

By: Representative Baker (74th)

To: Public Health and Human  
Services; Judiciary B

## HOUSE BILL NO. 1196

1 AN ACT TO AMEND SECTION 43-21-353, MISSISSIPPI CODE OF 1972,  
2 TO BRING STATE LAW INTO CONFORMITY WITH THE CHILD ABUSE PREVENTION  
3 AND TREATMENT ACT AS AMENDED BY THE KEEPING CHILDREN AND FAMILIES  
4 SAFE ACT, BY REQUIRING THE DEPARTMENT OF HUMAN SERVICES, UPON  
5 INITIAL CONTACT WITH THE PERSON WHO IS SUBJECT TO A CHILD NEGLECT  
6 OR ABUSE INVESTIGATION, TO INFORM THE PERSON OF THE SPECIFIC  
7 ALLEGATIONS MADE AGAINST THE PERSON; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 43-21-353, Mississippi Code of 1972, is  
10 amended as follows:

11 43-21-353. (1) Any attorney, physician, dentist, intern,  
12 resident, nurse, psychologist, social worker, family protection  
13 worker, family protection specialist, child caregiver, minister,  
14 law enforcement officer, public or private school employee or any  
15 other person having reasonable cause to suspect that a child is a  
16 neglected child or an abused child, shall cause an oral report to  
17 be made immediately by telephone or otherwise and followed as soon  
18 thereafter as possible by a report in writing to the Department of  
19 Human Services, and immediately a referral shall be made by the  
20 Department of Human Services to the youth court intake unit, which  
21 unit shall promptly comply with Section 43-21-357. In the course  
22 of every investigation, at the initial time of contact with the  
23 person who is subject to a child abuse or neglect investigation,  
24 the Department of Human Services shall inform the person of the  
25 specific complaints or allegations made against the person.  
26 Consistent with subsection (4) of this section, the identity of  
27 the person who reported his or her suspicion shall not be  
28 disclosed. Where appropriate, the Department of Human Services  
29 shall additionally make a referral to the youth court prosecutor.

30 Upon receiving a report that a child has been sexually abused, or  
31 burned, tortured, mutilated or otherwise physically abused in such  
32 a manner as to cause serious bodily harm, or upon receiving any  
33 report of abuse that would be a felony under state or federal law,  
34 the Department of Human Services shall immediately notify the law  
35 enforcement agency in whose jurisdiction the abuse occurred and  
36 shall notify the appropriate prosecutor within forty-eight (48)  
37 hours, and the Department of Human Services shall have the duty to  
38 provide the law enforcement agency all the names and facts known  
39 at the time of the report; this duty shall be of a continuing  
40 nature. The law enforcement agency and the Department of Human  
41 Services shall investigate the reported abuse immediately and  
42 shall file a preliminary report with the appropriate prosecutor's  
43 office within twenty-four (24) hours and shall make additional  
44 reports as new or additional information or evidence becomes  
45 available. The Department of Human Services shall advise the  
46 clerk of the youth court and the youth court prosecutor of all  
47 cases of abuse reported to the department within seventy-two (72)  
48 hours and shall update such report as information becomes  
49 available.

50 (2) Any report to the Department of Human Services shall  
51 contain the names and addresses of the child and his parents or  
52 other persons responsible for his care, if known, the child's age,  
53 the nature and extent of the child's injuries, including any  
54 evidence of previous injuries and any other information that might  
55 be helpful in establishing the cause of the injury and the  
56 identity of the perpetrator.

57 (3) The Department of Human Services shall maintain a  
58 statewide incoming wide-area telephone service or similar service  
59 for the purpose of receiving reports of suspected cases of child  
60 abuse; provided that any attorney, physician, dentist, intern,  
61 resident, nurse, psychologist, social worker, family protection  
62 worker, family protection specialist, child caregiver, minister,

63 law enforcement officer or public or private school employee who  
64 is required to report under subsection (1) of this section shall  
65 report in the manner required in subsection (1).

66 (4) Reports of abuse and neglect made under this chapter and  
67 the identity of the reporter are confidential except when the  
68 court in which the investigation report is filed, in its  
69 discretion, determines the testimony of the person reporting to be  
70 material to a judicial proceeding or when the identity of the  
71 reporter is released to law enforcement agencies and the  
72 appropriate prosecutor pursuant to subsection (1). Reports made  
73 under this section to any law enforcement agency or prosecutorial  
74 officer are for the purpose of criminal investigation and  
75 prosecution only and no information from these reports may be  
76 released to the public except as provided by Section 43-21-261.  
77 Disclosure of any information by the prosecutor shall be according  
78 to the Mississippi Uniform Rules of Circuit and County Court  
79 Procedure. The identity of the reporting party shall not be  
80 disclosed to anyone other than law enforcement officers or  
81 prosecutors without an order from the appropriate youth court.  
82 Any person disclosing any reports made under this section in a  
83 manner not expressly provided for in this section or Section  
84 43-21-261, shall be guilty of a misdemeanor and subject to the  
85 penalties prescribed by Section 43-21-267.

86 (5) All final dispositions of law enforcement investigations  
87 described in subsection (1) of this section shall be determined  
88 only by the appropriate prosecutor or court. All final  
89 dispositions of investigations by the Department of Human Services  
90 as described in subsection (1) of this section shall be determined  
91 only by the youth court. Reports made under subsection (1) of  
92 this section by the Department of Human Services to the law  
93 enforcement agency and to the district attorney's office shall  
94 include the following, if known to the department:

95 (a) The name and address of the child;

- 96                   (b) The names and addresses of the parents;
- 97                   (c) The name and address of the suspected perpetrator;
- 98                   (d) The names and addresses of all witnesses, including
- 99 the reporting party if a material witness to the abuse;
- 100                   (e) A brief statement of the facts indicating that the
- 101 child has been abused and any other information from the agency
- 102 files or known to the family protection worker or family
- 103 protection specialist making the investigation, including medical
- 104 records or other records, which may assist law enforcement or the
- 105 district attorney in investigating and/or prosecuting the case;
- 106 and
- 107                   (f) What, if any, action is being taken by the
- 108 Department of Human Services.

109           (6) In any investigation of a report made under this chapter

110 of the abuse or neglect of a child as defined in Section

111 43-21-105(m), the Department of Human Services may request the

112 appropriate law enforcement officer with jurisdiction to accompany

113 the department in its investigation, and in such cases the law

114 enforcement officer shall comply with such request.

115           (7) Anyone who willfully violates any provision of this

116 section shall be, upon being found guilty, punished by a fine not

117 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in

118 jail not to exceed one (1) year, or both.

119           (8) If a report is made directly to the Department of Human

120 Services that a child has been abused or neglected in an

121 out-of-home setting, a referral shall be made immediately to the

122 law enforcement agency in whose jurisdiction the abuse occurred

123 and the department shall notify the district attorney's office

124 within forty-eight (48) hours of such report. The Department of

125 Human Services shall investigate the out-of-home setting report of

126 abuse or neglect to determine whether the child who is the subject

127 of the report, or other children in the same environment, comes

128 within the jurisdiction of the youth court and shall report to the

129 youth court the department's findings and recommendation as to  
130 whether the child who is the subject of the report or other  
131 children in the same environment require the protection of the  
132 youth court. The law enforcement agency shall investigate the  
133 reported abuse immediately and shall file a preliminary report  
134 with the district attorney's office within forty-eight (48) hours  
135 and shall make additional reports as new information or evidence  
136 becomes available. If the out-of-home setting is a licensed  
137 facility, an additional referral shall be made by the Department  
138 of Human Services to the licensing agency. The licensing agency  
139 shall investigate the report and shall provide the Department of  
140 Human Services, the law enforcement agency and the district  
141 attorney's office with their written findings from such  
142 investigation as well as that licensing agency's recommendations  
143 and actions taken.

144       **SECTION 2.** This act shall take effect and be in force from  
145 and after July 1, 2007.