

By: Huggins

To: Public Health and
Welfare

SENATE BILL NO. 2631
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THAT EITHER THE YOUTH COURT OR THE DEPARTMENT OF HUMAN
3 SERVICES SHALL CONDUCT FOSTER CARE REVIEWS EVERY SIX MONTHS; AND
4 FOR RELATED PURPOSES.

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

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

8 43-15-13. (1) For purposes of this section, "children"
9 means persons found within the state who are under the age of
10 twenty-one (21) years, and who were placed in the custody of the
11 Department of Human Services by the youth court of the appropriate
12 county.

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

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

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

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

27 (d) Restoring to their families children who have been

28 removed, by the provision of services to the child and the
29 families when the child can be cared for at home without
30 endangering the child's health and safety;

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

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

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

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

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

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

92 (4) In the case of any child who is placed in foster care on
93 or after July 1, 1998, except in cases of aggravated circumstances

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

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

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

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

127 (c) The degree of compliance by the agency and the
128 parents with the social service plan established;
129 (d) The methods of achieving the goal and the plan
130 establishing a permanent home for the child;
131 (e) Social services offered and/or utilized to
132 facilitate plans for establishing a permanent home for the child;
133 and
134 (f) Relevant testimony and recommendations from the
135 foster parent of the child, the grandparents of the child, the
136 guardian ad litem of the child, representatives of any private
137 care agency which has cared for the child, the social worker
138 assigned to the case, and any other relevant testimony pertaining
139 to the case.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

291 (d) Recognizing the problems in foster home placement

292 that will require professional advice and assistance and that such
293 help should be utilized to its full potential;

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

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

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

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

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

310 SECTION 2. This act shall take effect and be in force from
311 and after July 1, 2000.