

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.

