

By: Senator(s) Huggins

To: Public Health and  
Welfare; Judiciary

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2470

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 forty-eight  
61 (48) hours shelter hearing. Such system shall be for the purpose



62 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 semi-annual 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.

