

By: Senator(s) Hill, Barnett, Burton,  
Dearing, Gollott, Jackson (11th), McDaniel,  
Parker, Seymour, Tollison, Watson,  
Witherspoon, Branning, Tindell, Harkins

To: Judiciary, Division A

SENATE BILL NO. 2680  
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THAT RELATIVE CARE IS A LEGAL PLACEMENT OPTION FOR  
3 ABUSED AND NEGLECTED CHILDREN; TO AMEND SECTION 43-15-17,  
4 MISSISSIPPI CODE OF 1972, TO CONFORM REFERENCES TO CHILD  
5 PROTECTION SERVICES; TO AMEND SECTION 43-21-105, MISSISSIPPI CODE  
6 OF 1972, TO ENACT DEFINITIONS IN THE YOUTH COURT ACT CONCERNING  
7 FICTIVE KIN AND DURABLE LEGAL RELATIVE GUARDIANSHIP; TO AMEND  
8 SECTION 43-21-609, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT  
9 GIVING CUSTODY TO A RELATIVE AND WAIVING ANY REQUIREMENT FOR THE  
10 RELATIVE TO PARTICIPATE IN FOSTER PARENT TRAINING IS WITHIN THE  
11 DISCRETION OF THE COURT AND TO CREATE A DURABLE LEGAL RELATIVE  
12 GUARDIANSHIP ALTERNATIVE; TO AMEND SECTION 43-21-613, MISSISSIPPI  
13 CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

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

17 43-15-13. (1) For purposes of this section, "children"  
18 means persons found within the state who are under the age of  
19 twenty-one (21) years, and who were placed in the custody of the  
20 Department of \* \* \* Child Protection Services by the youth court  
21 of the appropriate county.



22           (2) The Department of \* \* \* Child Protection Services shall  
23 establish a foster care placement program for children whose  
24 custody lies with the department, with the following objectives:

25                   (a) Protecting and promoting the health, safety and  
26 welfare of children;

27                   (b) Preventing the unnecessary separation of children  
28 from their families by identifying family problems, assisting  
29 families in resolving their problems and preventing the breakup of  
30 the family where the prevention of child removal is desirable and  
31 possible when the child can be cared for at home without  
32 endangering the child's health and safety;

33                   (c) Remediating or assisting in the solution of problems  
34 that may result in the neglect, abuse, exploitation or delinquency  
35 of children;

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

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

44                   (f) Assuring safe and adequate care of children away  
45 from their homes, in cases where the child cannot be returned home  
46 or cannot be placed for adoption, including temporary or emergency



47 placement with a relative or fictive kin pending youth court  
48 action on the case. At the time of placement, the department  
49 shall implement concurrent planning, as described in subsection  
50 (8) of this section, so that permanency may occur at the earliest  
51 opportunity. Consideration of possible failure or delay of  
52 reunification should be given, to the end that the placement made  
53 is the best available placement to provide permanency for the  
54 child; and

55 (g) Providing a family protection specialist or worker  
56 or team of such specialists or workers for a family and child  
57 throughout the implementation of their permanent living  
58 arrangement plan. Wherever feasible, the same family protection  
59 specialist or worker or team shall remain on the case until the  
60 child is no longer under the jurisdiction of the youth court.

61 (3) The Department of \* \* \* Child Protection Services shall  
62 administer a system of individualized plans and reviews once every  
63 six (6) months for each child under its custody within the State  
64 of Mississippi, each child who has been adjudged a neglected,  
65 abandoned or abused child and whose custody was changed by court  
66 order as a result of that adjudication, and each public or private  
67 facility licensed by the department. The Department of \* \* \*  
68 Child Protection Services' administrative review shall be  
69 completed on each child within the first three (3) months and a  
70 relative placement, fictive kin placement, or foster care review  
71 once every six (6) months after the child's initial



72 forty-eight-hour shelter hearing. That system shall be for the  
73 purpose of enhancing potential family life for the child by the  
74 development of individual plans to return the child to \* \* \* the  
75 child's natural parent or parents, or to refer the child to the  
76 appropriate court for termination of parental rights and placement  
77 in a permanent relative's home, adoptive home or foster/adoptive  
78 home. The goal of the Department of \* \* \* Child Protection  
79 Services shall be to return the child to \* \* \* the child's natural  
80 parent(s) or refer the child to the appropriate court for  
81 termination of parental rights and placement in a permanent  
82 relative's home, adoptive home or foster/adoptive home within the  
83 time periods specified in this subsection or in subsection (4) of  
84 this section. In furthering this goal, the department shall  
85 establish policy and procedures designed to appropriately place  
86 children in permanent homes, the policy to include a system of  
87 reviews for all children in foster care, as follows: foster care  
88 counselors in the department shall make all possible contact with  
89 the child's natural parent(s), custodial parent(s) of all siblings  
90 of the child, and any interested relative for the first two (2)  
91 months following the child's entry into the foster care system.  
92 For purposes of contacting custodial parent(s) of a sibling,  
93 siblings include those who are considered a sibling under state  
94 law, and those who would have been considered a sibling under  
95 state law, except for termination or disruption of parental  
96 rights. For any child who has been in foster care for fifteen



97 (15) of the last twenty-two (22) months regardless of whether the  
98 foster care was continuous for all of those twenty-two (22)  
99 months, the department shall file a petition to terminate the  
100 parental rights of the child's parents. The time period starts to  
101 run from the date the court makes a finding of abuse and/or  
102 neglect or sixty (60) days from when the child was removed from  
103 his or her home, whichever is earlier. The department can choose  
104 not to file a termination of parental rights petition if the  
105 following apply:

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

107 (b) The department has documented compelling and  
108 extraordinary reasons why termination of parental rights would not  
109 be in the best interests of the child. Before granting or denying  
110 a request by the department for an extension of time for filing a  
111 termination of parental rights action, the court shall receive a  
112 written report on the progress which a parent of the child has  
113 made in treatment, to be made to the court in writing by a mental  
114 health/substance abuse therapist or counselor.

115 (4) In the case of any child who is placed in foster care on  
116 or after July 1, 1998, except in cases of aggravated circumstances  
117 prescribed in Section 43-21-603(7)(c), the child's natural  
118 parent(s) will have a reasonable time to be determined by the  
119 court, which shall not exceed a six-month period of time, in which  
120 to meet the service agreement with the department for the benefit  
121 of the child unless the department has documented extraordinary



122 and compelling reasons for extending the time period in the best  
123 interest of the child. If this agreement has not been  
124 satisfactorily met, simultaneously the child will be referred to  
125 the appropriate court for termination of parental rights and  
126 placement in a permanent relative's home, adoptive home or a  
127 foster/adoptive home. For children under the age of three (3)  
128 years, termination of parental rights shall be initiated within  
129 six (6) months, unless the department has documented compelling  
130 and extraordinary circumstances, and placement in a permanent  
131 relative's home, adoptive home or foster/adoptive home within two  
132 (2) months. For children who have been abandoned under the  
133 provisions of Section 97-5-1, termination of parental rights shall  
134 be initiated within thirty (30) days and placement in an adoptive  
135 home shall be initiated without necessity for placement in a  
136 foster home. The department need not initiate termination of  
137 parental rights proceedings where the child has been placed in  
138 durable legal custody, durable legal relative guardianship, or  
139 long-term or formalized foster care by a court of competent  
140 jurisdiction.

141 (5) The foster care review once every six (6) months shall  
142 be conducted by the youth court or its designee(s), and/or by  
143 personnel within the Department of \* \* \* Child Protection Services  
144 or by a designee or designees of the department and may include  
145 others appointed by the department, and the review shall include  
146 at a minimum an evaluation of the child based on the following:



147 (a) The extent of the care and support provided by the  
148 parents or parent \* \* \* while the child is in temporary custody;

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

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

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

155 (e) Social services offered and/or utilized to  
156 facilitate plans for establishing a permanent home for the child;  
157 and

158 (f) Relevant testimony and recommendations from the  
159 foster parent of the child, the grandparents of the child, the  
160 guardian ad litem of the child, representatives of any private  
161 care agency that has cared for the child, the family protection  
162 worker or family protection specialist assigned to the case, and  
163 any other relevant testimony pertaining to the case.

164 Each child's review plan once every six (6) months shall be  
165 filed with the court which awarded custody and shall be made  
166 available to natural parents or foster parents upon approval of  
167 the court. The court shall make a finding as to the degree of  
168 compliance by the agency and the parent(s) with the child's social  
169 service plan. The court also shall find that the child's health  
170 and safety are the paramount concern. In the interest of the  
171 child, the court shall, where appropriate, initiate proceedings on



172 its own motion. The Department of \* \* \* Child Protection Services  
173 shall report to the Legislature as to the number of those  
174 children, the findings of the foster care review board and  
175 relevant statistical information in foster care in a semiannual  
176 report to the Legislature to be submitted to the Joint Oversight  
177 Committee of the Department of \* \* \* Child Protection Services.  
178 The report shall not refer to the specific name of any child in  
179 foster care.

180 (6) (a) The Department of \* \* \* Child Protection Services,  
181 with the cooperation and assistance of the State Department of  
182 Health, shall develop and implement a training program for foster  
183 care parents to indoctrinate them as to their proper  
184 responsibilities upon a child's entry into their foster care. The  
185 program shall provide a minimum of twelve (12) clock hours of  
186 training. The foster care training program shall be  
187 satisfactorily completed by such foster care parents before or  
188 within ninety (90) days after child placement with the parent.  
189 Record of the foster care parent's training program participation  
190 shall be filed with the court as part of a child's foster  
191 care \* \* \* review plan once every six (6) months.

192 (b) (i) The court may waive foster care training for  
193 an appropriate relative placement.

194 (ii) A relative exempted from foster care training  
195 is not eligible for board payments, foster care payments, kinship





196 care payments, therapeutic care payments, or any other monthly  
197 payments from the department to assist in the care of the child.

198 (7) When the Department of \* \* \* Child Protection Services  
199 is considering placement of a child in a foster home and when the  
200 department deems it to be in the best interest of the child, the  
201 department shall give first priority to placing the child in the  
202 home of one (1) of the child's relatives within the third degree,  
203 as computed by the civil law rule.

204 (a) In placing the child in a relative's home, the  
205 department may waive any rule, regulation or policy applicable to  
206 placement in foster care that would otherwise require the child to  
207 have a separate bed or bedroom or have a bedroom of a certain  
208 size, if placing the child in a relative's home would be in the  
209 best interest of the child and those requirements cannot be met in  
210 the relative's home.

211 (b) The court may waive foster care training for a  
212 relative only when appropriate.

213 (8) The Legislature recognizes that the best interests of  
214 the child require that the child be placed in the most permanent  
215 living arrangement as soon as is practicably possible. To achieve  
216 this goal, the Department of \* \* \* Child Protection Services is  
217 directed to conduct concurrent planning so that a permanent living  
218 arrangement may occur at the earliest opportunity. Permanent  
219 living arrangements may include prevention of placement of a child  
220 outside the home of the family when the child can be cared for at



221 home without endangering the child's health or safety;  
222 reunification with the family, when safe and appropriate, if  
223 temporary placement is necessary; or movement of the child toward  
224 the most permanent living arrangement and permanent legal status.  
225 When a child is placed in foster care or relative care, the  
226 department shall first ensure and document that reasonable efforts  
227 were made to prevent or eliminate the need to remove the child  
228 from the child's home. The department's first priority shall be  
229 to make reasonable efforts to reunify the family when temporary  
230 placement of the child occurs or shall request a finding from the  
231 court that reasonable efforts are not appropriate or have been  
232 unsuccessful. A decision to place a child in foster care or  
233 relative care shall be made with consideration of the child's  
234 health, safety and best interests. At the time of placement,  
235 consideration should also be given so that if reunification fails  
236 or is delayed, the placement made is the best available placement  
237 to provide a permanent living arrangement for the child. The  
238 department shall adopt rules addressing concurrent planning for  
239 reunification and a permanent living arrangement. The department  
240 shall consider the following factors when determining  
241 appropriateness of concurrent planning:

- 242 (a) The likelihood of prompt reunification;
- 243 (b) The past history of the family;
- 244 (c) The barriers to reunification being addressed by  
245 the family;



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

247 (e) The foster parents' willingness to work with the  
248 family to reunite;

249 (f) The willingness and ability of the foster family or  
250 relative placement to provide an adoptive home or long-term  
251 placement;

252 (g) The age of the child; and

253 (h) Placement of siblings.

254 (9) If the department has placed a child in foster care or  
255 relative care under a court order, the department may not change  
256 the child's placement unless the department specifically documents  
257 to the court that the current placement is unsafe or unsuitable or  
258 that another placement is in the child's best interests unless the  
259 new placement is in an adoptive home or other permanent placement.  
260 Except in emergency circumstances as determined by the department  
261 or where the court orders placement of the child under Section  
262 43-21-303, the foster parents, grandparents or other relatives of  
263 the child shall be given an opportunity to contest the specific  
264 reasons documented by the department at least seventy-two (72)  
265 hours before any such departure, and the court may conduct a  
266 review of that placement unless the new placement is in an  
267 adoptive home or other permanent placement. When a child is  
268 returned to foster care or relative care, the former foster  
269 parents or relative placement shall be given the prior right of



270 return placement in order to eliminate additional trauma to the  
271 child.

272 (10) The Department of \* \* \* Child Protection Services shall  
273 provide the foster parents, grandparents or other relatives with  
274 at least a seventy-two-hour notice of departure for any child  
275 placed in their foster care or relative care, except in emergency  
276 circumstances as determined by the department or where the court  
277 orders placement of the child under Section 43-21-303. The  
278 parent/legal guardian, grandparents of the child, guardian ad  
279 litem and the court exercising jurisdiction shall be notified in  
280 writing when the child leaves foster care or relative care  
281 placement, regardless of whether the child's departure was planned  
282 or unplanned. The only exceptions to giving a written notice to  
283 the parent(s) are when a parent has voluntarily released the child  
284 for adoption or the parent's legal rights to the child have been  
285 terminated through the appropriate court with jurisdiction.

286 (11) The Department of \* \* \* Child Protection Services shall  
287 extend the following rights to persons who provide foster care and  
288 relative care:

289 (a) A clear understanding of their role while providing  
290 care and the roles of the birth parent(s) and the placement agency  
291 in respect to the child in care;

292 (b) Respect, consideration, trust and value as a family  
293 who is making an important contribution to the agency's  
294 objectives;



295 (c) Involvement in all the agency's crucial decisions  
296 regarding the child as team members who have pertinent information  
297 based on their day-to-day knowledge of the child in care;

298 (d) Support from the family protection worker or the  
299 family protection specialist in efforts to do a better day-to-day  
300 job in caring for the child and in working to achieve the agency's  
301 objectives for the child and the birth family through provision  
302 of:

303 (i) Pertinent information about the child and the  
304 birth family;

305 (ii) Help in using appropriate resources to meet  
306 the child's needs;

307 (iii) Direct interviews between the family  
308 protection worker or specialist and the child, previously  
309 discussed and understood by the foster parents;

310 (e) The opportunity to develop confidence in making  
311 day-to-day decisions in regard to the child;

312 (f) The opportunity to learn and grow in their vocation  
313 through planned education in caring for the child;

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

316 (h) Reimbursement for costs of the child's care in the  
317 form of a board payment based on the age of the child as  
318 prescribed in Section 43-15-17 unless the relative is exempt from  
319 foster care training and chooses to exercise the exemption; and



320 (i) Reimbursement for property damages caused by  
321 children in the custody of the Department of \* \* \* Child  
322 Protection Services in an amount not to exceed Five Hundred  
323 Dollars (\$500.00), as evidenced by written documentation. The  
324 Department of \* \* \* Child Protection Services shall not incur  
325 liability for any damages as a result of providing this  
326 reimbursement.

327 (12) The Department of \* \* \* Child Protection Services shall  
328 require the following responsibilities from participating persons  
329 who provide foster care and relative care:

330 (a) Understanding the department's function in regard  
331 to the foster care and relative care program and related social  
332 service programs;

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

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

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

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



344 (f) Expressing their viewsu of agency practices which  
345 relate to the child with the appropriate staff member;

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

350 (h) Cooperating with any plan to reunite the child with  
351 his birth family and work with the birth family to achieve this  
352 goal; and

353 (i) Attending dispositional review hearings and  
354 termination of parental rights hearings conducted by a court of  
355 competent jurisdiction, or providing their recommendations to the  
356 court in writing.

357 **SECTION 2.** Section 43-15-17, Mississippi Code of 1972, is  
358 amended as follows:

359 43-15-17. (1) The Department of \* \* \* Child Protection  
360 Services is authorized to make such payments as may be appropriate  
361 for supportive services to facilitate either the return of  
362 children to their natural parents or their adoption, depending  
363 upon and contingent upon the availability of the Department  
364 of \* \* \* Child Protection Services securing or having sufficient  
365 funds to render this supportive service. Upon court order, the  
366 parent(s) shall be responsible for reimbursing the department for  
367 any foster care or kinship care payments made on behalf of his or  
368 her child, based upon financial ability to pay, until such time as



369 there is a termination of parental rights regarding the child, or  
370 the child is adopted.

371 (2) For those children placed in foster care by the state or  
372 county departments of human services, the department shall make  
373 monthly payments for the support of these children's room and  
374 board, clothing, allowance and personal needs. From and after  
375 July 1, 1998, and subject to the availability of funds  
376 specifically appropriated therefor, the Department of \* \* \* Child  
377 Protection Services' foster care and therapeutic care monthly  
378 payment schedule in effect before that date shall be increased by  
379 One Hundred Dollars (\$100.00) per month, with that minimum payment  
380 not to preclude the department from increasing payments in later  
381 years as funds become available. From and after July 1, 1998, in  
382 order for foster parents to receive the monthly payments  
383 authorized under this subsection (2), the Department of \* \* \*  
384 Child Protection Services shall require foster care placements to  
385 be licensed as foster care homes and shall require prospective  
386 foster parents to satisfactorily complete an appropriate training  
387 program that emphasizes the goal of the foster care program to  
388 provide stable foster placement until a permanency outcome is  
389 achieved.

390 (3) For a child placed in the care of the child's relative  
391 within the third degree by the state or county departments of  
392 human services, unless a child is placed in the care of a relative  
393 who is exempt from foster care training requirements, the





394 department shall make monthly payments to defray the relative's  
395 expense of furnishing room and board. The department's relative  
396 care payment shall be in an amount up to one hundred percent  
397 (100%) of the amount of the foster care board payment. The  
398 department may continue to make those payments to the relative  
399 after the department relinquishes legal custody of the child to  
400 the relative if the relative has complied with foster care  
401 training requirements. Any such payments for relative care shall  
402 be subject to specific appropriation therefor by the Legislature.

403 **SECTION 3.** Section 43-21-105, Mississippi Code of 1972, is  
404 amended as follows:

405 43-21-105. The following words and phrases, for purposes of  
406 this chapter, shall have the meanings ascribed herein unless the  
407 context clearly otherwise requires:

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

409 (b) "Judge" means the judge of the Youth Court  
410 Division.

411 (c) "Designee" means any person that the judge appoints  
412 to perform a duty which this chapter requires to be done by the  
413 judge or his designee. The judge may not appoint a person who is  
414 involved in law enforcement or who is an employee of the  
415 Mississippi Department of Human Services to be his designee.

416 (d) "Child" and "youth" are synonymous, and each means  
417 a person who has not reached his eighteenth birthday. A child who  
418 has not reached his eighteenth birthday and is on active duty for



419 a branch of the armed services or is married is not considered a  
420 "child" or "youth" for the purposes of this chapter.

421 (e) "Parent" means the father or mother to whom the  
422 child has been born, or the father or mother by whom the child has  
423 been legally adopted.

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

426 (g) "Custodian" means any person having the present  
427 care or custody of a child whether such person be a parent or  
428 otherwise.

429 (h) "Legal custodian" means a court-appointed custodian  
430 of the child.

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

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

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



442 (i) Is habitually disobedient of reasonable and  
443 lawful commands of his parent, guardian or custodian and is  
444 ungovernable; or

445 (ii) While being required to attend school,  
446 willfully and habitually violates the rules thereof or willfully  
447 and habitually absents himself therefrom; or

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

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

450 (1) "Neglected child" means a child:

451 (i) Whose parent, guardian or custodian or any  
452 person responsible for his care or support, neglects or refuses,  
453 when able so to do, to provide for him proper and necessary care  
454 or support, or education as required by law, or medical, surgical,  
455 or other care necessary for his well-being; however, a parent who  
456 withholds medical treatment from any child who in good faith is  
457 under treatment by spiritual means alone through prayer in  
458 accordance with the tenets and practices of a recognized church or  
459 religious denomination by a duly accredited practitioner thereof  
460 shall not, for that reason alone, be considered to be neglectful  
461 under any provision of this chapter; or

462 (ii) Who is otherwise without proper care,  
463 custody, supervision or support; or

464 (iii) Who, for any reason, lacks the special care  
465 made necessary for him by reason of his mental condition, whether



466 the mental condition is having mental illness or having an  
467 intellectual disability; or

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

470 (m) "Abused child" means a child whose parent, guardian  
471 or custodian or any person responsible for his care or support,  
472 whether legally obligated to do so or not, has caused or allowed  
473 to be caused, upon the child, sexual abuse, sexual exploitation,  
474 emotional abuse, mental injury, nonaccidental physical injury or  
475 other maltreatment. However, physical discipline, including  
476 spanking, performed on a child by a parent, guardian or custodian  
477 in a reasonable manner shall not be deemed abuse under this  
478 section. "Abused child" also means a child who is or has been  
479 trafficked within the meaning of the Mississippi Human Trafficking  
480 Act by any person, without regard to the relationship of the  
481 person to the child.

482 (n) "Sexual abuse" means obscene or pornographic  
483 photographing, filming or depiction of children for commercial  
484 purposes, or the rape, molestation, incest, prostitution or other  
485 such forms of sexual exploitation of children under circumstances  
486 which indicate that the child's health or welfare is harmed or  
487 threatened.

488 (o) "A child in need of special care" means a child  
489 with any mental or physical illness that cannot be treated with



490 the dispositional alternatives ordinarily available to the youth  
491 court.

492 (p) A "dependent child" means any child who is not a  
493 child in need of supervision, a delinquent child, an abused child  
494 or a neglected child, and which child has been voluntarily placed  
495 in the custody of the Department of Human Services by his parent,  
496 guardian or custodian.

497 (q) "Custody" means the physical possession of the  
498 child by any person.

499 (r) "Legal custody" means the legal status created by a  
500 court order which gives the legal custodian the responsibilities  
501 of physical possession of the child and the duty to provide him  
502 with food, shelter, education and reasonable medical care, all  
503 subject to residual rights and responsibilities of the parent or  
504 guardian of the person.

505 (s) "Detention" means the care of children in  
506 physically restrictive facilities.

507 (t) "Shelter" means care of children in physically  
508 nonrestrictive facilities.

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

511 (i) All youth court records as defined in Section  
512 43-21-251;

513 (ii) All social records as defined in Section  
514 43-21-253;



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

517 (iv) All agency records as defined in Section  
518 43-21-257; and

519 (v) All other documents maintained by any  
520 representative of the state, county, municipality or other public  
521 agency insofar as they relate to the apprehension, custody,  
522 adjudication or disposition of a child who is the subject of a  
523 youth court cause.

524 (v) "Any person responsible for care or support" means  
525 the person who is providing for the child at a given time. This  
526 term shall include, but is not limited to, stepparents, foster  
527 parents, relatives, nonlicensed babysitters or other similar  
528 persons responsible for a child and staff of residential care  
529 facilities and group homes that are licensed by the Department of  
530 Human Services.

531 (w) The singular includes the plural, the plural the  
532 singular and the masculine the feminine when consistent with the  
533 intent of this chapter.

534 (x) "Out-of-home" setting means the temporary  
535 supervision or care of children by the staff of licensed day care  
536 centers, the staff of public, private and state schools, the staff  
537 of juvenile detention facilities, the staff of unlicensed  
538 residential care facilities and group homes and the staff of, or  
539 individuals representing, churches, civic or social organizations.



540           (y) "Durable legal custody" means the legal status  
541 created by a court order which gives the durable legal custodian  
542 the responsibilities of physical possession of the child and the  
543 duty to provide him with care, nurture, welfare, food, shelter,  
544 education and reasonable medical care. All these duties as  
545 enumerated are subject to the residual rights and responsibilities  
546 of the natural parent(s) or guardian(s) of the child or children.

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

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

552           (bb) "Assessment" means an individualized examination  
553 of a child to determine the child's psychosocial needs and  
554 problems, including the type and extent of any mental health,  
555 substance abuse or co-occurring mental health and substance abuse  
556 disorders and recommendations for treatment. The term includes,  
557 but is not limited to, a drug and alcohol, psychological or  
558 psychiatric evaluation, records review, clinical interview or the  
559 administration of a formal test and instrument.

560           (cc) "Screening" means a process, with or without the  
561 administration of a formal instrument, that is designed to  
562 identify a child who is at increased risk of having mental health,  
563 substance abuse or co-occurring mental health and substance abuse



564 disorders that warrant immediate attention, intervention or more  
565 comprehensive assessment.

566 (dd) "Durable legal relative guardianship" means the  
567 legal status created by a youth court order that conveys the  
568 physical and legal custody of a child or children by durable legal  
569 guardianship to a relative or fictive kin who is licensed as a  
570 foster or resource parent.

571 (ee) "Relative" means a person related to the child by  
572 affinity or consanguinity within the third degree.

573 (ff) "Fictive kin" means a person not related to the  
574 child legally or biologically but who is considered a relative due  
575 to a significant, familial-like and ongoing relationship with the  
576 child and family.

577 **SECTION 4.** Section 43-21-609, Mississippi Code of 1972, is  
578 amended as follows:

579 43-21-609. In neglect and abuse cases, the disposition order  
580 may include any of the following alternatives, giving precedence  
581 in the following sequence:

582 (a) Release the child without further action;

583 (b) Place the child in the custody of his parents, a  
584 relative or other person subject to any conditions and limitations  
585 as the court may prescribe. If the court finds that temporary  
586 relative placement, adoption or foster care placement is  
587 inappropriate, unavailable or otherwise not in the best interest  
588 of the child, durable legal custody may be granted by the court to





589 any person subject to any limitations and conditions the court may  
590 prescribe; such durable legal custody will not take effect unless  
591 the child or children have been in the physical custody of the  
592 proposed durable custodians for at least \* \* \* six (6) months  
593 under the supervision of the Department of Human Services. The  
594 requirements of Section 43-21-613 as to disposition review  
595 hearings \* \* \* do not apply to those matters in which the court  
596 has granted durable legal custody. In such cases, the Department  
597 of Human Services shall be released from any oversight or  
598 monitoring responsibilities;

599 (c) (i) Grant durable legal relative guardianship to a  
600 relative or fictive kin licensed as a foster parent if the  
601 licensed relative foster parent or licensed fictive kin foster  
602 parent exercised physical custody of the child for at least six  
603 (6) months before the grant of durable legal relative guardianship  
604 and the Department of Child Protection Services had legal custody  
605 or exercised supervision of the child for at least six (6) months.  
606 In order to establish durable legal relative guardianship, the  
607 youth court must find the following:

608 1. That both reunification and adoption have  
609 been determined to be inappropriate;

610 2. That the relative guardian or fictive kin  
611 guardian shows full commitment to the care, shelter, education,  
612 nurture, and reasonable medical care of the child; and



613                   3. That the youth court consulted with any  
614 child twelve (12) years of age or older before granting durable  
615 legal relative guardianship.

616                   (ii) The requirements of Section 43-21-613 as to  
617 disposition review hearings do not apply to a hearing concerning  
618 durable legal relative guardianship. However, the Department of  
619 Child Protection Services must conduct an annual review and  
620 recertification of the durable legal relative guardianship to  
621 determine whether it remains in the best interest of the child.  
622 If a material change in circumstances occurs adverse to the best  
623 interest of the child, the parent, relative guardian, fictive kin  
624 guardian, or Department of Child Protection Services may petition  
625 the court to review the durable legal relative guardianship;

626                   ( \* \* \*d) Order terms of treatment calculated to assist  
627 the child and the child's parent, guardian or custodian which are  
628 within the ability of the parent, guardian or custodian to  
629 perform;

630                   ( \* \* \*e) Order youth court personnel, the Department  
631 of \* \* \* Child Protection Services or child care agencies to  
632 assist the child and the child's parent, guardian or custodian to  
633 secure social or medical services to provide proper supervision  
634 and care of the child;

635                   ( \* \* \*f) Give legal custody of the child to any of the  
636 following but in no event to any state training school:



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

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

646 ( \* \* \* g) If the court makes a finding that custody is  
647 necessary as defined in Section 43-21-301(3) (b), and that the  
648 child, in the action pending before the youth court had not  
649 previously been taken into custody, the disposition order shall  
650 recite that the effect of the continuation of the child's residing  
651 within his or her own home would be contrary to the welfare of the  
652 child, that the placement of the child in foster care is in the  
653 best interests of the child, and unless the reasonable efforts  
654 requirement is bypassed under Section 43-21-603(7) (c), the order  
655 also must state:

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

660 (ii) The circumstances are of such an emergency  
661 nature that no reasonable efforts have been made to maintain the



662 child within his or her own home, and there is no reasonable  
663 alternative to custody; or

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

668 ( \* \* \* h) If the court had, before the disposition  
669 hearing in the action pending before the court, taken the child  
670 into custody, the judge or referee shall determine, and the youth  
671 court order shall recite that reasonable efforts were made by the  
672 Department of \* \* \* Child Protection Services to finalize the  
673 child's permanency plan that was in effect on the date of the  
674 disposition hearing.

675 **SECTION 5.** Section 43-21-613, Mississippi Code of 1972, is  
676 amended as follows:

677 43-21-613. (1) If the youth court finds, after a hearing  
678 which complies with the sections governing adjudicatory hearings,  
679 that the terms of a delinquency or child in need of supervision  
680 disposition order, probation or parole have been violated, the  
681 youth court may, in its discretion, revoke the original  
682 disposition and make any disposition which it could have  
683 originally ordered. The hearing shall be initiated by the filing  
684 of a petition that complies with the sections governing petitions  
685 in this chapter and that includes a statement of the youth court's  
686 original disposition order, probation or parole, the alleged



687 violation of that order, probation or parole, and the facts which  
688 show the violation of that order, probation or parole. Summons  
689 shall be served in the same manner as summons for an adjudicatory  
690 hearing.

691 (2) On motion of a child or a child's parent, guardian or  
692 custodian, the youth court may, in its discretion, conduct an  
693 informal hearing to review the disposition order. If the youth  
694 court finds a material change of circumstances relating to the  
695 disposition of the child, the youth court may modify the  
696 disposition order to any appropriate disposition of equal or  
697 greater precedence which the youth court could have originally  
698 ordered.

699 (3) (a) Unless the youth court's jurisdiction has been  
700 terminated, all disposition orders for supervision, probation or  
701 placement of a child with an individual or an agency shall be  
702 reviewed by the youth court judge or referee at least annually to  
703 determine if continued placement, probation or supervision is in  
704 the best interest of the child or the public. For children who  
705 have been adjudicated abused or neglected, the youth court shall  
706 conduct a permanency hearing within twelve (12) months after the  
707 earlier of:

708 (i) An adjudication that the child has been abused  
709 or neglected; or

710 (ii) The date of the child's removal from the  
711 allegedly abusive or neglectful custodian/parent. Notice of such



712 hearing shall be given in accordance with the provisions of  
713 Section 43-21-505(5). In conducting the hearing, the judge or  
714 referee shall require a written report and may require information  
715 or statements from the child's youth court counselor, parent,  
716 guardian or custodian, which includes, but is not limited to, an  
717 evaluation of the child's progress and recommendations for further  
718 supervision or treatment. The judge or referee shall, at the  
719 permanency hearing determine the future status of the child,  
720 including, but not limited to, whether the child should be  
721 returned to the parent(s) or placed with suitable relatives,  
722 placed for adoption, placed for the purpose of establishing  
723 durable legal custody or should, because of the child's special  
724 needs or circumstances, be continued in foster care on a permanent  
725 or long-term basis. If the child is in an out-of-state placement,  
726 the hearing shall determine whether the out-of-state placement  
727 continues to be appropriate and in the best interest of the child.  
728 At the permanency hearing the judge or referee shall determine,  
729 and the youth court order shall recite that reasonable efforts  
730 were made by the Department of Human Services to finalize the  
731 child's permanency plan that was in effect on the date of the  
732 permanency hearing. The judge or referee may find that reasonable  
733 efforts to maintain the child within his home shall not be  
734 required in accordance with Section 43-21-603(7)(c), and that the  
735 youth court shall continue to conduct permanency hearings for a  
736 child who has been adjudicated abused or neglected, at least



737 annually thereafter, for as long as the child remains in the  
738 custody of the Mississippi Department of Human Services.

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

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

744 (ii) The Department of Human Services has  
745 documented compelling and extraordinary reasons why termination of  
746 parental rights would not be in the best interests of the child.

747 (c) The provisions of this subsection shall also apply  
748 to review of cases involving a dependent child; however, such  
749 reviews shall take place not less frequently than once each one  
750 hundred eighty (180) days. A dependent child shall be ordered by  
751 the youth court judge or referee to be returned to the custody and  
752 home of the child's parent, guardian or custodian unless the judge  
753 or referee, upon such review, makes a written finding that the  
754 return of the child to the home would be contrary to the child's  
755 best interests.

756 (d) Reviews are not to be conducted unless explicitly  
757 ordered by the youth court concerning those cases in which the  
758 court has granted durable legal custody. In such cases, the  
759 Department of Human Services shall be released from any oversight  
760 or monitoring responsibilities, and relieved of physical and legal  
761 custody and supervision of the child.



762           (4) The provisions of this section do not apply to  
763 proceedings concerning durable legal relative guardianship.

764           **SECTION 6.** This act shall take effect and be in force from  
765 and after July 1, 2017.

