

By: Representative Moody

To: Public Health and
Welfare

HOUSE BILL NO. 858

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT CHILDREN IN THE CUSTODY OF THE DEPARTMENT OF HUMAN
3 SERVICES FOR 15 OF THE LAST 22 MONTHS SHALL BE REFERRED FOR
4 TERMINATION OF PARENTAL RIGHTS PROCEEDINGS, WITH CERTAIN
5 EXCEPTIONS, TO PROVIDE AN EXCEPTION TO THE 72 HOUR CHANGE OF
6 PLACEMENT NOTICE REQUIREMENT FOR FOSTER CHILDREN WHEN THE
7 PLACEMENT CHANGE IS TO AN ADOPTIVE OR OTHER PERMANENT PLACEMENT,
8 AND TO CLARIFY THAT THE THREE MONTH FOSTER CARE REVIEW SHALL BE AN
9 ADMINISTRATIVE REVIEW AND THE SIX MONTH REVIEW SHALL BE CONDUCTED
10 BY THE FOSTER CARE REVIEW BOARD; TO AMEND SECTION 43-21-603,
11 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ONCE THE REASONABLE
12 EFFORTS REQUIREMENT FOR MAINTAINING A CHILD IN HIS NATURAL HOME
13 ARE BYPASSED, THE COURT SHALL HAVE A PERMANENCY HEARING WITHIN 30
14 DAYS; TO AMEND SECTION 43-21-609, MISSISSIPPI CODE OF 1972, TO
15 CLARIFY THAT RELATIVE PLACEMENT NEED NOT BE FOUND INAPPROPRIATE
16 PRIOR TO A RECOMMENDATION FOR DURABLE LEGAL CUSTODY; TO AMEND
17 SECTION 43-21-613, MISSISSIPPI CODE OF 1972, TO CHANGE THE TITLE
18 OF DISPOSITIONAL HEARINGS TO PERMANENCY HEARINGS AND IN CONFORMITY
19 THERETO; AND FOR RELATED PURPOSES. BE IT ENACTED BY THE
20 LEGISLATURE OF THE STATE OF MISSISSIPPI:
21

22 SECTION 1. Section 43-15-13, Mississippi Code of 1972, is
23 amended as follows:

24 43-15-13. (1) For purposes of this section, "children"
25 means persons found within the state who are under the age of
26 twenty-one (21) years, and who were placed in the custody of the
27 Department of Human Services by the youth court of the appropriate
28 county.

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

32 (a) Protecting and promoting the health, safety and
33 welfare of children;

34 (b) Preventing the unnecessary separation of children
35 from their families by identifying family problems, assisting
36 families in resolving their problems and preventing the breakup of

37 the family where the prevention of child removal is desirable and
38 possible when the child can be cared for at home without
39 endangering the child's health and safety;

40 (c) Remediating or assisting in the solution of problems
41 which may result in the neglect, abuse, exploitation or
42 delinquency of children;

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

47 (e) Placing children in suitable adoptive homes
48 approved by a licensed adoption agency or licensed social worker,
49 in cases where restoration to the biological family is not safe,
50 possible or appropriate;

51 (f) Assuring safe and adequate care of children away
52 from their homes, in cases where the child cannot be returned home
53 or cannot be placed for adoption. At the time of placement, the
54 department shall implement concurrent planning, as described in
55 subsection (7) of this section, so that permanency may occur at
56 the earliest opportunity. Consideration of possible failure or
57 delay of reunification should be given, to the end that the
58 placement made is the best available placement to provide
59 permanency for the child; and

60 (g) Providing a social worker or social work team for a
61 family and child throughout the implementation of their permanent
62 living arrangement plan. Wherever feasible, the same social
63 worker or social work team shall remain on the case until the
64 child is no longer under the jurisdiction of the youth court.

65 (3) The State Department of Human Services shall administer
66 a system of individualized plans and reviews once every six (6)
67 months for each child under its custody within the State of
68 Mississippi, each child who has been adjudged a neglected,
69 abandoned or abused child and whose custody was changed by court
70 order as a result of such adjudication, and each public or private
71 facility licensed by the department. The State Department of
72 Human Services administrative review shall be completed on each
73 child within the first three (3) months and a Foster Care Review
74 once every six (6) months after the child's initial forty-eight

75 (48) hours shelter hearing. Such system shall be for the purpose
76 of enhancing potential family life for the child by the
77 development of individual plans to return the child to its natural
78 parent or parents, or to refer the child to the appropriate court
79 for termination of parental rights and placement in a permanent
80 relative's home, adoptive home or foster/adoptive home. The goal
81 of the State Department of Human Services shall be to return the
82 child to its natural parent(s) or refer the child to the
83 appropriate court for termination of parental rights and placement
84 in a permanent relative's home, adoptive home or foster/adoptive
85 home when the child has been in foster care for fifteen (15) of
86 the last twenty-two (22) months regardless of whether the foster
87 care was continuous for all of those twenty-two (22) months. The
88 time period starts to run from the date the court makes a finding
89 of abuse and/or neglect or sixty (60) days from when the child was
90 removed from his or her home, whichever is earlier. The
91 department can choose not to file a termination of parental rights
92 petition if the following apply:

93 (a) The child is being cared for by a relative; and/or

94 (b) The department has documented compelling and

95 extraordinary reasons why termination of parental rights would not
96 be in the best interests of the child. In furthering this goal,

97 the department shall establish policy and procedures designed to
98 appropriately place children in permanent homes, such policy to
99 include a system of reviews for all children in foster care, as

100 follows: Foster care counselors in the department shall make all

101 possible contact with the child's natural parent(s) and any

102 interested relative for the first two (2) months following the

103 child's entry into the foster care system. Except in cases of

104 aggravated circumstances prescribed in Section 43-21-603(7)(c) or

105 (d), the child's natural parent(s) will have a reasonable time to

106 be determined by the court. This time shall not exceed a

107 twelve-month period of time in which to meet the service agreement

108 with the department for the benefit of the child unless the

109 department has documented extraordinary and compelling reasons for
110 extending the time period in the best interest of the child. If
111 this agreement has not been satisfactorily met, simultaneously the
112 child will be referred to the appropriate court for termination of
113 parental rights and placement in a permanent relative's home,
114 adoptive home or a foster/adoptive home * * *. For children under
115 the age of three (3) years, termination of parental rights shall
116 be initiated within six (6) months, unless the department has
117 documented compelling and extraordinary circumstances, and
118 placement in a permanent relative's home, adoptive home or
119 foster/adoptive home within two (2) months. For children who have
120 been abandoned pursuant to the provisions of Section 97-5-1,
121 termination of parental rights shall be initiated within thirty
122 (30) days and placement in an adoptive home shall be initiated
123 without necessity for placement in a foster home. The department
124 need not initiate termination of parental rights proceedings where
125 the child has been placed in durable legal custody or long-term or
126 formalized foster care by a court of competent jurisdiction.

127 (4) The Foster Care Review once every six (6) months shall
128 be conducted by personnel within the State Department of Human
129 Services or by a designee or designees of the department and may
130 include others appointed by the department, and the review shall
131 include at a minimum an evaluation of the child based on the
132 following:

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

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

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

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

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

143 and

144 (f) Relevant testimony and recommendations from the
145 foster parent of the child, the grandparents of the child, the
146 guardian ad litem of the child, representatives of any private
147 care agency which has cared for the child, the social worker
148 assigned to the case, and any other relevant testimony pertaining
149 to the case.

150 Each child's review plan once every six (6) months shall be
151 filed with the court which awarded custody and shall be made
152 available to natural parents or foster parents upon approval of
153 the court. The court shall make a finding as to the degree of
154 compliance by the agency and the parent(s) with the child's social
155 service plan. The court also shall find that the child's health
156 and safety are the paramount concern. In the interest of the
157 child, the court shall, where appropriate, initiate proceedings on
158 its own motion. The State Department of Human Services shall
159 report to the Legislature as to the number of such children, the
160 findings of the foster care review board and relevant statistical
161 information in foster care in a semi-annual report to the
162 Legislature to be submitted to the Joint Oversight Committee of
163 the Department of Human Services. Said report shall not refer to
164 the specific name of any child in foster care.

165 (5) The State Department of Human Services, with the
166 cooperation and assistance of the State Department of Health,
167 shall develop and implement a training program for foster care
168 parents to indoctrinate them as to their proper responsibilities
169 upon a child's entry into their foster care. The program shall
170 provide a minimum of twelve (12) clock hours of training. The
171 foster care training program shall be satisfactorily completed by
172 such foster care parents prior to, or within ninety (90) days
173 after child placement with such parent. Record of such foster
174 care parent's training program participation shall be filed with
175 the court as part of a foster care child's review plan once every
176 six (6) months.

177 (6) When the Department of Human Services is considering
178 placement of a child in a foster home and when the department
179 deems it to be in the best interest of the child, the department
180 shall give first priority to placing the child in the home of one
181 (1) of the child's relatives within the third degree, as computed
182 by the civil law rule. In placing the child in a relative's home,
183 the department may waive any rule, regulation or policy applicable
184 to placement in foster care that would otherwise require the child
185 to have a separate bed or bedroom or have a bedroom of a certain
186 size, if placing the child in a relative's home would be in the
187 best interest of the child and such requirements cannot be met in
188 the relative's home.

189 (7) The Legislature recognizes that the best interests of
190 the child require that the child be placed in the most permanent
191 living arrangement as soon as is practicably possible. To achieve
192 this goal, the Department of Human Services is directed to conduct
193 concurrent planning so that a permanent living arrangement may
194 occur at the earliest opportunity. Permanent living arrangements
195 may include prevention of placement of a child outside the home of
196 the family when the child can be cared for at home without
197 endangering the child's health or safety; reunification with the
198 family, when safe and appropriate, if temporary placement is
199 necessary; or movement of the child toward the most permanent
200 living arrangement and permanent legal status. When a child is
201 placed in foster care or relative care, the department shall first
202 ensure and document that reasonable efforts were made to prevent
203 or eliminate the need to remove the child from the child's home.
204 The department's first priority shall be to make reasonable
205 efforts to reunify the family when temporary placement of the
206 child occurs or shall request a finding from the court that
207 reasonable efforts are not appropriate or have been unsuccessful.

208 A decision to place a child in foster care or relative care shall
209 be made with consideration of the child's health, safety and best
210 interests. At the time of placement, consideration should also be

211 given so that if reunification fails or is delayed, the placement
212 made is the best available placement to provide a permanent living
213 arrangement for the child. The department shall adopt rules
214 addressing concurrent planning for reunification and a permanent
215 living arrangement. The department shall consider the following
216 factors when determining appropriateness of concurrent planning:

217 (a) The likelihood of prompt reunification;

218 (b) The past history of the family;

219 (c) The barriers to reunification being addressed by
220 the family;

221 (d) The level of cooperation of the family;

222 (e) The foster parents' willingness to work with the
223 family to reunite;

224 (f) The willingness and ability of the foster family or
225 relative placement to provide an adoptive home or long-term
226 placement;

227 (g) The age of the child; and

228 (h) Placement of siblings.

229 (8) If the department has placed a child in foster care or
230 relative care pursuant to a court order, the department may not
231 change the child's placement unless the department specifically
232 documents to the court that the current placement is unsafe or
233 unsuitable or that another placement is in the child's best
234 interests * * * unless the new placement is in an adoptive home or
235 other permanent placement. * * * Except in emergency
236 circumstances as determined by the department or where the court
237 orders placement of the child pursuant to Section 43-21-303, the
238 foster parents, grandparents or other relatives of the child shall
239 be given an opportunity to contest the specific reasons documented
240 by the department at least seventy-two (72) hours prior to any
241 such departure, and the court may conduct a review of such
242 placement unless the new placement is in an adoptive home or other
243 permanent placement. When a child is returned to foster care or
244 relative care, the former foster parents or relative placement

245 shall be given the prior right of return placement in order to
246 eliminate additional trauma to the child.

247 (9) The Department of Human Services shall provide the
248 foster parents, grandparents or other relatives with at least a
249 seventy-two-hour notice of departure for any child placed in their
250 foster care or relative care, except in emergency circumstances as
251 determined by the department or where the court orders placement
252 of the child pursuant to Section 43-21-303. The parent/legal
253 guardian, grandparents of the child, guardian ad litem and the
254 court exercising jurisdiction shall be notified in writing when
255 the child leaves foster care or relative care placement,
256 regardless of whether the child's departure was planned or
257 unplanned. The only exceptions to giving a written notice to the
258 parent(s) are when a parent has voluntarily released the child for
259 adoption or the parent's legal rights to the child have been
260 terminated through the appropriate court with jurisdiction.

261 (10) The Department of Human Services shall extend the
262 following rights to foster care parents:

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

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

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

273 (d) Support from the social worker in efforts to do a
274 better day-to-day job in caring for the child and in working to
275 achieve the agency's objectives for the child and the birth family
276 through provision of:

277 (i) Pertinent information about the child and the
278 birth family.

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

281 (iii) Direct interviews between the social worker
282 and the child, previously discussed and understood by the foster
283 parents.

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

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

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

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

293 The Department of Human Services shall require the following
294 responsibilities from participating foster parents:

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

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

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

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

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

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

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

313 (h) Cooperating with any plan to reunite the foster
314 child with his birth family and work with the birth family to
315 achieve this goal; and

316 (i) Attending dispositional review hearings and
317 termination of parental rights hearings conducted by a court of
318 competent jurisdiction, or providing their recommendations to the
319 court in writing.

320 SECTION 2. Section 43-21-603, Mississippi Code of 1972, is
321 amended as follows:

322 43-21-603. (1) At the beginning of each disposition
323 hearing, the judge shall inform the parties of the purpose of the
324 hearing.

325 (2) All testimony shall be under oath unless waived by all
326 parties and may be in narrative form. The court may consider any
327 evidence which is material and relevant to the disposition of the
328 cause, including hearsay and opinion evidence. At the conclusion
329 of the evidence, the youth court shall give the parties an
330 opportunity to present oral argument.

331 (3) If the child has been adjudicated a delinquent child,
332 prior to entering a disposition order, the youth court should
333 consider, among others, the following relevant factors:

- 334 (a) The nature of the offense;
335 (b) The manner in which the offense was committed;
336 (c) The nature and number of a child's prior
337 adjudicated offenses; and
338 (d) The child's need for care and assistance.

339 (4) If the child has been adjudicated a child in need of
340 supervision, prior to entering a disposition order, the youth
341 court should consider, among others, the following relevant
342 factors:

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

346 (5) If the child has been adjudicated a neglected child or

347 an abused child, prior to entering a disposition order, the youth
348 court shall consider, among others, the following relevant
349 factors:

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

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

352 (c) The manner in which the parent, guardian or
353 custodian participated in, tolerated or condoned the abuse,
354 neglect or abandonment of the child;

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

357 (e) Relevant testimony and recommendations, where
358 available, from the foster parent of the child, the grandparents
359 of the child, the guardian ad litem of the child, representatives
360 of any private care agency which has cared for the child, the
361 social worker assigned to the case, and any other relevant
362 testimony pertaining to the case.

363 (6) After consideration of all the evidence and the relevant
364 factors, the youth court shall enter a disposition order which
365 shall not recite any of the facts or circumstances upon which such
366 disposition is based, nor shall it recite that a child has been
367 found guilty; but it shall recite that a child is found to be a
368 delinquent child, a child in need of supervision, a neglected
369 child or an abused child.

370 (7) In the event that the youth court orders that the
371 custody or supervision of a child who has been adjudicated abused
372 or neglected be placed with the Department of Human Services or
373 any other person or public or private agency, other than the
374 child's parent, guardian or custodian, the youth court shall find
375 and the disposition order shall recite that:

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

379 (ii) The circumstances are of such an emergency
380 nature that no reasonable efforts have been made to maintain the

381 child within his own home, and that there is no reasonable
382 alternative to custody; and

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

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

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

392 (ii) The parent has been convicted of murder of
393 another child of such parent, voluntary manslaughter of another
394 child of such parent, aided or abetted, attempted, conspired or
395 solicited to commit such murder or voluntary manslaughter, or a
396 felony assault that results in the serious bodily injury to the
397 surviving child or another child of such parent; or

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

400 (iv) That the effect of the continuation of the
401 child's residence within his own home would be contrary to the
402 welfare of the child and that placement of the child in foster
403 care is in the best interests of the child. * * *

404 Once the reasonable efforts requirement is bypassed, the
405 court shall have a permanency hearing pursuant to Section
406 43-21-613 within thirty (30) days of such finding.

407 (8) Upon a written motion by a party, the youth court shall
408 make written findings of fact and conclusions of law upon which it
409 relies for the disposition order.

410 SECTION 3. Section 43-21-609, Mississippi Code of 1972, is
411 amended as follows:

412 43-21-609. In neglect and abuse cases, the disposition order
413 may include any of the following alternatives, giving precedence
414 in the following sequence:

415 (a) Release the child without further action;
416 (b) Place the child in the custody of his parents, a
417 relative or other person subject to any conditions and limitations
418 as the court may prescribe. If the court finds that temporary
419 relative placement, adoption or foster care placement is
420 inappropriate, unavailable or otherwise not in the best interest
421 of the child, durable legal custody may be granted by the court to
422 any person subject to any limitations and conditions the court may
423 prescribe; such durable legal custody will not take effect unless
424 the child or children have been in the physical custody of the
425 proposed durable custodians for at least one (1) year under the
426 supervision of the Department of Human Services. The requirements
427 of Section 43-21-613 as to disposition review hearings does not
428 apply to those matters in which the court has granted durable
429 legal custody. In such cases, the Department of Human Services
430 shall be released from any oversight or monitoring
431 responsibilities;

432 (c) Order terms of treatment calculated to assist the
433 child and the child's parent, guardian or custodian which are
434 within the ability of the parent, guardian or custodian to
435 perform;

436 (d) Order youth court personnel, the Department of
437 Human Services or child care agencies to assist the child and the
438 child's parent, guardian or custodian to secure social or medical
439 services to provide proper supervision and care of the child;

440 (e) Give legal custody of the child to any of the
441 following but in no event to any state training school:

442 (i) The Department of Human Services for
443 appropriate placement; or

444 (ii) Any private or public organization,
445 preferably community-based, able to assume the education, care and
446 maintenance of the child, which has been found suitable by the
447 court. Prior to assigning the custody of any child to any private
448 institution or agency, the youth court through its designee shall

449 first inspect the physical facilities to determine that they
450 provide a reasonable standard of health and safety for the child.

451 SECTION 4. Section 43-21-613, Mississippi Code of 1972, is
452 amended as follows:

453 43-21-613. (1) If the youth court finds, after a hearing
454 which complies with the sections governing adjudicatory hearings,
455 that the terms of a delinquency or child in need of supervision
456 disposition order, probation or parole have been violated, the
457 youth court may, in its discretion, revoke the original
458 disposition and make any disposition which it could have
459 originally ordered. The hearing shall be initiated by the filing
460 of a petition which complies with the sections governing petitions
461 in this chapter and which includes a statement of the youth
462 court's original disposition order, probation or parole, the
463 alleged violation of that order, probation or parole, and the
464 facts which show the violation of that order, probation or parole.

465 Summons shall be served in the same manner as summons for an
466 adjudicatory hearing.

467 (2) On motion of a child or a child's parent, guardian or
468 custodian, the youth court may, in its discretion, conduct an
469 informal hearing to review the disposition order. If the youth
470 court finds a material change of circumstances relating to the
471 disposition of the child, the youth court may modify the
472 disposition order to any appropriate disposition of equal or
473 greater precedence which the youth court could have originally
474 ordered.

475 (3) (a) Unless the youth court's jurisdiction has been
476 terminated, all disposition orders for supervision, probation or
477 placement of a child with an individual or an agency shall be
478 reviewed by the youth court judge or referee at least annually to
479 determine if continued placement, probation or supervision is in
480 the best interest of the child or the public. For children who
481 have been adjudicated abused or neglected, the youth court shall
482 conduct a permanency hearing within twelve (12) months after the

483 earlier of:

484 (i) An adjudication that the child has been abused
485 or neglected; or

486 (ii) Sixty (60) days from the child's removal from
487 the allegedly abusive or neglectful custodian/parent. Notice of
488 such hearing shall be given in accordance with the provisions of
489 Section 43-21-505(5). In conducting the hearing, the judge or
490 referee may require a written report, information or statements
491 from the child's youth court counselor, parent, guardian or
492 custodian which includes, but is not limited to, an evaluation of
493 the child's progress and recommendations for further supervision
494 or treatment. The judge or referee shall, at the permanency
495 hearing determine the future status of the child, including, but
496 not limited to, whether the child should be returned to the
497 parent(s) or placed with suitable relatives, * * * placed for
498 adoption, placed for the purpose of establishing durable legal
499 custody or should, because of the child's special needs or
500 circumstances, be continued in foster care on a permanent or
501 long-term basis. If the child is in an out-of-state placement,
502 the hearing shall determine whether the out-of-state placement
503 continues to be appropriate and in the best interest of the child.
504 The judge or referee may find that reasonable efforts to maintain
505 the child within his home shall not be required in accordance with
506 Section 43-21-603(7)(c).

507 (b) The court may find that the filing of a termination
508 of parental rights petition is not in the child's best interest
509 if:

510 (i) The child is being cared for by a relative;
511 and/or

512 (ii) The State Department of Human Services has
513 documented compelling and extraordinary reasons why termination of
514 parental rights would not be in the best interests of the child.

515 (c) (i) In the event that the youth court either
516 orders or continues the custody or supervision of a child to be

517 placed with the Department of Human Services or any other person
518 or public or private agency, other than the child's parent,
519 guardian or custodian, * * * unless the reasonable efforts
520 requirement is bypassed under Section 43-21-603(7)(c), the youth
521 court shall find and the * * * order shall recite that the effect
522 of the continuation of the child's residence within his own home
523 would be contrary to the welfare of the child and that placement
524 or continued placement of the child in foster care is in the best
525 interest of the child, and that:

526 1. Reasonable efforts have been made to
527 maintain the child within his own home, but that the circumstances
528 warrant his removal and there is no reasonable alternative to
529 custody; or

530 2. The circumstances are of such an emergency
531 nature that no reasonable efforts have been made to maintain the
532 child within his own home, and that there is no reasonable
533 alternative to custody.

534 (ii) The youth court also shall find and the order
535 shall recite that:

536 1. Reasonable efforts were made to reunify
537 the child safely with his family if the removal could not be
538 prevented; or

539 2. If reasonable efforts were not made to
540 prevent the child's removal from home or to reunify the child with
541 his family, that reasonable efforts are or were not required; or

542 3. If the permanent plan for the child is
543 adoption, guardianship, or some other permanent living arrangement
544 other than reunification, that reasonable efforts were made to
545 make and finalize that alternate permanent placement.

546 (e) The provisions of this subsection shall also apply
547 to review of cases involving a dependent child; provided, however,
548 such reviews shall take place not less frequently than once each
549 one hundred eighty (180) days. A dependent child shall be ordered
550 by the youth court judge or referee to be returned to the custody

551 and home of the child's parent, guardian or custodian unless the
552 judge or referee, upon such review, makes a written finding that
553 the return of the child to the home would be contrary to the
554 child's best interests.

555 (f) Reviews are not to be conducted unless explicitly
556 ordered by the youth court concerning those cases in which the
557 court has granted durable legal custody. In such cases, the
558 Department of Human Services shall be released from any oversight
559 or monitoring responsibilities.

560 SECTION 5. This act shall take effect upon passage and be in
561 force from and after its passage.