

By: Senator(s) Bean

To: Public Health and  
WelfareSENATE BILL NO. 2310  
(As Passed the Senate)

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 six-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           (d) 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           (e) 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 and be in force from  
561 and after its passage.