

By: Senator(s) Smith, Burton, King, Dearing,
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To: Public Health and
Welfare; Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2503

1 AN ACT RELATING TO CHILDREN; TO ESTABLISH A MISSISSIPPI
2 DEPARTMENT OF CHILDREN'S AFFAIRS; TO CREATE AND EMPOWER A BOARD OF
3 CHILDREN'S AFFAIRS AND A JOINT LEGISLATIVE OVERSIGHT COMMITTEE; TO
4 CREATE THE POSITION OF EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
5 CHILDREN'S AFFAIRS AND PRESCRIBE HIS DUTIES AND RESPONSIBILITIES;
6 TO AMEND SECTION 43-27-2, AND TO CODIFY SECTIONS 43-27-4 AND
7 43-27-6, MISSISSIPPI CODE OF 1972, TO TRANSFER THE POWERS AND
8 RESPONSIBILITIES OF THE DIVISION OF YOUTH SERVICES OF THE
9 DEPARTMENT OF HUMAN SERVICES TO THE NEWLY CREATED MISSISSIPPI
10 DEPARTMENT OF CHILDREN'S AFFAIRS; TO AMEND SECTIONS 43-27-8,
11 43-27-10, 43-27-11, 43-27-12, 43-27-14, 43-27-16, 43-27-17,
12 43-27-18, 43-27-19, 43-27-20, 43-27-22, 43-27-23, 43-27-25,
13 43-27-27, 43-27-29 AND 43-21-159, MISSISSIPPI CODE OF 1972, IN
14 CONFORMITY THERETO; TO AMEND SECTIONS 43-1-1, 43-1-2, 43-1-5,
15 43-1-6, 43-1-51 AND 43-1-53, MISSISSIPPI CODE OF 1972, TO TRANSFER
16 THE POWERS AND RESPONSIBILITIES OF THE DIVISION OF FAMILY AND
17 CHILDREN'S SERVICES OF THE DEPARTMENT OF HUMAN SERVICES TO THE
18 NEWLY CREATED MISSISSIPPI DEPARTMENT OF CHILDREN'S AFFAIRS, AND TO
19 EXTEND THE AUTOMATIC REPEALER ON THE STATUTES CREATING THE
20 DEPARTMENT OF HUMAN SERVICES; TO AMEND SECTIONS 43-16-3, 43-16-5,
21 43-16-7, 43-16-9, 43-16-21, 43-16-25, 43-20-5, 43-20-7, 43-20-11,
22 43-20-12, 43-20-13, 43-20-14, 43-20-53, 43-20-55, 43-20-57,
23 43-20-59, 43-20-61, 43-20-63, 43-20-65, 75-74-3, 75-74-7, 75-74-8,
24 75-74-9, 75-74-11, 75-74-17 AND 75-74-19, MISSISSIPPI CODE OF
25 1972, TO TRANSFER THE REGULATION OF CHILD RESIDENTIAL HOMES, CHILD
26 CARE DAY FACILITIES, FAMILY CHILD CARE HOMES AND YOUTH CAMPS FROM
27 THE STATE BOARD OF HEALTH TO THE MISSISSIPPI DEPARTMENT OF
28 CHILDREN'S AFFAIRS; TO AMEND SECTIONS 43-15-3, 43-15-5, 43-15-6,
29 43-15-7, 43-15-11, 43-15-13, 43-15-15, 43-15-17, 43-15-19,
30 43-15-23, 43-15-103, 43-15-105, 43-17-5, 43-18-5, 43-21-105,
31 43-21-257, 43-21-261, 43-21-315, 43-21-353, 43-21-354, 43-21-357,
32 43-21-405, 43-21-603, 43-21-605, 43-21-607, 43-21-609, 43-21-613,
33 43-21-623 AND 43-21-625, MISSISSIPPI CODE OF 1972, IN CONFORMITY
34 THERETO; AND FOR RELATED PURPOSES.

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

36 SECTION 1. Section 43-27-2, Mississippi Code of 1972, is
37 amended as follows:

38 43-27-2. (1) From and after July 1, 2002, there is hereby
39 created the Mississippi Department of Children's Affairs, with
40 powers, duties and functions provided in this act.

41 (2) Through the Department of Children's Affairs, the State
42 of Mississippi government, in cooperation with youth courts, local
43 communities, schools and families will strive to provide timely,



44 appropriate and cost-effective services for children in state
45 custody and at risk of entering state custody so that these
46 children can reach their full potential as productive, competent
47 and healthy adults. The department is created to provide services
48 to those children who are unruly, delinquent, dependent and
49 neglected, and their respective families, as well as for children
50 who are at imminent risk and in need of services to prevent entry
51 into state custody, who are in state custody pending family
52 reunification or other permanent placement, or as otherwise may be
53 required for such children and their families pursuant to state
54 law. The focus of the services shall be to preserve the
55 relationship between the child and the family by providing,
56 whenever possible, services in the community where the child lives
57 and by providing the services in a setting which is the least
58 restrictive and, yet, the most beneficial. The department will
59 work to preserve the safety and protect the standards in
60 Mississippi communities through efforts to combat delinquency and
61 other social ills concerning young people. The department shall
62 work to continuously improve the management and coordination of
63 services for the children and families of Mississippi.

64 (3) Effective July 1, 2002, all employees of the agencies,
65 divisions, offices and programs whose functions are transferred
66 under this act shall be transferred to the Mississippi Department
67 of Children's Affairs. Administrative Divisions of the Department
68 of Human Services to be transferred include the following: (a)
69 the Division of Youth Services; (b) the Division of Family and
70 Children's Services; and (c) the Office for Children and Youth.
71 All such transfers shall be in accordance with the rules and
72 regulations of the State Personnel Board.

73 (4) Child care services and staff administered by the Office
74 of Children and Youth within the Mississippi Department of Human
75 Services, regardless of funding source, including federal Child
76 Care Development Block Grant funds, at-risk child care funds,



77 Child Care Partnership Grant programs and other training programs
78 and consumer education programs for parents, but not including
79 Temporary Assistance to Needy Families (TANF) child care funds,
80 shall be transferred to the Mississippi Department of Children's
81 Affairs on July 1, 2002.

82 (5) It is the intent of the Legislature that no employee
83 shall be dismissed as the result of the agency reorganization
84 required by this act, and that any reduction in the number of
85 persons employed by the state shall result from attrition of
86 employees and not dismissal.

87 (6) On July 1, 2002, all records, real and personal property
88 and unexpended balances of appropriations, allocations or other
89 funds of the agencies, divisions, offices and programs transferred
90 by this act shall be transferred to the Mississippi Department of
91 Children's Affairs.

92 (7) There is hereby created a Department of Human Services
93 Reorganization Study Committee for the purpose of assisting the
94 orderly transition for full implementation of this act. The
95 membership of the committee shall include the following: the
96 Executive Director of the Mississippi Department of Human
97 Services; the State Health Officer; the Executive Director of the
98 Mississippi Department of Mental Health; the Executive Director of
99 the Division of Medicaid; two (2) youth court judges appointed by
100 the Governor; two (2) representatives of child residential
101 facilities appointed by the Governor; the Chairman of the Senate
102 Public Health and Welfare Committee; the Chairman of the Senate
103 Appropriations Committee; three (3) members of the Senate
104 appointed by the Lieutenant Governor; the Chairman of the House
105 Public Health and Welfare Committee; the Chairman of the House
106 Appropriations Committee; and three (3) members of the House
107 appointed by the Speaker of the House. The Chairman of the Senate
108 Public Health and Welfare Committee and the Chairman of the House
109 Public Health and Welfare Committee shall serve as co-chairmen of



110 the committee until July 1, 2002, at which time the Study
111 Committee shall be dissolved and the Joint Oversight Committee of
112 the Department of Children's Affairs shall assume its duties and
113 responsibilities. The Department of Human Services Reorganization
114 Study Committee shall, with the assistance of the Executive
115 Director of the Department of Human Services and the affected
116 division directors, develop and oversee the implementation of a
117 plan which will carry out the full effect of this act in an
118 orderly fashion. All agencies and divisions of agencies affected
119 by the transfer required under this act are hereby directed to
120 cooperate with the Department of Human Services Reorganization
121 Study Committee in formulating and implementing a transition plan
122 and program. The State Personnel Board and the Joint Committee on
123 Performance Evaluation and Expenditure Review (PEER) are directed
124 to assist the committee in carrying out its oversight
125 responsibilities. The Department of Human Services Reorganization
126 Study Committee shall receive reports on the following: (a) staff
127 to be transferred from one state agency or division to another in
128 the implementation of new duties and responsibilities required
129 under this act; (b) operating budget revisions and interim
130 operating budgets as necessary for assuring an orderly transition
131 in implementing new duties and responsibilities required under
132 this act; (c) any additional cost or cost reduction resulting from
133 this transition; and (d) rules, regulations and procedures to be
134 adopted by agencies consistent with the intent of the transfer of
135 duties and responsibilities required under this act. The
136 Department of Human Services Reorganization Study Committee shall
137 develop and submit a report to the Governor and the Legislature on
138 or before December 1, 2001, on its findings which shall include
139 any recommendations for necessary legislation regarding the
140 reorganization of state agency responsibilities provided under
141 this act. The Department of Human Services Reorganization Study
142 Committee shall meet on the call of the co-chairmen and shall



143 adopt rules for carrying out its responsibilities. Legislative
144 members of the committee shall receive compensation and expense
145 reimbursement from their respective contingent expense funds
146 authorized for attending committee meetings when the Legislature
147 is not in session. This subsection (7) shall stand repealed on
148 July 1, 2002.

149 SECTION 2. The following provision shall be codified as
150 Section 43-27-4, Mississippi Code of 1972:

151 43-27-4. (1) There shall be established a Board of
152 Children's Affairs composed of seven (7) members who are qualified
153 electors appointed by the Governor and the State Superintendent of
154 Education as an ex officio nonvoting member. The appointed
155 members shall be composed of one (1) person who is an active,
156 experienced educator; one (1) person who is an active licensed
157 psychiatrist or psychologist; one (1) person who is an active
158 member of the National Association of Social Workers; one (1)
159 person who is experienced in business; one (1) person who is a
160 practicing attorney; and two (2) persons who are concerned
161 citizens interested in the youth of the state. Provided, however,
162 there shall be at least one (1) member of said board from each of
163 the congressional districts of the State of Mississippi as
164 existing on July 1, 2002, and two (2) appointed at large, with all
165 appointments to be confirmed by the Senate. Terms of office
166 of the appointed members shall be as follows:

167 (a) The term of the member serving from the First
168 Congressional District shall expire on June 30, 2003.

169 (b) The term of the member serving from the Second
170 Congressional District shall expire on June 30, 2004.

171 (c) The term of the member serving from the Third
172 Congressional District shall expire on June 30, 2005.

173 (d) The term of the member serving from the Fourth
174 Congressional District shall expire on June 30, 2006.



175 (e) The term of the member serving from the Fifth
176 Congressional District shall expire on June 30, 2007.

177 (f) The terms of the two (2) members serving from the
178 state at large shall expire on June 30, 2004, and June 30, 2006,
179 respectively.

180 All subsequent appointments shall be for a term of six (6)
181 years.

182 The Governor shall have the power to fill any vacancy which
183 shall occur on said Board of Children's Affairs, provided that
184 said vacancy shall be filled in the manner in which a member is
185 selected for a full term, and that an appointment to fill such
186 vacancy shall be for the unexpired term only.

187 (2) The Board of Children's Affairs shall meet and organize
188 by electing one (1) of their number as chairman, whose term of
189 office shall be one (1) year or until his successor shall be
190 elected by the board and it shall transact such other business as
191 may come before the board. The board shall have authority to
192 elect any other officer from their number as they shall deem
193 necessary to perform their duties, the term of such officer to be
194 for one (1) year or until a successor shall be elected by the
195 trustees.

196 (3) The Board of Children's Affairs shall meet once each
197 month and such monthly meeting shall be known as a regular
198 meeting, and at such regular meeting any business allowed or
199 provided for by law may be transacted; and said Board of
200 Children's Affairs shall meet at any other time at the call of the
201 chairman, within his discretion, or at the request of three (3)
202 members of the board. In the case of a called meeting, the call
203 shall be in writing and shall be mailed by certified mail with
204 return receipt requested to each and every member at least five
205 (5) days prior to the date of such called meeting; at any such
206 called meeting only such business as may be specifically stated in
207 the notice thereof may be transacted. At any regular or called



208 meeting, three (3) members of the Board of Youth Services shall
209 constitute a quorum for the transaction of business. When any
210 member of the Board of Children's Affairs fails to attend three
211 (3) consecutive meetings, he shall be deemed to have automatically
212 vacated his term of office, unless the Governor shall elect to
213 retain said member, or the Governor may appoint another person in
214 his place and stead for the remainder of the unexpired term.

215 (4) The board members shall serve without salary or
216 compensation, but shall receive the per diem allowed public
217 employees under Section 25-3-69, Mississippi Code of 1972, for
218 meetings of said board, together with actual travel expenses
219 authorized by law. The expenses and per diem of the members of
220 the board shall be paid on an itemized statement, approved by the
221 chairman of the board, from funds appropriated to the Mississippi
222 Department of Children's Affairs.

223 (5) There shall be a Joint Oversight Committee of the
224 Department of Children's Affairs composed of the respective
225 Chairmen of the Senate Public Health and Welfare Committee, the
226 Senate Appropriations Committee, the House Public Health and
227 Welfare Committee and the House Appropriations Committee, two (2)
228 members of the Senate appointed by the Lieutenant Governor to
229 serve at the will and pleasure of the Lieutenant Governor, and two
230 (2) members of the House of Representatives appointed by the
231 Speaker of the House to serve at the will and pleasure of the
232 Speaker. The chairmanship of the committee shall alternate for
233 twelve-month periods between the Senate members and the House
234 members, with the Chairman of the House Public Health and Welfare
235 Committee serving as the first chairman. The committee shall meet
236 once each month, or upon the call of the chairman at such times as
237 he deems necessary or advisable, and may make recommendations to
238 the Legislature pertaining to any matter within the jurisdiction
239 of the Mississippi Department of Children's Affairs. The
240 appointing authorities may designate an alternate member from



241 their respective houses to serve when the regular designee is
242 unable to attend such meetings of the Oversight Committee. For
243 attending meetings of the Oversight Committee, such legislators
244 shall receive per diem and expenses which shall be paid from the
245 contingent expense funds of their respective houses in the same
246 amounts as provided for committee meetings when the Legislature is
247 not in session; however, no per diem and expenses for attending
248 meetings of the committee will be paid while the Legislature is in
249 session. No per diem and expenses will be paid except for
250 attending meetings of the Oversight Committee without prior
251 approval of the proper committee in their respective houses.

252 SECTION 3. The following provision shall be codified as
253 Section 43-27-6, Mississippi Code of 1972:

254 43-27-6. (1) The Board of Children's Affairs shall appoint
255 an Executive Director of the Mississippi Department of Children's
256 Affairs who shall be the chief executive, administrative and
257 fiscal officer of the department.

258 (2) The executive director shall receive an annual salary
259 fixed by the board, not to exceed the maximum authorized by law,
260 in addition to all actual, necessary expenses incurred in the
261 discharge of official duties, including mileage as authorized by
262 law.

263 (3) The executive director shall possess the following
264 minimum qualifications:

265 (a) A master's degree in social work, or some
266 closely-related field, and at least six (6) years' full-time
267 experience in social work, child services and/or juvenile justice;
268 or

269 (b) A bachelor's degree in a field described in
270 paragraph (a) of this subsection and at least ten (10) years'
271 full-time experience in social work, child services and/or
272 juvenile justice; or



273 (c) A law degree and at least five (5) years' full-time
274 experience in social work, child services and/or juvenile justice.

275 (4) The Executive Director of the Mississippi Department of
276 Children's Affairs, with the approval of the Board of Children's
277 Affairs, may assign to appropriate divisions such powers and
278 duties as deemed appropriate to carry out the functions of the
279 department, including, but not limited to:

280 (a) Division of Youth Services; and the

281 (b) Division of Family and Children's Services.

282 SECTION 4. Section 43-27-8, Mississippi Code of 1972, is
283 amended as follows:

284 43-27-8. The Mississippi Department of Children's Affairs
285 shall administer the following duties and responsibilities:

286 (a) To implement and administer laws and policy
287 relating to youth services and coordinate the efforts of the
288 department with those of the federal government and other state
289 departments and agencies, county governments, municipal
290 governments and private agencies concerned with providing youth
291 services.

292 (b) To establish standards, provide technical
293 assistance and exercise the requisite supervision as it relates to
294 youth service programs over all state-supported juvenile
295 correctional facilities.

296 (c) To promulgate and publish such rules, regulations
297 and policies of the department as are needed for the efficient
298 government and maintenance of all facilities and programs in
299 accord, insofar as possible, with currently accepted standards of
300 juvenile care and treatment.

301 (d) To make an annual report to the Legislature
302 reflecting the activities of the department and make
303 recommendations for improvement of the services to be performed by
304 the department.



305 SECTION 5. Section 43-27-10, Mississippi Code of 1972, is
306 amended as follows:

307 43-27-10. (a) The Mississippi Department of Children's
308 Affairs shall exercise executive and administrative supervision
309 over all state-owned facilities used for the detention, training,
310 care, treatment and aftercare supervision of delinquent children
311 properly committed to or confined in said facilities by a court on
312 account of such delinquency; provided, however, such executive and
313 administrative supervision under state-owned facilities shall not
314 extend to any institutions and facilities for which executive and
315 administrative supervision has been provided otherwise by law
316 through other agencies.

317 (b) Such facilities shall include, but not be limited to,
318 the Columbia Training School created by Chapter 111, Laws of 1916,
319 and the Oakley Training School created by Chapter 205, Laws of
320 1942, and those facilities authorized by Laws, 1994, Ch. 652.

321 (c) The department shall have the power as a corporate body
322 to receive, hold and use personal, real and mixed property donated
323 to them or property acquired under Section 43-27-35, and shall
324 have such other corporate authority as shall now or hereafter be
325 necessary for the operation of any such facility. The department
326 shall be responsible for the planning, development and
327 coordination of a statewide, comprehensive youth services program
328 designed to train and rehabilitate children in order to prevent,
329 control and retard juvenile delinquency.

330 (d) The department is authorized to develop and implement
331 diversified programs and facilities to promote, enhance, provide
332 and assure the opportunities for the successful care, training and
333 treatment of delinquent children properly committed to or confined
334 in any facility under its control. Such programs and facilities
335 may include, but not be limited to, training schools, foster
336 homes, halfway houses, forestry camps, regional diagnostic



337 centers, detention centers and other state and local
338 community-based programs and facilities.

339 (e) The department is authorized to acquire whatever hazard,
340 casualty or workers' compensation insurance is necessary for any
341 property, real or personal, owned, leased or rented by the
342 department or for any employees or personnel hired by the
343 department and may acquire professional liability insurance on all
344 employees as deemed necessary and proper by the department. All
345 premiums due and payable on account thereof shall be paid out of
346 the funds of the department.

347 SECTION 6. Section 43-27-11, Mississippi Code of 1972, is
348 amended as follows:

349 43-27-11. The Mississippi Department of Children's Affairs
350 shall succeed to the exclusive control of all records, books,
351 papers, equipment and supplies, and all lands, buildings and other
352 real and personal property now or hereafter belonging to or
353 assigned to the use and benefit or under the control of the
354 Columbia Training School and the Oakley Training School, and shall
355 have the exercise and control of the use, distribution and
356 disbursement of all funds, appropriations and taxes now or
357 hereafter in possession, levied, collected or received or
358 appropriated for the use, benefit, support and maintenance of
359 these two (2) institutions, and the department shall have general
360 supervision of all the affairs of the two (2) institutions herein
361 named, and the care and conduct of all buildings and grounds,
362 business methods and arrangements of accounts and records, the
363 organization of the administrative plans of each institution, and
364 all other matters incident to the proper functioning of the
365 institutions. The department shall have full authority over the
366 operation of any and all farms at each of said institutions and
367 over the distribution of agricultural, dairy, livestock and any
368 and all other products therefrom and over all funds received from
369 the sale of hogs and livestock. All sums realized from the sale



370 of products manufactured and fabricated in the shops of the
371 vocational departments of such institutions shall be placed in the
372 revolving fund of the respective institutions in which said
373 products were manufactured, fabricated and sold.

374 The department shall be authorized to lease the lands for
375 oil, gas and mineral exploration, and for such other purposes as
376 the department deems to be appropriate, on such terms and
377 conditions as the department and lessee agree. The department may
378 contract with the State Forestry Commission for the proper
379 management of forest lands and the sale of timber, and the
380 department is expressly authorized to sell timber and forestry
381 products. The department is further authorized to expend the net
382 proceeds from incomes from all leases and timber sales exclusively
383 for the instructional purposes at the two (2) institutions under
384 its jurisdiction in proportion to the revenues derived from each
385 training school.

386 The granting of any leases for oil, gas and mineral
387 exploration shall be on a public bid basis as prescribed by law.

388 SECTION 7. Section 43-27-12, Mississippi Code of 1972, is
389 amended as follows:

390 43-27-12. The Mississippi Department of Children's Affairs
391 shall have exclusive supervisory care, custody and active control
392 of all children properly committed to or confined in its
393 facilities and included in its programs and shall have control of
394 the grounds, buildings and other facilities and properties of said
395 facilities and programs.

396 SECTION 8. Section 43-27-14, Mississippi Code of 1972, is
397 amended as follows:

398 43-27-14. The Mississippi Department of Children's Affairs
399 shall have the authority to accept any allotments of federal funds
400 and commodities and shall manage and dispose of them in whatever
401 manner may be required by federal law, and may take advantage of
402 any federal programs, grants-in-aid, or other public or private



403 assistance which may be offered or available which will accomplish
404 or further the objectives of the department. The Attorney General
405 shall be the legal representative of the department.

406 SECTION 9. Section 43-27-16, Mississippi Code of 1972, is
407 amended as follows:

408 43-27-16. The Mississippi Department of Children's Affairs
409 is authorized to request from any and all existing agencies,
410 departments, divisions, officers, employees, boards, bureaus,
411 commissions and institutions of the state of Mississippi, or any
412 political subdivision thereof, information, data and assistance as
413 will enable the department to fulfill its duties hereunder, and
414 all such agencies, departments, divisions, officers, employees,
415 boards, bureaus, commissions and institutions of the State of
416 Mississippi and its political subdivisions are hereby directed to
417 cooperate with the department and render such information, data,
418 aid and assistance as may be requested by the department.

419 SECTION 10. Section 43-27-17, Mississippi Code of 1972, is
420 amended as follows:

421 43-27-17. The Mississippi Department of Children's Affairs
422 shall use the services and resources of the state departments of
423 education and health, and of all other appropriate state
424 departments, agencies or institutions, as will aid in carrying out
425 the purposes of this chapter. It shall be the duty of all such
426 state departments, agencies and institutions to make available
427 such services and resources to the department.

428 SECTION 11. Section 43-27-18, Mississippi Code of 1972, is
429 amended as follows:

430 43-27-18. All positions in the Mississippi Department of
431 Children's Affairs shall be included in the state classification
432 system, but the department is encouraged to establish an incentive
433 program to motivate workers who deal directly with the children to
434 obtain master's degrees in the field of sociology, psychology or
435 some other related field.



436 SECTION 12. Section 43-27-19, Mississippi Code of 1972, is
437 amended as follows:

438 43-27-19. The Mississippi Department of Children's Affairs
439 shall keep in a suitable book a full and complete record of all of
440 its actions under this chapter, which shall be open at all times
441 to the inspection of the Governor and all persons whom he or
442 either house of the Legislature may designate, and any member of
443 the Legislature, to examine same.

444 SECTION 13. Section 43-27-20, Mississippi Code of 1972, is
445 amended as follows:

446 43-27-20. (a) Within the Mississippi Department of
447 Children's Affairs there shall be a Office of Community Services
448 which shall be headed by a director appointed by and responsible
449 to the Executive Director of the Mississippi Department of
450 Children's Affairs. He shall hold a master's degree in social
451 work or a related field and shall have no less than three (3)
452 years' experience in social services, or in lieu of such degree
453 and experience, he shall have a minimum of eight (8) years'
454 experience in social work or a related field. He shall employ and
455 assign the community workers to serve in the various areas in the
456 state and any other supporting personnel necessary to carry out
457 the duties of the Office of Community Services, subject to the
458 approval of the Executive Director of the Mississippi Department
459 of Children's Affairs.

460 (b) The Director of the Office of Community Services shall
461 assign probation and aftercare workers to the youth court or
462 family court judges of the various court districts upon the
463 request of the individual judge on the basis of caseload and need,
464 when funds are available. The probation and aftercare workers
465 shall live in their respective districts except upon approval of
466 the Director of the Office of Community Services. The Director of
467 the Office of Community Services is authorized to assign a youth
468 services counselor to a district other than the district in which



469 the youth services counselor lives upon the approval of the youth
470 court judge of the assigned district and the Executive Director of
471 the Mississippi Department of Children's Affairs. Every placement
472 shall be with the approval of the youth court or the family court
473 judge, and a probation and aftercare worker may be removed for
474 cause from a youth or family court district.

475 (c) Any counties or cities which, on July 1, 1973, have
476 court counselors or similar personnel may continue using this
477 personnel or may choose to come within the statewide framework.

478 (d) A probation and aftercare worker may be transferred by
479 the department from one court to another after consultation with
480 the judge or judges in the court to which the employee is
481 currently assigned.

482 (e) The Office of Community Services shall have such duties
483 as the Mississippi Department of Children's Affairs shall assign
484 to it which shall include, but not be limited to, the following:

485 (1) Preparing the social, educational and home-life
486 history and other diagnostic reports on the child for the benefit
487 of the court or the training school; however, this provision shall
488 not abridge the power of the court to require similar services
489 from other agencies, according to law.

490 (2) Serving in counseling capacities with the youth or
491 family courts.

492 (3) Serving as probation agents for the youth or family
493 courts.

494 (4) Serving, advising and counseling of children in the
495 various institutions under the control of the Office of Juvenile
496 Correctional Institutions as may be necessary to the placement of
497 the children in proper environment after release and the placement
498 of children in suitable jobs where necessary and proper.

499 (5) Supervising and guiding of children released or
500 conditionally released from institutions under the control of the
501 Office of Juvenile Correctional Institutions.



502 (6) Counseling in an aftercare program.

503 (7) Coordinating the activities of supporting community
504 agencies which aid in the social adjustment of children released
505 from the institution and in an aftercare program.

506 (8) Providing or arranging for necessary services
507 leading to the rehabilitation of delinquents, either within the
508 division or through cooperative arrangements with other
509 appropriate agencies.

510 (9) Providing counseling and supervision for any child
511 under ten (10) years of age who has been brought to the attention
512 of the court when other suitable personnel is not available and
513 upon request of the court concerned.

514 (10) Supervising the aftercare program and making
515 revocation investigations at the request of the court.

516 (f) This section shall stand repealed on July 1, 2003.

517 SECTION 14. Section 43-27-22, Mississippi Code of 1972, is
518 amended as follows:

519 43-27-22. (1) Within the Mississippi Department of
520 Children's Affairs there shall be an Office of Juvenile
521 Correctional Institutions which shall be headed by a Director of
522 Juvenile Institutions, who shall be appointed by the Executive
523 Director of the Mississippi Department of Children's Affairs. The
524 Director of Juvenile Institutions shall appoint the individual
525 Department of Children's Affairs Institutional Administrators who,
526 in turn, shall have full power to select and employ personnel
527 necessary to operate the facility he directs, subject to the
528 approval of the Executive Director of the Mississippi Department
529 of Children's Affairs.

530 (2) The Office of Juvenile Correctional Institutions shall
531 have such duties as the Executive Director of the Mississippi
532 Department of Children's Affairs shall assign to it including, but
533 not limited to, the following:



534 (a) Operation and maintenance of training schools and
535 other facilities as may be needed to properly diagnose, care for,
536 train, educate and rehabilitate children and youths who have been
537 committed to or confined in the facilities or who are included in
538 the programs of the facilities.

539 (b) Fulfillment of the objectives of rehabilitation and
540 reformation of the youths confined in the schools, being careful
541 to employ no discipline, training or utilization of time and
542 efforts of such youth that shall under any condition or in any way
543 interfere with such objectives.

544 (c) Grouping of the youths in the schools according to
545 age, sex and disciplinary needs with respect to their housing,
546 schooling, training, recreation and work, being careful to prevent
547 injury to the morals or interference with the training and
548 rehabilitation of the younger or correctable youths by those
549 considered to be less amenable to discipline and rehabilitation.

550 SECTION 15. Section 43-27-23, Mississippi Code of 1972, is
551 amended as follows:

552 43-27-23. The superintendents of the Mississippi training
553 schools may each receive free lodging in his respective
554 institution for himself and his family, but not free board nor
555 free supplies from the institution. Upon each superintendent's
556 election to receive board for himself and family from the
557 institution, the Mississippi Department of Children's Affairs
558 shall enter on the minutes in advance the names and ages of the
559 members of the family and fix the charges for their board at the
560 average cost of table board in that community, but in no event at
561 an amount less than the cost of said board to said institution,
562 and said board so fixed shall be paid by the superintendent into
563 the State Treasury before his salary for the next succeeding month
564 shall be paid. The department shall make a detailed and itemized
565 statement thereof to the Legislature. The same restrictions shall
566 apply to all members of the clerical force of the institutions.



567 SECTION 16. Section 43-27-25, Mississippi Code of 1972, is
568 amended as follows:

569 43-27-25. No person shall be committed to an institution
570 under the control of the Mississippi Department of Children's
571 Affairs who is seriously handicapped by mental illness or
572 retardation. If after a person is referred to the training
573 schools it shall be determined that he is mentally ill or mentally
574 retarded to an extent that he could not be properly cared for in
575 its custody, the director may institute necessary legal action to
576 accomplish the transfer of such person to such other state
577 institution as, in his judgment, is best qualified to care for him
578 in accordance with the laws of this state. The department shall
579 establish standards with regard to the physical and mental health
580 of persons which it can accept for commitment.

581 SECTION 17. Section 43-27-27, Mississippi Code of 1972, is
582 amended as follows:

583 43-27-27. Any child committed to an institution under the
584 provisions of this chapter may be transferred by the Executive
585 Director of the Mississippi Department of Children's Affairs, in
586 his discretion, to any of the schools or other facilities under
587 his jurisdiction.

588 SECTION 18. Section 43-27-29, Mississippi Code of 1972, is
589 amended as follows:

590 43-27-29. Academic and vocational training at all
591 institutions under the Mississippi Department of Children's
592 Affairs shall meet standards prescribed by the State Department of
593 Education based upon standards required for public schools. The
594 department may prescribe such additional requirements as it may
595 from time to time deem necessary. The State Superintendent of
596 Education will administer the standards related to the high school
597 and elementary school programs. Reports from the State Department
598 of Education evaluating the educational program at all juvenile
599 correctional institutions and indicating whether or not the



600 program meets the standards as prescribed shall be made directly
601 to the Director of the Division of Juvenile Correctional
602 Institutions at regularly scheduled meetings. Such State
603 Department of Education supervisory personnel as deemed
604 appropriate shall be utilized for evaluating the programs and for
605 reporting to the director of said division.

606 SECTION 19. Section 43-21-159, Mississippi Code of 1972, is
607 amended as follows:

608 43-21-159. (1) When a person appears before a court other
609 than the youth court, and it is determined that the person is a
610 child under jurisdiction of the youth court, such court shall,
611 unless the jurisdiction of the offense has been transferred to
612 such court as provided in this chapter, or unless the child has
613 previously been the subject of a transfer from the youth court to
614 the circuit court for trial as an adult and was convicted,
615 immediately dismiss the proceeding without prejudice and forward
616 all documents pertaining to the cause to the youth court; and all
617 entries in permanent records shall be expunged. The youth court
618 shall have the power to order and supervise the expunction or the
619 destruction of such records in accordance with Section 43-21-265.
620 The youth court is authorized to expunge the record of any case
621 within its jurisdiction in which an arrest was made, the person
622 arrested was released and the case was dismissed or the charges
623 were dropped or there was no disposition of such case. In cases
624 where the child is charged with a hunting or fishing violation or
625 a traffic violation whether it be any state or federal law, a
626 violation of the Mississippi Implied Consent Law, or municipal
627 ordinance or county resolution or where the child is charged with
628 a violation of Section 67-3-70, the appropriate criminal court
629 shall proceed to dispose of the same in the same manner as for
630 other adult offenders and it shall not be necessary to transfer
631 the case to the youth court of the county. Unless the cause has
632 been transferred, or unless the child has previously been the



633 subject of a transfer from the youth court to the circuit court
634 for trial as an adult, except for violations under the Implied
635 Consent Law, and was convicted, the youth court shall have power
636 on its own motion to remove jurisdiction from any criminal court
637 of any offense including a hunting or fishing violation, a traffic
638 violation, or a violation of Section 67-3-70, committed by a child
639 in a matter under the jurisdiction of the youth court and proceed
640 therewith in accordance with the provisions of this chapter.

641 (2) After conviction and sentence of any child by any other
642 court having original jurisdiction on a misdemeanor charge, and
643 within the time allowed for an appeal of such conviction and
644 sentence, the youth court of the county shall have the full power
645 to stay the execution of the sentence and to release the child on
646 good behavior or on other order as the youth court may see fit to
647 make unless the child has previously been the subject of a
648 transfer from the youth court to the circuit court for trial as an
649 adult and was convicted. When a child is convicted of a
650 misdemeanor and is committed to, incarcerated in or imprisoned in
651 a jail or other place of detention by a criminal court having
652 proper jurisdiction of such charge, such court shall notify the
653 youth court judge or the judge's designee of the conviction and
654 sentence prior to the commencement of such incarceration. The
655 youth court shall have the power to order and supervise the
656 destruction of any records involving children maintained by the
657 criminal court in accordance with Section 43-21-265. However, the
658 youth court shall have the power to set aside a judgment of any
659 other court rendered in any matter over which the youth court has
660 exclusive original jurisdiction, to expunge or destroy the records
661 thereof in accordance with Section 43-21-265, and to order a
662 refund of fines and costs.

663 (3) Nothing in subsection (1) or (2) shall apply to a youth
664 who has a pending charge or a conviction for any crime over which
665 circuit court has original jurisdiction.



666 (4) In any case wherein the defendant is a child as defined
667 in this chapter and of which the circuit court has original
668 jurisdiction, the circuit judge, upon a finding that it would be
669 in the best interest of such child and in the interest of justice,
670 may at any stage of the proceedings prior to the attachment of
671 jeopardy transfer such proceedings to the youth court for further
672 proceedings unless the child has previously been the subject of a
673 transfer from the youth court to the circuit court for trial as an
674 adult and was convicted or has previously been convicted of a
675 crime which was in original circuit court jurisdiction, and the
676 youth court shall, upon acquiring jurisdiction, proceed as
677 provided in this chapter for the adjudication and disposition of
678 delinquent child proceeding proceedings. If the case is not
679 transferred to the youth court and the youth is convicted of a
680 crime by any circuit court, the trial judge shall sentence the
681 youth as though such youth was an adult. The circuit court shall
682 not have the authority to commit such child to the custody of the
683 Mississippi Department of Children's Affairs for placement in a
684 state-supported training school.

685 (5) In no event shall a court sentence an offender over the
686 age of eighteen (18) to the custody of the Mississippi Department
687 of Children's Affairs for placement in a state-supported training
688 school.

689 (6) When a child's driver's license is suspended by the
690 youth court for any reason, the clerk of the youth court shall
691 report the suspension, without a court order under Section
692 43-21-261, to the Commissioner of Public Safety in the same manner
693 as such suspensions are reported in cases involving adults.

694 (7) No offense involving the use or possession of a firearm
695 by a child who has reached his fifteenth birthday and which, if
696 committed by an adult would be a felony, shall be transferred to
697 the youth court.



698 SECTION 20. Section 43-1-1, Mississippi Code of 1972, is
699 amended as follows:

700 43-1-1. (1) The Department of Human Services shall be the
701 State Department of Public Welfare and shall retain all powers and
702 duties as granted to the State Department of Public Welfare.
703 Wherever the term "State Department of Public Welfare" or "State
704 Board of Public Welfare" appears in any law, the same shall mean
705 the Department of Human Services. The Executive Director of the
706 Department of Human Services may assign to the appropriate offices
707 such powers and duties deemed appropriate to carry out the lawful
708 functions of the department.

709 (2) This section shall stand repealed on July 1, 2002.

710 SECTION 21. Section 43-1-2, Mississippi Code of 1972, is
711 amended as follows:

712 43-1-2. (1) There is created the Department of Human
713 Services, whose offices shall be located in Jackson, Mississippi,
714 and which shall be under the policy direction of the Governor.

715 (2) The chief administrative officer of the department shall
716 be the Executive Director of Human Services. The Governor shall
717 appoint the Executive Director of Human Services with the advice
718 and consent of the Senate, and he shall serve at the will and
719 pleasure of the Governor, and until his successor is appointed and
720 qualified. The Executive Director of Human Services shall possess
721 the following qualifications:

722 (a) A bachelor's degree from an accredited institution
723 of higher learning and ten (10) years' experience in management,
724 public administration, finance or accounting; or

725 (b) A master's or doctoral degree from an accredited
726 institution of higher learning and five (5) years' experience in
727 management, public administration, finance or accounting.

728 Those qualifications shall be certified by the State
729 Personnel Board.



730 (3) There shall be a Joint Oversight Committee of the
731 Department of Human Services composed of the respective Chairmen
732 of the Senate Public Health and Welfare Committee, the Senate
733 Appropriations Committee, the House Public Health and Welfare
734 Committee and the House Appropriations Committee, two (2) members
735 of the Senate appointed by the Lieutenant Governor to serve at the
736 will and pleasure of the Lieutenant Governor, and two (2) members
737 of the House of Representatives appointed by the Speaker of the
738 House to serve at the will and pleasure of the Speaker. The
739 chairmanship of the committee shall alternate for twelve-month
740 periods between the Senate members and the House members, with the
741 Chairman of the Senate Public Health and Welfare Committee serving
742 as the first chairman. The committee shall meet once each month,
743 or upon the call of the chairman at such times as he deems
744 necessary or advisable, and may make recommendations to the
745 Legislature pertaining to any matter within the jurisdiction of
746 the Mississippi Department of Human Services. The appointing
747 authorities may designate an alternate member from their
748 respective houses to serve when the regular designee is unable to
749 attend such meetings of the Oversight Committee. For attending
750 meetings of the Oversight Committee, such legislators shall
751 receive per diem and expenses which shall be paid from the
752 contingent expense funds of their respective houses in the same
753 amounts as provided for committee meetings when the Legislature is
754 not in session; however, no per diem and expenses for attending
755 meetings of the committee will be paid while the Legislature is in
756 session. No per diem and expenses will be paid except for
757 attending meetings of the Oversight Committee without prior
758 approval of the proper committee in their respective houses.

759 (4) The State Department of Human Services shall provide the
760 services authorized by law to every individual determined to be
761 eligible therefor, and in carrying out the purposes of the
762 department, the executive director is authorized:



763 (a) To formulate the policy of the department regarding
764 human services within the jurisdiction of the department;

765 (b) To adopt, modify, repeal and promulgate, after due
766 notice and hearing, and where not otherwise prohibited by federal
767 or state law, to make exceptions to and grant exemptions and
768 variances from, and to enforce rules and regulations implementing
769 or effectuating the powers and duties of the department under any
770 and all statutes within the department's jurisdiction, all of
771 which shall be binding upon the county departments of human
772 services;

773 (c) To apply for, receive and expend any federal or
774 state funds or contributions, gifts, devises, bequests or funds
775 from any other source;

776 (d) Except as limited by Section 43-1-3, to enter into
777 and execute contracts, grants and cooperative agreements with any
778 federal or state agency or subdivision thereof, or any public or
779 private institution located inside or outside the State of
780 Mississippi, or any person, corporation or association in
781 connection with carrying out the programs of the department; and

782 (e) To discharge such other duties, responsibilities
783 and powers as are necessary to implement the programs of the
784 department.

785 (5) The executive director shall establish the
786 organizational structure of the Mississippi Department of Human
787 Services which shall include the creation of any units necessary
788 to implement the duties assigned to the department and consistent
789 with specific requirements of law, including but not limited to:

790 * * *

791 (a) Office of Economic Assistance;

792 (b) Office of Child Support.

793 (6) The Executive Director of Human Services shall appoint
794 heads of offices, bureaus and divisions, as defined in Section
795 7-17-11, who shall serve at the pleasure of the executive



796 director. The salary and compensation of such office, bureau and
797 division heads shall be subject to the rules and regulations
798 adopted and promulgated by the State Personnel Board as created
799 under Section 25-9-101 et seq. The executive director shall have
800 the authority to organize offices as deemed appropriate to carry
801 out the responsibilities of the department. The organization
802 charts of the department shall be presented annually with the
803 budget request of the Governor for review by the Legislature.

804 (7) This section shall stand repealed on July 1, 2002.

805 SECTION 22. Section 43-1-3, Mississippi Code of 1972, is
806 amended as follows:

807 43-1-3. Notwithstanding the authority granted under
808 subsection (4)(d) of Section 43-1-2, the Department of Human
809 Services or the Executive Director of Human Services shall not be
810 authorized to delegate, privatize or otherwise enter into a
811 contract with a private entity for the operation of any office,
812 bureau or division of the department, as defined in Section
813 7-17-11, without specific authority to do so by general act of the
814 Legislature. However, nothing in this section shall be construed
815 to invalidate (i) any contract of the department that is in place
816 and operational before January 1, 1994; or (ii) the continued
817 renewal of any such contract with the same entity upon the
818 expiration of the contract; or (iii) the execution of a contract
819 with another legal entity as a replacement of any such contract
820 that is expiring, provided that the replacement contract is
821 substantially the same as the expiring contract. Notwithstanding
822 any other provision of this section, the department shall be
823 authorized to continue the operation of its child support
824 collection program with a private entity on a pilot program basis
825 in Hinds and Warren Counties in Mississippi, and the department
826 and the private entity shall specifically be prohibited from
827 expanding such pilot program to any counties other than Hinds and
828 Warren Counties without specific authority to do so by amendment



829 to this section by general act of the Legislature. Before
830 December 15, 1994, the department shall provide a detailed report
831 to the Joint Oversight Committee established by Section 43-1-2 and
832 to the Legislature that describes the results of the pilot program
833 for the privatization of the department's child support collection
834 program as of December 1, 1994, including an evaluation of whether
835 there has been substantial compliance with the performance
836 standards specified in the contract for the private entity in
837 conducting the pilot program.

838 This section shall stand repealed on July 1, 2002.

839 SECTION 23. Section 43-1-5, Mississippi Code of 1972, is
840 amended as follows:

841 43-1-5. It shall be the duty of the Department of Human
842 Services to:

843 (1) Establish and maintain programs not inconsistent with
844 the terms of this chapter and the rules, regulations and policies
845 of the State Department of Human Services, and publish the rules
846 and regulations of the department pertaining to such programs.

847 (2) Make such reports in such form and containing such
848 information as the federal government may, from time to time,
849 require, and comply with such provisions as the federal government
850 may, from time to time, find necessary to assure the correctness
851 and verification of such reports.

852 (3) Within ninety (90) days after the end of each fiscal
853 year, and at each regular session of the Legislature, make and
854 publish one (1) report to the Governor and to the Legislature,
855 showing for the period of time covered, in each county and for the
856 state as a whole:

857 (a) The total number of recipients;

858 (b) The total amount paid to them in cash;

859 (c) The maximum and the minimum amount paid to any
860 recipients in any one (1) month;

861 (d) The total number of applications;



862 (e) The number granted;
863 (f) The number denied;
864 (g) The number cancelled;
865 (h) The amount expended for administration of the
866 provisions of this chapter;
867 (i) The amount of money received from the federal
868 government, if any;
869 (j) The amount of money received from recipients of
870 assistance and from their estates and the disposition of same;
871 (k) Such other information and recommendations as the
872 Governor may require or the department shall deem advisable;
873 (l) The number of state-owned automobiles purchased and
874 operated during the year by the department, the number purchased
875 and operated out of funds appropriated by the Legislature, the
876 number purchased and operated out of any other public funds, the
877 miles traveled per automobile, the total miles traveled, the
878 average cost per mile and depreciation estimate on each
879 automobile;
880 (m) The cost per mile and total number of miles
881 traveled by department employees in privately-owned automobiles,
882 for which reimbursement is made out of state funds;
883 (n) Each association, convention or meeting attended by
884 any department employees, the purposes thereof, the names of the
885 employees attending and the total cost to the state of such
886 convention, association or meeting;
887 (o) How the money appropriated to the institutions
888 under the jurisdiction of the department has been expended during
889 the preceding year, beginning and ending with the fiscal year of
890 each institution, exhibiting the salaries paid to officers and
891 employees of the institutions, and each and every item of receipt
892 and expenditure;



893 (p) The activities of each division within the
894 Department of Human Services and recommendations for improvement
895 of the services to be performed by each division;

896 (q) In order of authority, the twenty (20) highest paid
897 employees in the department receiving an annual salary in excess
898 of Forty Thousand Dollars (\$40,000.00), by P.I.N. number, job
899 title, job description and annual salary.

900 Each report shall be balanced and shall begin with the
901 balance at the end of the preceding fiscal year, and if any
902 property belonging to the state or the institution is used for
903 profit such report shall show the expenses incurred in managing
904 the property and the amount received from the same. Such reports
905 shall also show a summary of the gross receipts and gross
906 disbursements for each fiscal year and shall show the money on
907 hand at the beginning of the fiscal period of each division and
908 institution of the department.

909 This section shall stand repealed on July 1, 2002.

910 SECTION 24. Section 43-1-6, Mississippi Code of 1972, is
911 amended as follows:

912 43-1-6. The following programs within the Division of
913 Federal-State Programs, Office of the Governor, shall be
914 transferred to the State Department of Human Services:

- 915 (a) Office of Energy and Community Services;
916 (b) Juvenile Justice Advisory Committee; and
917 (c) Mississippi Council on Aging.

918 All authority to implement those programs shall be vested in
919 the State Department of Human Services.

920 This section shall stand repealed on July 1, 2002.

921 SECTION 25. Section 43-1-51, Mississippi Code of 1972, is
922 amended as follows:

923 43-1-51. There is hereby created within the Mississippi
924 Department of Children's Affairs a single and separate Division of
925 Family and Children's Services. The division shall be responsible



926 for the development, execution and provision of services in the
927 following areas: (a) protective services for children and adults;
928 (b) foster care; (c) adoption services; (d) special services; (e)
929 interstate compact; (f) licensure; and (g) such services as may be
930 designated by the board. Employees working within the division
931 shall be limited to work within the areas of service enumerated
932 herein. Services enumerated under Section 43-15-13 et seq., for
933 the foster care program shall be provided by qualified staff with
934 appropriate case loads.

935 SECTION 26. Section 43-1-53, Mississippi Code of 1972, is
936 amended as follows:

937 43-1-53. (1) The Division of Family and Children's Services
938 shall be formed at each level of the Mississippi Department of
939 Children's Affairs including state, regional and county levels.
940 The Executive Director of the Mississippi Department of Children's
941 Affairs shall appoint and employ a director for the division who
942 shall have a master's degree in a field related to children's
943 services. In addition, he shall have no less than three (3)
944 years' experience in the field of service to children. In lieu of
945 such degree and experience, he shall have a minimum of ten (10)
946 years' actual experience in the field of children's services.

947 (2) The state office of the Division of Family and
948 Children's Services shall develop policy, provide training and
949 oversee the implementation of services. The director shall
950 establish such planning and policy councils as may be necessary to
951 carry out these functions.

952 (3) The regional office of the Division of Family and
953 Children's Services shall consist of a regional services director
954 and a crisis intervention team to be dispatched on a case-by-case
955 basis by the regional services director. From and after July 1,
956 1998, the Mississippi Department of Children's Affairs shall at a
957 minimum employ and assign to the Division of Family and Children's



958 Services two (2) additional regional services directors for
959 supervision of the foster care program.

960 (4) Area offices. Each region shall be divided into three
961 (3) areas, each of which shall have two (2) supervisors and direct
962 service workers deployed at the county level, but not limited in
963 jurisdiction to that county.

964 (5) Counties. The area supervisors shall assign service
965 workers so that every county has an appropriate access point for
966 all services.

967 SECTION 27. Section 43-16-3, Mississippi Code of 1972, is
968 amended as follows:

969 43-16-3. As used in this chapter, the following definitions
970 shall apply unless the context clearly provides otherwise:

971 (a) "Child" means a person who has not reached the age
972 of eighteen (18) years or who has not otherwise been legally
973 emancipated.

974 (b) "Child residential home" means any place, facility
975 or home operated by any person which receives children who are not
976 related to the operators and whose parents or guardians are not
977 residents of the same facility for supervision, care, lodging and
978 maintenance for twenty-four (24) hours a day, with or without
979 transfer of custody. This term shall not include residential
980 homes which are licensed by the Mississippi Department of
981 Children's Affairs under the provisions of Section 43-15-5,
982 Mississippi Code of 1972, and shall not include any public school
983 or any such home operated by a state agency, nor shall it include
984 child care facilities as defined in Section 43-20-5, Mississippi
985 Code of 1972, youth camps as defined in Section 75-74-3,
986 Mississippi Code of 1972, or health care facilities licensed by
987 the State Department of Health.

988 (c) "Department" shall mean the Mississippi Department
989 of Children's Affairs.



990 (d) "Person" shall include an individual, partnership,
991 organization, association or corporation.

992 SECTION 28. Section 43-16-5, Mississippi Code of 1972, is
993 amended as follows:

994 43-16-5. Mississippi Department of Children's Affairs to
995 **discharge provisions of chapter; notification agency.** The
996 Mississippi Department of Children's Affairs shall be the
997 notification agency for all child residential homes, and the
998 department shall discharge as additional duties and
999 responsibilities the provisions of this chapter.

1000 SECTION 29. Section 43-16-7, Mississippi Code of 1972, is
1001 amended as follows:

1002 43-16-7. (1) The operator of any child residential home
1003 shall provide notification in accordance with this chapter within
1004 sixty (60) days of beginning operation.

1005 (2) All child residential homes operating on July 1, 1989,
1006 shall either apply for a license from the Mississippi Department
1007 of Children's Affairs pursuant to Section 43-15-5, Mississippi
1008 Code of 1972, or file notification in accordance with this
1009 chapter, prior to August 1, 1989.

1010 SECTION 30. Section 43-16-9, Mississippi Code of 1972, is
1011 amended as follows:

1012 43-16-9. Such notification shall be filed by the executive
1013 director of the child residential home to the department upon
1014 forms provided by the department and shall contain the following
1015 information:

1016 (a) Name, street address, mailing address and phone
1017 number of the home.

1018 (b) Name of the executive director and all staff
1019 members of the home.

1020 (c) Name and description of the agency or organization
1021 operating the home, which shall include a statement as to whether
1022 or not the agency or organization is incorporated.



1023 (d) Name and address of the sponsoring organization of
1024 the home, if applicable.

1025 (e) The names of all children living at the home which
1026 shall include the following personal data:

1027 (i) Full name and a copy of the child's birth
1028 certificate;

1029 (ii) Name and address of parent(s) or guardian(s);
1030 and

1031 (iii) Name and address of other nearest relative.

1032 (f) School(s) attended by the children served by such
1033 home.

1034 (g) Fire department or State Fire Marshal inspection
1035 certificate.

1036 (h) Local health department inspection certificate or
1037 permit from the Mississippi Department of Environmental Quality
1038 for private water supplies, individual on-site wastewater disposal
1039 systems and other environmental services, as applicable.

1040 (i) Proof, to be shown by the sworn affidavit of the
1041 executive director of the home, that the home has performed (i)
1042 criminal record background checks, and (ii) felony conviction
1043 record information checks on all employees, prospective employees,
1044 volunteers and prospective volunteers at such home, and that such
1045 records are maintained to the extent permitted by law, for every
1046 such employee, prospective employee, volunteer and prospective
1047 volunteer.

1048 (j) Proof, to be shown by the sworn affidavit of the
1049 executive director of the home, that medical records are
1050 maintained for each child.

1051 SECTION 31. Section 43-16-21, Mississippi Code of 1972, is
1052 amended as follows:

1053 43-16-21. Notwithstanding the existence of any other remedy,
1054 the department may, in the manner provided by law, in termtime or
1055 in vacation, upon the advice of the Attorney General who shall



1056 represent the department in the proceedings, maintain an action in
1057 the name of the state for an injunction or restraining order to
1058 cease the operation of the home, and to provide for the
1059 appropriate removal of the children from the home and placement in
1060 the custody of the parents or legal guardians, the Mississippi
1061 Department of Children's Affairs, or any other appropriate entity
1062 in the discretion of the court. Such action shall be brought in
1063 the chancery court or the youth court, as appropriate, of the
1064 county in which such child residential home is located, and shall
1065 only be initiated for the following violations:

1066 (a) Providing supervision, care, lodging or maintenance
1067 for any children in such home without filing notification in
1068 accordance with this chapter.

1069 (b) Failure to satisfactorily comply with local health
1070 department or State Fire Marshal inspections made pursuant to
1071 Section 43-16-15, regarding the health, nutrition, cleanliness,
1072 safety, sanitation, written records and discipline policy of such
1073 home.

1074 (c) Suspected abuse and/or neglect of the children
1075 served by such home, as defined in Section 43-21-105, Mississippi
1076 Code of 1972.

1077 SECTION 32. Section 43-16-25, Mississippi Code of 1972, is
1078 amended as follows:

1079 43-16-25. A license issued under the provisions of this
1080 chapter shall be renewed annually upon payment of a renewal fee
1081 not to exceed One Hundred Dollars (\$100.00) and upon filing by the
1082 licensee of an annual report upon such uniform dates and upon
1083 forms provided by the licensing agency, accompanied by a current
1084 certificate of inspection and approval by the fire department and
1085 the county health department specified in Section 43-16-11, if
1086 applicable.

1087 No governmental entity or agency shall be required to pay the
1088 fee or fees set forth in this section.



1089 SECTION 33. Section 43-20-5, Mississippi Code of 1972, is
1090 amended as follows:

1091 43-20-5. When used in this chapter, the following words
1092 shall have the following meanings:

1093 (a) "Child care facility" means a place which provides
1094 shelter and personal care for six (6) or more children who are not
1095 related within the third degree computed according to the civil
1096 law to the operator and who are under thirteen (13) years of age,
1097 for any part of the 24-hour day, whether such place be organized
1098 or operated for profit or not. The term "child care facility"
1099 includes day nurseries, day care centers and any other facility
1100 that falls within the scope of the definitions set forth above,
1101 regardless of auspices. Child care facilities which operate for
1102 no more than two (2) days a week, whose primary purpose is to
1103 provide respite for the caregiver or temporary care during other
1104 scheduled or related activities and organized programs which
1105 operate for three (3) or less weeks per year such as, but not
1106 limited to, vacation bible schools and scout day camps, are
1107 exempt. Also exempted from this chapter is any child residential
1108 home as defined in, and in compliance with the provisions of,
1109 Section 43-16-3(b) et seq., Mississippi Code of 1972. Also
1110 exempted from this chapter is any elementary, including
1111 kindergarten, and/or secondary school system, accredited by the
1112 Mississippi State Department of Education, the Southern
1113 Association of Colleges and Schools or the Mississippi Private
1114 School Education Association and any Headstart program operating
1115 in conjunction with an elementary school system, whether it be
1116 public, private or parochial, whose primary purpose is a
1117 structured school or school readiness program. Also exempted is
1118 any membership organization affiliated with a national
1119 organization which charges only a nominal annual membership fee,
1120 does not receive monthly, weekly or daily payments for services,
1121 and is certified by its national association as being in



1122 compliance with the association's minimum standards and
1123 procedures, including, but not limited to, the Boys and Girls Club
1124 of America, and the YMCA. All other preschool child care programs
1125 and/or extended day school programs must meet requirements set
1126 forth in this chapter.

1127 (b) "Health" means that condition of being sound in
1128 mind and body and encompasses an individual's physical, mental and
1129 emotional welfare.

1130 (c) "Safety" means that condition of being protected
1131 from hurt, injury or loss.

1132 (d) "Person" means any person, firm, partnership,
1133 corporation or association.

1134 (e) "Operator" means any person, acting individually or
1135 jointly with another person or persons, who shall establish, own,
1136 operate, conduct or maintain a child care facility.

1137 (f) "Personal care" means assistance rendered by
1138 personnel of the child care facility in performing one or more of
1139 the activities of daily living, which includes, but is not limited
1140 to, the feeding, personal grooming, supervising and dressing of
1141 children placed in the child care facility.

1142 (g) "Licensing agency" means the Mississippi Department
1143 of Children's Affairs.

1144 SECTION 34. Section 43-20-7, Mississippi Code of 1972, is
1145 amended as follows:

1146 43-20-7. (1) There is hereby created an advisory council
1147 which shall be appointed by the Executive Director of the
1148 Mississippi Department of Children's Affairs, who shall serve at
1149 the pleasure of the Mississippi Department of Children's Affairs.

1150 (2) The advisory council shall consist of eleven (11)
1151 persons, five (5) of whom shall be licensed child care providers,
1152 and six (6) of whom shall represent child care professional
1153 organizations, child advocacy groups, and/or state agencies which
1154 provide child care funding or services. No more than four (4)



1155 members shall be appointed from any one (1) state Supreme Court
1156 district.

1157 (3) It shall be the duty of the advisory council to assist
1158 and advise the licensing agency in the development of regulations
1159 governing the licensure and regulation of child care facilities.

1160 (4) Members of the advisory council shall be reimbursed for
1161 mileage and expenses as is authorized by law.

1162 SECTION 35. Section 43-20-11, Mississippi Code of 1972, is
1163 amended as follows:

1164 43-20-11. An application for a license under this chapter
1165 shall be made to the licensing agency upon forms provided by it,
1166 and shall contain such information as the licensing agency may
1167 reasonably require. Each application for a license shall be
1168 accompanied by a license fee not to exceed Two Hundred Dollars
1169 (\$200.00), which shall be paid to the licensing agency. Licenses
1170 shall be granted to applicants upon the filing of properly
1171 completed application forms, accompanied by payment of the said
1172 license fee, and a certificate of inspection and approval by the
1173 fire department of the municipality or other political subdivision
1174 in which the facility is located, and by a certificate of
1175 inspection and approval by the health department of the county or
1176 permit from the Mississippi Department of Environmental Quality
1177 for private water supplies, individual on-site wastewater disposal
1178 systems and other environmental services, as applicable, in which
1179 the facility is located, and approval by the licensing agency;
1180 except that if no fire department exists where the facility is
1181 located, the State Fire Marshal shall certify as to the inspection
1182 for safety from fire hazards. Said fire, county health department
1183 and licensing agency inspections and approvals shall be based upon
1184 regulations promulgated by the licensing agency as approved by the
1185 State Board of Health.

1186 Each license shall be issued only for the premises and person
1187 or persons named in the application and shall not be transferable



1188 or assignable except with the written approval of the licensing
1189 agency. Licenses shall be posted in a conspicuous place on the
1190 licensed premises.

1191 No governmental entity or agency shall be required to pay the
1192 fee or fees set forth in this section.

1193 SECTION 36. Section 43-20-12, Mississippi Code of 1972, is
1194 amended as follows:

1195 43-20-12. All fees collected by the licensing agency under
1196 this chapter and any penalties collected by the licensing agency
1197 for violations of this chapter shall be deposited in a special
1198 fund hereby created in the State Treasury and shall be used for
1199 the implementation and administration of this chapter when
1200 appropriated by the Legislature for such purpose.

1201 SECTION 37. Section 43-20-13, Mississippi Code of 1972, is
1202 amended as follows:

1203 43-20-13. A license issued under the provisions of this
1204 chapter shall be renewed upon payment of a renewal fee not to
1205 exceed Two Hundred Dollars (\$200.00) per year and upon filing by
1206 the licensee of a report upon such uniform dates and upon forms
1207 provided by the licensing agency, accompanied by a current
1208 certificate of inspection and approval by the fire department and
1209 the county health department specified in Section 43-20-11, if
1210 applicable.

1211 No governmental entity or agency shall be required to pay the
1212 fee or fees set forth in this section.

1213 SECTION 38. Section 43-20-14, Mississippi Code of 1972, is
1214 amended as follows:

1215 43-20-14. (1) The licensing agency may deny a license or
1216 refuse to renew a license for any of the reasons set forth in
1217 subsection (3) of this section.

1218 (2) Before the licensing agency may deny or refuse to renew,
1219 the applicant or person named on the license shall be entitled to



1220 a hearing in order to show cause why the license should not be
1221 denied or should be renewed.

1222 (3) The licensing agency may suspend, revoke or restrict the
1223 license of any child care facility upon one or more of the
1224 following grounds:

1225 (a) Fraud, misrepresentation or concealment of material
1226 facts;

1227 (b) Conviction of an operator for any crime if the
1228 licensing agency finds that the act or acts for which the operator
1229 was convicted could have a detrimental effect on children cared
1230 for by any child care facility;

1231 (c) Violation of any of the provisions of this act or
1232 of the regulations governing the licensing and regulation of child
1233 care facilities promulgated by the licensing agency;

1234 (d) Any conduct, or failure to act, which is found or
1235 determined by the licensing agency to threaten the health or
1236 safety of children at the facility;

1237 (e) Failure by the child care facility to comply with
1238 the provisions of Section 43-20-8(3), Mississippi Code of 1972,
1239 regarding background checks of caregivers or with Section
1240 45-31-12, Mississippi Code of 1972, concerning employment of
1241 persons who have been convicted of certain offenses or have had
1242 certain actions taken against them in court; and

1243 (f) Information received by the licensing agency as a
1244 result of the felony conviction records check, the sex offense
1245 criminal records check and the child abuse registry check on any
1246 and all operators pursuant to Section 43-20-8, Mississippi Code of
1247 1972.

1248 (4) Before the licensing agency may suspend, revoke or
1249 restrict the license of any facility, any licensee affected by
1250 such decision of the licensing agency shall be entitled to a
1251 hearing in which the licensee may show cause why the license
1252 should not be suspended, revoked or restricted.



1253 (5) Any licensee who disagrees with or is aggrieved by a
1254 decision of the licensing agency in regard to the denial, refusal
1255 to renew, suspension, revocation or restriction of such license,
1256 may appeal to the chancery court of the county in which such
1257 facility is located. Such appeal shall be filed no later than
1258 thirty (30) days after the licensee receives written notice of the
1259 final administrative action by the licensing agency as to the
1260 suspension, revocation or restriction of the license of such
1261 licensee.

1262 SECTION 39. Section 43-20-53, Mississippi Code of 1972, is
1263 amended as follows:

1264 43-20-53. As used in Sections 43-20-51 through 43-20-65:

1265 (a) "Family child care home" means any residential
1266 facility occupied by the operator where five (5) or fewer children
1267 who are not related within the third degree computed according to
1268 the civil law to the provider and who are under the age of
1269 thirteen (13) years of age are provided care for any part of the
1270 twenty-four-hour day.

1271 (b) "Registering agency" means the Mississippi
1272 Department of Children's Affairs.

1273 (c) "Provider" means the person responsible for the
1274 care of children.

1275 SECTION 40. Section 43-20-55, Mississippi Code of 1972, is
1276 amended as follows:

1277 43-20-55. The advisory council appointed by the Executive
1278 Director of the Mississippi Department of Children's Affairs under
1279 the provisions of Section 43-20-7, Mississippi Code of 1972, shall
1280 assist and advise in the development of regulations and standards
1281 governing the registration and regulation of family child care
1282 homes. Members of the council who are not public employees shall
1283 receive per diem compensation as provided under Section 25-3-69,
1284 Mississippi Code of 1972, and shall be reimbursed for mileage and
1285 expenses.



1286 SECTION 41. Section 43-20-57, Mississippi Code of 1972, is
1287 amended as follows:

1288 43-20-57. (1) No person shall knowingly maintain a family
1289 child care home if, in such family child care home, there resides,
1290 works or regularly volunteers any person who:

1291 (a) (i) Has a felony conviction for a crime against
1292 persons;

1293 (ii) Has a felony conviction under the Uniform
1294 Controlled Substances Act;

1295 (iii) Has a conviction for a crime of child abuse
1296 or neglect;

1297 (iv) Has a conviction for any sex offense as
1298 defined in Section 45-33-23, Mississippi Code of 1972; or

1299 (v) Any other offense committed in another
1300 jurisdiction or any federal offense which, if committed in this
1301 state, would be deemed to be such a crime without regard to its
1302 designation elsewhere;

1303 (b) Has been adjudicated a juvenile offender because of
1304 having committed an act which if done by an adult would constitute
1305 the commission of a felony and which is a crime against persons;

1306 (c) Has had a child declared in a court order in this
1307 or any other state to be deprived or a child in need of care based
1308 on an allegation of physical, mental or emotional abuse or neglect
1309 or sexual abuse;

1310 (d) Has had parental rights terminated pursuant to
1311 Section 93-15-101 et seq., Mississippi Code of 1972; or

1312 (e) Has an infectious or contagious disease, as defined
1313 by the State Department of Health pursuant to Section 41-23-1,
1314 Mississippi Code of 1972.

1315 (2) No person shall maintain a family child care home if
1316 such person has been found to be a disabled person in need of a
1317 guardian or conservator, or both.



1318 (3) Any person who resides in the home and who has been
1319 found to be a disabled person in need of a guardian or
1320 conservator, or both, shall be included in the total number of
1321 children allowed in care.

1322 (4) In accordance with the provision of this subsection (4),
1323 the registering agency shall have access to any court orders or
1324 adjudications of any court of record, any records of such orders
1325 or adjudications, criminal history record information in the
1326 possession of the Mississippi Department of Public Safety or court
1327 of this state concerning persons working, regularly volunteering
1328 or residing in a family child care home. The department shall
1329 have access to these records for the purpose of determining
1330 whether or not the home meets the requirements of Sections
1331 43-20-51 through 43-20-65.

1332 (5) No family child care home or its employees shall be
1333 liable for civil damages to any person refused employment or
1334 discharged from employment by reason of such home's compliance
1335 with the provisions of this section if such home acts in good
1336 faith to comply with this section.

1337 SECTION 42. Section 43-20-59, Mississippi Code of 1972, is
1338 amended as follows:

1339 43-20-59. (1) Any person maintaining a family child care
1340 home may register such home with the registering agency on forms
1341 provided by it.

1342 (2) A certificate of registration shall be issued to the
1343 applicant for registration who (a) attests to the safety of the
1344 home for the care of children, (b) submits a fee of Five Dollars
1345 (\$5.00) payable to the registering agency, and (c) certifies that
1346 no person described in paragraph (a), (b), (c), (d) or (e) of
1347 Section 43-20-57(1) resides, works or volunteers in the family
1348 child care home.

1349 (3) The registering agency shall furnish each applicant for
1350 registration a family child care home safety evaluation form to be



1351 completed by the applicant and submitted with the registration
1352 application.

1353 (4) The certificate of registration shall be renewed
1354 annually in the same manner provided for in this section.

1355 (5) A certificate of registration shall be in force for one
1356 (1) year after the date of issuance unless revoked pursuant to
1357 Sections 43-20-51 through 43-20-65. The certificate shall specify
1358 that the registrant may operate a family child care home for five
1359 (5) or fewer children. This section shall not be construed to
1360 limit the right of the registering agency to enter a registered
1361 family child care home for the purpose of assessing compliance
1362 with Sections 43-20-51 through 43-20-65 after receiving a
1363 complaint against the registrant of such home or in conducting a
1364 periodic routine inspection.

1365 (6) The registering agency shall adopt rules and regulations
1366 to implement the registration provisions.

1367 SECTION 43. Section 43-20-61, Mississippi Code of 1972, is
1368 amended as follows:

1369 43-20-61. The registering agency may deny, revoke or refuse
1370 to renew a certificate of registration upon determination that the
1371 registrant falsified information on the application or willfully
1372 and substantially has violated Sections 43-20-51 through 43-20-65,
1373 inclusive and amendments thereto. The registering agency shall
1374 not revoke or refuse to renew any certificate without giving
1375 notice and conducting a hearing.

1376 SECTION 44. Section 43-20-63, Mississippi Code of 1972, is
1377 amended as follows:

1378 43-20-63. The registering agency may suspend any certificate
1379 of registration issued under the provision of Sections 43-20-51
1380 through 43-20-65 upon any of the following grounds and in the
1381 manner provided in Sections 43-20-51 through 43-20-65:



1382 (a) Violation by the registrant of any provision of
1383 Sections 43-20-51 through 43-20-65 or of the rules and regulations
1384 promulgated under Sections 43-20-51 through 43-20-65;

1385 (b) Aiding, abetting or permitting the violation of any
1386 provision of Sections 43-20-51 through 43-20-65 or of the rules
1387 and regulations promulgated under Sections 43-20-51 through
1388 43-20-65;

1389 (c) Conduct in the operation or maintenance, or both
1390 the operation and maintenance of a family child care home which is
1391 inimical to health, morals, welfare or safety of either an
1392 individual in or receiving services from the home or the people of
1393 this state; and

1394 (d) The conviction of a registrant at any time during
1395 registration of any crime under state or federal law.

1396 The registering agency may suspend any certificate of
1397 registration issued under the provisions of Sections 43-20-51
1398 through 43-20-65 prior to any hearing when, in the opinion of the
1399 registering agency, the action is necessary to protect any child
1400 in the family child care home from physical or mental abuse,
1401 abandonment or any other substantial threat to health or safety.

1402 SECTION 45. Section 43-20-65, Mississippi Code of 1972, is
1403 amended as follows:

1404 43-20-65. Information received by the registering agency
1405 through filed reports, inspections or otherwise authorized under
1406 Sections 43-20-51 through 43-20-65 shall not be disclosed publicly
1407 in such manner as to identify individuals. In any hearings
1408 conducted under regulation provisions of Sections 43-20-51 through
1409 43-20-65, the hearing officer may close the hearing to the public
1410 to prevent public disclosure of matters relating to individuals
1411 restricted by other law.

1412 SECTION 46. Section 75-74-3, Mississippi Code of 1972, is
1413 amended as follows:



1414 75-74-3. In this chapter, unless the context requires a
1415 different definition:

1416 (a) "Licensing agency" shall mean the Mississippi
1417 Department of Children's Affairs.

1418 (b) "Camper" shall mean any child six (6) to eighteen
1419 (18) years of age who is attending a youth camp.

1420 (c) "Executive director" shall mean the Executive
1421 Director, Mississippi Department of Children's Affairs.

1422 (d) "Person" shall mean any individual, partnership,
1423 corporation, association or organization.

1424 (e) "Youth camp" shall mean any camp operating on a
1425 permanent campsite for four (4) or more consecutive periods of
1426 twenty-four (24) hours, and accommodating twenty (20) or more
1427 children six (6) to eighteen (18) years of age; provided, however,
1428 athletic camps and hunting and fishing camps shall not be included
1429 in this definition.

1430 (f) "Permanent campsite" shall mean a campground
1431 containing within the premises thereof permanent structures and
1432 installed facilities which are primarily used for camping purposes
1433 by a youth camp operator; provided, however, facilities owned by
1434 the State of Mississippi, any political subdivision thereof or any
1435 public or private university, college or junior college shall not
1436 be included in this definition.

1437 (g) "Youth camp operator" shall mean any person who
1438 owns, operates, controls or supervises, whether or not for profit,
1439 a youth camp.

1440 SECTION 47. Section 75-74-7, Mississippi Code of 1972, is
1441 amended as follows:

1442 75-74-7. The licensing agency is the principal authority in
1443 the state on matters relating to the condition of safety and
1444 health at youth camps in Mississippi. The licensing agency has
1445 the powers and duties set out in this chapter and all other powers
1446 necessary and convenient to carry out its responsibilities.



1447 SECTION 48. Section 75-74-8, Mississippi Code of 1972, is
1448 amended as follows:

1449 75-74-8. (1) Any nonresident physician who is not licensed
1450 to practice medicine in this state and any resident physician who
1451 is retired from the active practice of medicine in this state may
1452 be issued a temporary license by the State Board of Medical
1453 Licensure to practice medicine at a youth camp licensed by the
1454 licensing agency under this chapter while serving as a volunteer
1455 at such a camp, provided that any such nonresident physician shall
1456 hold a valid license to practice medicine in another state and the
1457 medical licensing authority of that state shall certify to the
1458 Board of Medical Licensure in writing that such license is in good
1459 standing, and that any such retired resident physician shall be in
1460 good standing with the Board of Medical Licensure.

1461 (2) Any nonresident registered nurse who is not licensed to
1462 practice nursing in this state and any resident registered nurse
1463 who is retired from the active practice of nursing in this state
1464 may be issued a temporary license by the Mississippi Board of
1465 Nursing to practice nursing at a youth camp licensed under this
1466 chapter * * * while serving as a volunteer at such a camp,
1467 provided that any such nonresident nurse shall hold a valid
1468 license to practice nursing in another state and the nurse
1469 licensing authority of that state shall certify to the Board of
1470 Nursing in writing that such license is in good standing, and that
1471 any such retired resident nurse shall be in good standing with the
1472 Board of Nursing. The Board of Nursing shall be authorized to
1473 require any resident registered nurse who has been retired from
1474 the active practice of nursing in this state for five (5) or more
1475 consecutive years to complete a nursing reorientation program
1476 prescribed by the board before the board will issue a temporary
1477 license to practice nursing at a youth camp to such nurse.

1478 (3) A temporary license issued under subsection (1) or (2)
1479 of this section shall authorize the physician or registered nurse



1480 to whom the license is issued to administer treatment and care
1481 within the scope of his training to campers and employees of the
1482 youth camp, but shall not authorize the physician or registered
1483 nurse to otherwise practice in the state. Such temporary license
1484 shall be valid only during the time that the physician or
1485 registered nurse is in residence at the camp, but in no event
1486 shall such license be valid for more than ninety (90) days. A new
1487 temporary license shall be obtained by a physician or registered
1488 nurse each time that he serves as a volunteer at a youth camp.
1489 The fee for each such license shall be Twenty-five Dollars
1490 (\$25.00), which shall be payable to the board from which the
1491 license is obtained.

1492 SECTION 49. Section 75-74-9, Mississippi Code of 1972, is
1493 amended as follows:

1494 75-74-9. (1) The licensing agency shall have the authority
1495 and the duty to make and promulgate rules and regulations
1496 consistent with the policy and purpose of this chapter, and to
1497 amend any rule or regulation it makes. In developing such rules
1498 and regulations, the board shall consult with appropriate public
1499 and private officials and organizations and parents and camp
1500 operators. It shall be the duty of the licensing agency to advise
1501 all existing youth camps in this state of this chapter and any
1502 rules and regulations promulgated under this chapter.

1503 (2) There is created within the licensing agency the
1504 advisory council on youth camp safety to advise and consult on
1505 policy matters relating to youth camp safety. The council
1506 consists of the Executive Director of the Mississippi Department
1507 of Children's Affairs or his representative and a minimum of eight
1508 (8) members appointed by the executive director, including the
1509 following groups: one (1) member representative each from a
1510 private nonsectarian camp, a church-related or sponsored camp, the
1511 Girl Scouts of America, the Boy Scouts of America, the Mississippi
1512 Camping Association, camps for the handicapped and civic



1513 organization camps; and a consumer, a parent or an older youth
1514 with prior camping experience. A member is entitled to hold
1515 office for two (2) years or until his successor is appointed and
1516 qualifies. The executive director or his representative shall
1517 fill vacancies for unexpired terms. Council members serve without
1518 compensation, but are entitled to be reimbursed for actual
1519 expenses incurred in the performance of their duties. The
1520 executive director may appoint special advisory or technical
1521 experts and consultants as are necessary to assist the council in
1522 carrying out its functions.

1523 (3) No rule or regulation promulgated or amended by the
1524 board under this chapter shall be effective until a public hearing
1525 is held thereon. Notice of a public hearing, including the time,
1526 date and location of the hearing and the substance of the proposed
1527 rule, regulation or amendment, shall be given by the board to each
1528 licensee of a youth camp and the general public not less than ten
1529 (10) days nor more than thirty (30) days before the hearing. Any
1530 interested person may appear at the hearing to present evidence or
1531 testimony concerning the proposed rule, regulation or amendment.

1532 SECTION 50. Section 75-74-11, Mississippi Code of 1972, is
1533 amended as follows:

1534 75-74-11. No person or organization may operate or sponsor a
1535 youth camp in Mississippi without first holding a valid license
1536 under this chapter and without complying with the provisions of
1537 this chapter and with any rule, regulation or order of the
1538 licensing agency.

1539 Each application for a license to operate or sponsor a youth
1540 camp shall be accompanied by a license fee of One Hundred Dollars
1541 (\$100.00), which shall be paid to the board. A license issued
1542 under this chapter may be renewed upon payment of a renewal fee of
1543 One Hundred Dollars (\$100.00), which shall be paid to the board.

1544 No governmental entity or agency shall be required to pay the
1545 fee or fees set forth in this section.



1546 SECTION 51. Section 75-74-17, Mississippi Code of 1972, is
1547 amended as follows:

1548 75-74-17. (1) No person may operate a youth camp in
1549 Mississippi without complying with all provisions of this chapter,
1550 and any rules, regulations and orders of the licensing agency.

1551 (2) Any person operating a youth camp in Mississippi without
1552 a license shall be guilty of a misdemeanor. Each day shall
1553 constitute a separate offense.

1554 SECTION 52. Section 75-74-19, Mississippi Code of 1972, is
1555 amended as follows:

1556 75-74-19. All fees collected by the licensing agency under
1557 this chapter and any penalties collected by the board for
1558 violations of this chapter shall be deposited in a special fund
1559 hereby created in the State Treasury and shall be used for the
1560 implementation and administration of this chapter when
1561 appropriated by the Legislature for such purpose.

1562 SECTION 53. Section 43-15-3, Mississippi Code of 1972, is
1563 amended as follows:

1564 43-15-3. The Mississippi Department of Children's Affairs is
1565 hereby authorized, empowered and directed to cooperate fully with
1566 the United States Children's Bureau and Secretary of Labor in
1567 establishing, extending and strengthening "child welfare services"
1568 for the protection and care of homeless, dependent and neglected
1569 children and children in danger of becoming delinquent. Said
1570 Mississippi Department of Children's Affairs is further
1571 authorized, empowered and directed to cooperate with the United
1572 States Children's Bureau and Secretary of Labor in developing
1573 plans for said "child welfare services" and extending any other
1574 cooperation necessary under Section 521 of Public Law No. 271-74th
1575 Congress of the United States.

1576 In furtherance of the "child welfare services" referred to in
1577 the first paragraph hereof the State Treasurer is hereby
1578 authorized and directed to receive on behalf of the state, and to



1579 execute all instruments incidental thereto, federal or other funds
1580 to be used for "child welfare services," and to place such funds
1581 in a special account to the credit of the "child welfare
1582 services," which said funds shall be expended by the Mississippi
1583 Department of Children's Affairs for the purposes and under the
1584 provisions of this chapter and Section 521 of Public Law No.
1585 271-74th Congress of the United States. It shall be paid out by
1586 the State Treasurer as funds appropriated to carry out the
1587 provisions of said laws.

1588 The Mississippi Department of Children's Affairs shall issue
1589 all checks on said "child welfare services" fund to persons
1590 entitled to payment from said fund. All such sums shall be drawn
1591 upon the "child welfare services" fund upon requisition of the
1592 Executive Director of the Mississippi Department of Children's
1593 Affairs.

1594 The money in the "child welfare services" fund shall be
1595 expended in accordance with the rules and regulations of the
1596 United States Children's Bureau and Secretary of Labor and in
1597 accordance with the plan developed by the Mississippi Department
1598 of Children's Affairs and the United States Children's Bureau
1599 under Section 521 of Public Law No. 271-74th Congress of the
1600 United States, and shall not be used for any other purpose.

1601 If a claim for foster care and/or adoption assistance under
1602 Title IV-E of the federal Social Security Act is not acted upon
1603 within a reasonable time after the filing of the claim, or is
1604 denied in whole or in part, the claimant may appeal to the
1605 Director of the Division of Family and Children's Services in the
1606 manner and form prescribed by the Mississippi Department of
1607 Children's Affairs. The Director of the Division of Family and
1608 Children's Services shall, upon receipt of such an appeal, give
1609 the claimant reasonable notice and opportunity for a fair hearing.
1610 The Director of the Division of Family and Children's Services may
1611 also, upon his or her own motion, review any decision regarding a



1612 claim, and may consider any claim upon which a decision has not
1613 been made within a reasonable time. All decisions of the Director
1614 of Family and Children's Services shall be final and binding.

1615 SECTION 54. Section 43-15-5, Mississippi Code of 1972, is
1616 amended as follows:

1617 43-15-5. (1) The Mississippi Department of Children's
1618 Affairs shall have authority and it shall be its duty to
1619 administer or supervise all public child welfare services,
1620 including those services, responsibilities, duties and powers with
1621 which the county departments of children's affairs are charged and
1622 empowered in this chapter; administer and supervise the licensing
1623 and inspection of all private child placing agencies; provide for
1624 the care of dependent and neglected children in foster family
1625 homes or in institutions, supervise the care of such children and
1626 those of illegitimate birth; supervise the importation of
1627 children; and supervise the operation of all state institutions
1628 for children. The Mississippi Department of Children's Affairs
1629 shall be authorized to purchase hospital and medical insurance
1630 coverage for those children placed in foster care by the state or
1631 county departments of children's affairs who are not otherwise
1632 eligible for medical assistance under the Mississippi Medicaid
1633 Law. The Mississippi Department of Children's Affairs shall be
1634 further authorized to purchase burial or life insurance not
1635 exceeding One Thousand Five Hundred Dollars (\$1,500.00) for those
1636 children placed in foster care by the state or county departments
1637 of children's affairs. All insurance coverage authorized herein
1638 may be purchased with any funds other than state funds available
1639 to the Mississippi Department of Children's Affairs, including
1640 those funds available to the child which are administered by the
1641 department.

1642 (2) Any person, partnership, group, corporation,
1643 organization or association desiring to operate a child
1644 residential home, as defined in Section 43-16-3, may make



1645 application for a license for such a facility to the Mississippi
1646 Department of Children's Affairs on the application forms
1647 furnished for this purpose by the department. If an applicant
1648 meets the published rules and regulations of the department
1649 regarding minimum standards for a child residential home, then the
1650 applicant shall be granted a license by the department.

1651 SECTION 55. Section 43-15-6, Mississippi Code of 1972, is
1652 amended as follows:

1653 43-15-6. (1) Any person, institution, facility, clinic,
1654 organization or other entity that provides services to children in
1655 a residential setting where care, lodging, maintenance, and
1656 counseling or therapy for alcohol or controlled substance abuse or
1657 for any other emotional disorder or mental illness is provided for
1658 children, whether for compensation or not, that holds himself,
1659 herself, or itself out to the public as providing such services,
1660 and that is entrusted with the care of the children to whom he,
1661 she, or it provides services, because of the nature of the
1662 services and the setting in which the services are provided shall
1663 be subject to the provisions of this section.

1664 (2) Each entity to which this section applies shall
1665 complete, through the appropriate governmental authority, a
1666 national criminal history record information check and a child
1667 abuse registry check for each owner, operator, employee,
1668 prospective employee, volunteer or prospective volunteer of the
1669 entity and/or any other that has or may have unsupervised access
1670 to a child served by the entity. In order to determine the
1671 applicant's suitability for employment, the entity shall ensure
1672 that the applicant be fingerprinted by local law enforcement, and
1673 the results forwarded to the Department of Public Safety. If no
1674 disqualifying record is identified at the state level, the
1675 fingerprints shall be forwarded by the Department of Public Safety
1676 to the FBI for a national criminal history record check.



1677 (3) An owner, operator, employee, prospective employee,
1678 volunteer or prospective volunteer of the entity and/or any other
1679 that has or may have unsupervised access to a child who has a
1680 criminal history of conviction or pending indictment of a crime,
1681 whether a misdemeanor or a felony, that bears upon an individual's
1682 fitness to have responsibility for the safety and well-being of
1683 children as set forth in this chapter may not provide child care
1684 or operate, or be licensed as, a residential child care program,
1685 foster parent, or foster home.

1686 (4) All fees incurred in compliance with this section shall
1687 be borne by the individual or entity to which subsection (1)
1688 applies.

1689 (5) The Mississippi Department of Children's Affairs shall
1690 have the authority to set fees, to exclude a particular crime or
1691 crimes or a substantiated finding of child abuse and/or neglect as
1692 disqualifying individuals or entities from providing foster care
1693 or residential child care, and adopt such other rules and
1694 regulations as may be required to carry out the provisions of this
1695 section.

1696 (6) Any entity that violates the provisions of this section
1697 by failure to complete sex offense criminal history record
1698 information and felony conviction record information checks, as
1699 required under subsection (3) of this section, shall be subject to
1700 a penalty of up to Ten Thousand Dollars (\$10,000.00) for each such
1701 violation and may be enjoined from further operation until it
1702 complies with this section in actions maintained by the Attorney
1703 General.

1704 (7) The Mississippi Department of Children's Affairs and/or
1705 its officers, employees, attorneys, agents and representatives
1706 shall not be held civilly liable for any findings, recommendations
1707 or actions taken pursuant to this section.

1708 SECTION 56. Section 43-15-7, Mississippi Code of 1972, is
1709 amended as follows:



1710 43-15-7. The Mississippi Department of Children's Affairs is
1711 hereby authorized to provide protective services for children as
1712 will conserve home life; assume responsibility for the care and
1713 support of dependent children needing public care away from their
1714 homes; place children found by the department to be dependent or
1715 without proper care in suitable institutions or private homes, and
1716 cooperate with public and private institutions and agencies in
1717 placing such children in suitable institutions or private homes;
1718 accept custody or guardianship, through one of its designated
1719 employees, of any child, when appointed as custodian or guardian
1720 in the manner provided by law.

1721 The board of supervisors in each county is hereby empowered,
1722 in its discretion, to set aside and appropriate out of the tax
1723 levied and collected to support the poor of the county or out of
1724 the county general fund necessary monies to be administered by the
1725 county department of children's affairs to carry out the
1726 provisions of this section.

1727 SECTION 57. Section 43-15-11, Mississippi Code of 1972, is
1728 amended as follows:

1729 43-15-11. (1) The board of supervisors of any county and/or
1730 the mayor and board of commissioners of any city and/or the mayor
1731 and board of aldermen of any municipality in this state are hereby
1732 authorized and empowered, in their discretion, to expend out of
1733 any monies in their respective treasuries, to be drawn by warrant
1734 thereon, a sum or sums of money not exceeding a total of
1735 Twenty-five Dollars (\$25.00) annually per Million Dollars
1736 (\$1,000,000.00) of the assessed valuation of the real and personal
1737 property thereof for the purpose of providing for the care,
1738 support and maintenance of homeless or destitute children of any
1739 county or municipality of this state who are supported, cared for,
1740 maintained and placed for adoption by any children's home society
1741 which operates over and serves the entire State of Mississippi,



1742 and which is approved and licensed by the Mississippi Department
1743 of Children's Affairs.

1744 (2) The authority granted in this section is supplemental of
1745 and in addition to all existing authority for the expenditure of
1746 funds by such boards of supervisors and municipal governing
1747 authorities.

1748 SECTION 58. Section 43-15-13, Mississippi Code of 1972, is
1749 amended as follows:

1750 43-15-13. (1) For purposes of this section, "children"
1751 means persons found within the state who are under the age of
1752 twenty-one (21) years, and who were placed in the custody of the
1753 Mississippi Department of Children's Affairs by the youth court of
1754 the appropriate county.

1755 (2) The Mississippi Department of Children's Affairs shall
1756 establish a foster care placement program for children whose
1757 custody lies with the department, with the following objectives:

1758 (a) Protecting and promoting the health, safety and
1759 welfare of children;

1760 (b) Preventing the unnecessary separation of children
1761 from their families by identifying family problems, assisting
1762 families in resolving their problems and preventing the breakup of
1763 the family where the prevention of child removal is desirable and
1764 possible when the child can be cared for at home without
1765 endangering the child's health and safety;

1766 (c) Remediating or assisting in the solution of problems
1767 which may result in the neglect, abuse, exploitation or
1768 delinquency of children;

1769 (d) Restoring to their families children who have been
1770 removed, by the provision of services to the child and the
1771 families when the child can be cared for at home without
1772 endangering the child's health and safety;

1773 (e) Placing children in suitable adoptive homes
1774 approved by a licensed adoption agency or licensed social worker,



1775 in cases where restoration to the biological family is not safe,
1776 possible or appropriate;

1777 (f) Assuring safe and adequate care of children away
1778 from their homes, in cases where the child cannot be returned home
1779 or cannot be placed for adoption. At the time of placement, the
1780 department shall implement concurrent planning, as described in
1781 subsection (8) of this section, so that permanency may occur at
1782 the earliest opportunity. Consideration of possible failure or
1783 delay of reunification should be given, to the end that the
1784 placement made is the best available placement to provide
1785 permanency for the child; and

1786 (g) Providing a social worker or social work team for a
1787 family and child throughout the implementation of their permanent
1788 living arrangement plan. Wherever feasible, the same social
1789 worker or social work team shall remain on the case until the
1790 child is no longer under the jurisdiction of the youth court.

1791 (3) The Mississippi Department of Children's Affairs shall
1792 administer a system of individualized plans and reviews once every
1793 six (6) months for each child under its custody within the State
1794 of Mississippi, each child who has been adjudged a neglected,
1795 abandoned or abused child and whose custody was changed by court
1796 order as a result of such adjudication, and each public or private
1797 facility licensed by the department. The Mississippi Department
1798 of Children's Affairs administrative review shall be completed on
1799 each child within the first three (3) months and a Foster Care
1800 Review once every six (6) months after the child's initial
1801 forty-eight (48) hours shelter hearing. Such system shall be for
1802 the purpose of enhancing potential family life for the child by
1803 the development of individual plans to return the child to its
1804 natural parent or parents, or to refer the child to the
1805 appropriate court for termination of parental rights and placement
1806 in a permanent relative's home, adoptive home or foster/adoptive
1807 home. The goal of the Mississippi Department of Children's



1808 Affairs shall be to return the child to its natural parent(s) or
1809 refer the child to the appropriate court for termination of
1810 parental rights and placement in a permanent relative's home,
1811 adoptive home or foster/adoptive home within the time periods
1812 specified in this subsection or in subsection (4) of this section.
1813 In furthering this goal, the department shall establish policy and
1814 procedures designed to appropriately place children in permanent
1815 homes, such policy to include a system of reviews for all children
1816 in foster care, as follows: foster care counselors in the
1817 department shall make all possible contact with the child's
1818 natural parent(s) and any interested relative for the first two
1819 (2) months following the child's entry into the foster care
1820 system. For any child who was in foster care before July 1, 1998,
1821 and has been in foster care for fifteen (15) of the last
1822 twenty-two (22) months regardless of whether the foster care was
1823 continuous for all of those twenty-two (22) months, the department
1824 shall file a petition to terminate the parental rights of the
1825 child's parents. The time period starts to run from the date the
1826 court makes a finding of abuse and/or neglect or sixty (60) days
1827 from when the child was removed from his or her home, whichever is
1828 earlier. The department can choose not to file a termination of
1829 parental rights petition if the following apply:

- 1830 (a) The child is being cared for by a relative; and/or
1831 (b) The department has documented compelling and
1832 extraordinary reasons why termination of parental rights would not
1833 be in the best interests of the child.

1834 (4) In the case of any child who is placed in foster care on
1835 or after July 1, 1998, except in cases of aggravated circumstances
1836 prescribed in Section 43-21-603(7)(c) or (d), the child's natural
1837 parent(s) will have a reasonable time to be determined by the
1838 court, which shall not exceed a six-month period of time, in which
1839 to meet the service agreement with the department for the benefit
1840 of the child unless the department has documented extraordinary



1841 and compelling reasons for extending the time period in the best
1842 interest of the child. If this agreement has not been
1843 satisfactorily met, simultaneously the child will be referred to
1844 the appropriate court for termination of parental rights and
1845 placement in a permanent relative's home, adoptive home or a
1846 foster/adoptive home. For children under the age of three (3)
1847 years, termination of parental rights shall be initiated within
1848 six (6) months, unless the department has documented compelling
1849 and extraordinary circumstances, and placement in a permanent
1850 relative's home, adoptive home or foster/adoptive home within two
1851 (2) months. For children who have been abandoned pursuant to the
1852 provisions of Section 97-5-1, termination of parental rights shall
1853 be initiated within thirty (30) days and placement in an adoptive
1854 home shall be initiated without necessity for placement in a
1855 foster home. The department need not initiate termination of
1856 parental rights proceedings where the child has been placed in
1857 durable legal custody or long-term or formalized foster care by a
1858 court of competent jurisdiction.

1859 (5) The Foster Care Review once every six (6) months shall
1860 be conducted by the youth court or its designee(s), and/or by
1861 personnel within the Mississippi Department of Children's Affairs
1862 or by a designee or designees of the department and may include
1863 others appointed by the department, and the review shall include
1864 at a minimum an evaluation of the child based on the following:

1865 (a) The extent of the care and support provided by the
1866 parents or parent, while the child is in temporary custody;

1867 (b) The extent of communication with the child by
1868 parents, parent or guardian;

1869 (c) The degree of compliance by the agency and the
1870 parents with the social service plan established;

1871 (d) The methods of achieving the goal and the plan
1872 establishing a permanent home for the child;



1873 (e) Social services offered and/or utilized to
1874 facilitate plans for establishing a permanent home for the child;
1875 and

1876 (f) Relevant testimony and recommendations from the
1877 foster parent of the child, the grandparents of the child, the
1878 guardian ad litem of the child, representatives of any private
1879 care agency which has cared for the child, the social worker
1880 assigned to the case, and any other relevant testimony pertaining
1881 to the case.

1882 Each child's review plan once every six (6) months shall be
1883 filed with the court which awarded custody and shall be made
1884 available to natural parents or foster parents upon approval of
1885 the court. The court shall make a finding as to the degree of
1886 compliance by the agency and the parent(s) with the child's social
1887 service plan. The court also shall find that the child's health
1888 and safety are the paramount concern. In the interest of the
1889 child, the court shall, where appropriate, initiate proceedings on
1890 its own motion. The Mississippi Department of Children's Affairs
1891 shall report to the Legislature as to the number of such children,
1892 the findings of the foster care review board and relevant
1893 statistical information in foster care in a semi-annual report to
1894 the Legislature to be submitted to the Joint Oversight Committee
1895 of the Mississippi Department of Children's Affairs. The report
1896 shall not refer to the specific name of any child in foster care.

1897 (6) The Mississippi Department of Children's Affairs, with
1898 the cooperation and assistance of the State Department of Health,
1899 shall develop and implement a training program for foster care
1900 parents to indoctrinate them as to their proper responsibilities
1901 upon a child's entry into their foster care. The program shall
1902 provide a minimum of twelve (12) clock hours of training. The
1903 foster care training program shall be satisfactorily completed by
1904 such foster care parents prior to, or within ninety (90) days
1905 after child placement with such parent. Record of such foster



1906 care parent's training program participation shall be filed with
1907 the court as part of a foster care child's review plan once every
1908 six (6) months.

1909 (7) When the Mississippi Department of Children's Affairs is
1910 considering placement of a child in a foster home and when the
1911 department deems it to be in the best interest of the child, the
1912 department shall give first priority to placing the child in the
1913 home of one (1) of the child's relatives within the third degree,
1914 as computed by the civil law rule. In placing the child in a
1915 relative's home, the department may waive any rule, regulation or
1916 policy applicable to placement in foster care that would otherwise
1917 require the child to have a separate bed or bedroom or have a
1918 bedroom of a certain size, if placing the child in a relative's
1919 home would be in the best interest of the child and such
1920 requirements cannot be met in the relative's home.

1921 (8) The Legislature recognizes that the best interests of
1922 the child require that the child be placed in the most permanent
1923 living arrangement as soon as is practicably possible. To achieve
1924 this goal, the Mississippi Department of Children's Affairs is
1925 directed to conduct concurrent planning so that a permanent living
1926 arrangement may occur at the earliest opportunity. Permanent
1927 living arrangements may include prevention of placement of a child
1928 outside the home of the family when the child can be cared for at
1929 home without endangering the child's health or safety;
1930 reunification with the family, when safe and appropriate, if
1931 temporary placement is necessary; or movement of the child toward
1932 the most permanent living arrangement and permanent legal status.
1933 When a child is placed in foster care or relative care, the
1934 department shall first ensure and document that reasonable efforts
1935 were made to prevent or eliminate the need to remove the child
1936 from the child's home. The department's first priority shall be
1937 to make reasonable efforts to reunify the family when temporary
1938 placement of the child occurs or shall request a finding from the



1939 court that reasonable efforts are not appropriate or have been
1940 unsuccessful. A decision to place a child in foster care or
1941 relative care shall be made with consideration of the child's
1942 health, safety and best interests. At the time of placement,
1943 consideration should also be given so that if reunification fails
1944 or is delayed, the placement made is the best available placement
1945 to provide a permanent living arrangement for the child. The
1946 department shall adopt rules addressing concurrent planning for
1947 reunification and a permanent living arrangement. The department
1948 shall consider the following factors when determining
1949 appropriateness of concurrent planning:

1950 (a) The likelihood of prompt reunification;

1951 (b) The past history of the family;

1952 (c) The barriers to reunification being addressed by
1953 the family;

1954 (d) The level of cooperation of the family;

1955 (e) The foster parents' willingness to work with the
1956 family to reunite;

1957 (f) The willingness and ability of the foster family or
1958 relative placement to provide an adoptive home or long-term
1959 placement;

1960 (g) The age of the child; and

1961 (h) Placement of siblings.

1962 (9) If the department has placed a child in foster care or
1963 relative care pursuant to a court order, the department may not
1964 change the child's placement unless the department specifically
1965 documents to the court that the current placement is unsafe or
1966 unsuitable or that another placement is in the child's best
1967 interests unless the new placement is in an adoptive home or other
1968 permanent placement. Except in emergency circumstances as
1969 determined by the department or where the court orders placement
1970 of the child pursuant to Section 43-21-303, the foster parents,
1971 grandparents or other relatives of the child shall be given an



1972 opportunity to contest the specific reasons documented by the
1973 department at least seventy-two (72) hours prior to any such
1974 departure, and the court may conduct a review of such placement
1975 unless the new placement is in an adoptive home or other permanent
1976 placement. When a child is returned to foster care or relative
1977 care, the former foster parents or relative placement shall be
1978 given the prior right of return placement in order to eliminate
1979 additional trauma to the child.

1980 (10) The Mississippi Department of Children's Affairs shall
1981 provide the foster parents, grandparents or other relatives with
1982 at least a seventy-two-hour notice of departure for any child
1983 placed in their foster care or relative care, except in emergency
1984 circumstances as determined by the department or where the court
1985 orders placement of the child pursuant to Section 43-21-303. The
1986 parent/legal guardian, grandparents of the child, guardian ad
1987 litem and the court exercising jurisdiction shall be notified in
1988 writing when the child leaves foster care or relative care
1989 placement, regardless of whether the child's departure was planned
1990 or unplanned. The only exceptions to giving a written notice to
1991 the parent(s) are when a parent has voluntarily released the child
1992 for adoption or the parent's legal rights to the child have been
1993 terminated through the appropriate court with jurisdiction.

1994 (11) The Mississippi Department of Children's Affairs shall
1995 extend the following rights to foster care parents:

1996 (a) A clear understanding of their role as foster
1997 parents and the roles of the birth parent(s) and the placement
1998 agency in respect to the child in care;

1999 (b) Respect, consideration, trust and value as a family
2000 who is making an important contribution to the agency's
2001 objectives;

2002 (c) Involvement in all the agency's crucial decisions
2003 regarding the foster child as team members who have pertinent



2004 information based on their day-to-day knowledge of the child in
2005 care;

2006 (d) Support from the social worker in efforts to do a
2007 better day-to-day job in caring for the child and in working to
2008 achieve the agency's objectives for the child and the birth family
2009 through provision of:

2010 (i) Pertinent information about the child and the
2011 birth family.

2012 (ii) Help in using appropriate resources to meet
2013 the child's needs.

2014 (iii) Direct interviews between the social worker
2015 and the child, previously discussed and understood by the foster
2016 parents.

2017 (e) The opportunity to develop confidence in making
2018 day-to-day decisions in regard to the child;

2019 (f) The opportunity to learn and grow in their vocation
2020 through planned foster parent education;

2021 (g) The opportunity to be heard regarding agency
2022 practices that they may question; and

2023 (h) Reimbursement for costs of the foster child's care
2024 in the form of a board payment based on the age of the foster
2025 child as prescribed in Section 43-15-17.

2026 (12) The Mississippi Department of Children's Affairs shall
2027 require the following responsibilities from participating foster
2028 parents:

2029 (a) Understanding the department's function in regard
2030 to the foster care program and related social service programs;

2031 (b) Sharing with the department any information which
2032 may contribute to the care of foster children;

2033 (c) Functioning within the established goals and
2034 objectives to improve the general welfare of the foster child;



2035 (d) Recognizing the problems in foster home placement
2036 that will require professional advice and assistance and that such
2037 help should be utilized to its full potential;

2038 (e) Recognizing that the foster family will be one of
2039 the primary resources for preparing a child for any future plans
2040 that are made, including return to birth parent(s), termination of
2041 parental rights or reinstitutionalization;

2042 (f) Expressing their view of agency practices which
2043 relate to the foster child with the appropriate staff member;

2044 (g) Understanding that all information shared with the
2045 foster parents about the child and his/her birth parent(s) must be
2046 held in the strictest of confidence;

2047 (h) Cooperating with any plan to reunite the foster
2048 child with his birth family and work with the birth family to
2049 achieve this goal; and

2050 (i) Attending dispositional review hearings and
2051 termination of parental rights hearings conducted by a court of
2052 competent jurisdiction, or providing their recommendations to the
2053 court in writing.

2054 SECTION 59. Section 43-15-15, Mississippi Code of 1972, is
2055 amended as follows:

2056 43-15-15. The Mississippi Department of Children's Affairs
2057 shall maintain a registry of children whose custody lies with them
2058 and private or public agencies licensed by the department. Said
2059 registry shall contain classifications of children as:

2060 (a) Temporary custody for evaluation, not to exceed
2061 three (3) months;

2062 (b) Temporary custody not to exceed one (1) year with
2063 the plan to return custody to the natural parents;

2064 (c) Temporary custody, not to exceed two (2) years,
2065 with a plan to free for adoption;

2066 (d) Children freed for adoption;



2067 (e) Children ages fourteen (14) and above who have
2068 voluntarily chosen not to be adopted and cannot be returned to
2069 their own homes; and

2070 (f) Children who are institutionalized and for whom
2071 placement in an adoptive home is not feasible.

2072 SECTION 60. Section 43-15-17, Mississippi Code of 1972, is
2073 amended as follows:

2074 43-15-17. (1) The Mississippi Department of Children's
2075 Affairs is authorized to make such payments as may be appropriate
2076 for supportive services to facilitate either the return of
2077 children to their natural parents or their adoption, depending
2078 upon and contingent upon the availability of the Mississippi
2079 Department of Children's Affairs securing or having sufficient
2080 funds to render this supportive service. Upon court order, the
2081 parent(s) shall be responsible for reimbursing the department for
2082 any foster care payments made on behalf of his or her child, based
2083 upon financial ability to pay, until such time as there is a
2084 termination of parental rights regarding the child, or the child
2085 is adopted.

2086 (2) For those children placed in foster care by the state or
2087 county departments of children's affairs, the department shall
2088 make monthly payments for the support of these children's room and
2089 board, clothing, allowance and personal needs. From and after
2090 July 1, 1998, and subject to the availability of funds
2091 specifically appropriated therefor, the Mississippi Department of
2092 Children's Affairs' foster care and therapeutic care monthly
2093 payment schedule in effect prior to that date shall be increased
2094 by One Hundred Dollars (\$100.00) per month, with said minimum
2095 payment not to preclude the department from increasing payments in
2096 subsequent years as funds become available. From and after July
2097 1, 1998, in order for foster parents to receive such monthly
2098 payments authorized under this subsection (2), the Mississippi
2099 Department of Children's Affairs shall require foster care



2100 placements to be licensed as foster care homes and shall require
2101 prospective foster parents to satisfactorily complete an
2102 appropriate training program which emphasizes the goal of the
2103 foster care program to provide stable foster placement until a
2104 permanency outcome is achieved.

2105 SECTION 61. Section 43-15-19, Mississippi Code of 1972, is
2106 amended as follows:

2107 43-15-19. (1) The Mississippi Department of Children's
2108 Affairs shall maintain a Mississippi Adoption Resource Exchange
2109 registry, which shall contain a total listing of all children
2110 freed for adoption as well as a listing of all persons who wish to
2111 adopt children and who are approved by a licensed adoption agency
2112 in the State of Mississippi. Said registry shall be distributed
2113 to all county children's affairs' directors and licensed adoption
2114 agencies within the state and shall be updated at least quarterly.
2115 The Mississippi Department of Children's Affairs shall establish
2116 regulations for listing descriptive characteristics while
2117 protecting the privacy of the children's names. Listed names
2118 shall be removed when adoption placement plans are made for a
2119 child or when a person withdraws an application for adoption.

2120 (2) Adoptive parents shall be given the option of having
2121 their names placed in the registry. They shall be required to
2122 give written authority to the county * * * department of
2123 children's affairs to place their names in the registry and said
2124 authorization shall be forwarded to the Mississippi Department of
2125 Children's Affairs, Division of Social Services, for approval.

2126 SECTION 62. Section 43-15-23, Mississippi Code of 1972, is
2127 amended as follows:

2128 43-15-23. (1) As used in this section the term "placing
2129 out" means to arrange for the free care of a child in a family,
2130 other than that of the child's parent, stepparent, grandparent,
2131 brother, sister, uncle or aunt or legal guardian, for the purpose
2132 of adoption or for the purpose of providing care.



2133 (2) No person, agency, association, corporation,
2134 institution, society or other organization, except a child
2135 placement agency licensed by the Mississippi Department of
2136 Children's Affairs under Section 43-15-5, shall request, receive
2137 or accept any compensation or thing of value, directly or
2138 indirectly, for placing out of a child.

2139 (3) No person shall pay or give any compensation or thing of
2140 value, directly or indirectly, for placing out of a child to any
2141 person, agency, association, corporation, institution, society or
2142 other organization except a child placement agency licensed by the
2143 Mississippi Department of Children's Affairs.

2144 (4) The provisions of this section shall not be construed to
2145 (a) prevent the payment of salaries or other compensation by a
2146 child placement agency licensed by the Mississippi Department of
2147 Children's Affairs to the officers or employees thereof; (b)
2148 prevent the payment of legal fees, which have been approved by the
2149 chancery court, to an attorney for services performed in regard to
2150 adoption proceedings; (c) prevent the payment of reasonable and
2151 actual medical fees or hospital charges for services rendered in
2152 connection with the birth or medical treatment of such child to
2153 the physician or hospital which rendered the services; or (d)
2154 prevent the receipt of such payments by such attorney, physician
2155 or hospital.

2156 (5) Any person, agency, association, corporation,
2157 institution, society or other organization violating the
2158 provisions of this section shall be guilty of illegal placement of
2159 children and shall be punished by a fine not to exceed Five
2160 Thousand Dollars (\$5,000.00) or by imprisonment not more than five
2161 (5) years, or both such fine and imprisonment.

2162 SECTION 63. Section 43-15-103, Mississippi Code of 1972, is
2163 amended as follows:

2164 43-15-103. As used in this chapter:



2165 (a) "Agency" means a residential child-caring agency or
2166 a child-placing agency.

2167 (b) "Child" or "children" mean(s) any unmarried person
2168 or persons under the age of eighteen (18) years.

2169 (c) "Child placing" means receiving, accepting or
2170 providing custody or care for any child under eighteen (18) years
2171 of age, temporarily or permanently, for the purpose of:

2172 (i) Finding a person to adopt the child;

2173 (ii) Placing the child temporarily or permanently
2174 in a home for adoption; or

2175 (iii) Placing a child in a foster home or
2176 residential child-caring agency.

2177 (d) "Child-placing agency" means any entity or person
2178 which places children in foster boarding homes or foster homes for
2179 temporary care or for adoption or any other entity or person or
2180 group of persons who are engaged in providing adoption studies or
2181 foster care studies or placement services as defined by the rules
2182 of the department.

2183 (e) "Department" means the Mississippi Department of
2184 Children's Affairs.

2185 (f) "Director" means the Director of the Division of
2186 Family and Children's Services.

2187 (g) "Division" means the Division of Family and
2188 Children's Services within the Mississippi Department of
2189 Children's Affairs.

2190 (h) "Family boarding home" or "foster home" means a
2191 home (occupied residence) operated by any entity or person which
2192 provides residential child care to at least one (1) child but not
2193 more than six (6) children who are not related to the primary
2194 caregivers.

2195 (i) "Group care home" means any place or facility
2196 operated by any entity or person which provides residential child



2197 care for at least seven (7) children but not more than twelve (12)
2198 children who are not related to the primary caregivers.

2199 (j) "Licensee" means any person, agency or entity
2200 licensed under this chapter.

2201 (k) "Maternity home" means any place or facility
2202 operated by any entity or person which receives, treats or cares
2203 for more than one (1) child or adult who is pregnant out of
2204 wedlock, either before, during or within two (2) weeks after
2205 childbirth; provided, that the licensed child-placing agencies and
2206 licensed maternity homes may use a family boarding home approved
2207 and supervised by the agency or home, as a part of their work, for
2208 as many as three (3) children or adults who are pregnant out of
2209 wedlock, and provided further, that the provisions of this
2210 definition shall not include children or women who receive
2211 maternity care in the home of a person to whom they are kin within
2212 the sixth degree of kindred computed according to civil law, nor
2213 does it apply to any maternity care provided by general or special
2214 hospitals licensed according to law and in which maternity
2215 treatment and care are part of the medical services performed and
2216 the care of children is brief and incidental.

2217 (l) "Office" means the Office of Licensing within the
2218 Division of Family and Children's Services of the Mississippi
2219 Department of Children's Affairs.

2220 (m) "Person associated with a licensee" means an owner,
2221 director, member of the governing body, employee, provider of care
2222 and volunteer of a children's affairs licensee.

2223 (n) "Related" means children, step-children,
2224 grandchildren, step-grandchildren, siblings of the whole or
2225 half-blood, step-siblings, nieces or nephews of the primary care
2226 provider.

2227 (o) "Residential child care" means the provision of
2228 supervision, and/or protection, and meeting the basic needs of a
2229 child for twenty-four (24) hours per day, which may include



2230 services to children in a residential setting where care, lodging,
2231 maintenance and counseling or therapy for alcohol or controlled
2232 substance abuse or for any other emotional disorder or mental
2233 illness is provided for children, whether for compensation or not.

2234 (p) "Residential child-caring agency" means any place
2235 or facility operated by any entity or person, public or private,
2236 providing residential child care, regardless of whether operated
2237 for profit or whether a fee is charged. Such residential
2238 child-caring agencies include, but are not limited to, maternity
2239 homes, runaway shelters, group homes that are administered by an
2240 agency, and emergency shelters that are not in private residence.

2241 SECTION 64. Section 43-15-105, Mississippi Code of 1972, is
2242 amended as follows:

2243 43-15-105. (1) The Division of Family and Children's
2244 Services of the Mississippi Department of Children's Affairs shall
2245 be the licensing authority for the department, and is vested with
2246 all the powers, duties and responsibilities described in this
2247 chapter. The division shall make and establish rules and
2248 regulations regarding:

2249 (a) Approving, extending, denying, suspending and
2250 revoking licenses for foster homes, residential child-caring
2251 agencies and child-placing agencies;

2252 (b) Conditional licenses, variances from department
2253 rules and exclusions;

2254 (c) Basic health and safety standards for licensees;
2255 and

2256 (d) Minimum administration and financial requirements
2257 for licensees.

2258 (2) The division shall:

2259 (a) Define information that shall be submitted to the
2260 division with an application for a license;



- 2261 (b) Establish guidelines for the administration and
2262 maintenance of client and service records, including staff
2263 qualifications, staff to client ratios;
- 2264 (c) Issue licenses in accordance with this chapter;
- 2265 (d) Conduct surveys and inspections of licensees and
2266 facilities;
- 2267 (e) Establish and collect licensure fees;
- 2268 (f) Investigate complaints regarding any licensee or
2269 facility;
- 2270 (g) Have access to all records, correspondence and
2271 financial data required to be maintained by a licensee or
2272 facility;
- 2273 (h) Have authority to interview any client, family
2274 member of a client, employee or officer of a licensee or facility;
2275 and
- 2276 (i) Have authority to revoke, suspend or extend any
2277 license issued by the division.

2278 SECTION 65. Section 43-17-5, Mississippi Code of 1972, is
2279 amended as follows:

2280 43-17-5. (1) The amount of Temporary Assistance for Needy
2281 Families (TANF) benefits which may be granted for any dependent
2282 child and a needy caretaker relative shall be determined by the
2283 county department with due regard to the resources and necessary
2284 expenditures of the family and the conditions existing in each
2285 case, and in accordance with the rules and regulations made by the
2286 Department of Human Services which shall not be less than the
2287 Standard of Need in effect for 1988, and shall be sufficient when
2288 added to all other income (except that any income specified in the
2289 federal Social Security Act, as amended, may be disregarded) and
2290 support available to the child to provide such child with a
2291 reasonable subsistence compatible with decency and health. The
2292 first family member in the dependent child's budget may receive an
2293 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;



2294 the second family member in the dependent child's budget may
2295 receive an amount not to exceed Thirty-six Dollars (\$36.00) per
2296 month; and each additional family member in the dependent child's
2297 budget an amount not to exceed Twenty-four Dollars (\$24.00) per
2298 month. The maximum for any individual family member in the
2299 dependent child's budget may be exceeded for foster or medical
2300 care or in cases of mentally retarded or physically handicapped
2301 children. TANF benefits granted shall be specifically limited
2302 only (a) to children existing or conceived at the time the
2303 caretaker relative initially applies and qualifies for such
2304 assistance, unless this limitation is specifically waived by the
2305 department, or (b) to a child born following a twelve (12)
2306 consecutive-month period of discontinued benefits by the caretaker
2307 relative.

2308 (2) TANF cash benefits in Mississippi shall be provided by
2309 monthly checks mailed to the recipient family until such time as
2310 an on-line electronic benefits transfer system for TANF benefit
2311 payments is implemented pursuant to Section 43-1-28.

2312 (3) The Department of Human Services shall deny TANF
2313 benefits to the following categories of individuals, except for
2314 individuals and families specifically exempt or excluded for good
2315 cause as allowed by federal statute or regulation:

2316 (a) Families without a minor child residing with the
2317 custodial parent or other adult caretaker relative of the child;

2318 (b) Families which include an adult who has received
2319 TANF assistance for sixty (60) months after the commencement of
2320 the Mississippi TANF program, whether or not such period of time
2321 is consecutive;

2322 (c) Families not assigning to the state any rights a
2323 family member may have, on behalf of the family member or of any
2324 other person for whom the family member has applied for or is
2325 receiving such assistance, to support from any other person, as
2326 required by law;



2327 (d) Families who fail to cooperate in establishing
2328 paternity or obtaining child support, as required by law;

2329 (e) Any individual who has not attained eighteen (18)
2330 years of age, is not married to the head of household, has a minor
2331 child at least twelve (12) weeks of age in his or her care, and
2332 has not successfully completed a high school education or its
2333 equivalent, if such individual does not participate in educational
2334 activities directed toward the attainment of a high school diploma
2335 or its equivalent, or an alternative educational or training
2336 program approved by the department;

2337 (f) Any individual who has not attained eighteen (18)
2338 years of age, is not married, has a minor child in his or her
2339 care, and does not reside in a place or residence maintained by a
2340 parent, legal guardian or other adult relative or the individual
2341 as such parent's, guardian's or adult relative's own home;

2342 (g) Any minor child who has been, or is expected by a
2343 parent or other caretaker relative of the child to be, absent from
2344 the home for a period of more than thirty (30) days;

2345 (h) Any individual who is a parent or other caretaker
2346 relative of a minor child who fails to notify the department of
2347 the absence of the minor child from the home for the thirty-day
2348 period specified in paragraph (g), by the end of the five-day
2349 period that begins with the date that it becomes clear to the
2350 individual that the minor child will be absent for the thirty-day
2351 period;

2352 (i) Any individual who fails to comply with the
2353 provisions of the Employability Development Plan signed by the
2354 individual which prescribe those activities designed to help the
2355 individual become and remain employed, or to participate
2356 satisfactorily in the assigned work activity, as authorized under
2357 subsection (6)(c);

2358 (j) A parent or caretaker relative who has not engaged
2359 in an allowable work activity once the department determines the



2360 parent or caretaker relative is ready to engage in work, or once
2361 the parent or caretaker relative has received TANF assistance
2362 under the program for twenty-four (24) months, whether or not
2363 consecutive, whichever is earlier;

2364 (k) Any individual who is fleeing to avoid prosecution,
2365 or custody or confinement after conviction, under the laws of the
2366 jurisdiction from which the individual flees, for a crime, or an
2367 attempt to commit a crime, which is a felony under the laws of the
2368 place from which the individual flees, or who is violating a
2369 condition of probation or parole imposed under federal or state
2370 law;

2371 (l) Aliens who are not qualified under federal law;

2372 (m) For a period of ten (10) years following
2373 conviction, individuals convicted in federal or state court of
2374 having made a fraudulent statement or representation with respect
2375 to the individual's place of residence in order to receive TANF,
2376 food stamps or Supplemental Security Income (SSI) assistance under
2377 Title XVI or Title XIX simultaneously from two (2) or more states;
2378 and

2379 (n) Individuals who are recipients of federal
2380 Supplemental Security Income (SSI) assistance.

2381 (4) (a) Any person who is otherwise eligible for TANF
2382 benefits, including custodial and noncustodial parents, shall be
2383 required to attend school and meet the monthly attendance
2384 requirement as provided in this subsection if all of the following
2385 apply:

2386 (i) The person is under age twenty (20);

2387 (ii) The person has not graduated from a public or
2388 private high school or obtained a GED equivalent;

2389 (iii) The person is physically able to attend
2390 school and is not excused from attending school; and



2391 (iv) If the person is a parent or caretaker
2392 relative with whom a dependent child is living, child care is
2393 available for the child.

2394 The monthly attendance requirement under this subsection
2395 shall be attendance at the school in which the person is enrolled
2396 for each day during a month that the school conducts classes in
2397 which the person is enrolled, with not more than two (2) absences
2398 during the month for reasons other than the reasons listed in
2399 paragraph (e)(iv) of this subsection. Persons who fail to meet
2400 participation requirements in this subsection shall be subject to
2401 sanctions as provided in paragraph (f) of this subsection.

2402 (b) As used in this subsection, "school" means any one
2403 (1) of the following:

2404 (i) A school as defined in Section 37-13-91(2);

2405 (ii) A vocational, technical and adult education
2406 program; or

2407 (iii) A course of study meeting the standards
2408 established by the State Department of Education for the granting
2409 of a declaration of equivalency of high school graduation.

2410 (c) If any compulsory-school-age child, as defined in
2411 Section 37-13-91(2), to which TANF eligibility requirements apply
2412 is not in compliance with the compulsory school attendance
2413 requirements of Section 37-13-91(6), the superintendent of schools
2414 of the school district in which the child is enrolled or eligible
2415 to attend shall notify the county department of human services of
2416 the child's noncompliance. The Department of Human Services shall
2417 review school attendance information as provided under this
2418 paragraph at all initial eligibility determinations and upon
2419 subsequent report of unsatisfactory attendance.

2420 (d) The signature of a person on an application for
2421 TANF benefits constitutes permission for the release of school
2422 attendance records for that person or for any child residing with
2423 that person. The department shall request information from the



2424 child's school district about the child's attendance in the school
2425 district's most recently completed semester of attendance. If
2426 information about the child's previous school attendance is not
2427 available or cannot be verified, the department shall require the
2428 child to meet the monthly attendance requirement for one (1)
2429 semester or until the information is obtained. The department
2430 shall use the attendance information provided by a school district
2431 to verify attendance for a child. The department shall review
2432 with the parent or caretaker relative a child's claim that he or
2433 she has a good cause for not attending school.

2434 A school district shall provide information to the
2435 department about the attendance of a child who is enrolled in a
2436 public school in the district within five (5) working days of the
2437 receipt of a written request for such information from the
2438 department. The school district shall define how many hours of
2439 attendance count as a full day and shall provide that information,
2440 upon request, to the department. In reporting attendance, the
2441 school district may add partial days' absence together to
2442 constitute a full day's absence.

2443 (e) A child who is required to attend school to meet
2444 the requirements under this subsection shall comply except when
2445 there is good cause, which shall be demonstrated by any of the
2446 following circumstances:

2447 (i) The minor parent is the caretaker of a child
2448 less than twelve (12) weeks old; or

2449 (ii) The department determines that child care
2450 services are necessary for the minor parent to attend school and
2451 there is no child care available; or

2452 (iii) The child is prohibited by the school
2453 district from attending school and an expulsion is pending. This
2454 exemption no longer applies once the teenager has been expelled;
2455 however, a teenager who has been expelled and is making



2456 satisfactory progress towards obtaining a GED equivalent shall be
2457 eligible for TANF benefits; or

2458 (iv) The child failed to attend school for one or
2459 more of the following reasons:

2460 1. Illness, injury or incapacity of the child
2461 or the minor parent's child;

2462 2. Court-required appearances or temporary
2463 incarceration;

2464 3. Medical or dental appointments for the
2465 child or minor parent's child;

2466 4. Death of a close relative;

2467 5. Observance of a religious holiday;

2468 6. Family emergency;

2469 7. Breakdown in transportation;

2470 8. Suspension; or

2471 9. Any other circumstance beyond the control
2472 of the child, as defined in regulations of the department.

2473 (f) Upon determination that a child has failed without
2474 good cause to attend school as required, the department shall
2475 provide written notice to the parent or caretaker relative
2476 (whoever is the primary recipient of the TANF benefits) that
2477 specifies:

2478 (i) That the family will be sanctioned in the next
2479 possible payment month because the child who is required to attend
2480 school has failed to meet the attendance requirement of this
2481 subsection;

2482 (ii) The beginning date of the sanction, and the
2483 child to whom the sanction applies;

2484 (iii) The right of the child's parents or
2485 caretaker relative (whoever is the primary recipient of the TANF
2486 benefits) to request a fair hearing under this subsection.

2487 The child's parent or caretaker relative (whoever is the
2488 primary recipient of the TANF benefits) may request a fair hearing



2489 on the department's determination that the child has not been
2490 attending school. If the child's parents or caretaker relative
2491 does not request a fair hearing under this subsection, or if,
2492 after a fair hearing has been held, the hearing officer finds that
2493 the child without good cause has failed to meet the monthly
2494 attendance requirement, the department shall discontinue or deny
2495 TANF benefits to the child thirteen (13) years old, or older, in
2496 the next possible payment month. The department shall discontinue
2497 or deny twenty-five percent (25%) of the family grant when a child
2498 six (6) through twelve (12) years of age without good cause has
2499 failed to meet the monthly attendance requirement. Both the child
2500 and family sanction may apply when children in both age groups
2501 fail to meet the attendance requirement without good cause. A
2502 sanction applied under this subsection shall be effective for one
2503 (1) month for each month that the child failed to meet the monthly
2504 attendance requirement. In the case of a dropout, the sanction
2505 shall remain in force until the parent or caretaker relative
2506 provides written proof from the school district that the child has
2507 reenrolled and met the monthly attendance requirement for one (1)
2508 calendar month. Any month in which school is in session for at
2509 least ten (10) days during the month may be used to meet the
2510 attendance requirement under this subsection. This includes
2511 attendance at summer school. The sanction shall be removed the
2512 next possible payment month.

2513 (5) All parents or caretaker relatives shall have their
2514 dependent children receive vaccinations and booster vaccinations
2515 against those diseases specified by the State Health Officer
2516 pursuant to Section 41-23-37 in accordance with the vaccination
2517 and booster vaccination schedule prescribed by the State Health
2518 Officer for children of that age, in order for the parents or
2519 caretaker relatives to be eligible or remain eligible to receive
2520 TANF benefits. Proof of having received such vaccinations and
2521 booster vaccinations shall be given by presenting the certificates



2522 of vaccination issued by any health care provider licensed to
2523 administer vaccinations, and submitted on forms specified by the
2524 State Board of Health. If the parents without good cause do not
2525 have their dependent children receive the vaccinations and booster
2526 vaccinations as required by this subsection and they fail to
2527 comply after thirty (30) days' notice, the department shall
2528 sanction the family's TANF benefits by twenty-five percent (25%)
2529 for the next payment month and each subsequent payment month until
2530 the requirements of this subsection are met.

2531 (6) (a) If the parent or caretaker relative applying for
2532 TANF assistance is an employable person, as determined by the
2533 Department of Human Services, the person shall be required to
2534 engage in an allowable work activity once the department
2535 determines the parent or caretaker relative is ready to engage in
2536 work, or once the parent or caretaker relative has received TANF
2537 assistance under the program for twenty-four (24) months, whether
2538 or not consecutive, whichever is earlier. No TANF benefits shall
2539 be given to any person to whom this section applies who fails
2540 without good cause to comply with the Employability Development
2541 Plan prepared by the department for the person, or who has refused
2542 to accept a referral or offer of employment, training or education
2543 in which he or she is able to engage, subject to the penalties
2544 prescribed in subsection (6) (d). A person shall be deemed to have
2545 refused to accept a referral or offer of employment, training or
2546 education if he or she:

2547 (i) Willfully fails to report for an interview
2548 with respect to employment when requested to do so by the
2549 department; or

2550 (ii) Willfully fails to report to the department
2551 the result of a referral to employment; or

2552 (iii) Willfully fails to report for allowable work
2553 activities as prescribed in subsection (6) (c).



2554 (b) The Department of Human Services shall operate a
2555 statewide work program for TANF recipients to provide work
2556 activities and supportive services to enable families to become
2557 self-sufficient and improve their competitive position in the work
2558 force in accordance with the requirements of the federal Personal
2559 Responsibility and Work Opportunity Reconciliation Act of 1996
2560 (Public Law 104-193), as amended, and the regulations promulgated
2561 thereunder. All adults who are not specifically exempt shall be
2562 referred by the department for allowable work activities. An
2563 adult may be exempt from the mandatory work activity requirement
2564 for the following reasons:

2565 (i) Incapacity;

2566 (ii) Temporary illness or injury, verified by
2567 physician's certificate;

2568 (iii) Is in the third trimester of pregnancy,
2569 verified by physician's certificate;

2570 (iv) Caretaker of a child under twelve (12)
2571 months, for not more than twelve (12) months of the sixty-month
2572 maximum benefit period;

2573 (v) Caretaker of an ill or incapacitated person,
2574 as verified by physician's certificate;

2575 (vi) Age, if over sixty (60) or under eighteen
2576 (18) years of age;

2577 (vii) Receiving treatment for substance abuse, if
2578 the person is in compliance with the substance abuse treatment
2579 plan;

2580 (viii) In a two-parent family, the caretaker of a
2581 severely disabled child, as verified by a physician's certificate;
2582 or

2583 (ix) History of having been a victim of domestic
2584 violence, which has been reported as required by state law and is
2585 substantiated by police reports or court records, and being at
2586 risk of further domestic violence, shall be exempt for a period as



2587 deemed necessary by the department but not to exceed a total of
2588 twelve (12) months, which need not be consecutive, in the
2589 sixty-month maximum benefit period. For the purposes of this
2590 subparagraph (ix), "domestic violence" means that an individual
2591 has been subjected to:

- 2592 1. Physical acts that resulted in, or
2593 threatened to result in, physical injury to the individual;
- 2594 2. Sexual abuse;
- 2595 3. Sexual activity involving a dependent
2596 child;
- 2597 4. Being forced as the caretaker relative of
2598 a dependent child to engage in nonconsensual sexual acts or
2599 activities;
- 2600 5. Threats of, or attempts at, physical or
2601 sexual abuse;
- 2602 6. Mental abuse; or
- 2603 7. Neglect or deprivation of medical care.

2604 (c) For all families, all adults who are not
2605 specifically exempt shall be required to participate in work
2606 activities for at least the minimum average number of hours per
2607 week specified by federal law or regulation, not fewer than twenty
2608 (20) hours per week (thirty-five (35) hours per week for
2609 two-parent families) of which are attributable to the following
2610 allowable work activities:

- 2611 (i) Unsubsidized employment;
- 2612 (ii) Subsidized private employment;
- 2613 (iii) Subsidized public employment;
- 2614 (iv) Work experience (including work associated
2615 with the refurbishing of publicly assisted housing), if sufficient
2616 private employment is not available;
- 2617 (v) On-the-job training;
- 2618 (vi) Job search and job readiness assistance
2619 consistent with federal TANF regulations;



- 2620 (vii) Community service programs;
- 2621 (viii) Vocational educational training (not to
2622 exceed twelve (12) months with respect to any individual);
- 2623 (ix) The provision of child care services to an
2624 individual who is participating in a community service program;
- 2625 (x) Satisfactory attendance at high school or in a
2626 course of study leading to a high school equivalency certificate,
2627 for heads of household under age twenty (20) who have not
2628 completed high school or received such certificate;
- 2629 (xi) Education directly related to employment, for
2630 heads of household under age twenty (20) who have not completed
2631 high school or received such equivalency certificate.

2632 The following are allowable work activities which may be
2633 attributable to hours in excess of the minimum specified above:

- 2634 (i) Job skills training directly related to
2635 employment;
- 2636 (ii) Education directly related to employment for
2637 individuals who have not completed high school or received a high
2638 school equivalency certificate;
- 2639 (iii) Satisfactory attendance at high school or in
2640 a course of study leading to a high school equivalency, for
2641 individuals who have not completed high school or received such
2642 equivalency certificate;
- 2643 (iv) Job search and job readiness assistance
2644 consistent with federal TANF regulations.

2645 (d) If any adult or caretaker relative refuses to
2646 participate in allowable work activity as required under this
2647 subsection (6), the following full family TANF benefit penalty
2648 will apply, subject to due process to include notification,
2649 conciliation and a hearing if requested by the recipient:

- 2650 (i) For the first violation, the department shall
2651 terminate the TANF assistance otherwise payable to the family for



2652 a two-month period or until the person has complied with the
2653 required work activity, whichever is longer;

2654 (ii) For the second violation, the department
2655 shall terminate the TANF assistance otherwise payable to the
2656 family for a six-month period or until the person has complied
2657 with the required work activity, whichever is longer;

2658 (iii) For the third violation, the department
2659 shall terminate the TANF assistance otherwise payable to the
2660 family for a twelve-month period or until the person has complied
2661 with the required work activity, whichever is longer;

2662 (iv) For the fourth violation, the person shall be
2663 permanently disqualified.

2664 For a two-parent family, unless prohibited by state or
2665 federal law, Medicaid assistance shall be terminated only for the
2666 person whose failure to participate in allowable work activity
2667 caused the family's TANF assistance to be sanctioned under this
2668 subsection (6)(d), unless an individual is pregnant, but shall not
2669 be terminated for any other person in the family who is meeting
2670 that person's applicable work requirement or who is not required
2671 to work. Minor children shall continue to be eligible for
2672 Medicaid benefits regardless of the disqualification of their
2673 parent or caretaker relative for TANF assistance under this
2674 subsection (6), unless prohibited by state or federal law.

2675 (e) Any person enrolled in a two-year or four-year
2676 college program who meets the eligibility requirements to receive
2677 TANF benefits, and who is meeting the applicable work requirements
2678 and all other applicable requirements of the TANF program, shall
2679 continue to be eligible for TANF benefits while enrolled in the
2680 college program for as long as the person meets the requirements
2681 of the TANF program, unless prohibited by federal law.

2682 (f) No adult in a work activity required under this
2683 subsection (6) shall be employed or assigned (i) when any other
2684 individual is on layoff from the same or any substantially



2685 equivalent job within six (6) months before the date of the TANF
2686 recipient's employment or assignment; or (ii) if the employer has
2687 terminated the employment of any regular employee or otherwise
2688 caused an involuntary reduction of its work force in order to fill
2689 the vacancy so created with an adult receiving TANF assistance.
2690 The Mississippi Employment Security Commission, established under
2691 Section 71-5-101, shall appoint one or more impartial hearing
2692 officers to hear and decide claims by employees of violations of
2693 this paragraph (f). The hearing officer shall hear all the
2694 evidence with respect to any claim made hereunder and such
2695 additional evidence as he may require and shall make a
2696 determination and the reason therefor. The claimant shall be
2697 promptly notified of the decision of the hearing officer and the
2698 reason therefor. Within ten (10) days after the decision of the
2699 hearing officer has become final, any party aggrieved thereby may
2700 secure judicial review thereof by commencing an action, in the
2701 circuit court of the county in which the claimant resides, against
2702 the commission for the review of such decision, in which action
2703 any other party to the proceeding before the hearing officer shall
2704 be made a defendant. Any such appeal shall be on the record which
2705 shall be certified to the court by the commission in the manner
2706 provided in Section 71-5-531, and the jurisdiction of the court
2707 shall be confined to questions of law which shall render its
2708 decision as provided in that section.

2709 (7) The Department of Human Services may provide child care
2710 for eligible participants who require such care so that they may
2711 accept employment or remain employed. The department may also
2712 provide child care for those participating in the TANF program
2713 when it is determined that they are satisfactorily involved in
2714 education, training or other allowable work activities. The
2715 department may contract with Head Start agencies to provide child
2716 care services to TANF recipients. The department may also arrange
2717 for child care by use of contract or vouchers, provide vouchers in



2718 advance to a caretaker relative, reimburse a child care provider,
2719 or use any other arrangement deemed appropriate by the department,
2720 and may establish different reimbursement rates for child care
2721 services depending on the category of the facility or home. Any
2722 center-based or group home child care facility under this
2723 subsection shall be licensed by the Mississippi Department of
2724 Children's Affairs pursuant to law. When child care is being
2725 provided in the child's own home, in the home of a relative of the
2726 child, or in any other unlicensed setting, the provision of such
2727 child care may be monitored on a random basis by the Mississippi
2728 Department of Children's Affairs. Transitional child care
2729 assistance may be continued if it is necessary for parents to
2730 maintain employment once support has ended, unless prohibited
2731 under state or federal law. Transitional child care assistance
2732 may be provided for up to twenty-four (24) months after the last
2733 month during which the family was eligible for TANF assistance, if
2734 federal funds are available for such child care assistance.

2735 (8) The Department of Human Services may provide
2736 transportation or provide reasonable reimbursement for
2737 transportation expenses that are necessary for individuals to be
2738 able to participate in allowable work activity under the TANF
2739 program.

2740 (9) Medicaid assistance shall be provided to a family of
2741 TANF program participants for up to twenty-four (24) consecutive
2742 calendar months following the month in which the participating
2743 family would be ineligible for TANF benefits because of increased
2744 income, expiration of earned income disregards, or increased hours
2745 of employment of the caretaker relative; however, Medicaid
2746 assistance for more than twelve (12) months may be provided only
2747 if a federal waiver is obtained to provide such assistance for
2748 more than twelve (12) months and federal and state funds are
2749 available to provide such assistance.



2750 (10) The department shall require applicants for and
2751 recipients of public assistance from the department to sign a
2752 personal responsibility contract that will require the applicant
2753 or recipient to acknowledge his or her responsibilities to the
2754 state.

2755 (11) The department shall enter into an agreement with the
2756 State Personnel Board and other state agencies that will allow
2757 those TANF participants who qualify for vacant jobs within state
2758 agencies to be placed in state jobs. State agencies participating
2759 in the TANF work program shall receive any and all benefits
2760 received by employers in the private sector for hiring TANF
2761 recipients. This subsection (11) shall be effective only if the
2762 state obtains any necessary federal waiver or approval and if
2763 federal funds are available therefor.

2764 (12) No new TANF program requirement or restriction
2765 affecting a person's eligibility for TANF assistance, or allowable
2766 work activity, which is not mandated by federal law or regulation
2767 may be implemented by the Department of Human Services after the
2768 effective date of this act, unless such is specifically authorized
2769 by an amendment to this section by the Legislature.

2770 SECTION 66. Section 43-18-5, Mississippi Code of 1972, is
2771 amended as follows:

2772 43-18-5. As used in paragraph (a) of Article V of the
2773 Interstate Compact on the Placement of Children, the phrase
2774 "appropriate authority in the receiving state" with reference to
2775 this state shall mean the Mississippi Department of Children's
2776 Affairs or * * * any county department of children's affairs.

2777 SECTION 67. Section 43-21-105, Mississippi Code of 1972, is
2778 amended as follows:

2779 43-21-105. The following words and phrases, for purposes of
2780 this chapter, shall have the meanings ascribed herein unless the
2781 context clearly otherwise requires:

2782 (a) "Youth court" means the Youth Court Division.



2783 (b) "Judge" means the judge of the Youth Court
2784 Division.

2785 (c) "Designee" means any person that the judge appoints
2786 to perform a duty which this chapter requires to be done by the
2787 judge or his designee. The judge may not appoint a person who is
2788 involved in law enforcement to be his designee.

2789 (d) "Child" and "youth" are synonymous, and each means
2790 a person who has not reached his eighteenth birthday. A child who
2791 has not reached his eighteenth birthday and is on active duty for
2792 a branch of the armed services or is married is not considered a
2793 "child" or "youth" for the purposes of this chapter.

2794 (e) "Parent" means the father or mother to whom the
2795 child has been born, or the father or mother by whom the child has
2796 been legally adopted.

2797 (f) "Guardian" means a court-appointed guardian of the
2798 person of a child.

2799 (g) "Custodian" means any person having the present
2800 care or custody of a child whether such person be a parent or
2801 otherwise.

2802 (h) "Legal custodian" means a court-appointed custodian
2803 of the child.

2804 (i) "Delinquent child" means a child who has reached
2805 his tenth birthday and who has committed a delinquent act or,
2806 while being required to attend an alternative school program
2807 provided under Section 37-13-92, willfully and habitually absents
2808 himself therefrom.

2809 (j) "Delinquent act" is any act, which if committed by
2810 an adult, is designated as a crime under state or federal law, or
2811 municipal or county ordinance other than offenses punishable by
2812 life imprisonment or death. A delinquent act includes escape from
2813 lawful detention and violations of the Mississippi School
2814 Compulsory Attendance Law, violations of the Uniform Controlled
2815 Substances Law and violent behavior.



2816 (k) "Child in need of supervision" means a child who
2817 has reached his seventh birthday and is in need of treatment or
2818 rehabilitation because the child:

2819 (i) Is habitually disobedient of reasonable and
2820 lawful commands of his parent, guardian or custodian and is
2821 ungovernable; or

2822 (ii) While being required to attend school,
2823 willfully and habitually violates the rules thereof or willfully
2824 and habitually absents himself therefrom; or

2825 (iii) Runs away from home without good cause; or

2826 (iv) Has committed a delinquent act or acts.

2827 (l) "Neglected child" means a child:

2828 (i) Whose parent, guardian or custodian or any
2829 person responsible for his care or support, neglects or refuses,
2830 when able so to do, to provide for him proper and necessary care
2831 or support, or education as required by law, or medical, surgical,
2832 or other care necessary for his well-being; provided, however, a
2833 parent who withholds medical treatment from any child who in good
2834 faith is under treatment by spiritual means alone through prayer
2835 in accordance with the tenets and practices of a recognized church
2836 or religious denomination by a duly accredited practitioner
2837 thereof shall not, for that reason alone, be considered to be
2838 neglectful under any provision of this chapter; or

2839 (ii) Who is otherwise without proper care,
2840 custody, supervision or support; or

2841 (iii) Who, for any reason, lacks the special care
2842 made necessary for him by reason of his mental condition, whether
2843 said mental condition be mentally retarded or mentally ill; or

2844 (iv) Who, for any reason, lacks the care necessary
2845 for his health, morals or well-being.

2846 (m) "Abused child" means a child whose parent, guardian
2847 or custodian or any person responsible for his care or support,
2848 whether legally obligated to do so or not, has caused or allowed



2849 to be caused upon said child sexual abuse, sexual exploitation,
2850 emotional abuse, mental injury, nonaccidental physical injury or
2851 other maltreatment. Provided, however, that physical discipline,
2852 including spanking, performed on a child by a parent, guardian or
2853 custodian in a reasonable manner shall not be deemed abuse under
2854 this section.

2855 (n) "Sexual abuse" means obscene or pornographic
2856 photographing, filming or depiction of children for commercial
2857 purposes, or the rape, molestation, incest, prostitution or other
2858 such forms of sexual exploitation of children under circumstances
2859 which indicate that the child's health or welfare is harmed or
2860 threatened.

2861 (o) "A child in need of special care" means a child
2862 with any mental or physical illness that cannot be treated with
2863 the dispositional alternatives ordinarily available to the youth
2864 court.

2865 (p) A "dependent child" means any child who is not a
2866 child in need of supervision, a delinquent child, an abused child
2867 or a neglected child, and which child has been voluntarily placed
2868 in the custody of the Mississippi Department of Children's Affairs
2869 by his parent, guardian or custodian.

2870 (q) "Custody" means the physical possession of the
2871 child by any person.

2872 (r) "Legal custody" means the legal status created by a
2873 court order which gives the legal custodian the responsibilities
2874 of physical possession of the child and the duty to provide him
2875 with food, shelter, education and reasonable medical care, all
2876 subject to residual rights and responsibilities of the parent or
2877 guardian of the person.

2878 (s) "Detention" means the care of children in
2879 physically restrictive facilities.

2880 (t) "Shelter" means care of children in physically
2881 nonrestrictive facilities.



2882 (u) "Records involving children" means any of the
2883 following from which the child can be identified:
2884 (i) All youth court records as defined in Section
2885 43-21-251;
2886 (ii) All social records as defined in Section
2887 43-21-253;
2888 (iii) All law enforcement records as defined in
2889 Section 43-21-255;
2890 (iv) All agency records as defined in Section
2891 43-21-257; and
2892 (v) All other documents maintained by any
2893 representative of the state, county, municipality or other public
2894 agency insofar as they relate to the apprehension, custody,
2895 adjudication or disposition of a child who is the subject of a
2896 youth court cause.
2897 (v) "Any person responsible for care or support" means
2898 the person who is providing for the child at a given time. This
2899 term shall include, but is not limited to, stepparents, foster
2900 parents, relatives, nonlicensed babysitters or other similar
2901 persons responsible for a child and staff of residential care
2902 facilities and group homes that are licensed by the Mississippi
2903 Department of Children's Affairs.
2904 (w) The singular includes the plural, the plural the
2905 singular and the masculine the feminine when consistent with the
2906 intent of this chapter.
2907 (x) "Out-of-home" setting means the temporary
2908 supervision or care of children by the staff of licensed day care
2909 centers, the staff of public, private and state schools, the staff
2910 of juvenile detention facilities, the staff of unlicensed
2911 residential care facilities and group homes and the staff of, or
2912 individuals representing, churches, civic or social organizations.
2913 (y) "Durable legal custody" means the legal status
2914 created by a court order which gives the durable legal custodian



2915 the responsibilities of physical possession of the child and the
2916 duty to provide him with care, nurture, welfare, food, shelter,
2917 education and reasonable medical care. All these duties as
2918 enumerated are subject to the residual rights and responsibilities
2919 of the natural parent(s) or guardian(s) of the child or children.

2920 SECTION 68. Section 43-21-257, Mississippi Code of 1972, is
2921 amended as follows:

2922 43-21-257. (1) Unless otherwise provided in this section,
2923 any record involving children, including valid and invalid
2924 complaints, and the contents thereof maintained by the Mississippi
2925 Department of Children's Affairs, or any other state agency, shall
2926 be kept confidential and shall not be disclosed except as provided
2927 in Section 43-21-261.

2928 (2) The Division of Youth Services shall maintain a state
2929 central registry containing the number and disposition of all
2930 cases together with such other useful information regarding such
2931 cases as may be requested and is obtainable from the records of
2932 the youth court. The Division of Youth Services shall annually
2933 publish a statistical record of the number and disposition of all
2934 cases, but the names or identity of any children shall not be
2935 disclosed in the reports or records. The Division of Youth
2936 Services shall adopt such rules as may be necessary to carry out
2937 this subsection. The central registry files and the contents
2938 thereof shall be confidential and shall not be open to public
2939 inspection. Any person who shall disclose or encourage the
2940 disclosure of any record involving children from the central
2941 registry shall be subject to the penalty in Section 43-21-267.
2942 The youth court shall furnish, upon forms provided by the Division
2943 of Youth Services, the necessary information, and these completed
2944 forms shall be forwarded to the Division of Youth Services.

2945 (3) The Mississippi Department of Children's Affairs shall
2946 maintain a state central registry on neglect and abuse cases
2947 containing (a) the name, address and age of each child, (b) the



2948 nature of the harm reported, (c) the name and address of the
2949 person responsible for the care of the child, and (d) the name and
2950 address of the substantiated perpetrator of the harm reported.
2951 The Mississippi Department of Children's Affairs shall adopt such
2952 rules and administrative procedures, especially those procedures
2953 to afford due process to individuals who have been named as
2954 substantiated perpetrators prior to the release of their name from
2955 the registry, as may be necessary to carry out this subsection.
2956 The central registry shall be confidential and shall not be open
2957 to public inspection. Any person who shall disclose or encourage
2958 the disclosure of any record involving children from the central
2959 registry without following the rules and administrative procedures
2960 of the department shall be subject to the penalty in Section
2961 43-21-267. The Mississippi Department of Children's Affairs and
2962 its employees are hereby exempt from any civil liability as a
2963 result of any action taken pursuant to the compilation and/or
2964 release of information on the registry pursuant to this section
2965 and any other applicable section of the code.

2966 (4) The Mississippi State Department of Health may release
2967 the findings of investigations into allegations of abuse within
2968 licensed day care centers made under the provisions of Section
2969 43-21-353(8) to any parent of a child who is enrolled in the day
2970 care center at the time of the alleged abuse or at the time the
2971 request for information is made. The findings of any such
2972 investigation may also be released to parents who are considering
2973 placing children in the day care center. No information
2974 concerning such investigations may contain the names or
2975 identifying information of individual children.

2976 The Department of Health shall not be held civilly liable for
2977 the release of information on any findings, recommendations or
2978 actions taken pursuant to investigations of abuse that have been
2979 conducted pursuant to Section 43-21-353(8).



2980 SECTION 69. Section 43-21-261, Mississippi Code of 1972, is
2981 amended as follows:

2982 43-21-261. (1) Except as otherwise provided in this
2983 section, records involving children shall not be disclosed, other
2984 than to necessary staff of the youth court, except pursuant to an
2985 order of the youth court specifying the person or persons to whom
2986 the records may be disclosed, the extent of the records which may
2987 be disclosed and the purpose of the disclosure. Such court orders
2988 for disclosure shall be limited to those instances in which the
2989 youth court concludes, in its discretion, that disclosure is
2990 required for the best interests of the child, the public safety or
2991 the functioning of the youth court and then only to the following
2992 persons:

2993 (a) The judge of another youth court or member of
2994 another youth court staff;

2995 (b) The court of the parties in a child custody or
2996 adoption cause in another court;

2997 (c) A judge of any other court or members of another
2998 court staff;

2999 (d) Representatives of a public or private agency
3000 providing supervision or having custody of the child under order
3001 of the youth court;

3002 (e) Any person engaged in a bona fide research purpose,
3003 provided that no information identifying the subject of the
3004 records shall be made available to the researcher unless it is
3005 absolutely essential to the research purpose and the judge gives
3006 prior written approval, and the child, through his or her
3007 representative, gives permission to release the information;

3008 (f) The Mississippi Employment Security Commission, or
3009 its duly authorized representatives, for the purpose of a child's
3010 enrollment into the Job Corps Training Program as authorized by
3011 Title IV of the Comprehensive Employment Training Act of 1973 (29
3012 USCS Section 923 et seq.). However, no records, reports,



3013 investigations or information derived therefrom pertaining to
3014 child abuse or neglect shall be disclosed; and

3015 (g) To any person pursuant to a finding by a judge of
3016 the youth court of compelling circumstances affecting the health
3017 or safety of a child and that such disclosure is in the best
3018 interests of the child.

3019 Law enforcement agencies may disclose information to the
3020 public concerning the taking of a child into custody for the
3021 commission of a delinquent act without the necessity of an order
3022 from the youth court. The information released shall not identify
3023 the child or his address unless the information involves a child
3024 convicted as an adult.

3025 (2) Any records involving children which are disclosed under
3026 an order of the youth court and the contents thereof shall be kept
3027 confidential by the person or agency to whom the record is
3028 disclosed except as provided in the order. Any further disclosure
3029 of any records involving children shall be made only under an
3030 order of the youth court as provided in this section.

3031 (3) Upon request, the parent, guardian or custodian of the
3032 child who is the subject of a youth court cause or any attorney
3033 for such parent, guardian or custodian, shall have the right to
3034 inspect any record, report or investigation which is to be
3035 considered by the youth court at a hearing, except that the
3036 identity of the reporter shall not be released, nor the name of
3037 any other person where the person or agency making the information
3038 available finds that disclosure of the information would be likely
3039 to endanger the life or safety of such person.

3040 (4) Upon request, the child who is the subject of a youth
3041 court cause shall have the right to have his counsel inspect and
3042 copy any record, report or investigation which is filed with the
3043 youth court.

3044 (5) (a) The youth court prosecutor or prosecutors, the
3045 county attorney, the district attorney, the youth court defender



3046 or defenders, or any attorney representing a child shall have the
3047 right to inspect any law enforcement record involving children.

3048 (b) The Mississippi Department of Children's Affairs
3049 shall disclose to a county prosecuting attorney or district
3050 attorney any and all records resulting from an investigation into
3051 suspected child abuse or neglect when the case has been referred
3052 by the Mississippi Department of Children's Affairs to the county
3053 prosecuting attorney or district attorney for criminal
3054 prosecution.

3055 (c) Agency records made confidential under the
3056 provisions of this section may be disclosed to a court of
3057 competent jurisdiction.

3058 (6) Information concerning an investigation into a report of
3059 child abuse or child neglect may be disclosed by the Mississippi
3060 Department of Children's Affairs without order of the youth court
3061 to any attorney, physician, dentist, intern, resident, nurse,
3062 psychologist, social worker, child care giver, minister, law
3063 enforcement officer, public or private school employee making that
3064 report pursuant to Section 43-21-353(1) if the reporter has a
3065 continuing professional relationship with the child and a need for
3066 such information in order to protect or treat the child.

3067 (7) Information concerning an investigation into a report of
3068 child abuse or child neglect may be disclosed without further
3069 order of the youth court to any interagency child abuse task force
3070 established in any county or municipality by order of the youth
3071 court of that county or municipality.

3072 (8) Names and addresses of juveniles twice adjudicated as
3073 delinquent for an act which would be a felony if committed by an
3074 adult or for the unlawful possession of a firearm shall not be
3075 held confidential and shall be made available to the public.

3076 (9) Names and addresses of juveniles adjudicated as
3077 delinquent for murder, manslaughter, burglary, arson, armed
3078 robbery, aggravated assault, any sex offense as defined in Section



3079 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
3080 violation of Section 63-11-30, shall not be held confidential and
3081 shall be made available to the public.

3082 (10) The judges of the circuit and county courts, and
3083 presentence investigators for the circuit courts, as provided in
3084 Section 47-7-9, shall have the right to inspect any youth court
3085 records of a person convicted of a crime for sentencing purposes
3086 only.

3087 (11) The victim of an offense committed by a child who is
3088 the subject of a youth court cause shall have the right to be
3089 informed of the child's disposition by the youth court.

3090 (12) The Classification Committee of the State Department of
3091 Corrections, as provided in Section 47-5-103, shall have the right
3092 to inspect any youth court records, excluding abuse and neglect
3093 records, of any offender in the custody of the department who as a
3094 child or minor was a juvenile offender or was the subject of a
3095 youth court cause of action, and the State Parole Board, as
3096 provided in Section 47-7-17, shall have the right to inspect such
3097 records when said offender becomes eligible for parole.

3098 (13) The youth court shall notify the Department of Public
3099 Safety of the name, and any other identifying information such
3100 department may require, of any child who is adjudicated delinquent
3101 as a result of a violation of the Uniform Controlled Substances
3102 Law.

3103 (14) The Administrative Office of Courts shall have the
3104 right to inspect any youth court records in order that the number
3105 of youthful offenders, abused, neglected, truant and dependent
3106 children, as well as children in need of special care and children
3107 in need of supervision, may be tracked with specificity through
3108 the youth court and adult justice system, and to utilize tracking
3109 forms for such purpose.

3110 (15) Upon a request by a youth court, the Administrative
3111 Office of Courts shall disclose all information at its disposal



3112 concerning any previous youth court intakes alleging that a child
3113 was a delinquent child, child in need of supervision, child in
3114 need of special care, truant child, abused child or neglected
3115 child, as well as any previous youth court adjudications for the
3116 same and all dispositional information concerning a child who at
3117 the time of such request comes under the jurisdiction of the youth
3118 court making such request.

3119 (16) In every case where an abuse or neglect allegation has
3120 been made, the confidentiality provisions of this section shall
3121 not apply to prohibit access to a child's records by any state
3122 regulatory agency, any state or local prosecutorial agency or law
3123 enforcement agency; provided, however, that no identifying
3124 information concerning the child in question may be released to
3125 the public by such agency except as otherwise provided herein.

3126 (17) In every case where there is any indication or
3127 suggestion of either abuse or neglect and a child's physical
3128 condition is medically labeled as medically "serious" or
3129 "critical" or a child dies, the confidentiality provisions of this
3130 section shall not apply.

3131 (18) Any member of a foster care review board designated by
3132 the Mississippi Department of Children's Affairs shall have the
3133 right to inspect youth court records relating to the abuse,
3134 neglect or child in need of supervision cases assigned to such
3135 member for review.

3136 (19) Information concerning an investigation into a report
3137 of child abuse or child neglect may be disclosed without further
3138 order of the youth court in any administrative or due process
3139 hearing held, pursuant to Section 43-21-257, by the Mississippi
3140 Department of Children's Affairs for individuals whose names will
3141 be placed on the central registry as substantiated perpetrators.

3142 SECTION 70. Section 43-21-315, Mississippi Code of 1972, is
3143 amended as follows:



3144 43-21-315. (1) The youth court shall, by general order or
3145 rule of court, designate the available detention or shelter
3146 facilities to which children shall be delivered when taken into
3147 custody. Copies of the order or rule shall be made available to
3148 the Mississippi Department of Children's Affairs and all law
3149 enforcement agencies within the territorial jurisdiction of the
3150 youth court.

3151 (2) Except as otherwise provided in this chapter, unless
3152 jurisdiction is transferred, no child shall be placed in any jail
3153 or place of detention of adults by any person or court unless the
3154 child shall be physically segregated from other persons not
3155 subject to the jurisdiction of the youth court and the physical
3156 arrangement of such jail or place of detention of adults prevents
3157 such child from having substantial contact with and substantial
3158 view of such other persons; but in any event, the child shall not
3159 be confined anywhere in the same cell with persons not subject to
3160 the jurisdiction of the youth court. Any order placing a child
3161 into custody shall comply with the detention requirements provided
3162 in Section 43-21-301(6). This subsection shall not be construed
3163 to apply to commitments to the training school under Section
3164 43-21-605(1)(g)(iii).

3165 (3) Any child who is charged with a hunting or fishing
3166 violation, a traffic violation, or any other criminal offense for
3167 which the youth court shall have power on its own motion to remove
3168 jurisdiction from any criminal court, may be detained only in the
3169 same facilities designated by the youth court for children within
3170 the jurisdiction of the youth court.

3171 (4) After a child is ordered into custody, the youth court
3172 may arrange for the custody of the child with any private
3173 institution or agency caring for children, may commit the child to
3174 the Department of Mental Health pursuant to Section 41-21-61 et
3175 seq., or may order the Mississippi Department of Children's
3176 Affairs or any other public agency to provide for the custody,



3177 care and maintenance of such child. Provided, however, that the
3178 care, custody and maintenance of such child shall be within the
3179 statutory authorization and the budgetary means of such
3180 institution or facility.

3181 SECTION 71. Section 43-21-353, Mississippi Code of 1972, is
3182 amended as follows:

3183 43-21-353. (1) Any attorney, physician, dentist, intern,
3184 resident, nurse, psychologist, social worker, child care giver,
3185 minister, law enforcement officer, public or private school
3186 employee or any other person having reasonable cause to suspect
3187 that a child is a neglected child or an abused child, shall cause
3188 an oral report to be made immediately by telephone or otherwise
3189 and followed as soon thereafter as possible by a report in writing
3190 to the Mississippi Department of Children's Affairs, and
3191 immediately a referral shall be made by the Mississippi Department
3192 of Children's Affairs to the youth court intake unit, which unit
3193 shall promptly comply with Section 43-21-357. Where appropriate,
3194 the Mississippi Department of Children's Affairs shall
3195 additionally make a referral to the youth court prosecutor. Upon
3196 receiving a report that a child has been sexually abused, or
3197 burned, tortured, mutilated or otherwise physically abused in such
3198 a manner as to cause serious bodily harm, or upon receiving any
3199 report of abuse that would be a felony under state or federal law,
3200 the Mississippi Department of Children's Affairs shall immediately
3201 notify the law enforcement agency in whose jurisdiction the abuse
3202 occurred and shall notify the appropriate prosecutor within
3203 forty-eight (48) hours, and the Mississippi Department of
3204 Children's Affairs shall have the duty to provide the law
3205 enforcement agency all the names and facts known at the time of
3206 the report; this duty shall be of a continuing nature. The law
3207 enforcement agency and the Mississippi Department of Children's
3208 Affairs shall investigate the reported abuse immediately and shall
3209 file a preliminary report with the appropriate prosecutor's office



3210 within twenty-four (24) hours and shall make additional reports as
3211 new or additional information or evidence becomes available. The
3212 Mississippi Department of Children's Affairs shall advise the
3213 clerk of the youth court and the youth court prosecutor of all
3214 cases of abuse reported to the department within seventy-two (72)
3215 hours and shall update such report as information becomes
3216 available.

3217 (2) Any report to the Mississippi Department of Children's
3218 Affairs shall contain the names and addresses of the child and his
3219 parents or other persons responsible for his care, if known, the
3220 child's age, the nature and extent of the child's injuries,
3221 including any evidence of previous injuries and any other
3222 information that might be helpful in establishing the cause of the
3223 injury and the identity of the perpetrator.

3224 (3) The Mississippi Department of Children's Affairs shall
3225 maintain a statewide incoming wide-area telephone service or
3226 similar service for the purpose of receiving reports of suspected
3227 cases of child abuse; provided that any attorney, physician,
3228 dentist, intern, resident, nurse, psychologist, social worker,
3229 child care giver, minister, law enforcement officer or public or
3230 private school employee who is required to report under subsection
3231 (1) of this section shall report in the manner required in
3232 subsection (1).

3233 (4) Reports of abuse and neglect made under this chapter and
3234 the identity of the reporter are confidential except when the
3235 court in which the investigation report is filed, in its
3236 discretion, determines the testimony of the person reporting to be
3237 material to a judicial proceeding or when the identity of the
3238 reporter is released to law enforcement agencies and the
3239 appropriate prosecutor pursuant to subsection (1). Reports made
3240 under this section to any law enforcement agency or prosecutorial
3241 officer are for the purpose of criminal investigation and
3242 prosecution only and no information from these reports may be



3243 released to the public except as provided by Section 43-21-261.
3244 Disclosure of any information by the prosecutor shall be according
3245 to the Mississippi Uniform Rules of Circuit and County Court
3246 Procedure. The identity of the reporting party shall not be
3247 disclosed to anyone other than law enforcement officers or
3248 prosecutors without an order from the appropriate youth court.
3249 Any person disclosing any reports made under this section in a
3250 manner not expressly provided for in this section or Section
3251 43-21-261, shall be guilty of a misdemeanor and subject to the
3252 penalties prescribed by Section 43-21-267.

3253 (5) All final dispositions of law enforcement investigations
3254 described in subsection (1) of this section shall be determined
3255 only by the appropriate prosecutor or court. All final
3256 dispositions of investigations by the Mississippi Department of
3257 Children's Affairs as described in subsection (1) of this section
3258 shall be determined only by the youth court. Reports made under
3259 subsection (1) of this section by the Mississippi Department of
3260 Children's Affairs to the law enforcement agency and to the
3261 district attorney's office shall include the following, if known
3262 to the department:

3263 (a) The name and address of the child;
3264 (b) The names and addresses of the parents;
3265 (c) The name and address of the suspected perpetrator;
3266 (d) The names and addresses of all witnesses, including
3267 the reporting party if a material witness to the abuse;

3268 (e) A brief statement of the facts indicating that the
3269 child has been abused and any other information from the agency
3270 files or known to the social worker making the investigation,
3271 including medical records or other records, which may assist law
3272 enforcement or the district attorney in investigating and/or
3273 prosecuting the case; and

3274 (f) What, if any, action is being taken by the
3275 Mississippi Department of Children's Affairs.



3276 (6) In any investigation of a report made under this chapter
3277 of the abuse or neglect of a child as defined in Section
3278 43-21-105(m), the Mississippi Department of Children's Affairs may
3279 request the appropriate law enforcement officer with jurisdiction
3280 to accompany the department in its investigation, and in such
3281 cases the law enforcement officer shall comply with such request.

3282 (7) Anyone who willfully violates any provision of this
3283 section shall be, upon being found guilty, punished by a fine not
3284 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in
3285 jail not to exceed one (1) year, or both.

3286 (8) If a report is made directly to the Mississippi
3287 Department of Children's Affairs that a child has been abused or
3288 neglected in an out-of-home setting, a referral shall be made
3289 immediately to the law enforcement agency in whose jurisdiction
3290 the abuse occurred and the department shall notify the district
3291 attorney's office within forty-eight (48) hours of such report.
3292 The Mississippi Department of Children's Affairs shall investigate
3293 the out-of-home setting report of abuse or neglect to determine
3294 whether the child who is the subject of the report, or other
3295 children in the same environment, comes within the jurisdiction of
3296 the youth court and shall report to the youth court the
3297 department's findings and recommendation as to whether the child
3298 who is the subject of the report or other children in the same
3299 environment require the protection of the youth court. The law
3300 enforcement agency shall investigate the reported abuse
3301 immediately and shall file a preliminary report with the district
3302 attorney's office within forty-eight (48) hours and shall make
3303 additional reports as new information or evidence becomes
3304 available. If the out-of-home setting is a licensed facility, an
3305 additional referral shall be made by the Mississippi Department of
3306 Children's Affairs to the licensing agency. The licensing agency
3307 shall investigate the report and shall provide the Mississippi
3308 Department of Children's Affairs, the law enforcement agency and



3309 the district attorney's office with their written findings from
3310 such investigation as well as that licensing agency's
3311 recommendations and actions taken.

3312 SECTION 72. Section 43-21-354, Mississippi Code of 1972, is
3313 amended as follows:

3314 43-21-354. The statewide incoming wide-area telephone
3315 service established pursuant to Section 43-21-353, Mississippi
3316 Code of 1972, shall be maintained by the Mississippi Department of
3317 Children's Affairs, or its successor, on a twenty-four-hour seven
3318 (7) days a week basis.

3319 SECTION 73. Section 43-21-357, Mississippi Code of 1972, is
3320 amended as follows:

3321 43-21-357. (1) After receiving a report, the youth court
3322 intake unit shall promptly make a preliminary inquiry to determine
3323 whether the interest of the child, other children in the same
3324 environment or the public requires the youth court to take further
3325 action. As part of the preliminary inquiry, the youth court
3326 intake unit may request or the youth court may order the
3327 Mississippi Department of Children's Affairs, the Division of
3328 Youth Services, any successor agency or any other qualified public
3329 employee to make an investigation or report concerning the child
3330 and any other children in the same environment, and present the
3331 findings thereof to the youth court intake unit. If the youth
3332 court intake unit receives a neglect or abuse report, the youth
3333 court intake unit shall immediately forward the complaint to the
3334 Mississippi Department of Children's Affairs to promptly make an
3335 investigation or report concerning the child and any other
3336 children in the same environment and promptly present the findings
3337 thereof to the youth court intake unit. If it appears from the
3338 preliminary inquiry that the child or other children in the same
3339 environment are within the jurisdiction of the court, the youth
3340 court intake unit shall recommend to the youth court:

3341 (a) That the youth court take no action;



3342 (b) That an informal adjustment be made;

3343 (c) The Mississippi Department of Children's Affairs,

3344 monitor the child, family and other children in the same

3345 environment;

3346 (d) That the child is warned or counseled informally;

3347 or

3348 (e) That a petition be filed.

3349 (2) The youth court shall then, without a hearing:

3350 (a) Order that no action be taken;

3351 (b) Order that an informal adjustment be made;

3352 (c) Order that the Mississippi Department of Children's

3353 Affairs, Division of Family and Children Services, monitor the

3354 child, family and other children in the same environment;

3355 (d) Order that the child is warned or counseled

3356 informally; or

3357 (e) Order that a petition be filed.

3358 (3) If the preliminary inquiry discloses that a child needs

3359 emergency medical treatment, the judge may order the necessary

3360 treatment.

3361 SECTION 74. Section 43-21-405, Mississippi Code of 1972, is

3362 amended as follows:

3363 43-21-405. (1) The informal adjustment process shall be

3364 initiated with an informal adjustment conference conducted by an

3365 informal adjustment counselor appointed by the judge or his

3366 designee.

3367 (2) If the child and his parent, guardian or custodian

3368 appear at the informal adjustment conference without counsel, the

3369 informal adjustment counselor shall, at the commencement of the

3370 conference, inform them of their right to counsel, the child's

3371 right to appointment of counsel and the right of the child to

3372 remain silent. If either the child or his parent, guardian or

3373 custodian indicates a desire to be represented by counsel, the



3374 informal adjustment counselor shall adjourn the conference to
3375 afford an opportunity to secure counsel.

3376 (3) At the beginning of the informal adjustment conference,
3377 the informal adjustment counselor shall inform the child and his
3378 parent, guardian or custodian:

3379 (a) That information has been received concerning the
3380 child which appears to establish jurisdiction of the youth court;

3381 (b) The purpose of the informal adjustment conference;

3382 (c) That during the informal adjustment process no
3383 petition will be filed;

3384 (d) That the informal adjustment process is voluntary
3385 with the child and his parent, guardian or custodian and that they
3386 may withdraw from the informal adjustment at any time; and

3387 (e) The circumstances under which the informal
3388 adjustment process can be terminated under Section 43-21-407.

3389 (4) The informal adjustment counselor shall then discuss
3390 with the child and his parent, guardian or custodian:

3391 (a) Recommendations for actions or conduct in the
3392 interest of the child to correct the conditions of behavior or
3393 environment which may exist;

3394 (b) Continuing conferences and contacts with the child
3395 and his parent, guardian or custodian by the informal adjustment
3396 counselor or other authorized persons; and

3397 (c) The child's general behavior, his home and school
3398 environment and other factors bearing upon the proposed informal
3399 adjustment.

3400 (5) After the parties have agreed upon the appropriate terms
3401 and conditions of informal adjustment, the informal adjustment
3402 counselor and the child and his parent, guardian or custodian
3403 shall sign a written informal adjustment agreement setting forth
3404 the terms and conditions of the informal adjustment. The informal
3405 adjustment agreement may be modified at any time upon the consent
3406 of all parties to the informal adjustment conference.



3407 (6) The informal adjustment process shall not continue
3408 beyond a period of six (6) months from its commencement unless
3409 extended by the youth court for an additional period not to exceed
3410 six (6) months by court authorization prior to the expiration of
3411 the original six-month period. In no event shall the custody or
3412 supervision of a child which has been placed with the Mississippi
3413 Department of Children's Affairs be continued or extended except
3414 upon a written finding by the youth court judge or referee that
3415 reasonable efforts have been made to maintain the child within his
3416 own home, but that the circumstances warrant his removal and there
3417 is no reasonable alternative to custody, and that reasonable
3418 efforts will continue to be made towards reunification of the
3419 family.

3420 SECTION 75. Section 43-21-603, Mississippi Code of 1972, is
3421 amended as follows:

3422 43-21-603. (1) At the beginning of each disposition
3423 hearing, the judge shall inform the parties of the purpose of the
3424 hearing.

3425 (2) All testimony shall be under oath unless waived by all
3426 parties and may be in narrative form. The court may consider any
3427 evidence which is material and relevant to the disposition of the
3428 cause, including hearsay and opinion evidence. At the conclusion
3429 of the evidence, the youth court shall give the parties an
3430 opportunity to present oral argument.

3431 (3) If the child has been adjudicated a delinquent child,
3432 prior to entering a disposition order, the youth court should
3433 consider, among others, the following relevant factors:

- 3434 (a) The nature of the offense;
- 3435 (b) The manner in which the offense was committed;
- 3436 (c) The nature and number of a child's prior
3437 adjudicated offenses; and
- 3438 (d) The child's need for care and assistance.



3439 (4) If the child has been adjudicated a child in need of
3440 supervision, prior to entering a disposition order, the youth
3441 court should consider, among others, the following relevant
3442 factors:

- 3443 (a) The nature and history of the child's conduct;
- 3444 (b) The family and home situation; and
- 3445 (c) The child's need of care and assistance.

3446 (5) If the child has been adjudicated a neglected child or
3447 an abused child, prior to entering a disposition order, the youth
3448 court shall consider, among others, the following relevant
3449 factors:

- 3450 (a) The child's physical and mental conditions;
- 3451 (b) The child's need of assistance;
- 3452 (c) The manner in which the parent, guardian or
3453 custodian participated in, tolerated or condoned the abuse,
3454 neglect or abandonment of the child;

3455 (d) The ability of a child's parent, guardian or
3456 custodian to provide proper supervision and care of a child; and

3457 (e) Relevant testimony and recommendations, where
3458 available, from the foster parent of the child, the grandparents
3459 of the child, the guardian ad litem of the child, representatives
3460 of any private care agency which has cared for the child, the
3461 social worker assigned to the case, and any other relevant
3462 testimony pertaining to the case.

3463 (6) After consideration of all the evidence and the relevant
3464 factors, the youth court shall enter a disposition order which
3465 shall not recite any of the facts or circumstances upon which such
3466 disposition is based, nor shall it recite that a child has been
3467 found guilty; but it shall recite that a child is found to be a
3468 delinquent child, a child in need of supervision, a neglected
3469 child or an abused child.

3470 (7) In the event that the youth court orders that the
3471 custody or supervision of a child who has been adjudicated abused



3472 or neglected be placed with the Mississippi Department of
3473 Children's Affairs or any other person or public or private
3474 agency, other than the child's parent, guardian or custodian, the
3475 youth court shall find and the disposition order shall recite
3476 that:

3477 (a) (i) Reasonable efforts have been made to maintain
3478 the child within his own home, but that the circumstances warrant
3479 his removal and there is no reasonable alternative to custody; or

3480 (a) (ii) The circumstances are of such an emergency
3481 nature that no reasonable efforts have been made to maintain the
3482 child within his own home, and that there is no reasonable
3483 alternative to custody; and

3484 (b) That the effect of the continuation of the child's
3485 residence within his own home would be contrary to the welfare of
3486 the child and that the placement of the child in foster care is in
3487 the best interests of the child; or

3488 (c) Reasonable efforts to maintain the child within his
3489 home shall not be required if the court determines that:

3490 (i) The parent has subjected the child to
3491 aggravated circumstances including, but not limited to,
3492 abandonment, torture, chronic abuse and sexual abuse; or

3493 (ii) The parent has been convicted of murder of
3494 another child of such parent, voluntary manslaughter of another
3495 child of such parent, aided or abetted, attempted, conspired or
3496 solicited to commit such murder or voluntary manslaughter, or a
3497 felony assault that results in the serious bodily injury to the
3498 surviving child or another child of such parent; or

3499 (iii) The parental rights of the parent to a
3500 sibling have been terminated involuntarily; and

3501 (iv) That the effect of the continuation of the
3502 child's residence within his own home would be contrary to the
3503 welfare of the child and that placement of the child in foster
3504 care is in the best interests of the child.



3505 Once the reasonable efforts requirement is bypassed, the
3506 court shall have a permanency hearing pursuant to Section
3507 43-21-613 within thirty (30) days of such finding.

3508 (8) Upon a written motion by a party, the youth court shall
3509 make written findings of fact and conclusions of law upon which it
3510 relies for the disposition order.

3511 SECTION 76. Section 43-21-605, Mississippi Code of 1972, is
3512 amended as follows:

3513 43-21-605. (1) In delinquency cases, the disposition order
3514 may include any of the following alternatives:

3515 (a) Release the child without further action;

3516 (b) Place the child in the custody of the parents, a
3517 relative or other persons subject to any conditions and
3518 limitations, including restitution, as the youth court may
3519 prescribe;

3520 (c) Place the child on probation subject to any
3521 reasonable and appropriate conditions and limitations, including
3522 restitution, as the youth court may prescribe;

3523 (d) Order terms of treatment calculated to assist the
3524 child and the child's parents or guardian which are within the
3525 ability of the parent or guardian to perform;

3526 (e) Order terms of supervision which may include
3527 participation in a constructive program of service or education or
3528 civil fines not in excess of Five Hundred Dollars (\$500.00), or
3529 restitution not in excess of actual damages caused by the child to
3530 be paid out of his own assets or by performance of services
3531 acceptable to the victims and approved by the youth court and
3532 reasonably capable of performance within one (1) year;

3533 (f) Suspend the child's driver's license by taking and
3534 keeping it in custody of the court for not more than one (1) year;

3535 (g) Give legal custody of the child to any of the
3536 following:



3537 (i) The Mississippi Department of Children's
3538 Affairs for appropriate placement; or

3539 (ii) Any public or private organization,
3540 preferably community-based, able to assume the education, care and
3541 maintenance of the child, which has been found suitable by the
3542 court; or

3543 (iii) The Mississippi Department of Children's
3544 Affairs for placement in a wilderness training program or a
3545 state-supported training school, except that no child under the
3546 age of ten (10) years shall be committed to a state training
3547 school. The training school may retain custody of the child until
3548 the child's twentieth birthday but for no longer. The
3549 superintendent of a state training school may parole a child at
3550 any time he may deem it in the best interest and welfare of such
3551 child. Twenty (20) days prior to such parole, the training school
3552 shall notify the committing court of the pending release. The
3553 youth court may then arrange subsequent placement after a
3554 reconvened disposition hearing except that the youth court may not
3555 recommit the child to the training school or any other secure
3556 facility without an adjudication of a new offense or probation or
3557 parole violation. Prior to assigning the custody of any child to
3558 any private institution or agency, the youth court through its
3559 designee shall first inspect the physical facilities to determine
3560 that they provide a reasonable standard of health and safety for
3561 the child. The youth court shall not place a child in the custody
3562 of a state training school for truancy, unless such child has been
3563 adjudicated to have committed an act of delinquency in addition to
3564 truancy;

3565 (h) Recommend to the child and the child's parents or
3566 guardian that the child attend and participate in the Youth
3567 Challenge Program under the Mississippi National Guard, as created
3568 in Section 43-27-203, subject to the selection of the child for
3569 the program by the National Guard; however, the child must



3570 volunteer to participate in the program. The youth court may not
3571 order any child to apply or attend the program;

3572 (i) (i) Adjudicate the juvenile to the Statewide
3573 Juvenile Work Program if the program is established in the court's
3574 jurisdiction. The juvenile and his parents or guardians must sign
3575 a waiver of liability in order to participate in the work program.
3576 The judge will coordinate with the youth services counselors as to
3577 placing participants in the work program;

3578 (ii) The severity of the crime, whether or not the
3579 juvenile is a repeat offender or is a felony offender will be
3580 taken into consideration by the judge when adjudicating a juvenile
3581 to the work program. The juveniles adjudicated to the work
3582 program will be supervised by police officers or reserve officers.
3583 The term of service will be from twenty-four (24) to one hundred
3584 twenty (120) hours of community service. A juvenile will work the
3585 hours to which he was adjudicated on the weekends during school
3586 and week days during the summer. Parents are responsible for a
3587 juvenile reporting for work. Noncompliance with an order to
3588 perform community service will result in a heavier adjudication.
3589 A juvenile may be adjudicated to the community service program
3590 only two (2) times;

3591 (iii) The judge shall assess an additional fine on
3592 the juvenile which will be used to pay the costs of implementation
3593 of the program and to pay for supervision by police officers and
3594 reserve officers. The amount of the fine will be based on the
3595 number of hours to which the juvenile has been adjudicated;

3596 (j) Order the child to participate in a youth court
3597 work program as provided in Section 43-21-627; or

3598 (k) Order the child into a juvenile detention center
3599 operated by the county or into a juvenile detention center
3600 operated by any county with which the county in which the court is
3601 located has entered into a contract for the purpose of housing
3602 delinquents. The time period for such detention cannot exceed



3603 ninety (90) days. The youth court judge may order that the number
3604 of days specified in the detention order be served either
3605 throughout the week or on weekends only.

3606 (2) In addition to any of the disposition alternatives
3607 authorized under subsection (1) of this section, the disposition
3608 order in any case in which the child is adjudicated delinquent for
3609 an offense under Section 63-11-30 shall include an order denying
3610 the driver's license and driving privileges of the child as
3611 required under subsection (8) of Section 63-11-30.

3612 (3) Fines levied under this chapter shall be paid into the
3613 general fund of the county but, in those counties wherein the
3614 youth court is a branch of the municipal government, it shall be
3615 paid into the municipal treasury.

3616 (4) Any institution or agency to which a child has been
3617 committed shall give to the youth court any information concerning
3618 the child as the youth court may at any time require.

3619 (5) The youth court shall not place a child in another
3620 school district who has been expelled from a school district for
3621 the commission of a violent act. For the purpose of this
3622 subsection, "violent act" means any action which results in death
3623 or physical harm to another or an attempt to cause death or
3624 physical harm to another.

3625 SECTION 77. Section 43-21-607, Mississippi Code of 1972, is
3626 amended as follows:

3627 43-21-607. In children in need of supervision cases, the
3628 disposition order may include any of the following alternatives or
3629 combination of the following alternatives, giving precedence in
3630 the following sequence:

3631 (a) Release the child without further action;

3632 (b) Place the child in the custody of the parent, a
3633 relative or other person subject to any conditions and limitations
3634 as the youth court may prescribe;



3635 (c) Place the child under youth court supervision
3636 subject to any conditions and limitations the youth court may
3637 prescribe;

3638 (d) Order terms of treatment calculated to assist the
3639 child and the child's parent, guardian or custodian which are
3640 within the ability of the parent, guardian or custodian to
3641 perform;

3642 (e) Order terms of supervision which may include
3643 participation in a constructive program of service or education or
3644 restitution not in excess of actual damages caused by the child to
3645 be paid out of his own assets or by performance of services
3646 acceptable to the parties and reasonably capable of performance
3647 within one (1) year;

3648 (f) Give legal custody of the child to any of the
3649 following but in no event to any state training school;

3650 (i) The Mississippi Department of Children's
3651 Affairs for appropriate placement which may include a wilderness
3652 training program; or

3653 (ii) Any private or public organization,
3654 preferably community-based, able to assume the education, care and
3655 maintenance of the child, which has been found suitable by the
3656 court. Prior to assigning the custody of any child to any private
3657 institution or agency, the youth court through its designee shall
3658 first inspect the physical facilities to determine that they
3659 provide a reasonable standard of health and safety for the child;
3660 or

3661 (g) Order the child to participate in a youth court
3662 work program as provided in Section 43-21-627.

3663 SECTION 78. Section 43-21-609, Mississippi Code of 1972, is
3664 amended as follows:

3665 43-21-609. In neglect and abuse cases, the disposition order
3666 may include any of the following alternatives, giving precedence
3667 in the following sequence:



3668 (a) Release the child without further action;

3669 (b) Place the child in the custody of his parents, a
3670 relative or other person subject to any conditions and limitations
3671 as the court may prescribe. If the court finds that temporary
3672 relative placement, adoption or foster care placement is
3673 inappropriate, unavailable or otherwise not in the best interest
3674 of the child, durable legal custody may be granted by the court to
3675 any person subject to any limitations and conditions the court may
3676 prescribe; such durable legal custody will not take effect unless
3677 the child or children have been in the physical custody of the
3678 proposed durable custodians for at least one (1) year under the
3679 supervision of the Mississippi Department of Children's Affairs.
3680 The requirements of Section 43-21-613 as to disposition review
3681 hearings does not apply to those matters in which the court has
3682 granted durable legal custody. In such cases, the Mississippi
3683 Department of Children's Affairs shall be released from any
3684 oversight or monitoring responsibilities;

3685 (c) Order terms of treatment calculated to assist the
3686 child and the child's parent, guardian or custodian which are
3687 within the ability of the parent, guardian or custodian to
3688 perform;

3689 (d) Order youth court personnel, the Mississippi
3690 Department of Children's Affairs or child care agencies to assist
3691 the child and the child's parent, guardian or custodian to secure
3692 social or medical services to provide proper supervision and care
3693 of the child;

3694 (e) Give legal custody of the child to any of the
3695 following but in no event to any state training school:

3696 (i) The Mississippi Department of Children's
3697 Affairs for appropriate placement; or

3698 (ii) Any private or public organization,
3699 preferably community-based, able to assume the education, care and
3700 maintenance of the child, which has been found suitable by the



3701 court. Prior to assigning the custody of any child to any private
3702 institution or agency, the youth court through its designee shall
3703 first inspect the physical facilities to determine that they
3704 provide a reasonable standard of health and safety for the child.

3705 SECTION 79. Section 43-21-613, Mississippi Code of 1972, is
3706 amended as follows:

3707 43-21-613. (1) If the youth court finds, after a hearing
3708 which complies with the sections governing adjudicatory hearings,
3709 that the terms of a delinquency or child in need of supervision
3710 disposition order, probation or parole have been violated, the
3711 youth court may, in its discretion, revoke the original
3712 disposition and make any disposition which it could have
3713 originally ordered. The hearing shall be initiated by the filing
3714 of a petition which complies with the sections governing petitions
3715 in this chapter and which includes a statement of the youth
3716 court's original disposition order, probation or parole, the
3717 alleged violation of that order, probation or parole, and the
3718 facts which show the violation of that order, probation or parole.
3719 Summons shall be served in the same manner as summons for an
3720 adjudicatory hearing.

3721 (2) On motion of a child or a child's parent, guardian or
3722 custodian, the youth court may, in its discretion, conduct an
3723 informal hearing to review the disposition order. If the youth
3724 court finds a material change of circumstances relating to the
3725 disposition of the child, the youth court may modify the
3726 disposition order to any appropriate disposition of equal or
3727 greater precedence which the youth court could have originally
3728 ordered.

3729 (3) (a) Unless the youth court's jurisdiction has been
3730 terminated, all disposition orders for supervision, probation or
3731 placement of a child with an individual or an agency shall be
3732 reviewed by the youth court judge or referee at least annually to
3733 determine if continued placement, probation or supervision is in



3734 the best interest of the child or the public. For children who
3735 have been adjudicated abused or neglected, the youth court shall
3736 conduct a permanency hearing within twelve (12) months after the
3737 earlier of:

3738 (i) An adjudication that the child has been abused
3739 or neglected; or

3740 (ii) Sixty (60) days from the child's removal from
3741 the allegedly abusive or neglectful custodian/parent. Notice of
3742 such hearing shall be given in accordance with the provisions of
3743 Section 43-21-505(5). In conducting the hearing, the judge or
3744 referee may require a written report, information or statements
3745 from the child's youth court counselor, parent, guardian or
3746 custodian which includes, but is not limited to, an evaluation of
3747 the child's progress and recommendations for further supervision
3748 or treatment. The judge or referee shall, at the permanency
3749 hearing determine the future status of the child, including, but
3750 not limited to, whether the child should be returned to the
3751 parent(s) or placed with suitable relatives, placed for adoption,
3752 placed for the purpose of establishing durable legal custody or
3753 should, because of the child's special needs or circumstances, be
3754 continued in foster care on a permanent or long-term basis. If
3755 the child is in an out-of-state placement, the hearing shall
3756 determine whether the out-of-state placement continues to be
3757 appropriate and in the best interest of the child. The judge or
3758 referee may find that reasonable efforts to maintain the child
3759 within his home shall not be required in accordance with Section
3760 43-21-603(7)(c).

3761 (b) The court may find that the filing of a termination
3762 of parental rights petition is not in the child's best interest
3763 if:

3764 (i) The child is being cared for by a relative;
3765 and/or



3766 (ii) The Mississippi Department of Children's
3767 Affairs has documented compelling and extraordinary reasons why
3768 termination of parental rights would not be in the best interests
3769 of the child.

3770 (c) (i) In the event that the youth court either
3771 orders or continues the custody or supervision of a child to be
3772 placed with the Mississippi Department of Children's Affairs or
3773 any other person or public or private agency, other than the
3774 child's parent, guardian or custodian, unless the reasonable
3775 efforts requirement is bypassed under Section 43-21-603(7)(c), the
3776 youth court shall find and the order shall recite that the effect
3777 of the continuation of the child's residence within his own home
3778 would be contrary to the welfare of the child and that placement
3779 or continued placement of the child in foster care is in the best
3780 interest of the child, and that:

3781 1. Reasonable efforts have been made to
3782 maintain the child within his own home, but that the circumstances
3783 warrant his removal and there is no reasonable alternative to
3784 custody; or

3785 2. The circumstances are of such an emergency
3786 nature that no reasonable efforts have been made to maintain the
3787 child within his own home, and that there is no reasonable
3788 alternative to custody.

3789 (ii) The youth court also shall find and the order
3790 shall recite that:

3791 1. Reasonable efforts were made to reunify
3792 the child safely with his family if the removal could not be
3793 prevented; or

3794 2. If reasonable efforts were not made to
3795 prevent the child's removal from home or to reunify the child with
3796 his family, that reasonable efforts are or were not required; or

3797 3. If the permanent plan for the child is
3798 adoption, guardianship, or some other permanent living arrangement



3799 other than reunification, that reasonable efforts were made to
3800 make and finalize that alternate permanent placement.

3801 (d) The provisions of this subsection shall also apply
3802 to review of cases involving a dependent child; however, such
3803 reviews shall take place not less frequently than once each one
3804 hundred eighty (180) days. A dependent child shall be ordered by
3805 the youth court judge or referee to be returned to the custody and
3806 home of the child's parent, guardian or custodian unless the judge
3807 or referee, upon such review, makes a written finding that the
3808 return of the child to the home would be contrary to the child's
3809 best interests.

3810 (e) Reviews are not to be conducted unless explicitly
3811 ordered by the youth court concerning those cases in which the
3812 court has granted durable legal custody. In such cases, the
3813 Mississippi Department of Children's Affairs shall be released
3814 from any oversight or monitoring responsibilities.

3815 SECTION 80. Section 43-21-623, Mississippi Code of 1972, is
3816 amended as follows:

3817 43-21-623. Any juvenile who is adjudicated a delinquent on
3818 or after July 1, 1994, as a result of committing a sex offense as
3819 defined in Section 45-33-23 or any offense involving the crime of
3820 rape and placed in the custody of the Mississippi Department of
3821 Children's Affairs, Division of Youth Services, shall be tested
3822 for HIV and AIDS. Such tests shall be conducted by the State
3823 Department of Health in conjunction with the Division of Youth
3824 Services, Mississippi Department of Children's Affairs at the
3825 request of the victim or the victim's parents or guardian if the
3826 victim is a juvenile. The results of any positive HIV or AIDS
3827 tests shall be reported to the victim or the victim's parents or
3828 guardian if the victim is a juvenile as well as to the adjudicated
3829 offender. The State Department of Health shall provide counseling
3830 and referral to appropriate treatment for victims of a sex offense



3831 when the adjudicated offender tested positive for HIV or AIDS if
3832 the victim so requests.

3833 SECTION 81. Section 43-21-625, Mississippi Code of 1972, is
3834 amended as follows:

3835 43-21-625. (1) The Mississippi Department of Children's
3836 Affairs shall develop and implement a wilderness training program
3837 for first time youth offenders sentenced or classified as
3838 delinquency cases or as children in need of supervision.

3839 (2) The program shall include supervised camping trips,
3840 calisthenics, manual labor assignments, physical training with
3841 obstacle courses, training in decision-making and personal
3842 development and drug counseling and rehabilitation programs.

3843 (3) The department shall adopt rules requiring that
3844 wilderness training participants complete a structured
3845 disciplinary program and allowing for a restriction on general
3846 inmate population privileges.

3847 (4) Upon receipt of youth offenders, the department shall
3848 screen offenders for the wilderness training program. To
3849 participate, an offender must have no physical limitations which
3850 would preclude participation in strenuous activity, must not be
3851 impaired and must not have been previously incarcerated in a state
3852 or federal correctional facility. In screening offenders for the
3853 wilderness training program, the department shall consider the
3854 offender's criminal history and the possible rehabilitative
3855 benefits of the program. If an offender meets the specified
3856 criteria and space is available, the department shall request in
3857 writing from the sentencing court, approval to participate in the
3858 wilderness training program. If the person is classified by the
3859 court as a delinquent or child in need of supervision and the
3860 department is requesting approval from the sentencing court for
3861 placement in the program, the department shall, at the same time,
3862 notify the prosecuting attorney that the offender is being
3863 considered for placement in the wilderness training program. The



3864 notice shall explain that the purpose of such placement is
3865 diversion from lengthy incarceration when a wilderness training
3866 program could produce the same deterrent effect, and that the
3867 person given notice may, within fourteen (14) days of the mailing
3868 of the notice, notify the sentencing court in writing of
3869 objections, if any, to the placement of the offender in the
3870 wilderness training program. The sentencing court shall notify
3871 the department in writing of placement approval no later than
3872 twenty-one (21) days after receipt of the department's request for
3873 placement of the youthful offender in the wilderness training
3874 program. Failure to notify the department within twenty-one (21)
3875 days shall be considered an approval by the sentencing court for
3876 placing the youthful offender in the wilderness training program.
3877 The offices of the prosecuting attorneys may develop procedures
3878 for notifying each victim that the offender is being considered
3879 for placement in the wilderness training program.

3880 (5) The program shall provide a period of rigorous training
3881 to offenders who require a greater degree of supervision than
3882 community control or probation provides. Wilderness training
3883 programs may be operated in secure areas in or adjacent to adult
3884 institutions or in any area approved by the department. The
3885 program is not intended to divert offenders away from probation or
3886 community control but to divert them from long periods of
3887 incarceration when a wilderness training program could produce the
3888 same deterrent effect.

3889 (6) If an offender in the wilderness training program
3890 becomes unmanageable, the department may place him in an
3891 appropriate facility to complete the remainder of his sentence.
3892 Any period of time in which the offender is unable to participate
3893 in the wilderness training program activities may be excluded from
3894 the specified time requirements in the program. The portion of
3895 the sentence served prior to placement in the wilderness training
3896 program shall not be counted toward program completion. Upon the



3897 offender's completion of the wilderness training program, the
3898 department shall submit a report to the court that describes the
3899 offender's performance. If the offender's performance has been
3900 satisfactory, the court shall issue an order modifying the
3901 sentence imposed and placing the offender on probation. If the
3902 offender violates the conditions of probation, the court may
3903 revoke probation and impose any sentence which it might have
3904 originally imposed.

3905 (7) The department shall provide a special training program
3906 for staff selected for the wilderness training program.

3907 (8) The department is authorized to contract with any
3908 private or public nonprofit organization or entity to carry out
3909 the purpose of this section.

3910 SECTION 82. This act shall take effect and be in force from
3911 and after July 1, 2002; provided, however, that Section 1 of this
3912 act relating to an orderly transition, and Sections 20, 21, 22, 23
3913 and 24 of this act, which contain the automatic repealer on those
3914 statutes creating the Department of Human Services, shall take
3915 effect and be in force from and after passage.

