219 (2) months. For children who have been abandoned pursuant to the  
220 provisions of Section 97-5-1, termination of parental rights shall  
221 be initiated within thirty (30) days and placement in an adoptive  
222 home shall be initiated without necessity for placement in a  
223 foster home. The department need not initiate termination of  
224 parental rights proceedings where the child has been placed in  
225 durable legal custody or long-term or formalized foster care by a  
226 court of competent jurisdiction.

227 (5) The foster care review once every six (6) months shall  
228 be conducted by the youth court or its designee(s), and/or by  
229 personnel within the State Department of Human Services or by a

230 designee or designees of the department and may include others  
231 appointed by the department, and the review shall include at a  
232 minimum an evaluation of the child based on the following:

233 (a) The extent of the care and support provided by the  
234 parents or parent, while the child is in temporary custody;

235 (b) The extent of communication with the child by  
236 parents, parent or guardian;

237 (c) The degree of compliance by the agency and the  
238 parents with the social service plan established;

239 (d) The methods of achieving the goal and the plan  
240 establishing a permanent home for the child;

241 (e) Social services offered and/or utilized to  
242 facilitate plans for establishing a permanent home for the child;  
243 and

244 (f) Relevant testimony and recommendations from the  
245 foster parent of the child, the grandparents of the child, the  
246 guardian ad litem of the child, representatives of any private  
247 care agency which has cared for the child, the family protection  
248 worker or family protection specialist assigned to the case, and  
249 any other relevant testimony pertaining to the case.

250 Each child's review plan once every six (6) months shall be  
251 filed with the court which awarded custody and shall be made  
252 available to natural parents or foster parents upon approval of  
253 the court. The court shall make a finding as to the degree of  
254 compliance by the agency and the parent(s) with the child's social  
255 service plan. The court also shall find that the child's health  
256 and safety are the paramount concern. In the interest of the  
257 child, the court shall, where appropriate, initiate proceedings on  
258 its own motion. The State Department of Human Services shall  
259 report to the Legislature as to the number of such children, the  
260 findings of the foster care review board and relevant statistical  
261 information in foster care in a semiannual report to the  
262 Legislature to be submitted to the Joint Oversight Committee of



263 the Department of Human Services. The report shall not refer to  
264 the specific name of any child in foster care.

265 (6) The State Department of Human Services, with the  
266 cooperation and assistance of the State Department of Health,  
267 shall develop and implement a training program for foster care  
268 parents to indoctrinate them as to their proper responsibilities  
269 upon a child's entry into their foster care. The program shall  
270 provide a minimum of twelve (12) clock hours of training. The  
271 foster care training program shall be satisfactorily completed by  
272 such foster care parents prior to or within ninety (90) days after  
273 child placement with such parent. Record of such foster care  
274 parent's training program participation shall be filed with the  
275 court as part of a foster care child's review plan once every six  
276 (6) months.

277 (7) When the Department of Human Services is considering  
278 placement of a child in a foster home and when the department  
279 deems it to be in the best interest of the child, the department  
280 shall give first priority to placing the child in the home of one  
281 (1) of the child's relatives within the third degree, as computed  
282 by the civil law rule. In placing the child in a relative's home,  
283 the department may waive any rule, regulation or policy applicable  
284 to placement in foster care that would otherwise require the child  
285 to have a separate bed or bedroom or have a bedroom of a certain  
286 size, if placing the child in a relative's home would be in the  
287 best interest of the child and such requirements cannot be met in  
288 the relative's home.

289 (8) The Legislature recognizes that the best interests of  
290 the child require that the child be placed in the most permanent  
291 living arrangement as soon as is practicably possible. To achieve  
292 this goal, the Department of Human Services is directed to conduct  
293 concurrent planning so that a permanent living arrangement may  
294 occur at the earliest opportunity. Permanent living arrangements  
295 may include prevention of placement of a child outside the home of

296 the family when the child can be cared for at home without  
297 endangering the child's health or safety; reunification with the  
298 family, when safe and appropriate, if temporary placement is  
299 necessary; or movement of the child toward the most permanent  
300 living arrangement and permanent legal status. When a child is  
301 placed in foster care or relative care, the department shall first  
302 ensure and document that reasonable efforts were made to prevent  
303 or eliminate the need to remove the child from the child's home.  
304 The department's first priority shall be to make reasonable  
305 efforts to reunify the family when temporary placement of the  
306 child occurs or shall request a finding from the court that  
307 reasonable efforts are not appropriate or have been unsuccessful.  
308 A decision to place a child in foster care or relative care shall  
309 be made with consideration of the child's health, safety and best  
310 interests. At the time of placement, consideration should also be  
311 given so that if reunification fails or is delayed, the placement  
312 made is the best available placement to provide a permanent living  
313 arrangement for the child. The department shall adopt rules  
314 addressing concurrent planning for reunification and a permanent  
315 living arrangement. The department shall consider the following  
316 factors when determining appropriateness of concurrent planning:  
317           (a) The likelihood of prompt reunification;  
318           (b) The past history of the family;  
319           (c) The barriers to reunification being addressed by  
320 the family;  
321           (d) The level of cooperation of the family;  
322           (e) The foster parents' willingness to work with the  
323 family to reunite;  
324           (f) The willingness and ability of the foster family or  
325 relative placement to provide an adoptive home or long-term  
326 placement;  
327           (g) The age of the child; and  
328           (h) Placement of siblings.

329           (9) If the department has placed a child in foster care or  
330 relative care pursuant to a court order, the department may not  
331 change the child's placement unless the department specifically  
332 documents to the court that the current placement is unsafe or  
333 unsuitable or that another placement is in the child's best  
334 interests unless the new placement is in an adoptive home or other  
335 permanent placement. Except in emergency circumstances as  
336 determined by the department or where the court orders placement  
337 of the child pursuant to Section 43-21-303, the foster parents,  
338 grandparents or other relatives of the child shall be given an  
339 opportunity to contest the specific reasons documented by the  
340 department at least seventy-two (72) hours prior to any such  
341 departure, and the court may conduct a review of such placement  
342 unless the new placement is in an adoptive home or other permanent  
343 placement. When a child is returned to foster care or relative  
344 care, the former foster parents or relative placement shall be  
345 given the prior right of return placement in order to eliminate  
346 additional trauma to the child.

347           (10) The Department of Human Services shall provide the  
348 foster parents, grandparents or other relatives with at least a  
349 seventy-two-hour notice of departure for any child placed in their  
350 foster care or relative care, except in emergency circumstances as  
351 determined by the department or where the court orders placement  
352 of the child pursuant to Section 43-21-303. The parent/legal  
353 guardian, grandparents of the child, guardian ad litem and the  
354 court exercising jurisdiction shall be notified in writing when  
355 the child leaves foster care or relative care placement,  
356 regardless of whether the child's departure was planned or  
357 unplanned. The only exceptions to giving a written notice to the  
358 parent(s) are when a parent has voluntarily released the child for  
359 adoption or the parent's legal rights to the child have been  
360 terminated through the appropriate court with jurisdiction.

361 (11) The Department of Human Services shall extend the  
362 following rights to foster care parents:

363 (a) A clear understanding of their role as foster  
364 parents and the roles of the birth parent(s) and the placement  
365 agency in respect to the child in care;

366 (b) Respect, consideration, trust and value as a family  
367 who is making an important contribution to the agency's  
368 objectives;

369 (c) Involvement in all the agency's crucial decisions  
370 regarding the foster child as team members who have pertinent  
371 information based on their day-to-day knowledge of the child in  
372 care;

373 (d) Support from the family protection worker or the  
374 family protection specialist in efforts to do a better day-to-day  
375 job in caring for the child and in working to achieve the agency's  
376 objectives for the child and the birth family through provision  
377 of:

378 (i) Pertinent information about the child and the  
379 birth family.

380 (ii) Help in using appropriate resources to meet  
381 the child's needs.

382 (iii) Direct interviews between the family  
383 protection worker or specialist and the child, previously  
384 discussed and understood by the foster parents;

385 (e) The opportunity to develop confidence in making  
386 day-to-day decisions in regard to the child;

387 (f) The opportunity to learn and grow in their vocation  
388 through planned foster parent education;

389 (g) The opportunity to be heard regarding agency  
390 practices that they may question; and

391 (h) Reimbursement for costs of the foster child's care  
392 in the form of a board payment based on the age of the foster  
393 child as prescribed in Section 43-15-17.

394 (12) The Department of Human Services shall require the  
395 following responsibilities from participating foster parents:

396 (a) Understanding the department's function in regard  
397 to the foster care program and related social service programs;

398 (b) Sharing with the department any information which  
399 may contribute to the care of foster children;

400 (c) Functioning within the established goals and  
401 objectives to improve the general welfare of the foster child;

402 (d) Recognizing the problems in foster home placement  
403 that will require professional advice and assistance and that such  
404 help should be utilized to its full potential;

405 (e) Recognizing that the foster family will be one of  
406 the primary resources for preparing a child for any future plans  
407 that are made, including return to birth parent(s), termination of  
408 parental rights or reinstitutionalization;

409 (f) Expressing their view of agency practices which  
410 relate to the foster child with the appropriate staff member;

411 (g) Understanding that all information shared with the  
412 foster parents about the child and his/her birth parent(s) must be  
413 held in the strictest of confidence;

414 (h) Cooperating with any plan to reunite the foster  
415 child with his birth family and work with the birth family to  
416 achieve this goal; and

417 (i) Attending dispositional review hearings and  
418 termination of parental rights hearings conducted by a court of  
419 competent jurisdiction, or providing their recommendations to the  
420 court in writing.

421 **SECTION 3.** Section 43-21-261, Mississippi Code of 1972, is  
422 amended as follows:

423 43-21-261. (1) Except as otherwise provided in this  
424 section, records involving children shall not be disclosed, other  
425 than to necessary staff of the youth court, except pursuant to an  
426 order of the youth court specifying the person or persons to whom

427 the records may be disclosed, the extent of the records which may  
428 be disclosed and the purpose of the disclosure. Such court orders  
429 for disclosure shall be limited to those instances in which the  
430 youth court concludes, in its discretion, that disclosure is  
431 required for the best interests of the child, the public safety or  
432 the functioning of the youth court and then only to the following  
433 persons:

434 (a) The judge of another youth court or member of  
435 another youth court staff;

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

438 (c) A judge of any other court or members of another  
439 court staff;

440 (d) Representatives of a public or private agency  
441 providing supervision or having custody of the child under order  
442 of the youth court;

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

449 (f) The Mississippi Employment Security Commission, or  
450 its duly authorized representatives, for the purpose of a child's  
451 enrollment into the Job Corps Training Program as authorized by  
452 Title IV of the Comprehensive Employment Training Act of 1973 (29  
453 USCS Section 923 et seq.). However, no records, reports,  
454 investigations or information derived therefrom pertaining to  
455 child abuse or neglect shall be disclosed; and

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

460 Law enforcement agencies may disclose information to the  
461 public concerning the taking of a child into custody for the  
462 commission of a delinquent act without the necessity of an order  
463 from the youth court. The information released shall not identify  
464 the child or his address unless the information involves a child  
465 convicted as an adult.

466 (2) Any records involving children which are disclosed under  
467 an order of the youth court and the contents thereof shall be kept  
468 confidential by the person or agency to whom the record is  
469 disclosed except as provided in the order. Any further disclosure  
470 of any records involving children shall be made only under an  
471 order of the youth court as provided in this section.

472 (3) Upon request, the parent, guardian or custodian of the  
473 child who is the subject of a youth court cause or any attorney  
474 for such parent, guardian or custodian, shall have the right to  
475 inspect any record, report or investigation which is to be  
476 considered by the youth court at a hearing, except that the  
477 identity of the reporter shall not be released, nor the name of  
478 any other person where the person or agency making the information  
479 available finds that disclosure of the information would be likely  
480 to endanger the life or safety of such person.

481 (4) Upon request, the child who is the subject of a youth  
482 court cause shall have the right to have his counsel inspect and  
483 copy any record, report or investigation which is filed with the  
484 youth court.

485 (5) (a) The youth court prosecutor or prosecutors, the  
486 county attorney, the district attorney, the youth court defender  
487 or defenders, or any attorney representing a child shall have the  
488 right to inspect any law enforcement record involving children.

489 (b) The Department of Human Services shall disclose to  
490 a county prosecuting attorney or district attorney any and all  
491 records resulting from an investigation into suspected child abuse  
492 or neglect when the case has been referred by the Department of

493 Human Services to the county prosecuting attorney or district  
494 attorney for criminal prosecution.

495 (c) Agency records made confidential under the  
496 provisions of this section may be disclosed to a court of  
497 competent jurisdiction.

498 (6) Information concerning an investigation into a report of  
499 child abuse or child neglect may be disclosed by the Department of  
500 Human Services without order of the youth court to any attorney,  
501 physician, dentist, intern, resident, nurse, psychologist, social  
502 worker, family protection worker, family protection specialist,  
503 child caregiver, minister, law enforcement officer, public or  
504 private school employee making that report pursuant to Section  
505 43-21-353(1) if the reporter has a continuing professional  
506 relationship with the child and a need for such information in  
507 order to protect or treat the child.

508 (7) Information concerning an investigation into a report of  
509 child abuse or child neglect may be disclosed without further  
510 order of the youth court to any interagency child abuse task force  
511 established in any county or municipality by order of the youth  
512 court of that county or municipality.

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

517 (9) Names and addresses of juveniles adjudicated as  
518 delinquent for murder, manslaughter, burglary, arson, armed  
519 robbery, aggravated assault, any sex offense as defined in Section  
520 45-33-23, for any violation of Section 41-29-139(a)(1) or for any  
521 violation of Section 63-11-30, shall not be held confidential and  
522 shall be made available to the public.

523 (10) The judges of the circuit and county courts, and  
524 presentence investigators for the circuit courts, as provided in  
525 Section 47-7-9, shall have the right to inspect any youth court



526 records of a person convicted of a crime for sentencing purposes  
527 only.

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

531 (12) A classification hearing officer of the State  
532 Department of Corrections, as provided in Section 47-5-103, shall  
533 have the right to inspect any youth court records, excluding abuse  
534 and neglect records, of any offender in the custody of the  
535 department who as a child or minor was a juvenile offender or was  
536 the subject of a youth court cause of action, and the State Parole  
537 Board, as provided in Section 47-7-17, shall have the right to  
538 inspect such records when the offender becomes eligible for  
539 parole.

540 (13) The youth court shall notify the Department of Public  
541 Safety of the name, and any other identifying information such  
542 department may require, of any child who is adjudicated delinquent  
543 as a result of a violation of the Uniform Controlled Substances  
544 Law.

545 (14) The Administrative Office of Courts shall have the  
546 right to inspect any youth court records in order that the number  
547 of youthful offenders, abused, neglected, truant and dependent  
548 children, as well as children in need of special care and children  
549 in need of supervision, may be tracked with specificity through  
550 the youth court and adult justice system, and to utilize tracking  
551 forms for such purpose.

552 (15) Upon a request by a youth court, the Administrative  
553 Office of Courts shall disclose all information at its disposal  
554 concerning any previous youth court intakes alleging that a child  
555 was a delinquent child, child in need of supervision, child in  
556 need of special care, truant child, abused child or neglected  
557 child, as well as any previous youth court adjudications for the  
558 same and all dispositional information concerning a child who at

559 the time of such request comes under the jurisdiction of the youth  
560 court making such request.

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

568 (17) In every case where there is any indication or  
569 suggestion of either abuse or neglect and a child's physical  
570 condition is medically labeled as medically "serious" or  
571 "critical" or a child dies, the confidentiality provisions of this  
572 section shall not apply. In cases of child deaths, the following  
573 information may be released by the Mississippi Department of Human  
574 Services: (a) child's name; (b) address or location; (c)  
575 verification from the Department of Human Services of case status  
576 (no case or involvement, case exists, open or active case, case  
577 closed); (d) if a case exists, the type of report or case  
578 (physical abuse, neglect, etc.), date of intake(s) and  
579 investigation(s), and case disposition (substantiated or  
580 unsubstantiated). Notwithstanding the aforesaid, the  
581 confidentiality provisions of this section shall continue if there  
582 is a pending or planned investigation by any local, state or  
583 federal governmental agency or institution.

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

588 (19) Information concerning an investigation into a report  
589 of child abuse or child neglect may be disclosed without further  
590 order of the youth court in any administrative or due process  
591 hearing held, pursuant to Section 43-21-257, by the Department of

592 Human Services for individuals whose names will be placed on the  
593 central registry as substantiated perpetrators.

594 **SECTION 4.** Section 43-21-353, Mississippi Code of 1972, is  
595 amended as follows:

596 43-21-353. (1) Any attorney, physician, dentist, intern,  
597 resident, nurse, psychologist, social worker, family protection  
598 worker, family protection specialist, child caregiver, minister,  
599 law enforcement officer, public or private school employee or any  
600 other person having reasonable cause to suspect that a child is a  
601 neglected child or an abused child, shall cause an oral report to  
602 be made immediately by telephone or otherwise and followed as soon  
603 thereafter as possible by a report in writing to the Department of  
604 Human Services, and immediately a referral shall be made by the  
605 Department of Human Services to the youth court intake unit, which  
606 unit shall promptly comply with Section 43-21-357. Where  
607 appropriate, the Department of Human Services shall additionally  
608 make a referral to the youth court prosecutor. Upon receiving a  
609 report that a child has been sexually abused, or burned, tortured,  
610 mutilated or otherwise physically abused in such a manner as to  
611 cause serious bodily harm, or upon receiving any report of abuse  
612 that would be a felony under state or federal law, the Department  
613 of Human Services shall immediately notify the law enforcement  
614 agency in whose jurisdiction the abuse occurred and shall notify  
615 the appropriate prosecutor within forty-eight (48) hours, and the  
616 Department of Human Services shall have the duty to provide the  
617 law enforcement agency all the names and facts known at the time  
618 of the report; this duty shall be of a continuing nature. The law  
619 enforcement agency and the Department of Human Services shall  
620 investigate the reported abuse immediately and shall file a  
621 preliminary report with the appropriate prosecutor's office within  
622 twenty-four (24) hours and shall make additional reports as new or  
623 additional information or evidence becomes available. The  
624 Department of Human Services shall advise the clerk of the youth

625 court and the youth court prosecutor of all cases of abuse  
626 reported to the department within seventy-two (72) hours and shall  
627 update such report as information becomes available.

628 (2) Any report to the Department of Human Services shall  
629 contain the names and addresses of the child and his parents or  
630 other persons responsible for his care, if known, the child's age,  
631 the nature and extent of the child's injuries, including any  
632 evidence of previous injuries and any other information that might  
633 be helpful in establishing the cause of the injury and the  
634 identity of the perpetrator.

635 (3) The Department of Human Services shall maintain a  
636 statewide incoming wide-area telephone service or similar service  
637 for the purpose of receiving reports of suspected cases of child  
638 abuse; provided that any attorney, physician, dentist, intern,  
639 resident, nurse, psychologist, social worker, family protection  
640 worker, family protection specialist, child caregiver, minister,  
641 law enforcement officer or public or private school employee who  
642 is required to report under subsection (1) of this section shall  
643 report in the manner required in subsection (1).

644 (4) Reports of abuse and neglect made under this chapter and  
645 the identity of the reporter are confidential except when the  
646 court in which the investigation report is filed, in its  
647 discretion, determines the testimony of the person reporting to be  
648 material to a judicial proceeding or when the identity of the  
649 reporter is released to law enforcement agencies and the  
650 appropriate prosecutor pursuant to subsection (1). Reports made  
651 under this section to any law enforcement agency or prosecutorial  
652 officer are for the purpose of criminal investigation and  
653 prosecution only and no information from these reports may be  
654 released to the public except as provided by Section 43-21-261.  
655 Disclosure of any information by the prosecutor shall be according  
656 to the Mississippi Uniform Rules of Circuit and County Court  
657 Procedure. The identity of the reporting party shall not be

658 disclosed to anyone other than law enforcement officers or  
659 prosecutors without an order from the appropriate youth court.  
660 Any person disclosing any reports made under this section in a  
661 manner not expressly provided for in this section or Section  
662 43-21-261, shall be guilty of a misdemeanor and subject to the  
663 penalties prescribed by Section 43-21-267.

664 (5) All final dispositions of law enforcement investigations  
665 described in subsection (1) of this section shall be determined  
666 only by the appropriate prosecutor or court. All final  
667 dispositions of investigations by the Department of Human Services  
668 as described in subsection (1) of this section shall be determined  
669 only by the youth court. Reports made under subsection (1) of  
670 this section by the Department of Human Services to the law  
671 enforcement agency and to the district attorney's office shall  
672 include the following, if known to the department:

673 (a) The name and address of the child;  
674 (b) The names and addresses of the parents;  
675 (c) The name and address of the suspected perpetrator;  
676 (d) The names and addresses of all witnesses, including  
677 the reporting party if a material witness to the abuse;

678 (e) A brief statement of the facts indicating that the  
679 child has been abused and any other information from the agency  
680 files or known to the family protection worker or family  
681 protection specialist making the investigation, including medical  
682 records or other records, which may assist law enforcement or the  
683 district attorney in investigating and/or prosecuting the case;  
684 and

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

687 (6) In any investigation of a report made under this chapter  
688 of the abuse or neglect of a child as defined in Section  
689 43-21-105(m), the Department of Human Services may request the  
690 appropriate law enforcement officer with jurisdiction to accompany

691 the department in its investigation, and in such cases the law  
692 enforcement officer shall comply with such request.

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

697 (8) If a report is made directly to the Department of Human  
698 Services that a child has been abused or neglected in an  
699 out-of-home setting, a referral shall be made immediately to the  
700 law enforcement agency in whose jurisdiction the abuse occurred  
701 and the department shall notify the district attorney's office  
702 within forty-eight (48) hours of such report. The Department of  
703 Human Services shall investigate the out-of-home setting report of  
704 abuse or neglect to determine whether the child who is the subject  
705 of the report, or other children in the same environment, comes  
706 within the jurisdiction of the youth court and shall report to the  
707 youth court the department's findings and recommendation as to  
708 whether the child who is the subject of the report or other  
709 children in the same environment require the protection of the  
710 youth court. The law enforcement agency shall investigate the  
711 reported abuse immediately and shall file a preliminary report  
712 with the district attorney's office within forty-eight (48) hours  
713 and shall make additional reports as new information or evidence  
714 becomes available. If the out-of-home setting is a licensed  
715 facility, an additional referral shall be made by the Department  
716 of Human Services to the licensing agency. The licensing agency  
717 shall investigate the report and shall provide the Department of  
718 Human Services, the law enforcement agency and the district  
719 attorney's office with their written findings from such  
720 investigation as well as that licensing agency's recommendations  
721 and actions taken.

722 **SECTION 5.** Section 43-21-355, Mississippi Code of 1972, is  
723 amended as follows:

724 43-21-355. Any attorney, physician, dentist, intern,  
725 resident, nurse, psychologist, social worker, family protection  
726 worker, family protection specialist, child caregiver, minister,  
727 law enforcement officer, school attendance officer, public school  
728 district employee, nonpublic school employee, licensed  
729 professional counselor or any other person participating in the  
730 making of a required report pursuant to Section 43-21-353 or  
731 participating in the judicial proceeding resulting therefrom shall  
732 be presumed to be acting in good faith. Any person or institution  
733 reporting in good faith shall be immune from any liability, civil  
734 or criminal, that might otherwise be incurred or imposed.

735 **SECTION 6.** Section 43-21-603, Mississippi Code of 1972, is  
736 amended as follows:

737 43-21-603. (1) At the beginning of each disposition  
738 hearing, the judge shall inform the parties of the purpose of the  
739 hearing.

740 (2) All testimony shall be under oath unless waived by all  
741 parties and may be in narrative form. The court may consider any  
742 evidence that is material and relevant to the disposition of the  
743 cause, including hearsay and opinion evidence. At the conclusion  
744 of the evidence, the youth court shall give the parties an  
745 opportunity to present oral argument.

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

- 749 (a) The nature of the offense;
- 750 (b) The manner in which the offense was committed;
- 751 (c) The nature and number of a child's prior  
752 adjudicated offenses;
- 753 (d) The child's need for care and assistance;
- 754 (e) The child's current medical history, including  
755 medication and diagnosis;

756 (f) The child's mental health history, which may  
757 include, but not be limited to, the Massachusetts Youth Screening  
758 Instrument version 2 (MAYSI-2);

759 (g) Copies of the child's cumulative record from the  
760 last school of record, including special education records, if  
761 applicable;

762 (h) Recommendation from the school of record based on  
763 areas of remediation needed;

764 (i) Disciplinary records from the school of record; and

765 (j) Records of disciplinary actions outside of the  
766 school setting.

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

770 (a) The nature and history of the child's conduct;

771 (b) The family and home situation; and

772 (c) The child's need of care and assistance.

773 (5) If the child has been adjudicated a neglected child or  
774 an abused child, before entering a disposition order, the youth  
775 court shall consider, among others, the following relevant  
776 factors:

777 (a) The child's physical and mental conditions;

778 (b) The child's need of assistance;

779 (c) The manner in which the parent, guardian or  
780 custodian participated in, tolerated or condoned the abuse,  
781 neglect or abandonment of the child;

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

784 (e) Relevant testimony and recommendations, where  
785 available, from the foster parent of the child, the grandparents  
786 of the child, the guardian ad litem of the child, representatives  
787 of any private care agency that has cared for the child, the  
788 family protection worker or family protection specialist assigned



789 to the case, and any other relevant testimony pertaining to the  
790 case.

791 (6) After consideration of all the evidence and the relevant  
792 factors, the youth court shall enter a disposition order that  
793 shall not recite any of the facts or circumstances upon which the  
794 disposition is based, nor shall it recite that a child has been  
795 found guilty; but it shall recite that a child is found to be a  
796 delinquent child, a child in need of supervision, a neglected  
797 child or an abused child.

798 (7) If the youth court orders that the custody or  
799 supervision of a child who has been adjudicated abused or  
800 neglected be placed with the Department of Human Services or any  
801 other person or public or private agency, other than the child's  
802 parent, guardian or custodian, the youth court shall find and the  
803 disposition order shall recite that:

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

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

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

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

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

820 (ii) The parent has been convicted of murder of  
821 another child of that parent, voluntary manslaughter of another

822 child of that parent, aided or abetted, attempted, conspired or  
823 solicited to commit that murder or voluntary manslaughter, or a  
824 felony assault that results in the serious bodily injury to the  
825 surviving child or another child of that parent; or

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

828 (iv) That the effect of the continuation of the  
829 child's residence within his own home would be contrary to the  
830 welfare of the child and that placement of the child in foster  
831 care is in the best interests of the child.

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

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

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

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

844 (c) Copies of the child's cumulative record from the  
845 last school of record, including special education records, if  
846 reasonably available;

847 (d) Recommendation from the school of record based on  
848 areas of remediation needed;

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

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

852 Only individuals who are permitted under the Health Insurance  
853 Portability and Accountability Act of 1996 (HIPAA) shall have  
854 access to a child's medical records which are contained in an

855 admission packet. The youth court shall provide the admission  
856 packet to the training school at or before the child's arrival at  
857 the training school. The admittance of any child to a training  
858 school shall take place between the hours of 8:00 a.m. and 3:00  
859 p.m. on designated admission days.

860 (9) When a child in the jurisdiction of the Youth Court is  
861 committed to the custody of the Mississippi Department of Human  
862 Services and is believed to be in need of treatment for a mental  
863 or emotional disability or infirmity, the Department of Human  
864 Services shall file an affidavit alleging that the child is in  
865 need of mental health services with the Youth Court. The Youth  
866 Court shall refer the child to the appropriate community mental  
867 health center for evaluation pursuant to Section 41-21-67. If the  
868 prescreening evaluation recommends residential care, the Youth  
869 Court shall proceed with civil commitment pursuant to Sections  
870 41-21-61 et seq., 43-21-315 and 43-21-611, and the Department of  
871 Mental Health, once commitment is ordered, shall provide  
872 appropriate care, treatment and services for at least as many  
873 adolescents as were provided services in fiscal year 2004 in its  
874 facilities.

875 **SECTION 7.** Section 43-27-107, Mississippi Code of 1972, is  
876 amended as follows:

877 43-27-107. The Department of Human Services is authorized to  
878 set the qualifications necessary for all family protection  
879 specialists employed by the department, which shall at a minimum  
880 require that the applicant possess a baccalaureate degree in  
881 social work from a college or university accredited by the Council  
882 on Social Work Education or Southern Association of Colleges and  
883 Schools, unless the person was licensed as a social worker before  
884 September 1, 1994, pursuant to Section 73-53-7, Mississippi Code  
885 of 1972.

886 The qualifications for employment of a family protection  
887 specialist at the senior, advanced and supervisory grades shall

888 require, in addition to those required of a family protection  
889 specialist, state licensure as a social worker.

890 The department shall not be required to go through the State  
891 Personnel Board or use the qualifications set by the Personnel  
892 Board in employing any family protection specialists for the  
893 department. All family protection specialists employed by the  
894 department shall be state service employees from the date of their  
895 employment with the department; however, to carry out its  
896 responsibilities, the department may use any available federal  
897 funds to employ such additional family protection specialists as  
898 it can employ in time-limited positions. All social worker  
899 positions existing before July 1, 1998, will remain state service.

900 This section shall stand repealed from and after July 1,  
901 2009.

902 **SECTION 8.** Section 43-27-109, Mississippi Code of 1972, is  
903 amended as follows:

904 43-27-109. The Department of Human Services may employ a  
905 sufficient number of new family protection specialists, \* \* \*  
906 youth counselors and clerical staff to reduce the caseload sizes  
907 for social workers and youth counselors of the department and to  
908 reduce the workload on clerical staff, if funds are appropriated  
909 to the department for that purpose.

910 **SECTION 9.** Section 43-47-7, Mississippi Code of 1972, is  
911 amended as follows:

912 43-47-7. (1) (a) Except as otherwise provided by Section  
913 43-47-37 for vulnerable adults in care facilities, any person  
914 including, but not limited to, the following, who knows or  
915 suspects that a vulnerable adult has been or is being abused,  
916 neglected or exploited shall immediately report such knowledge or  
917 suspicion to the Department of Human Services or to the county  
918 department of human services where the vulnerable adult is  
919 located:

920 (i) Attorney, physician, osteopathic physician,  
921 medical examiner, chiropractor or nurse engaged in the admission,  
922 examination, care or treatment of vulnerable adults;

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

925 (iii) Practitioner who relies solely on spiritual  
926 means for healing;

927 (iv) Social worker, family protection worker,  
928 family protection specialist or other professional adult care,  
929 residential or institutional staff;

930 (v) State, county or municipal criminal justice  
931 employee or law enforcement officer;

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

934 (vii) Accountant, stockbroker, financial advisor  
935 or consultant, insurance agent or consultant, investment advisor  
936 or consultant, financial planner, or any officer or employee of a  
937 bank, savings and loan, credit union or any other financial  
938 service provider.

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

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

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

947 (iii) Name, address and telephone number of each  
948 alleged perpetrator.

949 (iv) Name, address and telephone number of the  
950 caregiver of the vulnerable adult, if different from the alleged  
951 perpetrator.

952                   (v) Description of the neglect, exploitation,  
953 physical or psychological injuries sustained.

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

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

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

964           (c) The department, or its designees, shall report to  
965 an appropriate criminal investigative or prosecutive authority any  
966 person required by this section to report or who fails to comply  
967 with this section. A person who fails to make a report as  
968 required under this subsection or who, because of the  
969 circumstances, should have known or suspected beyond a reasonable  
970 doubt that a vulnerable adult suffers from exploitation, abuse,  
971 neglect or self-neglect but who knowingly fails to comply with  
972 this section shall, upon conviction, be guilty of a misdemeanor  
973 and shall be punished by a fine not exceeding Five Thousand  
974 Dollars (\$5,000.00), or by imprisonment in the county jail for not  
975 more than six (6) months, or both such fine and imprisonment.  
976 However, for purposes of this subsection (1), any recognized legal  
977 financial transaction shall not be considered cause to report the  
978 knowledge or suspicion of the financial exploitation of a  
979 vulnerable adult. If a person convicted under this section is a  
980 member of a profession or occupation that is licensed, certified  
981 or regulated by the state, the court shall notify the appropriate  
982 licensing, certifying or regulating entity of the conviction.

983           (2) Reports received by law enforcement authorities or other  
984 agencies shall be forwarded immediately to the Department of Human

985 Services or the county department of human services. The  
986 Department of Human Services shall investigate the reported abuse,  
987 neglect or exploitation immediately and shall file a preliminary  
988 report of its findings with the Office of the Attorney General  
989 within forty-eight (48) hours, and shall make additional reports  
990 as new information or evidence becomes available. The Department  
991 of Human Services, upon request, shall forward a statement to the  
992 person making the initial report required by this section as to  
993 what action is being taken, if any.

994 (3) The report may be made orally or in writing, but where  
995 made orally, it shall be followed up by a written report. A  
996 person who fails to report or to otherwise comply with this  
997 section, as provided herein, shall have no civil or criminal  
998 liability, other than that expressly provided for in this section,  
999 to any person or entity in connection with any failure to report  
1000 or to otherwise comply with the requirements of this section.

1001 (4) Anyone who makes a report required by this section or  
1002 who testifies or participates in any judicial proceedings arising  
1003 from the report or who participates in a required investigation or  
1004 evaluation shall be presumed to be acting in good faith and in so  
1005 doing shall be immune from liability, civil or criminal, that  
1006 might otherwise be incurred or imposed. However, the immunity  
1007 provided under this subsection shall not apply to any suspect or  
1008 perpetrator of any abuse, neglect or exploitation.

1009 (5) A person who intentionally makes a false report under  
1010 the provisions of this section may be found liable in a civil suit  
1011 for any actual damages suffered by the person or persons so  
1012 reported and for any punitive damages set by the court or jury.

1013 (6) The Executive Director of Human Services shall establish  
1014 a statewide central register of reports made pursuant to this  
1015 section. The central register shall be capable of receiving  
1016 reports of vulnerable adults in need of protective services seven  
1017 (7) days a week, twenty-four (24) hours a day. To effectuate this

1018 purpose, the executive director shall establish a single toll-free  
1019 statewide phone number that all persons may use to report  
1020 vulnerable adults in need of protective services, and that all  
1021 persons authorized by subsection (7) of this section may use for  
1022 determining the existence of prior reports in order to evaluate  
1023 the condition or circumstances of the vulnerable adult before  
1024 them. Such oral reports and evidence of previous reports shall be  
1025 transmitted to the appropriate county department of human  
1026 services. The central register shall include, but not be limited  
1027 to, the following information: the name and identifying  
1028 information of the individual reported, the county department of  
1029 human services responsible for the investigation of each such  
1030 report, the names, affiliations and purposes of any person  
1031 requesting or receiving information which the executive director  
1032 believes might be helpful in the furtherance of the purposes of  
1033 this chapter, the name, address, birth date, social security  
1034 number of the perpetrator of abuse, neglect and/or exploitation,  
1035 and the type of abuse, neglect and/or exploitation of which there  
1036 was substantial evidence upon investigation of the report. The  
1037 central register shall inform the person making reports required  
1038 under this section of his or her right to request statements from  
1039 the department as to what action is being taken, if any.

1040 Each person, business, organization or other entity, whether  
1041 public or private, operated for profit, operated for nonprofit or  
1042 a voluntary unit of government not responsible for law enforcement  
1043 providing care, supervision or treatment of vulnerable adults  
1044 shall conduct criminal history records checks on each new employee  
1045 of the entity who provides, and/or would provide direct patient  
1046 care or services to adults or vulnerable persons, as provided in  
1047 Section 43-11-13.

1048 The department shall not release data that would be harmful  
1049 or detrimental to the vulnerable adult or that would identify or  
1050 locate a person who, in good faith, made a report or cooperated in



1051 a subsequent investigation unless ordered to do so by a court of  
1052 competent jurisdiction.

1053 (7) Reports made pursuant to this section, reports written  
1054 or photographs taken concerning such reports in the possession of  
1055 the Department of Human Services or the county department of human  
1056 services shall be confidential and shall only be made available  
1057 to:

1058 (a) A physician who has before him a vulnerable adult  
1059 whom he reasonably suspects may be abused, neglected or exploited,  
1060 as defined in Section 43-47-5;

1061 (b) A duly authorized agency having the responsibility  
1062 for the care or supervision of a subject of the report;

1063 (c) A grand jury or a court of competent jurisdiction,  
1064 upon finding that the information in the record is necessary for  
1065 the determination of charges before the grand jury;

1066 (d) A district attorney or other law enforcement  
1067 official.

1068 Notwithstanding the provisions of paragraph (b) of this  
1069 subsection, the department may not disclose a report of the  
1070 abandonment, exploitation, abuse, neglect or self-neglect of a  
1071 vulnerable adult to the vulnerable adult's guardian,  
1072 attorney-in-fact, surrogate decision maker, or caregiver who is a  
1073 perpetrator or alleged perpetrator of the abandonment,  
1074 exploitation, abuse or neglect of the vulnerable adult.

1075 Any person given access to the names or other information  
1076 identifying the subject of the report, except the subject of the  
1077 report, shall not divulge or make public such identifying  
1078 information unless he is a district attorney or other law  
1079 enforcement official and the purpose is to initiate court action.  
1080 Any person who willfully permits the release of any data or  
1081 information obtained pursuant to this section to persons or  
1082 agencies not permitted to such access by this section shall be  
1083 guilty of a misdemeanor.

1084           (8) Upon reasonable cause to believe that a caretaker or  
1085 other person has abused, neglected or exploited a vulnerable  
1086 adult, the department shall promptly notify the district attorney  
1087 of the county in which the vulnerable adult is located and the  
1088 Office of the Attorney General, except as provided in Section  
1089 43-47-37(2).

1090           **SECTION 10.** Section 93-21-23, Mississippi Code of 1972, is  
1091 amended as follows:

1092           93-21-23. Any licensed doctor of medicine, licensed doctor  
1093 of dentistry, intern, resident or registered nurse, psychologist,  
1094 social worker, family protection worker, family protection  
1095 specialist, preacher, teacher, attorney, law enforcement officer,  
1096 or any other person or institution participating in the making of  
1097 a report pursuant to this chapter or participating in judicial  
1098 proceedings resulting therefrom shall be presumed to be acting in  
1099 good faith, and if found to have acted in good faith shall be  
1100 immune from any liability, civil or criminal, that might otherwise  
1101 be incurred or imposed. The reporting of an abused person shall  
1102 not constitute a breach of confidentiality.

1103           **SECTION 11.** Section 97-3-7, Mississippi Code of 1972, is  
1104 amended as follows:

1105           97-3-7. (1) A person is guilty of simple assault if he (a)  
1106 attempts to cause or purposely, knowingly or recklessly causes  
1107 bodily injury to another; or (b) negligently causes bodily injury  
1108 to another with a deadly weapon or other means likely to produce  
1109 death or serious bodily harm; or (c) attempts by physical menace  
1110 to put another in fear of imminent serious bodily harm; and, upon  
1111 conviction, he shall be punished by a fine of not more than Five  
1112 Hundred Dollars (\$500.00) or by imprisonment in the county jail  
1113 for not more than six (6) months, or both. However, a person  
1114 convicted of simple assault (a) upon a statewide elected official,  
1115 law enforcement officer, fireman, emergency medical personnel,  
1116 public health personnel, social worker or family protection

1117 specialist or family protection worker employed by the Department  
1118 of Human Services or another agency, superintendent, principal,  
1119 teacher or other instructional personnel, school attendance  
1120 officer, school bus driver, or a judge of a circuit, chancery,  
1121 county, justice or youth court or a judge of the Court of Appeals  
1122 or a justice of the Supreme Court, district attorney, legal  
1123 assistant to a district attorney, county prosecutor, municipal  
1124 prosecutor, court reporter employed by a court, court  
1125 administrator, clerk or deputy clerk of the court, or public  
1126 defender, while such statewide elected official, judge or justice,  
1127 law enforcement officer, fireman, emergency medical personnel,  
1128 public health personnel, social worker, family protection  
1129 specialist, family protection worker, superintendent, principal,  
1130 teacher or other instructional personnel, school attendance  
1131 officer, school bus driver, district attorney, legal assistant to  
1132 a district attorney, county prosecutor, municipal prosecutor,  
1133 court reporter employed by a court, court administrator, clerk or  
1134 deputy clerk of the court, or public defender is acting within the  
1135 scope of his duty, office or employment, or (b) upon a legislator  
1136 while the Legislature is in regular or extraordinary session or  
1137 while otherwise acting within the scope of his duty, office or  
1138 employment, shall be punished by a fine of not more than One  
1139 Thousand Dollars (\$1,000.00) or by imprisonment for not more than  
1140 five (5) years, or both.

1141 (2) A person is guilty of aggravated assault if he (a)  
1142 attempts to cause serious bodily injury to another, or causes such  
1143 injury purposely, knowingly or recklessly under circumstances  
1144 manifesting extreme indifference to the value of human life; or  
1145 (b) attempts to cause or purposely or knowingly causes bodily  
1146 injury to another with a deadly weapon or other means likely to  
1147 produce death or serious bodily harm; and, upon conviction, he  
1148 shall be punished by imprisonment in the county jail for not more  
1149 than one (1) year or in the Penitentiary for not more than twenty

1150 (20) years. However, a person convicted of aggravated assault (a)  
1151 upon a statewide elected official, law enforcement officer,  
1152 fireman, emergency medical personnel, public health personnel,  
1153 social worker, family protection specialist, family protection  
1154 worker employed by the Department of Human Services or another  
1155 agency, superintendent, principal, teacher or other instructional  
1156 personnel, school attendance officer, school bus driver, or a  
1157 judge of a circuit, chancery, county, justice or youth court or a  
1158 judge of the Court of Appeals or a justice of the Supreme Court,  
1159 district attorney, legal assistant to a district attorney, county  
1160 prosecutor, municipal prosecutor, court reporter employed by a  
1161 court, court administrator, clerk or deputy clerk of the court, or  
1162 public defender, while such statewide elected official, judge or  
1163 justice, law enforcement officer, fireman, emergency medical  
1164 personnel, public health personnel, social worker, family  
1165 protection specialist, family protection worker, superintendent,  
1166 principal, teacher or other instructional personnel, school  
1167 attendance officer, school bus driver, district attorney, legal  
1168 assistant to a district attorney, county prosecutor, municipal  
1169 prosecutor, court reporter employed by a court, court  
1170 administrator, clerk or deputy clerk of the court, or public  
1171 defender is acting within the scope of his duty, office or  
1172 employment, or (b) upon a legislator while the Legislature is in  
1173 regular or extraordinary session or while otherwise acting within  
1174 the scope of his duty, office or employment, shall be punished by  
1175 a fine of not more than Five Thousand Dollars (\$5,000.00) or by  
1176 imprisonment for not more than thirty (30) years, or both.

1177 (3) A person is guilty of simple domestic violence who  
1178 commits simple assault as described in subsection (1) of this  
1179 section against a family or household member who resides with the  
1180 defendant or who formerly resided with the defendant, a current or  
1181 former spouse, a person who has a current dating relationship with  
1182 the defendant, or a person with whom the defendant has had a

1183 biological or legally adopted child and upon conviction, the  
1184 defendant shall be punished as provided under subsection (1) of  
1185 this section; however, upon a third or subsequent conviction of  
1186 simple domestic violence, whether against the same or another  
1187 victim and within five (5) years, the defendant shall be guilty of  
1188 a felony and sentenced to a term of imprisonment not less than  
1189 five (5) nor more than ten (10) years. In sentencing, the court  
1190 shall consider as an aggravating factor whether the crime was  
1191 committed in the physical presence or hearing of a child under  
1192 sixteen (16) years of age who was, at the time of the offense,  
1193 living within either the residence of the victim, the residence of  
1194 the perpetrator, or the residence where the offense occurred.

1195 (4) A person is guilty of aggravated domestic violence who  
1196 commits aggravated assault as described in subsection (2) of this  
1197 section against a family or household member who resides with the  
1198 defendant or who formerly resided with the defendant, or a current  
1199 or former spouse, a person who has a current dating relationship  
1200 with the defendant, or a person with whom the defendant has had a  
1201 biological or legally adopted child and upon conviction, the  
1202 defendant shall be punished as provided under subsection (2) of  
1203 this section; however, upon a third or subsequent offense of  
1204 aggravated domestic violence, whether against the same or another  
1205 victim and within five (5) years, the defendant shall be guilty of  
1206 a felony and sentenced to a term of imprisonment of not less than  
1207 five (5) nor more than twenty (20) years. In sentencing, the  
1208 court shall consider as an aggravating factor whether the crime  
1209 was committed in the physical presence or hearing of a child under  
1210 sixteen (16) years of age who was, at the time of the offense,  
1211 living within either the residence of the victim, the residence of  
1212 the perpetrator, or the residence where the offense occurred.  
1213 Reasonable discipline of a child, such as spanking, is not an  
1214 offense under this subsection (4).

1215           (5) "Dating relationship" means a social relationship of a  
1216 romantic or intimate nature.

1217           (6) Every conviction of domestic violence may require as a  
1218 condition of any suspended sentence that the defendant participate  
1219 in counseling or treatment to bring about the cessation of  
1220 domestic abuse. The defendant may be required to pay all or part  
1221 of the cost of the counseling or treatment, in the discretion of  
1222 the court.

1223           (7) In any conviction of assault as described in any  
1224 subsection of this section which arises from an incident of  
1225 domestic violence, the sentencing order shall include the  
1226 designation "domestic violence."

1227           **SECTION 12.** This act shall take effect and be in force from  
1228 and after July 1, 2006.