

By: Representatives Dixon, Touchstone

To: Youth and Family
Affairs; Accountability,
Efficiency, Transparency

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1013

1 AN ACT TO AMEND SECTIONS 7-9-41, 7-9-43, 11-46-1, 11-46-8,
2 25-65-5, 37-23-69, 37-23-77, 37-106-69, 37-115-43, 41-3-18,
3 41-7-173, 41-21-67, 41-67-12, 43-15-5, 43-15-103, 43-15-105,
4 43-15-107, 43-15-109, 43-15-113, 43-15-115, 43-15-117, 43-15-119,
5 43-15-121, 43-15-125, 43-16-3, 43-16-21, 43-18-5, 43-20-8,
6 43-21-105, 43-21-257, 43-21-261, 43-21-301, 43-21-303, 43-21-351,
7 43-21-353, 43-21-354, 43-21-357, 43-21-603, 43-21-609, 43-21-613,
8 43-27-101, 43-27-103, 93-5-23, 93-17-3, 93-17-5, 93-17-8,
9 93-17-11, 93-17-12, 93-17-53, 93-17-57, 93-17-59, 93-17-61,
10 93-17-63, 93-17-65, 93-17-67, 93-17-69, 93-17-101, 93-17-103,
11 93-17-107, 93-17-109, 93-17-203, 93-21-307, 93-31-3, 97-3-54.1,
12 97-5-24, 97-5-51 AND 97-29-49 MISSISSIPPI CODE OF 1972, TO MAKE
13 TECHNICAL AMENDMENTS TO CERTAIN PROVISIONS OF LAW PERTAINING TO
14 THE DEPARTMENT OF HUMAN SERVICES AND THE DEPARTMENT OF CHILD
15 PROTECTION SERVICES TO ACCURATELY REFLECT THE SEPARATION OF THE
16 DEPARTMENT OF CHILD PROTECTION SERVICES FROM THE DEPARTMENT OF
17 HUMAN SERVICES; TO AMEND SECTION 25-9-127, MISSISSIPPI CODE OF
18 1972, TO EXEMPT PERSONNEL ACTIONS OF THE DEPARTMENT OF CHILD
19 PROTECTION SERVICES FROM THE RULES AND REGULATIONS OF THE STATE
20 PERSONNEL BOARD FOR A PERIOD OF ONE YEAR; TO CREATE NEW SECTION
21 43-26-5, MISSISSIPPI CODE OF 1972, TO GIVE THE DEPARTMENT OF CHILD
22 PROTECTION SERVICES CERTAIN POWERS AND DUTIES; TO CREATE NEW
23 SECTION 43-26-3, MISSISSIPPI CODE OF 1972, TO GIVE THE
24 COMMISSIONER OF THE DEPARTMENT OF CHILD PROTECTION SERVICES
25 CERTAIN POWERS AND DUTIES; AND FOR RELATED PURPOSES.

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

27 **SECTION 1.** Section 7-9-41, Mississippi Code of 1972, is
28 amended as follows:



29 7-9-41. (1) All support and maintenance funds appropriated
30 for the operating expenses of all departments, institutions,
31 agencies, boards and commissions, supported wholly or in part by
32 the state, shall be drawn from the State Treasury only upon the
33 issuance of individual warrants by the State Fiscal Officer in
34 direct payment for goods sold or services performed, except where
35 specifically provided otherwise in these statutes. The said State
36 Fiscal Officer shall issue his warrants only upon requisitions
37 signed by the proper person, officer or officers.

38 (2) In the case of the state institutions of higher
39 learning, meeting with the written approval of the State Fiscal
40 Officer, such funds may be drawn from the Treasury in the manner
41 prescribed hereinbelow, and when such system of withdrawal is
42 approved by the State Fiscal Officer, it shall not be changed
43 except on the approval of both said parties.

44 The executive heads, together with the secretary or other
45 person in charge of the books and accounts, of the state
46 institutions of higher learning, if they receive such written
47 approval, shall make up, in the form prescribed by the State
48 Fiscal Officer and the State Treasurer, checklists of all
49 salaries, accounts, bills, contracts and claims which shall have
50 accrued during the month. Based upon such statement and in
51 company with it, the state institutions of higher learning,
52 through their proper officers, shall make requisition upon the
53 State Fiscal Officer for only so much money as shall then be



54 needed to pay salaries, accounts, bills, contracts and claims
55 which may then be due, together with a reasonable amount for
56 contingent expenses.

57 Such requisitions may be drawn upon the State Fiscal
58 Officer's accounts, who shall draw its warrants on the Treasurer
59 from time to time as required, payable to the official depository
60 provided in Section 7-9-43. In the case of special appropriations
61 made for buildings and permanent improvements, repairs, furniture,
62 fixtures, and special supplies, and in all cases where it is not
63 practicable to furnish a detailed statement, such funds may be
64 drawn in installments at such times and in such amounts as
65 necessity may require, and the requisitions for same must be
66 accompanied by a general statement of the proposed purchases and
67 expenditures.

68 In all cases where such lump-sum payments are authorized and
69 paid as provided in this section, the proper officer or officers
70 of the state institutions of higher learning shall make such
71 additional reports to the State Fiscal Officer in the manner and
72 at such times as he may require. Such reports shall also include
73 other funds coming into the possession of or for the use and
74 benefit of the state institutions of higher learning, whether such
75 funds are regularly handled through the State Treasury or not.

76 (3) In the case of the * * * Department of Human Services
77 and the Department of Child Protection Services, lump-sum
78 withdrawals may only be made as provided for in subsection (2) of



79 this section for payments to recipients of services provided by
80 the department.

81 **SECTION 2.** Section 7-9-43, Mississippi Code of 1972, is
82 amended as follows:

83 7-9-43. The state institutions of higher learning * * *, the
84 Department of Human Services and the Department of Child
85 Protection Services, after receiving the written approval of the
86 State Fiscal Officer as provided in Section 7-9-41, shall select
87 and make a contract with some bank to serve as a depository for
88 funds of the same. Said bank so selected shall qualify to receive
89 said fund and secure the same as required of state depositories
90 under Section 27-105-5 before receiving any funds, except as
91 herein noted in the case of private hospitals. The life of said
92 contract with a depository shall be for five (5) years. Each bank
93 shall enter into a written contract, the terms of which shall be
94 to perform faithfully all acts and duties required of it by this
95 and other laws of the state. As such depository, it shall receive
96 and keep account of all funds and pay out same on the check of the
97 secretary or business manager, countersigned by the president or
98 chairman of the board or institution. Such bank shall receive,
99 keep, disburse and account for all funds of the Department of
100 Human Services, the Department of Child Protection Services and
101 such state institutions of higher learning for which it shall be a
102 depository, and turn over all funds and accounts to its legal



103 successor, provided all private hospitals shall be exempted from
104 providing depositories.

105 All books, accounts and reports made thereon for any funds
106 shall conform to the requirements of the General Accounting
107 Office, and shall be filed with the said General Accounting
108 Office.

109 **SECTION 3.** Section 11-46-1, Mississippi Code of 1972, is
110 amended as follows:

111 11-46-1. As used in this chapter, the following terms shall
112 have the meanings ascribed unless the context otherwise requires:

113 (a) "Claim" means any demand to recover damages from a
114 governmental entity as compensation for injuries.

115 (b) "Claimant" means any person seeking compensation
116 under the provisions of this chapter, whether by administrative
117 remedy or through the courts.

118 (c) "Board" means the Mississippi Tort Claims Board.

119 (d) "Department" means the Department of Finance and
120 Administration.

121 (e) "Director" means the executive director of the
122 department who is also the executive director of the board.

123 (f) "Employee" means any officer, employee or servant
124 of the State of Mississippi or a political subdivision of the
125 state, including elected or appointed officials and persons acting
126 on behalf of the state or a political subdivision in any official
127 capacity, temporarily or permanently, in the service of the state



128 or a political subdivision whether with or without compensation,
129 including firefighters who are members of a volunteer fire
130 department that is a political subdivision. The term "employee"
131 shall not mean a person or other legal entity while acting in the
132 capacity of an independent contractor under contract to the state
133 or a political subdivision; and

134 (i) For purposes of the limits of liability
135 provided for in Section 11-46-15, the term "employee" shall
136 include:

137 1. Physicians under contract to provide
138 health services with the State Board of Health, the State Board of
139 Mental Health or any county or municipal jail facility while
140 rendering services under the contract;

141 2. Any physician, dentist or other health
142 care practitioner employed by the University of Mississippi
143 Medical Center (UMMC) and its departmental practice plans who is a
144 faculty member and provides health care services only for patients
145 at UMMC or its affiliated practice sites;

146 3. Any physician, dentist or other health
147 care practitioner employed by any university under the control of
148 the Board of Trustees of State Institutions of Higher Learning who
149 practices only on the campus of any university under the control
150 of the Board of Trustees of State Institutions of Higher Learning;

151 4. Any physician, dentist or other health
152 care practitioner employed by the State Veterans Affairs Board and



153 who provides health care services for patients for the State
154 Veterans Affairs Board;

155 (ii) The term "employee" shall also include
156 Mississippi Department of * * * Child Protection Services licensed
157 foster parents for the limited purposes of coverage under the Tort
158 Claims Act as provided in Section 11-46-8; and

159 (iii) The term "employee" also shall include any
160 employee or member of the governing board of a charter school but
161 shall not include any person or entity acting in the capacity of
162 an independent contractor to provide goods or services under a
163 contract with a charter school.

164 (g) "Governmental entity" means the state and political
165 subdivisions.

166 (h) "Injury" means death, injury to a person, damage to
167 or loss of property or any other injury that a person may suffer
168 that is actionable at law or in equity.

169 (i) "Political subdivision" means any body politic or
170 body corporate other than the state responsible for governmental
171 activities only in geographic areas smaller than that of the
172 state, including, but not limited to, any county, municipality,
173 school district, charter school, volunteer fire department that is
174 a chartered nonprofit corporation providing emergency services
175 under contract with a county or municipality, community hospital
176 as defined in Section 41-13-10, airport authority, or other
177 instrumentality of the state, whether or not the body or



178 instrumentality has the authority to levy taxes or to sue or be
179 sued in its own name.

180 (j) "State" means the State of Mississippi and any
181 office, department, agency, division, bureau, commission, board,
182 institution, hospital, college, university, airport authority or
183 other instrumentality thereof, whether or not the body or
184 instrumentality has the authority to levy taxes or to sue or be
185 sued in its own name.

186 (k) "Law" means all species of law, including, but not
187 limited to, any and all constitutions, statutes, case law, common
188 law, customary law, court order, court rule, court decision, court
189 opinion, court judgment or mandate, administrative rule or
190 regulation, executive order, or principle or rule of equity.

191 **SECTION 4.** Section 11-46-8, Mississippi Code of 1972, is
192 amended as follows:

193 11-46-8. Mississippi Department of * * * Child Protection
194 Services licensed foster parents shall be covered under this
195 chapter for claims made by parties other than the foster child
196 which are based on inadequate supervision or inadequate care of
197 the foster child on the part of the foster parent.

198 **SECTION 5.** Section 25-65-5, Mississippi Code of 1972, is
199 amended as follows:

200 25-65-5. The following words and phrases shall have the
201 meanings ascribed herein, unless the context clearly indicates
202 otherwise:



203 (a) "University" means and includes Alcorn State
204 University, Delta State University, Jackson State University,
205 Mississippi State University, Mississippi State University
206 Agriculture and Forestry Experiment Station, Mississippi State
207 University Cooperative Extension Service, Mississippi State
208 University Forest and Wildlife Research Center, Mississippi State
209 University State Chemical Laboratory, Mississippi University for
210 Women, Mississippi Valley State University, the University of
211 Mississippi, University of Mississippi Medical Center and the
212 University of Southern Mississippi.

213 (b) "Community/Junior college" means and includes
214 Coahoma Community College, Copiah-Lincoln Community College, East
215 Central Community College, East Mississippi Community College,
216 Hinds Community College, Holmes Community College, Itawamba
217 Community College, Jones County Junior College, Meridian Community
218 College, Mississippi Delta Community College, Mississippi Gulf
219 Coast Community College, Northeast Mississippi Community College,
220 Northwest Mississippi Community College, Pearl River Community
221 College and Southwest Mississippi Community College.

222 (c) "State agency" means and includes the Department of
223 Finance and Administration, the State Tax Commission, the
224 Department of Education, the State Department of Health, the
225 Department of Mental Health, the Department of Agriculture and
226 Commerce, the Mississippi Development Authority, the Department of
227 Environmental Quality, the Department of Wildlife, Fisheries and



228 Parks, the Department of Corrections, the Division of Medicaid,
229 the Department of Rehabilitation Services, the Department of
230 Public Safety, the Mississippi Employment Security Commission, the
231 Mississippi Department of Information Technology Services, the
232 Public Employees Retirement System, the Mississippi Department of
233 Transportation, the Mississippi Gaming Commission * * *, the
234 Mississippi Department of Human Services and the Mississippi
235 Department of Child Protection Services.

236 (d) "Agency head" means an elected official who heads
237 an agency, an executive director or a governing board or
238 commission responsible for heading an agency or a president or
239 chancellor of a university or a president of a community/junior
240 college.

241 (e) "Agency internal audit director" means the person
242 appointed by the agency head to direct the internal audit function
243 for the state agency. Where consistent with responsibilities
244 described in this chapter, the term agency internal audit director
245 may also be referred to as inspector general, audit director,
246 chief auditor or similar internal audit administrator
247 descriptions.

248 (f) "Audit committee" means a standing committee
249 external to organization management that collectively has the
250 expertise to provide effective guidance regarding the acquisition
251 and provision of internal audit services and to provide guidance
252 in the provision of those services.



253 **SECTION 6.** Section 37-23-69, Mississippi Code of 1972, is
254 amended as follows:

255 37-23-69. The State Department of Education may determine
256 and pay the amount of the financial assistance to be made
257 available to each applicant, and see that all applicants and the
258 programs for them meet the requirements of the program for
259 exceptional children. No financial assistance shall exceed the
260 obligation actually incurred by the applicant for educational
261 costs, which shall include special education and related services
262 as defined by the Mississippi Department of Education Policies and
263 Procedures Regarding Children with Disabilities under the federal
264 Individuals with Disabilities Education Act (IDEA). Within the
265 amount of available state funds appropriated for that purpose,
266 each such applicant may receive assistance according to the
267 following allowances:

268 (a) If the applicant chooses to attend a private
269 school, a parochial school or a speech, hearing and/or language
270 clinic having an appropriate program for the applicant, and if the
271 school or clinic meets federal and state regulations, then the
272 educational costs reimbursement will be one hundred percent (100%)
273 of the first Six Hundred Dollars (\$600.00) in educational costs
274 charged by the school or clinic; or, if the applicant is under six
275 (6) years of age, and no program appropriate for the child exists
276 in the public schools of his domicile, then the reimbursement
277 shall be one hundred percent (100%) of the first Six Hundred



278 Dollars (\$600.00) in educational costs charged by the school or
279 clinic, and fifty percent (50%) of the next Eight Hundred Dollars
280 (\$800.00) in educational costs charged by the school or clinic;

281 (b) A public school district shall be reimbursed for
282 the educational costs of an applicant up to an annual maximum
283 based on a multiple of the base student cost as determined under
284 the Mississippi Adequate Education Program (MAEP) or other cost
285 factor as determined by the State Board of Education if the
286 following conditions are met: (i) an applicant in the age range
287 six (6) through twenty (20) requests the public school district
288 where he resides to provide an education for him and the nature of
289 the applicant's educational problem is such that, according to
290 best educational practices, it cannot be met in the public school
291 district where the child resides; (ii) the public school district
292 decides to provide the applicant a free appropriate education by
293 placing him in a private school, a parochial school or a speech,
294 hearing and/or language clinic having an appropriate program for
295 the applicant; (iii) the program meets federal and state
296 regulations; and (iv) the applicant is approved for financial
297 assistance by a State Level Review Board established by the State
298 Board of Education. The Review Board will act on financial
299 assistance requests within five (5) working days of receipt.
300 Nothing in this paragraph shall prevent two (2) or more public
301 school districts from forming a cooperative to meet the needs of
302 low incidence exceptional children, nor shall the public school be



303 relieved of its responsibility to provide an education for all
304 children. If state monies are not sufficient to fund all
305 applicants, there will be a ratable reduction for all recipients
306 receiving state funds under this section. School districts may
307 pay additional educational costs from available federal, state and
308 local funds.

309 If an exceptional child, as defined in Section 37-23-3, is
310 placed in a therapeutic or other group home licensed or approved
311 by the state that has no educational program associated with it,
312 the local school district in which the home is located shall offer
313 an appropriate educational program to that child.

314 At any time that the Individualized Education Program (IEP)
315 Committee in the district where the home is located determines
316 that an exceptional child, as defined in Section 37-23-3, residing
317 in that home can no longer be provided a free appropriate public
318 education in that school district, and the State Department of
319 Education agrees with that decision, then the State Department of
320 Education shall recommend to the Department of * * * Child
321 Protection Services placement of the child by the Department
322 of * * * Child Protection Services, which shall take appropriate
323 action. The placement of the exceptional child in the facility
324 shall be at no cost to the local school district. Funds available
325 under Sections 37-23-61 through 37-23-77, as well as any available
326 federal funds, may be used to provide the educational costs of the
327 placement. If the exceptional child is under the guardianship of



328 the Department of * * * Child Protection Services or another state
329 agency, the State Department of Education shall pay only for the
330 educational costs of that placement, and the other agency shall be
331 responsible for the room, board and any other costs. The special
332 education and related services provided to the child shall be in
333 compliance with State Department of Education and any related
334 federal regulations. The State Board of Education may promulgate
335 regulations that are necessary to implement this section; and

336 (c) If an appropriate local or regional system of care,
337 including a free appropriate public education, is available for
338 exceptional children who are currently being served in
339 out-of-district or Department of * * * Child Protection Services
340 placements under Section 37-23-69(b) or 37-23-77, then the state
341 funds from the State Department of Education that would have been
342 used for those placements may be paid into a pool of funds with
343 funds from other state agencies to be used for the implementation
344 of the individualized plans of care for those children. If there
345 are sufficient funds to serve additional exceptional children
346 because of cost savings as a result of serving these students at
347 home and/or matching the pooled funds with federal dollars, the
348 funds may be used to implement individualized plans of care for
349 those additional exceptional children. Each local or regional
350 provider of services included in the individualized plans of care
351 shall comply with all appropriate state and federal regulations.



352 The State Board of Education may promulgate regulations that are
353 necessary to implement this section.

354 The State Department of Education may also provide for the
355 payment of that financial assistance in installments and for
356 proration of that financial assistance in the case of children
357 attending a school or clinic for less than a full school session
358 and, if available funds are insufficient, may allocate the
359 available funds among the qualified applicants and local school
360 districts by reducing the maximum assistance provided for in this
361 section.

362 Any monies provided an applicant under Sections 37-23-61
363 through 37-23-75 shall be applied by the receiving educational
364 institution as a reduction in the amount of the educational costs
365 paid by the applicant, and the total educational costs paid by the
366 applicant shall not exceed the total educational costs paid by any
367 other child in similar circumstances enrolled in the same program
368 in that institution. However, this limitation shall not prohibit
369 the waiving of all or part of the educational costs for a limited
370 number of children based upon demonstrated financial need, and the
371 State Department of Education may adopt and enforce reasonable
372 rules and regulations to carry out the intent of these provisions.

373 **SECTION 7.** Section 37-23-77, Mississippi Code of 1972, is
374 amended as follows:

375 37-23-77. If a child, as defined in Sections 37-23-61 and
376 37-23-63, is under the legal guardianship of the * * * Mississippi



377 Department of * * * Child Protection Services, or any other state
378 agency, and for whom no foster parents are available and no
379 state-funded institution placement is available, funds available
380 under Section 37-23-1 et seq. may be used to provide for the
381 education of the child in an institution approved by the
382 Department of * * * Child Protection Services and the State
383 Department of Education. However, if the educational services
384 needed by the child are available in a state funded institution,
385 these funds shall not be used to pay for educational services at
386 that institution. At any such time a child is taken out of a
387 school setting and placed under the custody of the Department
388 of * * * Child Protection Services, the department shall
389 immediately notify the State Department of Education and apply for
390 funds for the child's educational services under Section 37-23-1
391 et seq. and the State Department of Education shall respond to the
392 application within ten (10) working days. The special education
393 and related services provided for this child shall be provided in
394 compliance with State Department of Education regulations. The
395 State Department of Education shall promulgate such regulations as
396 are necessary to implement this section.

397 The State Department of Education shall require that the
398 special education and related services provided for the children
399 under this section be designed to provide individualized
400 appropriate special education and related services that enable a



401 child to reach his or her appropriate and uniquely designed goals
402 for success.

403 **SECTION 8.** Section 37-106-69, Mississippi Code of 1972, is
404 amended as follows:

405 37-106-69. (1) There is established a forgivable loan
406 program to encourage family protection workers employed by the
407 Department of * * * Child Protection Services to obtain the
408 college education necessary to become licensed as a social worker,
409 master social worker or certified social worker and become a
410 family protection specialist for the department.

411 (2) Any person who is employed as a family protection worker
412 for the Department of * * * Child Protection Services shall be
413 eligible for a forgivable loan from the board which shall be used
414 to pay the costs of the person's education at a state institution
415 of higher learning in Mississippi to obtain a college degree that
416 is necessary to become licensed as a social worker, master social
417 worker or certified social worker and become a family protection
418 specialist for the department. The annual amount of a forgivable
419 loan award under the program shall be equal to the total cost of
420 tuition and fees at the college or university in which the student
421 is enrolled, not to exceed an amount equal to the highest total
422 cost of tuition and fees assessed by a state institution of higher
423 learning during that school year.

424 (3) Forgivable loans made under the program shall be
425 available to both full-time and part-time students. Students



426 enrolling on a full-time basis may receive a maximum of two (2)
427 annual awards. The maximum number of forgivable loans that may be
428 made to students attending school on a part-time basis, and the
429 maximum time period for part-time students to complete the number
430 of academic hours necessary to obtain the necessary degree, shall
431 be established by rules and regulations of the board. Forgivable
432 loans made under the program shall not be based upon an
433 applicant's financial need. A student must maintain a "C" average
434 or higher in his or her college coursework in order to continue
435 receiving the forgivable loan.

436 (4) Repayment and conversion terms shall be the same as
437 those outlined in Section 37-106-53, except for the following:

438 (a) After a person who received a forgivable loan under
439 the program has obtained a college degree that is necessary to
440 become licensed as a social worker, master social worker or
441 certified social worker and has received such a license from the
442 Board of Examiners for Social Workers and Marriage and Family
443 Therapists, the person shall render service as a family protection
444 specialist for the Department of * * * Child Protection Services
445 for a period of not less than three (3) years from the date that
446 the person became a family protection specialist;

447 (b) Any person who fails to complete his or her service
448 obligation as a family protection specialist for the Department
449 of * * * Child Protection Services for not less than three (3)
450 years, as required under subsection (4) (a) of this section, shall



451 become liable immediately to the board for the sum of all
452 forgivable loan awards made to that person, plus interest accruing
453 at the current Stafford Loan rate at the time the person
454 discontinues his or her service.

455 (5) It is the intent of the Legislature that the pursuit of
456 necessary college education by family protection workers through
457 the forgivable loan program shall not interfere with the duties of
458 the family protection workers with the Department of * * * Child
459 Protection Services. The department shall promulgate regulations
460 regarding family protection workers who participate in the
461 forgivable loan program to ensure that such participation does not
462 interfere with their duties with the department.

463 (6) The board shall promulgate rules and regulations
464 necessary for the proper administration of the forgivable loan
465 program established under this section. The board shall be the
466 administering agency of the program.

467 (7) The total amount of state funds that may be expended for
468 this program shall not exceed Three Hundred Twenty Thousand
469 Dollars (\$320,000.00) in any fiscal year.

470 **SECTION 9.** Section 37-115-43, Mississippi Code of 1972, is
471 amended as follows:

472 37-115-43. (1) The University of Mississippi Medical
473 Center, in collaboration with the Mississippi Department of * * *
474 Child Protection Services and the Office of the Attorney General,
475 is authorized and empowered to establish a Center of Excellence



476 (Center) * * * to provide care for abused and neglected children
477 at the Blair E. Batson Hospital for Children located in Jackson,
478 Mississippi, where suspected victims of child maltreatment
479 referred by the Department of * * * Child Protection Services or
480 law enforcement will receive comprehensive physical examinations
481 conducted by medical professionals who specialize in child
482 maltreatment. The University of Mississippi Medical Center shall
483 promulgate such policies as may be necessary and desirable to
484 carry out the programs of the Center. The Center shall serve as a
485 resource for the assessment, investigation and prosecution of
486 child maltreatment. The Center shall work in collaboration with
487 the Office of the Attorney General, the Mississippi Department
488 of * * * Child Protection Services, and other such state agencies
489 and entities that provide services to children * * * to ensure
490 that CARE Clinic services are provided in a uniform fashion
491 throughout the state.

492 (2) The Department of Pediatrics may use the Center for
493 educational and outreach programs, telemedicine consultations, to
494 develop satellite clinics in other locations in the state in
495 cooperation with the local community or private hospital when
496 applicable, and to conduct major research initiatives in child
497 maltreatment.

498 (3) The Center of Excellence shall provide services to
499 maltreated children and comply with national certification
500 standards as necessary to provide services to the Department



501 of * * * Child Protection Services, the youth courts, state child
502 advocacy centers, district attorney's offices and law enforcement
503 agencies.

504 (4) There is created in the State Treasury a special fund to
505 be known as the Children's Safe Center Fund. The University of
506 Mississippi Medical Center shall expend funds pursuant to
507 appropriation therefor by the Legislature for the support and
508 maintenance of the Children's Safe Center. The University of
509 Mississippi Medical Center is authorized to accept any and all
510 grants, donations or matching funds from private, public or
511 federal sources in order to add to, improve and enlarge the
512 physical facilities of the Center and to expend any such funds for
513 the support and maintenance of the Center. Assessments from
514 Section 99-19-73 designated for the Children's Safe Center Fund
515 shall be deposited into the fund. Monies remaining in the fund at
516 the end of a fiscal year shall not lapse into the State General
517 Fund, and any interest earned from the investment of monies in the
518 fund shall be deposited to the credit of the fund.

519 **SECTION 10.** Section 41-3-18, Mississippi Code of 1972, is
520 amended as follows:

521 41-3-18. (1) The board shall assess fees in the following
522 amounts and for the following purposes:

523 (a) Food establishment annual permit fee, based on the
524 assessment factors of the establishment as follows:

525 Assessment Category 1.....\$ 30.00



526	Assessment Category 2.....	100.00
527	Assessment Category 3.....	150.00
528	Assessment Category 4.....	200.00
529	(b) Private water supply approval fee.....	\$ 10.00

530 The board may develop such reasonable standards, rules and
531 regulations to clearly define each assessment category.
532 Assessment categories shall be based upon the factors to the
533 public health implications of the category and type of food
534 preparation being utilized by the food establishment, utilizing
535 the model Food Code of 1995, or as may be amended by the federal
536 Food and Drug Administration.

537 Any increase in the fees charged by the board under this
538 subsection shall be in accordance with the provisions of Section
539 41-3-65.

540 (2) The fee authorized under subsection (1) (a) of this
541 section shall not be assessed for:

542 (a) Food establishments operated by public schools,
543 public junior and community colleges, or state agencies or
544 institutions, including, without limitation, the state
545 institutions of higher learning and the State Penitentiary; and

546 (b) Persons who make infrequent casual sales of honey
547 and who pack or sell less than five hundred (500) gallons of honey
548 per year, and those persons shall not be inspected by the State
549 Department of Health unless requested by the producer.



550 (3) The fee authorized under subsection (1)(b) of this
551 section shall not be assessed for private water supplies used by
552 foster homes licensed by the Department of * * * Child Protection
553 Services.

554 **SECTION 11.** Section 41-7-173, Mississippi Code of 1972, is
555 amended as follows:

556 41-7-173. For the purposes of Section 41-7-171 et seq., the
557 following words shall have the meanings ascribed herein, unless
558 the context otherwise requires:

559 (a) "Affected person" means (i) the applicant; (ii) a
560 person residing within the geographic area to be served by the
561 applicant's proposal; (iii) a person who regularly uses health
562 care facilities or HMOs located in the geographic area of the
563 proposal which provide similar service to that which is proposed;
564 (iv) health care facilities and HMOs which have, prior to receipt
565 of the application under review, formally indicated an intention
566 to provide service similar to that of the proposal being
567 considered at a future date; (v) third-party payers who reimburse
568 health care facilities located in the geographical area of the
569 proposal; or (vi) any agency that establishes rates for health
570 care services or HMOs located in the geographic area of the
571 proposal.

572 (b) "Certificate of need" means a written order of the
573 State Department of Health setting forth the affirmative finding
574 that a proposal in prescribed application form, sufficiently



575 satisfies the plans, standards and criteria prescribed for such
576 service or other project by Section 41-7-171 et seq., and by rules
577 and regulations promulgated thereunder by the State Department of
578 Health.

579 (c) (i) "Capital expenditure," when pertaining to
580 defined major medical equipment, shall mean an expenditure which,
581 under generally accepted accounting principles consistently
582 applied, is not properly chargeable as an expense of operation and
583 maintenance and which exceeds One Million Five Hundred Thousand
584 Dollars (\$1,500,000.00).

585 (ii) "Capital expenditure," when pertaining to
586 other than major medical equipment, shall mean any expenditure
587 which under generally accepted accounting principles consistently
588 applied is not properly chargeable as an expense of operation and
589 maintenance and which exceeds, for clinical health services, as
590 defined in * * * paragraph (k) below, Five Million Dollars
591 (\$5,000,000.00), adjusted for inflation as published by the State
592 Department of Health or which exceeds, for nonclinical health
593 services, as defined in * * * paragraph (k) below, Ten Million
594 Dollars (\$10,000,000.00), adjusted for inflation as published by
595 the State Department of Health.

596 (iii) A "capital expenditure" shall include the
597 acquisition, whether by lease, sufferance, gift, devise, legacy,
598 settlement of a trust or other means, of any facility or part
599 thereof, or equipment for a facility, the expenditure for which



600 would have been considered a capital expenditure if acquired by
601 purchase. Transactions which are separated in time but are
602 planned to be undertaken within twelve (12) months of each other
603 and are components of an overall plan for meeting patient care
604 objectives shall, for purposes of this definition, be viewed in
605 their entirety without regard to their timing.

606 (iv) In those instances where a health care
607 facility or other provider of health services proposes to provide
608 a service in which the capital expenditure for major medical
609 equipment or other than major medical equipment or a combination
610 of the two (2) may have been split between separate parties, the
611 total capital expenditure required to provide the proposed service
612 shall be considered in determining the necessity of certificate of
613 need review and in determining the appropriate certificate of need
614 review fee to be paid. The capital expenditure associated with
615 facilities and equipment to provide services in Mississippi shall
616 be considered regardless of where the capital expenditure was
617 made, in state or out of state, and regardless of the domicile of
618 the party making the capital expenditure, in state or out of
619 state.

620 (d) "Change of ownership" includes, but is not limited
621 to, inter vivos gifts, purchases, transfers, lease arrangements,
622 cash and/or stock transactions or other comparable arrangements
623 whenever any person or entity acquires or controls a majority
624 interest of an existing health care facility, and/or the change of



625 ownership of major medical equipment, a health service, or an
626 institutional health service. Changes of ownership from
627 partnerships, single proprietorships or corporations to another
628 form of ownership are specifically included. However, "change of
629 ownership" shall not include any inherited interest acquired as a
630 result of a testamentary instrument or under the laws of descent
631 and distribution of the State of Mississippi.

632 (e) "Commencement of construction" means that all of
633 the following have been completed with respect to a proposal or
634 project proposing construction, renovating, remodeling or
635 alteration:

636 (i) A legally binding written contract has been
637 consummated by the proponent and a lawfully licensed contractor to
638 construct and/or complete the intent of the proposal within a
639 specified period of time in accordance with final architectural
640 plans which have been approved by the licensing authority of the
641 State Department of Health;

642 (ii) Any and all permits and/or approvals deemed
643 lawfully necessary by all authorities with responsibility for such
644 have been secured; and

645 (iii) Actual bona fide undertaking of the subject
646 proposal has commenced, and a progress payment of at least one
647 percent (1%) of the total cost price of the contract has been paid
648 to the contractor by the proponent, and the requirements of this



649 paragraph (e) have been certified to in writing by the State
650 Department of Health.

651 Force account expenditures, such as deposits, securities,
652 bonds, et cetera, may, in the discretion of the State Department
653 of Health, be excluded from any or all of the provisions of
654 defined commencement of construction.

655 (f) "Consumer" means an individual who is not a
656 provider of health care as defined in paragraph (q) of this
657 section.

658 (g) "Develop," when used in connection with health
659 services, means to undertake those activities which, on their
660 completion, will result in the offering of a new institutional
661 health service or the incurring of a financial obligation as
662 defined under applicable state law in relation to the offering of
663 such services.

664 (h) "Health care facility" includes hospitals,
665 psychiatric hospitals, chemical dependency hospitals, skilled
666 nursing facilities, end-stage renal disease (ESRD) facilities,
667 including freestanding hemodialysis units, intermediate care
668 facilities, ambulatory surgical facilities, intermediate care
669 facilities for the mentally retarded, home health agencies,
670 psychiatric residential treatment facilities, pediatric skilled
671 nursing facilities, long-term care hospitals, comprehensive
672 medical rehabilitation facilities, including facilities owned or
673 operated by the state or a political subdivision or



674 instrumentality of the state, but does not include Christian
675 Science sanatoriums operated or listed and certified by the First
676 Church of Christ, Scientist, Boston, Massachusetts. This
677 definition shall not apply to facilities for the private practice,
678 either independently or by incorporated medical groups, of
679 physicians, dentists or health care professionals except where
680 such facilities are an integral part of an institutional health
681 service. The various health care facilities listed in this
682 paragraph shall be defined as follows:

683 (i) "Hospital" means an institution which is
684 primarily engaged in providing to inpatients, by or under the
685 supervision of physicians, diagnostic services and therapeutic
686 services for medical diagnosis, treatment and care of injured,
687 disabled or sick persons, or rehabilitation services for the
688 rehabilitation of injured, disabled or sick persons. Such term
689 does not include psychiatric hospitals.

690 (ii) "Psychiatric hospital" means an institution
691 which is primarily engaged in providing to inpatients, by or under
692 the supervision of a physician, psychiatric services for the
693 diagnosis and treatment of persons with mental illness.

694 (iii) "Chemical dependency hospital" means an
695 institution which is primarily engaged in providing to inpatients,
696 by or under the supervision of a physician, medical and related
697 services for the diagnosis and treatment of chemical dependency
698 such as alcohol and drug abuse.



699 (iv) "Skilled nursing facility" means an
700 institution or a distinct part of an institution which is
701 primarily engaged in providing to inpatients skilled nursing care
702 and related services for patients who require medical or nursing
703 care or rehabilitation services for the rehabilitation of injured,
704 disabled or sick persons.

705 (v) "End-stage renal disease (ESRD) facilities"
706 means kidney disease treatment centers, which includes
707 freestanding hemodialysis units and limited care facilities. The
708 term "limited care facility" generally refers to an
709 off-hospital-premises facility, regardless of whether it is
710 provider or nonprovider operated, which is engaged primarily in
711 furnishing maintenance hemodialysis services to stabilized
712 patients.

713 (vi) "Intermediate care facility" means an
714 institution which provides, on a regular basis, health-related
715 care and services to individuals who do not require the degree of
716 care and treatment which a hospital or skilled nursing facility is
717 designed to provide, but who, because of their mental or physical
718 condition, require health-related care and services (above the
719 level of room and board).

720 (vii) "Ambulatory surgical facility" means a
721 facility primarily organized or established for the purpose of
722 performing surgery for outpatients and is a separate identifiable
723 legal entity from any other health care facility. Such term does



724 not include the offices of private physicians or dentists, whether
725 for individual or group practice, and does not include any
726 abortion facility as defined in Section 41-75-1(f).

727 (viii) "Intermediate care facility for the
728 mentally retarded" means an intermediate care facility that
729 provides health or rehabilitative services in a planned program of
730 activities to persons with an intellectual disability, also
731 including, but not limited to, cerebral palsy and other conditions
732 covered by the Federal Developmentally Disabled Assistance and
733 Bill of Rights Act, Public Law 94-103.

734 (ix) "Home health agency" means a public or
735 privately owned agency or organization, or a subdivision of such
736 an agency or organization, properly authorized to conduct business
737 in Mississippi, which is primarily engaged in providing to
738 individuals at the written direction of a licensed physician, in
739 the individual's place of residence, skilled nursing services
740 provided by or under the supervision of a registered nurse
741 licensed to practice in Mississippi, and one or more of the
742 following services or items:

- 743 1. Physical, occupational or speech therapy;
- 744 2. Medical social services;
- 745 3. Part-time or intermittent services of a
746 home health aide;
- 747 4. Other services as approved by the
748 licensing agency for home health agencies;



749 5. Medical supplies, other than drugs and
750 biologicals, and the use of medical appliances; or

751 6. Medical services provided by an intern or
752 resident-in-training at a hospital under a teaching program of
753 such hospital.

754 Further, all skilled nursing services and those services
755 listed in items 1 through 4 of this subparagraph (ix) must be
756 provided directly by the licensed home health agency. For
757 purposes of this subparagraph, "directly" means either through an
758 agency employee or by an arrangement with another individual not
759 defined as a health care facility.

760 This subparagraph (ix) shall not apply to health care
761 facilities which had contracts for the above services with a home
762 health agency on January 1, 1990.

763 (x) "Psychiatric residential treatment facility"
764 means any nonhospital establishment with permanent licensed
765 facilities which provides a twenty-four-hour program of care by
766 qualified therapists, including, but not limited to, duly licensed
767 mental health professionals, psychiatrists, psychologists,
768 psychotherapists and licensed certified social workers, for
769 emotionally disturbed children and adolescents referred to such
770 facility by a court, local school district or by the Department
771 of * * * Child Protection Services, who are not in an acute phase
772 of illness requiring the services of a psychiatric hospital, and
773 are in need of such restorative treatment services. For purposes



774 of this subparagraph, the term "emotionally disturbed" means a
775 condition exhibiting one or more of the following characteristics
776 over a long period of time and to a marked degree, which adversely
777 affects educational performance:

778 1. An inability to learn which cannot be
779 explained by intellectual, sensory or health factors;

780 2. An inability to build or maintain
781 satisfactory relationships with peers and teachers;

782 3. Inappropriate types of behavior or
783 feelings under normal circumstances;

784 4. A general pervasive mood of unhappiness or
785 depression; or

786 5. A tendency to develop physical symptoms or
787 fears associated with personal or school problems. An
788 establishment furnishing primarily domiciliary care is not within
789 this definition.

790 (xi) "Pediatric skilled nursing facility" means an
791 institution or a distinct part of an institution that is primarily
792 engaged in providing to inpatients skilled nursing care and
793 related services for persons under twenty-one (21) years of age
794 who require medical or nursing care or rehabilitation services for
795 the rehabilitation of injured, disabled or sick persons.

796 (xii) "Long-term care hospital" means a
797 freestanding, Medicare-certified hospital that has an average
798 length of inpatient stay greater than twenty-five (25) days, which



799 is primarily engaged in providing chronic or long-term medical
800 care to patients who do not require more than three (3) hours of
801 rehabilitation or comprehensive rehabilitation per day, and has a
802 transfer agreement with an acute care medical center and a
803 comprehensive medical rehabilitation facility. Long-term care
804 hospitals shall not use rehabilitation, comprehensive medical
805 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
806 nursing home, skilled nursing facility or sub-acute care facility
807 in association with its name.

808 (xiii) "Comprehensive medical rehabilitation
809 facility" means a hospital or hospital unit that is licensed
810 and/or certified as a comprehensive medical rehabilitation
811 facility which provides specialized programs that are accredited
812 by the Commission on Accreditation of Rehabilitation Facilities
813 and supervised by a physician board certified or board eligible in
814 physiatry or other doctor of medicine or osteopathy with at least
815 two (2) years of training in the medical direction of a
816 comprehensive rehabilitation program that:

817 1. Includes evaluation and treatment of
818 individuals with physical disabilities;

819 2. Emphasizes education and training of
820 individuals with disabilities;

821 3. Incorporates at least the following core
822 disciplines:

823 * * *a. Physical Therapy;



- 824 * * *b. Occupational Therapy;
825 * * *c. Speech and Language Therapy;
826 * * *d. Rehabilitation Nursing; and

827 4. Incorporates at least three (3) of the
828 following disciplines:

- 829 * * *a. Psychology;
830 * * *b. Audiology;
831 * * *c. Respiratory Therapy;
832 * * *d. Therapeutic Recreation;
833 * * *e. Orthotics;
834 * * *f. Prosthetics;
835 * * *g. Special Education;
836 * * *h. Vocational Rehabilitation;
837 * * *i. Psychotherapy;
838 * * *j. Social Work;
839 * * *k. Rehabilitation Engineering.

840 These specialized programs include, but are not limited to:
841 spinal cord injury programs, head injury programs and infant and
842 early childhood development programs.

843 (i) "Health maintenance organization" or "HMO" means a
844 public or private organization organized under the laws of this
845 state or the federal government which:

846 (i) Provides or otherwise makes available to
847 enrolled participants health care services, including
848 substantially the following basic health care services: usual



849 physician services, hospitalization, laboratory, x-ray, emergency
850 and preventive services, and out-of-area coverage;

851 (ii) Is compensated (except for copayments) for
852 the provision of the basic health care services listed in
853 subparagraph (i) of this paragraph to enrolled participants on a
854 predetermined basis; and

855 (iii) Provides physician services primarily:

856 1. Directly through physicians who are either
857 employees or partners of such organization; or

858 2. Through arrangements with individual
859 physicians or one or more groups of physicians (organized on a
860 group practice or individual practice basis).

861 (j) "Health service area" means a geographic area of
862 the state designated in the State Health Plan as the area to be
863 used in planning for specified health facilities and services and
864 to be used when considering certificate of need applications to
865 provide health facilities and services.

866 (k) "Health services" means clinically related (i.e.,
867 diagnostic, treatment or rehabilitative) services and includes
868 alcohol, drug abuse, mental health and home health care services.

869 "Clinical health services" shall only include those activities
870 which contemplate any change in the existing bed complement of any
871 health care facility through the addition or conversion of any
872 beds, under Section 41-7-191(1)(c) or propose to offer any health
873 services if those services have not been provided on a regular



874 basis by the proposed provider of such services within the period
875 of twelve (12) months prior to the time such services would be
876 offered, under Section 41-7-191(1)(d). "Nonclinical health
877 services" shall be all other services which do not involve any
878 change in the existing bed complement or offering health services
879 as described above.

880 (l) "Institutional health services" shall mean health
881 services provided in or through health care facilities and shall
882 include the entities in or through which such services are
883 provided.

884 (m) "Major medical equipment" means medical equipment
885 designed for providing medical or any health-related service which
886 costs in excess of One Million Five Hundred Thousand Dollars
887 (\$1,500,000.00). However, this definition shall not be applicable
888 to clinical laboratories if they are determined by the State
889 Department of Health to be independent of any physician's office,
890 hospital or other health care facility or otherwise not so defined
891 by federal or state law, or rules and regulations promulgated
892 thereunder.

893 (n) "State Department of Health" or "department" shall
894 mean the state agency created under Section 41-3-15, which shall
895 be considered to be the State Health Planning and Development
896 Agency, as defined in paragraph (u) of this section.

897 (o) "Offer," when used in connection with health
898 services, means that it has been determined by the State



899 Department of Health that the health care facility is capable of
900 providing specified health services.

901 (p) "Person" means an individual, a trust or estate,
902 partnership, corporation (including associations, joint-stock
903 companies and insurance companies), the state or a political
904 subdivision or instrumentality of the state.

905 (q) "Provider" shall mean any person who is a provider
906 or representative of a provider of health care services requiring
907 a certificate of need under Section 41-7-171 et seq., or who has
908 any financial or indirect interest in any provider of services.

909 (r) "Radiation therapy services" means the treatment of
910 cancer and other diseases using ionizing radiation of either high
911 energy photons (x-rays or gamma rays) or charged particles
912 (electrons, protons or heavy nuclei). However, for purposes of a
913 certificate of need, radiation therapy services shall not include
914 low energy, superficial, external beam x-ray treatment of
915 superficial skin lesions.

916 (s) "Secretary" means the Secretary of Health and Human
917 Services, and any officer or employee of the Department of Health
918 and Human Services to whom the authority involved has been
919 delegated.

920 (t) "State Health Plan" means the sole and official
921 statewide health plan for Mississippi which identifies priority
922 state health needs and establishes standards and criteria for



923 health-related activities which require certificate of need review
924 in compliance with Section 41-7-191.

925 (u) "State Health Planning and Development Agency"
926 means the agency of state government designated to perform health
927 planning and resource development programs for the State of
928 Mississippi.

929 **SECTION 12.** Section 41-21-67, Mississippi Code of 1972, is
930 amended as follows:

931 41-21-67. (1) Whenever the affidavit provided for in
932 Section 41-21-65 is filed with the chancery clerk, the clerk, upon
933 direction of the chancellor of the court, shall issue a writ
934 directed to the sheriff of the proper county to take into custody
935 the person alleged to be in need of treatment and to bring the
936 person before the clerk or chancellor, who shall order
937 pre-evaluation screening and treatment by the appropriate
938 community mental health center established under Section 41-19-31.
939 The community mental health center will be designated as the first
940 point of entry for screening and treatment. If the community
941 mental health center is unavailable, any reputable licensed
942 physician, psychologist, nurse practitioner or physician
943 assistant, as allowed in the discretion of the court, may conduct
944 the pre-evaluation screening and examination as set forth in
945 Section 41-21-69. The order may provide where the person shall be
946 held before the appearance before the clerk or chancellor.
947 However, when the affidavit fails to set forth factual allegations



948 and witnesses sufficient to support the need for treatment, the
949 chancellor shall refuse to direct issuance of the writ.
950 Reapplication may be made to the chancellor. If a pauper's
951 affidavit is filed by a guardian for commitment of the ward of the
952 guardian, the court shall determine if the ward is a pauper and if
953 the ward is determined to be a pauper, the county of the residence
954 of the respondent shall bear the costs of commitment, unless funds
955 for those purposes are made available by the state.

956 In any county in which a Crisis Intervention Team has been
957 established under the provisions of Sections 41-21-131 through
958 41-21-143, the clerk, upon the direction of the chancellor, may
959 require that the person be referred to the Crisis Intervention
960 Team for appropriate psychiatric or other medical services before
961 the issuance of the writ.

962 (2) Upon issuance of the writ, the chancellor shall
963 immediately appoint and summon two (2) reputable, licensed
964 physicians or one (1) reputable, licensed physician and either one
965 (1) psychologist, nurse practitioner or physician assistant to
966 conduct a physical and mental examination of the person at a place
967 to be designated by the clerk or chancellor and to report their
968 findings to the clerk or chancellor. However, any nurse
969 practitioner or physician assistant conducting the examination
970 shall be independent from, and not under the supervision of, the
971 other physician conducting the examination. In all counties in
972 which there is a county health officer, the county health officer,



973 if available, may be one (1) of the physicians so appointed.
974 Neither of the physicians nor the psychologist, nurse practitioner
975 or physician assistant selected shall be related to that person in
976 any way, nor have any direct or indirect interest in the estate of
977 that person nor shall any full-time staff of residential treatment
978 facilities operated directly by the State Department of Mental
979 Health serve as examiner.

980 (3) The clerk shall ascertain whether the respondent is
981 represented by an attorney, and if it is determined that the
982 respondent does not have an attorney, the clerk shall immediately
983 notify the chancellor of that fact. If the chancellor determines
984 that the respondent for any reason does not have the services of
985 an attorney, the chancellor shall immediately appoint an attorney
986 for the respondent at the time the examiners are appointed.

987 (4) If the chancellor determines that there is probable
988 cause to believe that the respondent is mentally ill and that
989 there is no reasonable alternative to detention, the chancellor
990 may order that the respondent be retained as an emergency patient
991 at any licensed medical facility for evaluation by a physician,
992 nurse practitioner or physician assistant and that a peace officer
993 transport the respondent to the specified facility. If the
994 community mental health center serving the county has partnered
995 with Crisis Intervention Teams under the provisions of Sections
996 41-21-131 through 41-21-143, the order may specify that the
997 licensed medical facility be a designated single point of entry



998 within the county or within an adjacent county served by the
999 community mental health center. If the person evaluating the
1000 respondent finds that the respondent is mentally ill and in need
1001 of treatment, the chancellor may order that the respondent be
1002 retained at the licensed medical facility or any other available
1003 suitable location as the court may so designate pending an
1004 admission hearing. If necessary, the chancellor may order a peace
1005 officer or other person to transport the respondent to that
1006 facility or suitable location. Any respondent so retained may be
1007 given such treatment as is indicated by standard medical practice.
1008 However, the respondent shall not be held in a hospital operated
1009 directly by the State Department of Mental Health, and shall not
1010 be held in jail unless the court finds that there is no reasonable
1011 alternative.

1012 (5) (a) Whenever a licensed psychologist, nurse
1013 practitioner or physician assistant who is certified to complete
1014 examinations for the purpose of commitment or a licensed physician
1015 has reason to believe that a person poses an immediate substantial
1016 likelihood of physical harm to himself or others or is gravely
1017 disabled and unable to care for himself by virtue of mental
1018 illness, as defined in Section 41-21-61(e), then the physician,
1019 psychologist, nurse practitioner or physician assistant may hold
1020 the person or may admit the person to and treat the person in a
1021 licensed medical facility, without a civil order or warrant for a
1022 period not to exceed seventy-two (72) hours. However, if the



1023 seventy-two-hour period begins or ends when the chancery clerk's
1024 office is closed, or within three (3) hours of closing, and the
1025 chancery clerk's office will be continuously closed for a time
1026 that exceeds seventy-two (72) hours, then the seventy-two-hour
1027 period is extended until the end of the next business day that the
1028 chancery clerk's office is open. The person may be held and
1029 treated as an emergency patient at any licensed medical facility,
1030 available regional mental health facility, or crisis intervention
1031 center. The physician or psychologist, nurse practitioner or
1032 physician assistant who holds the person shall certify in writing
1033 the reasons for the need for holding.

1034 If a person is being held and treated in a licensed medical
1035 facility, and that person decides to continue treatment by
1036 voluntarily signing consent for admission and treatment, the
1037 seventy-two-hour hold may be discontinued without filing an
1038 affidavit for commitment. Any respondent so held may be given
1039 such treatment as indicated by standard medical practice. Persons
1040 acting in good faith in connection with the detention and
1041 reporting of a person believed to be mentally ill shall incur no
1042 liability, civil or criminal, for those acts.

1043 (b) Whenever an individual is held for purposes of
1044 receiving treatment as prescribed under paragraph (a) of this
1045 subsection, and it is communicated to the mental health
1046 professional holding the individual that the individual resides or
1047 has visitation rights with a minor child, and if the individual is



1048 considered to be a danger to the minor child, the mental health
1049 professional shall notify the Department of * * * Child Protection
1050 Services prior to discharge if the threat of harm continues to
1051 exist, as is required under Section 43-21-353.

1052 This paragraph shall be known and may be cited as the "Andrew
1053 Lloyd Law."

1054 **SECTION 13.** Section 41-67-12, Mississippi Code of 1972, is
1055 amended as follows:

1056 41-67-12. (1) The department shall assess fees in the
1057 following amounts for the following purposes:

1058 (a) A fee of One Hundred Dollars (\$100.00) shall be
1059 levied for soil and site evaluation and recommendation of
1060 individual on-site wastewater disposal systems. The department
1061 may increase the amount of the fee authorized in this paragraph
1062 (a) not more than two (2) times during the period from July 1,
1063 2016, through June 30, 2020, with the percentage of each increase
1064 being not more than five percent (5%) of the amount of the fee in
1065 effect at the time of the increase.

1066 (b) A fee of Fifty Dollars (\$50.00) shall be levied
1067 annually for the certification of installers and pumpers.

1068 (c) A fee of One Hundred Dollars (\$100.00) shall be
1069 levied annually for the registration of manufacturers.

1070 Any increase in the fee charged by the department under
1071 paragraph (b) or (c) of this subsection shall be in accordance
1072 with the provisions of Section 41-3-65.



1073 (2) In the discretion of the board, a person shall be liable
1074 for a penalty equal to one and one-half (1-1/2) times the amount
1075 of the fee due and payable for failure to pay the fee on or before
1076 the date due, plus any amount necessary to reimburse the cost of
1077 collection.

1078 (3) No fee authorized under this section shall be assessed
1079 by the department for state agencies or institutions, including,
1080 without limitation, foster homes licensed by the Mississippi
1081 Department of * * * Child Protection Services.

1082 **SECTION 14.** Section 43-15-5, Mississippi Code of 1972, is
1083 amended as follows:

1084 43-15-5. (1) The Department of * * * Child Protection
1085 Services shall have authority and it shall be its duty to
1086 administer or supervise all public child welfare services,
1087 including those services, responsibilities, duties and powers with
1088 which the county departments of * * * child protection services
1089 are charged and empowered in this article; administer and
1090 supervise the licensing and inspection of all private child
1091 placing agencies; provide for the care of dependent and neglected
1092 children in foster family homes or in institutions, supervise the
1093 care of such children and those of illegitimate birth; supervise
1094 the importation of children; and supervise the operation of all
1095 state institutions for children. The Department of * * * Child
1096 Protection Services shall be authorized to purchase hospital and
1097 medical insurance coverage for those children placed in foster



1098 care by the state or county departments of * * * child protection
1099 services who are not otherwise eligible for medical assistance
1100 under the Mississippi Medicaid Law. The Department of * * * Child
1101 Protection Services shall be further authorized to purchase burial
1102 or life insurance not exceeding One Thousand Five Hundred Dollars
1103 (\$1,500.00) for those children placed in foster care by the state
1104 or county departments of * * * child protection services. All
1105 insurance coverage authorized herein may be purchased with any
1106 funds other than state funds available to the Department of * * *
1107 Child Protection Services, including those funds available to the
1108 child which are administered by the department.

1109 (2) Any person, partnership, group, corporation,
1110 organization or association desiring to operate a child
1111 residential home, as defined in Section 43-16-3, may make
1112 application for a license for such a facility to the Department
1113 of * * * Child Protection Services on the application forms
1114 furnished for this purpose by the department. If an applicant
1115 meets the published rules and regulations of the department
1116 regarding minimum standards for a child residential home, then the
1117 applicant shall be granted a license by the department.

1118 **SECTION 15.** Section 43-15-103, Mississippi Code of 1972, is
1119 amended as follows:

1120 43-15-103. As used in this article:

1121 (a) "Agency" means a residential child-caring agency or
1122 a child-placing agency.



1123 (b) "Child" or "children" mean(s) any unmarried person
1124 or persons under the age of eighteen (18) years.

1125 (c) "Child placing" means receiving, accepting or
1126 providing custody or care for any child under eighteen (18) years
1127 of age, temporarily or permanently, for the purpose of:

1128 (i) Finding a person to adopt the child;

1129 (ii) Placing the child temporarily or permanently
1130 in a home for adoption; or

1131 (iii) Placing a child in a foster home or
1132 residential child-caring agency.

1133 (d) "Child-placing agency" means any entity or person
1134 which places children in foster boarding homes or foster homes for
1135 temporary care or for adoption or any other entity or person or
1136 group of persons who are engaged in providing adoption studies or
1137 foster care studies or placement services as defined by the rules
1138 of the department.

1139 (e) "Department" means the Mississippi Department
1140 of * * * Child Protection Services.

1141 * * *

1142 (* * * f) "Family boarding home" or "foster home" means
1143 a home (occupied residence) operated by any entity or person which
1144 provides residential child care to at least one (1) child but not
1145 more than six (6) children who are not related to the primary
1146 caregivers.



1147 (* * *g) "Group care home" means any place or facility
1148 operated by any entity or person which provides residential child
1149 care for at least seven (7) children but not more than twelve (12)
1150 children who are not related to the primary caregivers.

1151 (* * *h) "Licensee" means any person, agency or entity
1152 licensed under this article.

1153 (* * *i) "Maternity home" means any place or facility
1154 operated by any entity or person which receives, treats or cares
1155 for more than one (1) child or adult who is pregnant out of
1156 wedlock, either before, during or within two (2) weeks after
1157 childbirth; provided, that the licensed child-placing agencies and
1158 licensed maternity homes may use a family boarding home approved
1159 and supervised by the agency or home, as a part of their work, for
1160 as many as three (3) children or adults who are pregnant out of
1161 wedlock, and provided further, that the provisions of this
1162 definition shall not include children or women who receive
1163 maternity care in the home of a person to whom they are kin within
1164 the sixth degree of kindred computed according to civil law, nor
1165 does it apply to any maternity care provided by general or special
1166 hospitals licensed according to law and in which maternity
1167 treatment and care are part of the medical services performed and
1168 the care of children is brief and incidental.

1169 * * *



1170 * * * (j) "Person associated with a licensee" means an
1171 owner, director, member of the governing body, employee, provider
1172 of care and volunteer of a human services licensee.

1173 (* * * k) "Related" means children, step-children,
1174 grandchildren, step-grandchildren, siblings of the whole or
1175 half-blood, step-siblings, nieces or nephews of the primary care
1176 provider.

1177 (* * * l) "Residential child care" means the provision
1178 of supervision, and/or protection, and meeting the basic needs of
1179 a child for twenty-four (24) hours per day, which may include
1180 services to children in a residential setting where care, lodging,
1181 maintenance and counseling or therapy for alcohol or controlled
1182 substance abuse or for any other emotional disorder or mental
1183 illness is provided for children, whether for compensation or not.

1184 (* * * m) "Residential child-caring agency" means any
1185 place or facility operated by any entity or person, public or
1186 private, providing residential child care, regardless of whether
1187 operated for profit or whether a fee is charged. Such residential
1188 child-caring agencies include, but are not limited to, maternity
1189 homes, runaway shelters, group homes that are administered by an
1190 agency, and emergency shelters that are not in private residence.

1191 **SECTION 16.** Section 43-15-105, Mississippi Code of 1972, is
1192 amended as follows:

1193 43-15-105. (1) The * * * Mississippi Department of Child
1194 Protection Services shall be the licensing authority * * * and is



1195 vested with all the powers, duties and responsibilities described
1196 in this article. The * * * department shall make and establish
1197 rules and regulations regarding:

1198 (a) Approving, extending, denying, suspending and
1199 revoking licenses for foster homes, residential child-caring
1200 agencies and child-placing agencies;

1201 (b) Conditional licenses, variances from department
1202 rules and exclusions;

1203 (c) Basic health and safety standards for licensees;
1204 and

1205 (d) Minimum administration and financial requirements
1206 for licensees.

1207 (2) The * * * department shall:

1208 (a) Define information that shall be submitted to
1209 the * * * department with an application for a license;

1210 (b) Establish guidelines for the administration and
1211 maintenance of client and service records, including staff
1212 qualifications, staff to client ratios;

1213 (c) Issue licenses in accordance with this article;

1214 (d) Conduct surveys and inspections of licensees and
1215 facilities;

1216 (e) Establish and collect licensure fees;

1217 (f) Investigate complaints regarding any licensee or
1218 facility;



1219 (g) Have access to all records, correspondence and
1220 financial data required to be maintained by a licensee or
1221 facility;
1222 (h) Have authority to interview any client, family
1223 member of a client, employee or officer of a licensee or facility;
1224 and
1225 (i) Have authority to revoke, suspend or extend any
1226 license issued by the * * * department.

1227 **SECTION 17.** Section 43-15-107, Mississippi Code of 1972, is
1228 amended as follows:

1229 43-15-107. (1) Except as provided in Section 43-15-111, no
1230 person, agency, firm, corporation, association or other entity,
1231 acting individually or jointly with any other person or entity,
1232 may establish, conduct or maintain foster homes, residential
1233 child-caring agencies and child-placing agencies or facility
1234 and/or engage in child placing in this state without a valid and
1235 current license issued by and under the authority of the * * *
1236 department as provided by this article and the rules of the * * *
1237 department. Any out-of-state child-placing agency that provides a
1238 full range of services, including, but not limited to, adoptions,
1239 foster family homes, adoption counseling services or financial
1240 aid, in this state must be licensed by the * * * department under
1241 this article.

1242 (2) No license issued under this article is assignable or
1243 transferable.



1244 (3) A current license shall at all times be posted in each
1245 licensee's facility, in a place that is visible and readily
1246 accessible to the public.

1247 (4) (a) Except as otherwise provided in paragraph (b) of
1248 this subsection, each license issued under this article expires at
1249 midnight (Central Standard Time) twelve (12) months from the date
1250 of issuance unless it has been:

1251 (i) Previously revoked by the * * * department; or
1252 (ii) Voluntarily returned to the * * * department
1253 by the licensee.

1254 (b) (i) For any child-placing agency located in
1255 Mississippi that remains in good standing, the license issued
1256 under this article expires at midnight (Central Standard Time)
1257 twenty-four (24) months from the date of issuance unless it has
1258 been:

1259 1. Previously revoked by the * * *
1260 department; or

1261 2. Voluntarily returned to the * * *
1262 department by the licensee.

1263 (ii) Any child-placing agency whose license is
1264 governed by this paragraph (b) shall submit the following
1265 information to the * * * department annually:

1266 1. A copy of an audit report and IRS Form 990
1267 for the agency;

1268 2. The agency's fee schedule; and



1269 3. The agency's client list.

1270 (c) A license may be renewed upon application and
1271 payment of the applicable fee, provided that the licensee meets
1272 the license requirements established by this article and the rules
1273 and regulations of the division.

1274 (5) Any licensee or facility which is in operation at the
1275 time rules are made in accordance with this article shall be given
1276 a reasonable time for compliance as determined by the rules of
1277 the * * * department.

1278 **SECTION 18.** Section 43-15-109, Mississippi Code of 1972, is
1279 amended as follows:

1280 43-15-109. (1) An application for a license under this
1281 article shall be made to the * * * department and shall contain
1282 information that the * * * department determines is necessary in
1283 accordance with established rules.

1284 (2) Information received by the * * * department through
1285 reports, complaints, investigations and inspections shall be
1286 classified as public in accordance with Title 25, Chapter 61,
1287 Mississippi Code of 1972, Mississippi Public Records Act.

1288 **SECTION 19.** Section 43-15-113, Mississippi Code of 1972, is
1289 amended as follows:

1290 43-15-113. (1) If a license is revoked, the * * *
1291 department may grant a new license after:



1292 (a) Satisfactory evidence is submitted to the * * *
1293 department, evidencing that the conditions upon which revocation
1294 was based have been corrected; and

1295 (b) Inspection and compliance with all provisions of
1296 this article and applicable rules.

1297 (2) The * * * department may only suspend a license for a
1298 period of time which does not exceed the current expiration date
1299 of that license.

1300 (3) When a license has been suspended, the * * * department
1301 may completely or partially restore the suspended license upon a
1302 determination that the:

1303 (a) Conditions upon which the suspension was based have
1304 been completely or partially corrected; and

1305 (b) Interests of the public will not be jeopardized by
1306 restoration of the license.

1307 **SECTION 20.** Section 43-15-115, Mississippi Code of 1972, is
1308 amended as follows:

1309 43-15-115. (1) The * * * department may, for the purpose of
1310 ascertaining compliance with the provisions of this article and
1311 its rules and regulations, enter and inspect on a routine basis
1312 the facility of a licensee.

1313 (2) Before conducting an inspection under subsection (1),
1314 the * * * department shall, after identifying the person in
1315 charge:

1316 (a) Give proper identification;



1317 (b) Request to see the applicable license;
1318 (c) Describe the nature and purpose of the inspection;
1319 and
1320 (d) If necessary, explain the authority of the * * *
1321 department to conduct the inspection and the penalty for refusing
1322 to permit the inspection.

1323 (3) In conducting an inspection under subsection (1),
1324 the * * * department may, after meeting the requirements of
1325 subsection (2):

1326 (a) Inspect the physical facilities;
1327 (b) Inspect records and documents;
1328 (c) Interview directors, employees, clients, family
1329 members of clients and others; and
1330 (d) Observe the licensee in operation.

1331 (4) An inspection conducted under subsection (1) shall be
1332 during regular business hours and may be announced or unannounced.

1333 (5) The licensee shall make copies of inspection reports
1334 available to the public upon request.

1335 (6) The provisions of this section apply to on-site
1336 inspections and do not restrict the * * * department from
1337 contacting family members, neighbors or other individuals, or from
1338 seeking information from other sources to determine compliance
1339 with the provisions of this article.

1340 **SECTION 21.** Section 43-15-117, Mississippi Code of 1972, is
1341 amended as follows:



1342 43-15-117. (1) Except as provided in this article, no
1343 person, agency, firm, corporation, association or group children's
1344 home may engage in child placing, or solicit money or other
1345 assistance for child placing, without a valid license issued by
1346 the * * * department. No out-of-state child-placing agency that
1347 provides a full range of services, including, but not limited to,
1348 adoptions, foster family homes, adoption counseling services or
1349 financial aid, may operate in this state without a valid license
1350 issued by the * * * department. No child-placing agency shall
1351 advertise in the media markets in Mississippi seeking birth
1352 mothers or their children for adoption purposes unless the agency
1353 holds a valid and current license issued either by the * * *
1354 department or the authorized governmental licensing agency of
1355 another state that regulates child-placing agencies. Any
1356 child-placing agency, physician or attorney who advertises for
1357 child placing or adoption services in Mississippi shall be
1358 required by the * * * department to show their principal office
1359 location on all media advertising for adoption services.

1360 (2) An attorney who provides legal services to a client in
1361 connection with proceedings for the adoption of a child by the
1362 client, who does not receive, accept or provide custody or care
1363 for the child for the purposes specified in Section 43-15-103(c),
1364 shall not be required to have a license under this article to
1365 provide those legal services.



1366 (3) An attorney, physician or other person may assist a
1367 parent in identifying or locating a person interested in adopting
1368 the parent's child, or in identifying or locating a child to be
1369 adopted. However, no payment, charge, fee, reimbursement of
1370 expense, or exchange of value of any kind, or promise or agreement
1371 to make the same, may be made for that assistance.

1372 (4) Nothing in this section precludes payment of reasonable
1373 fees for medical, legal or other lawful services rendered in
1374 connection with the care of a mother, delivery and care of a child
1375 including, but not limited to, the mother's living expenses, or
1376 counseling for the parents and/or the child, and for the legal
1377 proceedings related to lawful adoption proceedings; and no
1378 provision of this section abrogates the right of procedures for
1379 independent adoption as provided by law.

1380 (5) The * * * department is specifically authorized to
1381 promulgate rules under the Administrative Procedures Law, Title
1382 25, Chapter 43, Mississippi Code of 1972, to regulate fees charged
1383 by licensed child-placing agencies, if it determines that the
1384 practices of those licensed child-placing agencies demonstrates
1385 that the fees charged are excessive or that any of the agency's
1386 practices are deceptive or misleading; however, those rules
1387 regarding fees shall take into account the use of any sliding fee
1388 by an agency that uses a sliding fee procedure to permit
1389 prospective adoptive parents of varying income levels to utilize
1390 the services of those agencies or persons.



1391 (6) The * * * department shall promulgate rules under the
1392 Administrative Procedures Law, Title 25, Chapter 43, Mississippi
1393 Code of 1972, to require that all licensed child-placing agencies
1394 provide written disclosures to all prospective adoptive parents of
1395 any fees or other charges for each service performed by the agency
1396 or person, and file an annual report with the * * * department
1397 that states the fees and charges for those services, and to
1398 require them to inform the * * * department in writing thirty (30)
1399 days in advance of any proposed changes to the fees or charges for
1400 those services.

1401 (7) The * * * department is specifically authorized to
1402 disclose to prospective adoptive parents or other interested
1403 persons any fees charged by any licensed child-placing agency,
1404 attorney or counseling service or counselor for all legal and
1405 counseling services provided by that licensed child-placing
1406 agency, attorney or counseling service or counselor.

1407 **SECTION 22.** Section 43-15-119, Mississippi Code of 1972, is
1408 amended as follows:

1409 43-15-119. (1) If the * * * department finds that a
1410 violation has occurred under this article or the rules and
1411 regulations of the division, it may:

1412 (a) Deny, suspend or revoke a license or place the
1413 licensee on probation, if the * * * department discovers that a
1414 licensee is not in compliance with the laws, standards or
1415 regulations governing its operation, and/or it finds evidence of



1416 aiding, abetting or permitting the commission of any illegal act;
1417 or

1418 (b) Restrict or prohibit new admissions to the
1419 licensee's program or facility, if the * * * department discovers
1420 that a licensee is not in compliance with the laws, standards or
1421 regulations governing its operation, and/or it finds evidence of
1422 aiding, abetting or permitting the commission of any illegal act.

1423 (2) If placed on probation, the agency or licensee shall
1424 post a copy of the notice in a conspicuous place as directed by
1425 the * * * department and with the agency's or individual's
1426 license, and the agency shall notify the custodians of each of the
1427 children in its care in writing of the agency's status and the
1428 basis for the probation.

1429 **SECTION 23.** Section 43-15-121, Mississippi Code of 1972, is
1430 amended as follows:

1431 43-15-121. In addition to, and notwithstanding, any other
1432 remedy provided by law, the * * * department may, in a manner
1433 provided by law and upon the advice of the Attorney General who,
1434 except as otherwise authorized in Section 7-5-39, shall represent
1435 the * * * department in the proceedings, maintain an action in the
1436 name of the state for injunction or other process against any
1437 person or entity to restrain or prevent the establishment,
1438 management or operation of a program or facility or performance of
1439 services in violation of this article or rules of the * * *
1440 department.



1441 **SECTION 24.** Section 43-15-125, Mississippi Code of 1972, is
1442 amended as follows:

1443 43-15-125. The Department of * * * Child Protective Services
1444 and/or its officers, employees, attorneys and representatives
1445 shall not be held civilly liable for any findings, recommendations
1446 or actions taken pursuant to this article.

1447 **SECTION 25.** Section 43-16-3, Mississippi Code of 1972, is
1448 amended as follows:

1449 43-16-3. As used in this chapter, the following definitions
1450 shall apply unless the context clearly provides otherwise:

1451 (a) "Child" means a person who has not reached the age
1452 of eighteen (18) years or who has not otherwise been legally
1453 emancipated.

1454 (b) "Child residential home" means any place, facility
1455 or home operated by any person which receives children who are not
1456 related to the operators and whose parents or guardians are not
1457 residents of the same facility for supervision, care, lodging and
1458 maintenance for twenty-four (24) hours a day, with or without
1459 transfer of custody. This term does not include:

1460 (i) Residential homes licensed by the Department
1461 of * * * Child Protection Services under Section 43-15-5;

1462 (ii) Any public school;

1463 (iii) Any home operated by a state agency;

1464 (iv) Child care facilities as defined in Section
1465 43-20-5;



1466 (v) Youth camps as defined in Section 75-74-3;
1467 (vi) Health care facilities licensed by the State
1468 Department of Health; or

1469 (vii) The home of an attorney-in-fact operating
1470 under a power of attorney executed under Section 93-31-1 et seq.

1471 (c) "Department" shall mean the State Department of
1472 Health.

1473 (d) "Person" shall include an individual, partnership,
1474 organization, association or corporation.

1475 **SECTION 26.** Section 43-16-21, Mississippi Code of 1972, is
1476 amended as follows:

1477 43-16-21. Notwithstanding the existence of any other remedy,
1478 the department may, in the manner provided by law, in termtime or
1479 in vacation, upon the advice of the Attorney General who, except
1480 as otherwise authorized in Section 7-5-39, shall represent the
1481 department in the proceedings, maintain an action in the name of
1482 the state for an injunction or restraining order to cease the
1483 operation of the home, and to provide for the appropriate removal
1484 of the children from the home and placement in the custody of the
1485 parents or legal guardians, the Department of * * * Child
1486 Protection Services, or any other appropriate entity in the
1487 discretion of the court. Such action shall be brought in the
1488 chancery court or the youth court, as appropriate, of the county
1489 in which such child residential home is located, and shall only be
1490 initiated for the following violations:



1491 (a) Providing supervision, care, lodging or maintenance
1492 for any children in such home without filing notification in
1493 accordance with this chapter.

1494 (b) Failure to satisfactorily comply with local health
1495 department or State Fire Marshal inspections made pursuant to
1496 Section 43-16-15, regarding the health, nutrition, cleanliness,
1497 safety, sanitation, written records and discipline policy of such
1498 home.

1499 (c) Suspected abuse and/or neglect of the children
1500 served by such home, as defined in Section 43-21-105.

1501 **SECTION 27.** Section 43-18-5, Mississippi Code of 1972, is
1502 amended as follows:

1503 43-18-5. As used in paragraph (a) of Article V of the
1504 Interstate Compact on the Placement of Children, the phrase
1505 "appropriate authority in the receiving state" with reference to
1506 this state shall mean the * * * Department of Child Protection
1507 Services.

1508 **SECTION 28.** Section 43-20-8, Mississippi Code of 1972, is
1509 amended as follows:

1510 43-20-8. (1) The licensing agency shall have powers and
1511 duties as set forth below, in addition to other duties prescribed
1512 under this chapter:

1513 (a) Promulgate rules and regulations concerning the
1514 licensing and regulation of child care facilities as defined in
1515 Section 43-20-5;



1516 (b) Have the authority to issue, deny, suspend, revoke,
1517 restrict or otherwise take disciplinary action against licensees
1518 as provided for in this chapter;

1519 (c) Set and collect fees and penalties as provided for
1520 in this chapter; any increase in the fees charged by the licensing
1521 agency under this paragraph shall be in accordance with the
1522 provisions of Section 41-3-65; and

1523 (d) Have such other powers as may be required to carry
1524 out the provisions of this chapter.

1525 (2) Child care facilities shall assure that parents have
1526 welcome access to the child care facility at all times and shall
1527 comply with the provisions of Chapter 520, Laws of 2006.

1528 (3) Each child care facility shall develop and maintain a
1529 current list of contact persons for each child provided care by
1530 that facility. An agreement may be made between the child care
1531 facility and the child's parent, guardian or contact person at the
1532 time of registration to inform the parent, guardian or contact
1533 person if the child does not arrive at the facility within a
1534 reasonable time.

1535 (4) Child care facilities shall require that, for any
1536 current or prospective caregiver, all criminal records, background
1537 and sex offender registry checks and current child abuse registry
1538 checks are obtained. In order to determine the applicant's
1539 suitability for employment, the applicant shall be fingerprinted.
1540 If no disqualifying record is identified at the state level, the



1541 fingerprints shall be forwarded by the Department of Public Safety
1542 to the FBI for a national criminal history record check.

1543 (5) The licensing agency shall require to be performed a
1544 criminal records background check and a child abuse registry check
1545 for all operators of a child care facility and any person living
1546 in a residence used for child care. The Department of * * * Child
1547 Protection Services shall have the authority to disclose to the
1548 State Department of Health any potential applicant whose name is
1549 listed on the Child Abuse Central Registry or has a pending
1550 administrative review. That information shall remain confidential
1551 by all parties. In order to determine the applicant's suitability
1552 for employment, the applicant shall be fingerprinted. If no
1553 disqualifying record is identified at the state level, the
1554 fingerprints shall be forwarded by the Department of Public Safety
1555 to the FBI for a national criminal history record check.

1556 (6) The licensing agency shall have the authority to exclude
1557 a particular crime or crimes or a substantiated finding of child
1558 abuse and/or neglect as disqualifying individuals or entities for
1559 prospective or current employment or licensure.

1560 (7) The licensing agency and its agents, officers,
1561 employees, attorneys and representatives shall not be held civilly
1562 liable for any findings, recommendations or actions taken under
1563 this section.

1564 (8) All fees incurred in compliance with this section shall
1565 be borne by the child care facility. The licensing agency is



1566 authorized to charge a fee that includes the amount required by
1567 the Federal Bureau of Investigation for the national criminal
1568 history record check in compliance with the Child Protection Act
1569 of 1993, as amended, and any necessary costs incurred by the
1570 licensing agency for the handling and administration of the
1571 criminal history background checks.

1572 (9) From and after January 1, 2008, the State Board of
1573 Health shall develop regulations to ensure that all children
1574 enrolled or enrolling in a state licensed child care center
1575 receive age-appropriate immunization against invasive pneumococcal
1576 disease as recommended by the Advisory Committee on immunization
1577 practices of the Centers for Disease Control and Prevention. The
1578 State Board of Health shall include, within its regulations,
1579 protocols for children under the age of twenty-four (24) months to
1580 catch up on missed doses. If the State Board of Health has
1581 adopted regulations before January 1, 2008, that would otherwise
1582 meet the requirements of this subsection, then this subsection
1583 shall stand repealed on January 1, 2008.

1584 **SECTION 29.** Section 43-21-105, Mississippi Code of 1972, is
1585 amended as follows:

1586 43-21-105. The following words and phrases, for purposes of
1587 this chapter, shall have the meanings ascribed herein unless the
1588 context clearly otherwise requires:

1589 (a) "Youth court" means the Youth Court Division.



1590 (b) "Judge" means the judge of the Youth Court
1591 Division.

1592 (c) "Designee" means any person that the judge appoints
1593 to perform a duty which this chapter requires to be done by the
1594 judge or his designee. The judge may not appoint a person who is
1595 involved in law enforcement or who is an employee of the
1596 Mississippi Department of * * * Child Protection Services to be
1597 his designee.

1598 (d) "Child" and "youth" are synonymous, and each means
1599 a person who has not reached his eighteenth birthday. A child who
1600 has not reached his eighteenth birthday and is on active duty for
1601 a branch of the armed services or is married is not considered a
1602 "child" or "youth" for the purposes of this chapter.

1603 (e) "Parent" means the father or mother to whom the
1604 child has been born, or the father or mother by whom the child has
1605 been legally adopted.

1606 (f) "Guardian" means a court-appointed guardian of the
1607 person of a child.

1608 (g) "Custodian" means any person having the present
1609 care or custody of a child whether such person be a parent or
1610 otherwise.

1611 (h) "Legal custodian" means a court-appointed custodian
1612 of the child.

1613 (i) "Delinquent child" means a child who has reached
1614 his tenth birthday and who has committed a delinquent act.



1615 (j) "Delinquent act" is any act, which if committed by
1616 an adult, is designated as a crime under state or federal law, or
1617 municipal or county ordinance other than offenses punishable by
1618 life imprisonment or death. A delinquent act includes escape from
1619 lawful detention and violations of the Uniform Controlled
1620 Substances Law and violent behavior.

1621 (k) "Child in need of supervision" means a child who
1622 has reached his seventh birthday and is in need of treatment or
1623 rehabilitation because the child:

1624 (i) Is habitually disobedient of reasonable and
1625 lawful commands of his parent, guardian or custodian and is
1626 ungovernable; or

1627 (ii) While being required to attend school,
1628 willfully and habitually violates the rules thereof or willfully
1629 and habitually absents himself therefrom; or

1630 (iii) Runs away from home without good cause; or

1631 (iv) Has committed a delinquent act or acts.

1632 (l) "Neglected child" means a child:

1633 (i) Whose parent, guardian or custodian or any
1634 person responsible for his care or support, neglects or refuses,
1635 when able so to do, to provide for him proper and necessary care
1636 or support, or education as required by law, or medical, surgical,
1637 or other care necessary for his well-being; however, a parent who
1638 withholds medical treatment from any child who in good faith is
1639 under treatment by spiritual means alone through prayer in



1640 accordance with the tenets and practices of a recognized church or
1641 religious denomination by a duly accredited practitioner thereof
1642 shall not, for that reason alone, be considered to be neglectful
1643 under any provision of this chapter; or

1644 (ii) Who is otherwise without proper care,
1645 custody, supervision or support; or

1646 (iii) Who, for any reason, lacks the special care
1647 made necessary for him by reason of his mental condition, whether
1648 the mental condition is having mental illness or having an
1649 intellectual disability; or

1650 (iv) Who, for any reason, lacks the care necessary
1651 for his health, morals or well-being.

1652 (m) "Abused child" means a child whose parent, guardian
1653 or custodian or any person responsible for his care or support,
1654 whether legally obligated to do so or not, has caused or allowed
1655 to be caused, upon the child, sexual abuse, sexual exploitation,
1656 emotional abuse, mental injury, nonaccidental physical injury or
1657 other maltreatment. However, physical discipline, including
1658 spanking, performed on a child by a parent, guardian or custodian
1659 in a reasonable manner shall not be deemed abuse under this
1660 section. "Abused child" also means a child who is or has been
1661 trafficked within the meaning of the Mississippi Human Trafficking
1662 Act by any person, without regard to the relationship of the
1663 person to the child.



1664 (n) "Sexual abuse" means obscene or pornographic
1665 photographing, filming or depiction of children for commercial
1666 purposes, or the rape, molestation, incest, prostitution or other
1667 such forms of sexual exploitation of children under circumstances
1668 which indicate that the child's health or welfare is harmed or
1669 threatened.

1670 (o) "A child in need of special care" means a child
1671 with any mental or physical illness that cannot be treated with
1672 the dispositional alternatives ordinarily available to the youth
1673 court.

1674 (p) A "dependent child" means any child who is not a
1675 child in need of supervision, a delinquent child, an abused child
1676 or a neglected child, and which child has been voluntarily placed
1677 in the custody of the Department of * * * Child Protection
1678 Services by his parent, guardian or custodian.

1679 (q) "Custody" means the physical possession of the
1680 child by any person.

1681 (r) "Legal custody" means the legal status created by a
1682 court order which gives the legal custodian the responsibilities
1683 of physical possession of the child and the duty to provide him
1684 with food, shelter, education and reasonable medical care, all
1685 subject to residual rights and responsibilities of the parent or
1686 guardian of the person.

1687 (s) "Detention" means the care of children in
1688 physically restrictive facilities.



1689 (t) "Shelter" means care of children in physically
1690 nonrestrictive facilities.

1691 (u) "Records involving children" means any of the
1692 following from which the child can be identified:

1693 (i) All youth court records as defined in Section
1694 43-21-251;

1695 (ii) All social records as defined in Section
1696 43-21-253;

1697 (iii) All law enforcement records as defined in
1698 Section 43-21-255;

1699 (iv) All agency records as defined in Section
1700 43-21-257; and

1701 (v) All other documents maintained by any
1702 representative of the state, county, municipality or other public
1703 agency insofar as they relate to the apprehension, custody,
1704 adjudication or disposition of a child who is the subject of a
1705 youth court cause.

1706 (v) "Any person responsible for care or support" means
1707 the person who is providing for the child at a given time. This
1708 term shall include, but is not limited to, stepparents, foster
1709 parents, relatives, nonlicensed babysitters or other similar
1710 persons responsible for a child and staff of residential care
1711 facilities and group homes that are licensed by the Department
1712 of * * * Child Protection Services.



1713 (w) The singular includes the plural, the plural the
1714 singular and the masculine the feminine when consistent with the
1715 intent of this chapter.

1716 (x) "Out-of-home" setting means the temporary
1717 supervision or care of children by the staff of licensed day care
1718 centers, the staff of public, private and state schools, the staff
1719 of juvenile detention facilities, the staff of unlicensed
1720 residential care facilities and group homes and the staff of, or
1721 individuals representing, churches, civic or social organizations.

1722 (y) "Durable legal custody" means the legal status
1723 created by a court order which gives the durable legal custodian
1724 the responsibilities of physical possession of the child and the
1725 duty to provide him with care, nurture, welfare, food, shelter,
1726 education and reasonable medical care. All these duties as
1727 enumerated are subject to the residual rights and responsibilities
1728 of the natural parent(s) or guardian(s) of the child or children.

1729 (z) "Status offense" means conduct subject to
1730 adjudication by the youth court that would not be a crime if
1731 committed by an adult.

1732 (aa) "Financially able" means a parent or child who is
1733 ineligible for a court-appointed attorney.

1734 (bb) "Assessment" means an individualized examination
1735 of a child to determine the child's psychosocial needs and
1736 problems, including the type and extent of any mental health,
1737 substance abuse or co-occurring mental health and substance abuse



1738 disorders and recommendations for treatment. The term includes,
1739 but is not limited to, a drug and alcohol, psychological or
1740 psychiatric evaluation, records review, clinical interview or the
1741 administration of a formal test and instrument.

1742 (cc) "Screening" means a process, with or without the
1743 administration of a formal instrument, that is designed to
1744 identify a child who is at increased risk of having mental health,
1745 substance abuse or co-occurring mental health and substance abuse
1746 disorders that warrant immediate attention, intervention or more
1747 comprehensive assessment.

1748 **SECTION 30.** Section 43-21-257, Mississippi Code of 1972, is
1749 amended as follows:

1750 43-21-257. (1) Unless otherwise provided in this section,
1751 any record involving children, including valid and invalid
1752 complaints, and the contents thereof maintained by the Department
1753 of Human Services, The Department of Child Protection Services, or
1754 any other state agency, shall be kept confidential and shall not
1755 be disclosed except as provided in Section 43-21-261.

1756 (2) The Office of Youth Services shall maintain a state
1757 central registry containing the number and disposition of all
1758 cases together with such other useful information regarding those
1759 cases as may be requested and is obtainable from the records of
1760 the youth court. The Office of Youth Services shall annually
1761 publish a statistical record of the number and disposition of all
1762 cases, but the names or identity of any children shall not be



1763 disclosed in the reports or records. The Office of Youth Services
1764 shall adopt such rules as may be necessary to carry out this
1765 subsection. The central registry files and the contents thereof
1766 shall be confidential and shall not be open to public inspection.
1767 Any person who discloses or encourages the disclosure of any
1768 record involving children from the central registry shall be
1769 subject to the penalty in Section 43-21-267. The youth court
1770 shall furnish, upon forms provided by the Office of Youth
1771 Services, the necessary information, and these completed forms
1772 shall be forwarded to the Office of Youth Services.

1773 (3) The Department of * * * Child Protection Services shall
1774 maintain a state central registry on neglect and abuse cases
1775 containing (a) the name, address and age of each child, (b) the
1776 nature of the harm reported, (c) the name and address of the
1777 person responsible for the care of the child, and (d) the name and
1778 address of the substantiated perpetrator of the harm reported.
1779 "Substantiated perpetrator" shall be defined as an individual who
1780 has committed an act(s) of sexual abuse or physical abuse that
1781 would otherwise be deemed as a felony or any child neglect that
1782 would be deemed as a threat to life, as determined upon
1783 investigation by the * * * Department of Child Protection
1784 Services. "Substantiation" for the purposes of the Mississippi
1785 Department of * * * Child Protection Services Central Registry
1786 shall require a criminal conviction or an adjudication by a youth
1787 court judge or court of competent jurisdiction, ordering that the



1788 name of the perpetrator be listed on the central registry, pending
1789 due process. The Department of * * * Child Protection Services
1790 shall adopt such rules and administrative procedures, especially
1791 those procedures to afford due process to individuals who have
1792 been named as substantiated perpetrators before the release of
1793 their name from the central registry, as may be necessary to carry
1794 out this subsection. The central registry shall be confidential
1795 and shall not be open to public inspection. Any person who
1796 discloses or encourages the disclosure of any record involving
1797 children from the central registry without following the rules and
1798 administrative procedures of the department shall be subject to
1799 the penalty in Section 43-21-267. The Department of * * * Child
1800 Protection Services and its employees are exempt from any civil
1801 liability as a result of any action taken pursuant to the
1802 compilation and/or release of information on the central registry
1803 under this section and any other applicable section of the code,
1804 unless determined that an employee has willfully and maliciously
1805 violated the rules and administrative procedures of the
1806 department, pertaining to the central registry or any section of
1807 this code. If an employee is determined to have willfully and
1808 maliciously performed such a violation, said employee shall not be
1809 exempt from civil liability in this regard.

1810 (4) The Mississippi State Department of Health may release
1811 the findings of investigations into allegations of abuse within
1812 licensed day care centers made under the provisions of Section



1813 43-21-353(8) to any parent of a child who is enrolled in the day
1814 care center at the time of the alleged abuse or at the time the
1815 request for information is made. The findings of any such
1816 investigation may also be released to parents who are considering
1817 placing children in the day care center. No information
1818 concerning those investigations may contain the names or
1819 identifying information of individual children.

1820 The Department of Health shall not be held civilly liable for
1821 the release of information on any findings, recommendations or
1822 actions taken pursuant to investigations of abuse that have been
1823 conducted under Section 43-21-353(8).

1824 **SECTION 31.** Section 43-21-261, Mississippi Code of 1972, is
1825 amended as follows:

1826 43-21-261. (1) Except as otherwise provided in this
1827 section, records involving children shall not be disclosed, other
1828 than to necessary staff of the youth court, except pursuant to an
1829 order of the youth court specifying the person or persons to whom
1830 the records may be disclosed, the extent of the records which may
1831 be disclosed and the purpose of the disclosure. Such court orders
1832 for disclosure shall be limited to those instances in which the
1833 youth court concludes, in its discretion, that disclosure is
1834 required for the best interests of the child, the public safety or
1835 the functioning of the youth court and then only to the following
1836 persons:



1837 (a) The judge of another youth court or member of
1838 another youth court staff;

1839 (b) The court of the parties in a child custody or
1840 adoption cause in another court;

1841 (c) A judge of any other court or members of another
1842 court staff;

1843 (d) Representatives of a public or private agency
1844 providing supervision or having custody of the child under order
1845 of the youth court;

1846 (e) Any person engaged in a bona fide research purpose,
1847 provided that no information identifying the subject of the
1848 records shall be made available to the researcher unless it is
1849 absolutely essential to the research purpose and the judge gives
1850 prior written approval, and the child, through his or her
1851 representative, gives permission to release the information;

1852 (f) The Mississippi Department of Employment Security,
1853 or its duly authorized representatives, for the purpose of a
1854 child's enrollment into the Job Corps Training Program as
1855 authorized by Title IV of the Comprehensive Employment Training
1856 Act of 1973 (29 USCS Section 923 et seq.). However, no records,
1857 reports, investigations or information derived therefrom
1858 pertaining to child abuse or neglect shall be disclosed;

1859 (g) To any person pursuant to a finding by a judge of
1860 the youth court of compelling circumstances affecting the health,
1861 safety or well-being of a child and that such disclosure is in the



1862 best interests of the child or an adult who was formerly the
1863 subject of a youth court delinquency proceeding.

1864 Law enforcement agencies may disclose information to the
1865 public concerning the taking of a child into custody for the
1866 commission of a delinquent act without the necessity of an order
1867 from the youth court. The information released shall not identify
1868 the child or his address unless the information involves a child
1869 convicted as an adult.

1870 (2) Any records involving children which are disclosed under
1871 an order of the youth court or pursuant to the terms of this
1872 section and the contents thereof shall be kept confidential by the
1873 person or agency to whom the record is disclosed unless otherwise
1874 provided in the order. Any further disclosure of any records
1875 involving children shall be made only under an order of the youth
1876 court as provided in this section.

1877 (3) Upon request, the parent, guardian or custodian of the
1878 child who is the subject of a youth court cause or any attorney
1879 for such parent, guardian or custodian, shall have the right to
1880 inspect any record, report or investigation which is to be
1881 considered by the youth court at a hearing, except that the
1882 identity of the reporter shall not be released, nor the name of
1883 any other person where the person or agency making the information
1884 available finds that disclosure of the information would be likely
1885 to endanger the life or safety of such person.



1886 (4) Upon request, the child who is the subject of a youth
1887 court cause shall have the right to have his counsel inspect and
1888 copy any record, report or investigation which is filed with the
1889 youth court or which is to be considered by the youth court at a
1890 hearing.

1891 (5) (a) The youth court prosecutor or prosecutors, the
1892 county attorney, the district attorney, the youth court defender
1893 or defenders, or any attorney representing a child shall have the
1894 right to inspect and copy any law enforcement record involving
1895 children.

1896 (b) The Department of * * * Child Protection Services
1897 shall disclose to a county prosecuting attorney or district
1898 attorney any and all records resulting from an investigation into
1899 suspected child abuse or neglect when the case has been referred
1900 by the Department of * * * Child Protection Services to the county
1901 prosecuting attorney or district attorney for criminal
1902 prosecution.

1903 (c) Agency records made confidential under the
1904 provisions of this section may be disclosed to a court of
1905 competent jurisdiction.

1906 (d) Records involving children shall be disclosed to
1907 the Division of Victim Compensation of the Office of the Attorney
1908 General upon the division's request without order of the youth
1909 court for purposes of determination of eligibility for victim
1910 compensation benefits.



1911 (6) Information concerning an investigation into a report of
1912 child abuse or child neglect may be disclosed by the Department
1913 of * * * Child Protection Services without order of the youth
1914 court to any attorney, physician, dentist, intern, resident,
1915 nurse, psychologist, social worker, family protection worker,
1916 family protection specialist, child caregiver, minister, law
1917 enforcement officer, public or private school employee making that
1918 report pursuant to Section 43-21-353(1) if the reporter has a
1919 continuing professional relationship with the child and a need for
1920 such information in order to protect or treat the child.

1921 (7) Information concerning an investigation into a report of
1922 child abuse or child neglect may be disclosed without further
1923 order of the youth court to any interagency child abuse task force
1924 established in any county or municipality by order of the youth
1925 court of that county or municipality.

1926 (8) Names and addresses of juveniles twice adjudicated as
1927 delinquent for an act which would be a felony if committed by an
1928 adult or for the unlawful possession of a firearm shall not be
1929 held confidential and shall be made available to the public.

1930 (9) Names and addresses of juveniles adjudicated as
1931 delinquent for murder, manslaughter, burglary, arson, armed
1932 robbery, aggravated assault, any sex offense as defined in Section
1933 45-33-23, for any violation of Section 41-29-139(a) (1) or for any
1934 violation of Section 63-11-30, shall not be held confidential and
1935 shall be made available to the public.



1936 (10) The judges of the circuit and county courts, and
1937 presentence investigators for the circuit courts, as provided in
1938 Section 47-7-9, shall have the right to inspect any youth court
1939 records of a person convicted of a crime for sentencing purposes
1940 only.

1941 (11) The victim of an offense committed by a child who is
1942 the subject of a youth court cause shall have the right to be
1943 informed of the child's disposition by the youth court.

1944 (12) A classification hearing officer of the State
1945 Department of Corrections, as provided in Section 47-5-103, shall
1946 have the right to inspect any youth court records, excluding abuse
1947 and neglect records, of any offender in the custody of the
1948 department who as a child or minor was a juvenile offender or was
1949 the subject of a youth court cause of action, and the State Parole
1950 Board, as provided in Section 47-7-17, shall have the right to
1951 inspect such records when the offender becomes eligible for
1952 parole.

1953 (13) The youth court shall notify the Department of Public
1954 Safety of the name, and any other identifying information such
1955 department may require, of any child who is adjudicated delinquent
1956 as a result of a violation of the Uniform Controlled Substances
1957 Law.

1958 (14) The Administrative Office of Courts shall have the
1959 right to inspect any youth court records in order that the number
1960 of youthful offenders, abused, neglected, truant and dependent



1961 children, as well as children in need of special care and children
1962 in need of supervision, may be tracked with specificity through
1963 the youth court and adult justice system, and to utilize tracking
1964 forms for such purpose.

1965 (15) Upon a request by a youth court, the Administrative
1966 Office of Courts shall disclose all information at its disposal
1967 concerning any previous youth court intakes alleging that a child
1968 was a delinquent child, child in need of supervision, child in
1969 need of special care, truant child, abused child or neglected
1970 child, as well as any previous youth court adjudications for the
1971 same and all dispositional information concerning a child who at
1972 the time of such request comes under the jurisdiction of the youth
1973 court making such request.

1974 (16) The Administrative Office of Courts may, in its
1975 discretion, disclose to the Department of Public Safety any or all
1976 of the information involving children contained in the office's
1977 youth court data management system known as Mississippi Youth
1978 Court Information Delivery System or "MYCIDS."

1979 (17) The youth courts of the state shall disclose to the
1980 Joint Legislative Committee on Performance Evaluation and
1981 Expenditure Review (PEER) any youth court records in order that
1982 the number of youthful offenders, abused, neglected, truant and
1983 dependent children, as well as children in need of special care
1984 and children in need of supervision, may be tracked with
1985 specificity through the youth court and adult justice system, and



1986 to utilize tracking forms for such purpose. The disclosure
1987 prescribed in this subsection shall not require a court order and
1988 shall be made in sortable, electronic format where possible. The
1989 PEER Committee may seek the assistance of the Administrative
1990 Office of Courts in seeking this information. The PEER Committee
1991 shall not disclose the identities of any youth who have been
1992 adjudicated in the youth courts of the state and shall only use
1993 the disclosed information for the purpose of monitoring the
1994 effectiveness and efficiency of programs established to assist
1995 adjudicated youth, and to ascertain the incidence of adjudicated
1996 youth who become adult offenders.

1997 (18) In every case where an abuse or neglect allegation has
1998 been made, the confidentiality provisions of this section shall
1999 not apply to prohibit access to a child's records by any state
2000 regulatory agency, any state or local prosecutorial agency or law
2001 enforcement agency; however, no identifying information concerning
2002 the child in question may be released to the public by such agency
2003 except as otherwise provided herein.

2004 (19) In every case where there is any indication or
2005 suggestion of either abuse or neglect and a child's physical
2006 condition is medically labeled as medically "serious" or
2007 "critical" or a child dies, the confidentiality provisions of this
2008 section shall not apply. In cases of child deaths, the following
2009 information may be released by the Mississippi Department of Human
2010 Services and the Department of Child Protection Services: (a)



2011 child's name; (b) address or location; (c) verification from the
2012 Department of Human Services or the Department of Child Protection
2013 Services of case status (no case or involvement, case exists, open
2014 or active case, case closed); (d) if a case exists, the type of
2015 report or case (physical abuse, neglect, etc.), date of intake(s)
2016 and investigation(s), and case disposition (substantiated or
2017 unsubstantiated). Notwithstanding the aforesaid, the
2018 confidentiality provisions of this section shall continue if there
2019 is a pending or planned investigation by any local, state or
2020 federal governmental agency or institution.

2021 (20) Any member of a foster care review board designated by
2022 the Department of * * * Child Protection Services shall have the
2023 right to inspect youth court records relating to the abuse,
2024 neglect or child in need of supervision cases assigned to such
2025 member for review.

2026 (21) Information concerning an investigation into a report
2027 of child abuse or child neglect may be disclosed without further
2028 order of the youth court in any administrative or due process
2029 hearing held, pursuant to Section 43-21-257, by the Department
2030 of * * * Child Protection Services for individuals whose names
2031 will be placed on the central registry as substantiated
2032 perpetrators.

2033 **SECTION 32.** Section 43-21-301, Mississippi Code of 1972, is
2034 amended as follows:



2035 43-21-301. (1) No court other than the youth court shall
2036 issue an arrest warrant or custody order for a child in a matter
2037 in which the youth court has exclusive original jurisdiction but
2038 shall refer the matter to the youth court.

2039 (2) Except as otherwise provided, no child in a matter in
2040 which the youth court has exclusive original jurisdiction shall be
2041 taken into custody by a law enforcement officer, the Department of
2042 Human Services, the Department of Child Protection Services, or
2043 any other person unless the judge or his designee has issued a
2044 custody order to take the child into custody.

2045 (3) The judge or his designee may require a law enforcement
2046 officer, the Department of Human Services, the Department of Child
2047 Protection Services, or any suitable person to take a child into
2048 custody for a period not longer than forty-eight (48) hours,
2049 excluding Saturdays, Sundays, and statutory state holidays.

2050 (a) Custody orders under this subsection may be issued
2051 if it appears that there is probable cause to believe that:

2052 (i) The child is within the jurisdiction of the
2053 court;

2054 (ii) Custody is necessary because of any of the
2055 following reasons: the child is endangered, any person would be
2056 endangered by the child, to ensure the child's attendance in court
2057 at such time as required, or a parent, guardian or custodian is
2058 not available to provide for the care and supervision of the
2059 child; and



2060 (iii) There is no reasonable alternative to
2061 custody.

2062 (b) Custody orders under this subsection shall be
2063 written. In emergency cases, a judge or his designee may issue an
2064 oral custody order, but the order shall be reduced to writing
2065 within forty-eight (48) hours of its issuance.

2066 (c) Each youth court judge shall develop and make
2067 available to law enforcement a list of designees who are available
2068 after hours, on weekends and on holidays.

2069 (4) The judge or his designee may order, orally or in
2070 writing, the immediate release of any child in the custody of any
2071 person or agency. Except as otherwise provided in subsection (3)
2072 of this section, custody orders as provided by this chapter and
2073 authorizations of temporary custody may be written or oral, but,
2074 if oral, reduced to writing as soon as practicable. The written
2075 order shall:

2076 (a) Specify the name and address of the child, or, if
2077 unknown, designate him or her by any name or description by which
2078 he or she can be identified with reasonable certainty;

2079 (b) Specify the age of the child, or, if unknown, that
2080 he or she is believed to be of an age subject to the jurisdiction
2081 of the youth court;

2082 (c) Except in cases where the child is alleged to be a
2083 delinquent child or a child in need of supervision, state that the
2084 effect of the continuation of the child's residing within his or



2085 her own home would be contrary to the welfare of the child, that
2086 the placement of the child in foster care is in the best interests
2087 of the child, and unless the reasonable efforts requirement is
2088 bypassed under Section 43-21-603(7)(c), also state that (i)
2089 reasonable efforts have been made to maintain the child within his
2090 or her own home, but that the circumstances warrant his removal
2091 and there is no reasonable alternative to custody; or (ii) the
2092 circumstances are of such an emergency nature that no reasonable
2093 efforts have been made to maintain the child within his own home,
2094 and that there is no reasonable alternative to custody. If the
2095 court makes a finding in accordance with (ii) of this paragraph,
2096 the court shall order that reasonable efforts be made towards the
2097 reunification of the child with his or her family;

2098 (d) State that the child shall be brought immediately
2099 before the youth court or be taken to a place designated by the
2100 order to be held pending review of the order;

2101 (e) State the date issued and the youth court by which
2102 the order is issued; and

2103 (f) Be signed by the judge or his designee with the
2104 title of his office.

2105 (5) The taking of a child into custody shall not be
2106 considered an arrest except for evidentiary purposes.

2107 (6) (a) No child who has been accused or adjudicated of any
2108 offense that would not be a crime if committed by an adult shall
2109 be placed in an adult jail or lockup. An accused status offender



2110 shall not be held in secure detention longer than twenty-four (24)
2111 hours prior to and twenty-four (24) hours after an initial court
2112 appearance, excluding Saturdays, Sundays and statutory state
2113 holidays, except under the following circumstances: a status
2114 offender may be held in secure detention for violating a valid
2115 court order pursuant to the criteria as established by the federal
2116 Juvenile Justice and Delinquency Prevention Act of 2002, and any
2117 subsequent amendments thereto, and out-of-state runaways may be
2118 detained pending return to their home state.

2119 (b) No accused or adjudicated juvenile offender, except
2120 for an accused or adjudicated juvenile offender in cases where
2121 jurisdiction is waived to the adult criminal court, shall be
2122 detained or placed into custody of any adult jail or lockup for a
2123 period in excess of six (6) hours.

2124 (c) If any county violates the provisions of paragraph
2125 (a) or (b) of this subsection, the state agency authorized to
2126 allocate federal funds received pursuant to the Juvenile Justice
2127 and Delinquency Prevention Act of 1974, 88 Stat. 2750 (codified in
2128 scattered Sections of 5, 18, 42 USCS), shall withhold the county's
2129 share of such funds.

2130 (d) Any county that does not have a facility in which
2131 to detain its juvenile offenders in compliance with the provisions
2132 of paragraphs (a) and (b) of this subsection may enter into a
2133 contractual agreement to detain or place into custody the juvenile
2134 offenders of that county with any county or municipality that does



2135 have such a facility, or with the State of Mississippi, or with
2136 any private entity that maintains a juvenile correctional
2137 facility.

2138 (e) Notwithstanding the provisions of paragraphs (a),
2139 (b), (c) and (d) of this subsection, all counties shall be allowed
2140 a one-year grace period from March 27, 1993, to comply with the
2141 provisions of this subsection.

2142 **SECTION 33.** Section 43-21-303, Mississippi Code of 1972, is
2143 amended as follows:

2144 43-21-303. (1) No child in a matter in which the youth
2145 court has original exclusive jurisdiction shall be taken in
2146 custody by any person without a custody order except that:

2147 (a) A law enforcement officer may take a child in
2148 custody if:

2149 (i) Grounds exist for the arrest of an adult in
2150 identical circumstances; and

2151 (ii) Such law enforcement officer has probable
2152 cause to believe that custody is necessary as defined in
2153 Section * * * paragraph (d) of this subsection (1); and

2154 (iii) Such law enforcement officer can find no
2155 reasonable alternative to custody; or

2156 (b) A law enforcement officer or an agent of the
2157 department of public welfare may take a child into custody if:

2158 (i) There is probable cause to believe that the
2159 child is in immediate danger of personal harm; and



2160 (ii) Such law enforcement officer or agent has
2161 probable cause to believe that immediate custody is necessary as
2162 defined * * * in paragraph (d) of this subsection (1); and

2163 (iii) Such law enforcement officer or agent can
2164 find no reasonable alternative to custody * * * ; and

2165 (c) Any other person may take a child in custody if
2166 grounds exist for the arrest of an adult in identical
2167 circumstances. Such other person shall immediately surrender
2168 custody of the child to the proper law enforcement officer who
2169 shall thereupon continue custody only as provided in subsection
2170 (1) (a) of this section.

2171 (d) Custody shall be deemed necessary:

2172 (i) When a child is endangered or any person would
2173 be endangered by the child;

2174 (ii) To insure the child's attendance in court at
2175 such time as required; or

2176 (iii) When a parent, guardian or custodian is not
2177 available to provide for the care and supervision of the child.

2178 (2) When it is necessary to take a child into custody, the
2179 least restrictive custody should be selected.

2180 (3) Unless the child is immediately released, the person
2181 taking the child into custody shall immediately notify the judge
2182 or his designee. A person taking a child into custody shall also
2183 make continuing reasonable efforts to notify the child's parent,



2184 guardian or custodian and invite the parent, guardian or custodian
2185 to be present during any questioning.

2186 (4) A child taken into custody shall not be held in custody
2187 for a period longer than reasonably necessary, but not to exceed
2188 twenty-four (24) hours, and shall be released to his parent,
2189 guardian or custodian unless the judge or his designee authorizes
2190 temporary custody.

2191 **SECTION 34.** Section 43-21-351, Mississippi Code of 1972, is
2192 amended as follows:

2193 43-21-351. (1) Any person or agency having knowledge that a
2194 child residing or being within the county is within the
2195 jurisdiction of the youth court may make a written report to the
2196 intake unit alleging facts sufficient to establish the
2197 jurisdiction of the youth court. The report shall bear a
2198 permanent number that will be assigned by the court in accordance
2199 with the standards established by the Administrative Office of
2200 Courts pursuant to Section 9-21-9(d), and shall be preserved until
2201 destroyed on order of the court.

2202 (2) There shall be in each youth court of the state an
2203 intake officer who shall be responsible for the accurate and
2204 timely entering of all intake and case information into the
2205 Mississippi Youth Court Information Delivery System (MYCIDS) for
2206 the Division of Youth Services, truancy matters and the * * *
2207 Department of Child Protection Services. It shall be the
2208 responsibility of the youth court judge or referee of each county



2209 to ensure that the intake officer is carrying out the
2210 responsibility of this section.

2211 **SECTION 35.** Section 43-21-353, Mississippi Code of 1972, is
2212 amended as follows:

2213 43-21-353. (1) Any attorney, physician, dentist, intern,
2214 resident, nurse, psychologist, social worker, family protection
2215 worker, family protection specialist, child caregiver, minister,
2216 law enforcement officer, public or private school employee or any
2217 other person having reasonable cause to suspect that a child is a
2218 neglected child or an abused child, shall cause an oral report to
2219 be made immediately by telephone or otherwise and followed as soon
2220 thereafter as possible by a report in writing to the Department
2221 of * * * Child Protection Services, and immediately a referral
2222 shall be made by the Department of * * * Child Protection Services
2223 to the youth court intake unit, which unit shall promptly comply
2224 with Section 43-21-357. In the course of an investigation, at the
2225 initial time of contact with the individual(s) about whom a report
2226 has been made under this Youth Court Act or with the individual(s)
2227 responsible for the health or welfare of a child about whom a
2228 report has been made under this chapter, the Department of * * *
2229 Child Protection Services shall inform the individual of the
2230 specific complaints or allegations made against the individual.
2231 Consistent with subsection (4), the identity of the person who
2232 reported his or her suspicion shall not be disclosed. Where



2233 appropriate, the Department of * * * Child Protection Services
2234 shall additionally make a referral to the youth court prosecutor.

2235 Upon receiving a report that a child has been sexually
2236 abused, or burned, tortured, mutilated or otherwise physically
2237 abused in such a manner as to cause serious bodily harm, or upon
2238 receiving any report of abuse that would be a felony under state
2239 or federal law, the Department of * * * Child Protection Services
2240 shall immediately notify the law enforcement agency in whose
2241 jurisdiction the abuse occurred and shall notify the appropriate
2242 prosecutor within forty-eight (48) hours, and the Department
2243 of * * * Child Protection Services shall have the duty to provide
2244 the law enforcement agency all the names and facts known at the
2245 time of the report; this duty shall be of a continuing nature.
2246 The law enforcement agency and the Department of * * * Child
2247 Protection Services shall investigate the reported abuse
2248 immediately and shall file a preliminary report with the
2249 appropriate prosecutor's office within twenty-four (24) hours and
2250 shall make additional reports as new or additional information or
2251 evidence becomes available. The Department of * * * Child
2252 Protection Services shall advise the clerk of the youth court and
2253 the youth court prosecutor of all cases of abuse reported to the
2254 department within seventy-two (72) hours and shall update such
2255 report as information becomes available.

2256 (2) Any report to the Department of * * * Child Protection
2257 Services shall contain the names and addresses of the child and



2258 his parents or other persons responsible for his care, if known,
2259 the child's age, the nature and extent of the child's injuries,
2260 including any evidence of previous injuries * * *, any other
2261 information that might be helpful in establishing the cause of the
2262 injury, and the identity of the perpetrator.

2263 (3) The Department of * * * Child Protection Services shall
2264 maintain a statewide incoming wide-area telephone service or
2265 similar service for the purpose of receiving reports of suspected
2266 cases of child abuse; provided that any attorney, physician,
2267 dentist, intern, resident, nurse, psychologist, social worker,
2268 family protection worker, family protection specialist, child
2269 caregiver, minister, law enforcement officer or public or private
2270 school employee who is required to report under subsection (1) of
2271 this section shall report in the manner required in subsection
2272 (1).

2273 (4) Reports of abuse and neglect made under this chapter and
2274 the identity of the reporter are confidential except when the
2275 court in which the investigation report is filed, in its
2276 discretion, determines the testimony of the person reporting to be
2277 material to a judicial proceeding or when the identity of the
2278 reporter is released to law enforcement agencies and the
2279 appropriate prosecutor pursuant to subsection (1). Reports made
2280 under this section to any law enforcement agency or prosecutorial
2281 officer are for the purpose of criminal investigation and
2282 prosecution only and no information from these reports may be



2283 released to the public except as provided by Section 43-21-261.
2284 Disclosure of any information by the prosecutor shall be according
2285 to the Mississippi Uniform Rules of Circuit and County Court
2286 Procedure. The identity of the reporting party shall not be
2287 disclosed to anyone other than law enforcement officers or
2288 prosecutors without an order from the appropriate youth court.
2289 Any person disclosing any reports made under this section in a
2290 manner not expressly provided for in this section or Section
2291 43-21-261 shall be guilty of a misdemeanor and subject to the
2292 penalties prescribed by Section 43-21-267.

2293 (5) All final dispositions of law enforcement investigations
2294 described in subsection (1) of this section shall be determined
2295 only by the appropriate prosecutor or court. All final
2296 dispositions of investigations by the Department of * * * Child
2297 Protection Services as described in subsection (1) of this section
2298 shall be determined only by the youth court. Reports made under
2299 subsection (1) of this section by the Department of * * * Child
2300 Protection Services to the law enforcement agency and to the
2301 district attorney's office shall include the following, if known
2302 to the department:

- 2303 (a) The name and address of the child;
- 2304 (b) The names and addresses of the parents;
- 2305 (c) The name and address of the suspected perpetrator;
- 2306 (d) The names and addresses of all witnesses, including
2307 the reporting party if a material witness to the abuse;



2308 (e) A brief statement of the facts indicating that the
2309 child has been abused and any other information from the agency
2310 files or known to the family protection worker or family
2311 protection specialist making the investigation, including medical
2312 records or other records, which may assist law enforcement or the
2313 district attorney in investigating and/or prosecuting the case;
2314 and

2315 (f) What, if any, action is being taken by the
2316 Department of * * * Child Protection Services.

2317 (6) In any investigation of a report made under this chapter
2318 of the abuse or neglect of a child as defined in Section
2319 43-21-105(m), the Department of * * * Child Protection Services
2320 may request the appropriate law enforcement officer with
2321 jurisdiction to accompany the department in its investigation, and
2322 in such cases the law enforcement officer shall comply with such
2323 request.

2324 (7) Anyone who willfully violates any provision of this
2325 section shall be, upon being found guilty, punished by a fine not
2326 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in
2327 jail not to exceed one (1) year, or both.

2328 (8) If a report is made directly to the Department of * * *
2329 Child Protection Services that a child has been abused or
2330 neglected in an out-of-home setting, a referral shall be made
2331 immediately to the law enforcement agency in whose jurisdiction
2332 the abuse occurred and the department shall notify the district



2333 attorney's office within forty-eight (48) hours of such report.
2334 The Department of * * * Child Protection Services shall
2335 investigate the out-of-home setting report of abuse or neglect to
2336 determine whether the child who is the subject of the report, or
2337 other children in the same environment, comes within the
2338 jurisdiction of the youth court and shall report to the youth
2339 court the department's findings and recommendation as to whether
2340 the child who is the subject of the report or other children in
2341 the same environment require the protection of the youth court.
2342 The law enforcement agency shall investigate the reported abuse
2343 immediately and shall file a preliminary report with the district
2344 attorney's office within forty-eight (48) hours and shall make
2345 additional reports as new information or evidence becomes
2346 available. If the out-of-home setting is a licensed facility, an
2347 additional referral shall be made by the Department of * * * Child
2348 Protection Services to the licensing agency. The licensing agency
2349 shall investigate the report and shall provide the Department
2350 of * * * Child Protection Services, the law enforcement agency and
2351 the district attorney's office with their written findings from
2352 such investigation as well as that licensing agency's
2353 recommendations and actions taken.

2354 (9) If a child protective investigation does not result in
2355 an out-of-home placement, a child protective investigator must
2356 provide information to the parent or guardians about community



2357 service programs that provide respite care, voluntary guardianship
2358 or other support services for families in crisis.

2359 **SECTION 36.** Section 43-21-354, Mississippi Code of 1972, is
2360 amended as follows:

2361 43-21-354. The statewide incoming wide area telephone
2362 service established pursuant to Section 43-21-353, Mississippi
2363 Code of 1972, shall be maintained by the * * * Department of Child
2364 Protection Services, or its successor, on a twenty-four-hour seven
2365 (7) days a week basis.

2366 **SECTION 37.** Section 43-21-357, Mississippi Code of 1972, is
2367 amended as follows:

2368 43-21-357. (1) After receiving a report, the youth court
2369 intake unit shall promptly make a preliminary inquiry to determine
2370 whether the interest of the child, other children in the same
2371 environment or the public requires the youth court to take further
2372 action. As part of the preliminary inquiry, the youth court
2373 intake unit may request or the youth court may order the
2374 Department of Human Services, the Department of Youth Services,
2375 the Department of Child Protection Services, any successor agency
2376 or any other qualified public employee to make an investigation or
2377 report concerning the child and any other children in the same
2378 environment, and present the findings thereof to the youth court
2379 intake unit. If the youth court intake unit receives a neglect or
2380 abuse report, the youth court intake unit shall immediately
2381 forward the complaint to the Department of * * * Child Protection



2382 Services to promptly make an investigation or report concerning
2383 the child and any other children in the same environment and
2384 promptly present the findings thereof to the youth court intake
2385 unit. If it appears from the preliminary inquiry that the child
2386 or other children in the same environment are within the
2387 jurisdiction of the court, the youth court intake unit shall
2388 recommend to the youth court:

2389 (a) That the youth court take no action;

2390 (b) That an informal adjustment be made;

2391 (c) The * * * Department of Child Protection Services,
2392 monitor the child, family and other children in the same
2393 environment;

2394 (d) That the child is warned or counseled informally;

2395 (e) That the child be referred to the youth court drug
2396 court; or

2397 (f) That a petition be filed.

2398 (2) The youth court shall then, without a hearing:

2399 (a) Order that no action be taken;

2400 (b) Order that an informal adjustment be made;

2401 (c) Order that the Department of * * * Child Protection
2402 Services, * * * monitor the child, family and other children in
2403 the same environment;

2404 (d) Order that the child is warned or counseled
2405 informally;



2406 (e) That the child be referred to the youth court drug
2407 court; or

2408 (f) Order that a petition be filed.

2409 (3) If the preliminary inquiry discloses that a child needs
2410 emergency medical treatment, the judge may order the necessary
2411 treatment.

2412 **SECTION 38.** Section 43-21-603, Mississippi Code of 1972, is
2413 amended as follows:

2414 43-21-603. (1) At the beginning of each disposition
2415 hearing, the judge shall inform the parties of the purpose of the
2416 hearing.

2417 (2) All testimony shall be under oath unless waived by all
2418 parties and may be in narrative form. The court may consider any
2419 evidence that is material and relevant to the disposition of the
2420 cause, including hearsay and opinion evidence. At the conclusion
2421 of the evidence, the youth court shall give the parties an
2422 opportunity to present oral argument.

2423 (3) If the child has been adjudicated a delinquent child,
2424 before entering a disposition order, the youth court should
2425 consider, among others, the following relevant factors:

- 2426 (a) The nature of the offense;
- 2427 (b) The manner in which the offense was committed;
- 2428 (c) The nature and number of a child's prior
2429 adjudicated offenses;
- 2430 (d) The child's need for care and assistance;



2431 (e) The child's current medical history, including
2432 medication and diagnosis;

2433 (f) The child's mental health history, which may
2434 include, but not be limited to, the Massachusetts Youth Screening
2435 Instrument version 2 (MAYSI-2);

2436 (g) Copies of the child's cumulative record from the
2437 last school of record, including special education records, if
2438 applicable;

2439 (h) Recommendation from the school of record based on
2440 areas of remediation needed;

2441 (i) Disciplinary records from the school of record; and

2442 (j) Records of disciplinary actions outside of the
2443 school setting.

2444 (4) If the child has been adjudicated a child in need of
2445 supervision, before entering a disposition order, the youth court
2446 should consider, among others, the following relevant factors:

2447 (a) The nature and history of the child's conduct;

2448 (b) The family and home situation; and

2449 (c) The child's need of care and assistance.

2450 (5) If the child has been adjudicated a neglected child or
2451 an abused child, before entering a disposition order, the youth
2452 court shall consider, among others, the following relevant
2453 factors:

2454 (a) The child's physical and mental conditions;

2455 (b) The child's need of assistance;



2456 (c) The manner in which the parent, guardian or
2457 custodian participated in, tolerated or condoned the abuse,
2458 neglect or abandonment of the child;

2459 (d) The ability of a child's parent, guardian or
2460 custodian to provide proper supervision and care of a child; and

2461 (e) Relevant testimony and recommendations, where
2462 available, from the foster parent of the child, the grandparents
2463 of the child, the guardian ad litem of the child, representatives
2464 of any private care agency that has cared for the child, the
2465 family protection worker or family protection specialist assigned
2466 to the case, and any other relevant testimony pertaining to the
2467 case.

2468 (6) After consideration of all the evidence and the relevant
2469 factors, the youth court shall enter a disposition order that
2470 shall not recite any of the facts or circumstances upon which the
2471 disposition is based, nor shall it recite that a child has been
2472 found guilty; but it shall recite that a child is found to be a
2473 delinquent child, a child in need of supervision, a neglected
2474 child or an abused child.

2475 (7) If the youth court orders that the custody or
2476 supervision of a child who has been adjudicated abused or
2477 neglected be placed with the Department of * * * Child Protection
2478 Services or any other person or public or private agency, other
2479 than the child's parent, guardian or custodian, the youth court
2480 shall find and the disposition order shall recite that:



2481 (a) (i) Reasonable efforts have been made to maintain
2482 the child within his own home, but that the circumstances warrant
2483 his removal and there is no reasonable alternative to custody; or

2484 (ii) The circumstances are of such an emergency
2485 nature that no reasonable efforts have been made to maintain the
2486 child within his own home, and that there is no reasonable
2487 alternative to custody; and

2488 (b) That the effect of the continuation of the child's
2489 residence within his own home would be contrary to the welfare of
2490 the child and that the placement of the child in foster care is in
2491 the best interests of the child; or

2492 (c) Reasonable efforts to maintain the child within his
2493 home shall not be required if the court determines that:

2494 (i) The parent has subjected the child to
2495 aggravated circumstances, including, but not limited to,
2496 abandonment, torture, chronic abuse and sexual abuse; or

2497 (ii) The parent has been convicted of murder of
2498 another child of that parent, voluntary manslaughter of another
2499 child of that parent, aided or abetted, attempted, conspired or
2500 solicited to commit that murder or voluntary manslaughter, or a
2501 felony assault that results in the serious bodily injury to the
2502 surviving child or another child of that parent; or

2503 (iii) The parental rights of the parent to a
2504 sibling have been terminated involuntarily; and



2505 (iv) That the effect of the continuation of the
2506 child's residence within his own home would be contrary to the
2507 welfare of the child and that placement of the child in foster
2508 care is in the best interests of the child.

2509 Once the reasonable efforts requirement is bypassed, the
2510 court shall have a permanency hearing under Section 43-21-613
2511 within thirty (30) days of the finding.

2512 (8) Upon a written motion by a party, the youth court shall
2513 make written findings of fact and conclusions of law upon which it
2514 relies for the disposition order. If the disposition ordered by
2515 the youth court includes placing the child in the custody of a
2516 training school, an admission packet shall be prepared for the
2517 child that contains the following information:

2518 (a) The child's current medical history, including
2519 medications and diagnosis;

2520 (b) The child's mental health history;

2521 (c) Copies of the child's cumulative record from the
2522 last school of record, including special education records, if
2523 reasonably available;

2524 (d) Recommendation from the school of record based on
2525 areas of remediation needed;

2526 (e) Disciplinary records from the school of record; and

2527 (f) Records of disciplinary actions outside of the
2528 school setting, if reasonably available.



2529 Only individuals who are permitted under the Health Insurance
2530 Portability and Accountability Act of 1996 (HIPAA) shall have
2531 access to a child's medical records which are contained in an
2532 admission packet. The youth court shall provide the admission
2533 packet to the training school at or before the child's arrival at
2534 the training school. The admittance of any child to a training
2535 school shall take place between the hours of 8:00 a.m. and 3:00
2536 p.m. on designated admission days.

2537 (9) When a child in the jurisdiction of the Youth Court is
2538 committed to the custody of the Mississippi Department of * * *
2539 Child Protection Services and is believed to be in need of
2540 treatment for a mental or emotional disability or infirmity, the
2541 Department of * * * Child Protection Services shall file an
2542 affidavit alleging that the child is in need of mental health
2543 services with the Youth Court. The Youth Court shall refer the
2544 child to the appropriate community mental health center for
2545 evaluation pursuant to Section 41-21-67. If the prescreening
2546 evaluation recommends residential care, the Youth Court shall
2547 proceed with civil commitment pursuant to Sections 41-21-61 et
2548 seq., 43-21-315 and 43-21-611, and the Department of Mental
2549 Health, once commitment is ordered, shall provide appropriate
2550 care, treatment and services for at least as many adolescents as
2551 were provided services in fiscal year 2004 in its facilities.

2552 (10) Any screening and assessment examinations ordered by
2553 the court may aid in dispositions related to delinquency, but no



2554 statements or admissions made during the course thereof may be
2555 admitted into evidence against the child on the issue of whether
2556 the child committed a delinquent act.

2557 **SECTION 39.** Section 43-21-609, Mississippi Code of 1972, is
2558 amended as follows:

2559 43-21-609. In neglect and abuse cases, the disposition order
2560 may include any of the following alternatives, giving precedence
2561 in the following sequence:

2562 (a) Release the child without further action;

2563 (b) Place the child in the custody of his parents, a
2564 relative or other person subject to any conditions and limitations
2565 as the court may prescribe. If the court finds that temporary
2566 relative placement, adoption or foster care placement is
2567 inappropriate, unavailable or otherwise not in the best interest
2568 of the child, durable legal custody may be granted by the court to
2569 any person subject to any limitations and conditions the court may
2570 prescribe; such durable legal custody will not take effect unless
2571 the child or children have been in the physical custody of the
2572 proposed durable custodians for at least one (1) year under the
2573 supervision of the Department of * * * Child Protection Services.
2574 The requirements of Section 43-21-613 as to disposition review
2575 hearings does not apply to those matters in which the court has
2576 granted durable legal custody. In such cases, the Department
2577 of * * * Child Protection Services shall be released from any
2578 oversight or monitoring responsibilities;



2579 (c) Order terms of treatment calculated to assist the
2580 child and the child's parent, guardian or custodian which are
2581 within the ability of the parent, guardian or custodian to
2582 perform;

2583 (d) Order youth court personnel, the Department of
2584 Human Services, the Department of Child Protection Services or
2585 child care agencies to assist the child and the child's parent,
2586 guardian or custodian to secure social or medical services to
2587 provide proper supervision and care of the child;

2588 (e) Give legal custody of the child to any of the
2589 following but in no event to any state training school:

2590 (i) The Department of * * * Child Protection
2591 Services for appropriate placement; or

2592 (ii) Any private or public organization,
2593 preferably community-based, able to assume the education, care and
2594 maintenance of the child, which has been found suitable by the
2595 court. Prior to assigning the custody of any child to any private
2596 institution or agency, the youth court through its designee shall
2597 first inspect the physical facilities to determine that they
2598 provide a reasonable standard of health and safety for the child;

2599 (f) If the court makes a finding that custody is
2600 necessary as defined in Section 43-21-301(3)(b), and that the
2601 child, in the action pending before the youth court had not
2602 previously been taken into custody, the disposition order shall
2603 recite that the effect of the continuation of the child's residing



2604 within his or her own home would be contrary to the welfare of the
2605 child, that the placement of the child in foster care is in the
2606 best interests of the child, and unless the reasonable efforts
2607 requirement is bypassed under Section 43-21-603(7)(c), the order
2608 also must state:

2609 (i) That reasonable efforts have been made to
2610 maintain the child within his or her own home, but that the
2611 circumstances warrant his or her removal, and there is no
2612 reasonable alternative to custody; or

2613 (ii) The circumstances are of such an emergency
2614 nature that no reasonable efforts have been made to maintain the
2615 child within his or her own home, and there is no reasonable
2616 alternative to custody; or

2617 (iii) If the court makes a finding in accordance
2618 with (ii) of this paragraph, the court shall order that reasonable
2619 efforts be made towards the reunification of the child with his or
2620 her family * * *;

2621 (g) If the court had, before the disposition hearing in
2622 the action pending before the court, taken the child into custody,
2623 the judge or referee shall determine, and the youth court order
2624 shall recite that reasonable efforts were made by the Department
2625 of * * * Child Protection Services to finalize the child's
2626 permanency plan that was in effect on the date of the disposition
2627 hearing.



2628 **SECTION 40.** Section 43-21-613, Mississippi Code of 1972, is
2629 amended as follows:

2630 43-21-613. (1) If the youth court finds, after a hearing
2631 which complies with the sections governing adjudicatory hearings,
2632 that the terms of a delinquency or child in need of supervision
2633 disposition order, probation or parole have been violated, the
2634 youth court may, in its discretion, revoke the original
2635 disposition and make any disposition which it could have
2636 originally ordered. The hearing shall be initiated by the filing
2637 of a petition that complies with the sections governing petitions
2638 in this chapter and that includes a statement of the youth court's
2639 original disposition order, probation or parole, the alleged
2640 violation of that order, probation or parole, and the facts which
2641 show the violation of that order, probation or parole. Summons
2642 shall be served in the same manner as summons for an adjudicatory
2643 hearing.

2644 (2) On motion of a child or a child's parent, guardian or
2645 custodian, the youth court may, in its discretion, conduct an
2646 informal hearing to review the disposition order. If the youth
2647 court finds a material change of circumstances relating to the
2648 disposition of the child, the youth court may modify the
2649 disposition order to any appropriate disposition of equal or
2650 greater precedence which the youth court could have originally
2651 ordered.



2652 (3) (a) Unless the youth court's jurisdiction has been
2653 terminated, all disposition orders for supervision, probation or
2654 placement of a child with an individual or an agency shall be
2655 reviewed by the youth court judge or referee at least annually to
2656 determine if continued placement, probation or supervision is in
2657 the best interest of the child or the public. For children who
2658 have been adjudicated abused or neglected, the youth court shall
2659 conduct a permanency hearing within twelve (12) months after the
2660 earlier of:

2661 (i) An adjudication that the child has been abused
2662 or neglected; or

2663 (ii) The date of the child's removal from the
2664 allegedly abusive or neglectful custodian/parent. Notice of such
2665 hearing shall be given in accordance with the provisions of
2666 Section 43-21-505(5). In conducting the hearing, the judge or
2667 referee shall require a written report and may require information
2668 or statements from the child's youth court counselor, parent,
2669 guardian or custodian, which includes, but is not limited to, an
2670 evaluation of the child's progress and recommendations for further
2671 supervision or treatment. The judge or referee shall, at the
2672 permanency hearing determine the future status of the child,
2673 including, but not limited to, whether the child should be
2674 returned to the parent(s) or placed with suitable relatives,
2675 placed for adoption, placed for the purpose of establishing
2676 durable legal custody or should, because of the child's special



2677 needs or circumstances, be continued in foster care on a permanent
2678 or long-term basis. If the child is in an out-of-state placement,
2679 the hearing shall determine whether the out-of-state placement
2680 continues to be appropriate and in the best interest of the child.
2681 At the permanency hearing the judge or referee shall determine,
2682 and the youth court order shall recite that reasonable efforts
2683 were made by the Department of * * * Child Protection Services to
2684 finalize the child's permanency plan that was in effect on the
2685 date of the permanency hearing. The judge or referee may find
2686 that reasonable efforts to maintain the child within his home
2687 shall not be required in accordance with Section 43-21-603(7)(c),
2688 and that the youth court shall continue to conduct permanency
2689 hearings for a child who has been adjudicated abused or neglected,
2690 at least annually thereafter, for as long as the child remains in
2691 the custody of the Mississippi Department of * * * Child
2692 Protection Services.

2693 (b) The court may find that the filing of a termination
2694 of parental rights petition is not in the child's best interest
2695 if:

2696 (i) The child is being cared for by a relative;
2697 and/or

2698 (ii) The Department of * * * Child Protection
2699 Services has documented compelling and extraordinary reasons why
2700 termination of parental rights would not be in the best interests
2701 of the child.



2702 (c) The provisions of this subsection shall also apply
2703 to review of cases involving a dependent child; however, such
2704 reviews shall take place not less frequently than once each one
2705 hundred eighty (180) days. A dependent child shall be ordered by
2706 the youth court judge or referee to be returned to the custody and
2707 home of the child's parent, guardian or custodian unless the judge
2708 or referee, upon such review, makes a written finding that the
2709 return of the child to the home would be contrary to the child's
2710 best interests.

2711 (d) Reviews are not to be conducted unless explicitly
2712 ordered by the youth court concerning those cases in which the
2713 court has granted durable legal custody. In such cases, the
2714 Department of * * * Child Protection Services shall be released
2715 from any oversight or monitoring responsibilities, and relieved of
2716 physical and legal custody and supervision of the child.

2717 **SECTION 41.** Section 43-27-101, Mississippi Code of 1972, is
2718 amended as follows:

2719 43-27-101. For purposes of Sections 43-27-101 and 43-27-103,
2720 the following words shall have the meanings ascribed in this
2721 section, unless the context requires otherwise:

2722 (a) "Child or youth in the custody of the Department
2723 of * * * Child Protection Services" means an individual:

2724 (i) Who has not yet reached his eighteenth
2725 birthday;



2726 (ii) Who has been legally placed in the custody of
2727 the Department of * * * Child Protection Services by the youth
2728 court and for whom custody with the Department of * * * Child
2729 Protection Services was not sought by the parents or legal
2730 custodians or guardians for the parents' or legal custodians' or
2731 guardians' legal responsibilities to relieve themselves of the
2732 responsibility for paying for treatment for a child or youth; and

2733 (iii) Who is unable to be maintained with the
2734 family or legal guardians or custodians due to his or her need for
2735 specialized care.

2736 (b) "Child or youth under the supervision of the
2737 Department of * * * Child Protection Services" means an
2738 individual:

2739 (i) Who has not yet reached his eighteenth
2740 birthday; and

2741 (ii) Who has been referred for abuse or neglect
2742 and for whom a case has been opened and is active in the * * *
2743 Department of Child Protection Services.

2744 (c) "Plan of care" means a written plan of services
2745 needed to be provided for a child or youth and his or her family
2746 in order to provide the special care or services required.

2747 (d) "Special needs crisis" means:

2748 (i) Conduct or behavioral problems of such a
2749 severe nature and level that family or parental violence, abuse,
2750 and/or neglect pose an imminent threat or are present; or



2751 (ii) Conduct or behavioral problems of such a
2752 severe nature and level that family or parental violence, abuse,
2753 and/or neglect pose an imminent threat or are present.

2754 (e) "Specialized care" means:

2755 (i) "Self care," which means the ability to
2756 provide, sustain and protect himself or herself at a level
2757 appropriate to his or her age;

2758 (ii) "Interpersonal relationships," which means
2759 the ability to build and maintain satisfactory relationships with
2760 peers and adults;

2761 (iii) "Family life," which means the capacity to
2762 live in a family or family-type environment;

2763 (iv) "Self direction," which means the child's
2764 ability to control his or her behavior and to make decisions in a
2765 manner appropriate to his or her age;

2766 (v) "Education," which means the ability to learn
2767 social and intellectual skill from teachers in an available
2768 educational setting.

2769 (f) "Special needs child" means a child with a variety
2770 of handicapping conditions or disabilities, including emotional or
2771 severely emotional disorders. These conditions or disabilities
2772 present the need for special medical attention, supervision and
2773 therapy on a very regimented basis.

2774 **SECTION 42.** Section 43-27-103, Mississippi Code of 1972, is
2775 amended as follows:



2776 43-27-103. (1) Sections 43-27-101 and 43-27-103 shall
2777 enable the development by the Department of * * * Child Protection
2778 Services of a system of services for children or youth in the
2779 custody of or under the supervision of the Department of * * *
2780 Child Protection Services, if funds are appropriated to the
2781 department for that purpose. The system of services may consist
2782 of emergency response services, an early intervention and
2783 treatment unit, respite care, crisis nurseries, specialized
2784 outpatient or inpatient treatment services, special needs foster
2785 care, therapeutic foster care, emergency foster homes, and
2786 Medicaid targeted case management for abused and neglected
2787 children and youth as well as children adjudicated delinquent or
2788 in need of supervision. Any of these services that are provided
2789 shall be arranged by and coordinated through the Department
2790 of * * * Child Protection Services, and the department may
2791 contract with public or private agencies or entities to provide
2792 any of the services or may provide any of the services itself.
2793 All of the services shall be provided in facilities that meet the
2794 standards set by the Department of * * * Child Protection Services
2795 for the particular type of facility involved. None of the
2796 services provided shall duplicate existing services except where
2797 there is a documented need for expansion of the services.
2798 (2) A description of the services that may be provided under
2799 Sections 43-27-101 and 43-27-103 are as follows:



2800 (a) "Emergency response services" means services to
2801 respond to children or youth in severe crisis and include:
2802 (i) Emergency single point phone lines;
2803 (ii) Crisis care coordinators staffing shifts that
2804 enable twenty-four-hour per day response as "front line"
2805 professionals when crisis calls are received, assist with
2806 decision-making, family support, initiate plan of action and
2807 remain "on call" for the first seventy-two (72) hours for other
2808 service professionals to get in place and insure development of a
2809 plan of care;
2810 (iii) Acute care/emergency medical response
2811 through contracted services with up to five (5) regional hospitals
2812 providing emergency room services and hospitalization for up to
2813 seventy-two (72) hours with a maximum of One Hundred Dollars
2814 (\$100.00) per day;
2815 (iv) Case managers;
2816 (v) Respite services; and
2817 (vi) Assessment services contracted with social
2818 workers, psychologists, psychiatrists and other health
2819 professionals.
2820 (b) "Early intervention and treatment unit" means a
2821 unique, nonhospital crisis service in a residential context that
2822 is able to provide the level of support and intervention needed to
2823 resolve the crisis and as an alternative to hospitalization. This
2824 unit shall provide specialized assessment, including a variety of



2825 treatment options and services to best intervene in a child or
2826 youth's crisis, and provide an appropriate plan for further
2827 services upon returning to the home and community. Staff-to-child
2828 or youth ratio shall be high, with multidisciplinary, specialized
2829 services for up to six (6) children or youths at one (1) time, and
2830 with the maximum assessment and treatment planning and services
2831 being ninety (90) days for most children or youths.

2832 (c) "Respite care" means planned temporary care for a
2833 period of time ranging from a few hours within a twenty-four-hour
2834 period to an overnight or weekend stay to a maximum of ten (10)
2835 days. Care may be provided in-home or out-of-home with trained
2836 respite parents or counselors and is designed to provide a planned
2837 break for the parents from the caretaking role with the child.

2838 (d) "Crisis nurseries" means a program providing
2839 therapeutic nursery treatment services to preschool aged children
2840 who as preschoolers demonstrate significant behavioral or
2841 emotional disorders. These services shall be to therapeutically
2842 address developmental and emotional behavioral difficulties
2843 through direct intervention with the child in a nursery school
2844 environment and to intervene with parents to provide education,
2845 support and therapeutic services.

2846 (e) "Specialized outpatient or inpatient treatment
2847 services," such as sex offender treatment, means specialized
2848 treatment for perpetrators of sexual offenses with children.



2849 (f) "Special needs foster care" means foster care for
2850 those children with a variety of handicapping conditions or
2851 disabilities, including serious emotional disturbance.

2852 (g) "Therapeutic foster care" means residential mental
2853 health services provided to children and adolescents in a family
2854 setting, utilizing specially trained foster parents. Therapeutic
2855 foster care essentially involves the following features:

2856 (i) Placement with foster parents who have been
2857 carefully selected by knowledgeable, well-trained mental health
2858 and social service professionals to work with children with an
2859 emotional disturbance;

2860 (ii) Provision of special training to the foster
2861 parents to assist them in working with children with an emotional
2862 disturbance;

2863 (iii) Low staff-to-child ratio, allowing the
2864 therapeutic staff to work very closely with each child, the foster
2865 parents and the biological parents, if available;

2866 (iv) Creation of a support system among these
2867 specially trained foster parents; and

2868 (v) Payment of a special foster care payment to
2869 the foster parents.

2870 (h) "Emergency foster homes" means those homes used on
2871 a short-term basis for (i) children who are temporarily removed
2872 from the home in response to a crisis situation, or (ii) youth who
2873 exhibit special behavioral or emotional problems for whom removal



2874 from the existing home situation is necessary. In some cases they
2875 may provide an emergency placement for infants and toddlers for
2876 whom no regular foster home is available, rather than placement
2877 into an emergency shelter where older and larger groups of
2878 children are placed. Foster parents are trained to deal with the
2879 special needs of children placed in these emergency homes.

2880 (i) "Medicaid targeted case management" means
2881 activities that are related to assuring the completion of proper
2882 client evaluations; arranging and supporting treatment plans,
2883 monitoring services, coordinating service delivery and other
2884 related actions.

2885 **SECTION 43.** Section 93-5-23, Mississippi Code of 1972, is
2886 amended as follows:

2887 93-5-23. When a divorce shall be decreed from the bonds of
2888 matrimony, the court may, in its discretion, having regard to the
2889 circumstances of the parties and the nature of the case, as may
2890 seem equitable and just, make all orders touching the care,
2891 custody and maintenance of the children of the marriage, and also
2892 touching the maintenance and alimony of the wife or the husband,
2893 or any allowance to be made to her or him, and shall, if need be,
2894 require bond, sureties or other guarantee for the payment of the
2895 sum so allowed. Orders touching on the custody of the children of
2896 the marriage shall be made in accordance with the provisions of
2897 Section 93-5-24. For the purposes of orders touching the
2898 maintenance and alimony of the wife or husband, "property" and "an



2899 asset of a spouse" shall not include any interest a party may have
2900 as an heir at law of a living person or any interest under a
2901 third-party will, nor shall any such interest be considered as an
2902 economic circumstance or other factor. The court may afterwards,
2903 on petition, change the decree, and make from time to time such
2904 new decrees as the case may require. However, where proof shows
2905 that both parents have separate incomes or estates, the court may
2906 require that each parent contribute to the support and maintenance
2907 of the children of the marriage in proportion to the relative
2908 financial ability of each. In the event a legally responsible
2909 parent has health insurance available to him or her through an
2910 employer or organization that may extend benefits to the
2911 dependents of such parent, any order of support issued against
2912 such parent may require him or her to exercise the option of
2913 additional coverage in favor of such children as he or she is
2914 legally responsible to support.

2915 Whenever the court has ordered a party to make periodic
2916 payments for the maintenance or support of a child, but no bond,
2917 sureties or other guarantee has been required to secure such
2918 payments, and whenever such payments as have become due remain
2919 unpaid for a period of at least thirty (30) days, the court may,
2920 upon petition of the person to whom such payments are owing, or
2921 such person's legal representative, enter an order requiring that
2922 bond, sureties or other security be given by the person obligated
2923 to make such payments, the amount and sufficiency of which shall



2924 be approved by the court. The obligor shall, as in other civil
2925 actions, be served with process and shall be entitled to a hearing
2926 in such case.

2927 At the discretion of the court, any person found in contempt
2928 for failure to pay child support and imprisoned therefor may be
2929 referred for placement in a state, county or municipal
2930 restitution, house arrest or restorative justice center or
2931 program, provided such person meets the qualifications prescribed
2932 in Section 99-37-19.

2933 Whenever in any proceeding in the chancery court concerning
2934 the custody of a child a party alleges that the child whose
2935 custody is at issue has been the victim of sexual or physical
2936 abuse by the other party, the court may, on its own motion, grant
2937 a continuance in the custody proceeding only until such allegation
2938 has been investigated by the Department of * * * Child Protection
2939 Services. At the time of ordering such continuance, the court may
2940 direct the party and his attorney making such allegation of child
2941 abuse to report in writing and provide all evidence touching on
2942 the allegation of abuse to the Department of * * * Child
2943 Protection Services. The Department of * * * Child Protection
2944 Services shall investigate such allegation and take such action as
2945 it deems appropriate and as provided in such cases under the Youth
2946 Court Law (being Chapter 21 of Title 43, Mississippi Code of 1972)
2947 or under the laws establishing family courts (being Chapter 23 of
2948 Title 43, Mississippi Code of 1972).



2949 If after investigation by the Department of * * * Child
2950 Protection Services or final disposition by the youth court or
2951 family court allegations of child abuse are found to be without
2952 foundation, the chancery court shall order the alleging party to
2953 pay all court costs and reasonable attorney's fees incurred by the
2954 defending party in responding to such allegation.

2955 The court may investigate, hear and make a determination in a
2956 custody action when a charge of abuse and/or neglect arises in the
2957 course of a custody action as provided in Section 43-21-151, and
2958 in such cases the court shall appoint a guardian ad litem for the
2959 child as provided under Section 43-21-121, who shall be an
2960 attorney. Unless the chancery court's jurisdiction has been
2961 terminated, all disposition orders in such cases for placement
2962 with the Department of * * * Child Protection Services shall be
2963 reviewed by the court or designated authority at least annually to
2964 determine if continued placement with the department is in the
2965 best interest of the child or public.

2966 The duty of support of a child terminates upon the
2967 emancipation of the child. The court may determine that
2968 emancipation has occurred pursuant to Section 93-11-65.

2969 Custody and visitation upon military temporary duty,
2970 deployment or mobilization shall be governed by Section 93-5-34.

2971 **SECTION 44.** Section 93-17-3, Mississippi Code of 1972, is
2972 amended as follows:



2973 93-17-3. (1) Except as otherwise provided in this section,
2974 a court of this state has jurisdiction over a proceeding for the
2975 adoption or readoption of a minor commenced under this chapter if:

2976 (a) Immediately before commencement of the proceeding,
2977 the minor lived in this state with a parent, a guardian, a
2978 prospective adoptive parent or another person acting as parent,
2979 for at least six (6) consecutive months, excluding periods of
2980 temporary absence, or, in the case of a minor under six (6) months
2981 of age, lived in this state from soon after birth with any of
2982 those individuals and there is available in this state substantial
2983 evidence concerning the minor's present or future care;

2984 (b) Immediately before commencement of the proceeding,
2985 the prospective adoptive parent lived in this state for at least
2986 six (6) consecutive months, excluding periods of temporary
2987 absence, and there is available in this state substantial evidence
2988 concerning the minor's present or future care;

2989 (c) The agency that placed the minor for adoption is
2990 licensed in this state and it is in the best interest of the minor
2991 that a court of this state assume jurisdiction because:

2992 (i) The minor and the minor's parents, or the
2993 minor and the prospective adoptive parent, have a significant
2994 connection with this state; and

2995 (ii) There is available in this state substantial
2996 evidence concerning the minor's present or future care;



2997 (d) The minor and the prospective adoptive parent are
2998 physically present in this state and the minor has been abandoned
2999 or it is necessary in an emergency to protect the minor because
3000 the minor has been subjected to or threatened with mistreatment or
3001 abuse or is otherwise neglected;

3002 (e) It appears that no other state would have
3003 jurisdiction under prerequisites substantially in accordance with
3004 paragraphs (a) through (d), or another state has declined to
3005 exercise jurisdiction on the ground that this state is the more
3006 appropriate forum to hear a petition for adoption of the minor,
3007 and it is in the best interest of the minor that a court of this
3008 state assume jurisdiction; or

3009 (f) The child has been adopted in a foreign country,
3010 the agency that placed the minor for adoption is licensed in this
3011 state, and it is in the best interest of the child to be readopted
3012 in a court of this state having jurisdiction.

3013 (2) A court of this state may not exercise jurisdiction over
3014 a proceeding for adoption of a minor if, at the time the petition
3015 for adoption is filed, a proceeding concerning the custody or
3016 adoption of the minor is pending in a court of another state
3017 exercising jurisdiction substantially in conformity with the
3018 Uniform Child Custody Jurisdiction Act or this section unless the
3019 proceeding is stayed by the court of the other state.

3020 (3) If a court of another state has issued a decree or order
3021 concerning the custody of a minor who may be the subject of a



3022 proceeding for adoption in this state, a court of this state may
3023 not exercise jurisdiction over a proceeding for adoption of the
3024 minor unless:

3025 (a) The court of this state finds that the court of the
3026 state which issued the decree or order:

3027 (i) Does not have continuing jurisdiction to
3028 modify the decree or order under jurisdictional prerequisites
3029 substantially in accordance with the Uniform Child Custody
3030 Jurisdiction Act or has declined to assume jurisdiction to modify
3031 the decree or order; or

3032 (ii) Does not have jurisdiction over a proceeding
3033 for adoption substantially in conformity with subsection (1) (a)
3034 through (d) or has declined to assume jurisdiction over a
3035 proceeding for adoption; and

3036 (b) The court of this state has jurisdiction over the
3037 proceeding.

3038 (4) Any person may be adopted in accordance with the
3039 provisions of this chapter in termtime or in vacation by an
3040 unmarried adult or by a married person whose spouse joins in the
3041 petition. The adoption shall be by sworn petition filed in the
3042 chancery court of the county in which the adopting petitioner or
3043 petitioners reside or in which the child to be adopted resides or
3044 was born, or was found when it was abandoned or deserted, or in
3045 which the home is located to which the child has been surrendered
3046 by a person authorized to so do. The petition shall be



3047 accompanied by a doctor's or nurse practitioner's certificate
3048 showing the physical and mental condition of the child to be
3049 adopted and a sworn statement of all property, if any, owned by
3050 the child. In addition, the petition shall be accompanied by
3051 affidavits of the petitioner or petitioners stating the amount of
3052 the service fees charged by any adoption agencies or adoption
3053 facilitators used by the petitioner or petitioners and any other
3054 expenses paid by the petitioner or petitioners in the adoption
3055 process as of the time of filing the petition. If the doctor's or
3056 nurse practitioner's certificate indicates any abnormal mental or
3057 physical condition or defect, the condition or defect shall not,
3058 in the discretion of the chancellor, bar the adoption of the child
3059 if the adopting parent or parents file an affidavit stating full
3060 and complete knowledge of the condition or defect and stating a
3061 desire to adopt the child, notwithstanding the condition or
3062 defect. The court shall have the power to change the name of the
3063 child as a part of the adoption proceedings. The word "child" in
3064 this section shall be construed to refer to the person to be
3065 adopted, though an adult.

3066 (5) Adoption by couples of the same gender is prohibited.

3067 (6) No person may be placed in the home of or adopted by the
3068 prospective adopting parties before a court-ordered or voluntary
3069 home study is satisfactorily completed by a licensed adoption
3070 agency, a licensed, experienced social worker approved by the
3071 chancery court or by the Department of * * * Child Protection



3072 Services on the prospective adoptive parties if required by
3073 Section 93-17-11.

3074 (7) No person may be adopted by a person or persons who
3075 reside outside the State of Mississippi unless the provisions of
3076 the Interstate Compact for Placement of Children (Section 43-18-1
3077 et seq.) have been complied with. In such cases Forms 100A, 100B
3078 (if applicable) and evidence of Interstate Compact for Placement
3079 of Children approval shall be added to the permanent adoption
3080 record file within one (1) month of the placement, and a minimum
3081 of two (2) post-placement reports conducted by a licensed
3082 child-placing agency shall be provided to the Mississippi
3083 Department of * * * Child Protection Services Interstate Compact
3084 for Placement of Children office.

3085 (8) No person may be adopted unless the provisions of the
3086 Indian Child Welfare Act (ICWA) have been complied with, if
3087 applicable. When applicable, proof of compliance shall be
3088 included in the court adoption file prior to finalization of the
3089 adoption. If not applicable, a written statement or paragraph in
3090 the petition for adoption shall be included in the adoption
3091 petition stating that the provisions of ICWA do not apply before
3092 finalization.

3093 (9) The readoption of a child who has automatically acquired
3094 United States citizenship following an adoption in a foreign
3095 country and who possesses a Certificate of Citizenship in
3096 accordance with the Child Citizenship Act, CAA, Public Law



3097 106-395, may be given full force and effect in a readoption
3098 proceeding conducted by a court of competent jurisdiction in this
3099 state by compliance with the Mississippi Registration of Foreign
3100 Adoptions Act, Article 9 of this chapter.

3101 **SECTION 45.** Section 93-17-5, Mississippi Code of 1972, is
3102 amended as follows:

3103 93-17-5. (1) There shall be made parties to the proceeding
3104 by process or by the filing therein of a consent to the adoption
3105 proposed in the petition, which consent shall be duly sworn to or
3106 acknowledged and executed only by the following persons, but not
3107 before seventy-two (72) hours after the birth of the child:

3108 (a) The parents, or parent, if only one (1) parent,
3109 though either be under the age of twenty-one (21) years;

3110 (b) If both parents are dead, then any two (2) adult
3111 kin of the child within the third degree computed according to the
3112 civil law; if one of such kin is in possession of the child, he or
3113 she shall join in the petition or be made a party to the suit; or

3114 (c) The guardian ad litem of an abandoned child, upon
3115 petition showing that the names of the parents of the child are
3116 unknown after diligent search and inquiry by the petitioners. In
3117 addition to the above, there shall be made parties to any
3118 proceeding to adopt a child, either by process or by the filing of
3119 a consent to the adoption proposed in the petition, the following:

3120 (i) Those persons having physical custody of the
3121 child, except persons who are acting as foster parents as a result



3122 of placement with them by the Department of * * * Child Protection
3123 Services of the State of Mississippi.

3124 (ii) Any person to whom custody of the child may
3125 have been awarded by a court of competent jurisdiction of the
3126 State of Mississippi.

3127 (iii) The agent of the county department of * * *
3128 child protection services of the State of Mississippi that has
3129 placed a child in foster care, either by agreement or by court
3130 order.

3131 (2) The consent may also be executed and filed by the duly
3132 authorized officer or representative of a home to whose care the
3133 child has been delivered. The child shall join the petition by
3134 the child's next friend.

3135 (3) If consent is not filed, process shall be had upon the
3136 parties as provided by law for process in person or by
3137 publication, if they are nonresidents of the state or are not
3138 found therein after diligent search and inquiry, the court or
3139 chancellor in vacation may fix a date in termtime or in vacation
3140 to which process may be returnable and shall have power to proceed
3141 in termtime or vacation. In any event, if the child is more than
3142 fourteen (14) years of age, a consent to the adoption, sworn to or
3143 acknowledged by the child, shall also be required or personal
3144 service of process shall be had upon the child in the same manner
3145 and in the same effect as if the child were an adult.



3146 **SECTION 46.** Section 93-17-8, Mississippi Code of 1972, is
3147 amended as follows:

3148 93-17-8. (1) Whenever an adoption becomes a contested
3149 matter, whether after a hearing on a petition for determination of
3150 rights under Section 93-17-6 or otherwise, the court:

3151 (a) Shall, on motion of any party or on its own motion,
3152 issue an order for immediate blood or tissue sampling in
3153 accordance with the provisions of Section 93-9-21 et seq., if
3154 paternity is at issue. The court shall order an expedited report
3155 of such testing and shall hold the hearing resolving this matter
3156 at the earliest time possible.

3157 (b) Shall appoint a guardian ad litem to represent the
3158 child. Such guardian ad litem shall be an attorney, however his
3159 duties are as guardian ad litem and not as attorney for the child.
3160 The reasonable costs of the guardian ad litem shall be taxed as
3161 costs of the court. Neither the child nor anyone purporting to
3162 act on his behalf may waive the appointment of a guardian ad
3163 litem.

3164 (c) Shall determine first whether or not the objecting
3165 parent is entitled to so object under the criteria of Section
3166 93-17-7 and then shall determine the custody of the child in
3167 accord with the best interests of the child and the rights of the
3168 parties as established by the hearings and judgments.



3169 (d) Shall schedule all hearings concerning the
3170 contested adoption as expeditiously as possible for prompt
3171 conclusion of the matter.

3172 (2) In determining the custody of the child after a finding
3173 that the adoption will not be granted, the fact of the surrender
3174 of the child for adoption by a parent shall not be taken as any
3175 evidence of that parent's abandonment or desertion of the child or
3176 of that parent's unfitness as a parent.

3177 (3) In contested adoptions arising through petitions for
3178 determination of rights where the prospective adopting parents
3179 were not parties to that proceeding, they need not be made parties
3180 to the contested adoption until there has been a ruling that the
3181 objecting parent is not entitled to enter a valid objection to the
3182 adoption. At that point the prospective adopting parents shall be
3183 made parties by joinder which shall show their suitability to be
3184 adopting parents as would a petition for adoption. The identity
3185 and suitability of the prospective adopting parents shall be made
3186 known to the court and the guardian ad litem, but shall not be
3187 made known to other parties to the proceeding unless the court
3188 determines that the interests of justice or the best interests of
3189 the child require it.

3190 (4) No birth parent or alleged parent shall be permitted to
3191 contradict statements given in a proceeding for the adoption of
3192 their child in any other proceeding concerning that child or his
3193 ancestry.



3194 (5) Appointment of a guardian ad litem is not required in
3195 any proceeding under this chapter except as provided in subsection
3196 (1)(b) above and except for the guardian ad litem needed for an
3197 abandoned child. It shall not be necessary for a guardian ad
3198 litem to be appointed where the chancery judge presiding in the
3199 adoption proceeding deems it unnecessary and no adoption agency is
3200 involved in the proceeding. No final decree of adoption
3201 heretofore granted shall be set aside or modified because a
3202 guardian ad litem was not appointed unless as the result of a
3203 direct appeal not now barred.

3204 (6) The provisions of Chapter 15 of this Title 93,
3205 Mississippi Code of 1972, are not applicable to proceedings under
3206 this chapter except as specifically provided by reference herein.

3207 (7) The court may order a child's birth father, identified
3208 as such in the proceedings, to reimburse the Department of * * *
3209 Child Protection Services, the foster parents, the adopting
3210 parents, the home, any other agency or person who has assumed
3211 liability for such child, all or part of the costs of the medical
3212 expenses incurred for the mother and the child in connection with
3213 the birth of the child, as well as reasonable support for the
3214 child after his birth.

3215 **SECTION 47.** Section 93-17-11, Mississippi Code of 1972, is
3216 amended as follows:

3217 93-17-11. At any time after the filing of the petition for
3218 adoption and completion of process thereon, and before the



3219 entering of a final decree, the court may, in its discretion, of
3220 its own motion or on motion of any party to the proceeding,
3221 require an investigation and report to the court to be made by any
3222 person, officer or home as the court may designate and direct
3223 concerning the child, and shall require in adoptions, other than
3224 those in which the petitioner or petitioners are a relative or
3225 stepparent of the child, that a home study be performed of the
3226 petitioner or petitioners by a licensed adoption agency or by the
3227 Department of * * * Child Protection Services, at the petitioner's
3228 or petitioners' sole expense and at no cost to the state or
3229 county. The investigation and report shall give the material
3230 facts upon which the court may determine whether the child is a
3231 proper subject for adoption, whether the petitioner or petitioners
3232 are suitable parents for the child, whether the adoption is to its
3233 best interest, and any other facts or circumstances that may be
3234 material to the proposed adoption. The home study shall be
3235 considered by the court in determining whether the petitioner or
3236 petitioners are suitable parents for the child. The court, when
3237 an investigation and report are required by the court or by this
3238 section, shall stay the proceedings in the cause for such
3239 reasonable time as may be necessary or required in the opinion of
3240 the court for the completion of the investigation and report by
3241 the person, officer or home designated and authorized to make the
3242 same.



3243 Upon the filing of that consent or the completion of the
3244 process and the filing of the investigation and report, if
3245 required by the court or by this section, and the presentation of
3246 such other evidence as may be desired by the court, if the court
3247 determines that it is to the best interests of the child that an
3248 interlocutory decree of adoption be entered, the court may
3249 thereupon enter an interlocutory decree upon such terms and
3250 conditions as may be determined by the court, in its discretion,
3251 but including therein that the complete care, custody and control
3252 of the child shall be vested in the petitioner or petitioners
3253 until further orders of the court and that during such time the
3254 child shall be and remain a ward of the court. If the court
3255 determines by decree at any time during the pendency of the
3256 proceeding that it is not to the best interests of the child that
3257 the adoption proceed, the petitioners shall be entitled to at
3258 least five (5) days' notice upon their attorneys of record and a
3259 hearing with the right of appeal as provided by law from a
3260 dismissal of the petition; however, the bond perfecting the appeal
3261 shall be filed within ten (10) days from the entry of the decree
3262 of dismissal and the bond shall be in such amount as the
3263 chancellor may determine and supersedeas may be granted by the
3264 chancellor or as otherwise provided by law for appeal from final
3265 decrees.

3266 After the entry of the interlocutory decree and before entry
3267 of the final decree, the court may require such further and



3268 additional investigation and reports as it may deem proper. The
3269 rights of the parties filing the consent or served with process
3270 shall be subject to the decree but shall not be divested until
3271 entry of the final decree.

3272 **SECTION 48.** Section 93-17-12, Mississippi Code of 1972, is
3273 amended as follows:

3274 93-17-12. In any child custody matter hereafter filed in any
3275 chancery or county court in which temporary or permanent custody
3276 has already been placed with a parent or guardian and in all
3277 adoptions, the court shall impose a fee for any court-ordered home
3278 study performed by the Department of * * * Child Protection
3279 Services or any other entity. The fee shall be assessed upon
3280 either party or upon both parties in the court's discretion. The
3281 minimum fee imposed shall be not less than Three Hundred Fifty
3282 Dollars (\$350.00) for each household on which a home study is
3283 performed. The fee shall be paid directly to the Mississippi
3284 Department of * * * Child Protection Services prior to the home
3285 study being conducted by the department or to the entity if the
3286 study is performed by another entity. The judge may order the fee
3287 be paid by one or both of the parents or guardian. If the court
3288 determines that both parents or the guardian are unable to pay the
3289 fee, the judge shall waive the fee and the cost of the home study
3290 shall be defrayed by the Department of * * * Child Protection
3291 Services.



3292 **SECTION 49.** Section 93-17-53, Mississippi Code of 1972, is
3293 amended as follows:

3294 93-17-53. The purpose of Sections 93-17-51 through 93-17-67
3295 is to supplement the Mississippi adoption law by making possible
3296 through public supplemental benefits the most appropriate adoption
3297 of each child certified by the * * * Department of Child
3298 Protection Services as requiring a supplemental benefit to assure
3299 adoption.

3300 **SECTION 50.** Section 93-17-57, Mississippi Code of 1972, is
3301 amended as follows:

3302 93-17-57. The * * * Department of Child Protection Services
3303 shall establish and administer an on-going program of supplemental
3304 benefits for adoption. Supplemental benefits and services for
3305 children under this program shall be provided out of such funds as
3306 may be appropriated to the Mississippi Medicaid Commission for the
3307 medical services for children in foster care, or made available to
3308 the department from other sources.

3309 **SECTION 51.** Section 93-17-59, Mississippi Code of 1972, is
3310 amended as follows:

3311 93-17-59. Any child meeting criteria specified in Section
3312 93-17-55 for whom the * * * Department of Child Protection
3313 Services feels supplemental benefits are necessary to improve
3314 opportunities for adoption will be eligible for the program. The
3315 adoption agency shall document that reasonable efforts have been
3316 made to place the child in adoption without supplemental benefits



3317 through the use of adoption resource exchanges, recruitment and
3318 referral to appropriate specialized adoption agencies.

3319 **SECTION 52.** Section 93-17-61, Mississippi Code of 1972, is
3320 amended as follows:

3321 93-17-61. (1) When parents are found and approved for
3322 adoption of a child certified as eligible for supplemental
3323 benefits, and before the final decree of adoption is issued, there
3324 shall be executed a written agreement between the family entering
3325 into the adoption and the Department of * * * Child Protection
3326 Services. In individual cases, supplemental benefits may commence
3327 with the adoptive placement or at the appropriate time after the
3328 adoption decree and will vary with the needs of the child as well
3329 as the availability of other resources to meet the child's needs.
3330 The supplemental benefits may be for special services only or for
3331 money payments as allowed under Section 43-13-115, Mississippi
3332 Code of 1972, and either for a limited period, for a long-term not
3333 exceeding the child's eighteenth birthday, or for any combination
3334 of the foregoing. The amount of the time-limited, long-term
3335 supplemental benefits may in no case exceed that which would be
3336 currently allowable for such child under the Mississippi Medicaid
3337 Law.

3338 (2) When supplemental benefits last for more than one (1)
3339 year, the adoptive parents shall present an annual written
3340 certification that the child remains under the parents' care and
3341 that the child's need for supplemental benefits continues. Based



3342 on investigation by the agency and available funds, the agency may
3343 approve continued supplemental benefits. These benefits shall be
3344 extended so long as the parents remain legally responsible for and
3345 are providing support for the child. The agency shall continue
3346 paying benefits until a child reaches twenty-one (21) years of age
3347 if the child meets the criteria stated in Section 93-17-67(1) for
3348 continuation of Medicaid coverage.

3349 (3) A child who is a resident of Mississippi when
3350 eligibility for supplemental benefits is certified shall remain
3351 eligible and receive supplemental benefits, if necessary for
3352 adoption, regardless of the domicile or residence of the adopting
3353 parents at the time of application for adoption, placement, legal
3354 decree of adoption or thereafter.

3355 **SECTION 53.** Section 93-17-63, Mississippi Code of 1972, is
3356 amended as follows:

3357 93-17-63. All records regarding such adoption shall be
3358 confidential. Anyone violating or releasing information of a
3359 confidential nature, as contemplated by Sections 93-17-51 through
3360 93-17-67 without the approval of the court with jurisdiction or
3361 the * * * Department of * * * Child Protection Services unless
3362 such release is made pursuant to Sections 93-17-201 through
3363 93-17-223 shall be guilty of a misdemeanor and subject to a fine
3364 not exceeding One Thousand Dollars (\$1,000.00) or imprisonment of
3365 six (6) months, or both.



3366 **SECTION 54.** Section 93-17-65, Mississippi Code of 1972, is
3367 amended as follows:

3368 93-17-65. The * * * Department of Child Protection Services
3369 shall promulgate rules and regulations necessary to implement the
3370 provisions of Sections 93-17-51 through 93-17-67.

3371 **SECTION 55.** Section 93-17-67, Mississippi Code of 1972, is
3372 amended as follows:

3373 93-17-67. (1) If the adoptive parents of a child eligible
3374 for adoption supplemental benefits sign an adoption assistance
3375 agreement with the Department of * * * Child Protection Services,
3376 then, whether or not they accept such benefits, Medicaid coverage
3377 shall be provided for the child under the agency's medical payment
3378 program from and after the commencement date established pursuant
3379 to Section 93-17-61 until the child's eighteenth birthday,
3380 provided that federal matching funds are available for such
3381 payment.

3382 (2) Any child who is adopted in this state through a
3383 state-supported adoption agency and who immediately prior to such
3384 adoption was receiving Medicaid benefits because of a severe
3385 physical or mental handicap shall continue to receive such
3386 coverage benefits after adoption age eighteen (18), and such
3387 benefits shall be payable as provided under the agency's medical
3388 payment program for so long as the * * * Department of * * *
3389 Child Protection Services determines that the treatment or
3390 rehabilitation for which payment is being made is in the best



3391 interest of the child concerned, but not past the age of
3392 twenty-one (21) years, provided that federal matching funds are
3393 available for such payment and that any state funds used for such
3394 payment shall have been appropriated specifically for such
3395 purpose.

3396 (3) If permitted by federal law without any loss to the
3397 state of federal matching funds, the financial resources of the
3398 adopting parents shall not be a factor in such determination
3399 except that payments on behalf of a child of any age may be
3400 adjusted when insurance benefits available to the adopting parents
3401 would pay all or part of such payments being made by the state, or
3402 if medical or rehabilitation services are otherwise available
3403 without cost to the adopting parents. The amount of financial
3404 assistance given shall not exceed the amount that the Division of
3405 Medicaid * * * would be required to pay for the same medical
3406 treatment or rehabilitation.

3407 (4) The receipt of Medicaid benefits by an adopted child
3408 under Sections 93-17-51 through 93-17-67 shall not qualify the
3409 adopting parents for Medicaid eligibility, unless either parent is
3410 otherwise eligible under Section 43-13-115, Mississippi Code of
3411 1972.

3412 **SECTION 56.** Section 93-17-69, Mississippi Code of 1972, is
3413 amended as follows:

3414 93-17-69. Any person proposing to adopt a child who is a
3415 dependent of a state child-placing agency and who is in special



3416 circumstances as defined in paragraph (c) of Section 93-17-55
3417 shall be represented by the * * * Department of * * * Child
3418 Protection Services when requested by the adopting parent in all
3419 phases of the adoption proceeding. State child-placing agencies
3420 shall advise prospective adopting parents of their right under
3421 this section to be represented in adoption proceedings. The fees
3422 for filing the petition for adoption and preparing a revised birth
3423 certificate, any court costs taxed against the petitioner and any
3424 other actual payments made by the Department of * * * Child
3425 Protection Services to third parties as required to complete the
3426 adoption proceeding, shall be paid by the adopting parent.

3427 **SECTION 57.** Section 93-17-101, Mississippi Code of 1972, is
3428 amended as follows:

3429 93-17-101. (1) The Legislature finds that:

3430 (a) Locating adoptive families for children for whom
3431 state assistance is desirable, pursuant to the Mississippi
3432 adoption assistance law, and assuring the protection of the
3433 interests of the children affected during the entire assistance
3434 period, require special measures when the adoptive parents move to
3435 other states or are residents of another state; and

3436 (b) Providing medical and other necessary services for
3437 children, with state assistance, encounters special difficulties
3438 when the providing of services takes place in other states.

3439 (2) The purposes of Sections 93-17-101 through 93-17-109 are
3440 to:



3441 (a) Authorize the Mississippi Department of * * * Child
3442 Protection Services to enter into interstate agreements with
3443 agencies of other states for the protection of children on behalf
3444 of whom adoption assistance is being provided by the Mississippi
3445 Department of * * * Child Protection Services; and

3446 (b) Provide procedures for interstate children's
3447 adoption assistance payments, including medical payments.

3448 **SECTION 58.** Section 93-17-103, Mississippi Code of 1972, is
3449 amended as follows:

3450 93-17-103. (1) The Mississippi Department of * * * Child
3451 Protection Services is authorized to develop, participate in the
3452 development of, negotiate and enter into one or more interstate
3453 compacts on behalf of this state with other states to implement
3454 one or more of the purposes set forth in Sections 93-17-101
3455 through 93-17-109. When so entered into, and for so long as it
3456 shall remain in force, such a compact shall have the force and
3457 effect of law.

3458 (2) For the purposes of Sections 93-17-101 through
3459 93-17-109, the term "state" shall mean a state of the United
3460 States, the District of Columbia, the Commonwealth of Puerto Rico,
3461 the Virgin Islands, Guam, the Commonwealth of the Northern Mariana
3462 Islands or a territory or possession of or administered by the
3463 United States.

3464 (3) For the purposes of Sections 93-17-101 through
3465 93-17-109, the term "adoption assistance state" means the state



3466 that is signatory to an adoption assistance agreement in a
3467 particular case.

3468 (4) For the purposes of Sections 93-17-101 through
3469 93-17-109, the term "residence state" means the state of which the
3470 child is a resident by virtue of the residence of the adoptive
3471 parents.

3472 **SECTION 59.** Section 93-17-107, Mississippi Code of 1972, is
3473 amended as follows:

3474 93-17-107. (1) A child with special needs resident in this
3475 state who is the subject of an adoption assistance agreement with
3476 another state and who has been determined eligible for medicaid in
3477 that state shall be entitled to receive a medical assistance
3478 identification from this state upon filing with the Mississippi
3479 Department of * * * Child Protection Services a certified copy of
3480 the adoption assistance agreement obtained from the adoption
3481 assistance state which certifies to the eligibility of the child
3482 for medicaid. In accordance with regulations of the Mississippi
3483 Department of * * * Child Protection Services, the adoptive
3484 parents shall be required, at least annually, to show that the
3485 agreement is still in force or has been renewed.

3486 (2) The Division of Medicaid, Office of the Governor, shall
3487 consider the holder of a medical assistance identification
3488 pursuant to this section as any other holder of a medical
3489 assistance identification under the laws of this state and shall
3490 process and make payment on claims on account of such holder in



3491 the same manner and pursuant to the same conditions and procedures
3492 as for other recipients of medical assistance.

3493 (3) The submission of any claim for payment or reimbursement
3494 for services or benefits pursuant to this section or the making of
3495 any statement in connection therewith, which claim or statement
3496 the maker knows or should know to be false, misleading or
3497 fraudulent shall be punishable as perjury and shall also be
3498 subject to a fine not to exceed Ten Thousand Dollars (\$10,000.00),
3499 or imprisonment for not to exceed two (2) years, or both.

3500 (4) The provisions of this section shall apply only to
3501 medical assistance for children under adoption assistance
3502 agreements from states that have entered into a compact with this
3503 state under which the other state provides medical assistance to
3504 children with special needs under adoption assistance agreements
3505 made by this state. All other children entitled to medical
3506 assistance pursuant to adoption assistance agreements entered into
3507 by this state shall be eligible to receive it in accordance with
3508 the laws and procedures applicable thereto.

3509 **SECTION 60.** Section 93-17-109, Mississippi Code of 1972, is
3510 amended as follows:

3511 93-17-109. Consistent with federal law, the Mississippi
3512 Department of * * * Child Protection Services and the Division of
3513 Medicaid, Office of the Governor of the State of Mississippi, in
3514 connection with the administration of Sections 93-17-101 through
3515 93-17-109 and any compact entered into pursuant hereto, shall



3516 include in any state plan made pursuant to the Adoption Assistance
3517 and Child Welfare Act of 1980 (P.L. 96-272), Titles IV(e) and XIX
3518 of the Social Security Act, and any other applicable federal laws,
3519 the provision of adoption assistance and medical assistance for
3520 which the federal government pays some or all of the cost provided
3521 such authority is granted under the provisions of some law of this
3522 state other than the provisions of Sections 93-17-101 through
3523 93-17-109. Such departments shall apply for and administer all
3524 relevant federal aid in accordance with law.

3525 **SECTION 61.** Section 93-17-203, Mississippi Code of 1972, is
3526 amended as follows:

3527 93-17-203. The following words and phrases shall have the
3528 meanings ascribed herein unless the context clearly indicates
3529 otherwise:

3530 (a) "Agency" means a county * * * department of human
3531 service, a licensed or nonlicensed adoption agency or any other
3532 individual or entity assisting in the finalization of an adoption.

3533 (b) "Adoptee" means a person who is or has been adopted
3534 in this state at any time.

3535 (c) "Birth parent" means either:

3536 (i) The mother designated on the adoptee's
3537 original birth certificate; or

3538 (ii) The person named by the mother designated on
3539 the adoptee's original birth certificate as the father of the
3540 adoptee.



3541 (d) "Board" means the Mississippi State Board of
3542 Health.

3543 (e) "Bureau" means the Bureau of Vital Records of the
3544 Mississippi State Board of Health.

3545 (f) "Licensed adoption agency" means any agency or
3546 organization performing adoption services and duly licensed by the
3547 Mississippi Department of * * * Child Protection Services * * *.

3548 **SECTION 62.** Section 93-21-307, Mississippi Code of 1972, is
3549 amended as follows:

3550 93-21-307. The administration of the Mississippi Children's
3551 Trust Fund shall be vested in the * * * Mississippi Department of
3552 Child Protection Services. In carrying out the provisions of
3553 Sections 93-21-301 through 93-21-311, the * * * Department of
3554 Child Protection Services shall have the following powers and
3555 duties:

3556 (a) To assist in developing programs aimed at
3557 discovering and preventing the many factors causing child abuse
3558 and neglect;

3559 (b) To prepare and disseminate, including the
3560 presentation of, educational programs and materials on child abuse
3561 and neglect;

3562 (c) To provide educational programs for professionals
3563 required by law to make reports of child abuse and neglect;



3564 (d) To help coordinate child protective services at the
3565 state, regional and local levels with the efforts of other state
3566 and voluntary social, medical and legal agencies;

3567 (e) To provide advocacy for children in public and
3568 private state and local agencies affecting children;

3569 (f) To encourage citizen and community awareness as to
3570 the needs and problems of children;

3571 (g) To facilitate the exchange of information between
3572 groups concerned with families and children;

3573 (h) To consult with state departments, agencies,
3574 commissions and boards to help determine the probable
3575 effectiveness, fiscal soundness and need for proposed educational
3576 and service programs for the prevention of child abuse and
3577 neglect;

3578 (i) To adopt rules and regulations, * * * in accordance
3579 with the Administrative Procedures Law to discharge its
3580 responsibilities;

3581 (j) To report annually, through the annual report of
3582 the * * * Department of * * * Child Protection Services, to the
3583 Governor and the Legislature concerning the * * * department's
3584 activities under Sections 93-21-301 through 93-21-311 and the
3585 effectiveness of those activities in fostering the prevention of
3586 child abuse and neglect;

3587 (k) To recommend to the Governor and the Legislature
3588 changes in state programs, statutes, policies and standards which



3589 will reduce child abuse and neglect, improve coordination among
3590 state agencies which provide services to prevent abuse and
3591 neglect, improve the condition of children and assist parents and
3592 guardians;

3593 (l) To evaluate and strengthen all local, regional and
3594 state programs dealing with child abuse and neglect;

3595 (m) To prepare and submit annually to the Governor and
3596 the Legislature reports evaluating the level and quality of all
3597 programs, services and facilities provided to children by state
3598 agencies;

3599 (n) To contract with public or private nonprofit
3600 institutions, organizations, agencies or schools or with qualified
3601 individuals for the establishment of community-based educational
3602 and service programs designed to reduce the occurrence of child
3603 abuse and neglect;

3604 (o) To determine the eligibility of programs applying
3605 for financial assistance and to make grants and loans from the
3606 fund for the purposes set forth in Sections 93-21-301 through
3607 93-21-311;

3608 (p) To develop, within one (1) year after July 1, 1989,
3609 a state plan for the distribution of funds from the trust fund
3610 which shall assure that an equal opportunity exists for
3611 establishment of prevention programs and for receipt of trust fund
3612 money among all geographic areas in this state, and to submit the



3613 plan to the Governor and the Legislature and annually thereafter
3614 submit revisions thereto as needed;

3615 (q) To provide for the coordination and exchange of
3616 information on the establishment and maintenance of local
3617 prevention programs;

3618 (r) To develop and publicize criteria for the receipt
3619 of trust fund money by eligible local prevention programs;

3620 (s) To enter into contracts with public or private
3621 agencies to fulfill the requirements of Sections 93-21-301 through
3622 93-21-311; and

3623 (t) Review, monitor and approve the expenditure of
3624 trust fund money by eligible local programs.

3625 **SECTION 63.** Section 93-31-3, Mississippi Code of 1972, is
3626 amended as follows:

3627 93-31-3. (1) (a) A parent or legal custodian of a child,
3628 by means of a properly executed power of attorney as provided in
3629 Section 93-31-5, may delegate to another willing person or persons
3630 as attorney-in-fact any of the powers regarding the care and
3631 custody of the child other than the following:

3632 (i) The power to consent to marriage or adoption
3633 of the child;

3634 (ii) The performance or inducement of an abortion
3635 on or for the child; or

3636 (iii) The termination of parental rights to the
3637 child.



3638 (b) A delegation of powers under this section does not:
3639 (i) Change or modify any parental or legal rights,
3640 obligations, or authority established by an existing court order;
3641 (ii) Deprive any custodial or noncustodial parent
3642 or legal guardian of any parental or legal rights, obligations, or
3643 authority regarding the custody, visitation, or support of the
3644 child; or
3645 (iii) Affect a court's ability to determine the
3646 best interests of a child.
3647 (c) If both parents are living and have shared custody
3648 as a matter of law or under an existing court order, both parents
3649 must execute the power of attorney.
3650 (d) A power of attorney under this chapter must be
3651 facilitated by either a child welfare agency that is licensed to
3652 place children for adoption and that is operating under the Safe
3653 Families for Children model or another charitable organization
3654 that is operating under the Safe Families for Children model. A
3655 full criminal history and child abuse and neglect background check
3656 must be conducted on any person who is not a grandparent, aunt,
3657 uncle, or sibling of the child if the person is:
3658 (i) Designated or proposed to be designated as the
3659 attorney-in-fact; or
3660 (ii) Is a person over the age of fifteen (15) who
3661 resides in the home of the designated attorney-in-fact.



3662 (2) A power of attorney executed under this chapter shall
3663 not be used for the sole purposes of enrolling a child in a school
3664 to participate in the academic or interscholastic athletic
3665 programs provided by that school or for any other unlawful
3666 purposes, except as may be permitted by the federal Every Student
3667 Succeeds Act (Public Law 114-95).

3668 (3) The parent or legal custodian of the child has the
3669 authority to revoke or withdraw the power of attorney authorized
3670 by this section at any time. Upon the termination, expiration, or
3671 revocation of the power of attorney, the child must be returned to
3672 the custody of the parent or legal custodian as soon as reasonably
3673 possible.

3674 (4) Until the authority expires or is revoked or withdrawn
3675 by the parent or legal custodian, the attorney-in-fact shall
3676 exercise parental or legal authority on a continuous basis without
3677 compensation for the duration of the power of attorney.

3678 (5) The execution of a power of attorney by a parent or
3679 legal custodian does not, in the absence of other evidence,
3680 constitute abandonment, desertion, abuse, neglect, or any evidence
3681 of unfitness as a parent unless the parent or legal custodian
3682 fails to take custody of the child or execute a new power of
3683 attorney after the one-year time limit, or after a longer time
3684 period as allowed for a serving parent, has elapsed. Nothing in
3685 this subsection prevents the Department of * * * Child Protection
3686 Services or law enforcement from investigating allegations of



3687 abuse, abandonment, desertion, neglect or other mistreatment of a
3688 child.

3689 (6) When the custody of a child is transferred by a power of
3690 attorney under this chapter, the child is not considered to have
3691 been placed in foster care and the attorney-in-fact will not be
3692 subject to any of the requirements or licensing regulations for
3693 foster care or other regulations relating to out-of-home care for
3694 children and will not be subject to any statutes or regulations
3695 dealing with the licensing or regulation of foster care homes.

3696 (7) (a) "Serving parent" means a parent who is a member of
3697 the Armed Forces of the United States, including any reserve
3698 component thereof, or the National Oceanic and Atmospheric
3699 Administration Commissioned Officer Corps or the Public Health
3700 Service of the United States Department of Health and Human
3701 Services detailed by proper authority for duty with the Armed
3702 Forces of the United States, or who is required to enter or serve
3703 in the active military service of the United States under a call
3704 or order of the President of the United States or to serve on
3705 state active duty.

3706 (b) A serving parent may delegate the powers designated
3707 in subsection (1) of this section for longer than one (1) year if
3708 on active-duty service or if scheduled to be on active-duty
3709 service. The term of delegation, however, may not exceed the term
3710 of active-duty service plus thirty (30) days.



3711 **SECTION 64.** Section 97-3-54.1, Mississippi Code of 1972, is
3712 amended as follows:

3713 97-3-54.1. (1) (a) A person who coerces, recruits,
3714 entices, harbors, transports, provides or obtains by any means, or
3715 attempts to coerce, recruit, entice, harbor, transport, provide or
3716 obtain by any means, another person, intending or knowing that the
3717 person will be subjected to forced labor or services, or who
3718 benefits, whether financially or by receiving anything of value
3719 from participating in an enterprise that he knows or reasonably
3720 should have known has engaged in such acts, shall be guilty of the
3721 crime of human-trafficking.

3722 (b) A person who knowingly purchases the forced labor
3723 or services of a trafficked person or who otherwise knowingly
3724 subjects, or attempts to subject, another person to forced labor
3725 or services or who benefits, whether financially or by receiving
3726 anything of value from participating in an enterprise that he
3727 knows or reasonably should have known has engaged in such acts,
3728 shall be guilty of the crime of procuring involuntary servitude.

3729 (c) A person who knowingly subjects, or attempts to
3730 subject, or who recruits, entices, harbors, transports, provides
3731 or obtains by any means, or attempts to recruit, entice, harbor,
3732 transport, provide or obtain by any means, a minor, knowing that
3733 the minor will engage in commercial sexual activity, sexually
3734 explicit performance, or the production of sexually oriented
3735 material, or causes or attempts to cause a minor to engage in



3736 commercial sexual activity, sexually explicit performance, or the
3737 production of sexually oriented material, shall be guilty of
3738 procuring sexual servitude of a minor and shall be punished by
3739 commitment to the custody of the Department of Corrections for not
3740 less than five (5) nor more than thirty (30) years, or by a fine
3741 of not less than Fifty Thousand Dollars (\$50,000.00) nor more than
3742 Five Hundred Thousand Dollars (\$500,000.00), or both. It is not a
3743 defense in a prosecution under this section that a minor consented
3744 to engage in the commercial sexual activity, sexually explicit
3745 performance, or the production of sexually oriented material, or
3746 that the defendant reasonably believed that the minor was eighteen
3747 (18) years of age or older.

3748 (2) If the victim is not a minor, a person who is convicted
3749 of an offense set forth in subsection (1)(a) or (b) of this
3750 section shall be committed to the custody of the Department of
3751 Corrections for not less than two (2) years nor more than twenty
3752 (20) years, or by a fine of not less than Ten Thousand Dollars
3753 (\$10,000.00) nor more than One Hundred Thousand Dollars
3754 (\$100,000.00), or both. If the victim of the offense is a minor,
3755 a person who is convicted of an offense set forth in subsection
3756 (1)(a) or (b) of this section shall be committed to the custody of
3757 the Department of Corrections for not less than five (5) years nor
3758 more than twenty (20) years, or by a fine of not less than Twenty
3759 Thousand Dollars (\$20,000.00) nor more than One Hundred Thousand
3760 Dollars (\$100,000.00), or both.



3761 (3) An enterprise may be prosecuted for an offense under
3762 this chapter if:

3763 (a) An agent of the enterprise knowingly engages in
3764 conduct that constitutes an offense under this chapter while
3765 acting within the scope of employment and for the benefit of the
3766 entity.

3767 (b) An employee of the enterprise engages in conduct
3768 that constitutes an offense under this chapter and the commission
3769 of the offense was part of a pattern of illegal activity for the
3770 benefit of the enterprise, which an agent of the enterprise either
3771 knew was occurring or recklessly disregarded, and the agent failed
3772 to take effective action to stop the illegal activity.

3773 (c) It is an affirmative defense to a prosecution of an
3774 enterprise that the enterprise had in place adequate procedures,
3775 including an effective complaint procedure, designed to prevent
3776 persons associated with the enterprise from engaging in the
3777 unlawful conduct and to promptly correct any violations of this
3778 chapter.

3779 (d) The court may consider the severity of the
3780 enterprise's offense and order penalties, including: (i) a fine
3781 of not more than One Million Dollars (\$1,000,000.00); (ii)
3782 disgorgement of profit; and (iii) debarment from government
3783 contracts. Additionally, the court may order any of the relief
3784 provided in Section 97-3-54.7.



3785 (4) In addition to the mandatory reporting provisions
3786 contained in Sections 43-21-353 and, 97-5-51, any person who has
3787 reasonable cause to suspect that a minor under the age of eighteen
3788 (18) is a trafficked person shall immediately make a report * * *
3789 to the Statewide Human Trafficking Coordinator. * * * A minor who
3790 has been identified as a victim of trafficking shall not be liable
3791 for criminal activity in violation of this section.

3792 (5) It is an affirmative defense in a prosecution under this
3793 act that the defendant:

3794 (a) Is a victim; and

3795 (b) Committed the offense under a reasonable
3796 apprehension created by a person that, if the defendant did not
3797 commit the act, the person would inflict serious harm on the
3798 defendant, a member of the defendant's family, or a close
3799 associate.

3800 **SECTION 65.** Section 97-5-24, Mississippi Code of 1972, is
3801 amended as follows:

3802 97-5-24. If any person eighteen (18) years or older who is
3803 employed by any public school district or private school in this
3804 state is accused of fondling or having any type of sexual
3805 involvement with any child under the age of eighteen (18) years
3806 who is enrolled in such school, the principal of such school and
3807 the superintendent of such school district shall timely notify the
3808 district attorney with jurisdiction where the school is located of
3809 such accusation, the Mississippi Department of Education and the



3810 Department of * * * Child Protection Services, provided that such
3811 accusation is reported to the principal and to the school
3812 superintendent and that there is a reasonable basis to believe
3813 that such accusation is true. Any superintendent, or his
3814 designee, who fails to make a report required by this section
3815 shall be subject to the penalties provided in Section 37-11-35.
3816 Any superintendent, principal, teacher or other school personnel
3817 participating in the making of a required report pursuant to this
3818 section or participating in any judicial proceeding resulting
3819 therefrom shall be presumed to be acting in good faith. Any
3820 person reporting in good faith shall be immune from any civil
3821 liability that might otherwise be incurred or imposed.

3822 **SECTION 66.** Section 97-5-51, Mississippi Code of 1972, is
3823 amended as follows:

3824 97-5-51. (1) **Definitions.** For the purposes of this
3825 section:

3826 (a) "Sex crime against a minor" means any offense under
3827 at least one (1) of the following statutes when committed by an
3828 adult against a minor who is under the age of sixteen (16):

3829 (i) Section 97-3-65 relating to rape;

3830 (ii) Section 97-3-71 relating to rape and assault
3831 with intent to ravish;

3832 (iii) Section 97-3-95 relating to sexual battery;



3833 (iv) Section 97-5-23 relating to the touching of a
3834 child, mentally defective or incapacitated person or physically
3835 helpless person for lustful purposes;

3836 (v) Section 97-5-41 relating to the carnal
3837 knowledge of a stepchild, adopted child or child of a cohabiting
3838 partner;

3839 (vi) Section 97-5-33 relating to exploitation of
3840 children;

3841 (vii) Section 97-3-54.1(1)(c) relating to
3842 procuring sexual servitude of a minor;

3843 (viii) Section 43-47-18 relating to sexual abuse
3844 of a vulnerable person;

3845 (ix) Section 97-1-7 relating to the attempt to
3846 commit any of the offenses listed in this subsection.

3847 (b) "Mandatory reporter" means any of the following
3848 individuals performing their occupational duties: health care
3849 practitioner, clergy member, teaching or child care provider, law
3850 enforcement officer, or commercial image processor.

3851 (c) "Health care practitioner" means any individual who
3852 provides health care services, including a physician, surgeon,
3853 physical therapist, psychiatrist, psychologist, medical resident,
3854 medical intern, hospital staff member, licensed nurse, midwife and
3855 emergency medical technician or paramedic.

3856 (d) "Clergy member" means any priest, rabbi or duly
3857 ordained deacon or minister.



3858 (e) "Teaching or child care provider" means anyone who
3859 provides training or supervision of a minor under the age of
3860 sixteen (16), including a teacher, teacher's aide, principal or
3861 staff member of a public or private school, social worker,
3862 probation officer, foster home parent, group home or other child
3863 care institutional staff member, personnel of residential home
3864 facilities, a licensed or unlicensed day care provider.

3865 (f) "Commercial image processor" means any person who,
3866 for compensation: (i) develops exposed photographic film into
3867 negatives, slides or prints; (ii) makes prints from negatives or
3868 slides; or (iii) processes or stores digital media or images from
3869 any digital process, including, but not limited to, website
3870 applications, photography, live streaming of video, posting,
3871 creation of power points or any other means of intellectual
3872 property communication or media including conversion or
3873 manipulation of still shots or video into a digital show stored on
3874 a photography site or a media storage site.

3875 (g) "Caretaker" means any person legally obligated to
3876 provide or secure adequate care for a minor under the age of
3877 sixteen (16), including a parent, guardian, tutor, legal custodian
3878 or foster home parent.

3879 (2) (a) **Mandatory reporter requirement.** A mandatory
3880 reporter shall make a report if it would be reasonable for the
3881 mandatory reporter to suspect that a sex crime against a minor has
3882 occurred.



3883 (b) Failure to file a mandatory report shall be
3884 punished as provided in this section.

3885 (c) Reports made under this section and the identity of
3886 the mandatory reporter are confidential except when the court
3887 determines the testimony of the person reporting to be material to
3888 a judicial proceeding or when the identity of the reporter is
3889 released to law enforcement agencies and the appropriate
3890 prosecutor. The identity of the reporting party shall not be
3891 disclosed to anyone other than law enforcement or prosecutors
3892 except under court order; violation of this requirement is a
3893 misdemeanor. Reports made under this section are for the purpose
3894 of criminal investigation and prosecution only and information
3895 from these reports is not a public record. Disclosure of any
3896 information by the prosecutor shall conform to the Mississippi
3897 Uniform Rules of Circuit and County Court Procedure.

3898 (d) Any mandatory reporter who makes a required report
3899 under this section or participates in a judicial proceeding
3900 resulting from a mandatory report shall be presumed to be acting
3901 in good faith. Any person or institution reporting in good faith
3902 shall be immune from any liability, civil or criminal, that might
3903 otherwise be incurred or imposed.

3904 (3) (a) **Mandatory reporting procedure.** A report required
3905 under subsection (2) must be made immediately to the law
3906 enforcement agency in whose jurisdiction the reporter believes the
3907 sex crime against the minor occurred. Except as otherwise



3908 provided in this subsection (3), a mandatory reporter may not
3909 delegate to any other person the responsibility to report, but
3910 shall make the report personally.

3911 (i) The reporting requirement under this
3912 subsection (3) is satisfied if a mandatory reporter in good faith
3913 reports a suspected sex crime against a minor to the Department
3914 of * * * Child Protection Services under Section 43-21-353 if the
3915 reporter reasonably suspects the sex crime constitutes abuse or
3916 neglect.

3917 (ii) The reporting requirement under this
3918 subsection (3) is satisfied if a mandatory reporter reports a
3919 suspected sex crime against a minor by following a reporting
3920 procedure that is imposed:

3921 1. By state agency rule as part of licensure
3922 of any person or entity holding a state license to provide
3923 services that include the treatment or education of abused or
3924 neglected children; or

3925 2. By statute.

3926 (b) **Contents of the report.** The report shall identify,
3927 to the extent known to the reporter, the following:

3928 (i) The name and address of the minor victim;

3929 (ii) The name and address of the minor's
3930 caretaker;

3931 (iii) Any other pertinent information known to the
3932 reporter.



3933 (4) A law enforcement officer who receives a mandated report
3934 under this section shall file an affidavit against the offender on
3935 behalf of the State of Mississippi if there is probable cause to
3936 believe that the offender has committed a sex crime against a
3937 minor.

3938 (5) **Collection of forensic samples.** (a) (i) When an
3939 abortion is performed on a minor who is less than fourteen (14)
3940 years of age at the time of the abortion procedure, fetal tissue
3941 extracted during the abortion shall be collected in accordance
3942 with rules and regulations adopted pursuant to this section if it
3943 would be reasonable to suspect that the pregnancy being terminated
3944 is the result of a sex crime against a minor.

3945 (ii) When a minor who is under sixteen (16) years
3946 of age gives birth to an infant, umbilical cord blood shall be
3947 collected, if possible, in accordance with rules and regulations
3948 adopted pursuant to this section if it would be reasonable to
3949 suspect that the minor's pregnancy resulted from a sex crime
3950 against a minor.

3951 (iii) It shall be reasonable to suspect that a sex
3952 crime against a minor has occurred if the mother of an infant was
3953 less than sixteen (16) years of age at the time of conception and
3954 at least one (1) of the following conditions also applies:

3955 1. The mother of the infant will not identify
3956 the father of the infant;



3957 2. The mother of the infant lists the father
3958 of the infant as unknown;

3959 3. The person the mother identifies as the
3960 father of the infant disputes his fatherhood;

3961 4. The person the mother identifies as the
3962 father of the infant is twenty-one (21) years of age or older; or

3963 5. The person the mother identifies as the
3964 father is deceased.

3965 (b) The State Medical Examiner shall adopt rules and
3966 regulations consistent with Section 99-49-1 that prescribe:

3967 (i) The amount and type of fetal tissue or
3968 umbilical cord blood to be collected pursuant to this section;

3969 (ii) Procedures for the proper preservation of the
3970 tissue or blood for the purpose of DNA testing and examination;

3971 (iii) Procedures for documenting the chain of
3972 custody of such tissue or blood for use as evidence;

3973 (iv) Procedures for proper disposal of fetal
3974 tissue or umbilical cord blood collected pursuant to this section;

3975 (v) A uniform reporting instrument mandated to be
3976 utilized, which shall include the complete residence address and
3977 name of the parent or legal guardian of the minor who is the
3978 subject of the report required under this subsection (5); and

3979 (vi) Procedures for communication with law
3980 enforcement agencies regarding evidence and information obtained
3981 pursuant to this section.



3982 (6) **Penalties.** (a) A person who is convicted of a first
3983 offense under this section shall be guilty of a misdemeanor and
3984 fined not more than Five Hundred Dollars (\$500.00).

3985 (b) A person who is convicted of a second offense under
3986 this section shall be guilty of a misdemeanor and fined not more
3987 than One Thousand Dollars (\$1,000.00), or imprisoned for not more
3988 than thirty (30) days, or both.

3989 (c) A person who is convicted of a third or subsequent
3990 offense under this section shall be guilty of a misdemeanor and
3991 fined not more than Five Thousand Dollars (\$5,000.00), or
3992 imprisoned for not more than one (1) year, or both.

3993 (7) A health care practitioner or health care facility shall
3994 be immune from any penalty, civil or criminal, for good-faith
3995 compliance with any rules and regulations adopted pursuant to this
3996 section.

3997 **SECTION 67.** Section 97-29-49, Mississippi Code of 1972, is
3998 amended as follows:

3999 97-29-49. (1) A person commits the misdemeanor of
4000 prostitution if the person knowingly or intentionally performs, or
4001 offers or agrees to perform, sexual intercourse or sexual conduct
4002 for money or other property. "Sexual conduct" includes
4003 cunnilingus, fellatio, masturbation of another, anal intercourse
4004 or the causing of penetration to any extent and with any object or
4005 body part of the genital or anal opening of another.



4006 (2) Any person violating the provisions of this section
4007 shall, upon conviction, be punished by a fine not exceeding Two
4008 Hundred Dollars (\$200.00) or by confinement in the county jail for
4009 not more than six (6) months, or both.

4010 (3) In addition to the mandatory reporting provisions
4011 contained in Section 97-5-51, any law enforcement officer who
4012 takes a minor under eighteen (18) years of age into custody for
4013 suspected prostitution shall immediately make a report to the
4014 Department of * * * Child Protection Services as required in
4015 Section 43-21-353 for suspected child sexual abuse or neglect, and
4016 the department shall commence an initial investigation into
4017 suspected child sexual abuse or neglect as required in Section
4018 43-21-353.

4019 (4) If it is determined that a person suspected of or
4020 charged with engaging in prostitution is engaging in those acts as
4021 a direct result of being a trafficked person, as defined by
4022 Section 97-3-54.4, that person shall be immune from prosecution
4023 for prostitution as a juvenile or adult and, if a minor, the
4024 provisions of Section 97-3-54.1(4) shall be applicable.

4025 **SECTION 68.** Section 25-9-127, Mississippi Code of 1972, is
4026 amended as follows:

4027 25-9-127. (1) No employee of any department, agency or
4028 institution who is included under this chapter or hereafter
4029 included under its authority, and who is subject to the rules and
4030 regulations prescribed by the state personnel system, may be



4031 dismissed or otherwise adversely affected as to compensation or
4032 employment status except for inefficiency or other good cause, and
4033 after written notice and hearing within the department, agency or
4034 institution as shall be specified in the rules and regulations of
4035 the State Personnel Board complying with due process of law; and
4036 any employee who has by written notice of dismissal or action
4037 adversely affecting his compensation or employment status shall,
4038 on hearing and on any appeal of any decision made in such action,
4039 be required to furnish evidence that the reasons stated in the
4040 notice of dismissal or action adversely affecting his compensation
4041 or employment status are not true or are not sufficient grounds
4042 for the action taken; provided, however, that this provision shall
4043 not apply (a) to persons separated from any department, agency or
4044 institution due to curtailment of funds or reduction in staff when
4045 such separation is in accordance with rules and regulations of the
4046 state personnel system; (b) during the probationary period of
4047 state service of twelve (12) months; and (c) to an executive
4048 officer of any state agency who serves at the will and pleasure of
4049 the Governor, board, commission or other appointing authority.

4050 (2) The operation of a state-owned motor vehicle without a
4051 valid Mississippi driver's license by an employee of any
4052 department, agency or institution that is included under this
4053 chapter and that is subject to the rules and regulations of the
4054 state personnel system shall constitute good cause for dismissal
4055 of such person from employment.



4056 (3) Beginning July 1, 1999, every male between the ages of
4057 eighteen (18) and twenty-six (26) who is required to register
4058 under the federal Military Selective Service Act, 50 USCS App.
4059 453, and who is an employee of the state shall not be promoted to
4060 any higher position of employment with the state until he submits
4061 to the person, commission, board or agency by which he is employed
4062 satisfactory documentation of his compliance with the draft
4063 registration requirements of the Military Selective Service Act.
4064 The documentation shall include a signed affirmation under penalty
4065 of perjury that the male employee has complied with the
4066 requirements of the Military Selective Service Act.

4067 (4) For a period of two (2) years beginning July 1, 2014,
4068 the provisions of subsection (1) shall not apply to the personnel
4069 actions of the State Department of Education that are subject to
4070 the rules and regulations of the State Personnel Board, and all
4071 employees of the department shall be classified as nonstate
4072 service during that period. However, any employee hired after
4073 July 1, 2014, by the department shall meet the criteria of the
4074 State Personnel Board as it presently exists for employment. The
4075 State Superintendent of Public Education and the State Board of
4076 Education shall consult with the Office of the Attorney General
4077 before taking personnel actions authorized by this section to
4078 review those actions for compliance with applicable state and
4079 federal law.



4080 It is not the intention or effect of this section to include
4081 any school attendance officer in any exemption from coverage under
4082 the State Personnel Board policy or regulations, including, but
4083 not limited to, termination and conditions of employment.

4084 (5) (a) For a period of two (2) years beginning July 1,
4085 2015, the provisions of subsection (1) shall not apply to the
4086 personnel actions of the Department of Corrections, and all
4087 employees of the department shall be classified as nonstate
4088 service during that period. However, any employee hired after
4089 July 1, 2015, by the department shall meet the criteria of the
4090 State Personnel Board as it presently exists for employment.

4091 (b) Additionally, for a period of one (1) year
4092 beginning July 1, 2016, the personnel actions of the Commissioner
4093 of the Department of Corrections shall be exempt from State
4094 Personnel Board rules, regulations and procedures in order to give
4095 the commissioner flexibility in making an orderly, effective and
4096 timely reorganization and realignment of the department.

4097 (c) The Commissioner of Corrections shall consult with
4098 the Office of the Attorney General before personnel actions
4099 authorized by this section to review those actions for compliance
4100 with applicable state and federal law.

4101 (6) Through July 1, 2019, the provisions of subsection (1)
4102 of this section shall not apply to the personnel actions of the
4103 Department of Human Services that are subject to the rules and
4104 regulations of the State Personnel Board, and all employees of the



4105 department shall be classified as nonstate service during that
4106 period. Any employee hired on or after July 1, 2019, by the
4107 department shall meet the criteria of the State Personnel Board as
4108 it presently exists for employment. The Executive Director of
4109 Human Services shall consult with the Office of the Attorney
4110 General before taking personnel actions authorized by this section
4111 to review those actions for compliance with applicable state and
4112 federal law.

4113 (7) Through July 1, 2019, the provisions of subsection (1)
4114 of this section shall not apply to the personnel actions of the
4115 Department of Child Protection Services that are subject to the
4116 rules and regulations of the State Personnel Board, and all
4117 employees of the department shall be classified as nonstate
4118 service during that period. Any employee hired on or after July
4119 1, 2019, by the division shall meet the criteria of the State
4120 Personnel Board as it presently exists for employment. Further,
4121 for a period of one (1) year beginning July 1, 2017, the personnel
4122 actions of the Department of Child Protection Services shall be
4123 exempt from State Personnel Board rules, regulation and procedures
4124 in order to give the department flexibility in making an orderly,
4125 effective and timely reorganization and realignment of the
4126 department. The Commissioner of Child Protection Services shall
4127 consult with the Office of the Attorney General before taking
4128 personnel actions authorized by this section to review those
4129 actions for compliance with applicable state and federal law.



4130 (8) Any state agency whose personnel actions are exempted in
4131 this section from the rules, regulations and procedures of the
4132 State Personnel Board shall file with the Lieutenant Governor, the
4133 Speaker of the House of Representatives, and the members of the
4134 Senate and House Accountability, Efficiency * * * and Transparency
4135 Committees an annual report no later than July 1, 2016, and each
4136 year thereafter while under the exemption. Such annual report
4137 shall contain the following information:

4138 (a) The number of current employees who received an
4139 increase in salary during the past fiscal year and the amount of
4140 the increase;

4141 (b) The number of employees who were dismissed from the
4142 agency or otherwise adversely affected as to compensation or
4143 employment status during the past fiscal year, including a
4144 description of such adverse effects; and

4145 (c) The number of new employees hired during the past
4146 fiscal year and the starting salaries of each new employee.

4147 **SECTION 69.** The following shall be codified as Section
4148 43-26-5, Mississippi Code of 1972:

4149 43-26-5. (1) In addition to all other powers and duties
4150 provided by law, the Department of Child Protection Services is
4151 authorized to:

4152 (a) Provide protective services for children as will
4153 conserve home life;



4154 (b) Assume responsibility for the care and support of
4155 dependent children needing public care away from their homes;

4156 (c) Place children found by the department to be
4157 dependent or without proper care in suitable institutions or
4158 private homes and cooperate with public and private institutions
4159 in placing such children; and

4160 (d) Accept custody or guardianship, through one (1) of
4161 its designated employees, of any child, when appointed as
4162 custodian or guardian in the manner provided by law.

4163 The grant of authority in this subsection (1) shall not be
4164 construed as diminishing any other authority granted to the
4165 department by any other law.

4166 (2) The board of supervisors in each county is empowered, in
4167 its discretion, to set aside and appropriate any money necessary
4168 to carry out the provisions of this section to the county office
4169 of the Department of Child Protection Services. Such money may
4170 come out of the tax levied and collected to support the poor of
4171 the county or out of the county general fund.

4172 **SECTION 70.** The following shall be codified as Section
4173 43-26-3, Mississippi Code of 1972:

4174 43-26-3. The Commissioner of the Department of Child
4175 Protection Services is authorized to:

4176 (a) Formulate the policy of the department;

4177 (b) Adopt, modify, repeal and promulgate, after due
4178 notice and hearing, and where not otherwise prohibited by federal



4179 or state law, to make exceptions to and grant exemptions and
4180 variances from, and to enforce rules and regulations implementing
4181 or effectuating the powers and duties of the department under any
4182 and all statutes within the department's jurisdiction;

4183 (c) Employ personnel;

4184 (d) Apply for, receive and expend any federal or state
4185 funds or contributions, gifts, devises, bequests or funds from any
4186 other source;

4187 (e) Fingerprint and perform a criminal history check on
4188 every employee or volunteer who, by virtue of such position has
4189 direct access to children or is in a position of fiduciary
4190 responsibility; and

4191 (f) Discharge such other duties, responsibilities and
4192 powers as are necessary to implement the programs of the
4193 department.

4194 **SECTION 71.** Sections 1 through 70 of this act shall take
4195 effect and be in force from and after July 1, 2017. Section 71 of
4196 this act shall take effect and be in force from and after its
4197 passage.

