

By: Senator(s) Bean

To: Public Health and
WelfareSENATE BILL NO. 2310
(As Sent to Governor)

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 (8) 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 within the time periods specified in this subsection or in
86 subsection (4) of this section. In furthering this goal, the
87 department shall establish policy and procedures designed to
88 appropriately place children in permanent homes, such policy to
89 include a system of reviews for all children in foster care, as
90 follows: Foster care counselors in the department shall make all
91 possible contact with the child's natural parent(s) and any
92 interested relative for the first two (2) months following the
93 child's entry into the foster care system. For any child who was
94 in foster care before July 1, 1998, and has been in foster care
95 for fifteen (15) of the last twenty-two (22) months regardless of
96 whether the foster care was continuous for all of those twenty-two
97 (22) months, the department shall file a petition to terminate the
98 parental rights of the child's parents. The time period starts to
99 run from the date the court makes a finding of abuse and/or
100 neglect or sixty (60) days from when the child was removed from
101 his or her home, whichever is earlier. The department can choose
102 not to file a termination of parental rights petition if the
103 following apply:

104 (a) The child is being cared for by a relative; and/or
105 (b) The department has documented compelling and
106 extraordinary reasons why termination of parental rights would not
107 be in the best interests of the child.

108 (4) In the case of any child who is placed in foster care on

109 or after July 1, 1998, except in cases of aggravated circumstances
110 prescribed in Section 43-21-603(7)(c) or (d), the child's natural
111 parent(s) will have a reasonable time to be determined by the
112 court, which shall not exceed a six-month period of time, in which
113 to meet the service agreement with the department for the benefit
114 of the child unless the department has documented extraordinary
115 and compelling reasons for extending the time period in the best
116 interest of the child. If this agreement has not been
117 satisfactorily met, simultaneously the child will be referred to
118 the appropriate court for termination of parental rights and
119 placement in a permanent relative's home, adoptive home or a
120 foster/adoptive home * * *. For children under the age of three
121 (3) years, termination of parental rights shall be initiated
122 within six (6) months, unless the department has documented
123 compelling and extraordinary circumstances, and placement in a
124 permanent relative's home, adoptive home or foster/adoptive home
125 within two (2) months. For children who have been abandoned
126 pursuant to the provisions of Section 97-5-1, termination of
127 parental rights shall be initiated within thirty (30) days and
128 placement in an adoptive home shall be initiated without necessity
129 for placement in a foster home. The department need not initiate
130 termination of parental rights proceedings where the child has
131 been placed in durable legal custody or long-term or formalized
132 foster care by a court of competent jurisdiction.

133 (5) The Foster Care Review once every six (6) months shall
134 be conducted by personnel within the State Department of Human
135 Services or by a designee or designees of the department and may
136 include others appointed by the department, and the review shall
137 include at a minimum an evaluation of the child based on the
138 following:

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

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

143 (c) The degree of compliance by the agency and the
144 parents with the social service plan established;
145 (d) The methods of achieving the goal and the plan
146 establishing a permanent home for the child;
147 (e) Social services offered and/or utilized to
148 facilitate plans for establishing a permanent home for the child;
149 and
150 (f) Relevant testimony and recommendations from the
151 foster parent of the child, the grandparents of the child, the
152 guardian ad litem of the child, representatives of any private
153 care agency which has cared for the child, the social worker
154 assigned to the case, and any other relevant testimony pertaining
155 to the case.

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

171 (6) The State Department of Human Services, with the
172 cooperation and assistance of the State Department of Health,
173 shall develop and implement a training program for foster care
174 parents to indoctrinate them as to their proper responsibilities
175 upon a child's entry into their foster care. The program shall
176 provide a minimum of twelve (12) clock hours of training. The

177 foster care training program shall be satisfactorily completed by
178 such foster care parents prior to, or within ninety (90) days
179 after child placement with such parent. Record of such foster
180 care parent's training program participation shall be filed with
181 the court as part of a foster care child's review plan once every
182 six (6) months.

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

195 (8) The Legislature recognizes that the best interests of
196 the child require that the child be placed in the most permanent
197 living arrangement as soon as is practicably possible. To achieve
198 this goal, the Department of Human Services is directed to conduct
199 concurrent planning so that a permanent living arrangement may
200 occur at the earliest opportunity. Permanent living arrangements
201 may include prevention of placement of a child outside the home of
202 the family when the child can be cared for at home without
203 endangering the child's health or safety; reunification with the
204 family, when safe and appropriate, if temporary placement is
205 necessary; or movement of the child toward the most permanent
206 living arrangement and permanent legal status. When a child is
207 placed in foster care or relative care, the department shall first
208 ensure and document that reasonable efforts were made to prevent
209 or eliminate the need to remove the child from the child's home.
210 The department's first priority shall be to make reasonable

211 efforts to reunify the family when temporary placement of the
212 child occurs or shall request a finding from the court that
213 reasonable efforts are not appropriate or have been unsuccessful.

214 A decision to place a child in foster care or relative care shall
215 be made with consideration of the child's health, safety and best
216 interests. At the time of placement, consideration should also be
217 given so that if reunification fails or is delayed, the placement
218 made is the best available placement to provide a permanent living
219 arrangement for the child. The department shall adopt rules
220 addressing concurrent planning for reunification and a permanent
221 living arrangement. The department shall consider the following
222 factors when determining appropriateness of concurrent planning:

223 (a) The likelihood of prompt reunification;

224 (b) The past history of the family;

225 (c) The barriers to reunification being addressed by
226 the family;

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

228 (e) The foster parents' willingness to work with the
229 family to reunite;

230 (f) The willingness and ability of the foster family or
231 relative placement to provide an adoptive home or long-term
232 placement;

233 (g) The age of the child; and

234 (h) Placement of siblings.

235 (9) If the department has placed a child in foster care or
236 relative care pursuant to a court order, the department may not
237 change the child's placement unless the department specifically
238 documents to the court that the current placement is unsafe or
239 unsuitable or that another placement is in the child's best
240 interests * * * unless the new placement is in an adoptive home or
241 other permanent placement. * * * Except in emergency
242 circumstances as determined by the department or where the court
243 orders placement of the child pursuant to Section 43-21-303, the
244 foster parents, grandparents or other relatives of the child shall

245 be given an opportunity to contest the specific reasons documented
246 by the department at least seventy-two (72) hours prior to any
247 such departure, and the court may conduct a review of such
248 placement unless the new placement is in an adoptive home or other
249 permanent placement. When a child is returned to foster care or
250 relative care, the former foster parents or relative placement
251 shall be given the prior right of return placement in order to
252 eliminate additional trauma to the child.

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

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

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

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

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

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

283 (i) Pertinent information about the child and the
284 birth family.

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

287 (iii) Direct interviews between the social worker
288 and the child, previously discussed and understood by the foster
289 parents.

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

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

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

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

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

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

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

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

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

310 (e) Recognizing that the foster family will be one of
311 the primary resources for preparing a child for any future plans
312 that are made, including return to birth parent(s), termination of

313 parental rights or reinstitutionalization;

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

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

319 (h) Cooperating with any plan to reunite the foster
320 child with his birth family and work with the birth family to
321 achieve this goal; and

322 (i) Attending dispositional review hearings and
323 termination of parental rights hearings conducted by a court of
324 competent jurisdiction, or providing their recommendations to the
325 court in writing.

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

328 43-21-603. (1) At the beginning of each disposition
329 hearing, the judge shall inform the parties of the purpose of the
330 hearing.

331 (2) All testimony shall be under oath unless waived by all
332 parties and may be in narrative form. The court may consider any
333 evidence which is material and relevant to the disposition of the
334 cause, including hearsay and opinion evidence. At the conclusion
335 of the evidence, the youth court shall give the parties an
336 opportunity to present oral argument.

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

340 (a) The nature of the offense;

341 (b) The manner in which the offense was committed;

342 (c) The nature and number of a child's prior
343 adjudicated offenses; and

344 (d) The child's need for care and assistance.

345 (4) If the child has been adjudicated a child in need of
346 supervision, prior to entering a disposition order, the youth

347 court should consider, among others, the following relevant
348 factors:

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

352 (5) If the child has been adjudicated a neglected child or
353 an abused child, prior to entering a disposition order, the youth
354 court shall consider, among others, the following relevant
355 factors:

- 356 (a) The child's physical and mental conditions;
- 357 (b) The child's need of assistance;
- 358 (c) The manner in which the parent, guardian or
359 custodian participated in, tolerated or condoned the abuse,
360 neglect or abandonment of the child;

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

363 (e) Relevant testimony and recommendations, where
364 available, from the foster parent of the child, the grandparents
365 of the child, the guardian ad litem of the child, representatives
366 of any private care agency which has cared for the child, the
367 social worker assigned to the case, and any other relevant
368 testimony pertaining to the case.

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

376 (7) In the event that the youth court orders that the
377 custody or supervision of a child who has been adjudicated abused
378 or neglected be placed with the Department of Human Services or
379 any other person or public or private agency, other than the
380 child's parent, guardian or custodian, the youth court shall find

381 and the disposition order shall recite that:

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

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

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

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

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

398 (ii) The parent has been convicted of murder of
399 another child of such parent, voluntary manslaughter of another
400 child of such parent, aided or abetted, attempted, conspired or
401 solicited to commit such murder or voluntary manslaughter, or a
402 felony assault that results in the serious bodily injury to the
403 surviving child or another child of such parent; or

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

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

410 Once the reasonable efforts requirement is bypassed, the
411 court shall have a permanency hearing pursuant to Section
412 43-21-613 within thirty (30) days of such finding.

413 (8) Upon a written motion by a party, the youth court shall
414 make written findings of fact and conclusions of law upon which it

415 relies for the disposition order.

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

418 43-21-609. In neglect and abuse cases, the disposition order
419 may include any of the following alternatives, giving precedence
420 in the following sequence:

421 (a) Release the child without further action;

422 (b) Place the child in the custody of his parents, a
423 relative or other person subject to any conditions and limitations
424 as the court may prescribe. If the court finds that temporary
425 relative placement, adoption or foster care placement is
426 inappropriate, unavailable or otherwise not in the best interest
427 of the child, durable legal custody may be granted by the court to
428 any person subject to any limitations and conditions the court may
429 prescribe; such durable legal custody will not take effect unless
430 the child or children have been in the physical custody of the
431 proposed durable custodians for at least one (1) year under the
432 supervision of the Department of Human Services. The requirements
433 of Section 43-21-613 as to disposition review hearings does not
434 apply to those matters in which the court has granted durable
435 legal custody. In such cases, the Department of Human Services
436 shall be released from any oversight or monitoring
437 responsibilities;

438 (c) Order terms of treatment calculated to assist the
439 child and the child's parent, guardian or custodian which are
440 within the ability of the parent, guardian or custodian to
441 perform;

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

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

448 (i) The Department of Human Services for

449 appropriate placement; or

450 (ii) Any private or public organization,
451 preferably community-based, able to assume the education, care and
452 maintenance of the child, which has been found suitable by the
453 court. Prior to assigning the custody of any child to any private
454 institution or agency, the youth court through its designee shall
455 first inspect the physical facilities to determine that they
456 provide a reasonable standard of health and safety for the child.

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

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

471 Summons shall be served in the same manner as summons for an
472 adjudicatory hearing.

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

481 (3) (a) Unless the youth court's jurisdiction has been
482 terminated, all disposition orders for supervision, probation or

483 placement of a child with an individual or an agency shall be
484 reviewed by the youth court judge or referee at least annually to
485 determine if continued placement, probation or supervision is in
486 the best interest of the child or the public. For children who
487 have been adjudicated abused or neglected, the youth court shall
488 conduct a permanency hearing within twelve (12) months after the
489 earlier of:

490 (i) An adjudication that the child has been abused
491 or neglected; or

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

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

516 (i) The child is being cared for by a relative;

517 and/or

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

521 (c) (i) In the event that the youth court either
522 orders or continues the custody or supervision of a child to be
523 placed with the Department of Human Services or any other person
524 or public or private agency, other than the child's parent,
525 guardian or custodian, * * * unless the reasonable efforts
526 requirement is bypassed under Section 43-21-603(7)(c), the youth
527 court shall find and the * * * order shall recite that the effect
528 of the continuation of the child's residence within his own home
529 would be contrary to the welfare of the child and that placement
530 or continued placement of the child in foster care is in the best
531 interest of the child, and that:

532 1. Reasonable efforts have been made to
533 maintain the child within his own home, but that the circumstances
534 warrant his removal and there is no reasonable alternative to
535 custody; or

536 2. The circumstances are of such an emergency
537 nature that no reasonable efforts have been made to maintain the
538 child within his own home, and that there is no reasonable
539 alternative to custody.

540 (ii) The youth court also shall find and the order
541 shall recite that:

542 1. Reasonable efforts were made to reunify
543 the child safely with his family if the removal could not be
544 prevented; or

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

548 3. If the permanent plan for the child is
549 adoption, guardianship, or some other permanent living arrangement
550 other than reunification, that reasonable efforts were made to

551 make and finalize that alternate permanent placement.

552 (d) The provisions of this subsection shall also apply
553 to review of cases involving a dependent child; * * * however,
554 such reviews shall take place not less frequently than once each
555 one hundred eighty (180) days. A dependent child shall be ordered
556 by the youth court judge or referee to be returned to the custody
557 and home of the child's parent, guardian or custodian unless the
558 judge or referee, upon such review, makes a written finding that
559 the return of the child to the home would be contrary to the
560 child's best interests.

561 (e) Reviews are not to be conducted unless explicitly
562 ordered by the youth court concerning those cases in which the
563 court has granted durable legal custody. In such cases, the
564 Department of Human Services shall be released from any oversight
565 or monitoring responsibilities.

566 SECTION 5. This act shall take effect and be in force from
567 and after its passage.