

By: Senator(s) Parker, Hill, Hudson, Watson, To: Judiciary, Division A
McDaniel, Dearing

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2493

1 AN ACT TO CREATE THE SUPPORTING AND STRENGTHENING FAMILIES
2 ACT; TO CREATE NEW SECTION 93-31-1, MISSISSIPPI CODE OF 1972, TO
3 CREATE A SHORT TITLE; TO CREATE NEW SECTION 93-31-3, MISSISSIPPI
4 CODE OF 1972, TO CREATE A TEMPORARY POWER OF ATTORNEY TO PROVIDE
5 FOR DELEGATION BY A PARENT OR GUARDIAN OF THE AUTHORITY OF CARE
6 AND CUSTODY OF A CHILD; TO ENACT A TIME LIMIT, EXCEPTIONS TO THE
7 POWER, AND FOR RESCINDING THE POWER OF ATTORNEY; TO CREATE NEW
8 SECTION 93-31-5, MISSISSIPPI CODE OF 1972, TO SPECIFY A FORM AND
9 MINIMUM REQUIREMENTS FOR THE POWER OF ATTORNEY; TO CREATE NEW
10 SECTION 93-31-7, MISSISSIPPI CODE OF 1972, TO EXEMPT
11 ATTORNEYS-IN-FACT FROM CERTAIN LICENSURE REQUIREMENTS; TO AMEND
12 SECTIONS 43-15-111 AND 43-16-3, MISSISSIPPI CODE OF 1972, TO
13 CONFORM; TO AMEND SECTION 43-21-353, MISSISSIPPI CODE OF 1972, TO
14 REQUIRE CERTAIN INFORMATION BE PROVIDED TO PARENTS AND GUARDIANS
15 IN UNSUBSTANTIATED CASES; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** The following shall be codified as Section
18 93-31-1, Mississippi Code of 1972:

19 93-31-1. Sections 1 through 4 of this act shall be known and
20 may be cited as the Supporting and Strengthening Families Act.

21 **SECTION 2.** The following shall be codified as Section
22 93-31-3, Mississippi Code of 1972:

23 93-31-3. (1) (a) A parent or legal custodian of a child,
24 by means of a properly executed power of attorney as provided in



25 Section 3 of this act, may delegate to another willing person or
26 persons as attorney-in-fact any of the powers regarding the care
27 and custody of the child other than the following:

28 (i) The power to consent to marriage or adoption
29 of the child;

30 (ii) The performance or inducement of an abortion
31 on or for the child; or

32 (iii) The termination of parental rights to the
33 child.

34 (b) A delegation of powers under this section does not:

35 (i) Change or modify any parental or legal rights,
36 obligations, or authority established by an existing court order;

37 (ii) Deprive any custodial or noncustodial parent
38 or legal guardian of any parental or legal rights, obligations, or
39 authority regarding the custody, visitation, or support of the
40 child; or

41 (iii) Affect a court's ability to determine the
42 best interests of a child.

43 (c) If both parents are living and have shared custody
44 as a matter of law or under an existing court order, both parents
45 must execute the power of attorney.

46 (d) A power of attorney under this act that names an
47 attorney-in-fact who is not an adult grandparent, aunt, uncle or
48 sibling of the child must be facilitated by either a child welfare
49 agency that is licensed to place children for adoption and that is



50 operating under the Safe Families for Children model or another
51 charitable organization that is operating under the Safe Families
52 for Children model. A full criminal history and child abuse and
53 neglect background check must be conducted on any person who is
54 not a grandparent, aunt, uncle, or adult sibling of the child
55 before the execution of the power of attorney and who is over the
56 age of fifteen (15) who resides in the home of the designated
57 attorney-in-fact.

58 (2) The parent or legal custodian of the child has the
59 authority to revoke or withdraw the power of attorney authorized
60 by this section at any time. Upon the termination, expiration, or
61 revocation of the power of attorney, the child must be returned to
62 the custody of the parent or legal custodian as soon as reasonably
63 possible.

64 (3) Until the authority expires or is revoked or withdrawn
65 by the parent or legal custodian, the attorney-in-fact shall
66 exercise parental or legal authority on a continuous basis without
67 compensation for the duration of the power of attorney.

68 (4) The execution of a power of attorney by a parent or
69 legal custodian does not, in the absence of other evidence,
70 constitute abandonment, desertion, abuse, neglect, or any evidence
71 of unfitness as a parent unless the parent or legal custodian
72 fails to take custody of the child or execute a new power of
73 attorney after the one-year time limit, or after a longer time
74 period as allowed for a serving parent, has elapsed. Nothing in



75 this subsection prevents the Department of Human Services or law
76 enforcement from investigating allegations of abuse, abandonment,
77 desertion, neglect or other mistreatment of a child.

78 (5) When the custody of a child is transferred by a power of
79 attorney under this act, the child is not considered to have been
80 placed in foster care and the attorney-in-fact will not be subject
81 to any of the requirements or licensing regulations for foster
82 care or other regulations relating to out-of-home care for
83 children and will not be subject to any statutes or regulations
84 dealing with the licensing or regulation of foster care homes.

85 (6) (a) "Serving parent" means a parent who is a member of
86 the Armed Forces of the United States, including any reserve
87 component thereof, or the National Oceanic and Atmospheric
88 Administration Commissioned Officer Corps or the Public Health
89 Service of the United States Department of Health and Human
90 Services detailed by proper authority for duty with the Armed
91 Forces of the United States, or who is required to enter or serve
92 in the active military service of the United States under a call
93 or order of the President of the United States or to serve on
94 state active duty.

95 (b) A serving parent may delegate the powers designated
96 in subsection (1) of this section for longer than one (1) year if
97 on active-duty service or if scheduled to be on active-duty
98 service. The term of delegation, however, may not exceed the term
99 of active-duty service plus thirty (30) days.



125 minor child named above, including, but not limited to, the right
126 to enroll the child in school, inspect and obtain copies of
127 education records and other records concerning the child, the
128 right to attend school activities and other functions concerning
129 the child, and the right to give or withhold any consent or waiver
130 with respect to school activities, medical and dental treatment,
131 and any other activity, function or treatment that may concern the
132 child. This delegation shall not include the power or authority
133 to consent to marriage or adoption of the child, the performance
134 or inducement of an abortion on or for the child, or the
135 termination of parental rights to the child.

136 OR

137 (b) I delegate to the attorney-in-fact the following
138 specific powers and responsibilities (write in):

139 _____

140 [If Section 3(b) is completed, Section 3(a) does not apply.]

141 This delegation shall not include the power or authority to
142 consent to: marriage or adoption of the child, performing or
143 inducing an abortion on or for the child, or the termination of
144 parental rights to the child.

145 [Complete either 4(a) or 4(b)]

146 4. (a) This power of attorney is effective for a period not
147 to exceed one (1) year, beginning , _____, 20____, and
148 ending _____, 20____. I reserve the right to revoke this
149 authority at any time.



150 OR

151 [Complete either 4(a) or 4(b)]

152 (b) I am a serving parent as defined in Section
153 93-31-3, Mississippi Code of 1972. My active-duty service is
154 scheduled to begin on _____, 20____, and is estimated to
155 end on _____, 20____. I reserve the right to revoke this
156 authority at any time. I acknowledge that in no event may this
157 delegation of power last more than one (1) year or the term of my
158 active duty plus thirty (30) days, whichever is longer.

159 By: _____
160 (Parent/Legal Custodian signature)

161 5. I hereby accept my designation as attorney-in-fact for
162 the minor child/children specified in this power of attorney.

163 _____
164 (Attorney-in-fact signature)

165 State of _____
166 County of _____

167 ACKNOWLEDGEMENT

168 Before me, the undersigned, a Notary Public, in and for said
169 county and state on this ____ day of _____, 20____,
170 personally appeared _____ (Name of Parent/Legal
171 Custodian) and _____ (Name of Attorney-in-fact),
172 known to me to be the persons who executed this instrument and who
173 acknowledged to me that each executed the same as his or her free



174 and voluntary act and deed for the uses and purposes set forth in
175 the instrument.

176 Witness my hand and official seal the day and year above
177 written.

178 _____
179 (Signature of notarial officer)

180 (Seal, if any)

181 _____

182 (Title and Rank)

183 My commission expires: _____"

184 (2) A power of attorney that substantially conforms to the
185 form set forth in this section is legally sufficient if the form
186 is properly completed and acknowledged.

187 **SECTION 4.** The following shall be codified as Section
188 93-31-7, Mississippi Code of 1972:

189 93-31-7. When authority is delegated under Section 2 of this
190 act by a parent or guardian, the attorney-in-fact is not subject
191 to the requirements of any other child care facility licensing
192 statutes or foster care licensing statutes, and delivery of
193 custody to the attorney-in-fact will not constitute an out-of-home
194 child placement under Title 43, Mississippi Code of 1972.

195 **SECTION 5.** Section 43-15-111, Mississippi Code of 1972, is
196 amended as follows:

197 43-15-111. The provisions of this article do not apply to:



198 (* * *a) A facility or program owned or operated by an
199 agency of the State of Mississippi or United States government;

200 (* * *b) A facility or program operated by or under an
201 exclusive contract with the Department of Corrections;

202 (* * *c) Schools and educational programs and
203 facilities, the primary purpose of which is to provide a regular
204 course of study necessary for advancement to a higher educational
205 level or completion of a prescribed course of study, and which
206 may, incident to such educational purposes, provide boarding
207 facilities to the students of such programs.

208 (* * *d) Any residential child-caring agency and/or
209 child-placing agency operated or conducted under the auspices of a
210 religious institution and meeting the requirements or conditions
211 of this section shall be exempt from the licensure requirements of
212 this article under the following conditions: (* * *i) such
213 religious institution must have a tax-exempt status as a nonprofit
214 religious institution in accordance with Section 501(c) of the
215 Internal Revenue Code of 1954, as amended, or the real property
216 owned and exclusively occupied by the religious institution must
217 be exempt from location taxation, and (* * *ii) the agency or
218 institution must be in compliance with the requirements of the
219 Child Residential Home Notification Act, Section 43-16-1 et seq.,
220 Mississippi Code of 1972, and must not be in violation of Section
221 43-16-21(c) regarding the abuse and/or neglect of any child served
222 by such home who has been adjudicated by the youth court as an



223 abused and/or neglected child. Nothing in this subsection shall
224 prohibit a residential child-caring agency or child-placing agency
225 operated by or conducted under the auspices of a religious
226 institution from obtaining a license pursuant to this article.

227 (e) Placement of custody under a power of attorney
228 executed under Section 93-31-1 et seq.

229 **SECTION 6.** Section 43-16-3, Mississippi Code of 1972, is
230 amended as follows:

231 43-16-3. As used in this chapter, the following definitions
232 shall apply unless the context clearly provides otherwise:

233 (a) "Child" means a person who has not reached the age
234 of eighteen (18) years or who has not otherwise been legally
235 emancipated.

236 (b) "Child residential home" means any place, facility
237 or home operated by any person which receives children who are not
238 related to the operators and whose parents or guardians are not
239 residents of the same facility for supervision, care, lodging and
240 maintenance for twenty-four (24) hours a day, with or without
241 transfer of custody. This term * * * does not include:

242 (i) Residential homes * * * licensed by the * * *
243 Department of Human Services under * * * Section 43-15-5 * * *;

244 (ii) Any public school * * *;

245 (iii) Any * * * home operated by a state
246 agency * * *;



247 (iv) Child care facilities as defined in Section
248 43-20-5 * * *;

249 (v) Youth camps as defined in Section
250 75-74-3 * * *;

251 (vi) Health care facilities licensed by the State
252 Department of Health * * *; or

253 (vii) The home of an attorney-in-fact operating
254 under a power of attorney executed under Section 93-31-1 et seq.

255 (c) "Department" shall mean the State Department of
256 Health.

257 (d) "Person" shall include an individual, partnership,
258 organization, association or corporation.

259 **SECTION 7.** Section 43-21-353, Mississippi Code of 1972, is
260 amended as follows:

261 43-21-353. (1) Any attorney, physician, dentist, intern,
262 resident, nurse, psychologist, social worker, family protection
263 worker, family protection specialist, child caregiver, minister,
264 law enforcement officer, public or private school employee or any
265 other person having reasonable cause to suspect that a child is a
266 neglected child or an abused child, shall cause an oral report to
267 be made immediately by telephone or otherwise and followed as soon
268 thereafter as possible by a report in writing to the Department of
269 Human Services, and immediately a referral shall be made by the
270 Department of Human Services to the youth court intake unit, which
271 unit shall promptly comply with Section 43-21-357. In the course



272 of an investigation, at the initial time of contact with the
273 individual(s) about whom a report has been made under this Youth
274 Court Act or with the individual(s) responsible for the health or
275 welfare of a child about whom a report has been made under this
276 chapter, the Department of Human Services shall inform the
277 individual of the specific complaints or allegations made against
278 the individual. Consistent with subsection (4), the identity of
279 the person who reported his or her suspicion shall not be
280 disclosed. Where appropriate, the Department of Human Services
281 shall additionally make a referral to the youth court prosecutor.

282 Upon receiving a report that a child has been sexually
283 abused, or burned, tortured, mutilated or otherwise physically
284 abused in such a manner as to cause serious bodily harm, or upon
285 receiving any report of abuse that would be a felony under state
286 or federal law, the Department of Human Services shall immediately
287 notify the law enforcement agency in whose jurisdiction the abuse
288 occurred and shall notify the appropriate prosecutor within
289 forty-eight (48) hours, and the Department of Human Services shall
290 have the duty to provide the law enforcement agency all the names
291 and facts known at the time of the report; this duty shall be of a
292 continuing nature. The law enforcement agency and the Department
293 of Human Services shall investigate the reported abuse immediately
294 and shall file a preliminary report with the appropriate
295 prosecutor's office within twenty-four (24) hours and shall make
296 additional reports as new or additional information or evidence



297 becomes available. The Department of Human Services shall advise
298 the clerk of the youth court and the youth court prosecutor of all
299 cases of abuse reported to the department within seventy-two (72)
300 hours and shall update such report as information becomes
301 available.

302 (2) Any report to the Department of Human Services shall
303 contain the names and addresses of the child and his parents or
304 other persons responsible for his care, if known, the child's age,
305 the nature and extent of the child's injuries, including any
306 evidence of previous injuries and any other information that might
307 be helpful in establishing the cause of the injury and the
308 identity of the perpetrator.

309 (3) The Department of Human Services shall maintain a
310 statewide incoming wide-area telephone service or similar service
311 for the purpose of receiving reports of suspected cases of child
312 abuse; provided that any attorney, physician, dentist, intern,
313 resident, nurse, psychologist, social worker, family protection
314 worker, family protection specialist, child caregiver, minister,
315 law enforcement officer or public or private school employee who
316 is required to report under subsection (1) of this section shall
317 report in the manner required in subsection (1).

318 (4) Reports of abuse and neglect made under this chapter and
319 the identity of the reporter are confidential except when the
320 court in which the investigation report is filed, in its
321 discretion, determines the testimony of the person reporting to be



322 material to a judicial proceeding or when the identity of the
323 reporter is released to law enforcement agencies and the
324 appropriate prosecutor pursuant to subsection (1). Reports made
325 under this section to any law enforcement agency or prosecutorial
326 officer are for the purpose of criminal investigation and
327 prosecution only and no information from these reports may be
328 released to the public except as provided by Section 43-21-261.
329 Disclosure of any information by the prosecutor shall be according
330 to the Mississippi Uniform Rules of Circuit and County Court
331 Procedure. The identity of the reporting party shall not be
332 disclosed to anyone other than law enforcement officers or
333 prosecutors without an order from the appropriate youth court.
334 Any person disclosing any reports made under this section in a
335 manner not expressly provided for in this section or Section
336 43-21-261, shall be guilty of a misdemeanor and subject to the
337 penalties prescribed by Section 43-21-267.

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



347 (a) The name and address of the child;
348 (b) The names and addresses of the parents;
349 (c) The name and address of the suspected perpetrator;
350 (d) The names and addresses of all witnesses, including
351 the reporting party if a material witness to the abuse;
352 (e) A brief statement of the facts indicating that the
353 child has been abused and any other information from the agency
354 files or known to the family protection worker or family
355 protection specialist making the investigation, including medical
356 records or other records, which may assist law enforcement or the
357 district attorney in investigating and/or prosecuting the case;
358 and
359 (f) What, if any, action is being taken by the
360 Department of Human Services.

361 (6) In any investigation of a report made under this chapter
362 of the abuse or neglect of a child as defined in Section
363 43-21-105(m), the Department of Human Services may request the
364 appropriate law enforcement officer with jurisdiction to accompany
365 the department in its investigation, and in such cases the law
366 enforcement officer shall comply with such request.

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



371 (8) If a report is made directly to the Department of Human
372 Services that a child has been abused or neglected in an
373 out-of-home setting, a referral shall be made immediately to the
374 law enforcement agency in whose jurisdiction the abuse occurred
375 and the department shall notify the district attorney's office
376 within forty-eight (48) hours of such report. The Department of
377 Human Services shall investigate the out-of-home setting report of
378 abuse or neglect to determine whether the child who is the subject
379 of the report, or other children in the same environment, comes
380 within the jurisdiction of the youth court and shall report to the
381 youth court the department's findings and recommendation as to
382 whether the child who is the subject of the report or other
383 children in the same environment require the protection of the
384 youth court. The law enforcement agency shall investigate the
385 reported abuse immediately and shall file a preliminary report
386 with the district attorney's office within forty-eight (48) hours
387 and shall make additional reports as new information or evidence
388 becomes available. If the out-of-home setting is a licensed
389 facility, an additional referral shall be made by the Department
390 of Human Services to the licensing agency. The licensing agency
391 shall investigate the report and shall provide the Department of
392 Human Services, the law enforcement agency and the district
393 attorney's office with their written findings from such
394 investigation as well as that licensing agency's recommendations
395 and actions taken.



396 (9) If a child protective investigation does not result in
397 an out-of-home placement, a child protective investigator must
398 provide information to the parent or guardians about community
399 service programs that provide respite care, voluntary guardianship
400 or other support services for families in crisis.

401 **SECTION 8.** This act shall take effect and be in force from
402 and after July 1, 2016.

