

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.