

By: Representative Holland

To: Public Health and Human
Services

HOUSE BILL NO. 1121

1 AN ACT TO AMEND SECTION 93-17-55, MISSISSIPPI CODE OF 1972,
2 TO EXPAND THE DEFINITION OF SPECIAL NEEDS CHILDREN FOR WHOSE
3 ADOPTIONS THE DEPARTMENT OF HUMAN SERVICES MAKES AVAILABLE
4 SUPPLEMENTAL BENEFITS, IN CONFORMITY WITH FEDERAL LAW; TO AMEND
5 SECTION 93-17-61, MISSISSIPPI CODE OF 1972, TO REMOVE ANNUAL
6 WRITTEN CERTIFICATION BY ADOPTIVE PARENTS TO THE DEPARTMENT OF
7 HUMAN SERVICES AS A CONDITION FOR CONTINUATION OF SUPPLEMENTAL
8 BENEFITS FOR ADOPTION OF A SPECIAL NEEDS CHILD, IN CONFORMITY WITH
9 FEDERAL LAW; TO AMEND SECTION 43-21-353, MISSISSIPPI CODE OF 1972,
10 TO REQUIRE THE DEPARTMENT OF HUMAN SERVICES, AT THE INITIAL TIME
11 OF CONTACT WITH THE PERSON WHO IS SUBJECT TO A CHILD NEGLECT OR
12 ABUSE INVESTIGATION, TO INFORM THE PERSON OF THE SPECIFIC
13 ALLEGATION MADE AGAINST THE PERSON, IN CONFORMITY WITH FEDERAL
14 LAW; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 93-17-55, Mississippi Code of 1972, is
17 amended as follows:

18 93-17-55. As used in Sections 93-17-51 through 93-17-67, the
19 word "child" shall mean a minor as defined by Mississippi law who
20 is:

21 (a) A dependent of a public or voluntary licensed
22 child-placing agency, eligible for Supplemental Security Income
23 prior to the finalization of the adoption, one (1) for whom
24 supplemental benefits were paid pursuant to the aforementioned
25 sections in a previous adoption that was dissolved or wherein the
26 adoptive parents died, or is the child of a minor parent in foster
27 care for whom the board payment was increased on account of the
28 birth;

29 (b) Legally free for adoption; and

30 (c) In special circumstances whether:

31 (i) Because he has established significant
32 emotional ties with prospective adoptive parents while in their

33 care as a foster child and it is deemed in the best interest of
34 the child by the agency to be adopted by the foster parents, or

35 (ii) Because he is not likely to be adopted
36 because of one or more of the following handicaps: 1. severe
37 physical or mental disability, 2. severe emotional disturbance, 3.
38 recognized high risk of physical or mental disease, or 4. any
39 combination of these handicaps.

40 **SECTION 2.** Section 93-17-61, Mississippi Code of 1972, is
41 amended as follows:

42 93-17-61. (1) When parents are found and approved for
43 adoption of a child certified as eligible for supplemental
44 benefits, and before the final decree of adoption is issued, there
45 shall be executed a written agreement between the family entering
46 into the adoption and the Department of Human Services. In
47 individual cases, supplemental benefits may commence with the
48 adoptive placement or at the appropriate time after the adoption
49 decree and will vary with the needs of the child as well as the
50 availability of other resources to meet the child's needs. The
51 supplemental benefits may be for special services only or for
52 money payments as allowed under Section 43-13-115, Mississippi
53 Code of 1972, and either for a limited period, for a long term or
54 for any combination of the foregoing. The amount of the
55 time-limited, long-term supplemental benefits may in no case
56 exceed that which would be currently allowable for such child
57 under the Mississippi Medicaid Law.

58 (2) When supplemental benefits last for more than one (1)
59 year, the adoptive parents shall present an annual written
60 certification that the child remains under the parents' care and
61 that the child's need for supplemental benefits continues. Based
62 on * * * investigation by the agency and available funds, the
63 agency may approve continued supplemental benefits. These
64 benefits shall be extended so long as the parents remain legally
65 responsible for and are providing support for the child.

66 (3) A child who is a resident of Mississippi when
67 eligibility for supplemental benefits is certified shall remain
68 eligible and receive supplemental benefits, if necessary for
69 adoption, regardless of the domicile or residence of the adopting
70 parents at the time of application for adoption, placement, legal
71 decree of adoption or thereafter.

72 **SECTION 3.** Section 43-21-353, Mississippi Code of 1972, is
73 amended as follows:

74 43-21-353. (1) Any attorney, physician, dentist, intern,
75 resident, nurse, psychologist, social worker, family protection
76 worker, family protection specialist, child caregiver, minister,
77 law enforcement officer, public or private school employee or any
78 other person having reasonable cause to suspect that a child is a
79 neglected child or an abused child, shall cause an oral report to
80 be made immediately by telephone or otherwise and followed as soon
81 thereafter as possible by a report in writing to the Department of
82 Human Services, and immediately a referral shall be made by the
83 Department of Human Services to the youth court intake unit, which
84 unit shall promptly comply with Section 43-21-357. In the course
85 of an investigation, at the initial time of contact with the
86 individual(s) about whom a report has been made under this Youth
87 Court Act or with the individual(s) responsible for the health or
88 welfare of a child about whom a report has been made under this
89 chapter, the Department of Human Services shall inform the
90 individual of the specific complaints or allegations made against
91 the individual. Consistent with subsection (4), the identity of
92 the person who reported his or her suspicion shall not be
93 disclosed. Where appropriate, the Department of Human Services
94 shall additionally make a referral to the youth court prosecutor.

95 Upon receiving a report that a child has been sexually
96 abused, or burned, tortured, mutilated or otherwise physically
97 abused in such a manner as to cause serious bodily harm, or upon
98 receiving any report of abuse that would be a felony under state

99 or federal law, the Department of Human Services shall immediately
100 notify the law enforcement agency in whose jurisdiction the abuse
101 occurred and shall notify the appropriate prosecutor within
102 forty-eight (48) hours, and the Department of Human Services shall
103 have the duty to provide the law enforcement agency all the names
104 and facts known at the time of the report; this duty shall be of a
105 continuing nature. The law enforcement agency and the Department
106 of Human Services shall investigate the reported abuse immediately
107 and shall file a preliminary report with the appropriate
108 prosecutor's office within twenty-four (24) hours and shall make
109 additional reports as new or additional information or evidence
110 becomes available. The Department of Human Services shall advise
111 the clerk of the youth court and the youth court prosecutor of all
112 cases of abuse reported to the department within seventy-two (72)
113 hours and shall update such report as information becomes
114 available.

115 (2) Any report to the Department of Human Services shall
116 contain the names and addresses of the child and his parents or
117 other persons responsible for his care, if known, the child's age,
118 the nature and extent of the child's injuries, including any
119 evidence of previous injuries and any other information that might
120 be helpful in establishing the cause of the injury and the
121 identity of the perpetrator.

122 (3) The Department of Human Services shall maintain a
123 statewide incoming wide-area telephone service or similar service
124 for the purpose of receiving reports of suspected cases of child
125 abuse; provided that any attorney, physician, dentist, intern,
126 resident, nurse, psychologist, social worker, family protection
127 worker, family protection specialist, child caregiver, minister,
128 law enforcement officer or public or private school employee who
129 is required to report under subsection (1) of this section shall
130 report in the manner required in subsection (1).

131 (4) Reports of abuse and neglect made under this chapter and
132 the identity of the reporter are confidential except when the
133 court in which the investigation report is filed, in its
134 discretion, determines the testimony of the person reporting to be
135 material to a judicial proceeding or when the identity of the
136 reporter is released to law enforcement agencies and the
137 appropriate prosecutor pursuant to subsection (1). Reports made
138 under this section to any law enforcement agency or prosecutorial
139 officer are for the purpose of criminal investigation and
140 prosecution only and no information from these reports may be
141 released to the public except as provided by Section 43-21-261.
142 Disclosure of any information by the prosecutor shall be according
143 to the Mississippi Uniform Rules of Circuit and County Court
144 Procedure. The identity of the reporting party shall not be
145 disclosed to anyone other than law enforcement officers or
146 prosecutors without an order from the appropriate youth court.
147 Any person disclosing any reports made under this section in a
148 manner not expressly provided for in this section or Section
149 43-21-261, shall be guilty of a misdemeanor and subject to the
150 penalties prescribed by Section 43-21-267.

151 (5) All final dispositions of law enforcement investigations
152 described in subsection (1) of this section shall be determined
153 only by the appropriate prosecutor or court. All final
154 dispositions of investigations by the Department of Human Services
155 as described in subsection (1) of this section shall be determined
156 only by the youth court. Reports made under subsection (1) of
157 this section by the Department of Human Services to the law
158 enforcement agency and to the district attorney's office shall
159 include the following, if known to the department:

- 160 (a) The name and address of the child;
- 161 (b) The names and addresses of the parents;
- 162 (c) The name and address of the suspected perpetrator;

163 (d) The names and addresses of all witnesses, including
164 the reporting party if a material witness to the abuse;

165 (e) A brief statement of the facts indicating that the
166 child has been abused and any other information from the agency
167 files or known to the family protection worker or family
168 protection specialist making the investigation, including medical
169 records or other records, which may assist law enforcement or the
170 district attorney in investigating and/or prosecuting the case;
171 and

172 (f) What, if any, action is being taken by the
173 Department of Human Services.

174 (6) In any investigation of a report made under this chapter
175 of the abuse or neglect of a child as defined in Section
176 43-21-105(m), the Department of Human Services may request the
177 appropriate law enforcement officer with jurisdiction to accompany
178 the department in its investigation, and in such cases the law
179 enforcement officer shall comply with such request.

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

184 (8) If a report is made directly to the Department of Human
185 Services that a child has been abused or neglected in an
186 out-of-home setting, a referral shall be made immediately to the
187 law enforcement agency in whose jurisdiction the abuse occurred
188 and the department shall notify the district attorney's office
189 within forty-eight (48) hours of such report. The Department of
190 Human Services shall investigate the out-of-home setting report of
191 abuse or neglect to determine whether the child who is the subject
192 of the report, or other children in the same environment, comes
193 within the jurisdiction of the youth court and shall report to the
194 youth court the department's findings and recommendation as to
195 whether the child who is the subject of the report or other

196 children in the same environment require the protection of the
197 youth court. The law enforcement agency shall investigate the
198 reported abuse immediately and shall file a preliminary report
199 with the district attorney's office within forty-eight (48) hours
200 and shall make additional reports as new information or evidence
201 becomes available. If the out-of-home setting is a licensed
202 facility, an additional referral shall be made by the Department
203 of Human Services to the licensing agency. The licensing agency
204 shall investigate the report and shall provide the Department of
205 Human Services, the law enforcement agency and the district
206 attorney's office with their written findings from such
207 investigation as well as that licensing agency's recommendations
208 and actions taken.

209 **SECTION 4.** This act shall take effect and be in force from
210 and after July 1, 2007.