

By: Representative Ladner

To: Public Health and Human Services

HOUSE BILL NO. 979

1 AN ACT TO AMEND SECTIONS 43-21-353 AND 43-47-7, MISSISSIPPI
2 CODE OF 1972, TO REQUIRE PERSONS WHO MAKE REPORTS TO THE
3 DEPARTMENT OF CHILD PROTECTION SERVICES AND THE DEPARTMENT OF
4 HUMAN SERVICES ABOUT THE SUSPECTED NEGLECT OR ABUSE OF A CHILD OR
5 THE SUSPECTED ABUSE, NEGLECT OR EXPLOITATION OF A VULNERABLE
6 PERSON TO PROVIDE THEIR NAME, ADDRESS AND TELEPHONE NUMBER TO THE
7 DEPARTMENT; 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
19 of * * * Child Protection Services, which shall contain the
20 information specified in subsection (2) of this section, and



21 immediately a referral shall be made by the Department of * * *
22 Child Protection Services to the youth court intake unit, which
23 unit shall promptly comply with Section 43-21-357. In the course
24 of an investigation, at the initial time of contact with the
25 individual(s) about whom a report has been made under this Youth
26 Court Act or with the individual(s) responsible for the health or
27 welfare of a child about whom a report has been made under this
28 chapter, the Department of * * * Child Protection Services shall
29 inform the individual of the specific complaints or allegations
30 made against the individual. Consistent with subsection (4), the
31 identity of the person who reported his or her suspicion shall not
32 be disclosed. Where appropriate, the Department of * * * Child
33 Protection Services shall additionally make a referral to the
34 youth court prosecutor.

35 Upon receiving a report that a child has been sexually
36 abused, or burned, tortured, mutilated or otherwise physically
37 abused in such a manner as to cause serious bodily harm, or upon
38 receiving any report of abuse that would be a felony under state
39 or federal law, the Department of * * * Child Protection Services
40 shall immediately notify the law enforcement agency in whose
41 jurisdiction the abuse occurred and shall notify the appropriate
42 prosecutor within forty-eight (48) hours, and the Department
43 of * * * Child Protection Services shall have the duty to provide
44 the law enforcement agency all the names and facts known at the
45 time of the report; this duty shall be of a continuing nature.



46 The law enforcement agency and the Department of * * * Child
47 Protection Services shall investigate the reported abuse
48 immediately and shall file a preliminary report with the
49 appropriate prosecutor's office within twenty-four (24) hours and
50 shall make additional reports as new or additional information or
51 evidence becomes available. The Department of * * * Child
52 Protection Services shall advise the clerk of the youth court and
53 the youth court prosecutor of all cases of abuse reported to the
54 department within seventy-two (72) hours and shall update such
55 report as information becomes available.

56 (2) Any report made to the Department of * * * Child
57 Protection Services under subsection (1) of this section shall
58 contain:

59 (a) The names and addresses of the child and his
60 parents or other persons responsible for his care, if known * * * ;

61 (b) The child's age * * * ;

62 (c) The nature and extent of the child's injuries,
63 including any evidence of previous injuries * * * ;

64 (d) Any other information that might be helpful in
65 establishing the cause of the injury * * * ;

66 (e) The identity of the perpetrator * * * ; and

67 (f) The name, address and telephone number of the
68 person making the report.

69 (3) The Department of * * * Child Protection Services shall
70 maintain a statewide incoming wide-area telephone service or



71 similar service for the purpose of receiving reports of suspected
72 cases of child abuse; provided that any attorney, physician,
73 dentist, intern, resident, nurse, psychologist, social worker,
74 family protection worker, family protection specialist, child
75 caregiver, minister, law enforcement officer or public or private
76 school employee who is required to report under subsection (1) of
77 this section shall report in the manner required in subsection
78 (1).

79 (4) Reports of abuse and neglect made under this chapter and
80 the identity of the reporter are confidential except when the
81 court in which the investigation report is filed, in its
82 discretion, determines the testimony of the person reporting to be
83 material to a judicial proceeding or when the identity of the
84 reporter is released to law enforcement agencies and the
85 appropriate prosecutor pursuant to subsection (1). Reports made
86 under this section to any law enforcement agency or prosecutorial
87 officer are for the purpose of criminal investigation and
88 prosecution only and no information from these reports may be
89 released to the public except as provided by Section 43-21-261.
90 Disclosure of any information by the prosecutor shall be according
91 to the Mississippi Uniform Rules of Circuit and County Court
92 Procedure. The identity of the reporting party shall not be
93 disclosed to anyone other than law enforcement officers or
94 prosecutors without an order from the appropriate youth court.
95 Any person disclosing any reports made under this section in a



96 manner not expressly provided for in this section or Section
97 43-21-261 shall be guilty of a misdemeanor and subject to the
98 penalties prescribed by Section 43-21-267.

99 (5) All final dispositions of law enforcement investigations
100 described in subsection (1) of this section shall be determined
101 only by the appropriate prosecutor or court. All final
102 dispositions of investigations by the Department of * * * Child
103 Protection Services as described in subsection (1) of this section
104 shall be determined only by the youth court. Reports made under
105 subsection (1) of this section by the Department of * * * Child
106 Protection Services to the law enforcement agency and to the
107 district attorney's office shall include the following, if known
108 to the department:

- 109 (a) The name and address of the child;
- 110 (b) The names and addresses of the parents;
- 111 (c) The name and address of the suspected perpetrator;
- 112 (d) The names and addresses of all witnesses, including
113 the reporting party if a material witness to the abuse;
- 114 (e) A brief statement of the facts indicating that the
115 child has been abused and any other information from the agency
116 files or known to the family protection worker or family
117 protection specialist making the investigation, including medical
118 records or other records, which may assist law enforcement or the
119 district attorney in investigating and/or prosecuting the case;
- 120 and



121 (f) What, if any, action is being taken by the
122 Department of * * * Child Protection Services.

123 (6) In any investigation of a report made under this chapter
124 of the abuse or neglect of a child as defined in Section
125 43-21-105(1) or (m), the Department of * * * Child Protection
126 Services may request the appropriate law enforcement officer with
127 jurisdiction to accompany the department in its investigation, and
128 in such cases the law enforcement officer shall comply with such
129 request.

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

134 (8) If a report is made directly to the Department of * * *
135 Child Protection Services that a child has been abused or
136 neglected in an out-of-home setting, a referral shall be made
137 immediately to the law enforcement agency in whose jurisdiction
138 the abuse occurred and the department shall notify the district
139 attorney's office within forty-eight (48) hours of such report.
140 The Department of * * * Child Protection Services shall
141 investigate the out-of-home setting report of abuse or neglect to
142 determine whether the child who is the subject of the report, or
143 other children in the same environment, comes within the
144 jurisdiction of the youth court and shall report to the youth
145 court the department's findings and recommendation as to whether



146 the child who is the subject of the report or other children in
147 the same environment require the protection of the youth court.
148 The law enforcement agency shall investigate the reported abuse
149 immediately and shall file a preliminary report with the district
150 attorney's office within forty-eight (48) hours and shall make
151 additional reports as new information or evidence becomes
152 available. If the out-of-home setting is a licensed facility, an
153 additional referral shall be made by the Department of * * * Child
154 Protection Services to the licensing agency. The licensing agency
155 shall investigate the report and shall provide the Department
156 of * * * Child Protection Services, the law enforcement agency and
157 the district attorney's office with their written findings from
158 such investigation as well as that licensing agency's
159 recommendations and actions taken.

160 (9) If a child protective investigation does not result in
161 an out-of-home placement, a child protective investigator must
162 provide information to the parent or guardians about community
163 service programs that provide respite care, voluntary guardianship
164 or other support services for families in crisis.

165 **SECTION 2.** Section 43-47-7, Mississippi Code of 1972, is
166 amended as follows:

167 43-47-7. (1) (a) Except as otherwise provided by Section
168 43-47-37 for vulnerable persons in care facilities and by Section
169 43-7-65 for the State Ombudsman Program, any person including, but
170 not limited to, the following, who knows or suspects that a



171 vulnerable person has been or is being abused, neglected or
172 exploited shall immediately report such knowledge or suspicion to
173 the Department of Human Services or to the county department of
174 human services where the vulnerable person is located:

175 (i) Attorney, physician, osteopathic physician,
176 medical examiner, chiropractor or nurse engaged in the admission,
177 examination, care or treatment of vulnerable persons;

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

180 (iii) Practitioner who relies solely on spiritual
181 means for healing;

182 (iv) Social worker, family protection worker,
183 family protection specialist or other professional care,
184 residential or institutional staff;

185 (v) State, county or municipal criminal justice
186 employee or law enforcement officer;

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

189 (vii) Accountant, stockbroker, financial advisor
190 or consultant, insurance agent or consultant, investment advisor
191 or consultant, financial planner, or any officer or employee of a
192 bank, savings and loan, credit union or any other financial
193 service provider.



194 (b) To the extent possible, a report made * * * under
195 paragraph (a) must contain, but need not be limited to, the
196 following information:

197 (i) Name, age, race, sex, physical description and
198 location of each vulnerable person alleged to have been abused,
199 neglected or exploited.

200 (ii) Names, addresses and telephone numbers of the
201 vulnerable person's family members.

202 (iii) Name, address and telephone number of each
203 alleged perpetrator.

204 (iv) Name, address and telephone number of the
205 caregiver of the vulnerable person, if different from the alleged
206 perpetrator.

207 (v) Description of the neglect, exploitation,
208 physical or psychological injuries sustained.

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

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

214 (viii) * * * Name, address and telephone
215 number * * * of the person making the report * * *.

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



219 with this section. A person who fails to make a report as
220 required under this subsection or who, because of the
221 circumstances, should have known or suspected beyond a reasonable
222 doubt that a vulnerable person suffers from exploitation, abuse,
223 neglect or self-neglect but who knowingly fails to comply with
224 this section shall, upon conviction, be guilty of a misdemeanor
225 and shall be punished by a fine not exceeding Five Thousand
226 Dollars (\$5,000.00), or by imprisonment in the county jail for not
227 more than six (6) months, or both such fine and imprisonment.
228 However, for purposes of this subsection (1), any recognized legal
229 financial transaction shall not be considered cause to report the
230 knowledge or suspicion of the financial exploitation of a
231 vulnerable person. If a person convicted under this section is a
232 member of a profession or occupation that is licensed, certified
233 or regulated by the state, the court shall notify the appropriate
234 licensing, certifying or regulating entity of the conviction.

235 (2) Reports received by law enforcement authorities or other
236 agencies shall be forwarded immediately to the Department of Human
237 Services or the county department of human services. The
238 Department of Human Services shall investigate the reported abuse,
239 neglect or exploitation immediately and shall file a preliminary
240 report of its findings with the Office of the Attorney General
241 within forty-eight (48) hours if immediate attention is needed, or
242 seventy-two (72) hours if the vulnerable person is not in
243 immediate danger and shall make additional reports as new



244 information or evidence becomes available. The Department of
245 Human Services, upon request, shall forward a statement to the
246 person making the initial report required by this section as to
247 what action is being taken, if any.

248 (3) The report may be made orally or in writing, but where
249 made orally, it shall be followed up by a written report. A
250 person who fails to report or to otherwise comply with this
251 section, as provided herein, shall have no civil or criminal
252 liability, other than that expressly provided for in this section,
253 to any person or entity in connection with any failure to report
254 or to otherwise comply with the requirements of this section.

255 (4) Anyone who makes a report required by this section or
256 who testifies or participates in any judicial proceedings arising
257 from the report or who participates in a required investigation or
258 evaluation shall be presumed to be acting in good faith and in so
259 doing shall be immune from liability, civil or criminal, that
260 might otherwise be incurred or imposed. However, the immunity
261 provided under this subsection shall not apply to any suspect or
262 perpetrator of any abuse, neglect or exploitation.

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

267 (6) The Executive Director of the Department of Human
268 Services shall establish a statewide central register of reports



269 made pursuant to this section. The central register shall be
270 capable of receiving reports of vulnerable persons in need of
271 protective services seven (7) days a week, twenty-four (24) hours
272 a day. To effectuate this purpose, the executive director shall
273 establish a single toll-free statewide phone number that all
274 persons may use to report vulnerable persons in need of protective
275 services, and that all persons authorized by subsection (7) of
276 this section may use for determining the existence of prior
277 reports in order to evaluate the condition or circumstances of the
278 vulnerable person before them. Such oral reports and evidence of
279 previous reports shall be transmitted to the appropriate county
280 department of human services. The central register shall include,
281 but not be limited to, the following information: the name and
282 identifying information of the individual reported, the county
283 department of human services responsible for the investigation of
284 each such report, the names, affiliations and purposes of any
285 person requesting or receiving information which the executive
286 director believes might be helpful in the furtherance of the
287 purposes of this chapter, the name, address, birth date, social
288 security number of the perpetrator of abuse, neglect and/or
289 exploitation, and the type of abuse, neglect and/or exploitation
290 of which there was substantial evidence upon investigation of the
291 report. The central register shall inform the person making
292 reports required under this section of his or her right to request



293 statements from the department as to what action is being taken,
294 if any.

295 Each person, business, organization or other entity, whether
296 public or private, operated for profit, operated for nonprofit or
297 a voluntary unit of government not responsible for law enforcement
298 providing care, supervision or treatment of vulnerable persons
299 shall conduct criminal history records checks on each new employee
300 of the entity who provides, and/or would provide direct patient
301 care or services to adults or vulnerable persons, as provided in
302 Section 43-11-13.

303 The department shall not release data that would be harmful
304 or detrimental to the vulnerable person or that would identify or
305 locate a person who, in good faith, made a report or cooperated in
306 a subsequent investigation unless ordered to do so by a court of
307 competent jurisdiction.

308 (7) Reports made pursuant to this section, reports written
309 or photographs taken concerning such reports in the possession of
310 the Department of Human Services or the county department of human
311 services shall be confidential and shall only be made available
312 to:

313 (a) A physician who has before him a vulnerable person
314 whom he reasonably suspects may be abused, neglected or exploited,
315 as defined in Section 43-47-5;

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



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

321 (d) A district attorney or other law enforcement
322 official.

323 Notwithstanding the provisions of paragraph (b) of this
324 subsection, the department may not disclose a report of the
325 abandonment, exploitation, abuse, neglect or self-neglect of a
326 vulnerable person to the vulnerable person's guardian,
327 attorney-in-fact, surrogate decision maker, or caregiver who is a
328 perpetrator or alleged perpetrator of the abandonment,
329 exploitation, abuse or neglect of the vulnerable person.

330 Any person given access to the names or other information
331 identifying the subject of the report, except the subject of the
332 report, shall not divulge or make public such identifying
333 information unless he is a district attorney or other law
334 enforcement official and the purpose is to initiate court action.
335 Any person who willfully permits the release of any data or
336 information obtained pursuant to this section to persons or
337 agencies not permitted to such access by this section shall be
338 guilty of a misdemeanor.

339 (8) Upon reasonable cause to believe that a caretaker or
340 other person has abused, neglected or exploited a vulnerable
341 person, the department shall promptly notify the district attorney
342 of the county in which the vulnerable person is located and the



343 Office of the Attorney General, except as provided in Section
344 43-47-37(2).

345 **SECTION 3.** This act shall take effect and be in force from
346 and after July 1, 2018.

