

By: Senator(s) Smith, Burton, King, Dearing,  
Chaney, Dawkins, Johnson (19th), Hamilton,  
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To: Public Health and  
Welfare; Appropriations

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

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

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

37 43-27-2. (1) There is hereby created the Mississippi  
38 Department of Children's Affairs, with powers, duties and  
39 functions provided in this act.

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

63       (3) Effective July 1, 2001, all employees of the agencies,  
64 divisions, offices and programs whose functions are transferred  
65 under this act shall be transferred to the Mississippi Department  
66 of Children's Affairs. Administrative Divisions of the Department  
67 of Human Services to be transferred include the following: (a)  
68 the Division of Youth Services; (b) the Division of Family and  
69 Children's Services; and (c) the Office for Children and Youth.  
70 All such transfers shall be in accordance with the rules and  
71 regulations of the State Personnel Board.

72       (4) Child care services and staff administered by the Office  
73 of Children and Youth within the Mississippi Department of Human  
74 Services, regardless of funding source, including federal Child  
75 Care Development Block Grant funds, at-risk child care funds,  
76 Child Care Partnership Grant programs and other training programs  
77 and consumer education programs for parents, but not including  
78 Temporary Assistance to Needy Families (TANF) child care funds,  
79 shall be transferred to the Mississippi Department of Children's  
80 Affairs on July 1, 2001.

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

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

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

93       43-27-4. (1) There shall be established a Board of  
94 Children's Affairs composed of seven (7) members who are qualified  
95 electors appointed by the Governor and the State Superintendent of  
96 Education as an ex officio nonvoting member. The appointed  
97 members shall be composed of one (1) person who is an active,  
98 experienced educator; one (1) person who is an active licensed  
99 psychiatrist or psychologist; one (1) person who is an active  
100 member of the National Association of Social Workers; one (1)  
101 person who is experienced in business; one (1) person who is a  
102 practicing attorney; and two (2) persons who are concerned  
103 citizens interested in the youth of the state. Provided, however,  
104 there shall be at least one (1) member of said board from each of

105 the congressional districts of the State of Mississippi as  
106 existing on July 1, 2001, and two (2) appointed at large, with all  
107 appointments to be confirmed by the Senate. Terms of office  
108 of the appointed members shall be as follows:

109 (a) The term of the member serving from the First  
110 Congressional District shall expire on June 30, 2002.

111 (b) The term of the member serving from the Second  
112 Congressional District shall expire on June 30, 2003.

113 (c) The term of the member serving from the Third  
114 Congressional District shall expire on June 30, 2004.

115 (d) The term of the member serving from the Fourth  
116 Congressional District shall expire on June 30, 2005.

117 (e) The term of the member serving from the Fifth  
118 Congressional District shall expire on June 30, 2006.

119 (f) The terms of the two (2) members serving from the  
120 state at large shall expire on June 30, 2003, and June 30, 2005,  
121 respectively.

122 All subsequent appointments shall be for a term of six (6)  
123 years.

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

129 (2) The Board of Children's Affairs shall meet and organize  
130 by electing one (1) of their number as chairman, whose term of  
131 office shall be one (1) year or until his successor shall be  
132 elected by the board and it shall transact such other business as  
133 may come before the board. The board shall have authority to  
134 elect any other officer from their number as they shall deem  
135 necessary to perform their duties, the term of such officer to be  
136 for one (1) year or until a successor shall be elected by the  
137 trustees.

138           (3) The Board of Children's Affairs shall meet once each  
139 month and such monthly meeting shall be known as a regular  
140 meeting, and at such regular meeting any business allowed or  
141 provided for by law may be transacted; and said Board of  
142 Children's Affairs shall meet at any other time at the call of the  
143 chairman, within his discretion, or at the request of three (3)  
144 members of the board. In the case of a called meeting, the call  
145 shall be in writing and shall be mailed by certified mail with  
146 return receipt requested to each and every member at least five  
147 (5) days prior to the date of such called meeting; at any such  
148 called meeting only such business as may be specifically stated in  
149 the notice thereof may be transacted. At any regular or called  
150 meeting, three (3) members of the Board of Youth Services shall  
151 constitute a quorum for the transaction of business. When any  
152 member of the Board of Children's Affairs fails to attend three  
153 (3) consecutive meetings, he shall be deemed to have automatically  
154 vacated his term of office, unless the Governor shall elect to  
155 retain said member, or the Governor may appoint another person in  
156 his place and stead for the remainder of the unexpired term.

157           (4) The board members shall serve without salary or  
158 compensation, but shall receive the per diem allowed public  
159 employees under Section 25-3-69, Mississippi Code of 1972, for  
160 meetings of said board, together with actual travel expenses  
161 authorized by law. The expenses and per diem of the members of  
162 the board shall be paid on an itemized statement, approved by the  
163 chairman of the board, from funds appropriated to the Mississippi  
164 Department of Children's Affairs.

165           (5) There shall be a Joint Oversight Committee of the  
166 Department of Children's Affairs composed of the respective  
167 Chairmen of the Senate Public Health and Welfare Committee, the  
168 Senate Appropriations Committee, the House Public Health and  
169 Welfare Committee and the House Appropriations Committee, two (2)  
170 members of the Senate appointed by the Lieutenant Governor to

171 serve at the will and pleasure of the Lieutenant Governor, and two  
172 (2) members of the House of Representatives appointed by the  
173 Speaker of the House to serve at the will and pleasure of the  
174 Speaker. The chairmanship of the committee shall alternate for  
175 twelve-month periods between the Senate members and the House  
176 members, with the Chairman of the Senate Public Health and Welfare  
177 Committee serving as the first chairman. The committee shall meet  
178 once each month, or upon the call of the chairman at such times as  
179 he deems necessary or advisable, and may make recommendations to  
180 the Legislature pertaining to any matter within the jurisdiction  
181 of the Mississippi Department of Children's Affairs. The  
182 appointing authorities may designate an alternate member from  
183 their respective houses to serve when the regular designee is  
184 unable to attend such meetings of the Oversight Committee. For  
185 attending meetings of the Oversight Committee, such legislators  
186 shall receive per diem and expenses which shall be paid from the  
187 contingent expense funds of their respective houses in the same  
188 amounts as provided for committee meetings when the Legislature is  
189 not in session; however, no per diem and expenses for attending  
190 meetings of the committee will be paid while the Legislature is in  
191 session. No per diem and expenses will be paid except for  
192 attending meetings of the Oversight Committee without prior  
193 approval of the proper committee in their respective houses.

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

196 43-27-6. (1) The Board of Children's Affairs shall appoint  
197 an Executive Director of the Mississippi Department of Children's  
198 Affairs who shall be the chief executive, administrative and  
199 fiscal officer of the department.

200 (2) The executive director shall receive an annual salary  
201 fixed by the board, not to exceed the maximum authorized by law,  
202 in addition to all actual, necessary expenses incurred in the

203 discharge of official duties, including mileage as authorized by  
204 law.

205 (3) The executive director shall possess the following  
206 minimum qualifications:

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

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

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

217 (4) The Executive Director of the Mississippi Department of  
218 Children's Affairs, with the approval of the Board of Children's  
219 Affairs, may assign to appropriate divisions such powers and  
220 duties as deemed appropriate to carry out the functions of the  
221 department, including, but not limited to:

222 (a) Division of Youth Services; and the

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

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

226 43-27-8. The Mississippi Department of Children's Affairs,  
227 shall administer the following duties and responsibilities:

228 (a) To implement and administer laws and policy  
229 relating to youth services and coordinate the efforts of the  
230 department with those of the federal government and other state  
231 departments and agencies, county governments, municipal  
232 governments and private agencies concerned with providing youth  
233 services.

234 (b) To establish standards, provide technical  
235 assistance and exercise the requisite supervision as it relates to

236 youth service programs over all state-supported juvenile  
237 correctional facilities.

238 (c) To promulgate and publish such rules, regulations  
239 and policies of the department as are needed for the efficient  
240 government and maintenance of all facilities and programs in  
241 accord, insofar as possible, with currently accepted standards of  
242 juvenile care and treatment.

243 (d) To make an annual report to the Legislature  
244 reflecting the activities of the department and make  
245 recommendations for improvement of the services to be performed by  
246 the department.

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

249 43-27-10. (a) The Mississippi Department of Children's  
250 Affairs shall exercise executive and administrative supervision  
251 over all state-owned facilities used for the detention, training,  
252 care, treatment and aftercare supervision of delinquent children  
253 properly committed to or confined in said facilities by a court on  
254 account of such delinquency; provided, however, such executive and  
255 administrative supervision under state-owned facilities shall not  
256 extend to any institutions and facilities for which executive and  
257 administrative supervision has been provided otherwise by law  
258 through other agencies.

259 (b) Such facilities shall include, but not be limited to,  
260 the Columbia Training School created by Chapter 111, Laws of 1916,  
261 and the Oakley Training School created by Chapter 205, Laws of  
262 1942, and those facilities authorized by Laws, 1994, Ch. 652.

263 (c) The department shall have the power as a corporate body  
264 to receive, hold and use personal, real and mixed property donated  
265 to them or property acquired under Section 43-27-35, and shall  
266 have such other corporate authority as shall now or hereafter be  
267 necessary for the operation of any such facility. The department  
268 shall be responsible for the planning, development and

269 coordination of a statewide, comprehensive youth services program  
270 designed to train and rehabilitate children in order to prevent,  
271 control and retard juvenile delinquency.

272 (d) The department is authorized to develop and implement  
273 diversified programs and facilities to promote, enhance, provide  
274 and assure the opportunities for the successful care, training and  
275 treatment of delinquent children properly committed to or confined  
276 in any facility under its control. Such programs and facilities  
277 may include, but not be limited to, training schools, foster  
278 homes, halfway houses, forestry camps, regional diagnostic  
279 centers, detention centers and other state and local  
280 community-based programs and facilities.

281 (e) The department is authorized to acquire whatever hazard,  
282 casualty or workers' compensation insurance is necessary for any  
283 property, real or personal, owned, leased or rented by the  
284 department or for any employees or personnel hired by the  
285 department and may acquire professional liability insurance on all  
286 employees as deemed necessary and proper by the department. All  
287 premiums due and payable on account thereof shall be paid out of  
288 the funds of the department.

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

291 43-27-11. The Mississippi Department of Children's Affairs  
292 shall succeed to the exclusive control of all records, books,  
293 papers, equipment and supplies, and all lands, buildings and other  
294 real and personal property now or hereafter belonging to or  
295 assigned to the use and benefit or under the control of the  
296 Columbia Training School and the Oakley Training School, and shall  
297 have the exercise and control of the use, distribution and  
298 disbursement of all funds, appropriations and taxes now or  
299 hereafter in possession, levied, collected or received or  
300 appropriated for the use, benefit, support and maintenance of  
301 these two (2) institutions, and the department shall have general

302 supervision of all the affairs of the two (2) institutions herein  
303 named, and the care and conduct of all buildings and grounds,  
304 business methods and arrangements of accounts and records, the  
305 organization of the administrative plans of each institution, and  
306 all other matters incident to the proper functioning of the  
307 institutions. The department shall have full authority over the  
308 operation of any and all farms at each of said institutions and  
309 over the distribution of agricultural, dairy, livestock and any  
310 and all other products therefrom and over all funds received from  
311 the sale of hogs and livestock. All sums realized from the sale  
312 of products manufactured and fabricated in the shops of the  
313 vocational departments of such institutions shall be placed in the  
314 revolving fund of the respective institutions in which said  
315 products were manufactured, fabricated and sold.

316 The department shall be authorized to lease the lands for  
317 oil, gas and mineral exploration, and for such other purposes as  
318 the department deems to be appropriate, on such terms and  
319 conditions as the department and lessee agree. The department may  
320 contract with the State Forestry Commission for the proper  
321 management of forest lands and the sale of timber, and the  
322 department is expressly authorized to sell timber and forestry  
323 products. The department is further authorized to expend the net  
324 proceeds from incomes from all leases and timber sales exclusively  
325 for the instructional purposes at the two (2) institutions under  
326 its jurisdiction in proportion to the revenues derived from each  
327 training school.

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

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

332 43-27-12. The Mississippi Department of Children's Affairs  
333 shall have exclusive supervisory care, custody and active control  
334 of all children properly committed to or confined in its

335 facilities and included in its programs and shall have control of  
336 the grounds, buildings and other facilities and properties of said  
337 facilities and programs.

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

340 43-27-14. The Mississippi Department of Children's Affairs  
341 shall have the authority to accept any allotments of federal funds  
342 and commodities and shall manage and dispose of them in whatever  
343 manner may be required by federal law, and may take advantage of  
344 any federal programs, grants-in-aid, or other public or private  
345 assistance which may be offered or available which will accomplish  
346 or further the objectives of the department. The Attorney General  
347 shall be the legal representative of the department.

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

350 43-27-16. The Mississippi Department of Children's Affairs  
351 is authorized to request from any and all existing agencies,  
352 departments, divisions, officers, employees, boards, bureaus,  
353 commissions and institutions of the state of Mississippi, or any  
354 political subdivision thereof, information, data and assistance as  
355 will enable the department to fulfill its duties hereunder, and  
356 all such agencies, departments, divisions, officers, employees,  
357 boards, bureaus, commissions and institutions of the State of  
358 Mississippi and its political subdivisions are hereby directed to  
359 cooperate with the department and render such information, data,  
360 aid and assistance as may be requested by the department.

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

363 43-27-17. The Mississippi Department of Children's Affairs  
364 shall use the services and resources of the state departments of  
365 education and health, and of all other appropriate state  
366 departments, agencies or institutions, as will aid in carrying out  
367 the purposes of this chapter. It shall be the duty of all such

368 state departments, agencies and institutions to make available  
369 such services and resources to the department.

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

372 43-27-18. All positions in the Mississippi Department of  
373 Children's Affairs shall be included in the state classification  
374 system, but the department is encouraged to establish an incentive  
375 program to motivate workers who deal directly with the children to  
376 obtain master's degrees in the field of sociology, psychology or  
377 some other related field.

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

380 43-27-19. The Mississippi Department of Children's Affairs  
381 shall keep in a suitable book a full and complete record of all of  
382 its actions under this chapter, which shall be open at all times  
383 to the inspection of the Governor and all persons whom he or  
384 either house of the Legislature may designate, and any member of  
385 the Legislature, to examine same.

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

388 43-27-20. (a) Within the Mississippi Department of  
389 Children's Affairs there shall be a Office of Community Services  
390 which shall be headed by a director appointed by and responsible  
391 to the Executive Director of the Mississippi Department of  
392 Children's Affairs. He shall hold a master's degree in social  
393 work or a related field and shall have no less than three (3)  
394 years' experience in social services, or in lieu of such degree  
395 and experience, he shall have a minimum of eight (8) years'  
396 experience in social work or a related field. He shall employ and  
397 assign the community workers to serve in the various areas in the  
398 state and any other supporting personnel necessary to carry out  
399 the duties of the Office of Community Services, subject to the

400 approval of the Executive Director of the Mississippi Department  
401 of Children's Affairs.

402 (b) The Director of the Office of Community Services shall  
403 assign probation and aftercare workers to the youth court or  
404 family court judges of the various court districts upon the  
405 request of the individual judge on the basis of caseload and need,  
406 when funds are available. The probation and aftercare workers  
407 shall live in their respective districts except upon approval of  
408 the Director of the Office of Community Services. The Director of  
409 the Office of Community Services is authorized to assign a youth  
410 services counselor to a district other than the district in which  
411 the youth services counselor lives upon the approval of the youth  
412 court judge of the assigned district and the Executive Director of  
413 the Mississippi Department of Children's Affairs. Every placement  
414 shall be with the approval of the youth court or the family court  
415 judge, and a probation and aftercare worker may be removed for  
416 cause from a youth or family court district.

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

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

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

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

432           (2) Serving in counseling capacities with the youth or  
433 family courts.

434           (3) Serving as probation agents for the youth or family  
435 courts.

436           (4) Serving, advising and counseling of children in the  
437 various institutions under the control of the Office of Juvenile  
438 Correctional Institutions as may be necessary to the placement of  
439 the children in proper environment after release and the placement  
440 of children in suitable jobs where necessary and proper.

441           (5) Supervising and guiding of children released or  
442 conditionally released from institutions under the control of the  
443 Office of Juvenile Correctional Institutions.

444           (6) Counseling in an aftercare program.

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

448           (8) Providing or arranging for necessary services  
449 leading to the rehabilitation of delinquents, either within the  
450 division or through cooperative arrangements with other  
451 appropriate agencies.

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

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

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

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

461           43-27-22. (1) Within the Mississippi Department of  
462 Children's Affairs there shall be an Office of Juvenile  
463 Correctional Institutions which shall be headed by a Director of  
464 Juvenile Institutions, who shall be appointed by the Executive

465 Director of the Mississippi Department of Children's Affairs. The  
466 Director of Juvenile Institutions shall appoint the individual  
467 Department of Children's Affairs Institutional Administrators who,  
468 in turn, shall have full power to select and employ personnel  
469 necessary to operate the facility he directs, subject to the  
470 approval of the Executive Director of the Mississippi Department  
471 of Children's Affairs.

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

476 (a) Operation and maintenance of training schools and  
477 other facilities as may be needed to properly diagnose, care for,  
478 train, educate and rehabilitate children and youths who have been  
479 committed to or confined in the facilities or who are included in  
480 the programs of the facilities.

481 (b) Fulfillment of the objectives of rehabilitation and  
482 reformation of the youths confined in the schools, being careful  
483 to employ no discipline, training or utilization of time and  
484 efforts of such youth that shall under any condition or in any way  
485 interfere with such objectives.

486 (c) Grouping of the youths in the schools according to  
487 age, sex and disciplinary needs with respect to their housing,  
488 schooling, training, recreation and work, being careful to prevent  
489 injury to the morals or interference with the training and  
490 rehabilitation of the younger or correctable youths by those  
491 considered to be less amenable to discipline and rehabilitation.

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

494 43-27-23. The superintendents of the Mississippi training  
495 schools may each receive free lodging in his respective  
496 institution for himself and his family, but not free board nor  
497 free supplies from the institution. Upon each superintendent's

498 election to receive board for himself and family from the  
499 institution, the Mississippi Department of Children's Affairs  
500 shall enter on the minutes in advance the names and ages of the  
501 members of the family and fix the charges for their board at the  
502 average cost of table board in that community, but in no event at  
503 an amount less than the cost of said board to said institution,  
504 and said board so fixed shall be paid by the superintendent into  
505 the State Treasury before his salary for the next succeeding month  
506 shall be paid. The department shall make a detailed and itemized  
507 statement thereof to the Legislature. The same restrictions shall  
508 apply to all members of the clerical force of the institutions.

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

511 43-27-25. No person shall be committed to an institution  
512 under the control of the Mississippi Department of Children's  
513 Affairs who is seriously handicapped by mental illness or  
514 retardation. If after a person is referred to the training  
515 schools it shall be determined that he is mentally ill or mentally  
516 retarded to an extent that he could not be properly cared for in  
517 its custody, the director may institute necessary legal action to  
518 accomplish the transfer of such person to such other state  
519 institution as, in his judgment, is best qualified to care for him  
520 in accordance with the laws of this state. The department shall  
521 establish standards with regard to the physical and mental health  
522 of persons which it can accept for commitment.

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

525 43-27-27. Any child committed to an institution under the  
526 provisions of this chapter may be transferred by the Executive  
527 Director of the Mississippi Department of Children's Affairs, in  
528 his discretion, to any of the schools or other facilities under  
529 his jurisdiction.

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

532 43-27-29. Academic and vocational training at all  
533 institutions under the Mississippi Department of Children's  
534 Affairs shall meet standards prescribed by the State Department of  
535 Education based upon standards required for public schools. The  
536 department may prescribe such additional requirements as it may  
537 from time to time deem necessary. The State Superintendent of  
538 Education will administer the standards related to the high school  
539 and elementary school programs. Reports from the State Department  
540 of Education evaluating the educational program at all juvenile  
541 correctional institutions and indicating whether or not the  
542 program meets the standards as prescribed shall be made directly  
543 to the Director of the Division of Juvenile Correctional  
544 Institutions at regularly scheduled meetings. Such State  
545 Department of Education supervisory personnel as deemed  
546 appropriate shall be utilized for evaluating the programs and for  
547 reporting to the director of said division.

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

550 43-21-159. (1) When a person appears before a court other  
551 than the youth court, and it is determined that the person is a  
552 child under jurisdiction of the youth court, such court shall,  
553 unless the jurisdiction of the offense has been transferred to  
554 such court as provided in this chapter, or unless the child has  
555 previously been the subject of a transfer from the youth court to  
556 the circuit court for trial as an adult and was convicted,  
557 immediately dismiss the proceeding without prejudice and forward  
558 all documents pertaining to the cause to the youth court; and all  
559 entries in permanent records shall be expunged. The youth court  
560 shall have the power to order and supervise the expunction or the  
561 destruction of such records in accordance with Section 43-21-265.  
562 The youth court is authorized to expunge the record of any case

563 within its jurisdiction in which an arrest was made, the person  
564 arrested was released and the case was dismissed or the charges  
565 were dropped or there was no disposition of such case. In cases  
566 where the child is charged with a hunting or fishing violation or  
567 a traffic violation whether it be any state or federal law, a  
568 violation of the Mississippi Implied Consent Law, or municipal  
569 ordinance or county resolution or where the child is charged with  
570 a violation of Section 67-3-70, the appropriate criminal court  
571 shall proceed to dispose of the same in the same manner as for  
572 other adult offenders and it shall not be necessary to transfer  
573 the case to the youth court of the county. Unless the cause has  
574 been transferred, or unless the child has previously been the  
575 subject of a transfer from the youth court to the circuit court  
576 for trial as an adult, except for violations under the Implied  
577 Consent Law, and was convicted, the youth court shall have power  
578 on its own motion to remove jurisdiction from any criminal court  
579 of any offense including a hunting or fishing violation, a traffic  
580 violation, or a violation of Section 67-3-70, committed by a child  
581 in a matter under the jurisdiction of the youth court and proceed  
582 therewith in accordance with the provisions of this chapter.

583 (2) After conviction and sentence of any child by any other  
584 court having original jurisdiction on a misdemeanor charge, and  
585 within the time allowed for an appeal of such conviction and  
586 sentence, the youth court of the county shall have the full power  
587 to stay the execution of the sentence and to release the child on  
588 good behavior or on other order as the youth court may see fit to  
589 make unless the child has previously been the subject of a  
590 transfer from the youth court to the circuit court for trial as an  
591 adult and was convicted. When a child is convicted of a  
592 misdemeanor and is committed to, incarcerated in or imprisoned in  
593 a jail or other place of detention by a criminal court having  
594 proper jurisdiction of such charge, such court shall notify the  
595 youth court judge or the judge's designee of the conviction and

596 sentence prior to the commencement of such incarceration. The  
597 youth court shall have the power to order and supervise the  
598 destruction of any records involving children maintained by the  
599 criminal court in accordance with Section 43-21-265. However, the  
600 youth court shall have the power to set aside a judgment of any  
601 other court rendered in any matter over which the youth court has  
602 exclusive original jurisdiction, to expunge or destroy the records  
603 thereof in accordance with Section 43-21-265, and to order a  
604 refund of fines and costs.

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

608 (4) In any case wherein the defendant is a child as defined  
609 in this chapter and of which the circuit court has original  
610 jurisdiction, the circuit judge, upon a finding that it would be  
611 in the best interest of such child and in the interest of justice,  
612 may at any stage of the proceedings prior to the attachment of  
613 jeopardy transfer such proceedings to the youth court for further  
614 proceedings unless the child has previously been the subject of a  
615 transfer from the youth court to the circuit court for trial as an  
616 adult and was convicted or has previously been convicted of a  
617 crime which was in original circuit court jurisdiction, and the  
618 youth court shall, upon acquiring jurisdiction, proceed as  
619 provided in this chapter for the adjudication and disposition of  
620 delinquent child proceeding proceedings. If the case is not  
621 transferred to the youth court and the youth is convicted of a  
622 crime by any circuit court, the trial judge shall sentence the  
623 youth as though such youth was an adult. The circuit court shall  
624 not have the authority to commit such child to the custody of the  
625 Mississippi Department of Children's Affairs for placement in a  
626 state-supported training school.

627 (5) In no event shall a court sentence an offender over the  
628 age of eighteen (18) to the custody of the Mississippi Department

629 of Children's Affairs for placement in a state-supported training  
630 school.

631 (6) When a child's driver's license is suspended by the  
632 youth court for any reason, the clerk of the youth court shall  
633 report the suspension, without a court order under Section  
634 43-21-261, to the Commissioner of Public Safety in the same manner  
635 as such suspensions are reported in cases involving adults.

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

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

642 43-1-1. (1) The Department of Human Services shall be the  
643 State Department of Public Welfare and shall retain all powers and  
644 duties as granted to the State Department of Public Welfare.  
645 Wherever the term "State Department of Public Welfare" or "State  
646 Board of Public Welfare" appears in any law, the same shall mean  
647 the Department of Human Services. The Executive Director of the  
648 Department of Human Services may assign to the appropriate offices  
649 such powers and duties deemed appropriate to carry out the lawful  
650 functions of the department.

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

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

654 43-1-2. (1) There is created the Department of Human  
655 Services, whose offices shall be located in Jackson, Mississippi,  
656 and which shall be under the policy direction of the Governor.

657 (2) The chief administrative officer of the department shall  
658 be the Executive Director of Human Services. The Governor shall  
659 appoint the Executive Director of Human Services with the advice  
660 and consent of the Senate, and he shall serve at the will and  
661 pleasure of the Governor, and until his successor is appointed and

662 qualified. The Executive Director of Human Services shall possess  
663 the following qualifications:

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

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

670 Those qualifications shall be certified by the State  
671 Personnel Board.

672 (3) There shall be a Joint Oversight Committee of the  
673 Department of Human Services composed of the respective Chairmen  
674 of the Senate Public Health and Welfare Committee, the Senate  
675 Appropriations Committee, the House Public Health and Welfare  
676 Committee and the House Appropriations Committee, two (2) members  
677 of the Senate appointed by the Lieutenant Governor to serve at the  
678 will and pleasure of the Lieutenant Governor, and two (2) members  
679 of the House of Representatives appointed by the Speaker of the  
680 House to serve at the will and pleasure of the Speaker. The  
681 chairmanship of the committee shall alternate for twelve-month  
682 periods between the Senate members and the House members, with the  
683 Chairman of the Senate Public Health and Welfare Committee serving  
684 as the first chairman. The committee shall meet once each month,  
685 or upon the call of the chairman at such times as he deems  
686 necessary or advisable, and may make recommendations to the  
687 Legislature pertaining to any matter within the jurisdiction of  
688 the Mississippi Department of Human Services. The appointing  
689 authorities may designate an alternate member from their  
690 respective houses to serve when the regular designee is unable to  
691 attend such meetings of the Oversight Committee. For attending  
692 meetings of the Oversight Committee, such legislators shall  
693 receive per diem and expenses which shall be paid from the  
694 contingent expense funds of their respective houses in the same

695 amounts as provided for committee meetings when the Legislature is  
696 not in session; however, no per diem and expenses for attending  
697 meetings of the committee will be paid while the Legislature is in  
698 session. No per diem and expenses will be paid except for  
699 attending meetings of the Oversight Committee without prior  
700 approval of the proper committee in their respective houses.

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

705 (a) To formulate the policy of the department regarding  
706 human services within the jurisdiction of the department;

707 (b) To adopt, modify, repeal and promulgate, after due  
708 notice and hearing, and where not otherwise prohibited by federal  
709 or state law, to make exceptions to and grant exemptions and  
710 variances from, and to enforce rules and regulations implementing  
711 or effectuating the powers and duties of the department under any  
712 and all statutes within the department's jurisdiction, all of  
713 which shall be binding upon the county departments of human  
714 services;

715 (c) To apply for, receive and expend any federal or  
716 state funds or contributions, gifts, devises, bequests or funds  
717 from any other source;

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

724 (e) To discharge such other duties, responsibilities  
725 and powers as are necessary to implement the programs of the  
726 department.

727           (5) The executive director shall establish the  
728 organizational structure of the Mississippi Department of Human  
729 Services which shall include the creation of any units necessary  
730 to implement the duties assigned to the department and consistent  
731 with specific requirements of law, including but not limited to:

732       \* \* \*

733           (a) Office of Economic Assistance;

734           (b) Office of Child Support.

735           (6) The Executive Director of Human Services shall appoint  
736 heads of offices, bureaus and divisions, as defined in Section  
737 7-17-11, who shall serve at the pleasure of the executive  
738 director. The salary and compensation of such office, bureau and  
739 division heads shall be subject to the rules and regulations  
740 adopted and promulgated by the State Personnel Board as created  
741 under Section 25-9-101 et seq. The executive director shall have  
742 the authority to organize offices as deemed appropriate to carry  
743 out the responsibilities of the department. The organization  
744 charts of the department shall be presented annually with the  
745 budget request of the Governor for review by the Legislature.

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

747       SECTION 22. Section 43-1-5, Mississippi Code of 1972, is  
748 amended as follows:

749           43-1-5. It shall be the duty of the Department of Human  
750 Services to:

751           (1) Establish and maintain programs not inconsistent with  
752 the terms of this chapter and the rules, regulations and policies  
753 of the State Department of Human Services, and publish the rules  
754 and regulations of the department pertaining to such programs.

755           (2) Make such reports in such form and containing such  
756 information as the federal government may, from time to time,  
757 require, and comply with such provisions as the federal government  
758 may, from time to time, find necessary to assure the correctness  
759 and verification of such reports.

760           (3) Within ninety (90) days after the end of each fiscal  
761 year, and at each regular session of the Legislature, make and  
762 publish one (1) report to the Governor and to the Legislature,  
763 showing for the period of time covered, in each county and for the  
764 state as a whole:

765           (a) The total number of recipients;

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

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

769           (d) The total number of applications;

770           (e) The number granted;

771           (f) The number denied;

772           (g) The number cancelled;

773           (h) The amount expended for administration of the  
774 provisions of this chapter;

775           (i) The amount of money received from the federal  
776 government, if any;

777           (j) The amount of money received from recipients of  
778 assistance and from their estates and the disposition of same;

779           (k) Such other information and recommendations as the  
780 Governor may require or the department shall deem advisable;

781           (l) The number of state-owned automobiles purchased and  
782 operated during the year by the department, the number purchased  
783 and operated out of funds appropriated by the Legislature, the  
784 number purchased and operated out of any other public funds, the  
785 miles traveled per automobile, the total miles traveled, the  
786 average cost per mile and depreciation estimate on each  
787 automobile;

788           (m) The cost per mile and total number of miles  
789 traveled by department employees in privately-owned automobiles,  
790 for which reimbursement is made out of state funds;

791           (n) Each association, convention or meeting attended by  
792 any department employees, the purposes thereof, the names of the  
793 employees attending and the total cost to the state of such  
794 convention, association or meeting;

795           (o) How the money appropriated to the institutions  
796 under the jurisdiction of the department has been expended during  
797 the preceding year, beginning and ending with the fiscal year of  
798 each institution, exhibiting the salaries paid to officers and  
799 employees of the institutions, and each and every item of receipt  
800 and expenditure;

801           (p) The activities of each division within the  
802 Department of Human Services and recommendations for improvement  
803 of the services to be performed by each division;

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

808           Each report shall be balanced and shall begin with the  
809 balance at the end of the preceding fiscal year, and if any  
810 property belonging to the state or the institution is used for  
811 profit such report shall show the expenses incurred in managing  
812 the property and the amount received from the same. Such reports  
813 shall also show a summary of the gross receipts and gross  
814 disbursements for each fiscal year and shall show the money on  
815 hand at the beginning of the fiscal period of each division and  
816 institution of the department.

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

818           SECTION 23. Section 43-1-6, Mississippi Code of 1972, is  
819 amended as follows:

820           43-1-6. The following programs within the Division of  
821 Federal-State Programs, Office of the Governor, shall be  
822 transferred to the State Department of Human Services:

823           (a) Office of Energy and Community Services;

824 (b) Juvenile Justice Advisory Committee; and

825 (c) Mississippi Council on Aging.

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

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

829 SECTION 24. Section 43-1-51, Mississippi Code of 1972, is  
830 amended as follows:

831 43-1-51. There is hereby created within the Mississippi  
832 Department of Children's Affairs a single and separate Division of  
833 Family and Children's Services. The division shall be responsible  
834 for the development, execution and provision of services in the  
835 following areas: (a) protective services for children and adults;  
836 (b) foster care; (c) adoption services; (d) special services; (e)  
837 interstate compact; (f) licensure; and (g) such services as may be  
838 designated by the board. Employees working within the division  
839 shall be limited to work within the areas of service enumerated  
840 herein. Services enumerated under Section 43-15-13 et seq., for  
841 the foster care program shall be provided by qualified staff with  
842 appropriate case loads.

843 SECTION 25. Section 43-1-53, Mississippi Code of 1972, is  
844 amended as follows:

845 43-1-53. (1) The Division of Family and Children's Services  
846 shall be formed at each level of the Mississippi Department of  
847 Children's Affairs including state, regional and county levels.  
848 The Executive Director of the Mississippi Department of Children's  
849 Affairs shall appoint and employ a director for the division who  
850 shall have a master's degree in a field related to children's  
851 services. In addition, he shall have no less than three (3)  
852 years' experience in the field of service to children. In lieu of  
853 such degree and experience, he shall have a minimum of ten (10)  
854 years' actual experience in the field of children's services.

855 (2) The state office of the Division of Family and  
856 Children's Services shall develop policy, provide training and

857 oversee the implementation of services. The director shall  
858 establish such planning and policy councils as may be necessary to  
859 carry out these functions.

860 (3) The regional office of the Division of Family and  
861 Children's Services shall consist of a regional services director  
862 and a crisis intervention team to be dispatched on a case-by-case  
863 basis by the regional services director. From and after July 1,  
864 1998, the Mississippi Department of Children's Affairs shall at a  
865 minimum employ and assign to the Division of Family and Children's  
866 Services two (2) additional regional services directors for  
867 supervision of the foster care program.

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

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

875 SECTION 26. Section 43-16-3, Mississippi Code of 1972, is  
876 amended as follows:

877 43-16-3. As used in this chapter, the following definitions  
878 shall apply unless the context clearly provides otherwise:

879 (a) "Child" means a person who has not reached the age  
880 of eighteen (18) years or who has not otherwise been legally  
881 emancipated.

882 (b) "Child residential home" means any place, facility  
883 or home operated by any person which receives children who are not  
884 related to the operators and whose parents or guardians are not  
885 residents of the same facility for supervision, care, lodging and  
886 maintenance for twenty-four (24) hours a day, with or without  
887 transfer of custody. This term shall not include residential  
888 homes which are licensed by the Mississippi Department of  
889 Children's Affairs under the provisions of Section 43-15-5,

890 Mississippi Code of 1972, and shall not include any public school  
891 or any such home operated by a state agency, nor shall it include  
892 child care facilities as defined in Section 43-20-5, Mississippi  
893 Code of 1972, youth camps as defined in Section 75-74-3,  
894 Mississippi Code of 1972, or health care facilities licensed by  
895 the State Department of Health.

896 (c) "Department" shall mean the Mississippi Department  
897 of Children's Affairs.

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

900 SECTION 27. Section 43-16-5, Mississippi Code of 1972, is  
901 amended as follows:

902 43-16-5. **Mississippi Department of Children's Affairs** to  
903 **discharge provisions of chapter; notification agency.** The  
904 Mississippi Department of Children's Affairs shall be the  
905 notification agency for all child residential homes, and the  
906 department shall discharge as additional duties and  
907 responsibilities the provisions of this chapter.

908 SECTION 28. Section 43-16-7, Mississippi Code of 1972, is  
909 amended as follows:

910 43-16-7. (1) The operator of any child residential home  
911 shall provide notification in accordance with this chapter within  
912 sixty (60) days of beginning operation.

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

918 SECTION 29. Section 43-16-9, Mississippi Code of 1972, is  
919 amended as follows:

920 43-16-9. Such notification shall be filed by the executive  
921 director of the child residential home to the department upon

922 forms provided by the department and shall contain the following  
923 information:

924 (a) Name, street address, mailing address and phone  
925 number of the home.

926 (b) Name of the executive director and all staff  
927 members of the home.

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

931 (d) Name and address of the sponsoring organization of  
932 the home, if applicable.

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

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

937 (ii) Name and address of parent(s) or guardian(s);  
938 and

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

940 (f) School(s) attended by the children served by such  
941 home.

942 (g) Fire department or State Fire Marshal inspection  
943 certificate.

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

948 (i) Proof, to be shown by the sworn affidavit of the  
949 executive director of the home, that the home has performed (i)  
950 criminal record background checks, and (ii) felony conviction  
951 record information checks on all employees, prospective employees,  
952 volunteers and prospective volunteers at such home, and that such  
953 records are maintained to the extent permitted by law, for every

954 such employee, prospective employee, volunteer and prospective  
955 volunteer.

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

959 SECTION 30. Section 43-16-21, Mississippi Code of 1972, is  
960 amended as follows:

961 43-16-21. Notwithstanding the existence of any other remedy,  
962 the department may, in the manner provided by law, in termtime or  
963 in vacation, upon the advice of the Attorney General who shall  
964 represent the department in the proceedings, maintain an action in  
965 the name of the state for an injunction or restraining order to  
966 cease the operation of the home, and to provide for the  
967 appropriate removal of the children from the home and placement in  
968 the custody of the parents or legal guardians, the Mississippi  
969 Department of Children's Affairs, or any other appropriate entity  
970 in the discretion of the court. Such action shall be brought in  
971 the chancery court or the youth court, as appropriate, of the  
972 county in which such child residential home is located, and shall  
973 only be initiated for the following violations:

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

977 (b) Failure to satisfactorily comply with local health  
978 department or State Fire Marshal inspections made pursuant to  
979 Section 43-16-15, regarding the health, nutrition, cleanliness,  
980 safety, sanitation, written records and discipline policy of such  
981 home.

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

985 SECTION 31. Section 43-16-25, Mississippi Code of 1972, is  
986 amended as follows:

987           43-16-25. A license issued under the provisions of this  
988 chapter shall be renewed annually upon payment of a renewal fee  
989 not to exceed One Hundred Dollars (\$100.00) and upon filing by the  
990 licensee of an annual report upon such uniform dates and upon  
991 forms provided by the licensing agency, accompanied by a current  
992 certificate of inspection and approval by the fire department and  
993 the county health department specified in Section 43-16-11, if  
994 applicable.

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

997           SECTION 32. Section 43-20-5, Mississippi Code of 1972, is  
998 amended as follows:

999           43-20-5. When used in this chapter, the following words  
1000 shall have the following meanings:

1001           (a) "Child care facility" means a place which provides  
1002 shelter and personal care for six (6) or more children who are not  
1003 related within the third degree computed according to the civil  
1004 law to the operator and who are under thirteen (13) years of age,  
1005 for any part of the 24-hour day, whether such place be organized  
1006 or operated for profit or not. The term "child care facility"  
1007 includes day nurseries, day care centers and any other facility  
1008 that falls within the scope of the definitions set forth above,  
1009 regardless of auspices. Child care facilities which operate for  
1010 no more than two (2) days a week, whose primary purpose is to  
1011 provide respite for the caregiver or temporary care during other  
1012 scheduled or related activities and organized programs which  
1013 operate for three (3) or less weeks per year such as, but not  
1014 limited to, vacation bible schools and scout day camps, are  
1015 exempt. Also exempted from this chapter is any child residential  
1016 home as defined in, and in compliance with the provisions of,  
1017 Section 43-16-3(b) et seq., Mississippi Code of 1972. Also  
1018 exempted from this chapter is any elementary, including  
1019 kindergarten, and/or secondary school system, accredited by the

1020 Mississippi State Department of Education, the Southern  
1021 Association of Colleges and Schools or the Mississippi Private  
1022 School Education Association and any Headstart program operating  
1023 in conjunction with an elementary school system, whether it be  
1024 public, private or parochial, whose primary purpose is a  
1025 structured school or school readiness program. Also exempted is  
1026 any membership organization affiliated with a national  
1027 organization which charges only a nominal annual membership fee,  
1028 does not receive monthly, weekly or daily payments for services,  
1029 and is certified by its national association as being in  
1030 compliance with the association's minimum standards and  
1031 procedures, including, but not limited to, the Boys and Girls Club  
1032 of America, and the YMCA. All other preschool child care programs  
1033 and/or extended day school programs must meet requirements set  
1034 forth in this chapter.

1035 (b) "Health" means that condition of being sound in  
1036 mind and body and encompasses an individual's physical, mental and  
1037 emotional welfare.

1038 (c) "Safety" means that condition of being protected  
1039 from hurt, injury or loss.

1040 (d) "Person" means any person, firm, partnership,  
1041 corporation or association.

1042 (e) "Operator" means any person, acting individually or  
1043 jointly with another person or persons, who shall establish, own,  
1044 operate, conduct or maintain a child care facility.

1045 (f) "Personal care" means assistance rendered by  
1046 personnel of the child care facility in performing one or more of  
1047 the activities of daily living, which includes, but is not limited  
1048 to, the feeding, personal grooming, supervising and dressing of  
1049 children placed in the child care facility.

1050 (g) "Licensing agency" means the Mississippi Department  
1051 of Children's Affairs.

1052 SECTION 33. Section 43-20-7, Mississippi Code of 1972, is  
1053 amended as follows:

1054 43-20-7. (1) There is hereby created an advisory council  
1055 which shall be appointed by the Executive Director of the  
1056 Mississippi Department of Children's Affairs, who shall serve at  
1057 the pleasure of the Mississippi Department of Children's Affairs.

1058 (2) The advisory council shall consist of eleven (11)  
1059 persons, five (5) of whom shall be licensed child care providers,  
1060 and six (6) of whom shall represent child care professional  
1061 organizations, child advocacy groups, and/or state agencies which  
1062 provide child care funding or services. No more than four (4)  
1063 members shall be appointed from any one (1) state Supreme Court  
1064 district.

1065 (3) It shall be the duty of the advisory council to assist  
1066 and advise the licensing agency in the development of regulations  
1067 governing the licensure and regulation of child care facilities.

1068 (4) Members of the advisory council shall be reimbursed for  
1069 mileage and expenses as is authorized by law.

1070 SECTION 34. Section 43-20-11, Mississippi Code of 1972, is  
1071 amended as follows:

1072 43-20-11. An application for a license under this chapter  
1073 shall be made to the licensing agency upon forms provided by it,  
1074 and shall contain such information as the licensing agency may  
1075 reasonably require. Each application for a license shall be  
1076 accompanied by a license fee not to exceed Two Hundred Dollars  
1077 (\$200.00), which shall be paid to the licensing agency. Licenses  
1078 shall be granted to applicants upon the filing of properly  
1079 completed application forms, accompanied by payment of the said  
1080 license fee, and a certificate of inspection and approval by the  
1081 fire department of the municipality or other political subdivision  
1082 in which the facility is located, and by a certificate of  
1083 inspection and approval by the health department of the county or  
1084 permit from the Mississippi Department of Environmental Quality

1085 for private water supplies, individual on-site wastewater disposal  
1086 systems and other environmental services, as applicable, in which  
1087 the facility is located, and approval by the licensing agency;  
1088 except that if no fire department exists where the facility is  
1089 located, the State Fire Marshal shall certify as to the inspection  
1090 for safety from fire hazards. Said fire, county health department  
1091 and licensing agency inspections and approvals shall be based upon  
1092 regulations promulgated by the licensing agency as approved by the  
1093 State Board of Health.

1094 Each license shall be issued only for the premises and person  
1095 or persons named in the application and shall not be transferable  
1096 or assignable except with the written approval of the licensing  
1097 agency. Licenses shall be posted in a conspicuous place on the  
1098 licensed premises.

1099 No governmental entity or agency shall be required to pay the  
1100 fee or fees set forth in this section.

1101 SECTION 35. Section 43-20-12, Mississippi Code of 1972, is  
1102 amended as follows:

1103 43-20-12. All fees collected by the licensing agency under  
1104 this chapter and any penalties collected by the licensing agency  
1105 for violations of this chapter shall be deposited in a special  
1106 fund hereby created in the State Treasury and shall be used for  
1107 the implementation and administration of this chapter when  
1108 appropriated by the Legislature for such purpose.

1109 SECTION 36. Section 43-20-13, Mississippi Code of 1972, is  
1110 amended as follows:

1111 43-20-13. A license issued under the provisions of this  
1112 chapter shall be renewed upon payment of a renewal fee not to  
1113 exceed Two Hundred Dollars (\$200.00) per year and upon filing by  
1114 the licensee of a report upon such uniform dates and upon forms  
1115 provided by the licensing agency, accompanied by a current  
1116 certificate of inspection and approval by the fire department and

1117 the county health department specified in Section 43-20-11, if  
1118 applicable.

1119 No governmental entity or agency shall be required to pay the  
1120 fee or fees set forth in this section.

1121 SECTION 37. Section 43-20-14, Mississippi Code of 1972, is  
1122 amended as follows:

1123 43-20-14. (1) The licensing agency may deny a license or  
1124 refuse to renew a license for any of the reasons set forth in  
1125 subsection (3) of this section.

1126 (2) Before the licensing agency may deny or refuse to renew,  
1127 the applicant or person named on the license shall be entitled to  
1128 a hearing in order to show cause why the license should not be  
1129 denied or should be renewed.

1130 (3) The licensing agency may suspend, revoke or restrict the  
1131 license of any child care facility upon one or more of the  
1132 following grounds:

1133 (a) Fraud, misrepresentation or concealment of material  
1134 facts;

1135 (b) Conviction of an operator for any crime if the  
1136 licensing agency finds that the act or acts for which the operator  
1137 was convicted could have a detrimental effect on children cared  
1138 for by any child care facility;

1139 (c) Violation of any of the provisions of this act or  
1140 of the regulations governing the licensing and regulation of child  
1141 care facilities promulgated by the licensing agency;

1142 (d) Any conduct, or failure to act, which is found or  
1143 determined by the licensing agency to threaten the health or  
1144 safety of children at the facility;

1145 (e) Failure by the child care facility to comply with  
1146 the provisions of Section 43-20-8(3), Mississippi Code of 1972,  
1147 regarding background checks of caregivers or with Section  
1148 45-31-12, Mississippi Code of 1972, concerning employment of

1149 persons who have been convicted of certain offenses or have had  
1150 certain actions taken against them in court; and

1151 (f) Information received by the licensing agency as a  
1152 result of the felony conviction records check, the sex offense  
1153 criminal records check and the child abuse registry check on any  
1154 and all operators pursuant to Section 43-20-8, Mississippi Code of  
1155 1972.

1156 (4) Before the licensing agency may suspend, revoke or  
1157 restrict the license of any facility, any licensee affected by  
1158 such decision of the licensing agency shall be entitled to a  
1159 hearing in which the licensee may show cause why the license  
1160 should not be suspended, revoked or restricted.

1161 (5) Any licensee who disagrees with or is aggrieved by a  
1162 decision of the licensing agency in regard to the denial, refusal  
1163 to renew, suspension, revocation or restriction of such license,  
1164 may appeal to the chancery court of the county in which such  
1165 facility is located. Such appeal shall be filed no later than  
1166 thirty (30) days after the licensee receives written notice of the  
1167 final administrative action by the licensing agency as to the  
1168 suspension, revocation or restriction of the license of such  
1169 licensee.

1170 SECTION 38. Section 43-20-53, Mississippi Code of 1972, is  
1171 amended as follows:

1172 43-20-53. As used in Sections 43-20-51 through 43-20-65:

1173 (a) "Family child care home" means any residential  
1174 facility occupied by the operator where five (5) or fewer children  
1175 who are not related within the third degree computed according to  
1176 the civil law to the provider and who are under the age of  
1177 thirteen (13) years of age are provided care for any part of the  
1178 twenty-four-hour day.

1179 (b) "Registering agency" means the Mississippi  
1180 Department of Children's Affairs.

1181 (c) "Provider" means the person responsible for the  
1182 care of children.

1183 SECTION 39. Section 43-20-55, Mississippi Code of 1972, is  
1184 amended as follows:

1185 43-20-55. The advisory council appointed by the Executive  
1186 Director of the Mississippi Department of Children's Affairs under  
1187 the provisions of Section 43-20-7, Mississippi Code of 1972, shall  
1188 assist and advise in the development of regulations and standards  
1189 governing the registration and regulation of family child care  
1190 homes. Members of the council who are not public employees shall  
1191 receive per diem compensation as provided under Section 25-3-69,  
1192 Mississippi Code of 1972, and shall be reimbursed for mileage and  
1193 expenses.

1194 SECTION 40. Section 43-20-57, Mississippi Code of 1972, is  
1195 amended as follows:

1196 43-20-57. (1) No person shall knowingly maintain a family  
1197 child care home if, in such family child care home, there resides,  
1198 works or regularly volunteers any person who:

1199 (a) (i) Has a felony conviction for a crime against  
1200 persons;

1201 (ii) Has a felony conviction under the Uniform  
1202 Controlled Substances Act;

1203 (iii) Has a conviction for a crime of child abuse  
1204 or neglect;

1205 (iv) Has a conviction for any sex offense as  
1206 defined in Section 45-33-23, Mississippi Code of 1972; or

1207 (v) Any other offense committed in another  
1208 jurisdiction or any federal offense which, if committed in this  
1209 state, would be deemed to be such a crime without regard to its  
1210 designation elsewhere;

1211 (b) Has been adjudicated a juvenile offender because of  
1212 having committed an act which if done by an adult would constitute  
1213 the commission of a felony and which is a crime against persons;

1214 (c) Has had a child declared in a court order in this  
1215 or any other state to be deprived or a child in need of care based  
1216 on an allegation of physical, mental or emotional abuse or neglect  
1217 or sexual abuse;

1218 (d) Has had parental rights terminated pursuant to  
1219 Section 93-15-101 et seq., Mississippi Code of 1972; or

1220 (e) Has an infectious or contagious disease, as defined  
1221 by the State Department of Health pursuant to Section 41-23-1,  
1222 Mississippi Code of 1972.

1223 (2) No person shall maintain a family child care home if  
1224 such person has been found to be a disabled person in need of a  
1225 guardian or conservator, or both.

1226 (3) Any person who resides in the home and who has been  
1227 found to be a disabled person in need of a guardian or  
1228 conservator, or both, shall be included in the total number of  
1229 children allowed in care.

1230 (4) In accordance with the provision of this subsection (4),  
1231 the registering agency shall have access to any court orders or  
1232 adjudications of any court of record, any records of such orders  
1233 or adjudications, criminal history record information in the  
1234 possession of the Mississippi Department of Public Safety or court  
1235 of this state concerning persons working, regularly volunteering  
1236 or residing in a family child care home. The department shall  
1237 have access to these records for the purpose of determining  
1238 whether or not the home meets the requirements of Sections  
1239 43-20-51 through 43-20-65.

1240 (5) No family child care home or its employees shall be  
1241 liable for civil damages to any person refused employment or  
1242 discharged from employment by reason of such home's compliance  
1243 with the provisions of this section if such home acts in good  
1244 faith to comply with this section.

1245 SECTION 41. Section 43-20-59, Mississippi Code of 1972, is  
1246 amended as follows:

1247           43-20-59. (1) Any person maintaining a family child care  
1248 home may register such home with the registering agency on forms  
1249 provided by it.

1250           (2) A certificate of registration shall be issued to the  
1251 applicant for registration who (a) attests to the safety of the  
1252 home for the care of children, (b) submits a fee of Five Dollars  
1253 (\$5.00) payable to the registering agency, and (c) certifies that  
1254 no person described in paragraph (a), (b), (c), (d) or (e) of  
1255 Section 43-20-57(1) resides, works or volunteers in the family  
1256 child care home.

1257           (3) The registering agency shall furnish each applicant for  
1258 registration a family child care home safety evaluation form to be  
1259 completed by the applicant and submitted with the registration  
1260 application.

1261           (4) The certificate of registration shall be renewed  
1262 annually in the same manner provided for in this section.

1263           (5) A certificate of registration shall be in force for one  
1264 (1) year after the date of issuance unless revoked pursuant to  
1265 Sections 43-20-51 through 43-20-65. The certificate shall specify  
1266 that the registrant may operate a family child care home for five  
1267 (5) or fewer children. This section shall not be construed to  
1268 limit the right of the registering agency to enter a registered  
1269 family child care home for the purpose of assessing compliance  
1270 with Sections 43-20-51 through 43-20-65 after receiving a  
1271 complaint against the registrant of such home or in conducting a  
1272 periodic routine inspection.

1273           (6) The registering agency shall adopt rules and regulations  
1274 to implement the registration provisions.

1275           SECTION 42. Section 43-20-61, Mississippi Code of 1972, is  
1276 amended as follows:

1277           43-20-61. The registering agency may deny, revoke or refuse  
1278 to renew a certificate of registration upon determination that the  
1279 registrant falsified information on the application or willfully

1280 and substantially has violated Sections 43-20-51 through 43-20-65,  
1281 inclusive and amendments thereto. The registering agency shall  
1282 not revoke or refuse to renew any certificate without giving  
1283 notice and conducting a hearing.

1284 SECTION 43. Section 43-20-63, Mississippi Code of 1972, is  
1285 amended as follows:

1286 43-20-63. The registering agency may suspend any certificate  
1287 of registration issued under the provision of Sections 43-20-51  
1288 through 43-20-65 upon any of the following grounds and in the  
1289 manner provided in Sections 43-20-51 through 43-20-65:

1290 (a) Violation by the registrant of any provision of  
1291 Sections 43-20-51 through 43-20-65 or of the rules and regulations  
1292 promulgated under Sections 43-20-51 through 43-20-65;

1293 (b) Aiding, abetting or permitting the violation of any  
1294 provision of Sections 43-20-51 through 43-20-65 or of the rules  
1295 and regulations promulgated under Sections 43-20-51 through  
1296 43-20-65;

1297 (c) Conduct in the operation or maintenance, or both  
1298 the operation and maintenance of a family child care home which is  
1299 inimical to health, morals, welfare or safety of either an  
1300 individual in or receiving services from the home or the people of  
1301 this state; and

1302 (d) The conviction of a registrant at any time during  
1303 registration of any crime under state or federal law.

1304 The registering agency may suspend any certificate of  
1305 registration issued under the provisions of Sections 43-20-51  
1306 through 43-20-65 prior to any hearing when, in the opinion of the  
1307 registering agency, the action is necessary to protect any child  
1308 in the family child care home from physical or mental abuse,  
1309 abandonment or any other substantial threat to health or safety.

1310 SECTION 44. Section 43-20-65, Mississippi Code of 1972, is  
1311 amended as follows:

1312           43-20-65. Information received by the registering agency  
1313 through filed reports, inspections or otherwise authorized under  
1314 Sections 43-20-51 through 43-20-65 shall not be disclosed publicly  
1315 in such manner as to identify individuals. In any hearings  
1316 conducted under regulation provisions of Sections 43-20-51 through  
1317 43-20-65, the hearing officer may close the hearing to the public  
1318 to prevent public disclosure of matters relating to individuals  
1319 restricted by other law.

1320           SECTION 45. Section 75-74-3, Mississippi Code of 1972, is  
1321 amended as follows:

1322           75-74-3. In this chapter, unless the context requires a  
1323 different definition:

1324           (a) "Licensing agency" shall mean the Mississippi  
1325 Department of Children's Affairs.

1326           (b) "Camper" shall mean any child six (6) to eighteen  
1327 (18) years of age who is attending a youth camp.

1328           (c) "Executive director" shall mean the Executive  
1329 Director, Mississippi Department of Children's Affairs.

1330           (d) "Person" shall mean any individual, partnership,  
1331 corporation, association or organization.

1332           (e) "Youth camp" shall mean any camp operating on a  
1333 permanent campsite for four (4) or more consecutive periods of  
1334 twenty-four (24) hours, and accommodating twenty (20) or more  
1335 children six (6) to eighteen (18) years of age; provided, however,  
1336 athletic camps and hunting and fishing camps shall not be included  
1337 in this definition.

1338           (f) "Permanent campsite" shall mean a campground  
1339 containing within the premises thereof permanent structures and  
1340 installed facilities which are primarily used for camping purposes  
1341 by a youth camp operator; provided, however, facilities owned by  
1342 the State of Mississippi, any political subdivision thereof or any  
1343 public or private university, college or junior college shall not  
1344 be included in this definition.

1345 (g) "Youth camp operator" shall mean any person who  
1346 owns, operates, controls or supervises, whether or not for profit,  
1347 a youth camp.

1348 SECTION 46. Section 75-74-7, Mississippi Code of 1972, is  
1349 amended as follows:

1350 75-74-7. The licensing agency is the principal authority in  
1351 the state on matters relating to the condition of safety and  
1352 health at youth camps in Mississippi. The licensing agency has  
1353 the powers and duties set out in this chapter and all other powers  
1354 necessary and convenient to carry out its responsibilities.

1355 SECTION 47. Section 75-74-8, Mississippi Code of 1972, is  
1356 amended as follows:

1357 75-74-8. (1) Any nonresident physician who is not licensed  
1358 to practice medicine in this state and any resident physician who  
1359 is retired from the active practice of medicine in this state may  
1360 be issued a temporary license by the State Board of Medical  
1361 Licensure to practice medicine at a youth camp licensed by the  
1362 licensing agency under this chapter while serving as a volunteer  
1363 at such a camp, provided that any such nonresident physician shall  
1364 hold a valid license to practice medicine in another state and the  
1365 medical licensing authority of that state shall certify to the  
1366 Board of Medical Licensure in writing that such license is in good  
1367 standing, and that any such retired resident physician shall be in  
1368 good standing with the Board of Medical Licensure.

1369 (2) Any nonresident registered nurse who is not licensed to  
1370 practice nursing in this state and any resident registered nurse  
1371 who is retired from the active practice of nursing in this state  
1372 may be issued a temporary license by the Mississippi Board of  
1373 Nursing to practice nursing at a youth camp licensed under this  
1374 chapter \* \* \* while serving as a volunteer at such a camp,  
1375 provided that any such nonresident nurse shall hold a valid  
1376 license to practice nursing in another state and the nurse  
1377 licensing authority of that state shall certify to the Board of

1378 Nursing in writing that such license is in good standing, and that  
1379 any such retired resident nurse shall be in good standing with the  
1380 Board of Nursing. The Board of Nursing shall be authorized to  
1381 require any resident registered nurse who has been retired from  
1382 the active practice of nursing in this state for five (5) or more  
1383 consecutive years to complete a nursing reorientation program  
1384 prescribed by the board before the board will issue a temporary  
1385 license to practice nursing at a youth camp to such nurse.

1386 (3) A temporary license issued under subsection (1) or (2)  
1387 of this section shall authorize the physician or registered nurse  
1388 to whom the license is issued to administer treatment and care  
1389 within the scope of his training to campers and employees of the  
1390 youth camp, but shall not authorize the physician or registered  
1391 nurse to otherwise practice in the state. Such temporary license  
1392 shall be valid only during the time that the physician or  
1393 registered nurse is in residence at the camp, but in no event  
1394 shall such license be valid for more than ninety (90) days. A new  
1395 temporary license shall be obtained by a physician or registered  
1396 nurse each time that he serves as a volunteer at a youth camp.  
1397 The fee for each such license shall be Twenty-five Dollars  
1398 (\$25.00), which shall be payable to the board from which the  
1399 license is obtained.

1400 SECTION 48. Section 75-74-9, Mississippi Code of 1972, is  
1401 amended as follows:

1402 75-74-9. (1) The licensing agency shall have the authority  
1403 and the duty to make and promulgate rules and regulations  
1404 consistent with the policy and purpose of this chapter, and to  
1405 amend any rule or regulation it makes. In developing such rules  
1406 and regulations, the board shall consult with appropriate public  
1407 and private officials and organizations and parents and camp  
1408 operators. It shall be the duty of the licensing agency to advise  
1409 all existing youth camps in this state of this chapter and any  
1410 rules and regulations promulgated under this chapter.

1411 (2) There is created within the licensing agency the  
1412 advisory council on youth camp safety to advise and consult on  
1413 policy matters relating to youth camp safety. The council  
1414 consists of the Executive Director of the Mississippi Department  
1415 of Children's Affairs or his representative and a minimum of eight  
1416 (8) members appointed by the executive director, including the  
1417 following groups: one (1) member representative each from a  
1418 private nonsectarian camp, a church-related or sponsored camp, the  
1419 Girl Scouts of America, the Boy Scouts of America, the Mississippi  
1420 Camping Association, camps for the handicapped and civic  
1421 organization camps; and a consumer, a parent or an older youth  
1422 with prior camping experience. A member is entitled to hold  
1423 office for two (2) years or until his successor is appointed and  
1424 qualifies. The executive director or his representative shall  
1425 fill vacancies for unexpired terms. Council members serve without  
1426 compensation, but are entitled to be reimbursed for actual  
1427 expenses incurred in the performance of their duties. The  
1428 executive director may appoint special advisory or technical  
1429 experts and consultants as are necessary to assist the council in  
1430 carrying out its functions.

1431 (3) No rule or regulation promulgated or amended by the  
1432 board under this chapter shall be effective until a public hearing  
1433 is held thereon. Notice of a public hearing, including the time,  
1434 date and location of the hearing and the substance of the proposed  
1435 rule, regulation or amendment, shall be given by the board to each  
1436 licensee of a youth camp and the general public not less than ten  
1437 (10) days nor more than thirty (30) days before the hearing. Any  
1438 interested person may appear at the hearing to present evidence or  
1439 testimony concerning the proposed rule, regulation or amendment.

1440 SECTION 49. Section 75-74-11, Mississippi Code of 1972, is  
1441 amended as follows:

1442 75-74-11. No person or organization may operate or sponsor a  
1443 youth camp in Mississippi without first holding a valid license

1444 under this chapter and without complying with the provisions of  
1445 this chapter and with any rule, regulation or order of the  
1446 licensing agency.

1447 Each application for a license to operate or sponsor a youth  
1448 camp shall be accompanied by a license fee of One Hundred Dollars  
1449 (\$100.00), which shall be paid to the board. A license issued  
1450 under this chapter may be renewed upon payment of a renewal fee of  
1451 One Hundred Dollars (\$100.00), which shall be paid to the board.

1452 No governmental entity or agency shall be required to pay the  
1453 fee or fees set forth in this section.

1454 SECTION 50. Section 75-74-17, Mississippi Code of 1972, is  
1455 amended as follows:

1456 75-74-17. (1) No person may operate a youth camp in  
1457 Mississippi without complying with all provisions of this chapter,  
1458 and any rules, regulations and orders of the licensing agency.

1459 (2) Any person operating a youth camp in Mississippi without  
1460 a license shall be guilty of a misdemeanor. Each day shall  
1461 constitute a separate offense.

1462 SECTION 51. Section 75-74-19, Mississippi Code of 1972, is  
1463 amended as follows:

1464 75-74-19. All fees collected by the licensing agency under  
1465 this chapter and any penalties collected by the board for  
1466 violations of this chapter shall be deposited in a special fund  
1467 hereby created in the State Treasury and shall be used for the  
1468 implementation and administration of this chapter when  
1469 appropriated by the Legislature for such purpose.

1470 SECTION 52. Section 43-15-3, Mississippi Code of 1972, is  
1471 amended as follows:

1472 43-15-3. The Mississippi Department of Children's Affairs is  
1473 hereby authorized, empowered and directed to cooperate fully with  
1474 the United States Children's Bureau and Secretary of Labor in  
1475 establishing, extending and strengthening "child welfare services"  
1476 for the protection and care of homeless, dependent and neglected

1477 children and children in danger of becoming delinquent. Said  
1478 Mississippi Department of Children's Affairs is further  
1479 authorized, empowered and directed to cooperate with the United  
1480 States Children's Bureau and Secretary of Labor in developing  
1481 plans for said "child welfare services" and extending any other  
1482 cooperation necessary under Section 521 of Public Law No. 271-74th  
1483 Congress of the United States.

1484 In furtherance of the "child welfare services" referred to in  
1485 the first paragraph hereof the State Treasurer is hereby  
1486 authorized and directed to receive on behalf of the state, and to  
1487 execute all instruments incidental thereto, federal or other funds  
1488 to be used for "child welfare services," and to place such funds  
1489 in a special account to the credit of the "child welfare  
1490 services," which said funds shall be expended by the Mississippi  
1491 Department of Children's Affairs for the purposes and under the  
1492 provisions of this chapter and Section 521 of Public Law No.  
1493 271-74th Congress of the United States. It shall be paid out by  
1494 the State Treasurer as funds appropriated to carry out the  
1495 provisions of said laws.

1496 The Mississippi Department of Children's Affairs shall issue  
1497 all checks on said "child welfare services" fund to persons  
1498 entitled to payment from said fund. All such sums shall be drawn  
1499 upon the "child welfare services" fund upon requisition of the  
1500 Executive Director of the Mississippi Department of Children's  
1501 Affairs.

1502 The money in the "child welfare services" fund shall be  
1503 expended in accordance with the rules and regulations of the  
1504 United States Children's Bureau and Secretary of Labor and in  
1505 accordance with the plan developed by the Mississippi Department  
1506 of Children's Affairs and the United States Children's Bureau  
1507 under Section 521 of Public Law No. 271-74th Congress of the  
1508 United States, and shall not be used for any other purpose.

1509           If a claim for foster care and/or adoption assistance under  
1510 Title IV-E of the federal Social Security Act is not acted upon  
1511 within a reasonable time after the filing of the claim, or is  
1512 denied in whole or in part, the claimant may appeal to the  
1513 Director of the Division of Family and Children's Services in the  
1514 manner and form prescribed by the Mississippi Department of  
1515 Children's Affairs. The Director of the Division of Family and  
1516 Children's Services shall, upon receipt of such an appeal, give  
1517 the claimant reasonable notice and opportunity for a fair hearing.  
1518 The Director of the Division of Family and Children's Services may  
1519 also, upon his or her own motion, review any decision regarding a  
1520 claim, and may consider any claim upon which a decision has not  
1521 been made within a reasonable time. All decisions of the Director  
1522 of Family and Children's Services shall be final and binding.

1523           SECTION 53. Section 43-15-5, Mississippi Code of 1972, is  
1524 amended as follows:

1525           43-15-5. (1) The Mississippi Department of Children's  
1526 Affairs shall have authority and it shall be its duty to  
1527 administer or supervise all public child welfare services,  
1528 including those services, responsibilities, duties and powers with  
1529 which the county departments of children's affairs are charged and  
1530 empowered in this chapter; administer and supervise the licensing  
1531 and inspection of all private child placing agencies; provide for  
1532 the care of dependent and neglected children in foster family  
1533 homes or in institutions, supervise the care of such children and  
1534 those of illegitimate birth; supervise the importation of  
1535 children; and supervise the operation of all state institutions  
1536 for children. The Mississippi Department of Children's Affairs  
1537 shall be authorized to purchase hospital and medical insurance  
1538 coverage for those children placed in foster care by the state or  
1539 county departments of children's affairs who are not otherwise  
1540 eligible for medical assistance under the Mississippi Medicaid  
1541 Law. The Mississippi Department of Children's Affairs shall be

1542 further authorized to purchase burial or life insurance not  
1543 exceeding One Thousand Five Hundred Dollars (\$1,500.00) for those  
1544 children placed in foster care by the state or county departments  
1545 of children's affairs. All insurance coverage authorized herein  
1546 may be purchased with any funds other than state funds available  
1547 to the Mississippi Department of Children's Affairs, including  
1548 those funds available to the child which are administered by the  
1549 department.

1550 (2) Any person, partnership, group, corporation,  
1551 organization or association desiring to operate a child  
1552 residential home, as defined in Section 43-16-3, may make  
1553 application for a license for such a facility to the Mississippi  
1554 Department of Children's Affairs on the application forms  
1555 furnished for this purpose by the department. If an applicant  
1556 meets the published rules and regulations of the department  
1557 regarding minimum standards for a child residential home, then the  
1558 applicant shall be granted a license by the department.

1559 SECTION 54. Section 43-15-6, Mississippi Code of 1972, is  
1560 amended as follows:

1561 43-15-6. (1) Any person, institution, facility, clinic,  
1562 organization or other entity that provides services to children in  
1563 a residential setting where care, lodging, maintenance, and  
1564 counseling or therapy for alcohol or controlled substance abuse or  
1565 for any other emotional disorder or mental illness is provided for  
1566 children, whether for compensation or not, that holds himself,  
1567 herself, or itself out to the public as providing such services,  
1568 and that is entrusted with the care of the children to whom he,  
1569 she, or it provides services, because of the nature of the  
1570 services and the setting in which the services are provided shall  
1571 be subject to the provisions of this section.

1572 (2) Each entity to which this section applies shall  
1573 complete, through the appropriate governmental authority, a  
1574 national criminal history record information check and a child

1575 abuse registry check for each owner, operator, employee,  
1576 prospective employee, volunteer or prospective volunteer of the  
1577 entity and/or any other that has or may have unsupervised access  
1578 to a child served by the entity. In order to determine the  
1579 applicant's suitability for employment, the entity shall ensure  
1580 that the applicant be fingerprinted by local law enforcement, and  
1581 the results forwarded to the Department of Public Safety. If no  
1582 disqualifying record is identified at the state level, the  
1583 fingerprints shall be forwarded by the Department of Public Safety  
1584 to the FBI for a national criminal history record check.

1585 (3) An owner, operator, employee, prospective employee,  
1586 volunteer or prospective volunteer of the entity and/or any other  
1587 that has or may have unsupervised access to a child who has a  
1588 criminal history of conviction or pending indictment of a crime,  
1589 whether a misdemeanor or a felony, that bears upon an individual's  
1590 fitness to have responsibility for the safety and well-being of  
1591 children as set forth in this chapter may not provide child care  
1592 or operate, or be licensed as, a residential child care program,  
1593 foster parent, or foster home.

1594 (4) All fees incurred in compliance with this section shall  
1595 be borne by the individual or entity to which subsection (1)  
1596 applies.

1597 (5) The Mississippi Department of Children's Affairs shall  
1598 have the authority to set fees, to exclude a particular crime or  
1599 crimes or a substantiated finding of child abuse and/or neglect as  
1600 disqualifying individuals or entities from providing foster care  
1601 or residential child care, and adopt such other rules and  
1602 regulations as may be required to carry out the provisions of this  
1603 section.

1604 (6) Any entity that violates the provisions of this section  
1605 by failure to complete sex offense criminal history record  
1606 information and felony conviction record information checks, as  
1607 required under subsection (3) of this section, shall be subject to

1608 a penalty of up to Ten Thousand Dollars (\$10,000.00) for each such  
1609 violation and may be enjoined from further operation until it  
1610 complies with this section in actions maintained by the Attorney  
1611 General.

1612 (7) The Mississippi Department of Children's Affairs and/or  
1613 its officers, employees, attorneys, agents and representatives  
1614 shall not be held civilly liable for any findings, recommendations  
1615 or actions taken pursuant to this section.

1616 SECTION 55. Section 43-15-7, Mississippi Code of 1972, is  
1617 amended as follows:

1618 43-15-7. The Mississippi Department of Children's Affairs is  
1619 hereby authorized to provide protective services for children as  
1620 will conserve home life; assume responsibility for the care and  
1621 support of dependent children needing public care away from their  
1622 homes; place children found by the department to be dependent or  
1623 without proper care in suitable institutions or private homes, and  
1624 cooperate with public and private institutions and agencies in  
1625 placing such children in suitable institutions or private homes;  
1626 accept custody or guardianship, through one of its designated  
1627 employees, of any child, when appointed as custodian or guardian  
1628 in the manner provided by law.

1629 The board of supervisors in each county is hereby empowered,  
1630 in its discretion, to set aside and appropriate out of the tax  
1631 levied and collected to support the poor of the county or out of  
1632 the county general fund necessary monies to be administered by the  
1633 county department of children's affairs to carry out the  
1634 provisions of this section.

1635 SECTION 56. Section 43-15-11, Mississippi Code of 1972, is  
1636 amended as follows:

1637 43-15-11. (1) The board of supervisors of any county and/or  
1638 the mayor and board of commissioners of any city and/or the mayor  
1639 and board of aldermen of any municipality in this state are hereby  
1640 authorized and empowered, in their discretion, to expend out of

1641 any monies in their respective treasuries, to be drawn by warrant  
1642 thereon, a sum or sums of money not exceeding a total of  
1643 Twenty-five Dollars (\$25.00) annually per Million Dollars  
1644 (\$1,000,000.00) of the assessed valuation of the real and personal  
1645 property thereof for the purpose of providing for the care,  
1646 support and maintenance of homeless or destitute children of any  
1647 county or municipality of this state who are supported, cared for,  
1648 maintained and placed for adoption by any children's home society  
1649 which operates over and serves the entire State of Mississippi,  
1650 and which is approved and licensed by the Mississippi Department  
1651 of Children's Affairs.

1652 (2) The authority granted in this section is supplemental of  
1653 and in addition to all existing authority for the expenditure of  
1654 funds by such boards of supervisors and municipal governing  
1655 authorities.

1656 SECTION 57. Section 43-15-13, Mississippi Code of 1972, is  
1657 amended as follows:

1658 43-15-13. (1) For purposes of this section, "children"  
1659 means persons found within the state who are under the age of  
1660 twenty-one (21) years, and who were placed in the custody of the  
1661 Mississippi Department of Children's Affairs by the youth court of  
1662 the appropriate county.

1663 (2) The Mississippi Department of Children's Affairs shall  
1664 establish a foster care placement program for children whose  
1665 custody lies with the department, with the following objectives:

1666 (a) Protecting and promoting the health, safety and  
1667 welfare of children;

1668 (b) Preventing the unnecessary separation of children  
1669 from their families by identifying family problems, assisting  
1670 families in resolving their problems and preventing the breakup of  
1671 the family where the prevention of child removal is desirable and  
1672 possible when the child can be cared for at home without  
1673 endangering the child's health and safety;

1674 (c) Remediating or assisting in the solution of problems  
1675 which may result in the neglect, abuse, exploitation or  
1676 delinquency of children;

1677 (d) Restoring to their families children who have been  
1678 removed, by the provision of services to the child and the  
1679 families when the child can be cared for at home without  
1680 endangering the child's health and safety;

1681 (e) Placing children in suitable adoptive homes  
1682 approved by a licensed adoption agency or licensed social worker,  
1683 in cases where restoration to the biological family is not safe,  
1684 possible or appropriate;

1685 (f) Assuring safe and adequate care of children away  
1686 from their homes, in cases where the child cannot be returned home  
1687 or cannot be placed for adoption. At the time of placement, the  
1688 department shall implement concurrent planning, as described in  
1689 subsection (8) of this section, so that permanency may occur at  
1690 the earliest opportunity. Consideration of possible failure or  
1691 delay of reunification should be given, to the end that the  
1692 placement made is the best available placement to provide  
1693 permanency for the child; and

1694 (g) Providing a social worker or social work team for a  
1695 family and child throughout the implementation of their permanent  
1696 living arrangement plan. Wherever feasible, the same social  
1697 worker or social work team shall remain on the case until the  
1698 child is no longer under the jurisdiction of the youth court.

1699 (3) The Mississippi Department of Children's Affairs shall  
1700 administer a system of individualized plans and reviews once every  
1701 six (6) months for each child under its custody within the State  
1702 of Mississippi, each child who has been adjudged a neglected,  
1703 abandoned or abused child and whose custody was changed by court  
1704 order as a result of such adjudication, and each public or private  
1705 facility licensed by the department. The Mississippi Department  
1706 of Children's Affairs administrative review shall be completed on

1707 each child within the first three (3) months and a Foster Care  
1708 Review once every six (6) months after the child's initial  
1709 forty-eight (48) hours shelter hearing. Such system shall be for  
1710 the purpose of enhancing potential family life for the child by  
1711 the development of individual plans to return the child to its  
1712 natural parent or parents, or to refer the child to the  
1713 appropriate court for termination of parental rights and placement  
1714 in a permanent relative's home, adoptive home or foster/adoptive  
1715 home. The goal of the Mississippi Department of Children's  
1716 Affairs shall be to return the child to its natural parent(s) or  
1717 refer the child to the appropriate court for termination of  
1718 parental rights and placement in a permanent relative's home,  
1719 adoptive home or foster/adoptive home within the time periods  
1720 specified in this subsection or in subsection (4) of this section.  
1721 In furthering this goal, the department shall establish policy and  
1722 procedures designed to appropriately place children in permanent  
1723 homes, such policy to include a system of reviews for all children  
1724 in foster care, as follows: foster care counselors in the  
1725 department shall make all possible contact with the child's  
1726 natural parent(s) and any interested relative for the first two  
1727 (2) months following the child's entry into the foster care  
1728 system. For any child who was in foster care before July 1, 1998,  
1729 and has been in foster care for fifteen (15) of the last  
1730 twenty-two (22) months regardless of whether the foster care was  
1731 continuous for all of those twenty-two (22) months, the department  
1732 shall file a petition to terminate the parental rights of the  
1733 child's parents. The time period starts to run from the date the  
1734 court makes a finding of abuse and/or neglect or sixty (60) days  
1735 from when the child was removed from his or her home, whichever is  
1736 earlier. The department can choose not to file a termination of  
1737 parental rights petition if the following apply:

1738 (a) The child is being cared for by a relative; and/or

1739           (b) The department has documented compelling and  
1740 extraordinary reasons why termination of parental rights would not  
1741 be in the best interests of the child.

1742           (4) In the case of any child who is placed in foster care on  
1743 or after July 1, 1998, except in cases of aggravated circumstances  
1744 prescribed in Section 43-21-603(7)(c) or (d), the child's natural  
1745 parent(s) will have a reasonable time to be determined by the  
1746 court, which shall not exceed a six-month period of time, in which  
1747 to meet the service agreement with the department for the benefit  
1748 of the child unless the department has documented extraordinary  
1749 and compelling reasons for extending the time period in the best  
1750 interest of the child. If this agreement has not been  
1751 satisfactorily met, simultaneously the child will be referred to  
1752 the appropriate court for termination of parental rights and  
1753 placement in a permanent relative's home, adoptive home or a  
1754 foster/adoptive home. For children under the age of three (3)  
1755 years, termination of parental rights shall be initiated within  
1756 six (6) months, unless the department has documented compelling  
1757 and extraordinary circumstances, and placement in a permanent  
1758 relative's home, adoptive home or foster/adoptive home within two  
1759 (2) months. For children who have been abandoned pursuant to the  
1760 provisions of Section 97-5-1, termination of parental rights shall  
1761 be initiated within thirty (30) days and placement in an adoptive  
1762 home shall be initiated without necessity for placement in a  
1763 foster home. The department need not initiate termination of  
1764 parental rights proceedings where the child has been placed in  
1765 durable legal custody or long-term or formalized foster care by a  
1766 court of competent jurisdiction.

1767           (5) The Foster Care Review once every six (6) months shall  
1768 be conducted by the youth court or its designee(s), and/or by  
1769 personnel within the Mississippi Department of Children's Affairs  
1770 or by a designee or designees of the department and may include

1771 others appointed by the department, and the review shall include  
1772 at a minimum an evaluation of the child based on the following:

1773           (a) The extent of the care and support provided by the  
1774 parents or parent, while the child is in temporary custody;

1775           (b) The extent of communication with the child by  
1776 parents, parent or guardian;

1777           (c) The degree of compliance by the agency and the  
1778 parents with the social service plan established;

1779           (d) The methods of achieving the goal and the plan  
1780 establishing a permanent home for the child;

1781           (e) Social services offered and/or utilized to  
1782 facilitate plans for establishing a permanent home for the child;  
1783 and

1784           (f) Relevant testimony and recommendations from the  
1785 foster parent of the child, the grandparents of the child, the  
1786 guardian ad litem of the child, representatives of any private  
1787 care agency which has cared for the child, the social worker  
1788 assigned to the case, and any other relevant testimony pertaining  
1789 to the case.

1790           Each child's review plan once every six (6) months shall be  
1791 filed with the court which awarded custody and shall be made  
1792 available to natural parents or foster parents upon approval of  
1793 the court. The court shall make a finding as to the degree of  
1794 compliance by the agency and the parent(s) with the child's social  
1795 service plan. The court also shall find that the child's health  
1796 and safety are the paramount concern. In the interest of the  
1797 child, the court shall, where appropriate, initiate proceedings on  
1798 its own motion. The Mississippi Department of Children's Affairs  
1799 shall report to the Legislature as to the number of such children,  
1800 the findings of the foster care review board and relevant  
1801 statistical information in foster care in a semi-annual report to  
1802 the Legislature to be submitted to the Joint Oversight Committee

1803 of the Mississippi Department of Children's Affairs. The report  
1804 shall not refer to the specific name of any child in foster care.

1805 (6) The Mississippi Department of Children's Affairs, with  
1806 the cooperation and assistance of the State Department of Health,  
1807 shall develop and implement a training program for foster care  
1808 parents to indoctrinate them as to their proper responsibilities  
1809 upon a child's entry into their foster care. The program shall  
1810 provide a minimum of twelve (12) clock hours of training. The  
1811 foster care training program shall be satisfactorily completed by  
1812 such foster care parents prior to, or within ninety (90) days  
1813 after child placement with such parent. Record of such foster  
1814 care parent's training program participation shall be filed with  
1815 the court as part of a foster care child's review plan once every  
1816 six (6) months.

1817 (7) When the Mississippi Department of Children's Affairs is  
1818 considering placement of a child in a foster home and when the  
1819 department deems it to be in the best interest of the child, the  
1820 department shall give first priority to placing the child in the  
1821 home of one (1) of the child's relatives within the third degree,  
1822 as computed by the civil law rule. In placing the child in a  
1823 relative's home, the department may waive any rule, regulation or  
1824 policy applicable to placement in foster care that would otherwise  
1825 require the child to have a separate bed or bedroom or have a  
1826 bedroom of a certain size, if placing the child in a relative's  
1827 home would be in the best interest of the child and such  
1828 requirements cannot be met in the relative's home.

1829 (8) The Legislature recognizes that the best interests of  
1830 the child require that the child be placed in the most permanent  
1831 living arrangement as soon as is practicably possible. To achieve  
1832 this goal, the Mississippi Department of Children's Affairs is  
1833 directed to conduct concurrent planning so that a permanent living  
1834 arrangement may occur at the earliest opportunity. Permanent  
1835 living arrangements may include prevention of placement of a child

1836 outside the home of the family when the child can be cared for at  
1837 home without endangering the child's health or safety;  
1838 reunification with the family, when safe and appropriate, if  
1839 temporary placement is necessary; or movement of the child toward  
1840 the most permanent living arrangement and permanent legal status.  
1841 When a child is placed in foster care or relative care, the  
1842 department shall first ensure and document that reasonable efforts  
1843 were made to prevent or eliminate the need to remove the child  
1844 from the child's home. The department's first priority shall be  
1845 to make reasonable efforts to reunify the family when temporary  
1846 placement of the child occurs or shall request a finding from the  
1847 court that reasonable efforts are not appropriate or have been  
1848 unsuccessful. A decision to place a child in foster care or  
1849 relative care shall be made with consideration of the child's  
1850 health, safety and best interests. At the time of placement,  
1851 consideration should also be given so that if reunification fails  
1852 or is delayed, the placement made is the best available placement  
1853 to provide a permanent living arrangement for the child. The  
1854 department shall adopt rules addressing concurrent planning for  
1855 reunification and a permanent living arrangement. The department  
1856 shall consider the following factors when determining  
1857 appropriateness of concurrent planning:

- 1858 (a) The likelihood of prompt reunification;
- 1859 (b) The past history of the family;
- 1860 (c) The barriers to reunification being addressed by  
1861 the family;
- 1862 (d) The level of cooperation of the family;
- 1863 (e) The foster parents' willingness to work with the  
1864 family to reunite;
- 1865 (f) The willingness and ability of the foster family or  
1866 relative placement to provide an adoptive home or long-term  
1867 placement;
- 1868 (g) The age of the child; and

1869 (h) Placement of siblings.

1870 (9) If the department has placed a child in foster care or  
1871 relative care pursuant to a court order, the department may not  
1872 change the child's placement unless the department specifically  
1873 documents to the court that the current placement is unsafe or  
1874 unsuitable or that another placement is in the child's best  
1875 interests unless the new placement is in an adoptive home or other  
1876 permanent placement. Except in emergency circumstances as  
1877 determined by the department or where the court orders placement  
1878 of the child pursuant to Section 43-21-303, the foster parents,  
1879 grandparents or other relatives of the child shall be given an  
1880 opportunity to contest the specific reasons documented by the  
1881 department at least seventy-two (72) hours prior to any such  
1882 departure, and the court may conduct a review of such placement  
1883 unless the new placement is in an adoptive home or other permanent  
1884 placement. When a child is returned to foster care or relative  
1885 care, the former foster parents or relative placement shall be  
1886 given the prior right of return placement in order to eliminate  
1887 additional trauma to the child.

1888 (10) The Mississippi Department of Children's Affairs shall  
1889 provide the foster parents, grandparents or other relatives with  
1890 at least a seventy-two-hour notice of departure for any child  
1891 placed in their foster care or relative care, except in emergency  
1892 circumstances as determined by the department or where the court  
1893 orders placement of the child pursuant to Section 43-21-303. The  
1894 parent/legal guardian, grandparents of the child, guardian ad  
1895 litem and the court exercising jurisdiction shall be notified in  
1896 writing when the child leaves foster care or relative care  
1897 placement, regardless of whether the child's departure was planned  
1898 or unplanned. The only exceptions to giving a written notice to  
1899 the parent(s) are when a parent has voluntarily released the child  
1900 for adoption or the parent's legal rights to the child have been  
1901 terminated through the appropriate court with jurisdiction.

1902           (11) The Mississippi Department of Children's Affairs shall  
1903 extend the following rights to foster care parents:

1904           (a) A clear understanding of their role as foster  
1905 parents and the roles of the birth parent(s) and the placement  
1906 agency in respect to the child in care;

1907           (b) Respect, consideration, trust and value as a family  
1908 who is making an important contribution to the agency's  
1909 objectives;

1910           (c) Involvement in all the agency's crucial decisions  
1911 regarding the foster child as team members who have pertinent  
1912 information based on their day-to-day knowledge of the child in  
1913 care;

1914           (d) Support from the social worker in efforts to do a  
1915 better day-to-day job in caring for the child and in working to  
1916 achieve the agency's objectives for the child and the birth family  
1917 through provision of:

1918           (i) Pertinent information about the child and the  
1919 birth family.

1920           (ii) Help in using appropriate resources to meet  
1921 the child's needs.

1922           (iii) Direct interviews between the social worker  
1923 and the child, previously discussed and understood by the foster  
1924 parents.

1925           (e) The opportunity to develop confidence in making  
1926 day-to-day decisions in regard to the child;

1927           (f) The opportunity to learn and grow in their vocation  
1928 through planned foster parent education;

1929           (g) The opportunity to be heard regarding agency  
1930 practices that they may question; and

1931           (h) Reimbursement for costs of the foster child's care  
1932 in the form of a board payment based on the age of the foster  
1933 child as prescribed in Section 43-15-17.

1934           (12) The Mississippi Department of Children's Affairs shall  
1935 require the following responsibilities from participating foster  
1936 parents:

1937           (a) Understanding the department's function in regard  
1938 to the foster care program and related social service programs;

1939           (b) Sharing with the department any information which  
1940 may contribute to the care of foster children;

1941           (c) Functioning within the established goals and  
1942 objectives to improve the general welfare of the foster child;

1943           (d) Recognizing the problems in foster home placement  
1944 that will require professional advice and assistance and that such  
1945 help should be utilized to its full potential;

1946           (e) Recognizing that the foster family will be one of  
1947 the primary resources for preparing a child for any future plans  
1948 that are made, including return to birth parent(s), termination of  
1949 parental rights or reinstitutionalization;

1950           (f) Expressing their view of agency practices which  
1951 relate to the foster child with the appropriate staff member;

1952           (g) Understanding that all information shared with the  
1953 foster parents about the child and his/her birth parent(s) must be  
1954 held in the strictest of confidence;

1955           (h) Cooperating with any plan to reunite the foster  
1956 child with his birth family and work with the birth family to  
1957 achieve this goal; and

1958           (i) Attending dispositional review hearings and  
1959 termination of parental rights hearings conducted by a court of  
1960 competent jurisdiction, or providing their recommendations to the  
1961 court in writing.

1962           SECTION 58. Section 43-15-15, Mississippi Code of 1972, is  
1963 amended as follows:

1964           43-15-15. The Mississippi Department of Children's Affairs  
1965 shall maintain a registry of children whose custody lies with them

1966 and private or public agencies licensed by the department. Said  
1967 registry shall contain classifications of children as:

1968 (a) Temporary custody for evaluation, not to exceed  
1969 three (3) months;

1970 (b) Temporary custody not to exceed one (1) year with  
1971 the plan to return custody to the natural parents;

1972 (c) Temporary custody, not to exceed two (2) years,  
1973 with a plan to free for adoption;

1974 (d) Children freed for adoption;

1975 (e) Children ages fourteen (14) and above who have  
1976 voluntarily chosen not to be adopted and cannot be returned to  
1977 their own homes; and

1978 (f) Children who are institutionalized and for whom  
1979 placement in an adoptive home is not feasible.

1980 SECTION 59. Section 43-15-17, Mississippi Code of 1972, is  
1981 amended as follows:

1982 43-15-17. (1) The Mississippi Department of Children's  
1983 Affairs is authorized to make such payments as may be appropriate  
1984 for supportive services to facilitate either the return of  
1985 children to their natural parents or their adoption, depending  
1986 upon and contingent upon the availability of the Mississippi  
1987 Department of Children's Affairs securing or having sufficient  
1988 funds to render this supportive service. Upon court order, the  
1989 parent(s) shall be responsible for reimbursing the department for  
1990 any foster care payments made on behalf of his or her child, based  
1991 upon financial ability to pay, until such time as there is a  
1992 termination of parental rights regarding the child, or the child  
1993 is adopted.

1994 (2) For those children placed in foster care by the state or  
1995 county departments of children's affairs, the department shall  
1996 make monthly payments for the support of these children's room and  
1997 board, clothing, allowance and personal needs. From and after  
1998 July 1, 1998, and subject to the availability of funds

1999 specifically appropriated therefor, the Mississippi Department of  
2000 Children's Affairs' foster care and therapeutic care monthly  
2001 payment schedule in effect prior to that date shall be increased  
2002 by One Hundred Dollars (\$100.00) per month, with said minimum  
2003 payment not to preclude the department from increasing payments in  
2004 subsequent years as funds become available. From and after July  
2005 1, 1998, in order for foster parents to receive such monthly  
2006 payments authorized under this subsection (2), the Mississippi  
2007 Department of Children's Affairs shall require foster care  
2008 placements to be licensed as foster care homes and shall require  
2009 prospective foster parents to satisfactorily complete an  
2010 appropriate training program which emphasizes the goal of the  
2011 foster care program to provide stable foster placement until a  
2012 permanency outcome is achieved.

2013 SECTION 60. Section 43-15-19, Mississippi Code of 1972, is  
2014 amended as follows:

2015 43-15-19. (1) The Mississippi Department of Children's  
2016 Affairs shall maintain a Mississippi Adoption Resource Exchange  
2017 registry, which shall contain a total listing of all children  
2018 freed for adoption as well as a listing of all persons who wish to  
2019 adopt children and who are approved by a licensed adoption agency  
2020 in the State of Mississippi. Said registry shall be distributed  
2021 to all county children's affairs' directors and licensed adoption  
2022 agencies within the state and shall be updated at least quarterly.  
2023 The Mississippi Department of Children's Affairs shall establish  
2024 regulations for listing descriptive characteristics while  
2025 protecting the privacy of the children's names. Listed names  
2026 shall be removed when adoption placement plans are made for a  
2027 child or when a person withdraws an application for adoption.

2028 (2) Adoptive parents shall be given the option of having  
2029 their names placed in the registry. They shall be required to  
2030 give written authority to the county \* \* \* department of  
2031 children's affairs to place their names in the registry and said

2032 authorization shall be forwarded to the Mississippi Department of  
2033 Children's Affairs, Division of Social Services, for approval.

2034 SECTION 61. Section 43-15-23, Mississippi Code of 1972, is  
2035 amended as follows:

2036 43-15-23. (1) As used in this section the term "placing  
2037 out" means to arrange for the free care of a child in a family,  
2038 other than that of the child's parent, stepparent, grandparent,  
2039 brother, sister, uncle or aunt or legal guardian, for the purpose  
2040 of adoption or for the purpose of providing care.

2041 (2) No person, agency, association, corporation,  
2042 institution, society or other organization, except a child  
2043 placement agency licensed by the Mississippi Department of  
2044 Children's Affairs under Section 43-15-5, shall request, receive  
2045 or accept any compensation or thing of value, directly or  
2046 indirectly, for placing out of a child.

2047 (3) No person shall pay or give any compensation or thing of  
2048 value, directly or indirectly, for placing out of a child to any  
2049 person, agency, association, corporation, institution, society or  
2050 other organization except a child placement agency licensed by the  
2051 Mississippi Department of Children's Affairs.

2052 (4) The provisions of this section shall not be construed to  
2053 (a) prevent the payment of salaries or other compensation by a  
2054 child placement agency licensed by the Mississippi Department of  
2055 Children's Affairs to the officers or employees thereof; (b)  
2056 prevent the payment of legal fees, which have been approved by the  
2057 chancery court, to an attorney for services performed in regard to  
2058 adoption proceedings; (c) prevent the payment of reasonable and  
2059 actual medical fees or hospital charges for services rendered in  
2060 connection with the birth or medical treatment of such child to  
2061 the physician or hospital which rendered the services; or (d)  
2062 prevent the receipt of such payments by such attorney, physician  
2063 or hospital.

2064 (5) Any person, agency, association, corporation,  
2065 institution, society or other organization violating the  
2066 provisions of this section shall be guilty of illegal placement of  
2067 children and shall be punished by a fine not to exceed Five  
2068 Thousand Dollars (\$5,000.00) or by imprisonment not more than five  
2069 (5) years, or both such fine and imprisonment.

2070 SECTION 62. Section 43-15-103, Mississippi Code of 1972, is  
2071 amended as follows:

2072 43-15-103. As used in this chapter:

2073 (a) "Agency" means a residential child-caring agency or  
2074 a child-placing agency.

2075 (b) "Child" or "children" mean(s) any unmarried person  
2076 or persons under the age of eighteen (18) years.

2077 (c) "Child placing" means receiving, accepting or  
2078 providing custody or care for any child under eighteen (18) years  
2079 of age, temporarily or permanently, for the purpose of:

2080 (i) Finding a person to adopt the child;

2081 (ii) Placing the child temporarily or permanently  
2082 in a home for adoption; or

2083 (iii) Placing a child in a foster home or  
2084 residential child-caring agency.

2085 (d) "Child-placing agency" means any entity or person  
2086 which places children in foster boarding homes or foster homes for  
2087 temporary care or for adoption or any other entity or person or  
2088 group of persons who are engaged in providing adoption studies or  
2089 foster care studies or placement services as defined by the rules  
2090 of the department.

2091 (e) "Department" means the Mississippi Department of  
2092 Children's Affairs.

2093 (f) "Director" means the Director of the Division of  
2094 Family and Children's Services.

2095 (g) "Division" means the Division of Family and  
2096 Children's Services within the Mississippi Department of  
2097 Children's Affairs.

2098 (h) "Family boarding home" or "foster home" means a  
2099 home (occupied residence) operated by any entity or person which  
2100 provides residential child care to at least one (1) child but not  
2101 more than six (6) children who are not related to the primary  
2102 caregivers.

2103 (i) "Group care home" means any place or facility  
2104 operated by any entity or person which provides residential child  
2105 care for at least seven (7) children but not more than twelve (12)  
2106 children who are not related to the primary caregivers.

2107 (j) "Licensee" means any person, agency or entity  
2108 licensed under this chapter.

2109 (k) "Maternity home" means any place or facility  
2110 operated by any entity or person which receives, treats or cares  
2111 for more than one (1) child or adult who is pregnant out of  
2112 wedlock, either before, during or within two (2) weeks after  
2113 childbirth; provided, that the licensed child-placing agencies and  
2114 licensed maternity homes may use a family boarding home approved  
2115 and supervised by the agency or home, as a part of their work, for  
2116 as many as three (3) children or adults who are pregnant out of  
2117 wedlock, and provided further, that the provisions of this  
2118 definition shall not include children or women who receive  
2119 maternity care in the home of a person to whom they are kin within  
2120 the sixth degree of kindred computed according to civil law, nor  
2121 does it apply to any maternity care provided by general or special  
2122 hospitals licensed according to law and in which maternity  
2123 treatment and care are part of the medical services performed and  
2124 the care of children is brief and incidental.

2125 (l) "Office" means the Office of Licensing within the  
2126 Division of Family and Children's Services of the Mississippi  
2127 Department of Children's Affairs.

2128 (m) "Person associated with a licensee" means an owner,  
2129 director, member of the governing body, employee, provider of care  
2130 and volunteer of a children's affairs licensee.

2131 (n) "Related" means children, step-children,  
2132 grandchildren, step-grandchildren, siblings of the whole or  
2133 half-blood, step-siblings, nieces or nephews of the primary care  
2134 provider.

2135 (o) "Residential child care" means the provision of  
2136 supervision, and/or protection, and meeting the basic needs of a  
2137 child for twenty-four (24) hours per day, which may include  
2138 services to children in a residential setting where care, lodging,  
2139 maintenance and counseling or therapy for alcohol or controlled  
2140 substance abuse or for any other emotional disorder or mental  
2141 illness is provided for children, whether for compensation or not.

2142 (p) "Residential child-caring agency" means any place  
2143 or facility operated by any entity or person, public or private,  
2144 providing residential child care, regardless of whether operated  
2145 for profit or whether a fee is charged. Such residential  
2146 child-caring agencies include, but are not limited to, maternity  
2147 homes, runaway shelters, group homes that are administered by an  
2148 agency, and emergency shelters that are not in private residence.

2149 SECTION 63. Section 43-15-105, Mississippi Code of 1972, is  
2150 amended as follows:

2151 43-15-105. (1) The Division of Family and Children's  
2152 Services of the Mississippi Department of Children's Affairs shall  
2153 be the licensing authority for the department, and is vested with  
2154 all the powers, duties and responsibilities described in this  
2155 chapter. The division shall make and establish rules and  
2156 regulations regarding:

2157 (a) Approving, extending, denying, suspending and  
2158 revoking licenses for foster homes, residential child-caring  
2159 agencies and child-placing agencies;

2160                   (b) Conditional licenses, variances from department  
2161 rules and exclusions;  
2162                   (c) Basic health and safety standards for licensees;  
2163 and  
2164                   (d) Minimum administration and financial requirements  
2165 for licensees.  
2166           (2) The division shall:  
2167                   (a) Define information that shall be submitted to the  
2168 division with an application for a license;  
2169                   (b) Establish guidelines for the administration and  
2170 maintenance of client and service records, including staff  
2171 qualifications, staff to client ratios;  
2172                   (c) Issue licenses in accordance with this chapter;  
2173                   (d) Conduct surveys and inspections of licensees and  
2174 facilities;  
2175                   (e) Establish and collect licensure fees;  
2176                   (f) Investigate complaints regarding any licensee or  
2177 facility;  
2178                   (g) Have access to all records, correspondence and  
2179 financial data required to be maintained by a licensee or  
2180 facility;  
2181                   (h) Have authority to interview any client, family  
2182 member of a client, employee or officer of a licensee or facility;  
2183 and  
2184                   (i) Have authority to revoke, suspend or extend any  
2185 license issued by the division.

2186           SECTION 64. Section 43-17-5, Mississippi Code of 1972, is  
2187 amended as follows:

2188           43-17-5. (1) The amount of Temporary Assistance for Needy  
2189 Families (TANF) benefits which may be granted for any dependent  
2190 child and a needy caretaker relative shall be determined by the  
2191 county department with due regard to the resources and necessary  
2192 expenditures of the family and the conditions existing in each

2193 case, and in accordance with the rules and regulations made by the  
2194 Department of Human Services which shall not be less than the  
2195 Standard of Need in effect for 1988, and shall be sufficient when  
2196 added to all other income (except that any income specified in the  
2197 federal Social Security Act, as amended, may be disregarded) and  
2198 support available to the child to provide such child with a  
2199 reasonable subsistence compatible with decency and health. The  
2200 first family member in the dependent child's budget may receive an  
2201 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;  
2202 the second family member in the dependent child's budget may  
2203 receive an amount not to exceed Thirty-six Dollars (\$36.00) per  
2204 month; and each additional family member in the dependent child's  
2205 budget an amount not to exceed Twenty-four Dollars (\$24.00) per  
2206 month. The maximum for any individual family member in the  
2207 dependent child's budget may be exceeded for foster or medical  
2208 care or in cases of mentally retarded or physically handicapped  
2209 children. TANF benefits granted shall be specifically limited  
2210 only (a) to children existing or conceived at the time the  
2211 caretaker relative initially applies and qualifies for such  
2212 assistance, unless this limitation is specifically waived by the  
2213 department, or (b) to a child born following a twelve (12)  
2214 consecutive-month period of discontinued benefits by the caretaker  
2215 relative.

2216 (2) TANF cash benefits in Mississippi shall be provided by  
2217 monthly checks mailed to the recipient family until such time as  
2218 an on-line electronic benefits transfer system for TANF benefit  
2219 payments is implemented pursuant to Section 43-1-28.

2220 (3) The Department of Human Services shall deny TANF  
2221 benefits to the following categories of individuals, except for  
2222 individuals and families specifically exempt or excluded for good  
2223 cause as allowed by federal statute or regulation:

2224 (a) Families without a minor child residing with the  
2225 custodial parent or other adult caretaker relative of the child;

2226           (b) Families which include an adult who has received  
2227 TANF assistance for sixty (60) months after the commencement of  
2228 the Mississippi TANF program, whether or not such period of time  
2229 is consecutive;

2230           (c) Families not assigning to the state any rights a  
2231 family member may have, on behalf of the family member or of any  
2232 other person for whom the family member has applied for or is  
2233 receiving such assistance, to support from any other person, as  
2234 required by law;

2235           (d) Families who fail to cooperate in establishing  
2236 paternity or obtaining child support, as required by law;

2237           (e) Any individual who has not attained eighteen (18)  
2238 years of age, is not married to the head of household, has a minor  
2239 child at least twelve (12) weeks of age in his or her care, and  
2240 has not successfully completed a high school education or its  
2241 equivalent, if such individual does not participate in educational  
2242 activities directed toward the attainment of a high school diploma  
2243 or its equivalent, or an alternative educational or training  
2244 program approved by the department;

2245           (f) Any individual who has not attained eighteen (18)  
2246 years of age, is not married, has a minor child in his or her  
2247 care, and does not reside in a place or residence maintained by a  
2248 parent, legal guardian or other adult relative or the individual  
2249 as such parent's, guardian's or adult relative's own home;

2250           (g) Any minor child who has been, or is expected by a  
2251 parent or other caretaker relative of the child to be, absent from  
2252 the home for a period of more than thirty (30) days;

2253           (h) Any individual who is a parent or other caretaker  
2254 relative of a minor child who fails to notify the department of  
2255 the absence of the minor child from the home for the thirty-day  
2256 period specified in paragraph (g), by the end of the five-day  
2257 period that begins with the date that it becomes clear to the

2258 individual that the minor child will be absent for the thirty-day  
2259 period;

2260 (i) Any individual who fails to comply with the  
2261 provisions of the Employability Development Plan signed by the  
2262 individual which prescribe those activities designed to help the  
2263 individual become and remain employed, or to participate  
2264 satisfactorily in the assigned work activity, as authorized under  
2265 subsection (6)(c);

2266 (j) A parent or caretaker relative who has not engaged  
2267 in an allowable work activity once the department determines the  
2268 parent or caretaker relative is ready to engage in work, or once  
2269 the parent or caretaker relative has received TANF assistance  
2270 under the program for twenty-four (24) months, whether or not  
2271 consecutive, whichever is earlier;

2272 (k) Any individual who is fleeing to avoid prosecution,  
2273 or custody or confinement after conviction, under the laws of the  
2274 jurisdiction from which the individual flees, for a crime, or an  
2275 attempt to commit a crime, which is a felony under the laws of the  
2276 place from which the individual flees, or who is violating a  
2277 condition of probation or parole imposed under federal or state  
2278 law;

2279 (l) Aliens who are not qualified under federal law;

2280 (m) For a period of ten (10) years following  
2281 conviction, individuals convicted in federal or state court of  
2282 having made a fraudulent statement or representation with respect  
2283 to the individual's place of residence in order to receive TANF,  
2284 food stamps or Supplemental Security Income (SSI) assistance under  
2285 Title XVI or Title XIX simultaneously from two (2) or more states;  
2286 and

2287 (n) Individuals who are recipients of federal  
2288 Supplemental Security Income (SSI) assistance.

2289 (4) (a) Any person who is otherwise eligible for TANF  
2290 benefits, including custodial and noncustodial parents, shall be

2291 required to attend school and meet the monthly attendance  
2292 requirement as provided in this subsection if all of the following  
2293 apply:

- 2294 (i) The person is under age twenty (20);
- 2295 (ii) The person has not graduated from a public or  
2296 private high school or obtained a GED equivalent;
- 2297 (iii) The person is physically able to attend  
2298 school and is not excused from attending school; and
- 2299 (iv) If the person is a parent or caretaker  
2300 relative with whom a dependent child is living, child care is  
2301 available for the child.

2302 The monthly attendance requirement under this subsection  
2303 shall be attendance at the school in which the person is enrolled  
2304 for each day during a month that the school conducts classes in  
2305 which the person is enrolled, with not more than two (2) absences  
2306 during the month for reasons other than the reasons listed in  
2307 paragraph (e)(iv) of this subsection. Persons who fail to meet  
2308 participation requirements in this subsection shall be subject to  
2309 sanctions as provided in paragraph (f) of this subsection.

2310 (b) As used in this subsection, "school" means any one  
2311 (1) of the following:

- 2312 (i) A school as defined in Section 37-13-91(2);
- 2313 (ii) A vocational, technical and adult education  
2314 program; or
- 2315 (iii) A course of study meeting the standards  
2316 established by the State Department of Education for the granting  
2317 of a declaration of equivalency of high school graduation.

2318 (c) If any compulsory-school-age child, as defined in  
2319 Section 37-13-91(2), to which TANF eligibility requirements apply  
2320 is not in compliance with the compulsory school attendance  
2321 requirements of Section 37-13-91(6), the superintendent of schools  
2322 of the school district in which the child is enrolled or eligible  
2323 to attend shall notify the county department of human services of

2324 the child's noncompliance. The Department of Human Services shall  
2325 review school attendance information as provided under this  
2326 paragraph at all initial eligibility determinations and upon  
2327 subsequent report of unsatisfactory attendance.

2328 (d) The signature of a person on an application for  
2329 TANF benefits constitutes permission for the release of school  
2330 attendance records for that person or for any child residing with  
2331 that person. The department shall request information from the  
2332 child's school district about the child's attendance in the school  
2333 district's most recently completed semester of attendance. If  
2334 information about the child's previous school attendance is not  
2335 available or cannot be verified, the department shall require the  
2336 child to meet the monthly attendance requirement for one (1)  
2337 semester or until the information is obtained. The department  
2338 shall use the attendance information provided by a school district  
2339 to verify attendance for a child. The department shall review  
2340 with the parent or caretaker relative a child's claim that he or  
2341 she has a good cause for not attending school.

2342 A school district shall provide information to the  
2343 department about the attendance of a child who is enrolled in a  
2344 public school in the district within five (5) working days of the  
2345 receipt of a written request for such information from the  
2346 department. The school district shall define how many hours of  
2347 attendance count as a full day and shall provide that information,  
2348 upon request, to the department. In reporting attendance, the  
2349 school district may add partial days' absence together to  
2350 constitute a full day's absence.

2351 (e) A child who is required to attend school to meet  
2352 the requirements under this subsection shall comply except when  
2353 there is good cause, which shall be demonstrated by any of the  
2354 following circumstances:

2355 (i) The minor parent is the caretaker of a child  
2356 less than twelve (12) weeks old; or

2357 (ii) The department determines that child care  
2358 services are necessary for the minor parent to attend school and  
2359 there is no child care available; or

2360 (iii) The child is prohibited by the school  
2361 district from attending school and an expulsion is pending. This  
2362 exemption no longer applies once the teenager has been expelled;  
2363 however, a teenager who has been expelled and is making  
2364 satisfactory progress towards obtaining a GED equivalent shall be  
2365 eligible for TANF benefits; or

2366 (iv) The child failed to attend school for one or  
2367 more of the following reasons:

2368 1. Illness, injury or incapacity of the child  
2369 or the minor parent's child;

2370 2. Court-required appearances or temporary  
2371 incarceration;

2372 3. Medical or dental appointments for the  
2373 child or minor parent's child;

2374 4. Death of a close relative;

2375 5. Observance of a religious holiday;

2376 6. Family emergency;

2377 7. Breakdown in transportation;

2378 8. Suspension; or

2379 9. Any other circumstance beyond the control  
2380 of the child, as defined in regulations of the department.

2381 (f) Upon determination that a child has failed without  
2382 good cause to attend school as required, the department shall  
2383 provide written notice to the parent or caretaker relative  
2384 (whoever is the primary recipient of the TANF benefits) that  
2385 specifies:

2386 (i) That the family will be sanctioned in the next  
2387 possible payment month because the child who is required to attend  
2388 school has failed to meet the attendance requirement of this  
2389 subsection;

2390                   (ii) The beginning date of the sanction, and the  
2391 child to whom the sanction applies;

2392                   (iii) The right of the child's parents or  
2393 caretaker relative (whoever is the primary recipient of the TANF  
2394 benefits) to request a fair hearing under this subsection.

2395           The child's parent or caretaker relative (whoever is the  
2396 primary recipient of the TANF benefits) may request a fair hearing  
2397 on the department's determination that the child has not been  
2398 attending school. If the child's parents or caretaker relative  
2399 does not request a fair hearing under this subsection, or if,  
2400 after a fair hearing has been held, the hearing officer finds that  
2401 the child without good cause has failed to meet the monthly  
2402 attendance requirement, the department shall discontinue or deny  
2403 TANF benefits to the child thirteen (13) years old, or older, in  
2404 the next possible payment month. The department shall discontinue  
2405 or deny twenty-five percent (25%) of the family grant when a child  
2406 six (6) through twelve (12) years of age without good cause has  
2407 failed to meet the monthly attendance requirement. Both the child  
2408 and family sanction may apply when children in both age groups  
2409 fail to meet the attendance requirement without good cause. A  
2410 sanction applied under this subsection shall be effective for one  
2411 (1) month for each month that the child failed to meet the monthly  
2412 attendance requirement. In the case of a dropout, the sanction  
2413 shall remain in force until the parent or caretaker relative  
2414 provides written proof from the school district that the child has  
2415 reenrolled and met the monthly attendance requirement for one (1)  
2416 calendar month. Any month in which school is in session for at  
2417 least ten (10) days during the month may be used to meet the  
2418 attendance requirement under this subsection. This includes  
2419 attendance at summer school. The sanction shall be removed the  
2420 next possible payment month.

2421           (5) All parents or caretaker relatives shall have their  
2422 dependent children receive vaccinations and booster vaccinations

2423 against those diseases specified by the State Health Officer  
2424 pursuant to Section 41-23-37 in accordance with the vaccination  
2425 and booster vaccination schedule prescribed by the State Health  
2426 Officer for children of that age, in order for the parents or  
2427 caretaker relatives to be eligible or remain eligible to receive  
2428 TANF benefits. Proof of having received such vaccinations and  
2429 booster vaccinations shall be given by presenting the certificates  
2430 of vaccination issued by any health care provider licensed to  
2431 administer vaccinations, and submitted on forms specified by the  
2432 State Board of Health. If the parents without good cause do not  
2433 have their dependent children receive the vaccinations and booster  
2434 vaccinations as required by this subsection and they fail to  
2435 comply after thirty (30) days' notice, the department shall  
2436 sanction the family's TANF benefits by twenty-five percent (25%)  
2437 for the next payment month and each subsequent payment month until  
2438 the requirements of this subsection are met.

2439 (6) (a) If the parent or caretaker relative applying for  
2440 TANF assistance is an employable person, as determined by the  
2441 Department of Human Services, the person shall be required to  
2442 engage in an allowable work activity once the department  
2443 determines the parent or caretaker relative is ready to engage in  
2444 work, or once the parent or caretaker relative has received TANF  
2445 assistance under the program for twenty-four (24) months, whether  
2446 or not consecutive, whichever is earlier. No TANF benefits shall  
2447 be given to any person to whom this section applies who fails  
2448 without good cause to comply with the Employability Development  
2449 Plan prepared by the department for the person, or who has refused  
2450 to accept a referral or offer of employment, training or education  
2451 in which he or she is able to engage, subject to the penalties  
2452 prescribed in subsection (6)(d). A person shall be deemed to have  
2453 refused to accept a referral or offer of employment, training or  
2454 education if he or she:

2455 (i) Willfully fails to report for an interview  
2456 with respect to employment when requested to do so by the  
2457 department; or

2458 (ii) Willfully fails to report to the department  
2459 the result of a referral to employment; or

2460 (iii) Willfully fails to report for allowable work  
2461 activities as prescribed in subsection (6)(c).

2462 (b) The Department of Human Services shall operate a  
2463 statewide work program for TANF recipients to provide work  
2464 activities and supportive services to enable families to become  
2465 self-sufficient and improve their competitive position in the work  
2466 force in accordance with the requirements of the federal Personal  
2467 Responsibility and Work Opportunity Reconciliation Act of 1996  
2468 (Public Law 104-193), as amended, and the regulations promulgated  
2469 thereunder. All adults who are not specifically exempt shall be  
2470 referred by the department for allowable work activities. An  
2471 adult may be exempt from the mandatory work activity requirement  
2472 for the following reasons:

2473 (i) Incapacity;

2474 (ii) Temporary illness or injury, verified by  
2475 physician's certificate;

2476 (iii) Is in the third trimester of pregnancy,  
2477 verified by physician's certificate;

2478 (iv) Caretaker of a child under twelve (12)  
2479 months, for not more than twelve (12) months of the sixty-month  
2480 maximum benefit period;

2481 (v) Caretaker of an ill or incapacitated person,  
2482 as verified by physician's certificate;

2483 (vi) Age, if over sixty (60) or under eighteen  
2484 (18) years of age;

2485 (vii) Receiving treatment for substance abuse, if  
2486 the person is in compliance with the substance abuse treatment  
2487 plan;

2488 (viii) In a two-parent family, the caretaker of a  
2489 severely disabled child, as verified by a physician's certificate;  
2490 or

2491 (ix) History of having been a victim of domestic  
2492 violence, which has been reported as required by state law and is  
2493 substantiated by police reports or court records, and being at  
2494 risk of further domestic violence, shall be exempt for a period as  
2495 deemed necessary by the department but not to exceed a total of  
2496 twelve (12) months, which need not be consecutive, in the  
2497 sixty-month maximum benefit period. For the purposes of this  
2498 subparagraph (ix), "domestic violence" means that an individual  
2499 has been subjected to:

- 2500 1. Physical acts that resulted in, or  
2501 threatened to result in, physical injury to the individual;
- 2502 2. Sexual abuse;
- 2503 3. Sexual activity involving a dependent  
2504 child;
- 2505 4. Being forced as the caretaker relative of  
2506 a dependent child to engage in nonconsensual sexual acts or  
2507 activities;
- 2508 5. Threats of, or attempts at, physical or  
2509 sexual abuse;
- 2510 6. Mental abuse; or
- 2511 7. Neglect or deprivation of medical care.

2512 (c) For all families, all adults who are not  
2513 specifically exempt shall be required to participate in work  
2514 activities for at least the minimum average number of hours per  
2515 week specified by federal law or regulation, not fewer than twenty  
2516 (20) hours per week (thirty-five (35) hours per week for  
2517 two-parent families) of which are attributable to the following  
2518 allowable work activities:

- 2519 (i) Unsubsidized employment;
- 2520 (ii) Subsidized private employment;

- 2521 (iii) Subsidized public employment;
- 2522 (iv) Work experience (including work associated  
2523 with the refurbishing of publicly assisted housing), if sufficient  
2524 private employment is not available;
- 2525 (v) On-the-job training;
- 2526 (vi) Job search and job readiness assistance  
2527 consistent with federal TANF regulations;
- 2528 (vii) Community service programs;
- 2529 (viii) Vocational educational training (not to  
2530 exceed twelve (12) months with respect to any individual);
- 2531 (ix) The provision of child care services to an  
2532 individual who is participating in a community service program;
- 2533 (x) Satisfactory attendance at high school or in a  
2534 course of study leading to a high school equivalency certificate,  
2535 for heads of household under age twenty (20) who have not  
2536 completed high school or received such certificate;
- 2537 (xi) Education directly related to employment, for  
2538 heads of household under age twenty (20) who have not completed  
2539 high school or received such equivalency certificate.

2540 The following are allowable work activities which may be  
2541 attributable to hours in excess of the minimum specified above:

- 2542 (i) Job skills training directly related to  
2543 employment;
- 2544 (ii) Education directly related to employment for  
2545 individuals who have not completed high school or received a high  
2546 school equivalency certificate;
- 2547 (iii) Satisfactory attendance at high school or in  
2548 a course of study leading to a high school equivalency, for  
2549 individuals who have not completed high school or received such  
2550 equivalency certificate;
- 2551 (iv) Job search and job readiness assistance  
2552 consistent with federal TANF regulations.

2553           (d) If any adult or caretaker relative refuses to  
2554 participate in allowable work activity as required under this  
2555 subsection (6), the following full family TANF benefit penalty  
2556 will apply, subject to due process to include notification,  
2557 conciliation and a hearing if requested by the recipient:

2558           (i) For the first violation, the department shall  
2559 terminate the TANF assistance otherwise payable to the family for  
2560 a two-month period or until the person has complied with the  
2561 required work activity, whichever is longer;

2562           (ii) For the second violation, the department  
2563 shall terminate the TANF assistance otherwise payable to the  
2564 family for a six-month period or until the person has complied  
2565 with the required work activity, whichever is longer;

2566           (iii) For the third violation, the department  
2567 shall terminate the TANF assistance otherwise payable to the  
2568 family for a twelve-month period or until the person has complied  
2569 with the required work activity, whichever is longer;

2570           (iv) For the fourth violation, the person shall be  
2571 permanently disqualified.

2572           For a two-parent family, unless prohibited by state or  
2573 federal law, Medicaid assistance shall be terminated only for the  
2574 person whose failure to participate in allowable work activity  
2575 caused the family's TANF assistance to be sanctioned under this  
2576 subsection (6)(d), unless an individual is pregnant, but shall not  
2577 be terminated for any other person in the family who is meeting  
2578 that person's applicable work requirement or who is not required  
2579 to work. Minor children shall continue to be eligible for  
2580 Medicaid benefits regardless of the disqualification of their  
2581 parent or caretaker relative for TANF assistance under this  
2582 subsection (6), unless prohibited by state or federal law.

2583           (e) Any person enrolled in a two-year or four-year  
2584 college program who meets the eligibility requirements to receive  
2585 TANF benefits, and who is meeting the applicable work requirements

2586 and all other applicable requirements of the TANF program, shall  
2587 continue to be eligible for TANF benefits while enrolled in the  
2588 college program for as long as the person meets the requirements  
2589 of the TANF program, unless prohibited by federal law.

2590 (f) No adult in a work activity required under this  
2591 subsection (6) shall be employed or assigned (i) when any other  
2592 individual is on layoff from the same or any substantially  
2593 equivalent job within six (6) months before the date of the TANF  
2594 recipient's employment or assignment; or (ii) if the employer has  
2595 terminated the employment of any regular employee or otherwise  
2596 caused an involuntary reduction of its work force in order to fill  
2597 the vacancy so created with an adult receiving TANF assistance.  
2598 The Mississippi Employment Security Commission, established under  
2599 Section 71-5-101, shall appoint one or more impartial hearing  
2600 officers to hear and decide claims by employees of violations of  
2601 this paragraph (f). The hearing officer shall hear all the  
2602 evidence with respect to any claim made hereunder and such  
2603 additional evidence as he may require and shall make a  
2604 determination and the reason therefor. The claimant shall be  
2605 promptly notified of the decision of the hearing officer and the  
2606 reason therefor. Within ten (10) days after the decision of the  
2607 hearing officer has become final, any party aggrieved thereby may  
2608 secure judicial review thereof by commencing an action, in the  
2609 circuit court of the county in which the claimant resides, against  
2610 the commission for the review of such decision, in which action  
2611 any other party to the proceeding before the hearing officer shall  
2612 be made a defendant. Any such appeal shall be on the record which  
2613 shall be certified to the court by the commission in the manner  
2614 provided in Section 71-5-531, and the jurisdiction of the court  
2615 shall be confined to questions of law which shall render its  
2616 decision as provided in that section.

2617 (7) The Department of Human Services may provide child care  
2618 for eligible participants who require such care so that they may

2619 accept employment or remain employed. The department may also  
2620 provide child care for those participating in the TANF program  
2621 when it is determined that they are satisfactorily involved in  
2622 education, training or other allowable work activities. The  
2623 department may contract with Head Start agencies to provide child  
2624 care services to TANF recipients. The department may also arrange  
2625 for child care by use of contract or vouchers, provide vouchers in  
2626 advance to a caretaker relative, reimburse a child care provider,  
2627 or use any other arrangement deemed appropriate by the department,  
2628 and may establish different reimbursement rates for child care  
2629 services depending on the category of the facility or home. Any  
2630 center-based or group home child care facility under this  
2631 subsection shall be licensed by the Mississippi Department of  
2632 Children's Affairs pursuant to law. When child care is being  
2633 provided in the child's own home, in the home of a relative of the  
2634 child, or in any other unlicensed setting, the provision of such  
2635 child care may be monitored on a random basis by the Mississippi  
2636 Department of Children's Affairs. Transitional child care  
2637 assistance may be continued if it is necessary for parents to  
2638 maintain employment once support has ended, unless prohibited  
2639 under state or federal law. Transitional child care assistance  
2640 may be provided for up to twenty-four (24) months after the last  
2641 month during which the family was eligible for TANF assistance, if  
2642 federal funds are available for such child care assistance.

2643 (8) The Department of Human Services may provide  
2644 transportation or provide reasonable reimbursement for  
2645 transportation expenses that are necessary for individuals to be  
2646 able to participate in allowable work activity under the TANF  
2647 program.

2648 (9) Medicaid assistance shall be provided to a family of  
2649 TANF program participants for up to twenty-four (24) consecutive  
2650 calendar months following the month in which the participating  
2651 family would be ineligible for TANF benefits because of increased

2652 income, expiration of earned income disregards, or increased hours  
2653 of employment of the caretaker relative; however, Medicaid  
2654 assistance for more than twelve (12) months may be provided only  
2655 if a federal waiver is obtained to provide such assistance for  
2656 more than twelve (12) months and federal and state funds are  
2657 available to provide such assistance.

2658 (10) The department shall require applicants for and  
2659 recipients of public assistance from the department to sign a  
2660 personal responsibility contract that will require the applicant  
2661 or recipient to acknowledge his or her responsibilities to the  
2662 state.

2663 (11) The department shall enter into an agreement with the  
2664 State Personnel Board and other state agencies that will allow  
2665 those TANF participants who qualify for vacant jobs within state  
2666 agencies to be placed in state jobs. State agencies participating  
2667 in the TANF work program shall receive any and all benefits  
2668 received by employers in the private sector for hiring TANF  
2669 recipients. This subsection (11) shall be effective only if the  
2670 state obtains any necessary federal waiver or approval and if  
2671 federal funds are available therefor.

2672 (12) No new TANF program requirement or restriction  
2673 affecting a person's eligibility for TANF assistance, or allowable  
2674 work activity, which is not mandated by federal law or regulation  
2675 may be implemented by the Department of Human Services after the  
2676 effective date of this act, unless such is specifically authorized  
2677 by an amendment to this section by the Legislature.

2678 SECTION 65. Section 43-18-5, Mississippi Code of 1972, is  
2679 amended as follows:

2680 43-18-5. As used in paragraph (a) of Article V of the  
2681 Interstate Compact on the Placement of Children, the phrase  
2682 "appropriate authority in the receiving state" with reference to  
2683 this state shall mean the Mississippi Department of Children's  
2684 Affairs or \* \* \* any county department of children's affairs.

2685 SECTION 66. Section 43-21-105, Mississippi Code of 1972, is  
2686 amended as follows:

2687 43-21-105. The following words and phrases, for purposes of  
2688 this chapter, shall have the meanings ascribed herein unless the  
2689 context clearly otherwise requires:

2690 (a) "Youth court" means the Youth Court Division.

2691 (b) "Judge" means the judge of the Youth Court  
2692 Division.

2693 (c) "Designee" means any person that the judge appoints  
2694 to perform a duty which this chapter requires to be done by the  
2695 judge or his designee. The judge may not appoint a person who is  
2696 involved in law enforcement to be his designee.

2697 (d) "Child" and "youth" are synonymous, and each means  
2698 a person who has not reached his eighteenth birthday. A child who  
2699 has not reached his eighteenth birthday and is on active duty for  
2700 a branch of the armed services or is married is not considered a  
2701 "child" or "youth" for the purposes of this chapter.

2702 (e) "Parent" means the father or mother to whom the  
2703 child has been born, or the father or mother by whom the child has  
2704 been legally adopted.

2705 (f) "Guardian" means a court-appointed guardian of the  
2706 person of a child.

2707 (g) "Custodian" means any person having the present  
2708 care or custody of a child whether such person be a parent or  
2709 otherwise.

2710 (h) "Legal custodian" means a court-appointed custodian  
2711 of the child.

2712 (i) "Delinquent child" means a child who has reached  
2713 his tenth birthday and who has committed a delinquent act or,  
2714 while being required to attend an alternative school program  
2715 provided under Section 37-13-92, willfully and habitually absents  
2716 himself therefrom.

2717           (j) "Delinquent act" is any act, which if committed by  
2718 an adult, is designated as a crime under state or federal law, or  
2719 municipal or county ordinance other than offenses punishable by  
2720 life imprisonment or death. A delinquent act includes escape from  
2721 lawful detention and violations of the Mississippi School  
2722 Compulsory Attendance Law, violations of the Uniform Controlled  
2723 Substances Law and violent behavior.

2724           (k) "Child in need of supervision" means a child who  
2725 has reached his seventh birthday and is in need of treatment or  
2726 rehabilitation because the child:

2727                   (i) Is habitually disobedient of reasonable and  
2728 lawful commands of his parent, guardian or custodian and is  
2729 ungovernable; or

2730                   (ii) While being required to attend school,  
2731 willfully and habitually violates the rules thereof or willfully  
2732 and habitually absents himself therefrom; or

2733                   (iii) Runs away from home without good cause; or

2734                   (iv) Has committed a delinquent act or acts.

2735           (l) "Neglected child" means a child:

2736                   (i) Whose parent, guardian or custodian or any  
2737 person responsible for his care or support, neglects or refuses,  
2738 when able so to do, to provide for him proper and necessary care  
2739 or support, or education as required by law, or medical, surgical,  
2740 or other care necessary for his well-being; provided, however, a  
2741 parent who withholds medical treatment from any child who in good  
2742 faith is under treatment by spiritual means alone through prayer  
2743 in accordance with the tenets and practices of a recognized church  
2744 or religious denomination by a duly accredited practitioner  
2745 thereof shall not, for that reason alone, be considered to be  
2746 neglectful under any provision of this chapter; or

2747                   (ii) Who is otherwise without proper care,  
2748 custody, supervision or support; or

2749 (iii) Who, for any reason, lacks the special care  
2750 made necessary for him by reason of his mental condition, whether  
2751 said mental condition be mentally retarded or mentally ill; or

2752 (iv) Who, for any reason, lacks the care necessary  
2753 for his health, morals or well-being.

2754 (m) "Abused child" means a child whose parent, guardian  
2755 or custodian or any person responsible for his care or support,  
2756 whether legally obligated to do so or not, has caused or allowed  
2757 to be caused upon said child sexual abuse, sexual exploitation,  
2758 emotional abuse, mental injury, nonaccidental physical injury or  
2759 other maltreatment. Provided, however, that physical discipline,  
2760 including spanking, performed on a child by a parent, guardian or  
2761 custodian in a reasonable manner shall not be deemed abuse under  
2762 this section.

2763 (n) "Sexual abuse" means obscene or pornographic  
2764 photographing, filming or depiction of children for commercial  
2765 purposes, or the rape, molestation, incest, prostitution or other  
2766 such forms of sexual exploitation of children under circumstances  
2767 which indicate that the child's health or welfare is harmed or  
2768 threatened.

2769 (o) "A child in need of special care" means a child  
2770 with any mental or physical illness that cannot be treated with  
2771 the dispositional alternatives ordinarily available to the youth  
2772 court.

2773 (p) A "dependent child" means any child who is not a  
2774 child in need of supervision, a delinquent child, an abused child  
2775 or a neglected child, and which child has been voluntarily placed  
2776 in the custody of the Mississippi Department of Children's Affairs  
2777 by his parent, guardian or custodian.

2778 (q) "Custody" means the physical possession of the  
2779 child by any person.

2780 (r) "Legal custody" means the legal status created by a  
2781 court order which gives the legal custodian the responsibilities

2782 of physical possession of the child and the duty to provide him  
2783 with food, shelter, education and reasonable medical care, all  
2784 subject to residual rights and responsibilities of the parent or  
2785 guardian of the person.

2786 (s) "Detention" means the care of children in  
2787 physically restrictive facilities.

2788 (t) "Shelter" means care of children in physically  
2789 nonrestrictive facilities.

2790 (u) "Records involving children" means any of the  
2791 following from which the child can be identified:

2792 (i) All youth court records as defined in Section  
2793 43-21-251;

2794 (ii) All social records as defined in Section  
2795 43-21-253;

2796 (iii) All law enforcement records as defined in  
2797 Section 43-21-255;

2798 (iv) All agency records as defined in Section  
2799 43-21-257; and

2800 (v) All other documents maintained by any  
2801 representative of the state, county, municipality or other public  
2802 agency insofar as they relate to the apprehension, custody,  
2803 adjudication or disposition of a child who is the subject of a  
2804 youth court cause.

2805 (v) "Any person responsible for care or support" means  
2806 the person who is providing for the child at a given time. This  
2807 term shall include, but is not limited to, stepparents, foster  
2808 parents, relatives, nonlicensed babysitters or other similar  
2809 persons responsible for a child and staff of residential care  
2810 facilities and group homes that are licensed by the Mississippi  
2811 Department of Children's Affairs.

2812 (w) The singular includes the plural, the plural the  
2813 singular and the masculine the feminine when consistent with the  
2814 intent of this chapter.

2815           (x) "Out-of-home" setting means the temporary  
2816 supervision or care of children by the staff of licensed day care  
2817 centers, the staff of public, private and state schools, the staff  
2818 of juvenile detention facilities, the staff of unlicensed  
2819 residential care facilities and group homes and the staff of, or  
2820 individuals representing, churches, civic or social organizations.

2821           (y) "Durable legal custody" means the legal status  
2822 created by a court order which gives the durable legal custodian  
2823 the responsibilities of physical possession of the child and the  
2824 duty to provide him with care, nurture, welfare, food, shelter,  
2825 education and reasonable medical care. All these duties as  
2826 enumerated are subject to the residual rights and responsibilities  
2827 of the natural parent(s) or guardian(s) of the child or children.

2828           SECTION 67. Section 43-21-257, Mississippi Code of 1972, is  
2829 amended as follows:

2830           43-21-257. (1) Unless otherwise provided in this section,  
2831 any record involving children, including valid and invalid  
2832 complaints, and the contents thereof maintained by the Mississippi  
2833 Department of Children's Affairs, or any other state agency, shall  
2834 be kept confidential and shall not be disclosed except as provided  
2835 in Section 43-21-261.

2836           (2) The Division of Youth Services shall maintain a state  
2837 central registry containing the number and disposition of all  
2838 cases together with such other useful information regarding such  
2839 cases as may be requested and is obtainable from the records of  
2840 the youth court. The Division of Youth Services shall annually  
2841 publish a statistical record of the number and disposition of all  
2842 cases, but the names or identity of any children shall not be  
2843 disclosed in the reports or records. The Division of Youth  
2844 Services shall adopt such rules as may be necessary to carry out  
2845 this subsection. The central registry files and the contents  
2846 thereof shall be confidential and shall not be open to public  
2847 inspection. Any person who shall disclose or encourage the

2848 disclosure of any record involving children from the central  
2849 registry shall be subject to the penalty in Section 43-21-267.  
2850 The youth court shall furnish, upon forms provided by the Division  
2851 of Youth Services, the necessary information, and these completed  
2852 forms shall be forwarded to the Division of Youth Services.

2853 (3) The Mississippi Department of Children's Affairs shall  
2854 maintain a state central registry on neglect and abuse cases  
2855 containing (a) the name, address and age of each child, (b) the  
2856 nature of the harm reported, (c) the name and address of the  
2857 person responsible for the care of the child, and (d) the name and  
2858 address of the substantiated perpetrator of the harm reported.  
2859 The Mississippi Department of Children's Affairs shall adopt such  
2860 rules and administrative procedures, especially those procedures  
2861 to afford due process to individuals who have been named as  
2862 substantiated perpetrators prior to the release of their name from  
2863 the registry, as may be necessary to carry out this subsection.  
2864 The central registry shall be confidential and shall not be open  
2865 to public inspection. Any person who shall disclose or encourage  
2866 the disclosure of any record involving children from the central  
2867 registry without following the rules and administrative procedures  
2868 of the department shall be subject to the penalty in Section  
2869 43-21-267. The Mississippi Department of Children's Affairs and  
2870 its employees are hereby exempt from any civil liability as a  
2871 result of any action taken pursuant to the compilation and/or  
2872 release of information on the registry pursuant to this section  
2873 and any other applicable section of the code.

2874 (4) The Mississippi State Department of Health may release  
2875 the findings of investigations into allegations of abuse within  
2876 licensed day care centers made under the provisions of Section  
2877 43-21-353(8) to any parent of a child who is enrolled in the day  
2878 care center at the time of the alleged abuse or at the time the  
2879 request for information is made. The findings of any such  
2880 investigation may also be released to parents who are considering

2881 placing children in the day care center. No information  
2882 concerning such investigations may contain the names or  
2883 identifying information of individual children.

2884 The Department of Health shall not be held civilly liable for  
2885 the release of information on any findings, recommendations or  
2886 actions taken pursuant to investigations of abuse that have been  
2887 conducted pursuant to Section 43-21-353(8).

2888 SECTION 68. Section 43-21-261, Mississippi Code of 1972, is  
2889 amended as follows:

2890 43-21-261. (1) Except as otherwise provided in this  
2891 section, records involving children shall not be disclosed, other  
2892 than to necessary staff of the youth court, except pursuant to an  
2893 order of the youth court specifying the person or persons to whom  
2894 the records may be disclosed, the extent of the records which may  
2895 be disclosed and the purpose of the disclosure. Such court orders  
2896 for disclosure shall be limited to those instances in which the  
2897 youth court concludes, in its discretion, that disclosure is  
2898 required for the best interests of the child, the public safety or  
2899 the functioning of the youth court and then only to the following  
2900 persons:

2901 (a) The judge of another youth court or member of  
2902 another youth court staff;

2903 (b) The court of the parties in a child custody or  
2904 adoption cause in another court;

2905 (c) A judge of any other court or members of another  
2906 court staff;

2907 (d) Representatives of a public or private agency  
2908 providing supervision or having custody of the child under order  
2909 of the youth court;

2910 (e) Any person engaged in a bona fide research purpose,  
2911 provided that no information identifying the subject of the  
2912 records shall be made available to the researcher unless it is  
2913 absolutely essential to the research purpose and the judge gives

2914 prior written approval, and the child, through his or her  
2915 representative, gives permission to release the information;

2916 (f) The Mississippi Employment Security Commission, or  
2917 its duly authorized representatives, for the purpose of a child's  
2918 enrollment into the Job Corps Training Program as authorized by  
2919 Title IV of the Comprehensive Employment Training Act of 1973 (29  
2920 USCS Section 923 et seq.). However, no records, reports,  
2921 investigations or information derived therefrom pertaining to  
2922 child abuse or neglect shall be disclosed; and

2923 (g) To any person pursuant to a finding by a judge of  
2924 the youth court of compelling circumstances affecting the health  
2925 or safety of a child and that such disclosure is in the best  
2926 interests of the child.

2927 Law enforcement agencies may disclose information to the  
2928 public concerning the taking of a child into custody for the  
2929 commission of a delinquent act without the necessity of an order  
2930 from the youth court. The information released shall not identify  
2931 the child or his address unless the information involves a child  
2932 convicted as an adult.

2933 (2) Any records involving children which are disclosed under  
2934 an order of the youth court and the contents thereof shall be kept  
2935 confidential by the person or agency to whom the record is  
2936 disclosed except as provided in the order. Any further disclosure  
2937 of any records involving children shall be made only under an  
2938 order of the youth court as provided in this section.

2939 (3) Upon request, the parent, guardian or custodian of the  
2940 child who is the subject of a youth court cause or any attorney  
2941 for such parent, guardian or custodian, shall have the right to  
2942 inspect any record, report or investigation which is to be  
2943 considered by the youth court at a hearing, except that the  
2944 identity of the reporter shall not be released, nor the name of  
2945 any other person where the person or agency making the information

2946 available finds that disclosure of the information would be likely  
2947 to endanger the life or safety of such person.

2948 (4) Upon request, the child who is the subject of a youth  
2949 court cause shall have the right to have his counsel inspect and  
2950 copy any record, report or investigation which is filed with the  
2951 youth court.

2952 (5) (a) The youth court prosecutor or prosecutors, the  
2953 county attorney, the district attorney, the youth court defender  
2954 or defenders, or any attorney representing a child shall have the  
2955 right to inspect any law enforcement record involving children.

2956 (b) The Mississippi Department of Children's Affairs  
2957 shall disclose to a county prosecuting attorney or district  
2958 attorney any and all records resulting from an investigation into  
2959 suspected child abuse or neglect when the case has been referred  
2960 by the Mississippi Department of Children's Affairs to the county  
2961 prosecuting attorney or district attorney for criminal  
2962 prosecution.

2963 (c) Agency records made confidential under the  
2964 provisions of this section may be disclosed to a court of  
2965 competent jurisdiction.

2966 (6) Information concerning an investigation into a report of  
2967 child abuse or child neglect may be disclosed by the Mississippi  
2968 Department of Children's Affairs without order of the youth court  
2969 to any attorney, physician, dentist, intern, resident, nurse,  
2970 psychologist, social worker, child care giver, minister, law  
2971 enforcement officer, public or private school employee making that  
2972 report pursuant to Section 43-21-353(1) if the reporter has a  
2973 continuing professional relationship with the child and a need for  
2974 such information in order to protect or treat the child.

2975 (7) Information concerning an investigation into a report of  
2976 child abuse or child neglect may be disclosed without further  
2977 order of the youth court to any interagency child abuse task force

2978 established in any county or municipality by order of the youth  
2979 court of that county or municipality.

2980 (8) Names and addresses of juveniles twice adjudicated as  
2981 delinquent for an act which would be a felony if committed by an  
2982 adult or for the unlawful possession of a firearm shall not be  
2983 held confidential and shall be made available to the public.

2984 (9) Names and addresses of juveniles adjudicated as  
2985 delinquent for murder, manslaughter, burglary, arson, armed  
2986 robbery, aggravated assault, any sex offense as defined in Section  
2987 45-33-23, for any violation of Section 41-29-139(a)(1) or for any  
2988 violation of Section 63-11-30, shall not be held confidential and  
2989 shall be made available to the public.

2990 (10) The judges of the circuit and county courts, and  
2991 presentence investigators for the circuit courts, as provided in  
2992 Section 47-7-9, shall have the right to inspect any youth court  
2993 records of a person convicted of a crime for sentencing purposes  
2994 only.

2995 (11) The victim of an offense committed by a child who is  
2996 the subject of a youth court cause shall have the right to be  
2997 informed of the child's disposition by the youth court.

2998 (12) The Classification Committee of the State Department of  
2999 Corrections, as provided in Section 47-5-103, shall have the right  
3000 to inspect any youth court records, excluding abuse and neglect  
3001 records, of any offender in the custody of the department who as a  
3002 child or minor was a juvenile offender or was the subject of a  
3003 youth court cause of action, and the State Parole Board, as  
3004 provided in Section 47-7-17, shall have the right to inspect such  
3005 records when said offender becomes eligible for parole.

3006 (13) The youth court shall notify the Department of Public  
3007 Safety of the name, and any other identifying information such  
3008 department may require, of any child who is adjudicated delinquent  
3009 as a result of a violation of the Uniform Controlled Substances  
3010 Law.

3011 (14) The Administrative Office of Courts shall have the  
3012 right to inspect any youth court records in order that the number  
3013 of youthful offenders, abused, neglected, truant and dependent  
3014 children, as well as children in need of special care and children  
3015 in need of supervision, may be tracked with specificity through  
3016 the youth court and adult justice system, and to utilize tracking  
3017 forms for such purpose.

3018 (15) Upon a request by a youth court, the Administrative  
3019 Office of Courts shall disclose all information at its disposal  
3020 concerning any previous youth court intakes alleging that a child  
3021 was a delinquent child, child in need of supervision, child in  
3022 need of special care, truant child, abused child or neglected  
3023 child, as well as any previous youth court adjudications for the  
3024 same and all dispositional information concerning a child who at  
3025 the time of such request comes under the jurisdiction of the youth  
3026 court making such request.

3027 (16) In every case where an abuse or neglect allegation has  
3028 been made, the confidentiality provisions of this section shall  
3029 not apply to prohibit access to a child's records by any state  
3030 regulatory agency, any state or local prosecutorial agency or law  
3031 enforcement agency; provided, however, that no identifying  
3032 information concerning the child in question may be released to  
3033 the public by such agency except as otherwise provided herein.

3034 (17) In every case where there is any indication or  
3035 suggestion of either abuse or neglect and a child's physical  
3036 condition is medically labeled as medically "serious" or  
3037 "critical" or a child dies, the confidentiality provisions of this  
3038 section shall not apply.

3039 (18) Any member of a foster care review board designated by  
3040 the Mississippi Department of Children's Affairs shall have the  
3041 right to inspect youth court records relating to the abuse,  
3042 neglect or child in need of supervision cases assigned to such  
3043 member for review.

3044 (19) Information concerning an investigation into a report  
3045 of child abuse or child neglect may be disclosed without further  
3046 order of the youth court in any administrative or due process  
3047 hearing held, pursuant to Section 43-21-257, by the Mississippi  
3048 Department of Children's Affairs for individuals whose names will  
3049 be placed on the central registry as substantiated perpetrators.

3050 SECTION 69. Section 43-21-315, Mississippi Code of 1972, is  
3051 amended as follows:

3052 43-21-315. (1) The youth court shall, by general order or  
3053 rule of court, designate the available detention or shelter  
3054 facilities to which children shall be delivered when taken into  
3055 custody. Copies of the order or rule shall be made available to  
3056 the Mississippi Department of Children's Affairs and all law  
3057 enforcement agencies within the territorial jurisdiction of the  
3058 youth court.

3059 (2) Except as otherwise provided in this chapter, unless  
3060 jurisdiction is transferred, no child shall be placed in any jail  
3061 or place of detention of adults by any person or court unless the  
3062 child shall be physically segregated from other persons not  
3063 subject to the jurisdiction of the youth court and the physical  
3064 arrangement of such jail or place of detention of adults prevents  
3065 such child from having substantial contact with and substantial  
3066 view of such other persons; but in any event, the child shall not  
3067 be confined anywhere in the same cell with persons not subject to  
3068 the jurisdiction of the youth court. Any order placing a child  
3069 into custody shall comply with the detention requirements provided  
3070 in Section 43-21-301(6). This subsection shall not be construed  
3071 to apply to commitments to the training school under Section  
3072 43-21-605(1)(g)(iii).

3073 (3) Any child who is charged with a hunting or fishing  
3074 violation, a traffic violation, or any other criminal offense for  
3075 which the youth court shall have power on its own motion to remove  
3076 jurisdiction from any criminal court, may be detained only in the

3077 same facilities designated by the youth court for children within  
3078 the jurisdiction of the youth court.

3079 (4) After a child is ordered into custody, the youth court  
3080 may arrange for the custody of the child with any private  
3081 institution or agency caring for children, may commit the child to  
3082 the Department of Mental Health pursuant to Section 41-21-61 et  
3083 seq., or may order the Mississippi Department of Children's  
3084 Affairs or any other public agency to provide for the custody,  
3085 care and maintenance of such child. Provided, however, that the  
3086 care, custody and maintenance of such child shall be within the  
3087 statutory authorization and the budgetary means of such  
3088 institution or facility.

3089 SECTION 70. Section 43-21-353, Mississippi Code of 1972, is  
3090 amended as follows:

3091 43-21-353. (1) Any attorney, physician, dentist, intern,  
3092 resident, nurse, psychologist, social worker, child care giver,  
3093 minister, law enforcement officer, public or private school  
3094 employee or any other person having reasonable cause to suspect  
3095 that a child is a neglected child or an abused child, shall cause  
3096 an oral report to be made immediately by telephone or otherwise  
3097 and followed as soon thereafter as possible by a report in writing  
3098 to the Mississippi Department of Children's Affairs, and  
3099 immediately a referral shall be made by the Mississippi Department  
3100 of Children's Affairs to the youth court intake unit, which unit  
3101 shall promptly comply with Section 43-21-357. Where appropriate,  
3102 the Mississippi Department of Children's Affairs shall  
3103 additionally make a referral to the youth court prosecutor. Upon  
3104 receiving a report that a child has been sexually abused, or  
3105 burned, tortured, mutilated or otherwise physically abused in such  
3106 a manner as to cause serious bodily harm, or upon receiving any  
3107 report of abuse that would be a felony under state or federal law,  
3108 the Mississippi Department of Children's Affairs shall immediately  
3109 notify the law enforcement agency in whose jurisdiction the abuse

3110 occurred and shall notify the appropriate prosecutor within  
3111 forty-eight (48) hours, and the Mississippi Department of  
3112 Children's Affairs shall have the duty to provide the law  
3113 enforcement agency all the names and facts known at the time of  
3114 the report; this duty shall be of a continuing nature. The law  
3115 enforcement agency and the Mississippi Department of Children's  
3116 Affairs shall investigate the reported abuse immediately and shall  
3117 file a preliminary report with the appropriate prosecutor's office  
3118 within twenty-four (24) hours and shall make additional reports as  
3119 new or additional information or evidence becomes available. The  
3120 Mississippi Department of Children's Affairs shall advise the  
3121 clerk of the youth court and the youth court prosecutor of all  
3122 cases of abuse reported to the department within seventy-two (72)  
3123 hours and shall update such report as information becomes  
3124 available.

3125 (2) Any report to the Mississippi Department of Children's  
3126 Affairs shall contain the names and addresses of the child and his  
3127 parents or other persons responsible for his care, if known, the  
3128 child's age, the nature and extent of the child's injuries,  
3129 including any evidence of previous injuries and any other  
3130 information that might be helpful in establishing the cause of the  
3131 injury and the identity of the perpetrator.

3132 (3) The Mississippi Department of Children's Affairs shall  
3133 maintain a statewide incoming wide-area telephone service or  
3134 similar service for the purpose of receiving reports of suspected  
3135 cases of child abuse; provided that any attorney, physician,  
3136 dentist, intern, resident, nurse, psychologist, social worker,  
3137 child care giver, minister, law enforcement officer or public or  
3138 private school employee who is required to report under subsection  
3139 (1) of this section shall report in the manner required in  
3140 subsection (1).

3141 (4) Reports of abuse and neglect made under this chapter and  
3142 the identity of the reporter are confidential except when the

3143 court in which the investigation report is filed, in its  
3144 discretion, determines the testimony of the person reporting to be  
3145 material to a judicial proceeding or when the identity of the  
3146 reporter is released to law enforcement agencies and the  
3147 appropriate prosecutor pursuant to subsection (1). Reports made  
3148 under this section to any law enforcement agency or prosecutorial  
3149 officer are for the purpose of criminal investigation and  
3150 prosecution only and no information from these reports may be  
3151 released to the public except as provided by Section 43-21-261.  
3152 Disclosure of any information by the prosecutor shall be according  
3153 to the Mississippi Uniform Rules of Circuit and County Court  
3154 Procedure. The identity of the reporting party shall not be  
3155 disclosed to anyone other than law enforcement officers or  
3156 prosecutors without an order from the appropriate youth court.  
3157 Any person disclosing any reports made under this section in a  
3158 manner not expressly provided for in this section or Section  
3159 43-21-261, shall be guilty of a misdemeanor and subject to the  
3160 penalties prescribed by Section 43-21-267.

3161 (5) All final dispositions of law enforcement investigations  
3162 described in subsection (1) of this section shall be determined  
3163 only by the appropriate prosecutor or court. All final  
3164 dispositions of investigations by the Mississippi Department of  
3165 Children's Affairs as described in subsection (1) of this section  
3166 shall be determined only by the youth court. Reports made under  
3167 subsection (1) of this section by the Mississippi Department of  
3168 Children's Affairs to the law enforcement agency and to the  
3169 district attorney's office shall include the following, if known  
3170 to the department:

- 3171 (a) The name and address of the child;  
3172 (b) The names and addresses of the parents;  
3173 (c) The name and address of the suspected perpetrator;  
3174 (d) The names and addresses of all witnesses, including  
3175 the reporting party if a material witness to the abuse;

3176 (e) A brief statement of the facts indicating that the  
3177 child has been abused and any other information from the agency  
3178 files or known to the social worker making the investigation,  
3179 including medical records or other records, which may assist law  
3180 enforcement or the district attorney in investigating and/or  
3181 prosecuting the case; and

3182 (f) What, if any, action is being taken by the  
3183 Mississippi Department of Children's Affairs.

3184 (6) In any investigation of a report made under this chapter  
3185 of the abuse or neglect of a child as defined in Section  
3186 43-21-105(m), the Mississippi Department of Children's Affairs may  
3187 request the appropriate law enforcement officer with jurisdiction  
3188 to accompany the department in its investigation, and in such  
3189 cases the law enforcement officer shall comply with such request.

3190 (7) Anyone who willfully violates any provision of this  
3191 section shall be, upon being found guilty, punished by a fine not  
3192 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in  
3193 jail not to exceed one (1) year, or both.

3194 (8) If a report is made directly to the Mississippi  
3195 Department of Children's Affairs that a child has been abused or  
3196 neglected in an out-of-home setting, a referral shall be made  
3197 immediately to the law enforcement agency in whose jurisdiction  
3198 the abuse occurred and the department shall notify the district  
3199 attorney's office within forty-eight (48) hours of such report.  
3200 The Mississippi Department of Children's Affairs shall investigate  
3201 the out-of-home setting report of abuse or neglect to determine  
3202 whether the child who is the subject of the report, or other  
3203 children in the same environment, comes within the jurisdiction of  
3204 the youth court and shall report to the youth court the  
3205 department's findings and recommendation as to whether the child  
3206 who is the subject of the report or other children in the same  
3207 environment require the protection of the youth court. The law  
3208 enforcement agency shall investigate the reported abuse

3209 immediately and shall file a preliminary report with the district  
3210 attorney's office within forty-eight (48) hours and shall make  
3211 additional reports as new information or evidence becomes  
3212 available. If the out-of-home setting is a licensed facility, an  
3213 additional referral shall be made by the Mississippi Department of  
3214 Children's Affairs to the licensing agency. The licensing agency  
3215 shall investigate the report and shall provide the Mississippi  
3216 Department of Children's Affairs, the law enforcement agency and  
3217 the district attorney's office with their written findings from  
3218 such investigation as well as that licensing agency's  
3219 recommendations and actions taken.

3220 SECTION 71. Section 43-21-354, Mississippi Code of 1972, is  
3221 amended as follows:

3222 43-21-354. The statewide incoming wide-area telephone  
3223 service established pursuant to Section 43-21-353, Mississippi  
3224 Code of 1972, shall be maintained by the Mississippi Department of  
3225 Children's Affairs, or its successor, on a twenty-four-hour seven  
3226 (7) days a week basis.

3227 SECTION 72. Section 43-21-357, Mississippi Code of 1972, is  
3228 amended as follows:

3229 43-21-357. (1) After receiving a report, the youth court  
3230 intake unit shall promptly make a preliminary inquiry to determine  
3231 whether the interest of the child, other children in the same  
3232 environment or the public requires the youth court to take further  
3233 action. As part of the preliminary inquiry, the youth court  
3234 intake unit may request or the youth court may order the  
3235 Mississippi Department of Children's Affairs, the Division of  
3236 Youth Services, any successor agency or any other qualified public  
3237 employee to make an investigation or report concerning the child  
3238 and any other children in the same environment, and present the  
3239 findings thereof to the youth court intake unit. If the youth  
3240 court intake unit receives a neglect or abuse report, the youth  
3241 court intake unit shall immediately forward the complaint to the

3242 Mississippi Department of Children's Affairs to promptly make an  
3243 investigation or report concerning the child and any other  
3244 children in the same environment and promptly present the findings  
3245 thereof to the youth court intake unit. If it appears from the  
3246 preliminary inquiry that the child or other children in the same  
3247 environment are within the jurisdiction of the court, the youth  
3248 court intake unit shall recommend to the youth court:

3249 (a) That the youth court take no action;

3250 (b) That an informal adjustment be made;

3251 (c) The Mississippi Department of Children's Affairs,  
3252 monitor the child, family and other children in the same  
3253 environment;

3254 (d) That the child is warned or counseled informally;

3255 or

3256 (e) That a petition be filed.

3257 (2) The youth court shall then, without a hearing:

3258 (a) Order that no action be taken;

3259 (b) Order that an informal adjustment be made;

3260 (c) Order that the Mississippi Department of Children's  
3261 Affairs, Division of Family and Children Services, monitor the  
3262 child, family and other children in the same environment;

3263 (d) Order that the child is warned or counseled  
3264 informally; or

3265 (e) Order that a petition be filed.

3266 (3) If the preliminary inquiry discloses that a child needs  
3267 emergency medical treatment, the judge may order the necessary  
3268 treatment.

3269 SECTION 73. Section 43-21-405, Mississippi Code of 1972, is  
3270 amended as follows:

3271 43-21-405. (1) The informal adjustment process shall be  
3272 initiated with an informal adjustment conference conducted by an  
3273 informal adjustment counselor appointed by the judge or his  
3274 designee.

3275           (2) If the child and his parent, guardian or custodian  
3276 appear at the informal adjustment conference without counsel, the  
3277 informal adjustment counselor shall, at the commencement of the  
3278 conference, inform them of their right to counsel, the child's  
3279 right to appointment of counsel and the right of the child to  
3280 remain silent. If either the child or his parent, guardian or  
3281 custodian indicates a desire to be represented by counsel, the  
3282 informal adjustment counselor shall adjourn the conference to  
3283 afford an opportunity to secure counsel.

3284           (3) At the beginning of the informal adjustment conference,  
3285 the informal adjustment counselor shall inform the child and his  
3286 parent, guardian or custodian:

3287                 (a) That information has been received concerning the  
3288 child which appears to establish jurisdiction of the youth court;

3289                 (b) The purpose of the informal adjustment conference;

3290                 (c) That during the informal adjustment process no  
3291 petition will be filed;

3292                 (d) That the informal adjustment process is voluntary  
3293 with the child and his parent, guardian or custodian and that they  
3294 may withdraw from the informal adjustment at any time; and

3295                 (e) The circumstances under which the informal  
3296 adjustment process can be terminated under Section 43-21-407.

3297           (4) The informal adjustment counselor shall then discuss  
3298 with the child and his parent, guardian or custodian:

3299                 (a) Recommendations for actions or conduct in the  
3300 interest of the child to correct the conditions of behavior or  
3301 environment which may exist;

3302                 (b) Continuing conferences and contacts with the child  
3303 and his parent, guardian or custodian by the informal adjustment  
3304 counselor or other authorized persons; and

3305                 (c) The child's general behavior, his home and school  
3306 environment and other factors bearing upon the proposed informal  
3307 adjustment.

3308 (5) After the parties have agreed upon the appropriate terms  
3309 and conditions of informal adjustment, the informal adjustment  
3310 counselor and the child and his parent, guardian or custodian  
3311 shall sign a written informal adjustment agreement setting forth  
3312 the terms and conditions of the informal adjustment. The informal  
3313 adjustment agreement may be modified at any time upon the consent  
3314 of all parties to the informal adjustment conference.

3315 (6) The informal adjustment process shall not continue  
3316 beyond a period of six (6) months from its commencement unless  
3317 extended by the youth court for an additional period not to exceed  
3318 six (6) months by court authorization prior to the expiration of  
3319 the original six-month period. In no event shall the custody or  
3320 supervision of a child which has been placed with the Mississippi  
3321 Department of Children's Affairs be continued or extended except  
3322 upon a written finding by the youth court judge or referee that  
3323 reasonable efforts have been made to maintain the child within his  
3324 own home, but that the circumstances warrant his removal and there  
3325 is no reasonable alternative to custody, and that reasonable  
3326 efforts will continue to be made towards reunification of the  
3327 family.

3328 SECTION 74. Section 43-21-603, Mississippi Code of 1972, is  
3329 amended as follows:

3330 43-21-603. (1) At the beginning of each disposition  
3331 hearing, the judge shall inform the parties of the purpose of the  
3332 hearing.

3333 (2) All testimony shall be under oath unless waived by all  
3334 parties and may be in narrative form. The court may consider any  
3335 evidence which is material and relevant to the disposition of the  
3336 cause, including hearsay and opinion evidence. At the conclusion  
3337 of the evidence, the youth court shall give the parties an  
3338 opportunity to present oral argument.

3339           (3) If the child has been adjudicated a delinquent child,  
3340 prior to entering a disposition order, the youth court should  
3341 consider, among others, the following relevant factors:

3342           (a) The nature of the offense;

3343           (b) The manner in which the offense was committed;

3344           (c) The nature and number of a child's prior  
3345 adjudicated offenses; and

3346           (d) The child's need for care and assistance.

3347           (4) If the child has been adjudicated a child in need of  
3348 supervision, prior to entering a disposition order, the youth  
3349 court should consider, among others, the following relevant  
3350 factors:

3351           (a) The nature and history of the child's conduct;

3352           (b) The family and home situation; and

3353           (c) The child's need of care and assistance.

3354           (5) If the child has been adjudicated a neglected child or  
3355 an abused child, prior to entering a disposition order, the youth  
3356 court shall consider, among others, the following relevant  
3357 factors:

3358           (a) The child's physical and mental conditions;

3359           (b) The child's need of assistance;

3360           (c) The manner in which the parent, guardian or  
3361 custodian participated in, tolerated or condoned the abuse,  
3362 neglect or abandonment of the child;

3363           (d) The ability of a child's parent, guardian or  
3364 custodian to provide proper supervision and care of a child; and

3365           (e) Relevant testimony and recommendations, where  
3366 available, from the foster parent of the child, the grandparents  
3367 of the child, the guardian ad litem of the child, representatives  
3368 of any private care agency which has cared for the child, the  
3369 social worker assigned to the case, and any other relevant  
3370 testimony pertaining to the case.

3371 (6) After consideration of all the evidence and the relevant  
3372 factors, the youth court shall enter a disposition order which  
3373 shall not recite any of the facts or circumstances upon which such  
3374 disposition is based, nor shall it recite that a child has been  
3375 found guilty; but it shall recite that a child is found to be a  
3376 delinquent child, a child in need of supervision, a neglected  
3377 child or an abused child.

3378 (7) In the event that the youth court orders that the  
3379 custody or supervision of a child who has been adjudicated abused  
3380 or neglected be placed with the Mississippi Department of  
3381 Children's Affairs or any other person or public or private  
3382 agency, other than the child's parent, guardian or custodian, the  
3383 youth court shall find and the disposition order shall recite  
3384 that:

3385 (a) (i) Reasonable efforts have been made to maintain  
3386 the child within his own home, but that the circumstances warrant  
3387 his removal and there is no reasonable alternative to custody; or

3388 (a) (ii) The circumstances are of such an emergency  
3389 nature that no reasonable efforts have been made to maintain the  
3390 child within his own home, and that there is no reasonable  
3391 alternative to custody; and

3392 (b) That the effect of the continuation of the child's  
3393 residence within his own home would be contrary to the welfare of  
3394 the child and that the placement of the child in foster care is in  
3395 the best interests of the child; or

3396 (c) Reasonable efforts to maintain the child within his  
3397 home shall not be required if the court determines that:

3398 (i) The parent has subjected the child to  
3399 aggravated circumstances including, but not limited to,  
3400 abandonment, torture, chronic abuse and sexual abuse; or

3401 (ii) The parent has been convicted of murder of  
3402 another child of such parent, voluntary manslaughter of another  
3403 child of such parent, aided or abetted, attempted, conspired or

3404 solicited to commit such murder or voluntary manslaughter, or a  
3405 felony assault that results in the serious bodily injury to the  
3406 surviving child or another child of such parent; or

3407 (iii) The parental rights of the parent to a  
3408 sibling have been terminated involuntarily; and

3409 (iv) That the effect of the continuation of the  
3410 child's residence within his own home would be contrary to the  
3411 welfare of the child and that placement of the child in foster  
3412 care is in the best interests of the child.

3413 Once the reasonable efforts requirement is bypassed, the  
3414 court shall have a permanency hearing pursuant to Section  
3415 43-21-613 within thirty (30) days of such finding.

3416 (8) Upon a written motion by a party, the youth court shall  
3417 make written findings of fact and conclusions of law upon which it  
3418 relies for the disposition order.

3419 SECTION 75. Section 43-21-605, Mississippi Code of 1972, is  
3420 amended as follows:

3421 43-21-605. (1) In delinquency cases, the disposition order  
3422 may include any of the following alternatives:

3423 (a) Release the child without further action;

3424 (b) Place the child in the custody of the parents, a  
3425 relative or other persons subject to any conditions and  
3426 limitations, including restitution, as the youth court may  
3427 prescribe;

3428 (c) Place the child on probation subject to any  
3429 reasonable and appropriate conditions and limitations, including  
3430 restitution, as the youth court may prescribe;

3431 (d) Order terms of treatment calculated to assist the  
3432 child and the child's parents or guardian which are within the  
3433 ability of the parent or guardian to perform;

3434 (e) Order terms of supervision which may include  
3435 participation in a constructive program of service or education or  
3436 civil fines not in excess of Five Hundred Dollars (\$500.00), or

3437 restitution not in excess of actual damages caused by the child to  
3438 be paid out of his own assets or by performance of services  
3439 acceptable to the victims and approved by the youth court and  
3440 reasonably capable of performance within one (1) year;

3441 (f) Suspend the child's driver's license by taking and  
3442 keeping it in custody of the court for not more than one (1) year;

3443 (g) Give legal custody of the child to any of the  
3444 following:

3445 (i) The Mississippi Department of Children's  
3446 Affairs for appropriate placement; or

3447 (ii) Any public or private organization,  
3448 preferably community-based, able to assume the education, care and  
3449 maintenance of the child, which has been found suitable by the  
3450 court; or

3451 (iii) The Mississippi Department of Children's  
3452 Affairs for placement in a wilderness training program or a  
3453 state-supported training school, except that no child under the  
3454 age of ten (10) years shall be committed to a state training  
3455 school. The training school may retain custody of the child until  
3456 the child's twentieth birthday but for no longer. The  
3457 superintendent of a state training school may parole a child at  
3458 any time he may deem it in the best interest and welfare of such  
3459 child. Twenty (20) days prior to such parole, the training school  
3460 shall notify the committing court of the pending release. The  
3461 youth court may then arrange subsequent placement after a  
3462 reconvened disposition hearing except that the youth court may not  
3463 recommit the child to the training school or any other secure  
3464 facility without an adjudication of a new offense or probation or  
3465 parole violation. Prior to assigning the custody of any child to  
3466 any private institution or agency, the youth court through its  
3467 designee shall first inspect the physical facilities to determine  
3468 that they provide a reasonable standard of health and safety for  
3469 the child. The youth court shall not place a child in the custody

3470 of a state training school for truancy, unless such child has been  
3471 adjudicated to have committed an act of delinquency in addition to  
3472 truancy;

3473           (h) Recommend to the child and the child's parents or  
3474 guardian that the child attend and participate in the Youth  
3475 Challenge Program under the Mississippi National Guard, as created  
3476 in Section 43-27-203, subject to the selection of the child for  
3477 the program by the National Guard; however, the child must  
3478 volunteer to participate in the program. The youth court may not  
3479 order any child to apply or attend the program;

3480           (i) (i) Adjudicate the juvenile to the Statewide  
3481 Juvenile Work Program if the program is established in the court's  
3482 jurisdiction. The juvenile and his parents or guardians must sign  
3483 a waiver of liability in order to participate in the work program.  
3484 The judge will coordinate with the youth services counselors as to  
3485 placing participants in the work program;

3486           (ii) The severity of the crime, whether or not the  
3487 juvenile is a repeat offender or is a felony offender will be  
3488 taken into consideration by the judge when adjudicating a juvenile  
3489 to the work program. The juveniles adjudicated to the work  
3490 program will be supervised by police officers or reserve officers.  
3491 The term of service will be from twenty-four (24) to one hundred  
3492 twenty (120) hours of community service. A juvenile will work the  
3493 hours to which he was adjudicated on the weekends during school  
3494 and week days during the summer. Parents are responsible for a  
3495 juvenile reporting for work. Noncompliance with an order to  
3496 perform community service will result in a heavier adjudication.  
3497 A juvenile may be adjudicated to the community service program  
3498 only two (2) times;

3499           (iii) The judge shall assess an additional fine on  
3500 the juvenile which will be used to pay the costs of implementation  
3501 of the program and to pay for supervision by police officers and

3502 reserve officers. The amount of the fine will be based on the  
3503 number of hours to which the juvenile has been adjudicated;

3504 (j) Order the child to participate in a youth court  
3505 work program as provided in Section 43-21-627; or

3506 (k) Order the child into a juvenile detention center  
3507 operated by the county or into a juvenile detention center  
3508 operated by any county with which the county in which the court is  
3509 located has entered into a contract for the purpose of housing  
3510 delinquents. The time period for such detention cannot exceed  
3511 ninety (90) days. The youth court judge may order that the number  
3512 of days specified in the detention order be served either  
3513 throughout the week or on weekends only.

3514 (2) In addition to any of the disposition alternatives  
3515 authorized under subsection (1) of this section, the disposition  
3516 order in any case in which the child is adjudicated delinquent for  
3517 an offense under Section 63-11-30 shall include an order denying  
3518 the driver's license and driving privileges of the child as  
3519 required under subsection (8) of Section 63-11-30.

3520 (3) Fines levied under this chapter shall be paid into the  
3521 general fund of the county but, in those counties wherein the  
3522 youth court is a branch of the municipal government, it shall be  
3523 paid into the municipal treasury.

3524 (4) Any institution or agency to which a child has been  
3525 committed shall give to the youth court any information concerning  
3526 the child as the youth court may at any time require.

3527 (5) The youth court shall not place a child in another  
3528 school district who has been expelled from a school district for  
3529 the commission of a violent act. For the purpose of this  
3530 subsection, "violent act" means any action which results in death  
3531 or physical harm to another or an attempt to cause death or  
3532 physical harm to another.

3533 SECTION 76. Section 43-21-607, Mississippi Code of 1972, is  
3534 amended as follows:

3535           43-21-607. In children in need of supervision cases, the  
3536 disposition order may include any of the following alternatives or  
3537 combination of the following alternatives, giving precedence in  
3538 the following sequence:

3539           (a) Release the child without further action;

3540           (b) Place the child in the custody of the parent, a  
3541 relative or other person subject to any conditions and limitations  
3542 as the youth court may prescribe;

3543           (c) Place the child under youth court supervision  
3544 subject to any conditions and limitations the youth court may  
3545 prescribe;

3546           (d) Order terms of treatment calculated to assist the  
3547 child and the child's parent, guardian or custodian which are  
3548 within the ability of the parent, guardian or custodian to  
3549 perform;

3550           (e) Order terms of supervision which may include  
3551 participation in a constructive program of service or education or  
3552 restitution not in excess of actual damages caused by the child to  
3553 be paid out of his own assets or by performance of services  
3554 acceptable to the parties and reasonably capable of performance  
3555 within one (1) year;

3556           (f) Give legal custody of the child to any of the  
3557 following but in no event to any state training school;

3558           (i) The Mississippi Department of Children's  
3559 Affairs for appropriate placement which may include a wilderness  
3560 training program; or

3561           (ii) Any private or public organization,  
3562 preferably community-based, able to assume the education, care and  
3563 maintenance of the child, which has been found suitable by the  
3564 court. Prior to assigning the custody of any child to any private  
3565 institution or agency, the youth court through its designee shall  
3566 first inspect the physical facilities to determine that they

3567 provide a reasonable standard of health and safety for the child;  
3568 or

3569 (g) Order the child to participate in a youth court  
3570 work program as provided in Section 43-21-627.

3571 SECTION 77. Section 43-21-609, Mississippi Code of 1972, is  
3572 amended as follows:

3573 43-21-609. In neglect and abuse cases, the disposition order  
3574 may include any of the following alternatives, giving precedence  
3575 in the following sequence:

3576 (a) Release the child without further action;

3577 (b) Place the child in the custody of his parents, a  
3578 relative or other person subject to any conditions and limitations  
3579 as the court may prescribe. If the court finds that temporary  
3580 relative placement, adoption or foster care placement is  
3581 inappropriate, unavailable or otherwise not in the best interest  
3582 of the child, durable legal custody may be granted by the court to  
3583 any person subject to any limitations and conditions the court may  
3584 prescribe; such durable legal custody will not take effect unless  
3585 the child or children have been in the physical custody of the  
3586 proposed durable custodians for at least one (1) year under the  
3587 supervision of the Mississippi Department of Children's Affairs.  
3588 The requirements of Section 43-21-613 as to disposition review  
3589 hearings does not apply to those matters in which the court has  
3590 granted durable legal custody. In such cases, the Mississippi  
3591 Department of Children's Affairs shall be released from any  
3592 oversight or monitoring responsibilities;

3593 (c) Order terms of treatment calculated to assist the  
3594 child and the child's parent, guardian or custodian which are  
3595 within the ability of the parent, guardian or custodian to  
3596 perform;

3597 (d) Order youth court personnel, the Mississippi  
3598 Department of Children's Affairs or child care agencies to assist  
3599 the child and the child's parent, guardian or custodian to secure

3600 social or medical services to provide proper supervision and care  
3601 of the child;

3602 (e) Give legal custody of the child to any of the  
3603 following but in no event to any state training school:

3604 (i) The Mississippi Department of Children's  
3605 Affairs for appropriate placement; or

3606 (ii) Any private or public organization,  
3607 preferably community-based, able to assume the education, care and  
3608 maintenance of the child, which has been found suitable by the  
3609 court. Prior to assigning the custody of any child to any private  
3610 institution or agency, the youth court through its designee shall  
3611 first inspect the physical facilities to determine that they  
3612 provide a reasonable standard of health and safety for the child.

3613 SECTION 78. Section 43-21-613, Mississippi Code of 1972, is  
3614 amended as follows:

3615 43-21-613. (1) If the youth court finds, after a hearing  
3616 which complies with the sections governing adjudicatory hearings,  
3617 that the terms of a delinquency or child in need of supervision  
3618 disposition order, probation or parole have been violated, the  
3619 youth court may, in its discretion, revoke the original  
3620 disposition and make any disposition which it could have  
3621 originally ordered. The hearing shall be initiated by the filing  
3622 of a petition which complies with the sections governing petitions  
3623 in this chapter and which includes a statement of the youth  
3624 court's original disposition order, probation or parole, the  
3625 alleged violation of that order, probation or parole, and the  
3626 facts which show the violation of that order, probation or parole.  
3627 Summons shall be served in the same manner as summons for an  
3628 adjudicatory hearing.

3629 (2) On motion of a child or a child's parent, guardian or  
3630 custodian, the youth court may, in its discretion, conduct an  
3631 informal hearing to review the disposition order. If the youth  
3632 court finds a material change of circumstances relating to the

3633 disposition of the child, the youth court may modify the  
3634 disposition order to any appropriate disposition of equal or  
3635 greater precedence which the youth court could have originally  
3636 ordered.

3637         (3) (a) Unless the youth court's jurisdiction has been  
3638 terminated, all disposition orders for supervision, probation or  
3639 placement of a child with an individual or an agency shall be  
3640 reviewed by the youth court judge or referee at least annually to  
3641 determine if continued placement, probation or supervision is in  
3642 the best interest of the child or the public. For children who  
3643 have been adjudicated abused or neglected, the youth court shall  
3644 conduct a permanency hearing within twelve (12) months after the  
3645 earlier of:

3646                 (i) An adjudication that the child has been abused  
3647 or neglected; or

3648                 (ii) Sixty (60) days from the child's removal from  
3649 the allegedly abusive or neglectful custodian/parent. Notice of  
3650 such hearing shall be given in accordance with the provisions of  
3651 Section 43-21-505(5). In conducting the hearing, the judge or  
3652 referee may require a written report, information or statements  
3653 from the child's youth court counselor, parent, guardian or  
3654 custodian which includes, but is not limited to, an evaluation of  
3655 the child's progress and recommendations for further supervision  
3656 or treatment. The judge or referee shall, at the permanency  
3657 hearing determine the future status of the child, including, but  
3658 not limited to, whether the child should be returned to the  
3659 parent(s) or placed with suitable relatives, placed for adoption,  
3660 placed for the purpose of establishing durable legal custody or  
3661 should, because of the child's special needs or circumstances, be  
3662 continued in foster care on a permanent or long-term basis. If  
3663 the child is in an out-of-state placement, the hearing shall  
3664 determine whether the out-of-state placement continues to be  
3665 appropriate and in the best interest of the child. The judge or

3666 referee may find that reasonable efforts to maintain the child  
3667 within his home shall not be required in accordance with Section  
3668 43-21-603(7)(c).

3669 (b) The court may find that the filing of a termination  
3670 of parental rights petition is not in the child's best interest  
3671 if:

3672 (i) The child is being cared for by a relative;  
3673 and/or

3674 (ii) The Mississippi Department of Children's  
3675 Affairs has documented compelling and extraordinary reasons why  
3676 termination of parental rights would not be in the best interests  
3677 of the child.

3678 (c) (i) In the event that the youth court either  
3679 orders or continues the custody or supervision of a child to be  
3680 placed with the Mississippi Department of Children's Affairs or  
3681 any other person or public or private agency, other than the  
3682 child's parent, guardian or custodian, unless the reasonable  
3683 efforts requirement is bypassed under Section 43-21-603(7)(c), the  
3684 youth court shall find and the order shall recite that the effect  
3685 of the continuation of the child's residence within his own home  
3686 would be contrary to the welfare of the child and that placement  
3687 or continued placement of the child in foster care is in the best  
3688 interest of the child, and that:

3689 1. Reasonable efforts have been made to  
3690 maintain the child within his own home, but that the circumstances  
3691 warrant his removal and there is no reasonable alternative to  
3692 custody; or

3693 2. The circumstances are of such an emergency  
3694 nature that no reasonable efforts have been made to maintain the  
3695 child within his own home, and that there is no reasonable  
3696 alternative to custody.

3697 (ii) The youth court also shall find and the order  
3698 shall recite that:

3699                   1. Reasonable efforts were made to reunify  
3700 the child safely with his family if the removal could not be  
3701 prevented; or

3702                   2. If reasonable efforts were not made to  
3703 prevent the child's removal from home or to reunify the child with  
3704 his family, that reasonable efforts are or were not required; or

3705                   3. If the permanent plan for the child is  
3706 adoption, guardianship, or some other permanent living arrangement  
3707 other than reunification, that reasonable efforts were made to  
3708 make and finalize that alternate permanent placement.

3709                   (d) The provisions of this subsection shall also apply  
3710 to review of cases involving a dependent child; however, such  
3711 reviews shall take place not less frequently than once each one  
3712 hundred eighty (180) days. A dependent child shall be ordered by  
3713 the youth court judge or referee to be returned to the custody and  
3714 home of the child's parent, guardian or custodian unless the judge  
3715 or referee, upon such review, makes a written finding that the  
3716 return of the child to the home would be contrary to the child's  
3717 best interests.

3718                   (e) Reviews are not to be conducted unless explicitly  
3719 ordered by the youth court concerning those cases in which the  
3720 court has granted durable legal custody. In such cases, the  
3721 Mississippi Department of Children's Affairs shall be released  
3722 from any oversight or monitoring responsibilities.

3723                   SECTION 79. Section 43-21-623, Mississippi Code of 1972, is  
3724 amended as follows:

3725                   43-21-623. Any juvenile who is adjudicated a delinquent on  
3726 or after July 1, 1994, as a result of committing a sex offense as  
3727 defined in Section 45-33-23 or any offense involving the crime of  
3728 rape and placed in the custody of the Mississippi Department of  
3729 Children's Affairs, Division of Youth Services, shall be tested  
3730 for HIV and AIDS. Such tests shall be conducted by the State  
3731 Department of Health in conjunction with the Division of Youth

3732 Services, Mississippi Department of Children's Affairs at the  
3733 request of the victim or the victim's parents or guardian if the  
3734 victim is a juvenile. The results of any positive HIV or AIDS  
3735 tests shall be reported to the victim or the victim's parents or  
3736 guardian if the victim is a juvenile as well as to the adjudicated  
3737 offender. The State Department of Health shall provide counseling  
3738 and referral to appropriate treatment for victims of a sex offense  
3739 when the adjudicated offender tested positive for HIV or AIDS if  
3740 the victim so requests.

3741 SECTION 80. Section 43-21-625, Mississippi Code of 1972, is  
3742 amended as follows:

3743 43-21-625. (1) The Mississippi Department of Children's  
3744 Affairs shall develop and implement a wilderness training program  
3745 for first time youth offenders sentenced or classified as  
3746 delinquency cases or as children in need of supervision.

3747 (2) The program shall include supervised camping trips,  
3748 calisthenics, manual labor assignments, physical training with  
3749 obstacle courses, training in decision-making and personal  
3750 development and drug counseling and rehabilitation programs.

3751 (3) The department shall adopt rules requiring that  
3752 wilderness training participants complete a structured  
3753 disciplinary program and allowing for a restriction on general  
3754 inmate population privileges.

3755 (4) Upon receipt of youth offenders, the department shall  
3756 screen offenders for the wilderness training program. To  
3757 participate, an offender must have no physical limitations which  
3758 would preclude participation in strenuous activity, must not be  
3759 impaired and must not have been previously incarcerated in a state  
3760 or federal correctional facility. In screening offenders for the  
3761 wilderness training program, the department shall consider the  
3762 offender's criminal history and the possible rehabilitative  
3763 benefits of the program. If an offender meets the specified  
3764 criteria and space is available, the department shall request in

3765 writing from the sentencing court, approval to participate in the  
3766 wilderness training program. If the person is classified by the  
3767 court as a delinquent or child in need of supervision and the  
3768 department is requesting approval from the sentencing court for  
3769 placement in the program, the department shall, at the same time,  
3770 notify the prosecuting attorney that the offender is being  
3771 considered for placement in the wilderness training program. The  
3772 notice shall explain that the purpose of such placement is  
3773 diversion from lengthy incarceration when a wilderness training  
3774 program could produce the same deterrent effect, and that the  
3775 person given notice may, within fourteen (14) days of the mailing  
3776 of the notice, notify the sentencing court in writing of  
3777 objections, if any, to the placement of the offender in the  
3778 wilderness training program. The sentencing court shall notify  
3779 the department in writing of placement approval no later than  
3780 twenty-one (21) days after receipt of the department's request for  
3781 placement of the youthful offender in the wilderness training  
3782 program. Failure to notify the department within twenty-one (21)  
3783 days shall be considered an approval by the sentencing court for  
3784 placing the youthful offender in the wilderness training program.  
3785 The offices of the prosecuting attorneys may develop procedures  
3786 for notifying each victim that the offender is being considered  
3787 for placement in the wilderness training program.

3788 (5) The program shall provide a period of rigorous training  
3789 to offenders who require a greater degree of supervision than  
3790 community control or probation provides. Wilderness training  
3791 programs may be operated in secure areas in or adjacent to adult  
3792 institutions or in any area approved by the department. The  
3793 program is not intended to divert offenders away from probation or  
3794 community control but to divert them from long periods of  
3795 incarceration when a wilderness training program could produce the  
3796 same deterrent effect.

3797           (6) If an offender in the wilderness training program  
3798 becomes unmanageable, the department may place him in an  
3799 appropriate facility to complete the remainder of his sentence.  
3800 Any period of time in which the offender is unable to participate  
3801 in the wilderness training program activities may be excluded from  
3802 the specified time requirements in the program. The portion of  
3803 the sentence served prior to placement in the wilderness training  
3804 program shall not be counted toward program completion. Upon the  
3805 offender's completion of the wilderness training program, the  
3806 department shall submit a report to the court that describes the  
3807 offender's performance. If the offender's performance has been  
3808 satisfactory, the court shall issue an order modifying the  
3809 sentence imposed and placing the offender on probation. If the  
3810 offender violates the conditions of probation, the court may  
3811 revoke probation and impose any sentence which it might have  
3812 originally imposed.

3813           (7) The department shall provide a special training program  
3814 for staff selected for the wilderness training program.

3815           (8) The department is authorized to contract with any  
3816 private or public nonprofit organization or entity to carry out  
3817 the purpose of this section.

3818           SECTION 81. This act shall take effect and be in force from  
3819 and after July 1, 2001.