

By: Representative Perkins

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 1098

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE CERTAIN RIGHTS TO RELATIVES, OTHER THAN NATURAL
3 PARENTS, WHO CARE FOR CHILDREN PLACED IN THEIR HOME BY THE
4 DEPARTMENT OF HUMAN SERVICES, INCLUDING RECEIVING REIMBURSEMENT OF
5 CHILD CARE COSTS; TO AMEND SECTION 43-15-17, MISSISSIPPI CODE OF
6 1972, TO AUTHORIZE THE DEPARTMENT OF HUMAN SERVICES TO PROVIDE
7 MONTHLY PAYMENTS TO RELATIVES, OTHER THAN NATURAL PARENTS, WHO
8 CARE FOR CHILDREN PLACED IN THEIR HOME BY THE DEPARTMENT OF HUMAN
9 SERVICES; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 43-15-13, Mississippi Code of 1972, is
12 amended as follows:

13 43-15-13. (1) For purposes of this section, "children"
14 means persons found within the state who are under the age of
15 twenty-one (21) years, and who were placed in the custody of the
16 Department of Human Services by the youth court of the appropriate
17 county.

18 (2) The Department of Human Services shall establish a
19 foster care placement program for children whose custody lies with
20 the department, with the following objectives:

21 (a) Protecting and promoting the health, safety and
22 welfare of children;

23 (b) Preventing the unnecessary separation of children
24 from their families by identifying family problems, assisting
25 families in resolving their problems and preventing the breakup of
26 the family where the prevention of child removal is desirable and
27 possible when the child can be cared for at home without
28 endangering the child's health and safety;

29 (c) Remedying or assisting in the solution of problems
30 which may result in the neglect, abuse, exploitation or
31 delinquency of children;

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

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

40 (f) Assuring safe and adequate care of children away
41 from their homes, in cases where the child cannot be returned home
42 or cannot be placed for adoption. At the time of placement, the
43 department shall implement concurrent planning, as described in
44 subsection (8) of this section, so that permanency may occur at
45 the earliest opportunity. Consideration of possible failure or
46 delay of reunification should be given, to the end that the
47 placement made is the best available placement to provide
48 permanency for the child; and

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

54 (3) The State Department of Human Services shall administer
55 a system of individualized plans and reviews once every six (6)
56 months for each child under its custody within the State of
57 Mississippi, each child who has been adjudged a neglected,
58 abandoned or abused child and whose custody was changed by court
59 order as a result of such adjudication, and each public or private
60 facility licensed by the department. The State Department of
61 Human Services administrative review shall be completed on each

62 child within the first three (3) months and a foster care review
63 once every six (6) months after the child's initial
64 forty-eight-hour shelter hearing. Such system shall be for the
65 purpose of enhancing potential family life for the child by the
66 development of individual plans to return the child to its natural
67 parent or parents, or to refer the child to the appropriate court
68 for termination of parental rights and placement in a permanent
69 relative's home, adoptive home or foster/adoptive home. The goal
70 of the State Department of Human Services shall be to return the
71 child to its natural parent(s) or refer the child to the
72 appropriate court for termination of parental rights and placement
73 in a permanent relative's home, adoptive home or foster/adoptive
74 home within the time periods specified in this subsection or in
75 subsection (4) of this section. In furthering this goal, the
76 department shall establish policy and procedures designed to
77 appropriately place children in permanent homes, such policy to
78 include a system of reviews for all children in foster care, as
79 follows: foster care counselors in the department shall make all
80 possible contact with the child's natural parent(s) and any
81 interested relative for the first two (2) months following the
82 child's entry into the foster care system. For any child who was
83 in foster care before July 1, 1998, and has been in foster care
84 for fifteen (15) of the last twenty-two (22) months regardless of
85 whether the foster care was continuous for all of those twenty-two
86 (22) months, the department shall file a petition to terminate the
87 parental rights of the child's parents. The time period starts to
88 run from the date the court makes a finding of abuse and/or
89 neglect or sixty (60) days from when the child was removed from
90 his or her home, whichever is earlier. The department can choose
91 not to file a termination of parental rights petition if the
92 following apply:

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

94 (b) The department has documented compelling and
95 extraordinary reasons why termination of parental rights would not
96 be in the best interests of the child. Prior to granting or
97 denying a request by the department for an extension of time for
98 filing a termination of parental rights action, the court shall
99 receive a written report on the progress which a parent of such
100 child has made in treatment, to be made to the court in writing by
101 a mental health/substance abuse therapist or counselor.

102 (4) In the case of any child who is placed in foster care on
103 or after July 1, 1998, except in cases of aggravated circumstances
104 prescribed in Section 43-21-603(7)(c) or (d), the child's natural
105 parent(s) will have a reasonable time to be determined by the
106 court, which shall not exceed a six-month period of time, in which
107 to meet the service agreement with the department for the benefit
108 of the child unless the department has documented extraordinary
109 and compelling reasons for extending the time period in the best
110 interest of the child. If this agreement has not been
111 satisfactorily met, simultaneously the child will be referred to
112 the appropriate court for termination of parental rights and
113 placement in a permanent relative's home, adoptive home or a
114 foster/adoptive home. For children under the age of three (3)
115 years, termination of parental rights shall be initiated within
116 six (6) months, unless the department has documented compelling
117 and extraordinary circumstances, and placement in a permanent
118 relative's home, adoptive home or foster/adoptive home within two
119 (2) months. For children who have been abandoned pursuant to the
120 provisions of Section 97-5-1, termination of parental rights shall
121 be initiated within thirty (30) days and placement in an adoptive
122 home shall be initiated without necessity for placement in a
123 foster home. The department need not initiate termination of
124 parental rights proceedings where the child has been placed in
125 durable legal custody or long-term or formalized foster care by a
126 court of competent jurisdiction.

127 (5) The foster care review once every six (6) months shall
128 be conducted by the youth court or its designee(s), and/or by
129 personnel within the State Department of Human Services or by a
130 designee or designees of the department and may include others
131 appointed by the department, and the review shall include at a
132 minimum an evaluation of the child based on the following:

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

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

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

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

141 (e) Social services offered and/or utilized to
142 facilitate plans for establishing a permanent home for the child;
143 and

144 (f) Relevant testimony and recommendations from the
145 foster parent of the child, the grandparents of the child, the
146 guardian ad litem of the child, representatives of any private
147 care agency which has cared for the child, the social worker
148 assigned to the case, and any other relevant testimony pertaining
149 to the case.

150 Each child's review plan once every six (6) months shall be
151 filed with the court which awarded custody and shall be made
152 available to natural parents or foster parents upon approval of
153 the court. The court shall make a finding as to the degree of
154 compliance by the agency and the parent(s) with the child's social
155 service plan. The court also shall find that the child's health
156 and safety are the paramount concern. In the interest of the
157 child, the court shall, where appropriate, initiate proceedings on
158 its own motion. The State Department of Human Services shall
159 report to the Legislature as to the number of such children, the

160 findings of the foster care review board and relevant statistical
161 information in foster care in a semiannual report to the
162 Legislature to be submitted to the Joint Oversight Committee of
163 the Department of Human Services. The report shall not refer to
164 the specific name of any child in foster care.

165 (6) The State Department of Human Services, with the
166 cooperation and assistance of the State Department of Health,
167 shall develop and implement a training program for foster care
168 parents to indoctrinate them as to their proper responsibilities
169 upon a child's entry into their foster care. The program shall
170 provide a minimum of twelve (12) clock hours of training. The
171 foster care training program shall be satisfactorily completed by
172 such foster care parents prior to or within ninety (90) days after
173 child placement with such parent. Record of such foster care
174 parent's training program participation shall be filed with the
175 court as part of a foster care child's review plan once every six
176 (6) months.

177 (7) When the Department of Human Services is considering
178 placement of a child in a foster home and when the department
179 deems it to be in the best interest of the child, the department
180 shall give first priority to placing the child in the home of one
181 (1) of the child's relatives within the third degree, as computed
182 by the civil law rule. In placing the child in a relative's home,
183 the department may waive the rule, regulation or policy applicable
184 to placement in foster care that would * * * require the child to
185 have a separate bed or bedroom or have a bedroom of a certain
186 size, if placing the child in a relative's home would be in the
187 best interest of the child and such requirements cannot be met in
188 the relative's home.

189 (8) The Legislature recognizes that the best interests of
190 the child require that the child be placed in the most permanent
191 living arrangement as soon as is practicably possible. To achieve
192 this goal, the Department of Human Services is directed to conduct

193 concurrent planning so that a permanent living arrangement may
194 occur at the earliest opportunity. Permanent living arrangements
195 may include prevention of placement of a child outside the home of
196 the family when the child can be cared for at home without
197 endangering the child's health or safety; reunification with the
198 family, when safe and appropriate, if temporary placement is
199 necessary; or movement of the child toward the most permanent
200 living arrangement and permanent legal status. When a child is
201 placed in foster care or relative care, the department shall first
202 ensure and document that reasonable efforts were made to prevent
203 or eliminate the need to remove the child from the child's home.
204 The department's first priority shall be to make reasonable
205 efforts to reunify the family when temporary placement of the
206 child occurs or shall request a finding from the court that
207 reasonable efforts are not appropriate or have been unsuccessful.
208 A decision to place a child in foster care or relative care shall
209 be made with consideration of the child's health, safety and best
210 interests. At the time of placement, consideration should also be
211 given so that if reunification fails or is delayed, the placement
212 made is the best available placement to provide a permanent living
213 arrangement for the child. The department shall adopt rules
214 addressing concurrent planning for reunification and a permanent
215 living arrangement. The department shall consider the following
216 factors when determining appropriateness of concurrent planning:
217 (a) The likelihood of prompt reunification;
218 (b) The past history of the family;
219 (c) The barriers to reunification being addressed by
220 the family;
221 (d) The level of cooperation of the family;
222 (e) The foster parents' willingness to work with the
223 family to reunite;

224 (f) The willingness and ability of the foster family or
225 relative placement to provide an adoptive home or long-term
226 placement;

227 (g) The age of the child; and

228 (h) Placement of siblings.

229 (9) If the department has placed a child in foster care or
230 relative care pursuant to a court order, the department may not
231 change the child's placement unless the department specifically
232 documents to the court that the current placement is unsafe or
233 unsuitable or that another placement is in the child's best
234 interests unless the new placement is in an adoptive home or other
235 permanent placement. Except in emergency circumstances as
236 determined by the department or where the court orders placement
237 of the child pursuant to Section 43-21-303, the foster parents,
238 grandparents or other relatives of the child shall be given an
239 opportunity to contest the specific reasons documented by the
240 department at least seventy-two (72) hours prior to any such
241 departure, and the court may conduct a review of such placement
242 unless the new placement is in an adoptive home or other permanent
243 placement. When a child is returned to foster care or relative
244 care, the former foster parents or relative placement shall be
245 given the prior right of return placement in order to eliminate
246 additional trauma to the child.

247 (10) The Department of Human Services shall provide the
248 foster parents, grandparents or other relatives with at least a
249 seventy-two-hour notice of departure for any child placed in their
250 foster care or relative care, except in emergency circumstances as
251 determined by the department or where the court orders placement
252 of the child pursuant to Section 43-21-303. The parent/legal
253 guardian, grandparents of the child, guardian ad litem and the
254 court exercising jurisdiction shall be notified in writing when
255 the child leaves foster care or relative care placement,
256 regardless of whether the child's departure was planned or

257 unplanned. The only exceptions to giving a written notice to the
258 parent(s) are when a parent has voluntarily released the child for
259 adoption or the parent's legal rights to the child have been
260 terminated through the appropriate court with jurisdiction.

261 (11) The Department of Human Services shall extend the
262 following rights to persons providing foster care and relative
263 care to a child:

264 (a) A clear understanding of their role as persons
265 providing foster care or relative care and the roles of the birth
266 parent(s) and the placement agency in respect to the child in
267 care;

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

271 (c) Involvement in all the agency's crucial decisions
272 regarding the * * * child as team members who have pertinent
273 information based on their day-to-day knowledge of the child in
274 care;

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

279 (i) Pertinent information about the child and the
280 birth family.

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

283 (iii) Direct interviews between the social worker
284 and the child, previously discussed and understood by the persons
285 providing foster care or relative care;

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

288 (f) The opportunity to learn and grow in their vocation
289 through planned foster care or relative care education;

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

292 (h) Reimbursement for costs of the * * * child's care
293 in the form of a board payment based on the age of the * * * child
294 as prescribed in Section 43-15-17.

295 (12) The Department of Human Services shall require the
296 following responsibilities from participating persons who provide
297 foster care or relative care:

298 (a) Understanding the department's function in regard
299 to the foster care and relative care programs and related social
300 service programs;

301 (b) Sharing with the department any information which
302 may contribute to the care of * * * children who are placed in
303 foster care or relative care;

304 (c) Functioning within the established goals and
305 objectives to improve the general welfare of the * * * child;

306 (d) Recognizing the problems in the placement of a
307 child who is placed in foster care or relative care that will
308 require professional advice and assistance and that such help
309 should be utilized to its full potential;

310 (e) Recognizing that the foster family or family
311 providing relative care to a child will be one of the primary
312 resources for preparing a child for any future plans that are
313 made, including return to birth parent(s), termination of parental
314 rights or reinstitutionalization;

315 (f) Expressing their view of agency practices which
316 relate to the * * * child with the appropriate staff member;

317 (g) Understanding that all information shared with the
318 persons providing foster care or relative care about the child and
319 his/her birth parent(s) must be held in the strictest of
320 confidence;

321 (h) Cooperating with any plan to reunite the * * *
322 child with his birth family and work with the birth family to
323 achieve this goal; and

324 (i) Attending dispositional review hearings and
325 termination of parental rights hearings conducted by a court of
326 competent jurisdiction, or providing their recommendations to the
327 court in writing.

328 **SECTION 2.** Section 43-15-17, Mississippi Code of 1972, is
329 amended as follows:

330 43-15-17. (1) The State Department of Human Services is
331 authorized to make such payments as may be appropriate for
332 supportive services to facilitate either the return of children to
333 their natural parents or their adoption, depending upon and
334 contingent upon the availability of the State Department of Human
335 Services' securing or having sufficient funds to render this
336 supportive service. Upon court order, the parent(s) shall be
337 responsible for reimbursing the department for any foster care or
338 relative care payments made on behalf of his or her child, based
339 upon financial ability to pay, until such time as there is a
340 termination of parental rights regarding the child, or the child
341 is adopted.

342 (2) For those children placed in foster care or relative
343 care by the state or county departments of human services, the
344 department shall make monthly payments for the support of these
345 children's room and board, clothing, allowance and personal needs.
346 From and after July 1, 1998, and subject to the availability of
347 funds specifically appropriated therefor, the Department of Human
348 Services' foster care and therapeutic care monthly payment
349 schedule in effect prior to that date shall be increased by One
350 Hundred Dollars (\$100.00) per month, with said minimum payment not
351 to preclude the department from increasing payments in subsequent
352 years as funds become available. From and after July 1, 1998, in
353 order for persons providing foster care or relative care to

354 receive such monthly payments authorized under this subsection
355 (2), the Department of Human Services shall require foster care
356 placements to be licensed as foster care homes and shall require
357 prospective persons who will provide foster care or relative care
358 to satisfactorily complete an appropriate training program which
359 emphasizes the goal of the foster care program or the placement of
360 a child with a relative to provide stable * * * placement until a
361 permanent outcome is achieved.

362 **SECTION 3.** This act shall take effect and be in force from
363 and after July 1, 2004.