

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 Sent to Governor)

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, DURABLE LEGAL RELATIVE GUARDIANSHIP, AND REASONABLE  
8 EFFORTS; TO AMEND SECTION 43-21-609, MISSISSIPPI CODE OF 1972, TO  
9 CLARIFY THAT GIVING CUSTODY TO A RELATIVE AND WAIVING ANY  
10 REQUIREMENT FOR THE RELATIVE TO PARTICIPATE IN FOSTER PARENT  
11 TRAINING IS WITHIN THE DISCRETION OF THE COURT AND TO CREATE A  
12 DURABLE LEGAL RELATIVE GUARDIANSHIP ALTERNATIVE; TO AMEND SECTION  
13 43-21-613, MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTION  
14 93-5-1, MISSISSIPPI CODE OF 1972, TO CLARIFY THE STATUS OF SPOUSAL  
15 DOMESTIC ABUSE AS A FAULT GROUND FOR DIVORCE; TO AMEND SECTION  
16 93-17-303, MISSISSIPPI CODE OF 1972, TO CLARIFY THE RIGHT OF  
17 ADOPTIVE PARENTS, UNDER CERTAIN CIRCUMSTANCES, TO PROCEED PRO SE  
18 IN THE MATTER OF REGISTRATION OF A FOREIGN ADOPTION; AND FOR  
19 RELATED PURPOSES.

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

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

23 43-15-13. (1) For purposes of this section, "children"  
24 means persons found within the state who are under the age of  
25 twenty-one (21) years, and who were placed in the custody of the



26 Department of \* \* \* Child Protection Services by the youth court  
27 of the appropriate county.

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

31 (a) Protecting and promoting the health, safety and  
32 welfare of children;

33 (b) Preventing the unnecessary separation of children  
34 from their families by identifying family problems, assisting  
35 families in resolving their problems and preventing the breakup of  
36 the family where the prevention of child removal is desirable and  
37 possible when the child can be cared for at home without  
38 endangering the child's health and safety;

39 (c) Remedying or assisting in the solution of problems  
40 that may result in the neglect, abuse, exploitation or delinquency  
41 of children;

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

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



50 (f) Assuring safe and adequate care of children away  
51 from their homes, in cases where the child cannot be returned home  
52 or cannot be placed for adoption, including temporary or emergency  
53 placement with a relative or fictive kin pending youth court  
54 action on the case. At the time of placement, the department  
55 shall implement concurrent planning, as described in subsection  
56 (8) of this section, so that permanency may occur at the earliest  
57 opportunity. Consideration of possible failure or delay of  
58 reunification should be given, to the end that the placement made  
59 is the best available placement to provide permanency for the  
60 child; and

61 (g) Providing a family protection specialist or worker  
62 or team of such specialists or workers for a family and child  
63 throughout the implementation of their permanent living  
64 arrangement plan. Wherever feasible, the same family protection  
65 specialist or worker or team shall remain on the case until the  
66 child is no longer under the jurisdiction of the youth court.

67 (3) The Department of \* \* \* Child Protection Services shall  
68 administer a system of individualized plans and reviews once every  
69 six (6) months for each child under its custody within the State  
70 of Mississippi, each child who has been adjudged a neglected,  
71 abandoned or abused child and whose custody was changed by court  
72 order as a result of that adjudication, and each public or private  
73 facility licensed by the department. The Department of \* \* \*  
74 Child Protection Services' administrative review shall be



75 completed on each child within the first three (3) months and a  
76 relative placement, fictive kin placement, or foster care review  
77 once every six (6) months after the child's initial  
78 forty-eight-hour shelter hearing. That system shall be for the  
79 purpose of enhancing potential family life for the child by the  
80 development of individual plans to return the child to \* \* \* the  
81 child's natural parent or parents, or to refer the child to the  
82 appropriate court for termination of parental rights and placement  
83 in a permanent relative's home, adoptive home or foster/adoptive  
84 home. The goal of the Department of \* \* \* Child Protection  
85 Services shall be to return the child to \* \* \* the child's natural  
86 parent(s) or refer the child to the appropriate court for  
87 termination of parental rights and placement in a permanent  
88 relative's home, adoptive home or foster/adoptive home within the  
89 time periods specified in this subsection or in subsection (4) of  
90 this section. In furthering this goal, the department shall  
91 establish policy and procedures designed to appropriately place  
92 children in permanent homes, the policy to include a system of  
93 reviews for all children in foster care, as follows: foster care  
94 counselors in the department shall make all possible contact with  
95 the child's natural parent(s), custodial parent(s) of all siblings  
96 of the child, and any interested relative for the first two (2)  
97 months following the child's entry into the foster care system.  
98 For purposes of contacting custodial parent(s) of a sibling,  
99 siblings include those who are considered a sibling under state



100 law, and those who would have been considered a sibling under  
101 state law, except for termination or disruption of parental  
102 rights. For any child who has been in foster care for fifteen  
103 (15) of the last twenty-two (22) months regardless of whether the  
104 foster care was continuous for all of those twenty-two (22)  
105 months, the department shall file a petition to terminate the  
106 parental rights of the child's parents. The time period starts to  
107 run from the date the court makes a finding of abuse and/or  
108 neglect or sixty (60) days from when the child was removed from  
109 his or her home, whichever is earlier. The department can choose  
110 not to file a termination of parental rights petition if the  
111 following apply:

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

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

121 (4) In the case of any child who is placed in foster care on  
122 or after July 1, 1998, except in cases of aggravated circumstances  
123 prescribed in Section 43-21-603(7)(c), the child's natural  
124 parent(s) will have a reasonable time to be determined by the



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

147 (5) The foster care review once every six (6) months shall  
148 be conducted by the youth court or its designee(s), and/or by  
149 personnel within the Department of \* \* \* Child Protection Services



150 or by a designee or designees of the department and may include  
151 others appointed by the department, and the review shall include  
152 at a minimum an evaluation of the child based on the following:

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

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

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

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

161 (e) Social services offered and/or utilized to  
162 facilitate plans for establishing a permanent home for the child;  
163 and

164 (f) Relevant testimony and recommendations from the  
165 foster parent of the child, the grandparents of the child, the  
166 guardian ad litem of the child, representatives of any private  
167 care agency that has cared for the child, the family protection  
168 worker or family protection specialist assigned to the case, and  
169 any other relevant testimony pertaining to the case.

170 Each child's review plan once every six (6) months shall be  
171 filed with the court which awarded custody and shall be made  
172 available to natural parents or foster parents upon approval of  
173 the court. The court shall make a finding as to the degree of  
174 compliance by the agency and the parent(s) with the child's social



175 service plan. The court also shall find that the child's health  
176 and safety are the paramount concern. In the interest of the  
177 child, the court shall, where appropriate, initiate proceedings on  
178 its own motion. The Department of \* \* \* Child Protection Services  
179 shall report to the Legislature as to the number of those  
180 children, the findings of the foster care review board and  
181 relevant statistical information in foster care in a semiannual  
182 report to the Legislature to be submitted to the Joint Oversight  
183 Committee of the Department of \* \* \* Child Protection Services.  
184 The report shall not refer to the specific name of any child in  
185 foster care.

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

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





200                   (ii) A relative exempted from foster care training  
201 is not eligible for board payments, foster care payments, kinship  
202 care payments, therapeutic care payments, or any other monthly  
203 payments from the department to assist in the care of the child.

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

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

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

219           (8) The Legislature recognizes that the best interests of  
220 the child require that the child be placed in the most permanent  
221 living arrangement as soon as is practicably possible. To achieve  
222 this goal, the Department of \* \* \* Child Protection Services is  
223 directed to conduct concurrent planning so that a permanent living  
224 arrangement may occur at the earliest opportunity. Permanent



225 living arrangements may include prevention of placement of a child  
226 outside the home of the family when the child can be cared for at  
227 home without endangering the child's health or safety;  
228 reunification with the family, when safe and appropriate, if  
229 temporary placement is necessary; or movement of the child toward  
230 the most permanent living arrangement and permanent legal status.  
231 When a child is placed in foster care or relative care, the  
232 department shall first ensure and document that reasonable  
233 efforts, as defined in Section 43-21-105, were made to prevent or  
234 eliminate the need to remove the child from the child's home. The  
235 department's first priority shall be to make reasonable efforts to  
236 reunify the family when temporary placement of the child occurs or  
237 shall request a finding from the court that reasonable efforts are  
238 not appropriate or have been unsuccessful. A decision to place a  
239 child in foster care or relative care shall be made with  
240 consideration of the child's health, safety and best interests.  
241 At the time of placement, consideration should also be given so  
242 that if reunification fails or is delayed, the placement made is  
243 the best available placement to provide a permanent living  
244 arrangement for the child. The department shall adopt rules  
245 addressing concurrent planning for reunification and a permanent  
246 living arrangement. The department shall consider the following  
247 factors when determining appropriateness of concurrent planning:  
248           (a) The likelihood of prompt reunification;  
249           (b) The past history of the family;



250 (c) The barriers to reunification being addressed by  
251 the family;

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

253 (e) The foster parents' willingness to work with the  
254 family to reunite;

255 (f) The willingness and ability of the foster family or  
256 relative placement to provide an adoptive home or long-term  
257 placement;

258 (g) The age of the child; and

259 (h) Placement of siblings.

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



275 parents or relative placement shall be given the prior right of  
276 return placement in order to eliminate additional trauma to the  
277 child.

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

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

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



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

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

304 (d) Support from the family protection worker or the  
305 family protection specialist in efforts to do a better day-to-day  
306 job in caring for the child and in working to achieve the agency's  
307 objectives for the child and the birth family through provision  
308 of:

309 (i) Pertinent information about the child and the  
310 birth family;

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

313 (iii) Direct interviews between the family  
314 protection worker or specialist and the child, previously  
315 discussed and understood by the foster parents;

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

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

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



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

326 (i) Reimbursement for property damages caused by  
327 children in the custody of the Department of \* \* \* Child  
328 Protection Services in an amount not to exceed Five Hundred  
329 Dollars (\$500.00), as evidenced by written documentation. The  
330 Department of \* \* \* Child Protection Services shall not incur  
331 liability for any damages as a result of providing this  
332 reimbursement.

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

336 (a) Understanding the department's function in regard  
337 to the foster care and relative care program and related social  
338 service programs;

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

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

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



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

350 (f) Expressing their views of agency practices which  
351 relate to the child with the appropriate staff member;

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

356 (h) Cooperating with any plan to reunite the child with  
357 his birth family and work with the birth family to achieve this  
358 goal; and

359 (i) Attending dispositional review hearings and  
360 termination of parental rights hearings conducted by a court of  
361 competent jurisdiction, or providing their recommendations to the  
362 court in writing.

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

365 43-15-17. (1) The Department of \* \* \* Child Protection  
366 Services is authorized to make such payments as may be appropriate  
367 for supportive services to facilitate either the return of  
368 children to their natural parents or their adoption, depending  
369 upon and contingent upon the availability of the Department  
370 of \* \* \* Child Protection Services securing or having sufficient



371 funds to render this supportive service. Upon court order, the  
372 parent(s) shall be responsible for reimbursing the department for  
373 any foster care or kinship care payments made on behalf of his or  
374 her child, based upon financial ability to pay, until such time as  
375 there is a termination of parental rights regarding the child, or  
376 the child is adopted.

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





396 (3) For a child placed in the care of the child's relative  
397 within the third degree by the state or county departments of  
398 human services, unless a child is placed in the care of a relative  
399 who is exempt from foster care training requirements, the  
400 department shall make monthly payments to defray the relative's  
401 expense of furnishing room and board. The department's relative  
402 care payment shall be in an amount up to one hundred percent  
403 (100%) of the amount of the foster care board payment. The  
404 department may continue to make those payments to the relative  
405 after the department relinquishes legal custody of the child to  
406 the relative if the relative has complied with foster care  
407 training requirements. Any such payments for relative care shall  
408 be subject to specific appropriation therefor by the Legislature.

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

411 43-21-105. The following words and phrases, for purposes of  
412 this chapter, shall have the meanings ascribed herein unless the  
413 context clearly otherwise requires:

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

415 (b) "Judge" means the judge of the Youth Court  
416 Division.

417 (c) "Designee" means any person that the judge appoints  
418 to perform a duty which this chapter requires to be done by the  
419 judge or his designee. The judge may not appoint a person who is



420 involved in law enforcement or who is an employee of the  
421 Mississippi Department of Human Services to be his designee.

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

427 (e) "Parent" means the father or mother to whom the  
428 child has been born, or the father or mother by whom the child has  
429 been legally adopted.

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

432 (g) "Custodian" means any person having the present  
433 care or custody of a child whether such person be a parent or  
434 otherwise.

435 (h) "Legal custodian" means a court-appointed custodian  
436 of the child.

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

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



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

448 (i) Is habitually disobedient of reasonable and  
449 lawful commands of his parent, guardian or custodian and is  
450 ungovernable; or

451 (ii) While being required to attend school,  
452 willfully and habitually violates the rules thereof or willfully  
453 and habitually absents himself therefrom; or

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

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

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

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

468 (ii) Who is otherwise without proper care,  
469 custody, supervision or support; or



470 (iii) Who, for any reason, lacks the special care  
471 made necessary for him by reason of his mental condition, whether  
472 the mental condition is having mental illness or having an  
473 intellectual disability; or

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

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

488 (n) "Sexual abuse" means obscene or pornographic  
489 photographing, filming or depiction of children for commercial  
490 purposes, or the rape, molestation, incest, prostitution or other  
491 such forms of sexual exploitation of children under circumstances  
492 which indicate that the child's health or welfare is harmed or  
493 threatened.



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

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

503           (q) "Custody" means the physical possession of the  
504 child by any person.

505           (r) "Legal custody" means the legal status created by a  
506 court order which gives the legal custodian the responsibilities  
507 of physical possession of the child and the duty to provide him  
508 with food, shelter, education and reasonable medical care, all  
509 subject to residual rights and responsibilities of the parent or  
510 guardian of the person.

511           (s) "Detention" means the care of children in  
512 physically restrictive facilities.

513           (t) "Shelter" means care of children in physically  
514 nonrestrictive facilities.

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

517           (i) All youth court records as defined in Section  
518 43-21-251;



519                   (ii) All social records as defined in Section  
520 43-21-253;

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

523                   (iv) All agency records as defined in Section  
524 43-21-257; and

525                   (v) All other documents maintained by any  
526 representative of the state, county, municipality or other public  
527 agency insofar as they relate to the apprehension, custody,  
528 adjudication or disposition of a child who is the subject of a  
529 youth court cause.

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

537                   (w) The singular includes the plural, the plural the  
538 singular and the masculine the feminine when consistent with the  
539 intent of this chapter.

540                   (x) "Out-of-home" setting means the temporary  
541 supervision or care of children by the staff of licensed day care  
542 centers, the staff of public, private and state schools, the staff  
543 of juvenile detention facilities, the staff of unlicensed



544 residential care facilities and group homes and the staff of, or  
545 individuals representing, churches, civic or social organizations.

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

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

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

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

566 (cc) "Screening" means a process, with or without the  
567 administration of a formal instrument, that is designed to  
568 identify a child who is at increased risk of having mental health,



569 substance abuse or co-occurring mental health and substance abuse  
570 disorders that warrant immediate attention, intervention or more  
571 comprehensive assessment.

572 (dd) "Durable legal relative guardianship" means the  
573 legal status created by a youth court order that conveys the  
574 physical and legal custody of a child or children by durable legal  
575 guardianship to a relative or fictive kin who is licensed as a  
576 foster or resource parent.

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

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

583 (gg) "Reasonable efforts" means the exercise of  
584 reasonable care and due diligence by the Department of Human  
585 Services, the Department of Child Protection Services, or any  
586 other appropriate entity or person to use appropriate and  
587 available services to prevent the unnecessary removal of the child  
588 from the home or provide other services related to meeting the  
589 needs of the child and the parents.

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





592 43-21-609. In neglect and abuse cases, the disposition order  
593 may include any of the following alternatives, giving precedence  
594 in the following sequence:

595 (a) Release the child without further action;

596 (b) Place the child in the custody of his parents, a  
597 relative or other person subject to any conditions and limitations  
598 as the court may prescribe. If the court finds that temporary  
599 relative placement, adoption or foster care placement is  
600 inappropriate, unavailable or otherwise not in the best interest  
601 of the child, durable legal custody may be granted by the court to  
602 any person subject to any limitations and conditions the court may  
603 prescribe; such durable legal custody will not take effect unless  
604 the child or children have been in the physical custody of the  
605 proposed durable custodians for at least \* \* \* six (6) months  
606 under the supervision of the Department of Human Services. The  
607 requirements of Section 43-21-613 as to disposition review  
608 hearings \* \* \* do not apply to those matters in which the court  
609 has granted durable legal custody. In such cases, the Department  
610 of Human Services shall be released from any oversight or  
611 monitoring responsibilities;

612 (c) (i) Grant durable legal relative guardianship to a  
613 relative or fictive kin licensed as a foster parent if the  
614 licensed relative foster parent or licensed fictive kin foster  
615 parent exercised physical custody of the child for at least six  
616 (6) months before the grant of durable legal relative guardianship



617 and the Department of Child Protection Services had legal custody  
618 or exercised supervision of the child for at least six (6) months.  
619 In order to establish durable legal relative guardianship, the  
620 youth court must find the following:

621 1. That both reunification and adoption have  
622 been determined to be inappropriate;

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

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

629 (ii) The requirements of Section 43-21-613 as to  
630 disposition review hearings do not apply to a hearing concerning  
631 durable legal relative guardianship. However, the Department of  
632 Child Protection Services must conduct an annual review and  
633 recertification of the durable legal relative guardianship to  
634 determine whether it remains in the best interest of the child.

635 If a material change in circumstances occurs adverse to the best  
636 interest of the child, the parent, relative guardian, fictive kin  
637 guardian, or Department of Child Protection Services may petition  
638 the court to review the durable legal relative guardianship;

639 ( \* \* \*d) Order terms of treatment calculated to assist  
640 the child and the child's parent, guardian or custodian which are



641 within the ability of the parent, guardian or custodian to  
642 perform;

643 ( \* \* \*e) Order youth court personnel, the Department  
644 of \* \* \* Child Protection Services or child care agencies to  
645 assist the child and the child's parent, guardian or custodian to  
646 secure social or medical services to provide proper supervision  
647 and care of the child;

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

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

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

659 ( \* \* \*g) If the court makes a finding that custody is  
660 necessary as defined in Section 43-21-301(3)(b), and that the  
661 child, in the action pending before the youth court had not  
662 previously been taken into custody, the disposition order shall  
663 recite that the effect of the continuation of the child's residing  
664 within his or her own home would be contrary to the welfare of the  
665 child, that the placement of the child in foster care is in the



666 best interests of the child, and unless the reasonable efforts  
667 requirement is bypassed under Section 43-21-603(7)(c), the order  
668 also must state:

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

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

677 (iii) If the court makes a finding in accordance  
678 with (ii) of this paragraph, the court shall order that reasonable  
679 efforts be made towards the reunification of the child with his or  
680 her family \* \* \* or

681 ( \* \* \* h) If the court had, before the disposition  
682 hearing in the action pending before the court, taken the child  
683 into custody, the judge or referee shall determine, and the youth  
684 court order shall recite that reasonable efforts were made by the  
685 Department of \* \* \* Child Protection Services to finalize the  
686 child's permanency plan that was in effect on the date of the  
687 disposition hearing.

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



690           43-21-613. (1) If the youth court finds, after a hearing  
691 which complies with the sections governing adjudicatory hearings,  
692 that the terms of a delinquency or child in need of supervision  
693 disposition order, probation or parole have been violated, the  
694 youth court may, in its discretion, revoke the original  
695 disposition and make any disposition which it could have  
696 originally ordered. The hearing shall be initiated by the filing  
697 of a petition that complies with the sections governing petitions  
698 in this chapter and that includes a statement of the youth court's  
699 original disposition order, probation or parole, the alleged  
700 violation of that order, probation or parole, and the facts which  
701 show the violation of that order, probation or parole. Summons  
702 shall be served in the same manner as summons for an adjudicatory  
703 hearing.

704           (2) On motion of a child or a child's parent, guardian or  
705 custodian, the youth court may, in its discretion, conduct an  
706 informal hearing to review the disposition order. If the youth  
707 court finds a material change of circumstances relating to the  
708 disposition of the child, the youth court may modify the  
709 disposition order to any appropriate disposition of equal or  
710 greater precedence which the youth court could have originally  
711 ordered.

712           (3) (a) Unless the youth court's jurisdiction has been  
713 terminated, all disposition orders for supervision, probation or  
714 placement of a child with an individual or an agency shall be



715 reviewed by the youth court judge or referee at least annually to  
716 determine if continued placement, probation or supervision is in  
717 the best interest of the child or the public. For children who  
718 have been adjudicated abused or neglected, the youth court shall  
719 conduct a permanency hearing within twelve (12) months after the  
720 earlier of:

721 (i) An adjudication that the child has been abused  
722 or neglected; or

723 (ii) The date of the child's removal from the  
724 allegedly abusive or neglectful custodian/parent. Notice of such  
725 hearing shall be given in accordance with the provisions of  
726 Section 43-21-505(5). In conducting the hearing, the judge or  
727 referee shall require a written report and may require information  
728 or statements from the child's youth court counselor, parent,  
729 guardian or custodian, which includes, but is not limited to, an  
730 evaluation of the child's progress and recommendations for further  
731 supervision or treatment. The judge or referee shall, at the  
732 permanency hearing determine the future status of the child,  
733 including, but not limited to, whether the child should be  
734 returned to the parent(s) or placed with suitable relatives,  
735 placed for adoption, placed for the purpose of establishing  
736 durable legal custody or should, because of the child's special  
737 needs or circumstances, be continued in foster care on a permanent  
738 or long-term basis. If the child is in an out-of-state placement,  
739 the hearing shall determine whether the out-of-state placement



740 continues to be appropriate and in the best interest of the child.  
741 At the permanency hearing the judge or referee shall determine,  
742 and the youth court order shall recite that reasonable efforts  
743 were made by the Department of Human Services to finalize the  
744 child's permanency plan that was in effect on the date of the  
745 permanency hearing. The judge or referee may find that reasonable  
746 efforts to maintain the child within his home shall not be  
747 required in accordance with Section 43-21-603(7)(c), and that the  
748 youth court shall continue to conduct permanency hearings for a  
749 child who has been adjudicated abused or neglected, at least  
750 annually thereafter, for as long as the child remains in the  
751 custody of the Mississippi Department of Human Services.

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

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

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

760 (c) The provisions of this subsection shall also apply  
761 to review of cases involving a dependent child; however, such  
762 reviews shall take place not less frequently than once each one  
763 hundred eighty (180) days. A dependent child shall be ordered by  
764 the youth court judge or referee to be returned to the custody and



765 home of the child's parent, guardian or custodian unless the judge  
766 or referee, upon such review, makes a written finding that the  
767 return of the child to the home would be contrary to the child's  
768 best interests.

769 (d) Reviews are not to be conducted unless explicitly  
770 ordered by the youth court concerning those cases in which the  
771 court has granted durable legal custody. In such cases, the  
772 Department of Human Services shall be released from any oversight  
773 or monitoring responsibilities, and relieved of physical and legal  
774 custody and supervision of the child.

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

777 **SECTION 6.** Section 93-5-1, Mississippi Code of 1972, is  
778 amended as follows:

779 93-5-1. Divorces from the bonds of matrimony may be decreed  
780 to the injured party for any one or more of the following twelve  
781 (12) causes:

782 First. Natural impotency.

783 Second. Adultery, unless it should appear that it was  
784 committed by collusion of the parties for the purpose of procuring  
785 a divorce, or unless the parties cohabited after a knowledge by  
786 complainant of the adultery.

787 Third. Being sentenced to any penitentiary, and not pardoned  
788 before being sent there.





789 Fourth. Willful, continued and obstinate desertion for the  
790 space of one (1) year.

791 Fifth. Habitual drunkenness.

792 Sixth. Habitual and excessive use of opium, morphine or  
793 other like drug.

794 Seventh. Habitual Cruel and inhuman treatment, including  
795 spousal domestic abuse.

796 Spousal domestic abuse may be established through the  
797 reliable testimony of a single credible witness, who may be the  
798 injured party, and includes, but is not limited to:

799 That the injured party's spouse attempted to cause, or  
800 purposely, knowingly or recklessly caused bodily injury to the  
801 injured party, or that the injured party's spouse attempted by  
802 physical menace to put the injured party in fear of imminent  
803 serious bodily harm; or

804 That the injured party's spouse engaged in a pattern of  
805 behavior against the injured party of threats or intimidation,  
806 emotional or verbal abuse, forced isolation, sexual extortion or  
807 sexual abuse, or stalking or aggravated stalking as defined in  
808 Section 97-3-107, if the pattern of behavior rises above the level  
809 of unkindness or rudeness or incompatibility or want of affection.

810 Eighth. Having mental illness or an intellectual disability  
811 at the time of marriage, if the party complaining did not know of  
812 that infirmity.



813 Ninth. Marriage to some other person at the time of the  
814 pretended marriage between the parties.

815 Tenth. Pregnancy of the wife by another person at the time  
816 of the marriage, if the husband did not know of the pregnancy.

817 Eleventh. Either party may have a divorce if they are  
818 related to each other within the degrees of kindred between whom  
819 marriage is prohibited by law.

820 Twelfth. Incurable mental illness. However, no divorce  
821 shall be granted upon this ground unless the party with mental  
822 illness has been under regular treatment for mental illness and  
823 causes thereof, confined in an institution for persons with mental  
824 illness for a period of at least three (3) years immediately  
825 preceding the commencement of the action. However, transfer of a  
826 party with mental illness to his or her home for treatment or a  
827 trial visit on prescription or recommendation of a licensed  
828 physician, which treatment or trial visit proves unsuccessful  
829 after a bona fide effort by the complaining party to effect a  
830 cure, upon the reconfinement of the party with mental illness in  
831 an institution for persons with mental illness, shall be regular  
832 treatment for mental illness and causes thereof, and the period of  
833 time so consumed in seeking to effect a cure or while on a trial  
834 visit home shall be added to the period of actual confinement in  
835 an institution for persons with mental illness in computing the  
836 required period of three (3) years confinement immediately  
837 preceding the beginning of the action. No divorce shall be



838 granted because of mental illness until after a thorough  
839 examination of the person with mental illness by two (2)  
840 physicians who are recognized authorities on mental diseases. One  
841 (1) of those physicians shall be either the superintendent of a  
842 state psychiatric hospital or institution or a veterans hospital  
843 for persons with mental illness in which the patient is confined,  
844 or a member of the medical staff of that hospital or institution  
845 who has had the patient in charge. Before incurable mental  
846 illness can be successfully proven as a ground for divorce, it  
847 shall be necessary that both of those physicians make affidavit  
848 that the patient is a person with mental illness at the time of  
849 the examination, and both affidavits shall be made a part of the  
850 permanent record of the divorce proceedings and shall create the  
851 prima facie presumption of incurable mental illness, such as would  
852 justify a divorce based on that ground. Service of process shall  
853 be made on the superintendent of the hospital or institution in  
854 which the defendant is a patient. If the patient is in a hospital  
855 or institution outside the state, process shall be served by  
856 publication, as in other cases of service by publication, together  
857 with the sending of a copy by registered mail to the  
858 superintendent of the hospital or institution. In addition,  
859 process shall be served upon the next blood relative and guardian,  
860 if any. If there is no legal guardian, the court shall appoint a  
861 guardian ad litem to represent the interest of the person with  
862 mental illness. The relative or guardian and superintendent of



863 the hospital or institution shall be entitled to appear and be  
864 heard upon any and all issues. The status of the parties as to  
865 the support and maintenance of the person with mental illness  
866 shall not be altered in any way by the granting of the divorce.

867 However, in the discretion of the chancery court, and in  
868 those cases as the court may deem it necessary and proper, before  
869 any such decree is granted on the ground of incurable mental  
870 illness, the complainant, when ordered by the court, shall enter  
871 into bond, to be approved by the court, in such an amount as the  
872 court may think just and proper, conditioned for the care and  
873 keeping of the person with mental illness during the remainder of  
874 his or her natural life, unless the person with mental illness has  
875 a sufficient estate in his or her own right for that purpose.

876 **SECTION 7.** Section 93-17-303, Mississippi Code of 1972, is  
877 amended as follows:

878 93-17-303. (1) A child who has automatically acquired  
879 United States citizenship following a foreign adoption and who  
880 possesses a Certificate of Citizenship in accordance with the  
881 Child Citizenship Act, Public Law 106-395, may be issued a  
882 Mississippi birth certificate upon compliance with this article  
883 and the requirements for adoptions under this chapter to the  
884 extent not superseded by this article.

885 (2) A parent shall not proceed under this article if the  
886 foreign adoption has been registered or otherwise finalized by a  
887 court of this or any other state.



888           (3) A parent who is eligible to obtain a decree of  
889 registration of a foreign adoption under this article may proceed  
890 pro se.

891           **SECTION 8.** This act shall take effect and be in force from  
892 and after July 1, 2017.

