

By: Representatives Dixon, Touchstone

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

HOUSE BILL NO. 1013  
(As Passed the House)

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, 43-21-351, 43-21-353,  
7 43-21-354, 43-21-357, 43-21-603, 43-21-609, 43-21-613, 43-27-101,  
8 43-27-103, 93-5-23, 93-17-3, 93-17-5, 93-17-8, 93-17-11, 93-17-12,  
9 93-17-53, 93-17-57, 93-17-59, 93-17-61, 93-17-63, 93-17-65,  
10 93-17-67, 93-17-69, 93-17-101, 93-17-103, 93-17-107, 93-17-109,  
11 93-17-203, 93-21-307, 93-31-3, 97-3-54.1, 97-5-24, 97-5-51 AND  
12 97-29-49 MISSISSIPPI CODE OF 1972, TO MAKE TECHNICAL AMENDMENTS TO  
13 CERTAIN PROVISIONS OF LAW PERTAINING TO THE DEPARTMENT OF HUMAN  
14 SERVICES AND THE DEPARTMENT OF CHILD PROTECTION SERVICES TO  
15 ACCURATELY REFLECT THE SEPARATION OF THE DEPARTMENT OF CHILD  
16 PROTECTION SERVICES FROM THE DEPARTMENT OF HUMAN SERVICES; TO  
17 AMEND SECTION 25-9-127, MISSISSIPPI CODE OF 1972, TO EXEMPT  
18 PERSONNEL ACTIONS OF THE DEPARTMENT OF CHILD PROTECTION SERVICES  
19 FROM THE RULES AND REGULATIONS OF THE STATE PERSONNEL BOARD FOR A  
20 PERIOD OF ONE YEAR; TO CREATE NEW SECTION 43-26-5, MISSISSIPPI  
21 CODE OF 1972, TO GIVE THE DEPARTMENT OF CHILD PROTECTION SERVICES  
22 CERTAIN POWERS AND DUTIES; TO CREATE NEW SECTION 43-26-3,  
23 MISSISSIPPI CODE OF 1972, TO GIVE THE COMMISSIONER OF THE  
24 DEPARTMENT OF CHILD PROTECTION SERVICES CERTAIN POWERS AND DUTIES;  
25 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 43-21-351, Mississippi Code of 1972, is  
2143 amended as follows:

2144 43-21-351. (1) Any person or agency having knowledge that a  
2145 child residing or being within the county is within the  
2146 jurisdiction of the youth court may make a written report to the  
2147 intake unit alleging facts sufficient to establish the  
2148 jurisdiction of the youth court. The report shall bear a  
2149 permanent number that will be assigned by the court in accordance  
2150 with the standards established by the Administrative Office of  
2151 Courts pursuant to Section 9-21-9(d), and shall be preserved until  
2152 destroyed on order of the court.

2153 (2) There shall be in each youth court of the state an  
2154 intake officer who shall be responsible for the accurate and  
2155 timely entering of all intake and case information into the  
2156 Mississippi Youth Court Information Delivery System (MYCIDS) for  
2157 the Division of Youth Services, truancy matters and the \* \* \*  
2158 Department of Child Protection Services. It shall be the  
2159 responsibility of the youth court judge or referee of each county



2160 to ensure that the intake officer is carrying out the  
2161 responsibility of this section.

2162         **SECTION 34.** Section 43-21-353, Mississippi Code of 1972, is  
2163 amended as follows:

2164         43-21-353. (1) Any attorney, physician, dentist, intern,  
2165 resident, nurse, psychologist, social worker, family protection  
2166 worker, family protection specialist, child caregiver, minister,  
2167 law enforcement officer, public or private school employee or any  
2168 other person having reasonable cause to suspect that a child is a  
2169 neglected child or an abused child, shall cause an oral report to  
2170 be made immediately by telephone or otherwise and followed as soon  
2171 thereafter as possible by a report in writing to the Department  
2172 of \* \* \* Child Protection Services, and immediately a referral  
2173 shall be made by the Department of \* \* \* Child Protection Services  
2174 to the youth court intake unit, which unit shall promptly comply  
2175 with Section 43-21-357. In the course of an investigation, at the  
2176 initial time of contact with the individual(s) about whom a report  
2177 has been made under this Youth Court Act or with the individual(s)  
2178 responsible for the health or welfare of a child about whom a  
2179 report has been made under this chapter, the Department of \* \* \*  
2180 Child Protection Services shall inform the individual of the  
2181 specific complaints or allegations made against the individual.  
2182 Consistent with subsection (4), the identity of the person who  
2183 reported his or her suspicion shall not be disclosed. Where





2184 appropriate, the Department of \* \* \* Child Protection Services  
2185 shall additionally make a referral to the youth court prosecutor.

2186       Upon receiving a report that a child has been sexually  
2187 abused, or burned, tortured, mutilated or otherwise physically  
2188 abused in such a manner as to cause serious bodily harm, or upon  
2189 receiving any report of abuse that would be a felony under state  
2190 or federal law, the Department of \* \* \* Child Protection Services  
2191 shall immediately notify the law enforcement agency in whose  
2192 jurisdiction the abuse occurred and shall notify the appropriate  
2193 prosecutor within forty-eight (48) hours, and the Department  
2194 of \* \* \* Child Protection Services shall have the duty to provide  
2195 the law enforcement agency all the names and facts known at the  
2196 time of the report; this duty shall be of a continuing nature.  
2197 The law enforcement agency and the Department of \* \* \* Child  
2198 Protection Services shall investigate the reported abuse  
2199 immediately and shall file a preliminary report with the  
2200 appropriate prosecutor's office within twenty-four (24) hours and  
2201 shall make additional reports as new or additional information or  
2202 evidence becomes available. The Department of \* \* \* Child  
2203 Protection Services shall advise the clerk of the youth court and  
2204 the youth court prosecutor of all cases of abuse reported to the  
2205 department within seventy-two (72) hours and shall update such  
2206 report as information becomes available.

2207       (2) Any report to the Department of \* \* \* Child Protection  
2208 Services shall contain the names and addresses of the child and



2209 his parents or other persons responsible for his care, if known,  
2210 the child's age, the nature and extent of the child's injuries,  
2211 including any evidence of previous injuries \* \* \*, any other  
2212 information that might be helpful in establishing the cause of the  
2213 injury, and the identity of the perpetrator.

2214 (3) The Department of \* \* \* Child Protection Services shall  
2215 maintain a statewide incoming wide-area telephone service or  
2216 similar service for the purpose of receiving reports of suspected  
2217 cases of child abuse; provided that any attorney, physician,  
2218 dentist, intern, resident, nurse, psychologist, social worker,  
2219 family protection worker, family protection specialist, child  
2220 caregiver, minister, law enforcement officer or public or private  
2221 school employee who is required to report under subsection (1) of  
2222 this section shall report in the manner required in subsection  
2223 (1).

2224 (4) Reports of abuse and neglect made under this chapter and  
2225 the identity of the reporter are confidential except when the  
2226 court in which the investigation report is filed, in its  
2227 discretion, determines the testimony of the person reporting to be  
2228 material to a judicial proceeding or when the identity of the  
2229 reporter is released to law enforcement agencies and the  
2230 appropriate prosecutor pursuant to subsection (1). Reports made  
2231 under this section to any law enforcement agency or prosecutorial  
2232 officer are for the purpose of criminal investigation and  
2233 prosecution only and no information from these reports may be



2234 released to the public except as provided by Section 43-21-261.  
2235 Disclosure of any information by the prosecutor shall be according  
2236 to the Mississippi Uniform Rules of Circuit and County Court  
2237 Procedure. The identity of the reporting party shall not be  
2238 disclosed to anyone other than law enforcement officers or  
2239 prosecutors without an order from the appropriate youth court.  
2240 Any person disclosing any reports made under this section in a  
2241 manner not expressly provided for in this section or Section  
2242 43-21-261 shall be guilty of a misdemeanor and subject to the  
2243 penalties prescribed by Section 43-21-267.

2244 (5) All final dispositions of law enforcement investigations  
2245 described in subsection (1) of this section shall be determined  
2246 only by the appropriate prosecutor or court. All final  
2247 dispositions of investigations by the Department of \* \* \* Child  
2248 Protection Services as described in subsection (1) of this section  
2249 shall be determined only by the youth court. Reports made under  
2250 subsection (1) of this section by the Department of \* \* \* Child  
2251 Protection Services to the law enforcement agency and to the  
2252 district attorney's office shall include the following, if known  
2253 to the department:

- 2254 (a) The name and address of the child;
- 2255 (b) The names and addresses of the parents;
- 2256 (c) The name and address of the suspected perpetrator;
- 2257 (d) The names and addresses of all witnesses, including  
2258 the reporting party if a material witness to the abuse;



2259 (e) A brief statement of the facts indicating that the  
2260 child has been abused and any other information from the agency  
2261 files or known to the family protection worker or family  
2262 protection specialist making the investigation, including medical  
2263 records or other records, which may assist law enforcement or the  
2264 district attorney in investigating and/or prosecuting the case;  
2265 and

2266 (f) What, if any, action is being taken by the  
2267 Department of \* \* \* Child Protection Services.

2268 (6) In any investigation of a report made under this chapter  
2269 of the abuse or neglect of a child as defined in Section  
2270 43-21-105(m), the Department of \* \* \* Child Protection Services  
2271 may request the appropriate law enforcement officer with  
2272 jurisdiction to accompany the department in its investigation, and  
2273 in such cases the law enforcement officer shall comply with such  
2274 request.

2275 (7) Anyone who willfully violates any provision of this  
2276 section shall be, upon being found guilty, punished by a fine not  
2277 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in  
2278 jail not to exceed one (1) year, or both.

2279 (8) If a report is made directly to the Department of \* \* \*  
2280 Child Protection Services that a child has been abused or  
2281 neglected in an out-of-home setting, a referral shall be made  
2282 immediately to the law enforcement agency in whose jurisdiction  
2283 the abuse occurred and the department shall notify the district



2284 attorney's office within forty-eight (48) hours of such report.  
2285 The Department of \* \* \* Child Protection Services shall  
2286 investigate the out-of-home setting report of abuse or neglect to  
2287 determine whether the child who is the subject of the report, or  
2288 other children in the same environment, comes within the  
2289 jurisdiction of the youth court and shall report to the youth  
2290 court the department's findings and recommendation as to whether  
2291 the child who is the subject of the report or other children in  
2292 the same environment require the protection of the youth court.  
2293 The law enforcement agency shall investigate the reported abuse  
2294 immediately and shall file a preliminary report with the district  
2295 attorney's office within forty-eight (48) hours and shall make  
2296 additional reports as new information or evidence becomes  
2297 available. If the out-of-home setting is a licensed facility, an  
2298 additional referral shall be made by the Department of \* \* \* Child  
2299 Protection Services to the licensing agency. The licensing agency  
2300 shall investigate the report and shall provide the Department  
2301 of \* \* \* Child Protection Services, the law enforcement agency and  
2302 the district attorney's office with their written findings from  
2303 such investigation as well as that licensing agency's  
2304 recommendations and actions taken.

2305 (9) If a child protective investigation does not result in  
2306 an out-of-home placement, a child protective investigator must  
2307 provide information to the parent or guardians about community



2308 service programs that provide respite care, voluntary guardianship  
2309 or other support services for families in crisis.

2310 **SECTION 35.** Section 43-21-354, Mississippi Code of 1972, is  
2311 amended as follows:

2312 43-21-354. The statewide incoming wide area telephone  
2313 service established pursuant to Section 43-21-353, Mississippi  
2314 Code of 1972, shall be maintained by the \* \* \* Department of Child  
2315 Protection Services, or its successor, on a twenty-four-hour seven  
2316 (7) days a week basis.

2317 **SECTION 36.** Section 43-21-357, Mississippi Code of 1972, is  
2318 amended as follows:

2319 43-21-357. (1) After receiving a report, the youth court  
2320 intake unit shall promptly make a preliminary inquiry to determine  
2321 whether the interest of the child, other children in the same  
2322 environment or the public requires the youth court to take further  
2323 action. As part of the preliminary inquiry, the youth court  
2324 intake unit may request or the youth court may order the  
2325 Department of Human Services, the Department of Youth Services,  
2326 the Department of Child Protection Services, any successor agency  
2327 or any other qualified public employee to make an investigation or  
2328 report concerning the child and any other children in the same  
2329 environment, and present the findings thereof to the youth court  
2330 intake unit. If the youth court intake unit receives a neglect or  
2331 abuse report, the youth court intake unit shall immediately  
2332 forward the complaint to the Department of \* \* \* Child Protection



2333 Services to promptly make an investigation or report concerning  
2334 the child and any other children in the same environment and  
2335 promptly present the findings thereof to the youth court intake  
2336 unit. If it appears from the preliminary inquiry that the child  
2337 or other children in the same environment are within the  
2338 jurisdiction of the court, the youth court intake unit shall  
2339 recommend to the youth court:

2340 (a) That the youth court take no action;

2341 (b) That an informal adjustment be made;

2342 (c) The \* \* \* Department of Child Protection Services,  
2343 monitor the child, family and other children in the same  
2344 environment;

2345 (d) That the child is warned or counseled informally;

2346 (e) That the child be referred to the youth court drug  
2347 court; or

2348 (f) That a petition be filed.

2349 (2) The youth court shall then, without a hearing:

2350 (a) Order that no action be taken;

2351 (b) Order that an informal adjustment be made;

2352 (c) Order that the Department of \* \* \* Child Protection  
2353 Services, \* \* \* monitor the child, family and other children in  
2354 the same environment;

2355 (d) Order that the child is warned or counseled  
2356 informally;



2357 (e) That the child be referred to the youth court drug  
2358 court; or

2359 (f) Order that a petition be filed.

2360 (3) If the preliminary inquiry discloses that a child needs  
2361 emergency medical treatment, the judge may order the necessary  
2362 treatment.

2363 **SECTION 37.** Section 43-21-603, Mississippi Code of 1972, is  
2364 amended as follows:

2365 43-21-603. (1) At the beginning of each disposition  
2366 hearing, the judge shall inform the parties of the purpose of the  
2367 hearing.

2368 (2) All testimony shall be under oath unless waived by all  
2369 parties and may be in narrative form. The court may consider any  
2370 evidence that is material and relevant to the disposition of the  
2371 cause, including hearsay and opinion evidence. At the conclusion  
2372 of the evidence, the youth court shall give the parties an  
2373 opportunity to present oral argument.

2374 (3) If the child has been adjudicated a delinquent child,  
2375 before entering a disposition order, the youth court should  
2376 consider, among others, the following relevant factors:

2377 (a) The nature of the offense;

2378 (b) The manner in which the offense was committed;

2379 (c) The nature and number of a child's prior  
2380 adjudicated offenses;

2381 (d) The child's need for care and assistance;





2382 (e) The child's current medical history, including  
2383 medication and diagnosis;

2384 (f) The child's mental health history, which may  
2385 include, but not be limited to, the Massachusetts Youth Screening  
2386 Instrument version 2 (MAYSI-2);

2387 (g) Copies of the child's cumulative record from the  
2388 last school of record, including special education records, if  
2389 applicable;

2390 (h) Recommendation from the school of record based on  
2391 areas of remediation needed;

2392 (i) Disciplinary records from the school of record; and

2393 (j) Records of disciplinary actions outside of the  
2394 school setting.

2395 (4) If the child has been adjudicated a child in need of  
2396 supervision, before entering a disposition order, the youth court  
2397 should consider, among others, the following relevant factors:

2398 (a) The nature and history of the child's conduct;

2399 (b) The family and home situation; and

2400 (c) The child's need of care and assistance.

2401 (5) If the child has been adjudicated a neglected child or  
2402 an abused child, before entering a disposition order, the youth  
2403 court shall consider, among others, the following relevant  
2404 factors:

2405 (a) The child's physical and mental conditions;

2406 (b) The child's need of assistance;



2407 (c) The manner in which the parent, guardian or  
2408 custodian participated in, tolerated or condoned the abuse,  
2409 neglect or abandonment of the child;

2410 (d) The ability of a child's parent, guardian or  
2411 custodian to provide proper supervision and care of a child; and

2412 (e) Relevant testimony and recommendations, where  
2413 available, from the foster parent of the child, the grandparents  
2414 of the child, the guardian ad litem of the child, representatives  
2415 of any private care agency that has cared for the child, the  
2416 family protection worker or family protection specialist assigned  
2417 to the case, and any other relevant testimony pertaining to the  
2418 case.

2419 (6) After consideration of all the evidence and the relevant  
2420 factors, the youth court shall enter a disposition order that  
2421 shall not recite any of the facts or circumstances upon which the  
2422 disposition is based, nor shall it recite that a child has been  
2423 found guilty; but it shall recite that a child is found to be a  
2424 delinquent child, a child in need of supervision, a neglected  
2425 child or an abused child.

2426 (7) If the youth court orders that the custody or  
2427 supervision of a child who has been adjudicated abused or  
2428 neglected be placed with the Department of \* \* \* Child Protection  
2429 Services or any other person or public or private agency, other  
2430 than the child's parent, guardian or custodian, the youth court  
2431 shall find and the disposition order shall recite that:



2432 (a) (i) Reasonable efforts have been made to maintain  
2433 the child within his own home, but that the circumstances warrant  
2434 his removal and there is no reasonable alternative to custody; or

2435 (ii) The circumstances are of such an emergency  
2436 nature that no reasonable efforts have been made to maintain the  
2437 child within his own home, and that there is no reasonable  
2438 alternative to custody; and

2439 (b) That the effect of the continuation of the child's  
2440 residence within his own home would be contrary to the welfare of  
2441 the child and that the placement of the child in foster care is in  
2442 the best interests of the child; or

2443 (c) Reasonable efforts to maintain the child within his  
2444 home shall not be required if the court determines that:

2445 (i) The parent has subjected the child to  
2446 aggravated circumstances, including, but not limited to,  
2447 abandonment, torture, chronic abuse and sexual abuse; or

2448 (ii) The parent has been convicted of murder of  
2449 another child of that parent, voluntary manslaughter of another  
2450 child of that parent, aided or abetted, attempted, conspired or  
2451 solicited to commit that murder or voluntary manslaughter, or a  
2452 felony assault that results in the serious bodily injury to the  
2453 surviving child or another child of that parent; or

2454 (iii) The parental rights of the parent to a  
2455 sibling have been terminated involuntarily; and



2456 (iv) That the effect of the continuation of the  
2457 child's residence within his own home would be contrary to the  
2458 welfare of the child and that placement of the child in foster  
2459 care is in the best interests of the child.

2460 Once the reasonable efforts requirement is bypassed, the  
2461 court shall have a permanency hearing under Section 43-21-613  
2462 within thirty (30) days of the finding.

2463 (8) Upon a written motion by a party, the youth court shall  
2464 make written findings of fact and conclusions of law upon which it  
2465 relies for the disposition order. If the disposition ordered by  
2466 the youth court includes placing the child in the custody of a  
2467 training school, an admission packet shall be prepared for the  
2468 child that contains the following information:

2469 (a) The child's current medical history, including  
2470 medications and diagnosis;

2471 (b) The child's mental health history;

2472 (c) Copies of the child's cumulative record from the  
2473 last school of record, including special education records, if  
2474 reasonably available;

2475 (d) Recommendation from the school of record based on  
2476 areas of remediation needed;

2477 (e) Disciplinary records from the school of record; and

2478 (f) Records of disciplinary actions outside of the  
2479 school setting, if reasonably available.



2480           Only individuals who are permitted under the Health Insurance  
2481 Portability and Accountability Act of 1996 (HIPAA) shall have  
2482 access to a child's medical records which are contained in an  
2483 admission packet. The youth court shall provide the admission  
2484 packet to the training school at or before the child's arrival at  
2485 the training school. The admittance of any child to a training  
2486 school shall take place between the hours of 8:00 a.m. and 3:00  
2487 p.m. on designated admission days.

2488           (9) When a child in the jurisdiction of the Youth Court is  
2489 committed to the custody of the Mississippi Department of \* \* \*  
2490 Child Protection Services and is believed to be in need of  
2491 treatment for a mental or emotional disability or infirmity, the  
2492 Department of \* \* \* Child Protection Services shall file an  
2493 affidavit alleging that the child is in need of mental health  
2494 services with the Youth Court. The Youth Court shall refer the  
2495 child to the appropriate community mental health center for  
2496 evaluation pursuant to Section 41-21-67. If the prescreening  
2497 evaluation recommends residential care, the Youth Court shall  
2498 proceed with civil commitment pursuant to Sections 41-21-61 et  
2499 seq., 43-21-315 and 43-21-611, and the Department of Mental  
2500 Health, once commitment is ordered, shall provide appropriate  
2501 care, treatment and services for at least as many adolescents as  
2502 were provided services in fiscal year 2004 in its facilities.

2503           (10) Any screening and assessment examinations ordered by  
2504 the court may aid in dispositions related to delinquency, but no



2505 statements or admissions made during the course thereof may be  
2506 admitted into evidence against the child on the issue of whether  
2507 the child committed a delinquent act.

2508         **SECTION 38.** Section 43-21-609, Mississippi Code of 1972, is  
2509 amended as follows:

2510             43-21-609. In neglect and abuse cases, the disposition order  
2511 may include any of the following alternatives, giving precedence  
2512 in the following sequence:

2513                 (a) Release the child without further action;

2514                 (b) Place the child in the custody of his parents, a  
2515 relative or other person subject to any conditions and limitations  
2516 as the court may prescribe. If the court finds that temporary  
2517 relative placement, adoption or foster care placement is  
2518 inappropriate, unavailable or otherwise not in the best interest  
2519 of the child, durable legal custody may be granted by the court to  
2520 any person subject to any limitations and conditions the court may  
2521 prescribe; such durable legal custody will not take effect unless  
2522 the child or children have been in the physical custody of the  
2523 proposed durable custodians for at least one (1) year under the  
2524 supervision of the Department of \* \* \* Child Protection Services.  
2525 The requirements of Section 43-21-613 as to disposition review  
2526 hearings does not apply to those matters in which the court has  
2527 granted durable legal custody. In such cases, the Department  
2528 of \* \* \* Child Protection Services shall be released from any  
2529 oversight or monitoring responsibilities;



2530 (c) Order terms of treatment calculated to assist the  
2531 child and the child's parent, guardian or custodian which are  
2532 within the ability of the parent, guardian or custodian to  
2533 perform;

2534 (d) Order youth court personnel, the Department of  
2535 Human Services, the Department of Child Protection Services or  
2536 child care agencies to assist the child and the child's parent,  
2537 guardian or custodian to secure social or medical services to  
2538 provide proper supervision and care of the child;

2539 (e) Give legal custody of the child to any of the  
2540 following but in no event to any state training school:

2541 (i) The Department of \* \* \* Child Protection  
2542 Services for appropriate placement; or

2543 (ii) Any private or public organization,  
2544 preferably community-based, able to assume the education, care and  
2545 maintenance of the child, which has been found suitable by the  
2546 court. Prior to assigning the custody of any child to any private  
2547 institution or agency, the youth court through its designee shall  
2548 first inspect the physical facilities to determine that they  
2549 provide a reasonable standard of health and safety for the child;

2550 (f) If the court makes a finding that custody is  
2551 necessary as defined in Section 43-21-301(3)(b), and that the  
2552 child, in the action pending before the youth court had not  
2553 previously been taken into custody, the disposition order shall  
2554 recite that the effect of the continuation of the child's residing



2555 within his or her own home would be contrary to the welfare of the  
2556 child, that the placement of the child in foster care is in the  
2557 best interests of the child, and unless the reasonable efforts  
2558 requirement is bypassed under Section 43-21-603(7)(c), the order  
2559 also must state:

2560 (i) That reasonable efforts have been made to  
2561 maintain the child within his or her own home, but that the  
2562 circumstances warrant his or her removal, and there is no  
2563 reasonable alternative to custody; or

2564 (ii) The circumstances are of such an emergency  
2565 nature that no reasonable efforts have been made to maintain the  
2566 child within his or her own home, and there is no reasonable  
2567 alternative to custody; or

2568 (iii) If the court makes a finding in accordance  
2569 with (ii) of this paragraph, the court shall order that reasonable  
2570 efforts be made towards the reunification of the child with his or  
2571 her family \* \* \*;

2572 (g) If the court had, before the disposition hearing in  
2573 the action pending before the court, taken the child into custody,  
2574 the judge or referee shall determine, and the youth court order  
2575 shall recite that reasonable efforts were made by the Department  
2576 of \* \* \* Child Protection Services to finalize the child's  
2577 permanency plan that was in effect on the date of the disposition  
2578 hearing.





2579           **SECTION 39.** Section 43-21-613, Mississippi Code of 1972, is  
2580 amended as follows:

2581           43-21-613. (1) If the youth court finds, after a hearing  
2582 which complies with the sections governing adjudicatory hearings,  
2583 that the terms of a delinquency or child in need of supervision  
2584 disposition order, probation or parole have been violated, the  
2585 youth court may, in its discretion, revoke the original  
2586 disposition and make any disposition which it could have  
2587 originally ordered. The hearing shall be initiated by the filing  
2588 of a petition that complies with the sections governing petitions  
2589 in this chapter and that includes a statement of the youth court's  
2590 original disposition order, probation or parole, the alleged  
2591 violation of that order, probation or parole, and the facts which  
2592 show the violation of that order, probation or parole. Summons  
2593 shall be served in the same manner as summons for an adjudicatory  
2594 hearing.

2595           (2) On motion of a child or a child's parent, guardian or  
2596 custodian, the youth court may, in its discretion, conduct an  
2597 informal hearing to review the disposition order. If the youth  
2598 court finds a material change of circumstances relating to the  
2599 disposition of the child, the youth court may modify the  
2600 disposition order to any appropriate disposition of equal or  
2601 greater precedence which the youth court could have originally  
2602 ordered.



2603           (3) (a) Unless the youth court's jurisdiction has been  
2604 terminated, all disposition orders for supervision, probation or  
2605 placement of a child with an individual or an agency shall be  
2606 reviewed by the youth court judge or referee at least annually to  
2607 determine if continued placement, probation or supervision is in  
2608 the best interest of the child or the public. For children who  
2609 have been adjudicated abused or neglected, the youth court shall  
2610 conduct a permanency hearing within twelve (12) months after the  
2611 earlier of:

2612                       (i) An adjudication that the child has been abused  
2613 or neglected; or

2614                       (ii) The date of the child's removal from the  
2615 allegedly abusive or neglectful custodian/parent. Notice of such  
2616 hearing shall be given in accordance with the provisions of  
2617 Section 43-21-505(5). In conducting the hearing, the judge or  
2618 referee shall require a written report and may require information  
2619 or statements from the child's youth court counselor, parent,  
2620 guardian or custodian, which includes, but is not limited to, an  
2621 evaluation of the child's progress and recommendations for further  
2622 supervision or treatment. The judge or referee shall, at the  
2623 permanency hearing determine the future status of the child,  
2624 including, but not limited to, whether the child should be  
2625 returned to the parent(s) or placed with suitable relatives,  
2626 placed for adoption, placed for the purpose of establishing  
2627 durable legal custody or should, because of the child's special



2628 needs or circumstances, be continued in foster care on a permanent  
2629 or long-term basis. If the child is in an out-of-state placement,  
2630 the hearing shall determine whether the out-of-state placement  
2631 continues to be appropriate and in the best interest of the child.  
2632 At the permanency hearing the judge or referee shall determine,  
2633 and the youth court order shall recite that reasonable efforts  
2634 were made by the Department of \* \* \* Child Protection Services to  
2635 finalize the child's permanency plan that was in effect on the  
2636 date of the permanency hearing. The judge or referee may find  
2637 that reasonable efforts to maintain the child within his home  
2638 shall not be required in accordance with Section 43-21-603(7)(c),  
2639 and that the youth court shall continue to conduct permanency  
2640 hearings for a child who has been adjudicated abused or neglected,  
2641 at least annually thereafter, for as long as the child remains in  
2642 the custody of the Mississippi Department of \* \* \* Child  
2643 Protection Services.

2644 (b) The court may find that the filing of a termination  
2645 of parental rights petition is not in the child's best interest  
2646 if:

2647 (i) The child is being cared for by a relative;  
2648 and/or

2649 (ii) The Department of \* \* \* Child Protection  
2650 Services has documented compelling and extraordinary reasons why  
2651 termination of parental rights would not be in the best interests  
2652 of the child.



2653 (c) The provisions of this subsection shall also apply  
2654 to review of cases involving a dependent child; however, such  
2655 reviews shall take place not less frequently than once each one  
2656 hundred eighty (180) days. A dependent child shall be ordered by  
2657 the youth court judge or referee to be returned to the custody and  
2658 home of the child's parent, guardian or custodian unless the judge  
2659 or referee, upon such review, makes a written finding that the  
2660 return of the child to the home would be contrary to the child's  
2661 best interests.

2662 (d) Reviews are not to be conducted unless explicitly  
2663 ordered by the youth court concerning those cases in which the  
2664 court has granted durable legal custody. In such cases, the  
2665 Department of \* \* \* Child Protection Services shall be released  
2666 from any oversight or monitoring responsibilities, and relieved of  
2667 physical and legal custody and supervision of the child.

2668 **SECTION 40.** Section 43-27-101, Mississippi Code of 1972, is  
2669 amended as follows:

2670 43-27-101. For purposes of Sections 43-27-101 and 43-27-103,  
2671 the following words shall have the meanings ascribed in this  
2672 section, unless the context requires otherwise:

2673 (a) "Child or youth in the custody of the Department  
2674 of \* \* \* Child Protection Services" means an individual:

2675 (i) Who has not yet reached his eighteenth  
2676 birthday;



2677 (ii) Who has been legally placed in the custody of  
2678 the Department of \* \* \* Child Protection Services by the youth  
2679 court and for whom custody with the Department of \* \* \* Child  
2680 Protection Services was not sought by the parents or legal  
2681 custodians or guardians for the parents' or legal custodians' or  
2682 guardians' legal responsibilities to relieve themselves of the  
2683 responsibility for paying for treatment for a child or youth; and

2684 (iii) Who is unable to be maintained with the  
2685 family or legal guardians or custodians due to his or her need for  
2686 specialized care.

2687 (b) "Child or youth under the supervision of the  
2688 Department of \* \* \* Child Protection Services" means an  
2689 individual:

2690 (i) Who has not yet reached his eighteenth  
2691 birthday; and

2692 (ii) Who has been referred for abuse or neglect  
2693 and for whom a case has been opened and is active in the \* \* \*  
2694 Department of Child Protection Services.

2695 (c) "Plan of care" means a written plan of services  
2696 needed to be provided for a child or youth and his or her family  
2697 in order to provide the special care or services required.

2698 (d) "Special needs crisis" means:

2699 (i) Conduct or behavioral problems of such a  
2700 severe nature and level that family or parental violence, abuse,  
2701 and/or neglect pose an imminent threat or are present; or



2702 (ii) Conduct or behavioral problems of such a  
2703 severe nature and level that family or parental violence, abuse,  
2704 and/or neglect pose an imminent threat or are present.

2705 (e) "Specialized care" means:

2706 (i) "Self care," which means the ability to  
2707 provide, sustain and protect himself or herself at a level  
2708 appropriate to his or her age;

2709 (ii) "Interpersonal relationships," which means  
2710 the ability to build and maintain satisfactory relationships with  
2711 peers and adults;

2712 (iii) "Family life," which means the capacity to  
2713 live in a family or family-type environment;

2714 (iv) "Self direction," which means the child's  
2715 ability to control his or her behavior and to make decisions in a  
2716 manner appropriate to his or her age;

2717 (v) "Education," which means the ability to learn  
2718 social and intellectual skill from teachers in an available  
2719 educational setting.

2720 (f) "Special needs child" means a child with a variety  
2721 of handicapping conditions or disabilities, including emotional or  
2722 severely emotional disorders. These conditions or disabilities  
2723 present the need for special medical attention, supervision and  
2724 therapy on a very regimented basis.

2725 **SECTION 41.** Section 43-27-103, Mississippi Code of 1972, is  
2726 amended as follows:



2727           43-27-103. (1) Sections 43-27-101 and 43-27-103 shall  
2728 enable the development by the Department of \* \* \* Child Protection  
2729 Services of a system of services for children or youth in the  
2730 custody of or under the supervision of the Department of \* \* \*  
2731 Child Protection Services, if funds are appropriated to the  
2732 department for that purpose. The system of services may consist  
2733 of emergency response services, an early intervention and  
2734 treatment unit, respite care, crisis nurseries, specialized  
2735 outpatient or inpatient treatment services, special needs foster  
2736 care, therapeutic foster care, emergency foster homes, and  
2737 Medicaid targeted case management for abused and neglected  
2738 children and youth as well as children adjudicated delinquent or  
2739 in need of supervision. Any of these services that are provided  
2740 shall be arranged by and coordinated through the Department  
2741 of \* \* \* Child Protection Services, and the department may  
2742 contract with public or private agencies or entities to provide  
2743 any of the services or may provide any of the services itself.  
2744 All of the services shall be provided in facilities that meet the  
2745 standards set by the Department of \* \* \* Child Protection Services  
2746 for the particular type of facility involved. None of the  
2747 services provided shall duplicate existing services except where  
2748 there is a documented need for expansion of the services.  
2749           (2) A description of the services that may be provided under  
2750 Sections 43-27-101 and 43-27-103 are as follows:



2751           (a) "Emergency response services" means services to  
2752 respond to children or youth in severe crisis and include:  
2753           (i) Emergency single point phone lines;  
2754           (ii) Crisis care coordinators staffing shifts that  
2755 enable twenty-four-hour per day response as "front line"  
2756 professionals when crisis calls are received, assist with  
2757 decision-making, family support, initiate plan of action and  
2758 remain "on call" for the first seventy-two (72) hours for other  
2759 service professionals to get in place and insure development of a  
2760 plan of care;  
2761           (iii) Acute care/emergency medical response  
2762 through contracted services with up to five (5) regional hospitals  
2763 providing emergency room services and hospitalization for up to  
2764 seventy-two (72) hours with a maximum of One Hundred Dollars  
2765 (\$100.00) per day;  
2766           (iv) Case managers;  
2767           (v) Respite services; and  
2768           (vi) Assessment services contracted with social  
2769 workers, psychologists, psychiatrists and other health  
2770 professionals.  
2771           (b) "Early intervention and treatment unit" means a  
2772 unique, nonhospital crisis service in a residential context that  
2773 is able to provide the level of support and intervention needed to  
2774 resolve the crisis and as an alternative to hospitalization. This  
2775 unit shall provide specialized assessment, including a variety of





2776 treatment options and services to best intervene in a child or  
2777 youth's crisis, and provide an appropriate plan for further  
2778 services upon returning to the home and community. Staff-to-child  
2779 or youth ratio shall be high, with multidisciplinary, specialized  
2780 services for up to six (6) children or youths at one (1) time, and  
2781 with the maximum assessment and treatment planning and services  
2782 being ninety (90) days for most children or youths.

2783 (c) "Respite care" means planned temporary care for a  
2784 period of time ranging from a few hours within a twenty-four-hour  
2785 period to an overnight or weekend stay to a maximum of ten (10)  
2786 days. Care may be provided in-home or out-of-home with trained  
2787 respite parents or counselors and is designed to provide a planned  
2788 break for the parents from the caretaking role with the child.

2789 (d) "Crisis nurseries" means a program providing  
2790 therapeutic nursery treatment services to preschool aged children  
2791 who as preschoolers demonstrate significant behavioral or  
2792 emotional disorders. These services shall be to therapeutically  
2793 address developmental and emotional behavioral difficulties  
2794 through direct intervention with the child in a nursery school  
2795 environment and to intervene with parents to provide education,  
2796 support and therapeutic services.

2797 (e) "Specialized outpatient or inpatient treatment  
2798 services," such as sex offender treatment, means specialized  
2799 treatment for perpetrators of sexual offenses with children.



2800 (f) "Special needs foster care" means foster care for  
2801 those children with a variety of handicapping conditions or  
2802 disabilities, including serious emotional disturbance.

2803 (g) "Therapeutic foster care" means residential mental  
2804 health services provided to children and adolescents in a family  
2805 setting, utilizing specially trained foster parents. Therapeutic  
2806 foster care essentially involves the following features:

2807 (i) Placement with foster parents who have been  
2808 carefully selected by knowledgeable, well-trained mental health  
2809 and social service professionals to work with children with an  
2810 emotional disturbance;

2811 (ii) Provision of special training to the foster  
2812 parents to assist them in working with children with an emotional  
2813 disturbance;

2814 (iii) Low staff-to-child ratio, allowing the  
2815 therapeutic staff to work very closely with each child, the foster  
2816 parents and the biological parents, if available;

2817 (iv) Creation of a support system among these  
2818 specially trained foster parents; and

2819 (v) Payment of a special foster care payment to  
2820 the foster parents.

2821 (h) "Emergency foster homes" means those homes used on  
2822 a short-term basis for (i) children who are temporarily removed  
2823 from the home in response to a crisis situation, or (ii) youth who  
2824 exhibit special behavioral or emotional problems for whom removal



2825 from the existing home situation is necessary. In some cases they  
2826 may provide an emergency placement for infants and toddlers for  
2827 whom no regular foster home is available, rather than placement  
2828 into an emergency shelter where older and larger groups of  
2829 children are placed. Foster parents are trained to deal with the  
2830 special needs of children placed in these emergency homes.

2831 (i) "Medicaid targeted case management" means  
2832 activities that are related to assuring the completion of proper  
2833 client evaluations; arranging and supporting treatment plans,  
2834 monitoring services, coordinating service delivery and other  
2835 related actions.

2836 **SECTION 42.** Section 93-5-23, Mississippi Code of 1972, is  
2837 amended as follows:

2838 93-5-23. When a divorce shall be decreed from the bonds of  
2839 matrimony, the court may, in its discretion, having regard to the  
2840 circumstances of the parties and the nature of the case, as may  
2841 seem equitable and just, make all orders touching the care,  
2842 custody and maintenance of the children of the marriage, and also  
2843 touching the maintenance and alimony of the wife or the husband,  
2844 or any allowance to be made to her or him, and shall, if need be,  
2845 require bond, sureties or other guarantee for the payment of the  
2846 sum so allowed. Orders touching on the custody of the children of  
2847 the marriage shall be made in accordance with the provisions of  
2848 Section 93-5-24. For the purposes of orders touching the  
2849 maintenance and alimony of the wife or husband, "property" and "an



2850 asset of a spouse" shall not include any interest a party may have  
2851 as an heir at law of a living person or any interest under a  
2852 third-party will, nor shall any such interest be considered as an  
2853 economic circumstance or other factor. The court may afterwards,  
2854 on petition, change the decree, and make from time to time such  
2855 new decrees as the case may require. However, where proof shows  
2856 that both parents have separate incomes or estates, the court may  
2857 require that each parent contribute to the support and maintenance  
2858 of the children of the marriage in proportion to the relative  
2859 financial ability of each. In the event a legally responsible  
2860 parent has health insurance available to him or her through an  
2861 employer or organization that may extend benefits to the  
2862 dependents of such parent, any order of support issued against  
2863 such parent may require him or her to exercise the option of  
2864 additional coverage in favor of such children as he or she is  
2865 legally responsible to support.

2866 Whenever the court has ordered a party to make periodic  
2867 payments for the maintenance or support of a child, but no bond,  
2868 sureties or other guarantee has been required to secure such  
2869 payments, and whenever such payments as have become due remain  
2870 unpaid for a period of at least thirty (30) days, the court may,  
2871 upon petition of the person to whom such payments are owing, or  
2872 such person's legal representative, enter an order requiring that  
2873 bond, sureties or other security be given by the person obligated  
2874 to make such payments, the amount and sufficiency of which shall



2875 be approved by the court. The obligor shall, as in other civil  
2876 actions, be served with process and shall be entitled to a hearing  
2877 in such case.

2878 At the discretion of the court, any person found in contempt  
2879 for failure to pay child support and imprisoned therefor may be  
2880 referred for placement in a state, county or municipal  
2881 restitution, house arrest or restorative justice center or  
2882 program, provided such person meets the qualifications prescribed  
2883 in Section 99-37-19.

2884 Whenever in any proceeding in the chancery court concerning  
2885 the custody of a child a party alleges that the child whose  
2886 custody is at issue has been the victim of sexual or physical  
2887 abuse by the other party, the court may, on its own motion, grant  
2888 a continuance in the custody proceeding only until such allegation  
2889 has been investigated by the Department of \* \* \* Child Protection  
2890 Services. At the time of ordering such continuance, the court may  
2891 direct the party and his attorney making such allegation of child  
2892 abuse to report in writing and provide all evidence touching on  
2893 the allegation of abuse to the Department of \* \* \* Child  
2894 Protection Services. The Department of \* \* \* Child Protection  
2895 Services shall investigate such allegation and take such action as  
2896 it deems appropriate and as provided in such cases under the Youth  
2897 Court Law (being Chapter 21 of Title 43, Mississippi Code of 1972)  
2898 or under the laws establishing family courts (being Chapter 23 of  
2899 Title 43, Mississippi Code of 1972).



2900           If after investigation by the Department of \* \* \* Child  
2901 Protection Services or final disposition by the youth court or  
2902 family court allegations of child abuse are found to be without  
2903 foundation, the chancery court shall order the alleging party to  
2904 pay all court costs and reasonable attorney's fees incurred by the  
2905 defending party in responding to such allegation.

2906           The court may investigate, hear and make a determination in a  
2907 custody action when a charge of abuse and/or neglect arises in the  
2908 course of a custody action as provided in Section 43-21-151, and  
2909 in such cases the court shall appoint a guardian ad litem for the  
2910 child as provided under Section 43-21-121, who shall be an  
2911 attorney. Unless the chancery court's jurisdiction has been  
2912 terminated, all disposition orders in such cases for placement  
2913 with the Department of \* \* \* Child Protection Services shall be  
2914 reviewed by the court or designated authority at least annually to  
2915 determine if continued placement with the department is in the  
2916 best interest of the child or public.

2917           The duty of support of a child terminates upon the  
2918 emancipation of the child. The court may determine that  
2919 emancipation has occurred pursuant to Section 93-11-65.

2920           Custody and visitation upon military temporary duty,  
2921 deployment or mobilization shall be governed by Section 93-5-34.

2922           **SECTION 43.** Section 93-17-3, Mississippi Code of 1972, is  
2923 amended as follows:



2924           93-17-3. (1) Except as otherwise provided in this section,  
2925 a court of this state has jurisdiction over a proceeding for the  
2926 adoption or readoption of a minor commenced under this chapter if:

2927           (a) Immediately before commencement of the proceeding,  
2928 the minor lived in this state with a parent, a guardian, a  
2929 prospective adoptive parent or another person acting as parent,  
2930 for at least six (6) consecutive months, excluding periods of  
2931 temporary absence, or, in the case of a minor under six (6) months  
2932 of age, lived in this state from soon after birth with any of  
2933 those individuals and there is available in this state substantial  
2934 evidence concerning the minor's present or future care;

2935           (b) Immediately before commencement of the proceeding,  
2936 the prospective adoptive parent lived in this state for at least  
2937 six (6) consecutive months, excluding periods of temporary  
2938 absence, and there is available in this state substantial evidence  
2939 concerning the minor's present or future care;

2940           (c) The agency that placed the minor for adoption is  
2941 licensed in this state and it is in the best interest of the minor  
2942 that a court of this state assume jurisdiction because:

2943           (i) The minor and the minor's parents, or the  
2944 minor and the prospective adoptive parent, have a significant  
2945 connection with this state; and

2946           (ii) There is available in this state substantial  
2947 evidence concerning the minor's present or future care;



2948           (d) The minor and the prospective adoptive parent are  
2949 physically present in this state and the minor has been abandoned  
2950 or it is necessary in an emergency to protect the minor because  
2951 the minor has been subjected to or threatened with mistreatment or  
2952 abuse or is otherwise neglected;

2953           (e) It appears that no other state would have  
2954 jurisdiction under prerequisites substantially in accordance with  
2955 paragraphs (a) through (d), or another state has declined to  
2956 exercise jurisdiction on the ground that this state is the more  
2957 appropriate forum to hear a petition for adoption of the minor,  
2958 and it is in the best interest of the minor that a court of this  
2959 state assume jurisdiction; or

2960           (f) The child has been adopted in a foreign country,  
2961 the agency that placed the minor for adoption is licensed in this  
2962 state, and it is in the best interest of the child to be readopted  
2963 in a court of this state having jurisdiction.

2964           (2) A court of this state may not exercise jurisdiction over  
2965 a proceeding for adoption of a minor if, at the time the petition  
2966 for adoption is filed, a proceeding concerning the custody or  
2967 adoption of the minor is pending in a court of another state  
2968 exercising jurisdiction substantially in conformity with the  
2969 Uniform Child Custody Jurisdiction Act or this section unless the  
2970 proceeding is stayed by the court of the other state.

2971           (3) If a court of another state has issued a decree or order  
2972 concerning the custody of a minor who may be the subject of a





2973 proceeding for adoption in this state, a court of this state may  
2974 not exercise jurisdiction over a proceeding for adoption of the  
2975 minor unless:

2976           (a) The court of this state finds that the court of the  
2977 state which issued the decree or order:

2978                   (i) Does not have continuing jurisdiction to  
2979 modify the decree or order under jurisdictional prerequisites  
2980 substantially in accordance with the Uniform Child Custody  
2981 Jurisdiction Act or has declined to assume jurisdiction to modify  
2982 the decree or order; or

2983                   (ii) Does not have jurisdiction over a proceeding  
2984 for adoption substantially in conformity with subsection (1) (a)  
2985 through (d) or has declined to assume jurisdiction over a  
2986 proceeding for adoption; and

2987           (b) The court of this state has jurisdiction over the  
2988 proceeding.

2989           (4) Any person may be adopted in accordance with the  
2990 provisions of this chapter in termtime or in vacation by an  
2991 unmarried adult or by a married person whose spouse joins in the  
2992 petition. The adoption shall be by sworn petition filed in the  
2993 chancery court of the county in which the adopting petitioner or  
2994 petitioners reside or in which the child to be adopted resides or  
2995 was born, or was found when it was abandoned or deserted, or in  
2996 which the home is located to which the child has been surrendered  
2997 by a person authorized to so do. The petition shall be



2998 accompanied by a doctor's or nurse practitioner's certificate  
2999 showing the physical and mental condition of the child to be  
3000 adopted and a sworn statement of all property, if any, owned by  
3001 the child. In addition, the petition shall be accompanied by  
3002 affidavits of the petitioner or petitioners stating the amount of  
3003 the service fees charged by any adoption agencies or adoption  
3004 facilitators used by the petitioner or petitioners and any other  
3005 expenses paid by the petitioner or petitioners in the adoption  
3006 process as of the time of filing the petition. If the doctor's or  
3007 nurse practitioner's certificate indicates any abnormal mental or  
3008 physical condition or defect, the condition or defect shall not,  
3009 in the discretion of the chancellor, bar the adoption of the child  
3010 if the adopting parent or parents file an affidavit stating full  
3011 and complete knowledge of the condition or defect and stating a  
3012 desire to adopt the child, notwithstanding the condition or  
3013 defect. The court shall have the power to change the name of the  
3014 child as a part of the adoption proceedings. The word "child" in  
3015 this section shall be construed to refer to the person to be  
3016 adopted, though an adult.

3017 (5) Adoption by couples of the same gender is prohibited.

3018 (6) No person may be placed in the home of or adopted by the  
3019 prospective adopting parties before a court-ordered or voluntary  
3020 home study is satisfactorily completed by a licensed adoption  
3021 agency, a licensed, experienced social worker approved by the  
3022 chancery court or by the Department of \* \* \* Child Protection



3023 Services on the prospective adoptive parties if required by  
3024 Section 93-17-11.

3025 (7) No person may be adopted by a person or persons who  
3026 reside outside the State of Mississippi unless the provisions of  
3027 the Interstate Compact for Placement of Children (Section 43-18-1  
3028 et seq.) have been complied with. In such cases Forms 100A, 100B  
3029 (if applicable) and evidence of Interstate Compact for Placement  
3030 of Children approval shall be added to the permanent adoption  
3031 record file within one (1) month of the placement, and a minimum  
3032 of two (2) post-placement reports conducted by a licensed  
3033 child-placing agency shall be provided to the Mississippi  
3034 Department of \* \* \* Child Protection Services Interstate Compact  
3035 for Placement of Children office.

3036 (8) No person may be adopted unless the provisions of the  
3037 Indian Child Welfare Act (ICWA) have been complied with, if  
3038 applicable. When applicable, proof of compliance shall be  
3039 included in the court adoption file prior to finalization of the  
3040 adoption. If not applicable, a written statement or paragraph in  
3041 the petition for adoption shall be included in the adoption  
3042 petition stating that the provisions of ICWA do not apply before  
3043 finalization.

3044 (9) The readoption of a child who has automatically acquired  
3045 United States citizenship following an adoption in a foreign  
3046 country and who possesses a Certificate of Citizenship in  
3047 accordance with the Child Citizenship Act, CAA, Public Law



3048 106-395, may be given full force and effect in a readoption  
3049 proceeding conducted by a court of competent jurisdiction in this  
3050 state by compliance with the Mississippi Registration of Foreign  
3051 Adoptions Act, Article 9 of this chapter.

3052 **SECTION 44.** Section 93-17-5, Mississippi Code of 1972, is  
3053 amended as follows:

3054 93-17-5. (1) There shall be made parties to the proceeding  
3055 by process or by the filing therein of a consent to the adoption  
3056 proposed in the petition, which consent shall be duly sworn to or  
3057 acknowledged and executed only by the following persons, but not  
3058 before seventy-two (72) hours after the birth of the child:

3059 (a) The parents, or parent, if only one (1) parent,  
3060 though either be under the age of twenty-one (21) years;

3061 (b) If both parents are dead, then any two (2) adult  
3062 kin of the child within the third degree computed according to the  
3063 civil law; if one of such kin is in possession of the child, he or  
3064 she shall join in the petition or be made a party to the suit; or

3065 (c) The guardian ad litem of an abandoned child, upon  
3066 petition showing that the names of the parents of the child are  
3067 unknown after diligent search and inquiry by the petitioners. In  
3068 addition to the above, there shall be made parties to any  
3069 proceeding to adopt a child, either by process or by the filing of  
3070 a consent to the adoption proposed in the petition, the following:

3071 (i) Those persons having physical custody of the  
3072 child, except persons who are acting as foster parents as a result



3073 of placement with them by the Department of \* \* \* Child Protection  
3074 Services of the State of Mississippi.

3075 (ii) Any person to whom custody of the child may  
3076 have been awarded by a court of competent jurisdiction of the  
3077 State of Mississippi.

3078 (iii) The agent of the county department of \* \* \*  
3079 child protection services of the State of Mississippi that has  
3080 placed a child in foster care, either by agreement or by court  
3081 order.

3082 (2) The consent may also be executed and filed by the duly  
3083 authorized officer or representative of a home to whose care the  
3084 child has been delivered. The child shall join the petition by  
3085 the child's next friend.

3086 (3) If consent is not filed, process shall be had upon the  
3087 parties as provided by law for process in person or by  
3088 publication, if they are nonresidents of the state or are not  
3089 found therein after diligent search and inquiry, the court or  
3090 chancellor in vacation may fix a date in termtime or in vacation  
3091 to which process may be returnable and shall have power to proceed  
3092 in termtime or vacation. In any event, if the child is more than  
3093 fourteen (14) years of age, a consent to the adoption, sworn to or  
3094 acknowledged by the child, shall also be required or personal  
3095 service of process shall be had upon the child in the same manner  
3096 and in the same effect as if the child were an adult.



3097           **SECTION 45.** Section 93-17-8, Mississippi Code of 1972, is  
3098 amended as follows:

3099           93-17-8. (1) Whenever an adoption becomes a contested  
3100 matter, whether after a hearing on a petition for determination of  
3101 rights under Section 93-17-6 or otherwise, the court:

3102                   (a) Shall, on motion of any party or on its own motion,  
3103 issue an order for immediate blood or tissue sampling in  
3104 accordance with the provisions of Section 93-9-21 et seq., if  
3105 paternity is at issue. The court shall order an expedited report  
3106 of such testing and shall hold the hearing resolving this matter  
3107 at the earliest time possible.

3108                   (b) Shall appoint a guardian ad litem to represent the  
3109 child. Such guardian ad litem shall be an attorney, however his  
3110 duties are as guardian ad litem and not as attorney for the child.  
3111 The reasonable costs of the guardian ad litem shall be taxed as  
3112 costs of the court. Neither the child nor anyone purporting to  
3113 act on his behalf may waive the appointment of a guardian ad  
3114 litem.

3115                   (c) Shall determine first whether or not the objecting  
3116 parent is entitled to so object under the criteria of Section  
3117 93-17-7 and then shall determine the custody of the child in  
3118 accord with the best interests of the child and the rights of the  
3119 parties as established by the hearings and judgments.



3120 (d) Shall schedule all hearings concerning the  
3121 contested adoption as expeditiously as possible for prompt  
3122 conclusion of the matter.

3123 (2) In determining the custody of the child after a finding  
3124 that the adoption will not be granted, the fact of the surrender  
3125 of the child for adoption by a parent shall not be taken as any  
3126 evidence of that parent's abandonment or desertion of the child or  
3127 of that parent's unfitness as a parent.

3128 (3) In contested adoptions arising through petitions for  
3129 determination of rights where the prospective adopting parents  
3130 were not parties to that proceeding, they need not be made parties  
3131 to the contested adoption until there has been a ruling that the  
3132 objecting parent is not entitled to enter a valid objection to the  
3133 adoption. At that point the prospective adopting parents shall be  
3134 made parties by joinder which shall show their suitability to be  
3135 adopting parents as would a petition for adoption. The identity  
3136 and suitability of the prospective adopting parents shall be made  
3137 known to the court and the guardian ad litem, but shall not be  
3138 made known to other parties to the proceeding unless the court  
3139 determines that the interests of justice or the best interests of  
3140 the child require it.

3141 (4) No birth parent or alleged parent shall be permitted to  
3142 contradict statements given in a proceeding for the adoption of  
3143 their child in any other proceeding concerning that child or his  
3144 ancestry.



3145 (5) Appointment of a guardian ad litem is not required in  
3146 any proceeding under this chapter except as provided in subsection  
3147 (1)(b) above and except for the guardian ad litem needed for an  
3148 abandoned child. It shall not be necessary for a guardian ad  
3149 litem to be appointed where the chancery judge presiding in the  
3150 adoption proceeding deems it unnecessary and no adoption agency is  
3151 involved in the proceeding. No final decree of adoption  
3152 heretofore granted shall be set aside or modified because a  
3153 guardian ad litem was not appointed unless as the result of a  
3154 direct appeal not now barred.

3155 (6) The provisions of Chapter 15 of this Title 93,  
3156 Mississippi Code of 1972, are not applicable to proceedings under  
3157 this chapter except as specifically provided by reference herein.

3158 (7) The court may order a child's birth father, identified  
3159 as such in the proceedings, to reimburse the Department of \* \* \*  
3160 Child Protection Services, the foster parents, the adopting  
3161 parents, the home, any other agency or person who has assumed  
3162 liability for such child, all or part of the costs of the medical  
3163 expenses incurred for the mother and the child in connection with  
3164 the birth of the child, as well as reasonable support for the  
3165 child after his birth.

3166 **SECTION 46.** Section 93-17-11, Mississippi Code of 1972, is  
3167 amended as follows:

3168 93-17-11. At any time after the filing of the petition for  
3169 adoption and completion of process thereon, and before the





3170 entering of a final decree, the court may, in its discretion, of  
3171 its own motion or on motion of any party to the proceeding,  
3172 require an investigation and report to the court to be made by any  
3173 person, officer or home as the court may designate and direct  
3174 concerning the child, and shall require in adoptions, other than  
3175 those in which the petitioner or petitioners are a relative or  
3176 stepparent of the child, that a home study be performed of the  
3177 petitioner or petitioners by a licensed adoption agency or by the  
3178 Department of \* \* \* Child Protection Services, at the petitioner's  
3179 or petitioners' sole expense and at no cost to the state or  
3180 county. The investigation and report shall give the material  
3181 facts upon which the court may determine whether the child is a  
3182 proper subject for adoption, whether the petitioner or petitioners  
3183 are suitable parents for the child, whether the adoption is to its  
3184 best interest, and any other facts or circumstances that may be  
3185 material to the proposed adoption. The home study shall be  
3186 considered by the court in determining whether the petitioner or  
3187 petitioners are suitable parents for the child. The court, when  
3188 an investigation and report are required by the court or by this  
3189 section, shall stay the proceedings in the cause for such  
3190 reasonable time as may be necessary or required in the opinion of  
3191 the court for the completion of the investigation and report by  
3192 the person, officer or home designated and authorized to make the  
3193 same.



3194           Upon the filing of that consent or the completion of the  
3195 process and the filing of the investigation and report, if  
3196 required by the court or by this section, and the presentation of  
3197 such other evidence as may be desired by the court, if the court  
3198 determines that it is to the best interests of the child that an  
3199 interlocutory decree of adoption be entered, the court may  
3200 thereupon enter an interlocutory decree upon such terms and  
3201 conditions as may be determined by the court, in its discretion,  
3202 but including therein that the complete care, custody and control  
3203 of the child shall be vested in the petitioner or petitioners  
3204 until further orders of the court and that during such time the  
3205 child shall be and remain a ward of the court. If the court  
3206 determines by decree at any time during the pendency of the  
3207 proceeding that it is not to the best interests of the child that  
3208 the adoption proceed, the petitioners shall be entitled to at  
3209 least five (5) days' notice upon their attorneys of record and a  
3210 hearing with the right of appeal as provided by law from a  
3211 dismissal of the petition; however, the bond perfecting the appeal  
3212 shall be filed within ten (10) days from the entry of the decree  
3213 of dismissal and the bond shall be in such amount as the  
3214 chancellor may determine and supersedeas may be granted by the  
3215 chancellor or as otherwise provided by law for appeal from final  
3216 decrees.

3217           After the entry of the interlocutory decree and before entry  
3218 of the final decree, the court may require such further and



3219 additional investigation and reports as it may deem proper. The  
3220 rights of the parties filing the consent or served with process  
3221 shall be subject to the decree but shall not be divested until  
3222 entry of the final decree.

3223 **SECTION 47.** Section 93-17-12, Mississippi Code of 1972, is  
3224 amended as follows:

3225 93-17-12. In any child custody matter hereafter filed in any  
3226 chancery or county court in which temporary or permanent custody  
3227 has already been placed with a parent or guardian and in all  
3228 adoptions, the court shall impose a fee for any court-ordered home  
3229 study performed by the Department of \* \* \* Child Protection  
3230 Services or any other entity. The fee shall be assessed upon  
3231 either party or upon both parties in the court's discretion. The  
3232 minimum fee imposed shall be not less than Three Hundred Fifty  
3233 Dollars (\$350.00) for each household on which a home study is  
3234 performed. The fee shall be paid directly to the Mississippi  
3235 Department of \* \* \* Child Protection Services prior to the home  
3236 study being conducted by the department or to the entity if the  
3237 study is performed by another entity. The judge may order the fee  
3238 be paid by one or both of the parents or guardian. If the court  
3239 determines that both parents or the guardian are unable to pay the  
3240 fee, the judge shall waive the fee and the cost of the home study  
3241 shall be defrayed by the Department of \* \* \* Child Protection  
3242 Services.



3243           **SECTION 48.** Section 93-17-53, Mississippi Code of 1972, is  
3244 amended as follows:

3245           93-17-53. The purpose of Sections 93-17-51 through 93-17-67  
3246 is to supplement the Mississippi adoption law by making possible  
3247 through public supplemental benefits the most appropriate adoption  
3248 of each child certified by the \* \* \* Department of Child  
3249 Protection Services as requiring a supplemental benefit to assure  
3250 adoption.

3251           **SECTION 49.** Section 93-17-57, Mississippi Code of 1972, is  
3252 amended as follows:

3253           93-17-57. The \* \* \* Department of Child Protection Services  
3254 shall establish and administer an on-going program of supplemental  
3255 benefits for adoption. Supplemental benefits and services for  
3256 children under this program shall be provided out of such funds as  
3257 may be appropriated to the Mississippi Medicaid Commission for the  
3258 medical services for children in foster care, or made available to  
3259 the department from other sources.

3260           **SECTION 50.** Section 93-17-59, Mississippi Code of 1972, is  
3261 amended as follows:

3262           93-17-59. Any child meeting criteria specified in Section  
3263 93-17-55 for whom the \* \* \* Department of Child Protection  
3264 Services feels supplemental benefits are necessary to improve  
3265 opportunities for adoption will be eligible for the program. The  
3266 adoption agency shall document that reasonable efforts have been  
3267 made to place the child in adoption without supplemental benefits



3268 through the use of adoption resource exchanges, recruitment and  
3269 referral to appropriate specialized adoption agencies.

3270 **SECTION 51.** Section 93-17-61, Mississippi Code of 1972, is  
3271 amended as follows:

3272 93-17-61. (1) When parents are found and approved for  
3273 adoption of a child certified as eligible for supplemental  
3274 benefits, and before the final decree of adoption is issued, there  
3275 shall be executed a written agreement between the family entering  
3276 into the adoption and the Department of \* \* \* Child Protection  
3277 Services. In individual cases, supplemental benefits may commence  
3278 with the adoptive placement or at the appropriate time after the  
3279 adoption decree and will vary with the needs of the child as well  
3280 as the availability of other resources to meet the child's needs.  
3281 The supplemental benefits may be for special services only or for  
3282 money payments as allowed under Section 43-13-115, Mississippi  
3283 Code of 1972, and either for a limited period, for a long-term not  
3284 exceeding the child's eighteenth birthday, or for any combination  
3285 of the foregoing. The amount of the time-limited, long-term  
3286 supplemental benefits may in no case exceed that which would be  
3287 currently allowable for such child under the Mississippi Medicaid  
3288 Law.

3289 (2) When supplemental benefits last for more than one (1)  
3290 year, the adoptive parents shall present an annual written  
3291 certification that the child remains under the parents' care and  
3292 that the child's need for supplemental benefits continues. Based



3293 on investigation by the agency and available funds, the agency may  
3294 approve continued supplemental benefits. These benefits shall be  
3295 extended so long as the parents remain legally responsible for and  
3296 are providing support for the child. The agency shall continue  
3297 paying benefits until a child reaches twenty-one (21) years of age  
3298 if the child meets the criteria stated in Section 93-17-67(1) for  
3299 continuation of Medicaid coverage.

3300 (3) A child who is a resident of Mississippi when  
3301 eligibility for supplemental benefits is certified shall remain  
3302 eligible and receive supplemental benefits, if necessary for  
3303 adoption, regardless of the domicile or residence of the adopting  
3304 parents at the time of application for adoption, placement, legal  
3305 decree of adoption or thereafter.

3306 **SECTION 52.** Section 93-17-63, Mississippi Code of 1972, is  
3307 amended as follows:

3308 93-17-63. All records regarding such adoption shall be  
3309 confidential. Anyone violating or releasing information of a  
3310 confidential nature, as contemplated by Sections 93-17-51 through  
3311 93-17-67 without the approval of the court with jurisdiction or  
3312 the \* \* \* Department of \* \* \* Child Protection Services unless  
3313 such release is made pursuant to Sections 93-17-201 through  
3314 93-17-223 shall be guilty of a misdemeanor and subject to a fine  
3315 not exceeding One Thousand Dollars (\$1,000.00) or imprisonment of  
3316 six (6) months, or both.



3317           **SECTION 53.** Section 93-17-65, Mississippi Code of 1972, is  
3318 amended as follows:

3319           93-17-65. The \* \* \* Department of Child Protection Services  
3320 shall promulgate rules and regulations necessary to implement the  
3321 provisions of Sections 93-17-51 through 93-17-67.

3322           **SECTION 54.** Section 93-17-67, Mississippi Code of 1972, is  
3323 amended as follows:

3324           93-17-67. (1) If the adoptive parents of a child eligible  
3325 for adoption supplemental benefits sign an adoption assistance  
3326 agreement with the Department of \* \* \* Child Protection Services,  
3327 then, whether or not they accept such benefits, Medicaid coverage  
3328 shall be provided for the child under the agency's medical payment  
3329 program from and after the commencement date established pursuant  
3330 to Section 93-17-61 until the child's eighteenth birthday,  
3331 provided that federal matching funds are available for such  
3332 payment.

3333           (2) Any child who is adopted in this state through a  
3334 state-supported adoption agency and who immediately prior to such  
3335 adoption was receiving Medicaid benefits because of a severe  
3336 physical or mental handicap shall continue to receive such  
3337 coverage benefits after adoption age eighteen (18), and such  
3338 benefits shall be payable as provided under the agency's medical  
3339 payment program for so long as the \* \* \* Department of \* \* \*  
3340 Child Protection Services determines that the treatment or  
3341 rehabilitation for which payment is being made is in the best



3342 interest of the child concerned, but not past the age of  
3343 twenty-one (21) years, provided that federal matching funds are  
3344 available for such payment and that any state funds used for such  
3345 payment shall have been appropriated specifically for such  
3346 purpose.

3347 (3) If permitted by federal law without any loss to the  
3348 state of federal matching funds, the financial resources of the  
3349 adopting parents shall not be a factor in such determination  
3350 except that payments on behalf of a child of any age may be  
3351 adjusted when insurance benefits available to the adopting parents  
3352 would pay all or part of such payments being made by the state, or  
3353 if medical or rehabilitation services are otherwise available  
3354 without cost to the adopting parents. The amount of financial  
3355 assistance given shall not exceed the amount that the Division of  
3356 Medicaid \* \* \* would be required to pay for the same medical  
3357 treatment or rehabilitation.

3358 (4) The receipt of Medicaid benefits by an adopted child  
3359 under Sections 93-17-51 through 93-17-67 shall not qualify the  
3360 adopting parents for Medicaid eligibility, unless either parent is  
3361 otherwise eligible under Section 43-13-115, Mississippi Code of  
3362 1972.

3363 **SECTION 55.** Section 93-17-69, Mississippi Code of 1972, is  
3364 amended as follows:

3365 93-17-69. Any person proposing to adopt a child who is a  
3366 dependent of a state child-placing agency and who is in special





3367 circumstances as defined in paragraph (c) of Section 93-17-55  
3368 shall be represented by the \* \* \* Department of \* \* \* Child  
3369 Protection Services when requested by the adopting parent in all  
3370 phases of the adoption proceeding. State child-placing agencies  
3371 shall advise prospective adopting parents of their right under  
3372 this section to be represented in adoption proceedings. The fees  
3373 for filing the petition for adoption and preparing a revised birth  
3374 certificate, any court costs taxed against the petitioner and any  
3375 other actual payments made by the Department of \* \* \* Child  
3376 Protection Services to third parties as required to complete the  
3377 adoption proceeding, shall be paid by the adopting parent.

3378 **SECTION 56.** Section 93-17-101, Mississippi Code of 1972, is  
3379 amended as follows:

3380 93-17-101. (1) The Legislature finds that:

3381 (a) Locating adoptive families for children for whom  
3382 state assistance is desirable, pursuant to the Mississippi  
3383 adoption assistance law, and assuring the protection of the  
3384 interests of the children affected during the entire assistance  
3385 period, require special measures when the adoptive parents move to  
3386 other states or are residents of another state; and

3387 (b) Providing medical and other necessary services for  
3388 children, with state assistance, encounters special difficulties  
3389 when the providing of services takes place in other states.

3390 (2) The purposes of Sections 93-17-101 through 93-17-109 are  
3391 to:



3392 (a) Authorize the Mississippi Department of \* \* \* Child  
3393 Protection Services to enter into interstate agreements with  
3394 agencies of other states for the protection of children on behalf  
3395 of whom adoption assistance is being provided by the Mississippi  
3396 Department of \* \* \* Child Protection Services; and

3397 (b) Provide procedures for interstate children's  
3398 adoption assistance payments, including medical payments.

3399 **SECTION 57.** Section 93-17-103, Mississippi Code of 1972, is  
3400 amended as follows:

3401 93-17-103. (1) The Mississippi Department of \* \* \* Child  
3402 Protection Services is authorized to develop, participate in the  
3403 development of, negotiate and enter into one or more interstate  
3404 compacts on behalf of this state with other states to implement  
3405 one or more of the purposes set forth in Sections 93-17-101  
3406 through 93-17-109. When so entered into, and for so long as it  
3407 shall remain in force, such a compact shall have the force and  
3408 effect of law.

3409 (2) For the purposes of Sections 93-17-101 through  
3410 93-17-109, the term "state" shall mean a state of the United  
3411 States, the District of Columbia, the Commonwealth of Puerto Rico,  
3412 the Virgin Islands, Guam, the Commonwealth of the Northern Mariana  
3413 Islands or a territory or possession of or administered by the  
3414 United States.

3415 (3) For the purposes of Sections 93-17-101 through  
3416 93-17-109, the term "adoption assistance state" means the state



3417 that is signatory to an adoption assistance agreement in a  
3418 particular case.

3419 (4) For the purposes of Sections 93-17-101 through  
3420 93-17-109, the term "residence state" means the state of which the  
3421 child is a resident by virtue of the residence of the adoptive  
3422 parents.

3423 **SECTION 58.** Section 93-17-107, Mississippi Code of 1972, is  
3424 amended as follows:

3425 93-17-107. (1) A child with special needs resident in this  
3426 state who is the subject of an adoption assistance agreement with  
3427 another state and who has been determined eligible for medicaid in  
3428 that state shall be entitled to receive a medical assistance  
3429 identification from this state upon filing with the Mississippi  
3430 Department of \* \* \* Child Protection Services a certified copy of  
3431 the adoption assistance agreement obtained from the adoption  
3432 assistance state which certifies to the eligibility of the child  
3433 for medicaid. In accordance with regulations of the Mississippi  
3434 Department of \* \* \* Child Protection Services, the adoptive  
3435 parents shall be required, at least annually, to show that the  
3436 agreement is still in force or has been renewed.

3437 (2) The Division of Medicaid, Office of the Governor, shall  
3438 consider the holder of a medical assistance identification  
3439 pursuant to this section as any other holder of a medical  
3440 assistance identification under the laws of this state and shall  
3441 process and make payment on claims on account of such holder in



3442 the same manner and pursuant to the same conditions and procedures  
3443 as for other recipients of medical assistance.

3444 (3) The submission of any claim for payment or reimbursement  
3445 for services or benefits pursuant to this section or the making of  
3446 any statement in connection therewith, which claim or statement  
3447 the maker knows or should know to be false, misleading or  
3448 fraudulent shall be punishable as perjury and shall also be  
3449 subject to a fine not to exceed Ten Thousand Dollars (\$10,000.00),  
3450 or imprisonment for not to exceed two (2) years, or both.

3451 (4) The provisions of this section shall apply only to  
3452 medical assistance for children under adoption assistance  
3453 agreements from states that have entered into a compact with this  
3454 state under which the other state provides medical assistance to  
3455 children with special needs under adoption assistance agreements  
3456 made by this state. All other children entitled to medical  
3457 assistance pursuant to adoption assistance agreements entered into  
3458 by this state shall be eligible to receive it in accordance with  
3459 the laws and procedures applicable thereto.

3460 **SECTION 59.** Section 93-17-109, Mississippi Code of 1972, is  
3461 amended as follows:

3462 93-17-109. Consistent with federal law, the Mississippi  
3463 Department of \* \* \* Child Protection Services and the Division of  
3464 Medicaid, Office of the Governor of the State of Mississippi, in  
3465 connection with the administration of Sections 93-17-101 through  
3466 93-17-109 and any compact entered into pursuant hereto, shall



3467 include in any state plan made pursuant to the Adoption Assistance  
3468 and Child Welfare Act of 1980 (P.L. 96-272), Titles IV(e) and XIX  
3469 of the Social Security Act, and any other applicable federal laws,  
3470 the provision of adoption assistance and medical assistance for  
3471 which the federal government pays some or all of the cost provided  
3472 such authority is granted under the provisions of some law of this  
3473 state other than the provisions of Sections 93-17-101 through  
3474 93-17-109. Such departments shall apply for and administer all  
3475 relevant federal aid in accordance with law.

3476         **SECTION 60.** Section 93-17-203, Mississippi Code of 1972, is  
3477 amended as follows:

3478         93-17-203. The following words and phrases shall have the  
3479 meanings ascribed herein unless the context clearly indicates  
3480 otherwise:

3481             (a) "Agency" means a county \* \* \* department of child  
3482 protectection services, a licensed or nonlicensed adoption agency  
3483 or any other individual or entity assisting in the finalization of  
3484 an adoption.

3485             (b) "Adoptee" means a person who is or has been adopted  
3486 in this state at any time.

3487             (c) "Birth parent" means either:

3488                     (i) The mother designated on the adoptee's  
3489 original birth certificate; or



3490 (ii) The person named by the mother designated on  
3491 the adoptee's original birth certificate as the father of the  
3492 adoptee.

3493 (d) "Board" means the Mississippi State Board of  
3494 Health.

3495 (e) "Bureau" means the Bureau of Vital Records of the  
3496 Mississippi State Board of Health.

3497 (f) "Licensed adoption agency" means any agency or  
3498 organization performing adoption services and duly licensed by the  
3499 Mississippi Department of \* \* \* Child Protection Services \* \* \*.

3500 **SECTION 61.** Section 93-21-307, Mississippi Code of 1972, is  
3501 amended as follows:

3502 93-21-307. The administration of the Mississippi Children's  
3503 Trust Fund shall be vested in the \* \* \* Mississippi Department of  
3504 Child Protection Services. In carrying out the provisions of  
3505 Sections 93-21-301 through 93-21-311, the \* \* \* Department of  
3506 Child Protection Services shall have the following powers and  
3507 duties:

3508 (a) To assist in developing programs aimed at  
3509 discovering and preventing the many factors causing child abuse  
3510 and neglect;

3511 (b) To prepare and disseminate, including the  
3512 presentation of, educational programs and materials on child abuse  
3513 and neglect;



3514 (c) To provide educational programs for professionals  
3515 required by law to make reports of child abuse and neglect;

3516 (d) To help coordinate child protective services at the  
3517 state, regional and local levels with the efforts of other state  
3518 and voluntary social, medical and legal agencies;

3519 (e) To provide advocacy for children in public and  
3520 private state and local agencies affecting children;

3521 (f) To encourage citizen and community awareness as to  
3522 the needs and problems of children;

3523 (g) To facilitate the exchange of information between  
3524 groups concerned with families and children;

3525 (h) To consult with state departments, agencies,  
3526 commissions and boards to help determine the probable  
3527 effectiveness, fiscal soundness and need for proposed educational  
3528 and service programs for the prevention of child abuse and  
3529 neglect;

3530 (i) To adopt rules and regulations, \* \* \* in accordance  
3531 with the Administrative Procedures Law to discharge its  
3532 responsibilities;

3533 (j) To report annually, through the annual report of  
3534 the \* \* \* Department of \* \* \* Child Protection Services, to the  
3535 Governor and the Legislature concerning the \* \* \* department's  
3536 activities under Sections 93-21-301 through 93-21-311 and the  
3537 effectiveness of those activities in fostering the prevention of  
3538 child abuse and neglect;



3539           (k) To recommend to the Governor and the Legislature  
3540 changes in state programs, statutes, policies and standards which  
3541 will reduce child abuse and neglect, improve coordination among  
3542 state agencies which provide services to prevent abuse and  
3543 neglect, improve the condition of children and assist parents and  
3544 guardians;

3545           (l) To evaluate and strengthen all local, regional and  
3546 state programs dealing with child abuse and neglect;

3547           (m) To prepare and submit annually to the Governor and  
3548 the Legislature reports evaluating the level and quality of all  
3549 programs, services and facilities provided to children by state  
3550 agencies;

3551           (n) To contract with public or private nonprofit  
3552 institutions, organizations, agencies or schools or with qualified  
3553 individuals for the establishment of community-based educational  
3554 and service programs designed to reduce the occurrence of child  
3555 abuse and neglect;

3556           (o) To determine the eligibility of programs applying  
3557 for financial assistance and to make grants and loans from the  
3558 fund for the purposes set forth in Sections 93-21-301 through  
3559 93-21-311;

3560           (p) To develop, within one (1) year after July 1, 1989,  
3561 a state plan for the distribution of funds from the trust fund  
3562 which shall assure that an equal opportunity exists for  
3563 establishment of prevention programs and for receipt of trust fund





3564 money among all geographic areas in this state, and to submit the  
3565 plan to the Governor and the Legislature and annually thereafter  
3566 submit revisions thereto as needed;

3567 (q) To provide for the coordination and exchange of  
3568 information on the establishment and maintenance of local  
3569 prevention programs;

3570 (r) To develop and publicize criteria for the receipt  
3571 of trust fund money by eligible local prevention programs;

3572 (s) To enter into contracts with public or private  
3573 agencies to fulfill the requirements of Sections 93-21-301 through  
3574 93-21-311; and

3575 (t) Review, monitor and approve the expenditure of  
3576 trust fund money by eligible local programs.

3577 **SECTION 62.** Section 93-31-3, Mississippi Code of 1972, is  
3578 amended as follows:

3579 93-31-3. (1) (a) A parent or legal custodian of a child,  
3580 by means of a properly executed power of attorney as provided in  
3581 Section 93-31-5, may delegate to another willing person or persons  
3582 as attorney-in-fact any of the powers regarding the care and  
3583 custody of the child other than the following:

3584 (i) The power to consent to marriage or adoption  
3585 of the child;

3586 (ii) The performance or inducement of an abortion  
3587 on or for the child; or



3588 (iii) The termination of parental rights to the  
3589 child.

3590 (b) A delegation of powers under this section does not:

3591 (i) Change or modify any parental or legal rights,  
3592 obligations, or authority established by an existing court order;

3593 (ii) Deprive any custodial or noncustodial parent  
3594 or legal guardian of any parental or legal rights, obligations, or  
3595 authority regarding the custody, visitation, or support of the  
3596 child; or

3597 (iii) Affect a court's ability to determine the  
3598 best interests of a child.

3599 (c) If both parents are living and have shared custody  
3600 as a matter of law or under an existing court order, both parents  
3601 must execute the power of attorney.

3602 (d) A power of attorney under this chapter must be  
3603 facilitated by either a child welfare agency that is licensed to  
3604 place children for adoption and that is operating under the Safe  
3605 Families for Children model or another charitable organization  
3606 that is operating under the Safe Families for Children model. A  
3607 full criminal history and child abuse and neglect background check  
3608 must be conducted on any person who is not a grandparent, aunt,  
3609 uncle, or sibling of the child if the person is:

3610 (i) Designated or proposed to be designated as the  
3611 attorney-in-fact; or



3612 (ii) Is a person over the age of fifteen (15) who  
3613 resides in the home of the designated attorney-in-fact.

3614 (2) A power of attorney executed under this chapter shall  
3615 not be used for the sole purposes of enrolling a child in a school  
3616 to participate in the academic or interscholastic athletic  
3617 programs provided by that school or for any other unlawful  
3618 purposes, except as may be permitted by the federal Every Student  
3619 Succeeds Act (Public Law 114-95).

3620 (3) The parent or legal custodian of the child has the  
3621 authority to revoke or withdraw the power of attorney authorized  
3622 by this section at any time. Upon the termination, expiration, or  
3623 revocation of the power of attorney, the child must be returned to  
3624 the custody of the parent or legal custodian as soon as reasonably  
3625 possible.

3626 (4) Until the authority expires or is revoked or withdrawn  
3627 by the parent or legal custodian, the attorney-in-fact shall  
3628 exercise parental or legal authority on a continuous basis without  
3629 compensation for the duration of the power of attorney.

3630 (5) The execution of a power of attorney by a parent or  
3631 legal custodian does not, in the absence of other evidence,  
3632 constitute abandonment, desertion, abuse, neglect, or any evidence  
3633 of unfitness as a parent unless the parent or legal custodian  
3634 fails to take custody of the child or execute a new power of  
3635 attorney after the one-year time limit, or after a longer time  
3636 period as allowed for a serving parent, has elapsed. Nothing in



3637 this subsection prevents the Department of \* \* \* Child Protection  
3638 Services or law enforcement from investigating allegations of  
3639 abuse, abandonment, desertion, neglect or other mistreatment of a  
3640 child.

3641 (6) When the custody of a child is transferred by a power of  
3642 attorney under this chapter, the child is not considered to have  
3643 been placed in foster care and the attorney-in-fact will not be  
3644 subject to any of the requirements or licensing regulations for  
3645 foster care or other regulations relating to out-of-home care for  
3646 children and will not be subject to any statutes or regulations  
3647 dealing with the licensing or regulation of foster care homes.

3648 (7) (a) "Serving parent" means a parent who is a member of  
3649 the Armed Forces of the United States, including any reserve  
3650 component thereof, or the National Oceanic and Atmospheric  
3651 Administration Commissioned Officer Corps or the Public Health  
3652 Service of the United States Department of Health and Human  
3653 Services detailed by proper authority for duty with the Armed  
3654 Forces of the United States, or who is required to enter or serve  
3655 in the active military service of the United States under a call  
3656 or order of the President of the United States or to serve on  
3657 state active duty.

3658 (b) A serving parent may delegate the powers designated  
3659 in subsection (1) of this section for longer than one (1) year if  
3660 on active-duty service or if scheduled to be on active-duty



3661 service. The term of delegation, however, may not exceed the term  
3662 of active-duty service plus thirty (30) days.

3663 **SECTION 63.** Section 97-3-54.1, Mississippi Code of 1972, is  
3664 amended as follows:

3665 97-3-54.1. (1) (a) A person who coerces, recruits,  
3666 entices, harbors, transports, provides or obtains by any means, or  
3667 attempts to coerce, recruit, entice, harbor, transport, provide or  
3668 obtain by any means, another person, intending or knowing that the  
3669 person will be subjected to forced labor or services, or who  
3670 benefits, whether financially or by receiving anything of value  
3671 from participating in an enterprise that he knows or reasonably  
3672 should have known has engaged in such acts, shall be guilty of the  
3673 crime of human-trafficking.

3674 (b) A person who knowingly purchases the forced labor  
3675 or services of a trafficked person or who otherwise knowingly  
3676 subjects, or attempts to subject, another person to forced labor  
3677 or services or who benefits, whether financially or by receiving  
3678 anything of value from participating in an enterprise that he  
3679 knows or reasonably should have known has engaged in such acts,  
3680 shall be guilty of the crime of procuring involuntary servitude.

3681 (c) A person who knowingly subjects, or attempts to  
3682 subject, or who recruits, entices, harbors, transports, provides  
3683 or obtains by any means, or attempts to recruit, entice, harbor,  
3684 transport, provide or obtain by any means, a minor, knowing that  
3685 the minor will engage in commercial sexual activity, sexually



3686 explicit performance, or the production of sexually oriented  
3687 material, or causes or attempts to cause a minor to engage in  
3688 commercial sexual activity, sexually explicit performance, or the  
3689 production of sexually oriented material, shall be guilty of  
3690 procuring sexual servitude of a minor and shall be punished by  
3691 commitment to the custody of the Department of Corrections for not  
3692 less than five (5) nor more than thirty (30) years, or by a fine  
3693 of not less than Fifty Thousand Dollars (\$50,000.00) nor more than  
3694 Five Hundred Thousand Dollars (\$500,000.00), or both. It is not a  
3695 defense in a prosecution under this section that a minor consented  
3696 to engage in the commercial sexual activity, sexually explicit  
3697 performance, or the production of sexually oriented material, or  
3698 that the defendant reasonably believed that the minor was eighteen  
3699 (18) years of age or older.

3700 (2) If the victim is not a minor, a person who is convicted  
3701 of an offense set forth in subsection (1)(a) or (b) of this  
3702 section shall be committed to the custody of the Department of  
3703 Corrections for not less than two (2) years nor more than twenty  
3704 (20) years, or by a fine of not less than Ten Thousand Dollars  
3705 (\$10,000.00) nor more than One Hundred Thousand Dollars  
3706 (\$100,000.00), or both. If the victim of the offense is a minor,  
3707 a person who is convicted of an offense set forth in subsection  
3708 (1)(a) or (b) of this section shall be committed to the custody of  
3709 the Department of Corrections for not less than five (5) years nor  
3710 more than twenty (20) years, or by a fine of not less than Twenty



3711 Thousand Dollars (\$20,000.00) nor more than One Hundred Thousand  
3712 Dollars (\$100,000.00), or both.

3713 (3) An enterprise may be prosecuted for an offense under  
3714 this chapter if:

3715 (a) An agent of the enterprise knowingly engages in  
3716 conduct that constitutes an offense under this chapter while  
3717 acting within the scope of employment and for the benefit of the  
3718 entity.

3719 (b) An employee of the enterprise engages in conduct  
3720 that constitutes an offense under this chapter and the commission  
3721 of the offense was part of a pattern of illegal activity for the  
3722 benefit of the enterprise, which an agent of the enterprise either  
3723 knew was occurring or recklessly disregarded, and the agent failed  
3724 to take effective action to stop the illegal activity.

3725 (c) It is an affirmative defense to a prosecution of an  
3726 enterprise that the enterprise had in place adequate procedures,  
3727 including an effective complaint procedure, designed to prevent  
3728 persons associated with the enterprise from engaging in the  
3729 unlawful conduct and to promptly correct any violations of this  
3730 chapter.

3731 (d) The court may consider the severity of the  
3732 enterprise's offense and order penalties, including: (i) a fine  
3733 of not more than One Million Dollars (\$1,000,000.00); (ii)  
3734 disgorgement of profit; and (iii) debarment from government



3735 contracts. Additionally, the court may order any of the relief  
3736 provided in Section 97-3-54.7.

3737 (4) In addition to the mandatory reporting provisions  
3738 contained in Sections 43-21-353 and, 97-5-51, any person who has  
3739 reasonable cause to suspect that a minor under the age of eighteen  
3740 (18) is a trafficked person shall immediately make a report \* \* \*  
3741 to the Statewide Human Trafficking Coordinator. \* \* \* A minor who  
3742 has been identified as a victim of trafficking shall not be liable  
3743 for criminal activity in violation of this section.

3744 (5) It is an affirmative defense in a prosecution under this  
3745 act that the defendant:

3746 (a) Is a victim; and

3747 (b) Committed the offense under a reasonable  
3748 apprehension created by a person that, if the defendant did not  
3749 commit the act, the person would inflict serious harm on the  
3750 defendant, a member of the defendant's family, or a close  
3751 associate.

3752 **SECTION 64.** Section 97-5-24, Mississippi Code of 1972, is  
3753 amended as follows:

3754 97-5-24. If any person eighteen (18) years or older who is  
3755 employed by any public school district or private school in this  
3756 state is accused of fondling or having any type of sexual  
3757 involvement with any child under the age of eighteen (18) years  
3758 who is enrolled in such school, the principal of such school and  
3759 the superintendent of such school district shall timely notify the





3760 district attorney with jurisdiction where the school is located of  
3761 such accusation, the Mississippi Department of Education and the  
3762 Department of \* \* \* Child Protection Services, provided that such  
3763 accusation is reported to the principal and to the school  
3764 superintendent and that there is a reasonable basis to believe  
3765 that such accusation is true. Any superintendent, or his  
3766 designee, who fails to make a report required by this section  
3767 shall be subject to the penalties provided in Section 37-11-35.  
3768 Any superintendent, principal, teacher or other school personnel  
3769 participating in the making of a required report pursuant to this  
3770 section or participating in any judicial proceeding resulting  
3771 therefrom shall be presumed to be acting in good faith. Any  
3772 person reporting in good faith shall be immune from any civil  
3773 liability that might otherwise be incurred or imposed.

3774       **SECTION 65.** Section 97-5-51, Mississippi Code of 1972, is  
3775 amended as follows:

3776       97-5-51. (1) **Definitions.** For the purposes of this  
3777 section:

3778           (a) "Sex crime against a minor" means any offense under  
3779 at least one (1) of the following statutes when committed by an  
3780 adult against a minor who is under the age of sixteen (16):

3781                   (i) Section 97-3-65 relating to rape;

3782                   (ii) Section 97-3-71 relating to rape and assault  
3783 with intent to ravish;

3784                   (iii) Section 97-3-95 relating to sexual battery;



3785 (iv) Section 97-5-23 relating to the touching of a  
3786 child, mentally defective or incapacitated person or physically  
3787 helpless person for lustful purposes;

3788 (v) Section 97-5-41 relating to the carnal  
3789 knowledge of a stepchild, adopted child or child of a cohabiting  
3790 partner;

3791 (vi) Section 97-5-33 relating to exploitation of  
3792 children;

3793 (vii) Section 97-3-54.1(1)(c) relating to  
3794 procuring sexual servitude of a minor;

3795 (viii) Section 43-47-18 relating to sexual abuse  
3796 of a vulnerable person;

3797 (ix) Section 97-1-7 relating to the attempt to  
3798 commit any of the offenses listed in this subsection.

3799 (b) "Mandatory reporter" means any of the following  
3800 individuals performing their occupational duties: health care  
3801 practitioner, clergy member, teaching or child care provider, law  
3802 enforcement officer, or commercial image processor.

3803 (c) "Health care practitioner" means any individual who  
3804 provides health care services, including a physician, surgeon,  
3805 physical therapist, psychiatrist, psychologist, medical resident,  
3806 medical intern, hospital staff member, licensed nurse, midwife and  
3807 emergency medical technician or paramedic.

3808 (d) "Clergy member" means any priest, rabbi or duly  
3809 ordained deacon or minister.



3810 (e) "Teaching or child care provider" means anyone who  
3811 provides training or supervision of a minor under the age of  
3812 sixteen (16), including a teacher, teacher's aide, principal or  
3813 staff member of a public or private school, social worker,  
3814 probation officer, foster home parent, group home or other child  
3815 care institutional staff member, personnel of residential home  
3816 facilities, a licensed or unlicensed day care provider.

3817 (f) "Commercial image processor" means any person who,  
3818 for compensation: (i) develops exposed photographic film into  
3819 negatives, slides or prints; (ii) makes prints from negatives or  
3820 slides; or (iii) processes or stores digital media or images from  
3821 any digital process, including, but not limited to, website  
3822 applications, photography, live streaming of video, posting,  
3823 creation of power points or any other means of intellectual  
3824 property communication or media including conversion or  
3825 manipulation of still shots or video into a digital show stored on  
3826 a photography site or a media storage site.

3827 (g) "Caretaker" means any person legally obligated to  
3828 provide or secure adequate care for a minor under the age of  
3829 sixteen (16), including a parent, guardian, tutor, legal custodian  
3830 or foster home parent.

3831 (2) (a) **Mandatory reporter requirement.** A mandatory  
3832 reporter shall make a report if it would be reasonable for the  
3833 mandatory reporter to suspect that a sex crime against a minor has  
3834 occurred.



3835 (b) Failure to file a mandatory report shall be  
3836 punished as provided in this section.

3837 (c) Reports made under this section and the identity of  
3838 the mandatory reporter are confidential except when the court  
3839 determines the testimony of the person reporting to be material to  
3840 a judicial proceeding or when the identity of the reporter is  
3841 released to law enforcement agencies and the appropriate  
3842 prosecutor. The identity of the reporting party shall not be  
3843 disclosed to anyone other than law enforcement or prosecutors  
3844 except under court order; violation of this requirement is a  
3845 misdemeanor. Reports made under this section are for the purpose  
3846 of criminal investigation and prosecution only and information  
3847 from these reports is not a public record. Disclosure of any  
3848 information by the prosecutor shall conform to the Mississippi  
3849 Uniform Rules of Circuit and County Court Procedure.

3850 (d) Any mandatory reporter who makes a required report  
3851 under this section or participates in a judicial proceeding  
3852 resulting from a mandatory report shall be presumed to be acting  
3853 in good faith. Any person or institution reporting in good faith  
3854 shall be immune from any liability, civil or criminal, that might  
3855 otherwise be incurred or imposed.

3856 (3) (a) **Mandatory reporting procedure.** A report required  
3857 under subsection (2) must be made immediately to the law  
3858 enforcement agency in whose jurisdiction the reporter believes the  
3859 sex crime against the minor occurred. Except as otherwise



3860 provided in this subsection (3), a mandatory reporter may not  
3861 delegate to any other person the responsibility to report, but  
3862 shall make the report personally.

3863 (i) The reporting requirement under this  
3864 subsection (3) is satisfied if a mandatory reporter in good faith  
3865 reports a suspected sex crime against a minor to the Department  
3866 of \* \* \* Child Protection Services under Section 43-21-353.

3867 (ii) The reporting requirement under this  
3868 subsection (3) is satisfied if a mandatory reporter reports a  
3869 suspected sex crime against a minor by following a reporting  
3870 procedure that is imposed:

3871 1. By state agency rule as part of licensure  
3872 of any person or entity holding a state license to provide  
3873 services that include the treatment or education of abused or  
3874 neglected children; or

3875 2. By statute.

3876 (b) **Contents of the report.** The report shall identify,  
3877 to the extent known to the reporter, the following:

3878 (i) The name and address of the minor victim;

3879 (ii) The name and address of the minor's  
3880 caretaker;

3881 (iii) Any other pertinent information known to the  
3882 reporter.

3883 (4) A law enforcement officer who receives a mandated report  
3884 under this section shall file an affidavit against the offender on



3885 behalf of the State of Mississippi if there is probable cause to  
3886 believe that the offender has committed a sex crime against a  
3887 minor.

3888           (5) **Collection of forensic samples.** (a) (i) When an  
3889 abortion is performed on a minor who is less than fourteen (14)  
3890 years of age at the time of the abortion procedure, fetal tissue  
3891 extracted during the abortion shall be collected in accordance  
3892 with rules and regulations adopted pursuant to this section if it  
3893 would be reasonable to suspect that the pregnancy being terminated  
3894 is the result of a sex crime against a minor.

3895                       (ii) When a minor who is under sixteen (16) years  
3896 of age gives birth to an infant, umbilical cord blood shall be  
3897 collected, if possible, in accordance with rules and regulations  
3898 adopted pursuant to this section if it would be reasonable to  
3899 suspect that the minor's pregnancy resulted from a sex crime  
3900 against a minor.

3901                       (iii) It shall be reasonable to suspect that a sex  
3902 crime against a minor has occurred if the mother of an infant was  
3903 less than sixteen (16) years of age at the time of conception and  
3904 at least one (1) of the following conditions also applies:

- 3905                               1. The mother of the infant will not identify  
3906 the father of the infant;
- 3907                               2. The mother of the infant lists the father  
3908 of the infant as unknown;



3909                   3. The person the mother identifies as the  
3910 father of the infant disputes his fatherhood;

3911                   4. The person the mother identifies as the  
3912 father of the infant is twenty-one (21) years of age or older; or

3913                   5. The person the mother identifies as the  
3914 father is deceased.

3915                   (b) The State Medical Examiner shall adopt rules and  
3916 regulations consistent with Section 99-49-1 that prescribe:

3917                   (i) The amount and type of fetal tissue or  
3918 umbilical cord blood to be collected pursuant to this section;

3919                   (ii) Procedures for the proper preservation of the  
3920 tissue or blood for the purpose of DNA testing and examination;

3921                   (iii) Procedures for documenting the chain of  
3922 custody of such tissue or blood for use as evidence;

3923                   (iv) Procedures for proper disposal of fetal  
3924 tissue or umbilical cord blood collected pursuant to this section;

3925                   (v) A uniform reporting instrument mandated to be  
3926 utilized, which shall include the complete residence address and  
3927 name of the parent or legal guardian of the minor who is the  
3928 subject of the report required under this subsection (5); and

3929                   (vi) Procedures for communication with law  
3930 enforcement agencies regarding evidence and information obtained  
3931 pursuant to this section.



3932           (6) **Penalties.** (a) A person who is convicted of a first  
3933 offense under this section shall be guilty of a misdemeanor and  
3934 fined not more than Five Hundred Dollars (\$500.00).

3935           (b) A person who is convicted of a second offense under  
3936 this section shall be guilty of a misdemeanor and fined not more  
3937 than One Thousand Dollars (\$1,000.00), or imprisoned for not more  
3938 than thirty (30) days, or both.

3939           (c) A person who is convicted of a third or subsequent  
3940 offense under this section shall be guilty of a misdemeanor and  
3941 fined not more than Five Thousand Dollars (\$5,000.00), or  
3942 imprisoned for not more than one (1) year, or both.

3943           (7) A health care practitioner or health care facility shall  
3944 be immune from any penalty, civil or criminal, for good-faith  
3945 compliance with any rules and regulations adopted pursuant to this  
3946 section.

3947           **SECTION 66.** Section 97-29-49, Mississippi Code of 1972, is  
3948 amended as follows:

3949           97-29-49. (1) A person commits the misdemeanor of  
3950 prostitution if the person knowingly or intentionally performs, or  
3951 offers or agrees to perform, sexual intercourse or sexual conduct  
3952 for money or other property. "Sexual conduct" includes  
3953 cunnilingus, fellatio, masturbation of another, anal intercourse  
3954 or the causing of penetration to any extent and with any object or  
3955 body part of the genital or anal opening of another.





3956 (2) Any person violating the provisions of this section  
3957 shall, upon conviction, be punished by a fine not exceeding Two  
3958 Hundred Dollars (\$200.00) or by confinement in the county jail for  
3959 not more than six (6) months, or both.

3960 (3) In addition to the mandatory reporting provisions  
3961 contained in Section 97-5-51, any law enforcement officer who  
3962 takes a minor under eighteen (18) years of age into custody for  
3963 suspected prostitution shall immediately make a report to the  
3964 Department of \* \* \* Child Protection Services as required in  
3965 Section 43-21-353 for suspected child sexual abuse or neglect, and  
3966 the department shall commence an initial investigation into  
3967 suspected child sexual abuse or neglect as required in Section  
3968 43-21-353.

3969 (4) If it is determined that a person suspected of or  
3970 charged with engaging in prostitution is engaging in those acts as  
3971 a direct result of being a trafficked person, as defined by  
3972 Section 97-3-54.4, that person shall be immune from prosecution  
3973 for prostitution as a juvenile or adult and, if a minor, the  
3974 provisions of Section 97-3-54.1(4) shall be applicable.

3975 **SECTION 67.** Section 25-9-127, Mississippi Code of 1972, is  
3976 amended as follows:

3977 25-9-127. (1) No employee of any department, agency or  
3978 institution who is included under this chapter or hereafter  
3979 included under its authority, and who is subject to the rules and  
3980 regulations prescribed by the state personnel system, may be



3981 dismissed or otherwise adversely affected as to compensation or  
3982 employment status except for inefficiency or other good cause, and  
3983 after written notice and hearing within the department, agency or  
3984 institution as shall be specified in the rules and regulations of  
3985 the State Personnel Board complying with due process of law; and  
3986 any employee who has by written notice of dismissal or action  
3987 adversely affecting his compensation or employment status shall,  
3988 on hearing and on any appeal of any decision made in such action,  
3989 be required to furnish evidence that the reasons stated in the  
3990 notice of dismissal or action adversely affecting his compensation  
3991 or employment status are not true or are not sufficient grounds  
3992 for the action taken; provided, however, that this provision shall  
3993 not apply (a) to persons separated from any department, agency or  
3994 institution due to curtailment of funds or reduction in staff when  
3995 such separation is in accordance with rules and regulations of the  
3996 state personnel system; (b) during the probationary period of  
3997 state service of twelve (12) months; and (c) to an executive  
3998 officer of any state agency who serves at the will and pleasure of  
3999 the Governor, board, commission or other appointing authority.

4000 (2) The operation of a state-owned motor vehicle without a  
4001 valid Mississippi driver's license by an employee of any  
4002 department, agency or institution that is included under this  
4003 chapter and that is subject to the rules and regulations of the  
4004 state personnel system shall constitute good cause for dismissal  
4005 of such person from employment.



4006 (3) Beginning July 1, 1999, every male between the ages of  
4007 eighteen (18) and twenty-six (26) who is required to register  
4008 under the federal Military Selective Service Act, 50 USCS App.  
4009 453, and who is an employee of the state shall not be promoted to  
4010 any higher position of employment with the state until he submits  
4011 to the person, commission, board or agency by which he is employed  
4012 satisfactory documentation of his compliance with the draft  
4013 registration requirements of the Military Selective Service Act.  
4014 The documentation shall include a signed affirmation under penalty  
4015 of perjury that the male employee has complied with the  
4016 requirements of the Military Selective Service Act.

4017 (4) For a period of two (2) years beginning July 1, 2014,  
4018 the provisions of subsection (1) shall not apply to the personnel  
4019 actions of the State Department of Education that are subject to  
4020 the rules and regulations of the State Personnel Board, and all  
4021 employees of the department shall be classified as nonstate  
4022 service during that period. However, any employee hired after  
4023 July 1, 2014, by the department shall meet the criteria of the  
4024 State Personnel Board as it presently exists for employment. The  
4025 State Superintendent of Public Education and the State Board of  
4026 Education shall consult with the Office of the Attorney General  
4027 before taking personnel actions authorized by this section to  
4028 review those actions for compliance with applicable state and  
4029 federal law.



4030           It is not the intention or effect of this section to include  
4031 any school attendance officer in any exemption from coverage under  
4032 the State Personnel Board policy or regulations, including, but  
4033 not limited to, termination and conditions of employment.

4034           (5) (a) For a period of two (2) years beginning July 1,  
4035 2015, the provisions of subsection (1) shall not apply to the  
4036 personnel actions of the Department of Corrections, and all  
4037 employees of the department shall be classified as nonstate  
4038 service during that period. However, any employee hired after  
4039 July 1, 2015, by the department shall meet the criteria of the  
4040 State Personnel Board as it presently exists for employment.

4041           (b) Additionally, for a period of one (1) year  
4042 beginning July 1, 2016, the personnel actions of the Commissioner  
4043 of the Department of Corrections shall be exempt from State  
4044 Personnel Board rules, regulations and procedures in order to give  
4045 the commissioner flexibility in making an orderly, effective and  
4046 timely reorganization and realignment of the department.

4047           (c) The Commissioner of Corrections shall consult with  
4048 the Office of the Attorney General before personnel actions  
4049 authorized by this section to review those actions for compliance  
4050 with applicable state and federal law.

4051           (6) Through July 1, 2019, the provisions of subsection (1)  
4052 of this section shall not apply to the personnel actions of the  
4053 Department of Human Services that are subject to the rules and  
4054 regulations of the State Personnel Board, and all employees of the



4055 department shall be classified as nonstate service during that  
4056 period. Any employee hired on or after July 1, 2019, by the  
4057 department shall meet the criteria of the State Personnel Board as  
4058 it presently exists for employment. The Executive Director of  
4059 Human Services shall consult with the Office of the Attorney  
4060 General before taking personnel actions authorized by this section  
4061 to review those actions for compliance with applicable state and  
4062 federal law.

4063 (7) Through July 1, 2019, the provisions of subsection (1)  
4064 of this section shall not apply to the personnel actions of the  
4065 Department of Child Protection Services that are subject to the  
4066 rules and regulations of the State Personnel Board, and all  
4067 employees of the department shall be classified as nonstate  
4068 service during that period. Any employee hired on or after July  
4069 1, 2019, by the division shall meet the criteria of the State  
4070 Personnel Board as it presently exists for employment. Further,  
4071 for a period of one (1) year beginning July 1, 2017, the personnel  
4072 actions of the Department of Child Protection Services shall be  
4073 exempt from State Personnel Board rules, regulation and procedures  
4074 in order to give the department flexibility in making an orderly,  
4075 effective and timely reorganization and realignment of the  
4076 department. The Commissioner of Child Protection Services shall  
4077 consult with the Office of the Attorney General before taking  
4078 personnel actions authorized by this section to review those  
4079 actions for compliance with applicable state and federal law.



4080 (8) Any state agency whose personnel actions are exempted in  
4081 this section from the rules, regulations and procedures of the  
4082 State Personnel Board shall file with the Lieutenant Governor, the  
4083 Speaker of the House of Representatives, and the members of the  
4084 Senate and House Accountability, Efficiency \* \* \* and Transparency  
4085 Committees an annual report no later than July 1, 2016, and each  
4086 year thereafter while under the exemption. Such annual report  
4087 shall contain the following information:

4088 (a) The number of current employees who received an  
4089 increase in salary during the past fiscal year and the amount of  
4090 the increase;

4091 (b) The number of employees who were dismissed from the  
4092 agency or otherwise adversely affected as to compensation or  
4093 employment status during the past fiscal year, including a  
4094 description of such adverse effects; and

4095 (c) The number of new employees hired during the past  
4096 fiscal year and the starting salaries of each new employee.

4097 **SECTION 68.** The following shall be codified as Section  
4098 43-26-5, Mississippi Code of 1972:

4099 43-26-5. (1) In addition to all other powers and duties  
4100 provided by law, the Department of Child Protection Services is  
4101 authorized to:

4102 (a) Provide protective services for children as will  
4103 conserve home life;



4104 (b) Assume responsibility for the care and support of  
4105 dependent children needing public care away from their homes;

4106 (c) Place children found by the department to be  
4107 dependent or without proper care in suitable institutions or  
4108 private homes and cooperate with public and private institutions  
4109 in placing such children; and

4110 (d) Accept custody or guardianship, through one (1) of  
4111 its designated employees, of any child, when appointed as  
4112 custodian or guardian in the manner provided by law.

4113 The grant of authority in this subsection (1) shall not be  
4114 construed as diminishing any other authority granted to the  
4115 department by any other law.

4116 (2) The board of supervisors in each county is empowered, in  
4117 its discretion, to set aside and appropriate any money necessary  
4118 to carry out the provisions of this section to the county office  
4119 of the Department of Child Protection Services. Such money may  
4120 come out of the tax levied and collected to support the poor of  
4121 the county or out of the county general fund.

4122 **SECTION 69.** The following shall be codified as Section  
4123 43-26-3, Mississippi Code of 1972:

4124 43-26-3. The Commissioner of the Department of Child  
4125 Protection Services is authorized to:

4126 (a) Formulate the policy of the department;

4127 (b) Adopt, modify, repeal and promulgate, after due  
4128 notice and hearing, and where not otherwise prohibited by federal



4129 or state law, to make exceptions to and grant exemptions and  
4130 variances from, and to enforce rules and regulations implementing  
4131 or effectuating the powers and duties of the department under any  
4132 and all statutes within the department's jurisdiction;

4133 (c) Employ personnel;

4134 (d) Apply for, receive and expend any federal or state  
4135 funds or contributions, gifts, devises, bequests or funds from any  
4136 other source;

4137 (e) Fingerprint and perform a criminal history check on  
4138 every employee or volunteer who, by virtue of such position has  
4139 direct access to children or is in a position of fiduciary  
4140 responsibility; and

4141 (f) Discharge such other duties, responsibilities and  
4142 powers as are necessary to implement the programs of the  
4143 department.

4144 **SECTION 70.** This act shall take effect and be in force from  
4145 and after its passage.

