

By: Moody

To: Public Health and  
Welfare

HOUSE BILL NO. 1049

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,  
2 TO REQUIRE ALL PUBLIC AND PRIVATE AGENCIES TO COOPERATE WITH THE  
3 DEPARTMENT OF HUMAN SERVICES REGARDING INVESTIGATIONS OF CHILD  
4 ABUSE OR NEGLECT AND THE APPROPRIATENESS OF CARE PROVIDED TO SUCH  
5 CHILDREN; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 43-15-13, Mississippi Code of 1972, is  
8 amended as follows:[RDD1]

9 43-15-13. (1) For purposes of this section, "children"  
10 means persons found within the state who are under the age of  
11 twenty-one (21) years, and who were placed in the custody of the  
12 Department of Human Services by the youth court of the appropriate  
13 county.

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

17 (a) Protecting and promoting the health, safety and  
18 welfare of children;

19 (b) Preventing the unnecessary separation of children  
20 from their families by identifying family problems, assisting  
21 families in resolving their problems and preventing the breakup of  
22 the family where the prevention of child removal is desirable and  
23 possible when the child can be cared for at home without  
24 endangering the child's health and safety;

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

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

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

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

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

50           (3) The State Department of Human Services shall administer  
51 a system of individualized plans and reviews once every six (6)  
52 months for each child under its custody within the State of  
53 Mississippi, each child who has been adjudged a neglected,  
54 abandoned or abused child and whose custody was changed by court  
55 order as a result of such adjudication, and each public or private  
56 facility licensed by the department. The State Department of  
57 Human Services administrative review shall be completed on each  
58 child within the first three (3) months and a Foster Care Review  
59 once every six (6) months after the child's initial forty-eight  
60 (48) hours shelter hearing. Such system shall be for the purpose

61 of enhancing potential family life for the child by the  
62 development of individual plans to return the child to its natural  
63 parent or parents, or to refer the child to the appropriate court  
64 for termination of parental rights and placement in a permanent  
65 relative's home, adoptive home or foster/adoptive home. The goal  
66 of the State Department of Human Services shall be to return the  
67 child to its natural parent(s) or refer the child to the  
68 appropriate court for termination of parental rights and placement  
69 in a permanent relative's home, adoptive home or foster/adoptive  
70 home within the time periods specified in this subsection or in  
71 subsection (4) of this section. In furthering this goal, the  
72 department shall establish policy and procedures designed to  
73 appropriately place children in permanent homes, such policy to  
74 include a system of reviews for all children in foster care, as  
75 follows: Foster care counselors in the department shall make all  
76 possible contact with the child's natural parent(s) and any  
77 interested relative for the first two (2) months following the  
78 child's entry into the foster care system. For any child who was  
79 in foster care before July 1, 1998, and has been in foster care  
80 for fifteen (15) of the last twenty-two (22) months regardless of  
81 whether the foster care was continuous for all of those twenty-two  
82 (22) months, the department shall file a petition to terminate the  
83 parental rights of the child's parents. The time period starts to  
84 run from the date the court makes a finding of abuse and/or  
85 neglect or sixty (60) days from when the child was removed from  
86 his or her home, whichever is earlier. The department can choose  
87 not to file a termination of parental rights petition if the  
88 following apply:

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

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

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

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

- 124 (a) The extent of the care and support provided by the  
125 parents or parent, while the child is in temporary custody;  
126 (b) The extent of communication with the child by

127 parents, parent or guardian;

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

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

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

135           (f) Relevant testimony and recommendations from the  
136 foster parent of the child, the grandparents of the child, the  
137 guardian ad litem of the child, representatives of any private  
138 care agency which has cared for the child, the social worker  
139 assigned to the case, and any other relevant testimony pertaining  
140 to the case.

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

156           (6) The State Department of Human Services, with the  
157 cooperation and assistance of the State Department of Health,  
158 shall develop and implement a training program for foster care  
159 parents to indoctrinate them as to their proper responsibilities

160 upon a child's entry into their foster care. The program shall  
161 provide a minimum of twelve (12) clock hours of training. The  
162 foster care training program shall be satisfactorily completed by  
163 such foster care parents prior to, or within ninety (90) days  
164 after child placement with such parent. Record of such foster  
165 care parent's training program participation shall be filed with  
166 the court as part of a foster care child's review plan once every  
167 six (6) months.

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

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

193 ensure and document that reasonable efforts were made to prevent  
194 or eliminate the need to remove the child from the child's home.  
195 The department's first priority shall be to make reasonable  
196 efforts to reunify the family when temporary placement of the  
197 child occurs or shall request a finding from the court that  
198 reasonable efforts are not appropriate or have been unsuccessful.

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

- 208 (a) The likelihood of prompt reunification;
- 209 (b) The past history of the family;
- 210 (c) The barriers to reunification being addressed by  
211 the family;
- 212 (d) The level of cooperation of the family;
- 213 (e) The foster parents' willingness to work with the  
214 family to reunite;
- 215 (f) The willingness and ability of the foster family or  
216 relative placement to provide an adoptive home or long-term  
217 placement;
- 218 (g) The age of the child; and
- 219 (h) Placement of siblings.

220 (9) If the department has placed a child in foster care or  
221 relative care pursuant to a court order, the department may not  
222 change the child's placement unless the department specifically  
223 documents to the court that the current placement is unsafe or  
224 unsuitable or that another placement is in the child's best  
225 interests unless the new placement is in an adoptive home or other

226 permanent placement. Except in emergency circumstances as  
227 determined by the department or where the court orders placement  
228 of the child pursuant to Section 43-21-303, the foster parents,  
229 grandparents or other relatives of the child shall be given an  
230 opportunity to contest the specific reasons documented by the  
231 department at least seventy-two (72) hours prior to any such  
232 departure, and the court may conduct a review of such placement  
233 unless the new placement is in an adoptive home or other permanent  
234 placement. When a child is returned to foster care or relative  
235 care, the former foster parents or relative placement shall be  
236 given the prior right of return placement in order to eliminate  
237 additional trauma to the child.

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

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

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

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

259 objectives;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

304 (h) Cooperating with any plan to reunite the foster  
305 child with his birth family and work with the birth family to  
306 achieve this goal; and

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

311 (13) The staff and physicians of local health departments,  
312 mental health clinics and other public or private agencies or  
313 persons, including law enforcement agencies, shall cooperate fully  
314 with the department in the performance of its duties. Such  
315 cooperation shall include, but not be limited to, granting the  
316 Mississippi Department of Human Services access to records,  
317 reports and other information that the department finds necessary  
318 to its investigations of alleged abuse and/or neglect of any child  
319 or in the evaluation of the appropriateness of care provided or to  
320 be provided by any person to a child alleged to be abused and/or  
321 neglected. All records and information shall be confidential and  
322 shall be available only to representatives of the Department of  
323 Human Services.

324 SECTION 2. This act shall take effect and be in force from

325 and after July 1, 2000.