

By: Representative Moody

To: Judiciary A

HOUSE BILL NO. 1422
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE COURT SHALL REQUIRE CERTAIN REPORTS RELATIVE
3 TO THE FITNESS OF A PARENT OF A CHILD IN THE CUSTODY OF THE
4 DEPARTMENT OF HUMAN SERVICES PRIOR TO GRANTING OR DENYING AN
5 EXTENSION OF TIME FOR TERMINATION OF PARENTAL RIGHTS PROCEEDINGS;
6 AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 43-15-13, Mississippi Code of 1972, is
9 amended as follows:

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

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

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

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

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

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

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

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

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

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

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

90 (a) The child is being cared for by a relative; and/or
91 (b) The department has documented compelling and
92 extraordinary reasons why termination of parental rights would not
93 be in the best interests of the child. Prior to granting or
94 denying a request by the department for an extension of time for

95 filing a termination of parental rights action, the court shall
96 receive a written report on the progress which a parent of such
97 child has made in treatment, to be made to the court in writing by
98 a mental health/substance abuse therapist or counselor.

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

124 (5) The foster care review once every six (6) months shall
125 be conducted by the youth court or its designee(s), and/or by
126 personnel within the State Department of Human Services or by a
127 designee or designees of the department and may include others

128 appointed by the department, and the review shall include at a
129 minimum an evaluation of the child based on the following:

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

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

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

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

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

141 (f) Relevant testimony and recommendations from the
142 foster parent of the child, the grandparents of the child, the
143 guardian ad litem of the child, representatives of any private
144 care agency which has cared for the child, the social worker
145 assigned to the case, and any other relevant testimony pertaining
146 to the case.

147 Each child's review plan once every six (6) months shall be
148 filed with the court which awarded custody and shall be made
149 available to natural parents or foster parents upon approval of
150 the court. The court shall make a finding as to the degree of
151 compliance by the agency and the parent(s) with the child's social
152 service plan. The court also shall find that the child's health
153 and safety are the paramount concern. In the interest of the
154 child, the court shall, where appropriate, initiate proceedings on
155 its own motion. The State Department of Human Services shall
156 report to the Legislature as to the number of such children, the
157 findings of the foster care review board and relevant statistical
158 information in foster care in a semiannual report to the
159 Legislature to be submitted to the Joint Oversight Committee of

160 the Department of Human Services. The report shall not refer to
161 the specific name of any child in foster care.

162 (6) The State Department of Human Services, with the
163 cooperation and assistance of the State Department of Health,
164 shall develop and implement a training program for foster care
165 parents to indoctrinate them as to their proper responsibilities
166 upon a child's entry into their foster care. The program shall
167 provide a minimum of twelve (12) clock hours of training. The
168 foster care training program shall be satisfactorily completed by
169 such foster care parents prior to or within ninety (90) days after
170 child placement with such parent. Record of such foster care
171 parent's training program participation shall be filed with the
172 court as part of a foster care child's review plan once every six
173 (6) months.

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

186 (8) The Legislature recognizes that the best interests of
187 the child require that the child be placed in the most permanent
188 living arrangement as soon, as is practicably possible. To
189 achieve this goal, the Department of Human Services is directed to
190 conduct concurrent planning so that a permanent living arrangement
191 may occur at the earliest opportunity. Permanent living
192 arrangements may include prevention of placement of a child

193 outside the home of the family when the child can be cared for at
194 home without endangering the child's health or safety;
195 reunification with the family, when safe and appropriate, if
196 temporary placement is necessary; or movement of the child toward
197 the most permanent living arrangement and permanent legal status.
198 When a child is placed in foster care or relative care, the
199 department shall first ensure and document that reasonable efforts
200 were made to prevent or eliminate the need to remove the child
201 from the child's home. The department's first priority shall be
202 to make reasonable efforts to reunify the family when temporary
203 placement of the child occurs or shall request a finding from the
204 court that reasonable efforts are not appropriate or have been
205 unsuccessful. A decision to place a child in foster care or
206 relative care shall be made with consideration of the child's
207 health, safety and best interests. At the time of placement,
208 consideration should also be given so that if reunification fails
209 or is delayed, the placement made is the best available placement
210 to provide a permanent living arrangement for the child. The
211 department shall adopt rules addressing concurrent planning for
212 reunification and a permanent living arrangement. The department
213 shall consider the following factors when determining
214 appropriateness of concurrent planning:

- 215 (a) The likelihood of prompt reunification;
- 216 (b) The past history of the family;
- 217 (c) The barriers to reunification being addressed by
218 the family;
- 219 (d) The level of cooperation of the family;
- 220 (e) The foster parents' willingness to work with the
221 family to reunite;
- 222 (f) The willingness and ability of the foster family or
223 relative placement to provide an adoptive home or long-term
224 placement;
- 225 (g) The age of the child; and

226 (h) Placement of siblings.

227 (9) If the department has placed a child in foster care or
228 relative care pursuant to a court order, the department may not
229 change the child's placement unless the department specifically
230 documents to the court that the current placement is unsafe or
231 unsuitable or that another placement is in the child's best
232 interests unless the new placement is in an adoptive home or other
233 permanent placement. Except in emergency circumstances as
234 determined by the department or where the court orders placement
235 of the child pursuant to Section 43-21-303, the foster parents,
236 grandparents or other relatives of the child shall be given an
237 opportunity to contest the specific reasons documented by the
238 department at least seventy-two (72) hours prior to any such
239 departure, and the court may conduct a review of such placement
240 unless the new placement is in an adoptive home or other permanent
241 placement. When a child is returned to foster care or relative
242 care, the former foster parents or relative placement shall be
243 given the prior right of return placement in order to eliminate
244 additional trauma to the child.

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

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

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

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

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

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

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

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

279 (iii) Direct interviews between the social worker
280 and the child, previously discussed and understood by the foster
281 parents;

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

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

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

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

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

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

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

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

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

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

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

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

311 (h) Cooperating with any plan to reunite the foster
312 child with his birth family and work with the birth family to
313 achieve this goal; and

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

318 SECTION 2. This act shall take effect and be in force from
319 and after July 1, 2001.