

By: Senator(s) Burton

To: Public Health and Welfare

SENATE BILL NO. 2105

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE AND DIRECT THE MISSISSIPPI DEPARTMENT OF HUMAN  
3 SERVICES TO NOTIFY THE PARENTS OF A CHILD'S SIBLINGS WHEN THE  
4 CHILD ENTERS AGENCY CUSTODY IN CONFORMITY WITH FEDERAL  
5 REQUIREMENTS; AND FOR RELATED PURPOSES.

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

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

9 43-15-13. (1) For purposes of this section, "children"  
10 means persons found within the state who are under the age of  
11 twenty-one (21) years, and who were placed in the custody of the  
12 Department of Human Services by the youth court of the appropriate  
13 county.

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

17 (a) Protecting and promoting the health, safety and  
18 welfare of children;



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

25 (c) Remedying or assisting in the solution of problems  
26 that may result in the neglect, abuse, exploitation or delinquency  
27 of children;

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

32 (e) Placing children in suitable adoptive homes  
33 approved by a licensed adoption agency or family protection  
34 specialist, in cases where restoration to the biological family is  
35 not safe, possible or appropriate;

36 (f) Assuring safe and adequate care of children away  
37 from their homes, in cases where the child cannot be returned home  
38 or cannot be placed for adoption. At the time of placement, the  
39 department shall implement concurrent planning, as described in  
40 subsection (8) of this section, so that permanency may occur at  
41 the earliest opportunity. Consideration of possible failure or  
42 delay of reunification should be given, to the end that the



43 placement made is the best available placement to provide  
44 permanency for the child; and

45 (g) Providing a family protection specialist or worker  
46 or team of such specialists or workers for a family and child  
47 throughout the implementation of their permanent living  
48 arrangement plan. Wherever feasible, the same family protection  
49 specialist or worker or team shall remain on the case until the  
50 child is no longer under the jurisdiction of the youth court.

51 (3) The Department of Human Services shall administer a  
52 system of individualized plans and reviews once every six (6)  
53 months for each child under its custody within the State of  
54 Mississippi, each child who has been adjudged a neglected,  
55 abandoned or abused child and whose custody was changed by court  
56 order as a result of that adjudication, and each public or private  
57 facility licensed by the department. The Department of Human  
58 Services administrative review shall be completed on each child  
59 within the first three (3) months and a foster care review once  
60 every six (6) months after the child's initial forty-eight-hour  
61 shelter hearing. That system shall be for the purpose of  
62 enhancing potential family life for the child by the development  
63 of individual plans to return the child to its natural parent or  
64 parents, or to refer the child to the appropriate court for  
65 termination of parental rights and placement in a permanent  
66 relative's home, adoptive home or foster/adoptive home. The goal  
67 of the Department of Human Services shall be to return the child



68 to its natural parent(s) or refer the child to the appropriate  
69 court for termination of parental rights and placement in a  
70 permanent relative's home, adoptive home or foster/adoptive home  
71 within the time periods specified in this subsection or in  
72 subsection (4) of this section. In furthering this goal, the  
73 department shall establish policy and procedures designed to  
74 appropriately place children in permanent homes, the policy to  
75 include a system of reviews for all children in foster care, as  
76 follows: foster care counselors in the department shall make all  
77 possible contact with the child's natural parent(s), custodial  
78 parent(s) of all siblings of the child, and any interested  
79 relative for the first two (2) months following the child's entry  
80 into the foster care system. For purposes of contacting custodial  
81 parent(s) of a sibling, siblings include those who are considered  
82 a sibling under state law, and those who would have been  
83 considered a sibling under state law, except for termination or  
84 disruption of parental rights. For any child who has been in  
85 foster care for fifteen (15) of the last twenty-two (22) months  
86 regardless of whether the foster care was continuous for all of  
87 those twenty-two (22) months, the department shall file a petition  
88 to terminate the parental rights of the child's parents. The time  
89 period starts to run from the date the court makes a finding of  
90 abuse and/or neglect or sixty (60) days from when the child was  
91 removed from his or her home, whichever is earlier. The



92 department can choose not to file a termination of parental rights  
93 petition if the following apply:

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

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

103 (4) In the case of any child who is placed in foster care on  
104 or after July 1, 1998, except in cases of aggravated circumstances  
105 prescribed in Section 43-21-603(7)(c) or (d), the child's natural  
106 parent(s) will have a reasonable time to be determined by the  
107 court, which shall not exceed a six-month period of time, in which  
108 to meet the service agreement with the department for the benefit  
109 of the child unless the department has documented extraordinary  
110 and compelling reasons for extending the time period in the best  
111 interest of the child. If this agreement has not been  
112 satisfactorily met, simultaneously the child will be referred to  
113 the appropriate court for termination of parental rights and  
114 placement in a permanent relative's home, adoptive home or a  
115 foster/adoptive home. For children under the age of three (3)  
116 years, termination of parental rights shall be initiated within



117 six (6) months, unless the department has documented compelling  
118 and extraordinary circumstances, and placement in a permanent  
119 relative's home, adoptive home or foster/adoptive home within two  
120 (2) months. For children who have been abandoned under the  
121 provisions of Section 97-5-1, termination of parental rights shall  
122 be initiated within thirty (30) days and placement in an adoptive  
123 home shall be initiated without necessity for placement in a  
124 foster home. The department need not initiate termination of  
125 parental rights proceedings where the child has been placed in  
126 durable legal custody or long-term or formalized foster care by a  
127 court of competent jurisdiction.

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

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

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

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

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



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

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

151           Each child's review plan once every six (6) months shall be  
152 filed with the court which awarded custody and shall be made  
153 available to natural parents or foster parents upon approval of  
154 the court. The court shall make a finding as to the degree of  
155 compliance by the agency and the parent(s) with the child's social  
156 service plan. The court also shall find that the child's health  
157 and safety are the paramount concern. In the interest of the  
158 child, the court shall, where appropriate, initiate proceedings on  
159 its own motion. The Department of Human Services shall report to  
160 the Legislature as to the number of those children, the findings  
161 of the foster care review board and relevant statistical  
162 information in foster care in a semiannual report to the  
163 Legislature to be submitted to the Joint Oversight Committee of  
164 the Department of Human Services. The report shall not refer to  
165 the specific name of any child in foster care.



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

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





190           (8) The Legislature recognizes that the best interests of  
191 the child require that the child be placed in the most permanent  
192 living arrangement as soon as is practicably possible. To achieve  
193 this goal, the Department of Human Services is directed to conduct  
194 concurrent planning so that a permanent living arrangement may  
195 occur at the earliest opportunity. Permanent living arrangements  
196 may include prevention of placement of a child outside the home of  
197 the family when the child can be cared for at home without  
198 endangering the child's health or safety; reunification with the  
199 family, when safe and appropriate, if temporary placement is  
200 necessary; or movement of the child toward the most permanent  
201 living arrangement and permanent legal status. When a child is  
202 placed in foster care or relative care, the department shall first  
203 ensure and document that reasonable efforts were made to prevent  
204 or eliminate the need to remove the child from the child's home.  
205 The department's first priority shall be to make reasonable  
206 efforts to reunify the family when temporary placement of the  
207 child occurs or shall request a finding from the court that  
208 reasonable efforts are not appropriate or have been unsuccessful.  
209 A decision to place a child in foster care or relative care shall  
210 be made with consideration of the child's health, safety and best  
211 interests. At the time of placement, consideration should also be  
212 given so that if reunification fails or is delayed, the placement  
213 made is the best available placement to provide a permanent living  
214 arrangement for the child. The department shall adopt rules



215 addressing concurrent planning for reunification and a permanent  
216 living arrangement. The department shall consider the following  
217 factors when determining appropriateness of concurrent planning:

218 (a) The likelihood of prompt reunification;

219 (b) The past history of the family;

220 (c) The barriers to reunification being addressed by  
221 the family;

222 (d) The level of cooperation of the family;

223 (e) The foster parents' willingness to work with the  
224 family to reunite;

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

228 (g) The age of the child; and

229 (h) Placement of siblings.

230 (9) If the department has placed a child in foster care or  
231 relative care under a court order, the department may not change  
232 the child's placement unless the department specifically documents  
233 to the court that the current placement is unsafe or unsuitable or  
234 that another placement is in the child's best interests unless the  
235 new placement is in an adoptive home or other permanent placement.  
236 Except in emergency circumstances as determined by the department  
237 or where the court orders placement of the child under Section  
238 43-21-303, the foster parents, grandparents or other relatives of  
239 the child shall be given an opportunity to contest the specific



240 reasons documented by the department at least seventy-two (72)  
241 hours before any such departure, and the court may conduct a  
242 review of that placement unless the new placement is in an  
243 adoptive home or other permanent placement. When a child is  
244 returned to foster care or relative care, the former foster  
245 parents or relative placement shall be given the prior right of  
246 return placement in order to eliminate additional trauma to the  
247 child.

248 (10) The Department of Human Services shall provide the  
249 foster parents, grandparents or other relatives with at least a  
250 seventy-two-hour notice of departure for any child placed in their  
251 foster care or relative care, except in emergency circumstances as  
252 determined by the department or where the court orders placement  
253 of the child under Section 43-21-303. The parent/legal guardian,  
254 grandparents of the child, guardian ad litem and the court  
255 exercising jurisdiction shall be notified in writing when the  
256 child leaves foster care or relative care placement, regardless of  
257 whether the child's departure was planned or unplanned. The only  
258 exceptions to giving a written notice to the parent(s) are when a  
259 parent has voluntarily released the child for adoption or the  
260 parent's legal rights to the child have been terminated through  
261 the appropriate court with jurisdiction.

262 (11) The Department of Human Services shall extend the  
263 following rights to persons who provide foster care and relative  
264 care:



265 (a) A clear understanding of their role while providing  
266 care and the roles of the birth parent(s) and the placement agency  
267 in respect to the child in 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 information  
273 based on their day-to-day knowledge of the child in care;

274 (d) Support from the family protection worker or the  
275 family protection specialist in efforts to do a better day-to-day  
276 job in caring for the child and in working to achieve the agency's  
277 objectives for the child and the birth family through provision  
278 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 family  
284 protection worker or specialist and the child, previously  
285 discussed and understood by the foster parents;

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 education in caring for the child;



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

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

295 (i) Reimbursement for property damages caused by  
296 children in the custody of the Department of Human Services in an  
297 amount not to exceed Five Hundred Dollars (\$500.00), as evidenced  
298 by written documentation. The Department of Human Services shall  
299 not incur liability for any damages as a result of providing this  
300 reimbursement.

301 (12) The Department of Human Services shall require the  
302 following responsibilities from participating persons who provide  
303 foster care and relative care:

304 (a) Understanding the department's function in regard  
305 to the foster care and relative care program and related social  
306 service programs;

307 (b) Sharing with the department any information which  
308 may contribute to the care of children;

309 (c) Functioning within the established goals and  
310 objectives to improve the general welfare of the child;

311 (d) Recognizing the problems in home placement that  
312 will require professional advice and assistance and that such help  
313 should be utilized to its full potential;



314 (e) Recognizing that the family who cares for the child  
315 will be one of the primary resources for preparing a child for any  
316 future plans that are made, including return to birth parent(s),  
317 termination of parental rights or reinstitutionalization;

318 (f) Expressing their view of agency practices which  
319 relate to the child with the appropriate staff member;

320 (g) Understanding that all information shared with the  
321 persons who provide foster care or relative care about the child  
322 and his/her birth parent(s) must be held in the strictest of  
323 confidence;

324 (h) Cooperating with any plan to reunite the child with  
325 his birth family and work with the birth family to achieve this  
326 goal; and

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

331 **SECTION 2.** This act shall take effect and be in force from  
332 and after July 1, 2015.

