

By: Frierson

To: Public Health and
Welfare

HOUSE BILL NO. 448

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT WHENEVER ANY COMPLAINT IS MADE AGAINST A FOSTER
3 PARENT, THE COMPLAINT SHALL BE INVESTIGATED BY THE COUNTY
4 DEPARTMENT OF HUMAN SERVICES OF THE COUNTY IN WHICH THE FOSTER
5 PARENT RESIDES, INSTEAD OF BY THE STATE DEPARTMENT OF HUMAN
6 SERVICES; TO AMEND SECTION 43-15-5, MISSISSIPPI CODE OF 1972, IN
7 CONFORMITY TO THE PRECEDING PROVISION; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 43-15-13, Mississippi Code of 1972, is
10 amended as follows:[RF1]

11 43-15-13. (1) For purposes of this section, "children"
12 means persons found within the state who are under the age of
13 twenty-one (21) years, and who were placed in the custody of the
14 Department of Human Services by the youth court of the appropriate
15 county.

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

19 (a) Protecting and promoting the health, safety and
20 welfare of children;

21 (b) Preventing the unnecessary separation of children
22 from their families by identifying family problems, assisting
23 families in resolving their problems and preventing the breakup of

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

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

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

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

(f) Assuring safe and adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. At the time of placement, the department shall implement concurrent planning, as described in subsection (8) of this section, so that permanency may occur at the earliest opportunity. Consideration of possible failure or delay of reunification should be given, to the end that the placement made is the best available placement to provide permanency for the child; and

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

(3) The State Department of Human Services shall administer a system of individualized plans and reviews once every six (6) months for each child under its custody within the State of

55 Mississippi, each child who has been adjudged a neglected,
56 abandoned or abused child and whose custody was changed by court
57 order as a result of such adjudication, and each public or private
58 facility licensed by the department. The State Department of
59 Human Services administrative review shall be completed on each
60 child within the first three (3) months and a Foster Care Review
61 once every six (6) months after the child's initial forty-eight
62 (48) hours shelter hearing. Such system shall be for the purpose
63 of enhancing potential family life for the child by the
64 development of individual plans to return the child to its natural
65 parent or parents, or to refer the child to the appropriate court
66 for termination of parental rights and placement in a permanent
67 relative's home, adoptive home or foster/adoptive home. The goal
68 of the State Department of Human Services shall be to return the
69 child to its natural parent(s) or refer the child to the
70 appropriate court for termination of parental rights and placement
71 in a permanent relative's home, adoptive home or foster/adoptive
72 home within the time periods specified in this subsection or in
73 subsection (4) of this section. In furthering this goal, the
74 department shall establish policy and procedures designed to
75 appropriately place children in permanent homes, such policy to
76 include a system of reviews for all children in foster care, as
77 follows: Foster care counselors in the department shall make all
78 possible contact with the child's natural parent(s) and any
79 interested relative for the first two (2) months following the
80 child's entry into the foster care system. For any child who was
81 in foster care before July 1, 1998, and has been in foster care
82 for fifteen (15) of the last twenty-two (22) months regardless of

whether the foster care was continuous for all of those twenty-two (22) months, the department shall file a petition to terminate the parental rights of the child's parents. The time period starts to run from the date the court makes a finding of abuse and/or neglect or sixty (60) days from when the child was removed from his or her home, whichever is earlier. The department can choose not to file a termination of parental rights petition if the following apply:

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

(b) The department has documented compelling and extraordinary reasons why termination of parental rights would not be in the best interests of the child.

(4) In the case of any child who is placed in foster care on or after July 1, 1998, except in cases of aggravated circumstances prescribed in Section 43-21-603(7)(c) or (d), the child's natural parent(s) will have a reasonable time to be determined by the court, which shall not exceed a six-month period of time, in which to meet the service agreement with the department for the benefit of the child unless the department has documented extraordinary and compelling reasons for extending the time period in the best interest of the child. If this agreement has not been satisfactorily met, simultaneously the child will be referred to the appropriate court for termination of parental rights and placement in a permanent relative's home, adoptive home or a foster/adoptive home. For children under the age of three (3) years, termination of parental rights shall be initiated within six (6) months, unless the department has documented compelling and extraordinary circumstances, and placement in a permanent

relative's home, adoptive home or foster/adoptive home within two (2) months. For children who have been abandoned pursuant to the provisions of Section 97-5-1, termination of parental rights shall be initiated within thirty (30) days and placement in an adoptive home shall be initiated without necessity for placement in a foster home. The department need not initiate termination of parental rights proceedings where the child has been placed in durable legal custody or long-term or formalized foster care by a court of competent jurisdiction.

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

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

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

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

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

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

(f) Relevant testimony and recommendations from the foster parent of the child, the grandparents of the child, the

guardian ad litem of the child, representatives of any private care agency which has cared for the child, the social worker assigned to the case, and any other relevant testimony pertaining to the case.

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

(6) The State Department of Human Services, with the cooperation and assistance of the State Department of Health, shall develop and implement a training program for foster care parents to indoctrinate them as to their proper responsibilities upon a child's entry into their foster care. The program shall provide a minimum of twelve (12) clock hours of training. The foster care training program shall be satisfactorily completed by such foster care parents prior to, or within ninety (90) days after child placement with such parent. Record of such foster

care parent's training program participation shall be filed with the court as part of a foster care child's review plan once every six (6) months.

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

(8) The Legislature recognizes that the best interests of the child require that the child be placed in the most permanent living arrangement as soon as is practicably possible. To achieve this goal, the Department of Human Services is directed to conduct concurrent planning so that a permanent living arrangement may occur at the earliest opportunity. Permanent living arrangements may include prevention of placement of a child outside the home of the family when the child can be cared for at home without endangering the child's health or safety; reunification with the family, when safe and appropriate, if temporary placement is necessary; or movement of the child toward the most permanent living arrangement and permanent legal status. When a child is placed in foster care or relative care, the department shall first

195 ensure and document that reasonable efforts were made to prevent
196 or eliminate the need to remove the child from the child's home.

197 The department's first priority shall be to make reasonable
198 efforts to reunify the family when temporary placement of the
199 child occurs or shall request a finding from the court that
200 reasonable efforts are not appropriate or have been unsuccessful.

201 A decision to place a child in foster care or relative care shall
202 be made with consideration of the child's health, safety and best
203 interests. At the time of placement, consideration should also be
204 given so that if reunification fails or is delayed, the placement
205 made is the best available placement to provide a permanent living
206 arrangement for the child. The department shall adopt rules
207 addressing concurrent planning for reunification and a permanent
208 living arrangement. The department shall consider the following
209 factors when determining appropriateness of concurrent planning:

210 (a) The likelihood of prompt reunification;

211 (b) The past history of the family;

212 (c) The barriers to reunification being addressed by
213 the family;

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

215 (e) The foster parents' willingness to work with the
216 family to reunite;

217 (f) The willingness and ability of the foster family or
218 relative placement to provide an adoptive home or long-term
219 placement;

220 (g) The age of the child; and

221 (h) Placement of siblings.

222 (9) If the department has placed a child in foster care or

relative care pursuant to a court order, the department may not change the child's placement unless the department specifically documents to the court that the current placement is unsafe or unsuitable or that another placement is in the child's best interests unless the new placement is in an adoptive home or other permanent placement. Except in emergency circumstances as determined by the department or where the court orders placement of the child pursuant to Section 43-21-303, the foster parents, grandparents or other relatives of the child shall be given an opportunity to contest the specific reasons documented by the department at least seventy-two (72) hours prior to any such departure, and the court may conduct a review of such placement unless the new placement is in an adoptive home or other permanent placement. When a child is returned to foster care or relative care, the former foster parents or relative placement shall be given the prior right of return placement in order to eliminate additional trauma to the child.

(10) The Department of Human Services shall provide the foster parents, grandparents or other relatives with at least a seventy-two-hour notice of departure for any child placed in their foster care or relative care, except in emergency circumstances as determined by the department or where the court orders placement of the child pursuant to Section 43-21-303. The parent/legal guardian, grandparents of the child, guardian ad litem and the court exercising jurisdiction shall be notified in writing when the child leaves foster care or relative care placement, regardless of whether the child's departure was planned or unplanned. The only exceptions to giving a written notice to the

parent(s) are when a parent has voluntarily released the child for adoption or the parent's legal rights to the child have been terminated through the appropriate court with jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

306 (h) Cooperating with any plan to reunite the foster

child with his birth family and work with the birth family to achieve this goal; and

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

(13) Whenever any complaint is made against a foster parent, the complaint shall be investigated by the county department of human services of the county in which the foster parent resides, instead of by the State Department of Human Services.

SECTION 2. Section 43-15-5, Mississippi Code of 1972, is amended as follows:

43-15-5. (1) The State Department of Human Services shall * * * administer or supervise all public child welfare services, including those services, responsibilities, duties and powers with which the county departments of human services are charged and empowered in this chapter; administer and supervise the licensing and inspection of all private child placing agencies; provide for the care of dependent and neglected children in foster family homes or in institutions, supervise the care of such children and those of illegitimate birth; supervise the importation of children; and supervise the operation of all state institutions for children. However, any complaint made against a foster parent shall be investigated by the county department of human services instead of by the State Department of Human Services, as provided in Section 43-15-13(13). The State Department of Human Services shall be authorized to purchase hospital and medical insurance coverage for those children placed

335 in foster care by the state or county departments of public
336 welfare who are not otherwise eligible for medical assistance
337 under the Mississippi Medicaid Law. The State Department of Human
338 Services shall be further authorized to purchase burial or life
339 insurance not exceeding One Thousand Five Hundred Dollars
340 (\$1,500.00) for those children placed in foster care by the state
341 or county departments of human services. All insurance coverage
342 authorized herein may be purchased with any funds other than state
343 funds available to the State Department of Human Services,
344 including those funds available to the child which are
345 administered by the department.

346 (2) Any person, partnership, group, corporation,
347 organization or association desiring to operate a child
348 residential home, as defined in Section 43-16-3, may make
349 application for a license for such a facility to the State
350 Department of Human Services on the application forms furnished
351 for this purpose by the department. If an applicant meets the
352 published rules and regulations of the department regarding
353 minimum standards for a child residential home, then the applicant
354 shall be granted a license by the department.

355 SECTION 3. This act shall take effect and be in force from
356 and after July 1, 2000.