HOUSE BILL NO. 1121

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

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

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

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

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

(b) Legally free for adoption; and

(c) In special circumstances whether:

(i) Because he has established significant emotional ties with prospective adoptive parents while in their
care as a foster child and it is deemed in the best interest of the child by the agency to be adopted by the foster parents, or

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

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

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

(2) When supplemental benefits last for more than one (1) year, the adoptive parents shall present an annual written certification that the child remains under the parents' care and that the child's need for supplemental benefits continues. Based on investigation by the agency and available funds, the agency may approve continued supplemental benefits. These benefits shall be extended so long as the parents remain legally responsible for and are providing support for the child.
(3) A child who is a resident of Mississippi when eligibility for supplemental benefits is certified shall remain eligible and receive supplemental benefits, if necessary for adoption, regardless of the domicile or residence of the adopting parents at the time of application for adoption, placement, legal decree of adoption or thereafter.

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

43-21-353. (1) Any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, public or private school employee or any other person having reasonable cause to suspect that a child is a neglected child or an abused child, shall cause an oral report to be made immediately by telephone or otherwise and followed as soon thereafter as possible by a report in writing to the Department of Human Services, and immediately a referral shall be made by the Department of Human Services to the youth court intake unit, which unit shall promptly comply with Section 43-21-357. In the course of an investigation, at the initial time of contact with the individual(s) about whom a report has been made under this Youth Court Act or with the individual(s) responsible for the health or welfare of a child about whom a report has been made under this chapter, the Department of Human Services shall inform the individual of the specific complaints or allegations made against the individual. Consistent with subsection (4), the identity of the person who reported his or her suspicion shall not be disclosed. Where appropriate, the Department of Human Services shall additionally make a referral to the youth court prosecutor. Upon receiving a report that a child has been sexually abused, or burned, tortured, mutilated or otherwise physically abused in such a manner as to cause serious bodily harm, or upon 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.
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116 (2) Any report to the Department of Human Services shall
117 contain the names and addresses of the child and his parents or
118 other persons responsible for his care, if known, the child's age,
119 the nature and extent of the child's injuries, including any
120 evidence of previous injuries and any other information that might
121 be helpful in establishing the cause of the injury and the
122 identity of the perpetrator.
123
124 (3) The Department of Human Services shall maintain a
125 statewide incoming wide-area telephone service or similar service
126 for the purpose of receiving reports of suspected cases of child
127 abuse; provided that any attorney, physician, dentist, intern,
128 resident, nurse, psychologist, social worker, family protection
129 worker, family protection specialist, child caregiver, minister,
130 law enforcement officer or public or private school employee who
131 is required to report under subsection (1) of this section shall
132 report in the manner required in subsection (1).
(4) Reports of abuse and neglect made under this chapter and the identity of the reporter are confidential except when the court in which the investigation report is filed, in its discretion, determines the testimony of the person reporting to be material to a judicial proceeding or when the identity of the reporter is released to law enforcement agencies and the appropriate prosecutor pursuant to subsection (1). Reports made under this section to any law enforcement agency or prosecutorial officer are for the purpose of criminal investigation and prosecution only and no information from these reports may be released to the public except as provided by Section 43-21-261. Disclosure of any information by the prosecutor shall be according to the Mississippi Uniform Rules of Circuit and County Court Procedure. The identity of the reporting party shall not be disclosed to anyone other than law enforcement officers or prosecutors without an order from the appropriate youth court. Any person disclosing any reports made under this section in a manner not expressly provided for in this section or Section 43-21-261, shall be guilty of a misdemeanor and subject to the penalties prescribed by Section 43-21-267.

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

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

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

and

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

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

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

(8) If a report is made directly to the Department of Human Services that a child has been abused or neglected in an out-of-home setting, a referral shall be made immediately to the law enforcement agency in whose jurisdiction the abuse occurred and the department shall notify the district attorney's office within forty-eight (48) hours of such report. The Department of Human Services shall investigate the out-of-home setting report of abuse or neglect to determine whether the child who is the subject of the report, or other children in the same environment, comes within the jurisdiction of the youth court and shall report to the youth court the department's findings and recommendation as to whether the child who is the subject of the report or other
children in the same environment require the protection of the youth court. The law enforcement agency shall investigate the reported abuse immediately and shall file a preliminary report with the district attorney's office within forty-eight (48) hours and shall make additional reports as new information or evidence becomes available. If the out-of-home setting is a licensed facility, an additional referral shall be made by the Department of Human Services to the licensing agency. The licensing agency shall investigate the report and shall provide the Department of Human Services, the law enforcement agency and the district attorney's office with their written findings from such investigation as well as that licensing agency's recommendations and actions taken.

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