

By: Senator(s) Huggins

To: Public Health and  
Welfare; Judiciary

SENATE BILL NO. 2500

1 AN ACT TO AMEND SECTION 43-21-613, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT ONCE DURABLE LEGAL CUSTODY OF A CHILD IS ORDERED  
3 BY THE COURT, THE DEPARTMENT OF HUMAN SERVICES IS RELEASED FROM  
4 FURTHER CUSTODY AND SUPERVISION; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 43-21-613, Mississippi Code of 1972, is  
7 amended as follows:

8 43-21-613. (1) If the youth court finds, after a hearing  
9 which complies with the sections governing adjudicatory hearings,  
10 that the terms of a delinquency or child in need of supervision  
11 disposition order, probation or parole have been violated, the  
12 youth court may, in its discretion, revoke the original  
13 disposition and make any disposition which it could have  
14 originally ordered. The hearing shall be initiated by the filing  
15 of a petition which complies with the sections governing petitions  
16 in this chapter and which includes a statement of the youth  
17 court's original disposition order, probation or parole, the  
18 alleged violation of that order, probation or parole, and the  
19 facts which show the violation of that order, probation or parole.  
20 Summons shall be served in the same manner as summons for an  
21 adjudicatory hearing.

22 (2) On motion of a child or a child's parent, guardian or  
23 custodian, the youth court may, in its discretion, conduct an  
24 informal hearing to review the disposition order. If the youth  
25 court finds a material change of circumstances relating to the  
26 disposition of the child, the youth court may modify the  
27 disposition order to any appropriate disposition of equal or



28 greater precedence which the youth court could have originally  
29 ordered.

30 (3) (a) Unless the youth court's jurisdiction has been  
31 terminated, all disposition orders for supervision, probation or  
32 placement of a child with an individual or an agency shall be  
33 reviewed by the youth court judge or referee at least annually to  
34 determine if continued placement, probation or supervision is in  
35 the best interest of the child or the public. For children who  
36 have been adjudicated abused or neglected, the youth court shall  
37 conduct a permanency hearing within twelve (12) months after the  
38 earlier of:

39 (i) An adjudication that the child has been abused  
40 or neglected; or

41 (ii) Sixty (60) days from the child's removal from  
42 the allegedly abusive or neglectful custodian/parent. Notice of  
43 such hearing shall be given in accordance with the provisions of  
44 Section 43-21-505(5). In conducting the hearing, the judge or  
45 referee may require a written report, information or statements  
46 from the child's youth court counselor, parent, guardian or  
47 custodian which includes, but is not limited to, an evaluation of  
48 the child's progress and recommendations for further supervision  
49 or treatment. The judge or referee shall, at the permanency  
50 hearing determine the future status of the child, including, but  
51 not limited to, whether the child should be returned to the  
52 parent(s) or placed with suitable relatives, placed for adoption,  
53 placed for the purpose of establishing durable legal custody or  
54 should, because of the child's special needs or circumstances, be  
55 continued in foster care on a permanent or long-term basis. If  
56 the child is in an out-of-state placement, the hearing shall  
57 determine whether the out-of-state placement continues to be  
58 appropriate and in the best interest of the child. The judge or  
59 referee may find that reasonable efforts to maintain the child



60 within his home shall not be required in accordance with Section  
61 43-21-603(7)(c).

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

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

67 (ii) The State Department of Human Services has  
68 documented compelling and extraordinary reasons why termination of  
69 parental rights would not be in the best interests of the child.

70 (c) (i) In the event that the youth court either  
71 orders or continues the custody or supervision of a child to be  
72 placed with the Department of Human Services or any other person  
73 or public or private agency, other than the child's parent,  
74 guardian or custodian, unless the reasonable efforts requirement  
75 is bypassed under Section 43-21-603(7)(c), the youth court shall  
76 find and the order shall recite that the effect of the  
77 continuation of the child's residence within his own home would be  
78 contrary to the welfare of the child and that placement or  
79 continued placement of the child in foster care is in the best  
80 interest of the child, and that:

81 1. Reasonable efforts have been made to  
82 maintain the child within his own home, but that the circumstances  
83 warrant his removal and there is no reasonable alternative to  
84 custody; or

85 2. The circumstances are of such an emergency  
86 nature that no reasonable efforts have been made to maintain the  
87 child within his own home, and that there is no reasonable  
88 alternative to custody.

89 (ii) The youth court also shall find and the order  
90 shall recite that:



91                   1. Reasonable efforts were made to reunify  
92 the child safely with his family if the removal could not be  
93 prevented; or

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

97                   3. If the permanent plan for the child is  
98 adoption, guardianship, or some other permanent living arrangement  
99 other than reunification, that reasonable efforts were made to  
100 make and finalize that alternate permanent placement.

101           (d) The provisions of this subsection shall also apply  
102 to review of cases involving a dependent child; however, such  
103 reviews shall take place not less frequently than once each one  
104 hundred eighty (180) days. A dependent child shall be ordered by  
105 the youth court judge or referee to be returned to the custody and  
106 home of the child's parent, guardian or custodian unless the judge  
107 or referee, upon such review, makes a written finding that the  
108 return of the child to the home would be contrary to the child's  
109 best interests.

110           (e) Reviews are not to be conducted unless explicitly  
111 ordered by the youth court concerning those cases in which the  
112 court has granted durable legal custody. In such cases, the  
113 Department of Human Services shall be released from any oversight  
114 or monitoring responsibilities, and relieved of physical and legal  
115 custody and supervision of the child.

116           **SECTION 2.** This act shall take effect and be in force from  
117 and after July 1, 2002.

