

By: Representative Gipson

To: Judiciary B

HOUSE BILL NO. 1171

1 AN ACT TO AMEND SECTIONS 7-9-41, 7-9-43, 9-1-105, 11-46-1,
2 11-46-8, 37-23-77, 37-106-69, 37-115-43, 41-3-18, 41-7-173,
3 41-21-67, 41-67-12, 41-87-5, 43-1-12, 43-1-63, 43-14-1, 43-14-5,
4 43-15-3, 43-15-5, 43-15-6, 43-15-7, 43-15-11, 43-15-15, 43-15-17,
5 43-15-19, 43-15-21, 43-15-23, 43-15-51, 43-15-103, 43-15-105,
6 43-15-107, 43-15-109, 43-15-113, 43-15-115, 43-15-117, 43-15-119,
7 43-15-121, 43-15-125, 43-15-201, 43-15-203, 43-15-207, 43-16-3,
8 43-16-21, 43-18-3, 43-18-5, 43-20-8, 43-21-105, 43-21-203,
9 43-21-257, 43-21-261, 43-21-301, 43-21-309, 43-21-315, 43-21-351,
10 43-21-353, 43-21-354, 43-21-357, 43-21-405, 43-21-603, 43-21-561,
11 43-21-613, 43-26-1, 43-27-101, 43-27-103, 43-27-109, 43-27-113,
12 43-27-115, 43-27-117, 57-39-43, 93-5-23, 93-17-3, 93-17-5,
13 93-17-8, 93-17-11, 93-17-12, 93-17-53, 93-17-57, 93-17-59,
14 93-17-61, 93-17-63, 93-17-65, 93-17-67, 93-17-69, 93-17-101,
15 93-17-103, 93-17-107, 93-17-109, 93-17-203, 93-21-307, 93-21-311,
16 93-31-3, 97-3-54.1, 97-5-24, 37-5-39, 97-5-51, 97-29-49 AND
17 43-21-251, MISSISSIPPI CODE OF 1972, TO MAKE TECHNICAL AMENDMENTS
18 TO CERTAIN PROVISIONS OF LAW PERTAINING TO THE DEPARTMENT OF HUMAN
19 SERVICES AND THE DEPARTMENT OF CHILD PROTECTION SERVICES TO
20 ACCURATELY REFLECT THE SEPARATION OF THE DEPARTMENT OF CHILD
21 PROTECTION SERVICES FROM THE DEPARTMENT OF HUMAN SERVICES; TO
22 AMEND SECTION 25-9-127, MISSISSIPPI CODE OF 1972, TO EXEMPT
23 PERSONNEL ACTIONS OF THE DEPARTMENT OF CHILD PROTECTION SERVICES
24 FROM THE RULES AND REGULATIONS OF THE STATE PERSONNEL BOARD FOR A
25 PERIOD OF ONE YEAR; TO CREATE NEW SECTION 43-26-5, MISSISSIPPI
26 CODE OF 1972, TO GIVE THE DEPARTMENT OF CHILD PROTECTION SERVICES
27 CERTAIN POWERS AND DUTIES; TO CREATE NEW SECTION 43-26-3,
28 MISSISSIPPI CODE OF 1972, TO GIVE THE COMMISSIONER OF THE
29 DEPARTMENT OF CHILD PROTECTION SERVICES CERTAIN POWERS AND DUTIES;
30 AND FOR RELATED PURPOSES.

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



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

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

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

49 The executive heads, together with the secretary or other
50 person in charge of the books and accounts, of the state
51 institutions of higher learning, if they receive such written
52 approval, shall make up, in the form prescribed by the State
53 Fiscal Officer and the State Treasurer, checklists of all
54 salaries, accounts, bills, contracts and claims which shall have
55 accrued during the month. Based upon such statement and in
56 company with it, the state institutions of higher learning,



57 through their proper officers, shall make requisition upon the
58 State Fiscal Officer for only so much money as shall then be
59 needed to pay salaries, accounts, bills, contracts and claims
60 which may then be due, together with a reasonable amount for
61 contingent expenses.

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

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



81 (3) In the case of the * * * Department of Human Services
82 and the Department of Child Protection Services, lump-sum
83 withdrawals may only be made as provided for in subsection (2) of
84 this section for payments to recipients of services provided by
85 the department.

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

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



106 such state institutions^u of higher learning for which it shall be a
107 depository, and turn over all funds and accounts to its legal
108 successor, provided all private hospitals shall be exempted from
109 providing depositories.

110 All books, accounts and reports made thereon for any funds
111 shall conform to the requirements of the General Accounting
112 Office, and shall be filed with the said General Accounting
113 Office.

114 **SECTION 3.** Section 9-1-105, Mississippi Code of 1972, is
115 amended as follows:

116 9-1-105. (1) Whenever any judicial officer is unwilling or
117 unable to hear a case or unable to hold or attend any of the
118 courts at the time and place required by law by reason of the
119 physical disability or sickness of such judicial officer, by
120 reason of the absence of such judicial officer from the state, by
121 reason of the disqualification of such judicial officer pursuant
122 to the provision of Section 165, Mississippi Constitution of 1890,
123 or any provision of the Code of Judicial Conduct, or for any other
124 reason, the Chief Justice of the Mississippi Supreme Court, with
125 the advice and consent of a majority of the justices of the
126 Mississippi Supreme Court, may appoint a person as a special judge
127 to hear the case or attend and hold a court.

128 (2) Upon the request of the Chief Judge of the Court of
129 Appeals * * *,^u the senior judge of a chancery or circuit court
130 district, the senior judge of a county court, or upon his own



131 motion, the Chief Justice of the Mississippi Supreme Court, with
132 the advice and consent of a majority of the justices of the
133 Mississippi Supreme Court, shall have the authority to appoint a
134 special judge to serve on a temporary basis in a circuit * * *,
135 chancery, or county court in the event of an emergency or
136 overcrowded docket. It shall be the duty of any special judge so
137 appointed to assist the court to which he is assigned in the
138 disposition of causes so pending in such court for whatever period
139 of time is designated by the Chief Justice. The Chief Justice, in
140 his discretion, may appoint the special judge to hear particular
141 cases, a particular type of case, or a particular portion of the
142 court's docket.

143 (3) When a vacancy exists for any of the reasons enumerated
144 in Section 9-1-103, the vacancy has not been filled within seven
145 (7) days by an appointment by the Governor, and there is a pending
146 cause or are pending causes in the court where the vacancy exists
147 that in the interests of justice and in the orderly dispatch of
148 the court's business require the appointment of a special judge,
149 the Chief Justice of the Supreme Court, with the advice and
150 consent of a majority of the justices of the Mississippi Supreme
151 Court, may appoint a qualified person as a special judge to fill
152 the vacancy until the Governor makes his appointment and such
153 appointee has taken the oath of office.

154 (4) If the Chief Justice pursuant to this section shall make
155 an appointment within the authority vested in the Governor by



156 reason of Section 165, Mississippi Constitution of 1890, the
157 Governor may at his election appoint a person to so serve. In the
158 event that the Governor makes such an appointment, any appointment
159 made by the Chief Justice pursuant to this section shall be void
160 and of no further force or effect from the date of the Governor's
161 appointment.

162 (5) When a judicial officer is unwilling or unable to hear a
163 case or unable or unwilling to hold court for a period of time not
164 to exceed two (2) weeks, the trial judge or judges of the affected
165 district or county and other trial judges may agree among
166 themselves regarding the appointment of a person for such case or
167 such limited period of time. The trial judges shall submit a
168 notice to the Chief Justice of the Supreme Court informing him of
169 their appointment. If the Chief Justice does not appoint another
170 person to serve as special judge within seven (7) days after
171 receipt of such notice, the person designated in such order shall
172 be deemed appointed.

173 (6) A person appointed to serve as a special judge may be
174 any currently sitting or retired chancery, circuit or county court
175 judge, Court of Appeals judge or Supreme Court Justice, or any
176 other person possessing the qualifications of the judicial office
177 for which the appointment is made; provided, however, that a judge
178 or justice who was retired from service at the polls shall not be
179 eligible for appointment as a special judge in the district in
180 which he served prior to his defeat.



181 (7) Except as otherwise provided in subsection (2) of this
182 section, the need for an appointment pursuant to this section may
183 be certified to the Chief Justice of the Mississippi Supreme Court
184 by any attorney in good standing or other officer of the court.

185 (8) The order appointing a person as a special judge
186 pursuant to this section shall describe as specifically as
187 possible the duration of the appointment.

188 (9) A special judge appointed pursuant to this section shall
189 take the oath of office, if necessary, and shall, for the duration
190 of his appointment, enjoy the full power and authority of the
191 office to which he is appointed.

192 (10) Any currently sitting justice or judge appointed as a
193 special judge under this section shall receive no additional
194 compensation for his or her service as special judge. Any other
195 person appointed as a special judge hereunder shall, for the
196 period of his service, receive compensation from the state for
197 each day's service a sum equal to 1/260 of the current salary in
198 effect for the judicial office; provided, however, that no retired
199 chancery, circuit or county court judge, retired Court of Appeals
200 judge or any retired Supreme Court Justice appointed as a special
201 judge pursuant to this section may, during any fiscal year,
202 receive compensation in excess of fifty percent (50%) of the
203 current salary in effect for a chancery or circuit court judge.
204 Any person appointed as a special judge shall be reimbursed for
205 travel expenses incurred in the performance of the official duties



206 to which he may be appointed hereunder in the same manner as other
207 public officials and employees as provided by Section 25-3-41,
208 Mississippi Code of 1972.

209 (11) If any person appointed as such special judge is
210 receiving retirement benefits by virtue of the provisions of the
211 Public Employees' Retirement Law of 1952, appearing as Sections
212 25-11-1 through 25-11-139, Mississippi Code of 1972, such benefits
213 shall not be reduced in any sum whatsoever because of such
214 service, nor shall any sum be deducted as contributions toward
215 retirement under said law.

216 (12) The Supreme Court shall have authority to prescribe
217 rules and regulations reasonably necessary to implement and give
218 effect to the provisions of this section.

219 (13) Nothing in this section shall abrogate the right of
220 attorneys engaged in a case to agree upon a member of the bar to
221 preside in a case pursuant to Section 165 of the Mississippi
222 Constitution of 1890.

223 (14) The Supreme Court shall prepare the necessary payroll
224 for special judges appointed pursuant to this section and shall
225 submit such payroll to the Department of Finance and
226 Administration.

227 (15) Special judges appointed pursuant to this section shall
228 direct requests for reimbursement for travel expenses authorized
229 pursuant to this section to the Supreme Court and the Supreme
230 Court shall submit such requests to the Department of Finance and



231 Administration. The Supreme Court shall have the power to adopt
232 rules and regulations regarding the administration of travel
233 expenses authorized pursuant to this section.

234 **SECTION 4.** Section 11-46-1, Mississippi Code of 1972, is
235 amended as follows:

236 11-46-1. As used in this chapter, the following terms shall
237 have the meanings ascribed unless the context otherwise requires:

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

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

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

244 (d) "Department" means the Department of Finance and
245 Administration.

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

248 (f) "Employee" means any officer, employee or servant
249 of the State of Mississippi or a political subdivision of the
250 state, including elected or appointed officials and persons acting
251 on behalf of the state or a political subdivision in any official
252 capacity, temporarily or permanently, in the service of the state
253 or a political subdivision whether with or without compensation,
254 including firefighters who are members of a volunteer fire
255 department that is a political subdivision. The term "employee"



256 shall not mean a person or other legal entity while acting in the
257 capacity of an independent contractor under contract to the state
258 or a political subdivision; and

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

262 1. Physicians under contract to provide
263 health services with the State Board of Health, the State Board of
264 Mental Health or any county or municipal jail facility while
265 rendering services under the contract;

266 2. Any physician, dentist or other health
267 care practitioner employed by the University of Mississippi
268 Medical Center (UMMC) and its departmental practice plans who is a
269 faculty member and provides health care services only for patients
270 at UMMC or its affiliated practice sites, including any physician
271 or other health care practitioner employed by UMMC under an
272 arrangement with a public or private health-related organization;

273 3. Any physician, dentist or other health
274 care practitioner employed by any university under the control of
275 the Board of Trustees of State Institutions of Higher Learning who
276 practices only on the campus of any university under the control
277 of the Board of Trustees of State Institutions of Higher Learning;

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



280 who provides health care services for patients for the State
281 Veterans Affairs Board;

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

286 (iii) The term "employee" also shall include any
287 employee or member of the governing board of a charter school but
288 shall not include any person or entity acting in the capacity of
289 an independent contractor to provide goods or services under a
290 contract with a charter school.

291 (g) "Governmental entity" means the state and political
292 subdivisions.

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

296 (i) "Political subdivision" means any body politic or
297 body corporate other than the state responsible for governmental
298 activities only in geographic areas smaller than that of the
299 state, including, but not limited to, any county, municipality,
300 school district, charter school, volunteer fire department that is
301 a chartered nonprofit corporation providing emergency services
302 under contract with a county or municipality, community hospital
303 as defined in Section 41-13-10, airport authority, or other
304 instrumentality of the state, whether or not the body or



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

307 (j) "State" means the State of Mississippi and any
308 office, department, agency, division, bureau, commission, board,
309 institution, hospital, college, university, airport authority or
310 other instrumentality thereof, whether or not the body or
311 instrumentality has the authority to levy taxes or to sue or be
312 sued in its own name.

313 (k) "Law" means all species of law, including, but not
314 limited to, any and all constitutions, statutes, case law, common
315 law, customary law, court order, court rule, court decision, court
316 opinion, court judgment or mandate, administrative rule or
317 regulation, executive order, or principle or rule of equity.

318 **SECTION 5.** Section 11-46-8, Mississippi Code of 1972, is
319 amended as follows:

320 11-46-8. Mississippi Department of * * * Child Protection
321 Services licensed foster parents shall be covered under this
322 chapter for claims made by parties other than the foster child
323 which are based on inadequate supervision or inadequate care of
324 the foster child on the part of the foster parent.

325 **SECTION 6.** Section 37-23-77, Mississippi Code of 1972, is
326 amended as follows:

327 37-23-77. If a child, as defined in Sections 37-23-61 and
328 37-23-63, is under the legal guardianship of the * * * Mississippi
329 Department of * * * Child Protection Services, or any other state



330 agency, and for whom no foster parents are available and no
331 state-funded institution placement is available, funds available
332 under Section 37-23-1 et seq. may be used to provide for the
333 education of the child in an institution approved by the
334 Department of * * * Child Protection Services and the State
335 Department of Education. However, if the educational services
336 needed by the child are available in a state funded institution,
337 these funds shall not be used to pay for educational services at
338 that institution. At any such time a child is taken out of a
339 school setting and placed under the custody of the Department
340 of * * * Child Protection Services, the department shall
341 immediately notify the State Department of Education and apply for
342 funds for the child's educational services under Section 37-23-1
343 et seq. and the State Department of Education shall respond to the
344 application within ten (10) working days. The special education
345 and related services provided for this child shall be provided in
346 compliance with State Department of Education regulations. The
347 State Department of Education shall promulgate such regulations as
348 are necessary to implement this section.

349 The State Department of Education shall require that the
350 special education and related services provided for the children
351 under this section be designed to provide individualized
352 appropriate special education and related services that enable a
353 child to reach his or her appropriate and uniquely designed goals
354 for success.



355 **SECTION 7.** Section 37-106-69, Mississippi Code of 1972, is
356 amended as follows:

357 37-106-69. (1) There is established a forgivable loan
358 program to encourage family protection workers employed by the
359 Department of * * * Child Protection Services to obtain the
360 college education necessary to become licensed as a social worker,
361 master social worker or certified social worker and become a
362 family protection specialist for the department.

363 (2) Any person who is employed as a family protection worker
364 for the Department of * * * Child Protection Services shall be
365 eligible for a forgivable loan from the board which shall be used
366 to pay the costs of the person's education at a state institution
367 of higher learning in Mississippi to obtain a college degree that
368 is necessary to become licensed as a social worker, master social
369 worker or certified social worker and become a family protection
370 specialist for the department. The annual amount of a forgivable
371 loan award under the program shall be equal to the total cost of
372 tuition and fees at the college or university in which the student
373 is enrolled, not to exceed an amount equal to the highest total
374 cost of tuition and fees assessed by a state institution of higher
375 learning during that school year.

376 (3) Forgivable loans made under the program shall be
377 available to both full-time and part-time students. Students
378 enrolling on a full-time basis may receive a maximum of two (2)
379 annual awards. The maximum number of forgivable loans that may be



380 made to students attending school on a part-time basis, and the
381 maximum time period for part-time students to complete the number
382 of academic hours necessary to obtain the necessary degree, shall
383 be established by rules and regulations of the board. Forgivable
384 loans made under the program shall not be based upon an
385 applicant's financial need. A student must maintain a "C" average
386 or higher in his or her college coursework in order to continue
387 receiving the forgivable loan.

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

390 (a) After a person who received a forgivable loan under
391 the program has obtained a college degree that is necessary to
392 become licensed as a social worker, master social worker or
393 certified social worker and has received such a license from the
394 Board of Examiners for Social Workers and Marriage and Family
395 Therapists, the person shall render service as a family protection
396 specialist for the Department of * * * Child Protection Services
397 for a period of not less than three (3) years from the date that
398 the person became a family protection specialist;

399 (b) Any person who fails to complete his or her service
400 obligation as a family protection specialist for the Department
401 of * * * Child Protection Services for not less than three (3)
402 years, as required under subsection (4) (a) of this section, shall
403 become liable immediately to the board for the sum of all
404 forgivable loan awards made to that person, plus interest accruing



405 at the current Stafford Loan rate at the time the person
406 discontinues his or her service.

407 (5) It is the intent of the Legislature that the pursuit of
408 necessary college education by family protection workers through
409 the forgivable loan program shall not interfere with the duties of
410 the family protection workers with the Department of * * * Child
411 Protection Services. The department shall promulgate regulations
412 regarding family protection workers who participate in the
413 forgivable loan program to ensure that such participation does not
414 interfere with their duties with the department.

415 (6) The board shall promulgate rules and regulations
416 necessary for the proper administration of the forgivable loan
417 program established under this section. The board shall be the
418 administering agency of the program.

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

422 **SECTION 8.** Section 37-115-43, Mississippi Code of 1972, is
423 amended as follows:

424 37-115-43. (1) The University of Mississippi Medical
425 Center, in collaboration with the Mississippi Department of * * *
426 Child Protection Services and the Office of the Attorney General,
427 is authorized and empowered to establish a Center of Excellence
428 (Center) * * * to provide care for abused and neglected children
429 at the Blair E. Batson Hospital for Children located in Jackson,



430 Mississippi, where suspected victims of child maltreatment
431 referred by the Department of * * * Child Protection Services or
432 law enforcement will receive comprehensive physical examinations
433 conducted by medical professionals who specialize in child
434 maltreatment. The University of Mississippi Medical Center shall
435 promulgate such policies as may be necessary and desirable to
436 carry out the programs of the Center. The Center shall serve as a
437 resource for the assessment, investigation and prosecution of
438 child maltreatment. The Center shall work in collaboration with
439 the Office of the Attorney General, the Mississippi Department
440 of * * * Child Protection Services, and other such state agencies
441 and entities that provide services to children * * * to ensure
442 that CARE Clinic services are provided in a uniform fashion
443 throughout the state.

444 (2) The Department of Pediatrics may use the Center for
445 educational and outreach programs, telemedicine consultations, to
446 develop satellite clinics in other locations in the state in
447 cooperation with the local community or private hospital when
448 applicable, and to conduct major research initiatives in child
449 maltreatment.

450 (3) The Center of Excellence shall provide services to
451 maltreated children and comply with national certification
452 standards as necessary to provide services to the Department
453 of * * * Child Protection Services, the youth courts, state child



454 advocacy centers, district attorney's offices and law enforcement
455 agencies.

456 (4) There is created in the State Treasury a special fund to
457 be known as the Children's Safe Center Fund. The University of
458 Mississippi Medical Center shall expend funds pursuant to
459 appropriation therefor by the Legislature for the support and
460 maintenance of the Children's Safe Center. The University of
461 Mississippi Medical Center is authorized to accept any and all
462 grants, donations or matching funds from private, public or
463 federal sources in order to add to, improve and enlarge the
464 physical facilities of the Center and to expend any such funds for
465 the support and maintenance of the Center. Assessments from
466 Section 99-19-73 designated for the Children's Safe Center Fund
467 shall be deposited into the fund. Monies remaining in the fund at
468 the end of a fiscal year shall not lapse into the State General
469 Fund, and any interest earned from the investment of monies in the
470 fund shall be deposited to the credit of the fund.

471 **SECTION 9.** Section 41-3-18, Mississippi Code of 1972, is
472 amended as follows:

473 41-3-18. (1) The board shall assess fees in the following
474 amounts and for the following purposes:

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

477 Assessment Category 1.....\$ 30.00
478 Assessment Category 2..... 100.00



479 Assessment Category 3..... 150.00
480 Assessment Category 4..... 200.00
481 (b) Private water supply approval fee.....\$ 10.00

482 The board may develop such reasonable standards, rules and
483 regulations to clearly define each assessment category.
484 Assessment categories shall be based upon the factors to the
485 public health implications of the category and type of food
486 preparation being utilized by the food establishment, utilizing
487 the model Food Code of 1995, or as may be amended by the federal
488 Food and Drug Administration.

489 Any increase in the fees charged by the board under this
490 subsection shall be in accordance with the provisions of Section
491 41-3-65.

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

494 (a) Food establishments operated by public schools,
495 public junior and community colleges, or state agencies or
496 institutions, including, without limitation, the state
497 institutions of higher learning and the State Penitentiary; and

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

502 (3) The fee authorized under subsection (1) (b) of this
503 section shall not be assessed for private water supplies used by



504 foster homes licensed by the Department of * * * Child Protection
505 Services.

506 **SECTION 10.** Section 41-7-173, Mississippi Code of 1972, is
507 amended as follows:

508 41-7-173. For the purposes of Section 41-7-171 et seq., the
509 following words shall have the meanings ascribed herein, unless
510 the context otherwise requires:

511 (a) "Affected person" means (i) the applicant; (ii) a
512 person residing within the geographic area to be served by the
513 applicant's proposal; (iii) a person who regularly uses health
514 care facilities or HMOs located in the geographic area of the
515 proposal which provide similar service to that which is proposed;
516 (iv) health care facilities and HMOs which have, prior to receipt
517 of the application under review, formally indicated an intention
518 to provide service similar to that of the proposal being
519 considered at a future date; (v) third-party payers who reimburse
520 health care facilities located in the geographical area of the
521 proposal; or (vi) any agency that establishes rates for health
522 care services or HMOs located in the geographic area of the
523 proposal.

524 (b) "Certificate of need" means a written order of the
525 State Department of Health setting forth the affirmative finding
526 that a proposal in prescribed application form, sufficiently
527 satisfies the plans, standards and criteria prescribed for such
528 service or other project by Section 41-7-171 et seq., and by rules



529 and regulations promulgated thereunder by the State Department of
530 Health.

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

537 (ii) "Capital expenditure," when pertaining to
538 other than major medical equipment, shall mean any expenditure
539 which under generally accepted accounting principles consistently
540 applied is not properly chargeable as an expense of operation and
541 maintenance and which exceeds, for clinical health services, as
542 defined in * * * paragraph (k) below, Five Million Dollars
543 (\$5,000,000.00), adjusted for inflation as published by the State
544 Department of Health or which exceeds, for nonclinical health
545 services, as defined in * * * paragraph (k) below, Ten Million
546 Dollars (\$10,000,000.00), adjusted for inflation as published by
547 the State Department of Health.

548 (iii) A "capital expenditure" shall include the
549 acquisition, whether by lease, sufferance, gift, devise, legacy,
550 settlement of a trust or other means, of any facility or part
551 thereof, or equipment for a facility, the expenditure for which
552 would have been considered a capital expenditure if acquired by
553 purchase. Transactions which are separated in time but are



554 planned to be undertaken within twelve (12) months of each other
555 and are components of an overall plan for meeting patient care
556 objectives shall, for purposes of this definition, be viewed in
557 their entirety without regard to their timing.

558 (iv) In those instances where a health care
559 facility or other provider of health services proposes to provide
560 a service in which the capital expenditure for major medical
561 equipment or other than major medical equipment or a combination
562 of the two (2) may have been split between separate parties, the
563 total capital expenditure required to provide the proposed service
564 shall be considered in determining the necessity of certificate of
565 need review and in determining the appropriate certificate of need
566 review fee to be paid. The capital expenditure associated with
567 facilities and equipment to provide services in Mississippi shall
568 be considered regardless of where the capital expenditure was
569 made, in state or out of state, and regardless of the domicile of
570 the party making the capital expenditure, in state or out of
571 state.

572 (d) "Change of ownership" includes, but is not limited
573 to, inter vivos gifts, purchases, transfers, lease arrangements,
574 cash and/or stock transactions or other comparable arrangements
575 whenever any person or entity acquires or controls a majority
576 interest of an existing health care facility, and/or the change of
577 ownership of major medical equipment, a health service, or an
578 institutional health service. Changes of ownership from



579 partnerships, single proprietorships or corporations to another
580 form of ownership are specifically included. However, "change of
581 ownership" shall not include any inherited interest acquired as a
582 result of a testamentary instrument or under the laws of descent
583 and distribution of the State of Mississippi.

584 (e) "Commencement of construction" means that all of
585 the following have been completed with respect to a proposal or
586 project proposing construction, renovating, remodeling or
587 alteration:

588 (i) A legally binding written contract has been
589 consummated by the proponent and a lawfully licensed contractor to
590 construct and/or complete the intent of the proposal within a
591 specified period of time in accordance with final architectural
592 plans which have been approved by the licensing authority of the
593 State Department of Health;

594 (ii) Any and all permits and/or approvals deemed
595 lawfully necessary by all authorities with responsibility for such
596 have been secured; and

597 (iii) Actual bona fide undertaking of the subject
598 proposal has commenced, and a progress payment of at least one
599 percent (1%) of the total cost price of the contract has been paid
600 to the contractor by the proponent, and the requirements of this
601 paragraph (e) have been certified to in writing by the State
602 Department of Health.



603 Force account expenditures, such as deposits, securities,
604 bonds, et cetera, may, in the discretion of the State Department
605 of Health, be excluded from any or all of the provisions of
606 defined commencement of construction.

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

610 (g) "Develop," when used in connection with health
611 services, means to undertake those activities which, on their
612 completion, will result in the offering of a new institutional
613 health service or the incurring of a financial obligation as
614 defined under applicable state law in relation to the offering of
615 such services.

616 (h) "Health care facility" includes hospitals,
617 psychiatric hospitals, chemical dependency hospitals, skilled
618 nursing facilities, end-stage renal disease (ESRD) facilities,
619 including freestanding hemodialysis units, intermediate care
620 facilities, ambulatory surgical facilities, intermediate care
621 facilities for the mentally retarded, home health agencies,
622 psychiatric residential treatment facilities, pediatric skilled
623 nursing facilities, long-term care hospitals, comprehensive
624 medical rehabilitation facilities, including facilities owned or
625 operated by the state or a political subdivision or
626 instrumentality of the state, but does not include Christian
627 Science sanatoriums operated or listed and certified by the First



628 Church of Christ, Scientist, Boston, Massachusetts. This
629 definition shall not apply to facilities for the private practice,
630 either independently or by incorporated medical groups, of
631 physicians, dentists or health care professionals except where
632 such facilities are an integral part of an institutional health
633 service. The various health care facilities listed in this
634 paragraph shall be defined as follows:

635 (i) "Hospital" means an institution which is
636 primarily engaged in providing to inpatients, by or under the
637 supervision of physicians, diagnostic services and therapeutic
638 services for medical diagnosis, treatment and care of injured,
639 disabled or sick persons, or rehabilitation services for the
640 rehabilitation of injured, disabled or sick persons. Such term
641 does not include psychiatric hospitals.

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

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

651 (iv) "Skilled nursing facility" means an
652 institution or a distinct part of an institution which is



653 primarily engaged in providing to inpatients skilled nursing care
654 and related services for patients who require medical or nursing
655 care or rehabilitation services for the rehabilitation of injured,
656 disabled or sick persons.

657 (v) "End-stage renal disease (ESRD) facilities"
658 means kidney disease treatment centers, which includes
659 freestanding hemodialysis units and limited care facilities. The
660 term "limited care facility" generally refers to an
661 off-hospital-premises facility, regardless of whether it is
662 provider or nonprovider operated, which is engaged primarily in
663 furnishing maintenance hemodialysis services to stabilized
664 patients.

665 (vi) "Intermediate care facility" means an
666 institution which provides, on a regular basis, health-related
667 care and services to individuals who do not require the degree of
668 care and treatment which a hospital or skilled nursing facility is
669 designed to provide, but who, because of their mental or physical
670 condition, require health-related care and services (above the
671 level of room and board).

672 (vii) "Ambulatory surgical facility" means a
673 facility primarily organized or established for the purpose of
674 performing surgery for outpatients and is a separate identifiable
675 legal entity from any other health care facility. Such term does
676 not include the offices of private physicians or dentists, whether



677 for individual or group practice, and does not include any
678 abortion facility as defined in Section 41-75-1(f).

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

686 (ix) "Home health agency" means a public or
687 privately owned agency or organization, or a subdivision of such
688 an agency or organization, properly authorized to conduct business
689 in Mississippi, which is primarily engaged in providing to
690 individuals at the written direction of a licensed physician, in
691 the individual's place of residence, skilled nursing services
692 provided by or under the supervision of a registered nurse
693 licensed to practice in Mississippi, and one or more of the
694 following services or items:

- 695 1. Physical, occupational or speech therapy;
- 696 2. Medical social services;
- 697 3. Part-time or intermittent services of a
698 home health aide;
- 699 4. Other services as approved by the
700 licensing agency for home health agencies;



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

703 6. Medical services provided by an intern or
704 resident-in-training at a hospital under a teaching program of
705 such hospital.

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

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

715 (x) "Psychiatric residential treatment facility"
716 means any nonhospital establishment with permanent licensed
717 facilities which provides a twenty-four-hour program of care by
718 qualified therapists, including, but not limited to, duly licensed
719 mental health professionals, psychiatrists, psychologists,
720 psychotherapists and licensed certified social workers, for
721 emotionally disturbed children and adolescents referred to such
722 facility by a court, local school district or by the Department
723 of * * * Child Protection Services, who are not in an acute phase
724 of illness requiring the services of a psychiatric hospital, and
725 are in need of such restorative treatment services. For purposes



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

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

732 2. An inability to build or maintain
733 satisfactory relationships with peers and teachers;

734 3. Inappropriate types of behavior or
735 feelings under normal circumstances;

736 4. A general pervasive mood of unhappiness or
737 depression; or

738 5. A tendency to develop physical symptoms or
739 fears associated with personal or school problems. An
740 establishment furnishing primarily domiciliary care is not within
741 this definition.

742 (xi) "Pediatric skilled nursing facility" means an
743 institution or a distinct part of an institution that is primarily
744 engaged in providing to inpatients skilled nursing care and
745 related services for persons under twenty-one (21) years of age
746 who require medical or nursing care or rehabilitation services for
747 the rehabilitation of injured, disabled or sick persons.

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



751 is primarily engaged in providing chronic or long-term medical
752 care to patients who do not require more than three (3) hours of
753 rehabilitation or comprehensive rehabilitation per day, and has a
754 transfer agreement with an acute care medical center and a
755 comprehensive medical rehabilitation facility. Long-term care
756 hospitals shall not use rehabilitation, comprehensive medical
757 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
758 nursing home, skilled nursing facility or sub-acute care facility
759 in association with its name.

760 (xiii) "Comprehensive medical rehabilitation
761 facility" means a hospital or hospital unit that is licensed
762 and/or certified as a comprehensive medical rehabilitation
763 facility which provides specialized programs that are accredited
764 by the Commission on Accreditation of Rehabilitation Facilities
765 and supervised by a physician board certified or board eligible in
766 physiatry or other doctor of medicine or osteopathy with at least
767 two (2) years of training in the medical direction of a
768 comprehensive rehabilitation program that:

769 1. Includes evaluation and treatment of
770 individuals with physical disabilities;

771 2. Emphasizes education and training of
772 individuals with disabilities;

773 3. Incorporates at least the following core
774 disciplines:

775 * * *a. Physical Therapy;



776 * * *b. Occupational Therapy;
777 * * *c. Speech and Language Therapy;
778 * * *d. Rehabilitation Nursing; and

779 4. Incorporates at least three (3) of the
780 following disciplines:

781 * * *a. Psychology;
782 * * *b. Audiology;
783 * * *c. Respiratory Therapy;
784 * * *d. Therapeutic Recreation;
785 * * *e. Orthotics;
786 * * *f. Prosthetics;
787 * * *g. Special Education;
788 * * *h. Vocational Rehabilitation;
789 * * *i. Psychotherapy;
790 * * *j. Social Work;
791 * * *k. Rehabilitation Engineering.

792 These specialized programs include, but are not limited to:
793 spinal cord injury programs, head injury programs and infant and
794 early childhood development programs.

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

798 (i) Provides or otherwise makes available to
799 enrolled participants health care services, including
800 substantially the following basic health care services: usual



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

803 (ii) Is compensated (except for copayments) for
804 the provision of the basic health care services listed in
805 subparagraph (i) of this paragraph to enrolled participants on a
806 predetermined basis; and

807 (iii) Provides physician services primarily:

808 1. Directly through physicians who are either
809 employees or partners of such organization; or

810 2. Through arrangements with individual
811 physicians or one or more groups of physicians (organized on a
812 group practice or individual practice basis).

813 (j) "Health service area" means a geographic area of
814 the state designated in the State Health Plan as the area to be
815 used in planning for specified health facilities and services and
816 to be used when considering certificate of need applications to
817 provide health facilities and services.

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

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



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

832 (l) "Institutional health services" shall mean health
833 services provided in or through health care facilities and shall
834 include the entities in or through which such services are
835 provided.

836 (m) "Major medical equipment" means medical equipment
837 designed for providing medical or any health-related service which
838 costs in excess of One Million Five Hundred Thousand Dollars
839 (\$1,500,000.00). However, this definition shall not be applicable
840 to clinical laboratories if they are determined by the State
841 Department of Health to be independent of any physician's office,
842 hospital or other health care facility or otherwise not so defined
843 by federal or state law, or rules and regulations promulgated
844 thereunder.

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

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



851 Department of Health that the health care facility is capable of
852 providing specified health services.

853 (p) "Person" means an individual, a trust or estate,
854 partnership, corporation (including associations, joint-stock
855 companies and insurance companies), the state or a political
856 subdivision or instrumentality of the state.

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

861 (r) "Radiation therapy services" means the treatment of
862 cancer and other diseases using ionizing radiation of either high
863 energy photons (x-rays or gamma rays) or charged particles
864 (electrons, protons or heavy nuclei). However, for purposes of a
865 certificate of need, radiation therapy services shall not include
866 low energy, superficial, external beam x-ray treatment of
867 superficial skin lesions.

868 (s) "Secretary" means the Secretary of Health and Human
869 Services, and any officer or employee of the Department of Health
870 and Human Services to whom the authority involved has been
871 delegated.

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



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

877 (u) "State Health Planning and Development Agency"
878 means the agency of state government designated to perform health
879 planning and resource development programs for the State of
880 Mississippi.

881 **SECTION 11.** Section 41-21-67, Mississippi Code of 1972, is
882 amended as follows:

883 41-21-67. (1) Whenever the affidavit provided for in
884 Section 41-21-65 is filed with the chancery clerk, the clerk, upon
885 direction of the chancellor of the court, shall issue a writ
886 directed to the sheriff of the proper county to take into custody
887 the person alleged to be in need of treatment and to bring the
888 person before the clerk or chancellor, who shall order
889 pre-evaluation screening and treatment by the appropriate
890 community mental health center established under Section 41-19-31.
891 The community mental health center will be designated as the first
892 point of entry for screening and treatment. If the community
893 mental health center is unavailable, any reputable licensed
894 physician, psychologist, nurse practitioner or physician
895 assistant, as allowed in the discretion of the court, may conduct
896 the pre-evaluation screening and examination as set forth in
897 Section 41-21-69. The order may provide where the person shall be
898 held before the appearance before the clerk or chancellor.
899 However, when the affidavit fails to set forth factual allegations



900 and witnesses sufficient to support the need for treatment, the
901 chancellor shall refuse to direct issuance of the writ.
902 Reapplication may be made to the chancellor. If a pauper's
903 affidavit is filed by a guardian for commitment of the ward of the
904 guardian, the court shall determine if the ward is a pauper and if
905 the ward is determined to be a pauper, the county of the residence
906 of the respondent shall bear the costs of commitment, unless funds
907 for those purposes are made available by the state.

908 In any county in which a Crisis Intervention Team has been
909 established under the provisions of Sections 41-21-131 through
910 41-21-143, the clerk, upon the direction of the chancellor, may
911 require that the person be referred to the Crisis Intervention
912 Team for appropriate psychiatric or other medical services before
913 the issuance of the writ.

914 (2) Upon issuance of the writ, the chancellor shall
915 immediately appoint and summon two (2) reputable, licensed
916 physicians or one (1) reputable, licensed physician and either one
917 (1) psychologist, nurse practitioner or physician assistant to
918 conduct a physical and mental examination of the person at a place
919 to be designated by the clerk or chancellor and to report their
920 findings to the clerk or chancellor. However, any nurse
921 practitioner or physician assistant conducting the examination
922 shall be independent from, and not under the supervision of, the
923 other physician conducting the examination. In all counties in
924 which there is a county health officer, the county health officer,



925 if available, may be one (1) of the physicians so appointed.
926 Neither of the physicians nor the psychologist, nurse practitioner
927 or physician assistant selected shall be related to that person in
928 any way, nor have any direct or indirect interest in the estate of
929 that person nor shall any full-time staff of residential treatment
930 facilities operated directly by the State Department of Mental
931 Health serve as examiner.

932 (3) The clerk shall ascertain whether the respondent is
933 represented by an attorney, and if it is determined that the
934 respondent does not have an attorney, the clerk shall immediately
935 notify the chancellor of that fact. If the chancellor determines
936 that the respondent for any reason does not have the services of
937 an attorney, the chancellor shall immediately appoint an attorney
938 for the respondent at the time the examiners are appointed.

939 (4) If the chancellor determines that there is probable
940 cause to believe that the respondent is mentally ill and that
941 there is no reasonable alternative to detention, the chancellor
942 may order that the respondent be retained as an emergency patient
943 at any licensed medical facility for evaluation by a physician,
944 nurse practitioner or physician assistant and that a peace officer
945 transport the respondent to the specified facility. If the
946 community mental health center serving the county has partnered
947 with Crisis Intervention Teams under the provisions of Sections
948 41-21-131 through 41-21-143, the order may specify that the
949 licensed medical facility be a designated single point of entry



950 within the county or within an adjacent county served by the
951 community mental health center. If the person evaluating the
952 respondent finds that the respondent is mentally ill and in need
953 of treatment, the chancellor may order that the respondent be
954 retained at the licensed medical facility or any other available
955 suitable location as the court may so designate pending an
956 admission hearing. If necessary, the chancellor may order a peace
957 officer or other person to transport the respondent to that
958 facility or suitable location. Any respondent so retained may be
959 given such treatment as is indicated by standard medical practice.
960 However, the respondent shall not be held in a hospital operated
961 directly by the State Department of Mental Health, and shall not
962 be held in jail unless the court finds that there is no reasonable
963 alternative.

964 (5) (a) Whenever a licensed psychologist, nurse
965 practitioner or physician assistant who is certified to complete
966 examinations for the purpose of commitment or a licensed physician
967 has reason to believe that a person poses an immediate substantial
968 likelihood of physical harm to himself or others or is gravely
969 disabled and unable to care for himself by virtue of mental
970 illness, as defined in Section 41-21-61(e), then the physician,
971 psychologist, nurse practitioner or physician assistant may hold
972 the person or may admit the person to and treat the person in a
973 licensed medical facility, without a civil order or warrant for a
974 period not to exceed seventy-two (72) hours. However, if the



975 seventy-two-hour period begins or ends when the chancery clerk's
976 office is closed, or within three (3) hours of closing, and the
977 chancery clerk's office will be continuously closed for a time
978 that exceeds seventy-two (72) hours, then the seventy-two-hour
979 period is extended until the end of the next business day that the
980 chancery clerk's office is open. The person may be held and
981 treated as an emergency patient at any licensed medical facility,
982 available regional mental health facility, or crisis intervention
983 center. The physician or psychologist, nurse practitioner or
984 physician assistant who holds the person shall certify in writing
985 the reasons for the need for holding.

986 If a person is being held and treated in a licensed medical
987 facility, and that person decides to continue treatment by
988 voluntarily signing consent for admission and treatment, the
989 seventy-two-hour hold may be discontinued without filing an
990 affidavit for commitment. Any respondent so held may be given
991 such treatment as indicated by standard medical practice. Persons
992 acting in good faith in connection with the detention and
993 reporting of a person believed to be mentally ill shall incur no
994 liability, civil or criminal, for those acts.

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



1000 considered to be a danger to the minor child, the mental health
1001 professional shall notify the Department of * * * Child Protection
1002 Services prior to discharge if the threat of harm continues to
1003 exist, as is required under Section 43-21-353.

1004 This paragraph shall be known and may be cited as the "Andrew
1005 Lloyd Law."

1006 **SECTION 12.** Section 41-67-12, Mississippi Code of 1972, is
1007 amended as follows:

1008 41-67-12. (1) The department shall assess fees in the
1009 following amounts for the following purposes:

1010 (a) A fee of One Hundred Dollars (\$100.00) shall be
1011 levied for soil and site evaluation and recommendation of
1012 individual on-site wastewater disposal systems. The department
1013 may increase the amount of the fee authorized in this paragraph
1014 (a) not more than two (2) times during the period from July 1,
1015 2016, through June 30, 2020, with the percentage of each increase
1016 being not more than five percent (5%) of the amount of the fee in
1017 effect at the time of the increase.

1018 (b) A fee of Fifty Dollars (\$50.00) shall be levied
1019 annually for the certification of installers and pumpers.

1020 (c) A fee of One Hundred Dollars (\$100.00) shall be
1021 levied annually for the registration of manufacturers.

1022 Any increase in the fee charged by the department under
1023 paragraph (b) or (c) of this subsection shall be in accordance
1024 with the provisions of Section 41-3-65.



1025 (2) In the discretion of the board, a person shall be liable
1026 for a penalty equal to one and one-half (1-1/2) times the amount
1027 of the fee due and payable for failure to pay the fee on or before
1028 the date due, plus any amount necessary to reimburse the cost of
1029 collection.

1030 (3) No fee authorized under this section shall be assessed
1031 by the department for state agencies or institutions, including,
1032 without limitation, foster homes licensed by the Mississippi
1033 Department of * * * Child Protection Services.

1034 **SECTION 13.** Section 41-87-5, Mississippi Code of 1972, is
1035 amended as follows:

1036 41-87-5. Unless the context requires otherwise, the
1037 following definitions in this section apply throughout this
1038 chapter:

1039 (a) "Eligible infants and toddlers" or "eligible
1040 children" means children from birth through thirty-six (36) months
1041 of age who need early intervention services because they:

1042 (i) Are experiencing developmental delays as
1043 measured by appropriate diagnostic instruments and procedures in
1044 one or more of the following areas:

1045 (A) Cognitive development;

1046 (B) Physical development, including vision or
1047 hearing;

1048 (C) Communication development;

1049 (D) Social or emotional development;



1050 (E) Adaptive development;

1051 (ii) Have a diagnosed physical or mental

1052 condition, as defined in state policy, that has a high probability

1053 of resulting in developmental delay;

1054 (iii) Are at risk of having substantial

1055 developmental delays if early intervention services are not

1056 provided due to conditions as defined in state policy. (This

1057 category may be served at the discretion of the lead agency

1058 contingent upon available resources.)

1059 (b) "Early intervention services" are developmental

1060 services that:

1061 (i) Are provided under public supervision;

1062 (ii) Are provided at no cost except where federal

1063 or state law provides for a system of payments by families,

1064 including a schedule of sliding fees;

1065 (iii) Are designed to meet the developmental needs

1066 of an infant or toddler with a disability in any one or more of

1067 the following areas:

1068 (A) Physical development;

1069 (B) Cognitive development;

1070 (C) Communication development;

1071 (D) Social or emotional development; or

1072 (E) Adaptive development;



1073 (iv) Meet the requirements of Part C of the
1074 Individuals with Disabilities Education Act (IDEA) and the early
1075 intervention standards of the State of Mississippi;
1076 (v) Include, but are not limited to, the following
1077 services:
1078 (A) Assistive technology devices and
1079 assistive technology services;
1080 (B) Audiology;
1081 (C) Family training, counseling and home
1082 visits;
1083 (D) Health services necessary to enable a
1084 child to benefit from other early intervention services;
1085 (E) Medical services only for diagnostic or
1086 evaluation purposes;
1087 (F) Nutrition services;
1088 (G) Occupational therapy;
1089 (H) Physical therapy;
1090 (I) Psychological services;
1091 (J) Service coordination (case management);
1092 (K) Social work services;
1093 (L) Special instruction;
1094 (M) Speech-language pathology;
1095 (N) Transportation and related costs that are
1096 necessary to enable an infant or toddler and her/his family to
1097 receive early intervention services; and



1098 (O) Vision services;

1099 (vi) Are provided by qualified personnel as

1100 determined by the state's personnel standards, including:

1101 (A) Audiologists;

1102 (B) Family therapists;

1103 (C) Nurses;

1104 (D) Nutritionists;

1105 (E) Occupational therapists;

1106 (F) Orientation and mobility specialists;

1107 (G) Pediatricians and other physicians;

1108 (H) Physical therapists;

1109 (I) Psychologists;

1110 (J) Social workers;

1111 (K) Special educators;

1112 (L) Speech and language pathologists;

1113 (vii) Are provided, to the maximum extent

1114 appropriate, in natural environments, including the home, and

1115 community settings in which children without disabilities would

1116 participate;

1117 (viii) Are provided in conformity with an

1118 individualized family service plan.

1119 (c) "Council" means the State Interagency Coordinating

1120 Council established under Section 41-87-7.

1121 (d) "Lead agency" means the State Department of Health.

1122 * * *



1123 (* * *e) "Local community" means a county either
1124 jointly, severally, or a portion thereof, participating in the
1125 provision of early intervention services.

1126 (* * *f) "Primary service agency" means the agency,
1127 whether a state agency, local agency, local interagency council or
1128 service provider which is designated by the lead agency to serve
1129 as the fiscal and contracting agent for a local community.

1130 (* * *g) "Multidisciplinary team" means a group
1131 comprised of the parent(s) or legal guardian and the service
1132 providers, as appropriate, described in paragraph (b) of this
1133 section, who are assembled for the purposes of:

1134 (i) Assessing the developmental needs of an infant
1135 or toddler;

1136 (ii) Developing the individualized family service
1137 plan; and

1138 (iii) Providing the infant or toddler and his or
1139 her family with the appropriate early intervention services as
1140 detailed in the individualized family service plan.

1141 (* * *h) "Individualized family service plan" means a
1142 written plan designed to address the needs of the infant or
1143 toddler and his or her family as specified under Section 41-87-13.

1144 (* * *i) "Early intervention standards" means those
1145 standards established by any agency or agencies statutorily
1146 designated the responsibility to establish standards for infants



1147 and toddlers with disabilities, in coordination with the council
1148 and in accordance with Part C of IDEA.

1149 (* * *j) "Early intervention system" means the total
1150 collaborative effort in the state that is directed at meeting the
1151 needs of eligible children and their families.

1152 (* * *k) "Parent," for the purpose of early
1153 intervention services, means a parent, a guardian, a person acting
1154 as a parent of a child, foster parent, or an appointed surrogate
1155 parent. The term does not include the state if the child is a
1156 ward of the state where the child has not been placed with
1157 individuals to serve in a parenting capacity, such as foster
1158 parents, or when a surrogate parent has not been appointed. When
1159 a child is the ward of the state, a Department of * * * Child
1160 Protection Services representative will act as parent for purposes
1161 of service authorization.

1162 (* * *l) "Policies" means the state statutes,
1163 regulations, Governor's orders, directives by the lead agency, or
1164 other written documents that represent the state's position
1165 concerning any matter covered under this chapter.

1166 (* * *m) "Regulations" means the United States
1167 Department of Education's regulations concerning the governance
1168 and implementation of Part C of IDEA, the Early Intervention
1169 Program for Infants and Toddlers with Disabilities.

1170 **SECTION 14.** Section 43-1-11, Mississippi Code of 1972, is
1171 amended as follows:



1172 43-1-11. The boards of supervisors of the various counties
1173 of this state are hereby authorized and empowered, in their
1174 discretion, to expend and appropriate such sums as they deem
1175 necessary out of any available county funds for the purpose of
1176 providing office space for the * * * Department of Child
1177 Protection Services and Department of Human Services. This
1178 includes, but is not limited to, adequate office space for the
1179 efficient conduct of business, as well as providing for payment of
1180 electricity, water, gas, maintenance and repair of the building,
1181 and janitorial services and supplies.

1182 **SECTION 15.** Section 43-1-12, Mississippi Code of 1972, is
1183 amended as follows:

1184 43-1-12. The governing authority of any municipality or
1185 county in this state is authorized and empowered, in its
1186 discretion, to expend such funds as it deems necessary and
1187 desirable, from any available funds of the municipality or county,
1188 to: (a) match any state, federal or private funds available for
1189 any program administered by the * * * Department of Child
1190 Protection Services or the Department of Human Services in this
1191 state; and/or (b) make a voluntary contribution to any such
1192 program.

1193 **SECTION 16.** Section 43-1-63, Mississippi Code of 1972, is
1194 amended as follows:

1195 43-1-63. The Department of * * * Child Protection Services
1196 shall have the authority to use the services and resources of the



1197 State Department of Education and the State Department of Health
1198 and of all other appropriate state departments, agencies,
1199 institutions or political subdivisions as will aid in carrying out
1200 the purposes of this chapter. It shall be the duty of all such
1201 state departments, agencies and institutions to make available
1202 such services and resources to the department, including, but not
1203 necessarily limited to, such services and resources as may be
1204 required to perform appropriate criminal history record checks on
1205 prospective foster and relative child placements for the purpose
1206 of preventing and detecting abuse and neglect.

1207 **SECTION 17.** Section 43-14-1, Mississippi Code of 1972, is
1208 amended as follows:

1209 43-14-1. (1) The purpose of this chapter is to provide for
1210 the development, implementation and oversight of a coordinated
1211 interagency system of necessary services and care for children and
1212 youth, called the Mississippi Statewide System of Care, up to age
1213 twenty-one (21) with serious emotional/behavioral disorders
1214 including, but not limited to, conduct disorders, or mental
1215 illness who require services from a multiple services and multiple
1216 programs system, and who can be successfully diverted from
1217 inappropriate institutional placement. The Mississippi Statewide
1218 System of Care is to be conducted in the most fiscally responsible
1219 (cost-efficient) manner possible, based on an individualized plan
1220 of care which takes into account other available interagency
1221 programs, including, but not limited to, Early Intervention Act of



1222 Infants and Toddlers, Section 41-87-1 et seq., Early Periodic
1223 Screening Diagnosis and Treatment, Section 43-13-117(A) (5),
1224 waived program for home- and community-based services for
1225 developmentally disabled people, Section 43-13-117(A) (29), and
1226 waived program for targeted case management services for
1227 children with special needs, Section 43-13-117(A) (31), those
1228 children identified through the federal Individuals with
1229 Disabilities Education Act of 1997 as having a serious emotional
1230 disorder (EMD), the Mississippi Children's Health Insurance
1231 Program and waived programs for children with serious emotional
1232 disturbances, Section 43-13-117(A) (46), and is tied to clinically
1233 and functionally appropriate outcomes. Some of the outcomes are
1234 to reduce the number of inappropriate out-of-home placements
1235 inclusive of those out-of-state and to reduce the number of
1236 inappropriate school suspensions and expulsions for this
1237 population of children. This coordinated interagency system of
1238 necessary services and care shall be named the Mississippi
1239 Statewide System of Care. Children to be served by this chapter
1240 who are eligible for Medicaid shall be screened through the
1241 Medicaid Early Periodic Screening Diagnosis and Treatment (EPSDT)
1242 and their needs for medically necessary services shall be
1243 certified through the EPSDT process. For purposes of this
1244 chapter, the Mississippi Statewide System of Care is defined as a
1245 coordinated network of agencies and providers working as a team to
1246 make a full range of mental health and other necessary services



1247 available as needed by children with mental health problems and
1248 their families. The Mississippi Statewide System of Care shall
1249 be:

1250 (a) Child centered, family focused, family driven and
1251 youth guided;

1252 (b) Community based;

1253 (c) Culturally competent and responsive; and shall
1254 provide for:

1255 (i) Service coordination or case management;

1256 (ii) Prevention and early identification and
1257 intervention;

1258 (iii) Smooth transitions among agencies and
1259 providers, and to the transition-age and adult service systems;

1260 (iv) Human rights protection and advocacy;

1261 (v) Nondiscrimination in access to services;

1262 (vi) A comprehensive array of services composed of
1263 treatment and informal supports that are identified as best
1264 practices and/or evidence-based practices;

1265 (vii) Individualized service planning that uses a
1266 strengths-based, wraparound process;

1267 (viii) Services in the least restrictive
1268 environment;

1269 (ix) Family participation in all aspects of
1270 planning, service delivery and evaluation; and



1271 (x) Integrated services with coordinated planning
1272 across child-serving agencies.

1273 Mississippi Statewide System of Care services shall be
1274 timely, intensive, coordinated and delivered in the community.
1275 Mississippi Statewide System of Care services shall include, but
1276 not be limited to, the following:

- 1277 (a) Comprehensive crisis and emergency response
1278 services;
- 1279 (b) Intensive case management;
- 1280 (c) Day treatment;
- 1281 (d) Alcohol and drug abuse group services for youth;
- 1282 (e) Individual, group and family therapy;
- 1283 (f) Respite services;
- 1284 (g) Supported employment services for youth;
- 1285 (h) Family education and support and family partners;
- 1286 (i) Youth development and support and youth partners;
- 1287 (j) Positive behavioral supports (PBIS) in schools;
- 1288 (k) Transition-age supported and independent living
1289 services; and
- 1290 (l) Vocational/technical education services for youth.

1291 (2) There is established the Interagency Coordinating
1292 Council for Children and Youth (hereinafter referred to as the
1293 "ICCCY"). The ICCCY shall consist of the following membership:

- 1294 (a) The State Superintendent of Public Education;



- 1295 (b) The Executive Director of the Mississippi
1296 Department of Mental Health;
- 1297 (c) The Executive Director of the State Department of
1298 Health;
- 1299 (d) The Executive Director of the Department of Human
1300 Services;
- 1301 (e) The Executive Director of the Division of Medicaid,
1302 Office of the Governor;
- 1303 (f) The Executive Director of the State Department of
1304 Rehabilitation Services;
- 1305 (g) The Executive Director of Mississippi Families as
1306 Allies for Children's Mental Health, Inc.;
- 1307 (h) The Attorney General;
- 1308 (i) A family member of a child or youth in the
1309 population named in this chapter designated by Mississippi
1310 Families as Allies;
- 1311 (j) A youth or young adult in the population named in
1312 this chapter designated by Mississippi Families as Allies;
- 1313 (k) A local MAP team coordinator designated by the
1314 Department of Mental Health;
- 1315 (l) A child psychiatrist experienced in the public
1316 mental health system designated by the Mississippi Psychiatric
1317 Association;



1318 (m) An individual with expertise and experience in
1319 early childhood education designated jointly by the Department of
1320 Mental Health and Mississippi Families as Allies;

1321 (n) A representative of an organization that advocates
1322 on behalf of disabled citizens in Mississippi designated by the
1323 Department of Mental Health; * * *

1324 (o) A faculty member or dean from a Mississippi
1325 university specializing in training professionals who work in the
1326 Mississippi Statewide System of Care designated by the Board of
1327 Trustees of State Institutions of Higher Learning * * *; and

1328 (p) The Commissioner of the Department of Child
1329 Protection Services.

1330 If a member of the council designates a representative to
1331 attend council meetings, the designee shall bring full
1332 decision-making authority of the member to the meeting. The
1333 council shall select a chairman, who shall serve for a one-year
1334 term and may not serve consecutive terms. The council shall adopt
1335 internal organizational procedures necessary for efficient
1336 operation of the council. Each member of the council shall
1337 designate necessary staff of their departments to assist the ICCCY
1338 in performing its duties and responsibilities. The ICCCY shall
1339 meet and conduct business at least twice annually. The chairman
1340 of the ICCCY shall notify all ICCCY members and all other persons
1341 who request such notice as to the date, time, place and draft
1342 agenda items for each meeting.



1343 (3) The Interagency System of Care Council (ISCC) is created
1344 to serve as the state management team for the ICCCY, with the
1345 responsibility of collecting and analyzing data and funding
1346 strategies necessary to improve the operation of the Mississippi
1347 Statewide System of Care, and to make recommendations to the ICCCY
1348 and to the Legislature concerning such strategies on, at a
1349 minimum, an annual basis. The System of Care Council also has the
1350 responsibility of coordinating the local Multidisciplinary
1351 Assessment and Planning (MAP) teams and "A" teams and may apply
1352 for grants from public and private sources necessary to carry out
1353 its responsibilities. The Interagency System of Care Council
1354 shall be comprised of one (1) member from each of the appropriate
1355 child-serving divisions or sections of the State Department of
1356 Health, the Department of Human Services * * *, the State
1357 Department of Mental Health (Division of Children and Youth,
1358 Bureau of Alcohol and Drug Abuse, and Bureau of Intellectual and
1359 Developmental Disabilities), the State Department of Education
1360 (Office of Special Education and Office of Healthy Schools), the
1361 Division of Medicaid of the Governor's Office, the Department of
1362 Rehabilitation Services, * * * the Attorney General's office, and
1363 the Department of Child Protection Services. Additional members
1364 shall include a family member of a child, youth or transition-age
1365 youth representing a family education and support 501(c)3
1366 organization, working with the population named in this chapter
1367 designated by Mississippi Families as Allies, an individual with



1368 expertise and experience in early childhood education designated
1369 jointly by the Department of Mental Health and Mississippi
1370 Families as Allies, a local MAP team representative and a local
1371 "A" team representative designated by the Department of Mental
1372 Health, a probation officer designated by the Department of
1373 Corrections, a family member and youth or young adult designated
1374 by Mississippi Families as Allies for Children's Mental Health,
1375 Inc., (MSFAA), and a family member other than a MSFAA
1376 representative to be designated by the Department of Mental Health
1377 and the Director of the Compulsory School Attendance Enforcement
1378 of the State Department of Education. Appointments to the
1379 Interagency System of Care Council shall be made within sixty (60)
1380 days after June 30, 2010. The council shall organize by selecting
1381 a chairman from its membership to serve on an annual basis, and
1382 the chairman may not serve consecutive terms.

1383 (4) (a) As part of the Mississippi Statewide System of
1384 Care, there is established a statewide system of local
1385 Multidisciplinary Assessment, Planning and Resource (MAP) teams.
1386 The MAP teams shall be comprised of one (1) representative each at
1387 the county level from the major child-serving public agencies for
1388 education, human services, health, mental health and
1389 rehabilitative services approved by respective state agencies of
1390 the Department of Education, the Department of Human Services, the
1391 Department of Health, the Department of Mental Health * * * the
1392 Department of Rehabilitation Services, and the Department of Child



1393 Protection Services. These agencies shall, by policy, contract or
1394 regulation require participation on MAP teams and "A" teams at the
1395 county level by the appropriate staff. Three (3) additional
1396 members may be added to each team, one (1) of which may be a
1397 representative of a family education/support 501(c)3 organization
1398 with statewide recognition and specifically established for the
1399 population of children defined in Section 43-14-1. The remaining
1400 members will be representatives of significant community-level
1401 stakeholders with resources that can benefit the population of
1402 children defined in Section 43-14-1. The Department of Education
1403 shall assist in recruiting and identifying parents to participate
1404 on MAP teams and "A" teams.

1405 (b) For each local existing MAP team that is
1406 established pursuant to paragraph (a) of this subsection, there
1407 shall also be established an "A" (Adolescent) team which shall
1408 work with a MAP team. The "A" teams shall provide System of Care
1409 services for youthful offenders who have serious behavioral or
1410 emotional disorders. Each "A" team shall be comprised of, at a
1411 minimum, the following five (5) members:

1412 (i) A school counselor, mental health therapist or
1413 social worker;

1414 (ii) A community mental health professional;

1415 (iii) A social services/child welfare
1416 professional;

1417 (iv) A youth court counselor; and



1418 (v) A parent who had a child in the juvenile
1419 justice system.

1420 (c) The Interagency Coordinating Council for Children
1421 and Youth and the Interagency System of Care Council shall work to
1422 develop MAP teams statewide that will serve to become the single
1423 point of entry for children and youth about to be placed in
1424 out-of-home care for reasons other than parental abuse/neglect.

1425 (5) The Interagency Coordinating Council for Children and
1426 Youth may provide input to one another and to the ISCC relative to
1427 how each agency utilizes its federal and state statutes, policy
1428 requirements and funding streams to identify and/or serve children
1429 and youth in the population defined in this section. The ICCCY
1430 shall support the implementation of the plans of the respective
1431 state agencies for comprehensive, community-based,
1432 multidisciplinary care, treatment and placement of these children.

1433 (6) The ICCCY shall oversee a pool of state funds that may
1434 be contributed by each participating state agency and additional
1435 funds from the Mississippi Tobacco Health Care Expenditure Fund,
1436 subject to specific appropriation therefor by the Legislature.
1437 Part of this pool of funds shall be available for increasing the
1438 present funding levels by matching Medicaid funds in order to
1439 increase the existing resources available for necessary
1440 community-based services for Medicaid beneficiaries.



1441 (7) The local interagency coordinating care MAP team or "A"
1442 team will facilitate the development of the individualized System
1443 of Care programs for the population targeted in this section.

1444 (8) Each local MAP team and "A" team shall serve as the
1445 single point of entry and re-entry to ensure that comprehensive
1446 diagnosis and assessment occur and shall coordinate needed
1447 services through the local MAP team and "A" team members and local
1448 service providers for the children named in subsection (1). Local
1449 children in crisis shall have first priority for access to the MAP
1450 team and "A" team processes and local System of Care services.

1451 (9) The Interagency Coordinating Council for Children and
1452 Youth shall facilitate monitoring of the performance of local MAP
1453 teams.

1454 (10) Each ICCCY member named in subsection (2) of this
1455 section shall enter into a binding memorandum of understanding to
1456 participate in the further development and oversight of the
1457 Mississippi Statewide System of Care for the children and youth
1458 described in this section. The agreement shall outline the system
1459 responsibilities in all operational areas, including ensuring
1460 representation on MAP teams, funding, data collection, referral of
1461 children to MAP teams and "A" teams, and training. The agreement
1462 shall be signed and in effect by July 1 of each year.

1463 **SECTION 18.** Section 43-14-5, Mississippi Code of 1972, is
1464 amended as follows:



1465 43-14-5. There is created in the State Treasury a special
1466 fund into which shall be deposited all funds contributed by the
1467 Department of Human Services, State Department of Health,
1468 Department of Mental Health * * * and State Department of
1469 Rehabilitation Services, and the Department of Child Protection
1470 Services insofar as recipients are otherwise eligible under the
1471 Rehabilitation Act of 1973, as amended, and State Department of
1472 Education for the operation of a statewide System of Care by MAP
1473 teams and "A" teams utilizing such funds as may be made available
1474 to those MAP teams through a Request for Proposal (RFP) approved
1475 by the ICCCY.

1476 **SECTION 19.** Section 43-15-3, Mississippi Code of 1972, is
1477 amended as follows:

1478 43-15-3. The Department of * * * Child Protection Services
1479 is hereby authorized, empowered and directed to cooperate fully
1480 with the United States Children's Bureau and Secretary of Labor in
1481 establishing, extending and strengthening "child welfare services"
1482 for the protection and care of homeless, dependent and neglected
1483 children and children in danger of becoming delinquent. Said
1484 Department of * * * Child Protection Services is further
1485 authorized, empowered and directed to cooperate with the United
1486 States Children's Bureau and Secretary of Labor in developing
1487 plans for said "child welfare services" and extending any other
1488 cooperation necessary under Section 521 of Public Law No. 271-74th
1489 Congress of the United States.



1490 In furtherance of the "child welfare services" referred to in
1491 the first paragraph hereof the State Treasurer is hereby
1492 authorized and directed to receive on behalf of the state, and to
1493 execute all instruments incidental thereto, federal or other funds
1494 to be used for "child welfare services," and to place such funds
1495 in a special account to the credit of the "child welfare
1496 services," which said funds shall be expended by the Department
1497 of * * * Child Protection Services for the purposes and under the
1498 provisions of this article and Section 521 of Public Law No.
1499 271-74th Congress of the United States. It shall be paid out by
1500 the State Treasurer as funds appropriated to carry out the
1501 provisions of said laws.

1502 The Department of * * * Child Protection Services shall issue
1503 all checks on said "child welfare services" fund to persons
1504 entitled to payment from said fund. All such sums shall be drawn
1505 upon the "child welfare services" fund upon requisition of
1506 the * * * Commissioner of the Department of Child Protection
1507 Services.

1508 The money in the "child welfare services" fund shall be
1509 expended in accordance with the rules and regulations of the
1510 United States Children's Bureau and Secretary of Labor and in
1511 accordance with the plan developed by the Department of Human
1512 Services and the United States Children's Bureau under Section 521
1513 of Public Law No. 271-74th Congress of the United States, and
1514 shall not be used for any other purpose.



1515 If a claim for foster care and/or adoption assistance under
1516 Title IV-E of the federal Social Security Act is not acted upon
1517 within a reasonable time after the filing of the claim, or is
1518 denied in whole or in part, the claimant may appeal to the * * *
1519 Commissioner of the Department of Child Protection Services in the
1520 manner and form prescribed by the Department of * * * Child
1521 Protection Services. The * * * Commissioner of the Department of
1522 Child Protection Services shall, upon receipt of such an appeal,
1523 give the claimant reasonable notice and opportunity for a fair
1524 hearing. The Director of the Division of Family and Children's
1525 Services may also, upon his or her own motion, review any decision
1526 regarding a claim, and may consider any claim upon which a
1527 decision has not been made within a reasonable time. All
1528 decisions of the Director of Family and Children's Services shall
1529 be final and binding.

1530 **SECTION 20.** Section 43-15-5, Mississippi Code of 1972, is
1531 amended as follows:

1532 43-15-5. (1) The Department of * * * Child Protection
1533 Services shall have authority and it shall be its duty to
1534 administer or supervise all public child welfare services,
1535 including those services, responsibilities, duties and powers with
1536 which the county departments of * * * child protection services
1537 are charged and empowered in this article; administer and
1538 supervise the licensing and inspection of all private child
1539 placing agencies; provide for the care of dependent and neglected



1540 children in foster family homes or in institutions, supervise the
1541 care of such children and those of illegitimate birth; supervise
1542 the importation of children; and supervise the operation of all
1543 state institutions for children. The Department of * * * Child
1544 Protection Services shall be authorized to purchase hospital and
1545 medical insurance coverage for those children placed in foster
1546 care by the state or county departments of * * * child protection
1547 services who are not otherwise eligible for medical assistance
1548 under the Mississippi Medicaid Law. The Department of * * * Child
1549 Protection Services shall be further authorized to purchase burial
1550 or life insurance not exceeding One Thousand Five Hundred Dollars
1551 (\$1,500.00) for those children placed in foster care by the state
1552 or county departments of * * * child protection services. All
1553 insurance coverage authorized herein may be purchased with any
1554 funds other than state funds available to the Department of * * *
1555 Child Protection Services, including those funds available to the
1556 child which are administered by the department.

1557 (2) Any person, partnership, group, corporation,
1558 organization or association desiring to operate a child
1559 residential home, as defined in Section 43-16-3, may make
1560 application for a license for such a facility to the Department
1561 of * * * Child Protection Services on the application forms
1562 furnished for this purpose by the department. If an applicant
1563 meets the published rules and regulations of the department



1564 regarding minimum standards for a child residential home, then the
1565 applicant shall be granted a license by the department.

1566 **SECTION 21.** Section 43-15-6, Mississippi Code of 1972, is
1567 amended as follows:

1568 43-15-6. (1) Any person, institution, facility, clinic,
1569 organization or other entity that provides services to children in
1570 a residential setting where care, lodging, maintenance, and
1571 counseling or therapy for alcohol or controlled substance abuse or
1572 for any other emotional disorder or mental illness is provided for
1573 children, whether for compensation or not, that holds himself,
1574 herself, or itself out to the public as providing such services,
1575 and that is entrusted with the care of the children to whom he,
1576 she, or it provides services, because of the nature of the
1577 services and the setting in which the services are provided shall
1578 be subject to the provisions of this section.

1579 (2) Each entity to which this section applies shall
1580 complete, through the appropriate governmental authority, a
1581 national criminal history record information check and a child
1582 abuse registry check for each owner, operator, employee,
1583 prospective employee, volunteer or prospective volunteer of the
1584 entity and/or any other that has or may have unsupervised access
1585 to a child served by the entity. In order to determine the
1586 applicant's suitability for employment, the entity shall ensure
1587 that the applicant be fingerprinted by local law enforcement, and
1588 the results forwarded to the Department of Public Safety. If no



1589 disqualifying record is identified at the state level, the
1590 fingerprints shall be forwarded by the Department of Public Safety
1591 to the FBI for a national criminal history record check.

1592 (3) An owner, operator, employee, prospective employee,
1593 volunteer or prospective volunteer of the entity and/or any other
1594 that has or may have unsupervised access to a child who has a
1595 criminal history of conviction or pending indictment of a crime,
1596 whether a misdemeanor or a felony, that bears upon an individual's
1597 fitness to have responsibility for the safety and well-being of
1598 children as set forth in this chapter may not provide child care
1599 or operate, or be licensed as, a residential child care program,
1600 foster parent, or foster home.

1601 (4) All fees incurred in compliance with this section shall
1602 be borne by the individual or entity to which subsection (1)
1603 applies.

1604 (5) The Department of * * * Child Protection Services shall
1605 have the authority to set fees, to exclude a particular crime or
1606 crimes or a substantiated finding of child abuse and/or neglect as
1607 disqualifying individuals or entities from providing foster care
1608 or residential child care, and adopt such other rules and
1609 regulations as may be required to carry out the provisions of this
1610 section.

1611 (6) Any entity that violates the provisions of this section
1612 by failure to complete sex offense criminal history record
1613 information and felony conviction record information checks, as



1614 required under subsection (3) of this section, shall be subject to
1615 a penalty of up to Ten Thousand Dollars (\$10,000.00) for each such
1616 violation and may be enjoined from further operation until it
1617 complies with this section in actions maintained by the Attorney
1618 General.

1619 (7) The Department of * * * Child Protection Services and/or
1620 its officers, employees, attorneys, agents and representatives
1621 shall not be held civilly liable for any findings, recommendations
1622 or actions taken pursuant to this section.

1623 **SECTION 22.** Section 43-15-7, Mississippi Code of 1972, is
1624 amended as follows:

1625 43-15-7. The * * * Department of Child Protection Services
1626 is hereby authorized to provide protective services for children
1627 as will conserve home life; assume responsibility for the care and
1628 support of dependent children needing public care away from their
1629 homes; place children found by the department to be dependent or
1630 without proper care in suitable institutions or private homes, and
1631 cooperate with public and private institutions and agencies in
1632 placing such children in suitable institutions or private homes;
1633 accept custody or guardianship, through one of its designated
1634 employees, of any child, when appointed as custodian or guardian
1635 in the manner provided by law.

1636 The board of supervisors in each county is hereby empowered,
1637 in its discretion, to set aside and appropriate out of the tax
1638 levied and collected to support the poor of the county or out of



1639 the county general fund necessary monies to be administered by the
1640 county department of public welfare to carry out the provisions of
1641 this section.

1642 **SECTION 23.** Section 43-15-11, Mississippi Code of 1972, is
1643 amended as follows:

1644 43-15-11. (1) The board of supervisors of any county and/or
1645 the mayor and board of commissioners of any city and/or the mayor
1646 and board of aldermen of any municipality in this state are hereby
1647 authorized and empowered, in their discretion, to expend out of
1648 any * * * monies in their respective treasuries, to be drawn by
1649 warrant thereon, a sum or sums of money not exceeding a total of
1650 Twenty-five Dollars (\$25.00) annually per Million Dollars
1651 (\$1,000,000.00) of the assessed valuation of the real and personal
1652 property thereof for the purpose of providing for the care,
1653 support and maintenance of homeless or destitute children of any
1654 county or municipality of this state who are supported, cared for,
1655 maintained and placed for adoption by any children's home society
1656 which operates over and serves the entire State of Mississippi,
1657 and which is approved and licensed by the Mississippi Department
1658 of * * * Child Protection Services.

1659 (2) The authority granted in this section is supplemental of
1660 and in addition to all existing authority for the expenditure of
1661 funds by such boards of supervisors and municipal governing
1662 authorities.



1663 **SECTION 24.** Section 43-15-15, Mississippi Code of 1972, is
1664 amended as follows:

1665 43-15-15. The State Department of * * * Child Protection
1666 Services shall maintain a registry of children whose custody lies
1667 with them and private or public agencies licensed by the
1668 department. Said registry shall contain classifications of
1669 children as:

1670 (a) Temporary custody for evaluation, not to exceed
1671 three (3) months;

1672 (b) Temporary custody not to exceed one (1) year with
1673 the plan to return custody to the natural parents;

1674 (c) Temporary custody, not to exceed two (2) years,
1675 with a plan to free for adoption;

1676 (d) Children freed for adoption;

1677 (e) Children ages fourteen (14) and above who have
1678 voluntarily chosen not to be adopted and cannot be returned to
1679 their own homes; and

1680 (f) Children who are institutionalized and for whom
1681 placement in an adoptive home is not feasible.

1682 **SECTION 25.** Section 43-15-17, Mississippi Code of 1972, is
1683 amended as follows:

1684 43-15-17. (1) The Department of Child Protection Services
1685 is authorized to make such payments as may be appropriate for
1686 supportive services to facilitate either the return of children to
1687 their natural parents or their adoption, depending upon and



1688 contingent upon the availability of the Department of Child
1689 Protection Services securing or having sufficient funds to render
1690 this supportive service. Upon court order, the parent(s) shall be
1691 responsible for reimbursing the department for any foster care or
1692 kinship care payments made on behalf of his or her child, based
1693 upon financial ability to pay, until such time as there is a
1694 termination of parental rights regarding the child, or the child
1695 is adopted.

1696 (2) For those children placed in foster care * * *, the
1697 Department of Child Protection Services shall make monthly
1698 payments for the support of these children's room and board,
1699 clothing, allowance and personal needs. From and after July 1,
1700 1998, and subject to the availability of funds specifically
1701 appropriated therefor, the Department of Child Protection
1702 Services' foster care and therapeutic care monthly payment
1703 schedule in effect before that date shall be increased by One
1704 Hundred Dollars (\$100.00) per month, with that minimum payment not
1705 to preclude the department from increasing payments in later years
1706 as funds become available. From and after July 1, 1998, in order
1707 for foster parents to receive the monthly payments authorized
1708 under this subsection (2), the Department of Child Protection
1709 Services shall require foster care placements to be licensed as
1710 foster care homes and shall require prospective foster parents to
1711 satisfactorily complete an appropriate training program that



1712 emphasizes the goal of the foster care program to provide stable
1713 foster placement until a permanency outcome is achieved.

1714 (3) For a child placed in the care of the child's relative
1715 within the third degree by the * * * Department of Child
1716 Protection Services, unless a child is placed in the care of a
1717 relative who is exempt from foster care training requirements, the
1718 department shall make monthly payments to defray the relative's
1719 expense of furnishing room and board. The department's relative
1720 care payment shall be in an amount up to one hundred percent
1721 (100%) of the amount of the foster care board payment. The
1722 department may continue to make those payments to the relative
1723 after the department relinquishes legal custody of the child to
1724 the relative if the relative has complied with foster care
1725 training requirements. Any such payments for relative care shall
1726 be subject to specific appropriation therefor by the Legislature.

1727 **SECTION 26.** Section 43-15-19, Mississippi Code of 1972, is
1728 amended as follows:

1729 43-15-19. (1) The * * * Department of Child Protection
1730 Services shall maintain a Mississippi Adoption Resource Exchange
1731 registry, which shall contain a total listing of all children
1732 freed for adoption as well as a listing of all persons who wish to
1733 adopt children and who are approved by a licensed adoption agency
1734 in the State of Mississippi. * * * The registry shall be
1735 distributed to all * * * licensed adoption agencies within the
1736 state and shall be updated at least quarterly. The * * *



1737 Department of * * * Child Protection Services shall establish
1738 regulations for listing descriptive characteristics while
1739 protecting the privacy of the children's names. Listed names
1740 shall be removed when adoption placement plans are made for a
1741 child or when a person withdraws an application for adoption.

1742 (2) Adoptive parents shall be given the option of having
1743 their names placed in the registry. They shall be required to
1744 give written authority to the * * * Department of Child Protection
1745 Services, for approval, to place their names in the
1746 registry * * *.

1747 **SECTION 27.** Section 43-15-21, Mississippi Code of 1972, is
1748 amended as follows:

1749 43-15-21. Anyone violating or releasing information of a
1750 confidential nature without the approval of the court with
1751 jurisdiction or the State Department of * * * Child Protection
1752 Services upon being found guilty shall be guilty of a misdemeanor
1753 and subject to a fine of no more than One Thousand Dollars
1754 (\$1,000.00) or imprisonment of six (6) months, or both.

1755 **SECTION 28.** Section 43-15-23, Mississippi Code of 1972, is
1756 amended as follows:

1757 43-15-23. (1) As used in this section the term "placing
1758 out" means to arrange for the free care of a child in a family,
1759 other than that of the child's parent, stepparent, grandparent,
1760 brother, sister, uncle or aunt or legal guardian, for the purpose
1761 of adoption or for the purpose of providing care.



1762 (2) No person, agency, association, corporation,
1763 institution, society or other organization, except a child
1764 placement agency licensed by the Department of * * * Child
1765 Protection Services under Section 43-15-5, shall request, receive
1766 or accept any compensation or thing of value, directly or
1767 indirectly, for placing out of a child.

1768 (3) No person shall pay or give any compensation or thing of
1769 value, directly or indirectly, for placing out of a child to any
1770 person, agency, association, corporation, institution, society or
1771 other organization except a child placement agency licensed by the
1772 Department of * * * Child Protection Services.

1773 (4) The provisions of this section shall not be construed to
1774 (a) prevent the payment of salaries or other compensation by a
1775 child placement agency licensed by the Department of * * * Child
1776 Protection Services to the officers or employees thereof; (b)
1777 prevent the payment of legal fees, which have been approved by the
1778 chancery court, to an attorney for services performed in regard to
1779 adoption proceedings; (c) prevent the payment of reasonable and
1780 actual medical fees or hospital charges for services rendered in
1781 connection with the birth or medical treatment of such child to
1782 the physician or hospital which rendered the services; or (d)
1783 prevent the receipt of such payments by such attorney, physician
1784 or hospital.

1785 (5) Any person, agency, association, corporation,
1786 institution, society or other organization violating the



1787 provisions of this section shall be guilty of illegal placement of
1788 children and shall be punished by a fine not to exceed Five
1789 Thousand Dollars (\$5,000.00) or by imprisonment not more than five
1790 (5) years, or both such fine and imprisonment.

1791 **SECTION 29.** Section 43-15-51, Mississippi Code of 1972, is
1792 amended as follows:

1793 43-15-51. (1) The district attorneys or the Department
1794 of * * * Child Protection Services may initiate formal cooperative
1795 agreements with the appropriate agencies to create
1796 multidisciplinary child protection teams in order to implement a
1797 coordinated multidisciplinary team approach to intervention in
1798 reports involving alleged severe or potential felony child
1799 physical or sexual abuse, exploitation, or maltreatment. The
1800 multidisciplinary team also may be known as a child abuse task
1801 force. The purpose of the team or task force shall be to assist
1802 in the evaluation and investigation of reports and to provide
1803 consultation and coordination for agencies involved in child
1804 protection cases. The agencies to be included as members of the
1805 multidisciplinary team are: the district attorney's office, city
1806 and county law enforcement agencies, county attorneys, youth court
1807 prosecutors, and other agencies as appropriate.

1808 (2) To implement the multidisciplinary child abuse team, the
1809 team or task force must be authorized by court order from the
1810 appropriate youth court. The court order will designate which



1811 agencies will participate in the cooperative multidisciplinary
1812 team.

1813 (3) (a) Teams created under this section may invite other
1814 persons to serve on the team who have knowledge of and experience
1815 in child abuse and neglect matters. These persons may include
1816 licensed mental and physical health practitioners and physicians,
1817 dentists, representatives of the district attorney's office and
1818 the Attorney General's office, experts in the assessment and
1819 treatment of substance abuse or sexual abuse, the victim
1820 assistance coordinator of the district attorney's office and staff
1821 members of a child advocacy center.

1822 (b) (i) A child advocacy center means an agency that
1823 advocates on behalf of children alleged to have been abused and
1824 assists in the coordination of the investigation of child abuse by
1825 providing a location for forensic interviews and promoting the
1826 coordination of services for children alleged to have been abused.
1827 A child advocacy center provides services that include, but are
1828 not limited to, forensic medical examinations, mental health and
1829 related support services, court advocacy, consultation, training
1830 for social workers, law enforcement training, and child abuse
1831 multidisciplinary teams, and staffing of multidisciplinary teams.

1832 (ii) Child advocacy centers may provide a
1833 video-taped forensic interview of the child in a child friendly
1834 environment or separate building. The purpose of the video-taped
1835 forensic interview is to prevent further trauma to a child in the



1836 investigation and prosecution of child physical and sexual abuse
1837 cases. Child advocacy centers can also assist child victims by
1838 providing therapeutic counseling subsequent to the interview by a
1839 qualified therapist. Child advocacy centers can also assist law
1840 enforcement and prosecutors by acquainting child victim witnesses
1841 and their parents or guardians to the courtroom through child
1842 court school programs.

1843 (4) A team or task force created under this section shall
1844 review records on cases referred to the team by the Department
1845 of * * * Child Protection Services or law enforcement or the
1846 district attorney's office. The team shall meet at least monthly.

1847 (5) No person shall disclose information obtained from a
1848 meeting of the multidisciplinary team unless necessary to comply
1849 with Department of * * * Child Protection Services' regulations or
1850 conduct and proceeding in youth court or criminal court
1851 proceedings or as authorized by a court of competent jurisdiction.

1852 **SECTION 30.** Section 43-15-103, Mississippi Code of 1972, is
1853 amended as follows:

1854 43-15-103. As used in this article:

1855 (a) "Agency" means a residential child-caring agency or
1856 a child-placing agency.

1857 (b) "Child" or "children" mean(s) any unmarried person
1858 or persons under the age of eighteen (18) years.



1859 (c) "Child placing" means receiving, accepting or
1860 providing custody or care for any child under eighteen (18) years
1861 of age, temporarily or permanently, for the purpose of:

1862 (i) Finding a person to adopt the child;

1863 (ii) Placing the child temporarily or permanently
1864 in a home for adoption; or

1865 (iii) Placing a child in a foster home or
1866 residential child-caring agency.

1867 (d) "Child-placing agency" means any entity or person
1868 which places children in foster boarding homes or foster homes for
1869 temporary care or for adoption or any other entity or person or
1870 group of persons who are engaged in providing adoption studies or
1871 foster care studies or placement services as defined by the rules
1872 of the department.

1873 (e) "Department" means the Mississippi Department
1874 of * * * Child Protection Services.

1875 * * *

1876 (* * * f) "Family boarding home" or "foster home" means
1877 a home (occupied residence) operated by any entity or person which
1878 provides residential child care to at least one (1) child but not
1879 more than six (6) children who are not related to the primary
1880 caregivers.

1881 (* * * g) "Group care home" means any place or facility
1882 operated by any entity or person which provides residential child



1883 care for at least seven (7) children but not more than twelve (12)
1884 children who are not related to the primary caregivers.

1885 (* * *h) "Licensee" means any person, agency or entity
1886 licensed under this article.

1887 (* * *i) "Maternity home" means any place or facility
1888 operated by any entity or person which receives, treats or cares
1889 for more than one (1) child or adult who is pregnant out of
1890 wedlock, either before, during or within two (2) weeks after
1891 childbirth; provided, that the licensed child-placing agencies and
1892 licensed maternity homes may use a family boarding home approved
1893 and supervised by the agency or home, as a part of their work, for
1894 as many as three (3) children or adults who are pregnant out of
1895 wedlock, and provided further, that the provisions of this
1896 definition shall not include children or women who receive
1897 maternity care in the home of a person to whom they are kin within
1898 the sixth degree of kindred computed according to civil law, nor
1899 does it apply to any maternity care provided by general or special
1900 hospitals licensed according to law and in which maternity
1901 treatment and care are part of the medical services performed and
1902 the care of children is brief and incidental.

1903 * * *

1904 (* * *j) "Person associated with a licensee" means an
1905 owner, director, member of the governing body, employee, provider
1906 of care and volunteer of a human services licensee.



1907 (* * *k) "Related" means children, step-children,
1908 grandchildren, step-grandchildren, siblings of the whole or
1909 half-blood, step-siblings, nieces or nephews of the primary care
1910 provider.

1911 (* * *l) "Residential child care" means the provision
1912 of supervision, and/or protection, and meeting the basic needs of
1913 a child for twenty-four (24) hours per day, which may include
1914 services to children in a residential setting where care, lodging,
1915 maintenance and counseling or therapy for alcohol or controlled
1916 substance abuse or for any other emotional disorder or mental
1917 illness is provided for children, whether for compensation or not.

1918 (* * *m) "Residential child-caring agency" means any
1919 place or facility operated by any entity or person, public or
1920 private, providing residential child care, regardless of whether
1921 operated for profit or whether a fee is charged. Such residential
1922 child-caring agencies include, but are not limited to, maternity
1923 homes, runaway shelters, group homes that are administered by an
1924 agency, and emergency shelters that are not in private residence.

1925 **SECTION 31.** Section 43-15-105, Mississippi Code of 1972, is
1926 amended as follows:

1927 43-15-105. (1) The * * * Mississippi Department of Child
1928 Protection Services shall be the licensing authority * * * and is
1929 vested with all the powers, duties and responsibilities described
1930 in this article. The * * * department shall make and establish
1931 rules and regulations regarding:



1932 (a) Approving, extending, denying, suspending and
1933 revoking licenses for foster homes, residential child-caring
1934 agencies and child-placing agencies;
1935 (b) Conditional licenses, variances from department
1936 rules and exclusions;
1937 (c) Basic health and safety standards for licensees;
1938 and
1939 (d) Minimum administration and financial requirements
1940 for licensees.
1941 (2) The * * * department shall:
1942 (a) Define information that shall be submitted to
1943 the * * * department with an application for a license;
1944 (b) Establish guidelines for the administration and
1945 maintenance of client and service records, including staff
1946 qualifications, staff to client ratios;
1947 (c) Issue licenses in accordance with this article;
1948 (d) Conduct surveys and inspections of licensees and
1949 facilities;
1950 (e) Establish and collect licensure fees;
1951 (f) Investigate complaints regarding any licensee or
1952 facility;
1953 (g) Have access to all records, correspondence and
1954 financial data required to be maintained by a licensee or
1955 facility;



1956 (h) Have authority to interview any client, family
1957 member of a client, employee or officer of a licensee or facility;
1958 and

1959 (i) Have authority to revoke, suspend or extend any
1960 license issued by the * * * department.

1961 **SECTION 32.** Section 43-15-107, Mississippi Code of 1972, is
1962 amended as follows:

1963 43-15-107. (1) Except as provided in Section 43-15-111, no
1964 person, agency, firm, corporation, association or other entity,
1965 acting individually or jointly with any other person or entity,
1966 may establish, conduct or maintain foster homes, residential
1967 child-caring agencies and child-placing agencies or facility
1968 and/or engage in child placing in this state without a valid and
1969 current license issued by and under the authority of the * * *
1970 department as provided by this article and the rules of the * * *
1971 department. Any out-of-state child-placing agency that provides a
1972 full range of services, including, but not limited to, adoptions,
1973 foster family homes, adoption counseling services or financial
1974 aid, in this state must be licensed by the * * * department under
1975 this article.

1976 (2) No license issued under this article is assignable or
1977 transferable.

1978 (3) A current license shall at all times be posted in each
1979 licensee's facility, in a place that is visible and readily
1980 accessible to the public.



1981 (4) (a) Except as otherwise provided in paragraph (b) of
1982 this subsection, each license issued under this article expires at
1983 midnight (Central Standard Time) twelve (12) months from the date
1984 of issuance unless it has been:

1985 (i) Previously revoked by the * * * department; or

1986 (ii) Voluntarily returned to the * * * department
1987 by the licensee.

1988 (b) (i) For any child-placing agency located in
1989 Mississippi that remains in good standing, the license issued
1990 under this article expires at midnight (Central Standard Time)
1991 twenty-four (24) months from the date of issuance unless it has
1992 been:

1993 1. Previously revoked by the * * *
1994 department; or

1995 2. Voluntarily returned to the * * *
1996 department by the licensee.

1997 (ii) Any child-placing agency whose license is
1998 governed by this paragraph (b) shall submit the following
1999 information to the * * * department annually:

2000 1. A copy of an audit report and IRS Form 990
2001 for the agency;

2002 2. The agency's fee schedule; and

2003 3. The agency's client list.

2004 (c) A license may be renewed upon application and
2005 payment of the applicable fee, provided that the licensee meets



2006 the license requirements established by this article and the rules
2007 and regulations of the * * * department.

2008 (5) Any licensee or facility which is in operation at the
2009 time rules are made in accordance with this article shall be given
2010 a reasonable time for compliance as determined by the rules of
2011 the * * * department.

2012 **SECTION 33.** Section 43-15-109, Mississippi Code of 1972, is
2013 amended as follows:

2014 43-15-109. (1) An application for a license under this
2015 article shall be made to the * * * department and shall contain
2016 information that the * * * department determines is necessary in
2017 accordance with established rules.

2018 (2) Information received by the * * * department through
2019 reports, complaints, investigations and inspections shall be
2020 classified as public in accordance with Title 25, Chapter 61,
2021 Mississippi Code of 1972, Mississippi Public Records Act.

2022 **SECTION 34.** Section 43-15-113, Mississippi Code of 1972, is
2023 amended as follows:

2024 43-15-113. (1) If a license is revoked, the * * *
2025 department may grant a new license after:

2026 (a) Satisfactory evidence is submitted to the * * *
2027 department, evidencing that the conditions upon which revocation
2028 was based have been corrected; and

2029 (b) Inspection and compliance with all provisions of
2030 this article and applicable rules.



2031 (2) The * * * department may only suspend a license for a
2032 period of time which does not exceed the current expiration date
2033 of that license.

2034 (3) When a license has been suspended, the * * * department
2035 may completely or partially restore the suspended license upon a
2036 determination that the:

2037 (a) Conditions upon which the suspension was based have
2038 been completely or partially corrected; and

2039 (b) Interests of the public will not be jeopardized by
2040 restoration of the license.

2041 **SECTION 35.** Section 43-15-115, Mississippi Code of 1972, is
2042 amended as follows:

2043 43-15-115. (1) The * * * department may, for the purpose of
2044 ascertaining compliance with the provisions of this article and
2045 its rules and regulations, enter and inspect on a routine basis
2046 the facility of a licensee.

2047 (2) Before conducting an inspection under subsection (1),
2048 the * * * department shall, after identifying the person in
2049 charge:

2050 (a) Give proper identification;

2051 (b) Request to see the applicable license;

2052 (c) Describe the nature and purpose of the inspection;

2053 and



2054 (d) If necessary, explain the authority of the * * *
2055 department to conduct the inspection and the penalty for refusing
2056 to permit the inspection.

2057 (3) In conducting an inspection under subsection (1),
2058 the * * * department may, after meeting the requirements of
2059 subsection (2):

2060 (a) Inspect the physical facilities;

2061 (b) Inspect records and documents;

2062 (c) Interview directors, employees, clients, family
2063 members of clients and others; and

2064 (d) Observe the licensee in operation.

2065 (4) An inspection conducted under subsection (1) shall be
2066 during regular business hours and may be announced or unannounced.

2067 (5) The licensee shall make copies of inspection reports
2068 available to the public upon request.

2069 (6) The provisions of this section apply to on-site
2070 inspections and do not restrict the * * * department from
2071 contacting family members, neighbors or other individuals, or from
2072 seeking information from other sources to determine compliance
2073 with the provisions of this article.

2074 **SECTION 36.** Section 43-15-117, Mississippi Code of 1972, is
2075 amended as follows:

2076 43-15-117. (1) Except as provided in this article, no
2077 person, agency, firm, corporation, association or group children's
2078 home may engage in child placing, or solicit money or other



2079 assistance for child placing, without a valid license issued by
2080 the * * * department. No out-of-state child-placing agency that
2081 provides a full range of services, including, but not limited to,
2082 adoptions, foster family homes, adoption counseling services or
2083 financial aid, may operate in this state without a valid license
2084 issued by the * * * department. No child-placing agency shall
2085 advertise in the media markets in Mississippi seeking birth
2086 mothers or their children for adoption purposes unless the agency
2087 holds a valid and current license issued either by the * * *
2088 department or the authorized governmental licensing agency of
2089 another state that regulates child-placing agencies. Any
2090 child-placing agency, physician or attorney who advertises for
2091 child placing or adoption services in Mississippi shall be
2092 required by the * * * department to show their principal office
2093 location on all media advertising for adoption services.

2094 (2) An attorney who provides legal services to a client in
2095 connection with proceedings for the adoption of a child by the
2096 client, who does not receive, accept or provide custody or care
2097 for the child for the purposes specified in Section 43-15-103(c),
2098 shall not be required to have a license under this article to
2099 provide those legal services.

2100 (3) An attorney, physician or other person may assist a
2101 parent in identifying or locating a person interested in adopting
2102 the parent's child, or in identifying or locating a child to be
2103 adopted. However, no payment, charge, fee, reimbursement of



2104 expense, or exchange of value of any kind, or promise or agreement
2105 to make the same, may be made for that assistance.

2106 (4) Nothing in this section precludes payment of reasonable
2107 fees for medical, legal or other lawful services rendered in
2108 connection with the care of a mother, delivery and care of a child
2109 including, but not limited to, the mother's living expenses, or
2110 counseling for the parents and/or the child, and for the legal
2111 proceedings related to lawful adoption proceedings; and no
2112 provision of this section abrogates the right of procedures for
2113 independent adoption as provided by law.

2114 (5) The * * * department is specifically authorized to
2115 promulgate rules under the Administrative Procedures Law, Title
2116 25, Chapter 43, Mississippi Code of 1972, to regulate fees charged
2117 by licensed child-placing agencies, if it determines that the
2118 practices of those licensed child-placing agencies demonstrates
2119 that the fees charged are excessive or that any of the agency's
2120 practices are deceptive or misleading; however, those rules
2121 regarding fees shall take into account the use of any sliding fee
2122 by an agency that uses a sliding fee procedure to permit
2123 prospective adoptive parents of varying income levels to utilize
2124 the services of those agencies or persons.

2125 (6) The * * * department shall promulgate rules under the
2126 Administrative Procedures Law, Title 25, Chapter 43, Mississippi
2127 Code of 1972, to require that all licensed child-placing agencies
2128 provide written disclosures to all prospective adoptive parents of



2129 any fees or other charges for each service performed by the agency
2130 or person, and file an annual report with the * * * department
2131 that states the fees and charges for those services, and to
2132 require them to inform the * * * department in writing thirty (30)
2133 days in advance of any proposed changes to the fees or charges for
2134 those services.

2135 (7) The * * * department is specifically authorized to
2136 disclose to prospective adoptive parents or other interested
2137 persons any fees charged by any licensed child-placing agency,
2138 attorney or counseling service or counselor for all legal and
2139 counseling services provided by that licensed child-placing
2140 agency, attorney or counseling service or counselor.

2141 **SECTION 37.** Section 43-15-119, Mississippi Code of 1972, is
2142 amended as follows:

2143 43-15-119. (1) If the * * * department finds that a
2144 violation has occurred under this article or the rules and
2145 regulations of the division, it may:

2146 (a) Deny, suspend or revoke a license or place the
2147 licensee on probation, if the * * * department discovers that a
2148 licensee is not in compliance with the laws, standards or
2149 regulations governing its operation, and/or it finds evidence of
2150 aiding, abetting or permitting the commission of any illegal act;
2151 or

2152 (b) Restrict or prohibit new admissions to the
2153 licensee's program or facility, if the * * * department discovers



2154 that a licensee is not in compliance with the laws, standards or
2155 regulations governing its operation, and/or it finds evidence of
2156 aiding, abetting or permitting the commission of any illegal act.

2157 (2) If placed on probation, the agency or licensee shall
2158 post a copy of the notice in a conspicuous place as directed by
2159 the * * * department and with the agency's or individual's
2160 license, and the agency shall notify the custodians of each of the
2161 children in its care in writing of the agency's status and the
2162 basis for the probation.

2163 **SECTION 38.** Section 43-15-121, Mississippi Code of 1972, is
2164 amended as follows:

2165 43-15-121. In addition to, and notwithstanding, any other
2166 remedy provided by law, the * * * department may, in a manner
2167 provided by law and upon the advice of the Attorney General who,
2168 except as otherwise authorized in Section 7-5-39, shall represent
2169 the * * * department in the proceedings, maintain an action in the
2170 name of the state for injunction or other process against any
2171 person or entity to restrain or prevent the establishment,
2172 management or operation of a program or facility or performance of
2173 services in violation of this article or rules of the * * *
2174 department.

2175 **SECTION 39.** Section 43-15-125, Mississippi Code of 1972, is
2176 amended as follows:

2177 43-15-125. The Department of * * * Child Protective Services
2178 and/or its officers, employees, attorneys and representatives



2179 shall not be held civilly liable for any findings, recommendations
2180 or actions taken pursuant to this article.

2181 **SECTION 40.** Section 43-15-201, Mississippi Code of 1972, is
2182 amended as follows:

2183 43-15-201. (1) An emergency medical services provider,
2184 without a court order, shall take possession of a child who is
2185 seventy-two (72) hours old or younger if the child is voluntarily
2186 delivered to the provider by the child's parent and the parent did
2187 not express an intent to return for the child.

2188 (2) The parent who surrenders the baby shall not be required
2189 to provide any information pertaining to his or her identity, nor
2190 shall the emergency medical services provider inquire as to same.
2191 If the identity of the parent is known to the emergency medical
2192 services provider, the emergency medical services provider shall
2193 keep the identity confidential.

2194 (3) A female presenting herself to a hospital through the
2195 emergency room or otherwise, who is subsequently admitted for
2196 purposes of labor and delivery, does not give up the legal
2197 protections or anonymity guaranteed under this section. If the
2198 mother clearly expresses a desire to voluntarily surrender custody
2199 of the newborn after birth, the emergency medical services
2200 provider can take possession of the child, without further action
2201 by the mother, as if the child had been presented to the emergency
2202 medical services provider in the same manner outlined above in
2203 subsection (1) of this section.



2204 (a) If the mother expresses a desire to remain
2205 anonymous, identifying information may be obtained for purposes of
2206 securing payment of labor and delivery costs only. If the birth
2207 mother is a minor, the hospital may use the identifying
2208 information to secure payment through Medicaid, but shall not
2209 notify the minor's parent or guardian without the minor's consent.

2210 (b) The identity of the birth mother shall not be
2211 placed on the birth certificate or disclosed to the Department
2212 of * * * Child Protection Services.

2213 (4) There is a presumption that by relinquishing a child in
2214 accordance with this section, the parent consents to the
2215 termination of his or her parental rights with respect to the
2216 child. As such, the parent waives the right to notification
2217 required by subsequent court proceedings.

2218 (5) An emergency medical services provider who takes
2219 possession of a child under this section shall perform any act
2220 necessary to protect the physical health or safety of the child.

2221 **SECTION 41.** Section 43-15-203, Mississippi Code of 1972, is
2222 amended as follows:

2223 43-15-203. (1) No later than the close of the first
2224 business day after the date on which an emergency medical services
2225 provider takes possession of a child pursuant to Section
2226 43-15-201, the provider shall notify the Department of * * * Child
2227 Protection Services that the provider has taken possession of the
2228 child.



2229 (2) The department shall assume the care, control and
2230 custody of the child immediately on receipt of notice pursuant to
2231 subsection (1). The department shall be responsible for all
2232 medical and other costs associated with the child and shall
2233 reimburse the hospital for any costs incurred prior to the child
2234 being placed in the care of the department.

2235 **SECTION 42.** Section 43-15-207, Mississippi Code of 1972, is
2236 amended as follows:

2237 43-15-207. For the purposes of this article, an emergency
2238 medical services provider shall mean a licensed hospital, as
2239 defined in Section 41-9-3, which operates an emergency department
2240 or an adoption agency duly licensed by the Department of * * *
2241 Child Protection Services. An emergency medical services provider
2242 does not include the offices, clinics, surgeries or treatment
2243 facilities of private physicians or dentists. No individual
2244 licensed healthcare provider, including physicians, dentists,
2245 nurses, physician assistants or other health professionals shall
2246 be deemed to be an emergency medical services provider under this
2247 article unless such individual voluntarily assumes responsibility
2248 for the custody of the child.

2249 **SECTION 43.** Section 43-16-3, Mississippi Code of 1972, is
2250 amended as follows:

2251 43-16-3. As used in this chapter, the following definitions
2252 shall apply unless the context clearly provides otherwise:



2253 (a) "Child" means a person who has not reached the age
2254 of eighteen (18) years or who has not otherwise been legally
2255 emancipated.

2256 (b) "Child residential home" means any place, facility
2257 or home operated by any person which receives children who are not
2258 related to the operators and whose parents or guardians are not
2259 residents of the same facility for supervision, care, lodging and
2260 maintenance for twenty-four (24) hours a day, with or without
2261 transfer of custody. This term does not include:

2262 (i) Residential homes licensed by the Department
2263 of * * * Child Protection Services under Section 43-15-5;

2264 (ii) Any public school;

2265 (iii) Any home operated by a state agency;

2266 (iv) Child care facilities as defined in Section
2267 43-20-5;

2268 (v) Youth camps as defined in Section 75-74-3;

2269 (vi) Health care facilities licensed by the State
2270 Department of Health; or

2271 (vii) The home of an attorney-in-fact operating
2272 under a power of attorney executed under Section 93-31-1 et seq.

2273 (c) "Department" shall mean the State Department of
2274 Health.

2275 (d) "Person" shall include an individual, partnership,
2276 organization, association or corporation.



2277 **SECTION 44.** Section 43-16-21, Mississippi Code of 1972, is
2278 amended as follows:

2279 43-16-21. Notwithstanding the existence of any other remedy,
2280 the department may, in the manner provided by law, in termtime or
2281 in vacation, upon the advice of the Attorney General who, except
2282 as otherwise authorized in Section 7-5-39, shall represent the
2283 department in the proceedings, maintain an action in the name of
2284 the state for an injunction or restraining order to cease the
2285 operation of the home, and to provide for the appropriate removal
2286 of the children from the home and placement in the custody of the
2287 parents or legal guardians, the Department of * * * Child
2288 Protection Services, or any other appropriate entity in the
2289 discretion of the court. Such action shall be brought in the
2290 chancery court or the youth court, as appropriate, of the county
2291 in which such child residential home is located, and shall only be
2292 initiated for the following violations:

2293 (a) Providing supervision, care, lodging or maintenance
2294 for any children in such home without filing notification in
2295 accordance with this chapter.

2296 (b) Failure to satisfactorily comply with local health
2297 department or State Fire Marshal inspections made pursuant to
2298 Section 43-16-15, regarding the health, nutrition, cleanliness,
2299 safety, sanitation, written records and discipline policy of such
2300 home.



2301 (c) Suspected abuse and/or neglect of the children
2302 served by such home, as defined in Section 43-21-105.

2303 **SECTION 45.** Section 43-18-3, Mississippi Code of 1972, is
2304 amended as follows:

2305 43-18-3. The "appropriate public authorities" as used in
2306 Article III of the Interstate Compact on the Placement of Children
2307 shall, with reference to this state, mean the * * * Department of
2308 Child Protection Services. * * *

2309 **SECTION 46.** Section 43-18-5, Mississippi Code of 1972, is
2310 amended as follows:

2311 43-18-5. As used in paragraph (a) of Article V of the
2312 Interstate Compact on the Placement of Children, the phrase
2313 "appropriate authority in the receiving state" with reference to
2314 this state shall mean the * * * Department of Child Protection
2315 Services.

2316 **SECTION 47.** Section 43-20-8, Mississippi Code of 1972, is
2317 amended as follows:

2318 43-20-8. (1) The licensing agency shall have powers and
2319 duties as set forth below, in addition to other duties prescribed
2320 under this chapter:

2321 (a) Promulgate rules and regulations concerning the
2322 licensing and regulation of child care facilities as defined in
2323 Section 43-20-5;



2324 (b) Have the authority to issue, deny, suspend, revoke,
2325 restrict or otherwise take disciplinary action against licensees
2326 as provided for in this chapter;

2327 (c) Set and collect fees and penalties as provided for
2328 in this chapter; any increase in the fees charged by the licensing
2329 agency under this paragraph shall be in accordance with the
2330 provisions of Section 41-3-65; and

2331 (d) Have such other powers as may be required to carry
2332 out the provisions of this chapter.

2333 (2) Child care facilities shall assure that parents have
2334 welcome access to the child care facility at all times and shall
2335 comply with the provisions of Chapter 520, Laws of 2006.

2336 (3) Each child care facility shall develop and maintain a
2337 current list of contact persons for each child provided care by
2338 that facility. An agreement may be made between the child care
2339 facility and the child's parent, guardian or contact person at the
2340 time of registration to inform the parent, guardian or contact
2341 person if the child does not arrive at the facility within a
2342 reasonable time.

2343 (4) Child care facilities shall require that, for any
2344 current or prospective caregiver, all criminal records, background
2345 and sex offender registry checks and current child abuse registry
2346 checks are obtained. In order to determine the applicant's
2347 suitability for employment, the applicant shall be fingerprinted.
2348 If no disqualifying record is identified at the state level, the



2349 fingerprints shall be forwarded by the Department of Public Safety
2350 to the FBI for a national criminal history record check.

2351 (5) The licensing agency shall require to be performed a
2352 criminal records background check and a child abuse registry check
2353 for all operators of a child care facility and any person living
2354 in a residence used for child care. The Department of * * * Child
2355 Protection Services shall have the authority to disclose to the
2356 State Department of Health any potential applicant whose name is
2357 listed on the Child Abuse Central Registry or has a pending
2358 administrative review. That information shall remain confidential
2359 by all parties. In order to determine the applicant's suitability
2360 for employment, the applicant shall be fingerprinted. If no
2361 disqualifying record is identified at the state level, the
2362 fingerprints shall be forwarded by the Department of Public Safety
2363 to the FBI for a national criminal history record check.

2364 (6) The licensing agency shall have the authority to exclude
2365 a particular crime or crimes or a substantiated finding of child
2366 abuse and/or neglect as disqualifying individuals or entities for
2367 prospective or current employment or licensure.

2368 (7) The licensing agency and its agents, officers,
2369 employees, attorneys and representatives shall not be held civilly
2370 liable for any findings, recommendations or actions taken under
2371 this section.

2372 (8) All fees incurred in compliance with this section shall
2373 be borne by the child care facility. The licensing agency is



2374 authorized to charge a fee that includes the amount required by
2375 the Federal Bureau of Investigation for the national criminal
2376 history record check in compliance with the Child Protection Act
2377 of 1993, as amended, and any necessary costs incurred by the
2378 licensing agency for the handling and administration of the
2379 criminal history background checks.

2380 (9) From and after January 1, 2008, the State Board of
2381 Health shall develop regulations to ensure that all children
2382 enrolled or enrolling in a state licensed child care center
2383 receive age-appropriate immunization against invasive pneumococcal
2384 disease as recommended by the Advisory Committee on immunization
2385 practices of the Centers for Disease Control and Prevention. The
2386 State Board of Health shall include, within its regulations,
2387 protocols for children under the age of twenty-four (24) months to
2388 catch up on missed doses. If the State Board of Health has
2389 adopted regulations before January 1, 2008, that would otherwise
2390 meet the requirements of this subsection, then this subsection
2391 shall stand repealed on January 1, 2008.

2392 **SECTION 48.** Section 43-21-105, Mississippi Code of 1972, is
2393 amended as follows:

2394 43-21-105. The following words and phrases, for purposes of
2395 this chapter, shall have the meanings ascribed herein unless the
2396 context clearly otherwise requires:

2397 (a) "Youth court" means the Youth Court Division.



2398 (b) "Judge" means the judge of the Youth Court
2399 Division.

2400 (c) "Designee" means any person that the judge appoints
2401 to perform a duty which this chapter requires to be done by the
2402 judge or his designee. The judge may not appoint a person who is
2403 involved in law enforcement or who is an employee of the
2404 Mississippi Department of * * * Child Protection Services to be
2405 his designee.

2406 (d) "Child" and "youth" are synonymous, and each means
2407 a person who has not reached his eighteenth birthday. A child who
2408 has not reached his eighteenth birthday and is on active duty for
2409 a branch of the armed services or is married is not considered a
2410 "child" or "youth" for the purposes of this chapter.

2411 (e) "Parent" means the father or mother to whom the
2412 child has been born, or the father or mother by whom the child has
2413 been legally adopted.

2414 (f) "Guardian" means a court-appointed guardian of the
2415 person of a child.

2416 (g) "Custodian" means any person having the present
2417 care or custody of a child whether such person be a parent or
2418 otherwise.

2419 (h) "Legal custodian" means a court-appointed custodian
2420 of the child.

2421 (i) "Delinquent child" means a child who has reached
2422 his tenth birthday and who has committed a delinquent act.



2423 (j) "Delinquent act" is any act, which if committed by
2424 an adult, is designated as a crime under state or federal law, or
2425 municipal or county ordinance other than offenses punishable by
2426 life imprisonment or death. A delinquent act includes escape from
2427 lawful detention and violations of the Uniform Controlled
2428 Substances Law and violent behavior.

2429 (k) "Child in need of supervision" means a child who
2430 has reached his seventh birthday and is in need of treatment or
2431 rehabilitation because the child:

2432 (i) Is habitually disobedient of reasonable and
2433 lawful commands of his parent, guardian or custodian and is
2434 ungovernable; or

2435 (ii) While being required to attend school,
2436 willfully and habitually violates the rules thereof or willfully
2437 and habitually absents himself therefrom; or

2438 (iii) Runs away from home without good cause; or

2439 (iv) Has committed a delinquent act or acts.

2440 (l) "Neglected child" means a child:

2441 (i) Whose parent, guardian or custodian or any
2442 person responsible for his care or support, neglects or refuses,
2443 when able so to do, to provide for him proper and necessary care
2444 or support, or education as required by law, or medical, surgical,
2445 or other care necessary for his well-being; however, a parent who
2446 withholds medical treatment from any child who in good faith is
2447 under treatment by spiritual means alone through prayer in



2448 accordance with the tenets and practices of a recognized church or
2449 religious denomination by a duly accredited practitioner thereof
2450 shall not, for that reason alone, be considered to be neglectful
2451 under any provision of this chapter; or

2452 (ii) Who is otherwise without proper care,
2453 custody, supervision or support; or

2454 (iii) Who, for any reason, lacks the special care
2455 made necessary for him by reason of his mental condition, whether
2456 the mental condition is having mental illness or having an
2457 intellectual disability; or

2458 (iv) Who, for any reason, lacks the care necessary
2459 for his health, morals or well-being.

2460 (m) "Abused child" means a child whose parent, guardian
2461 or custodian or any person responsible for his care or support,
2462 whether legally obligated to do so or not, has caused or allowed
2463 to be caused, upon the child, sexual abuse, sexual exploitation,
2464 emotional abuse, mental injury, nonaccidental physical injury or
2465 other maltreatment. However, physical discipline, including
2466 spanking, performed on a child by a parent, guardian or custodian
2467 in a reasonable manner shall not be deemed abuse under this
2468 section. "Abused child" also means a child who is or has been
2469 trafficked within the meaning of the Mississippi Human Trafficking
2470 Act by any person, without regard to the relationship of the
2471 person to the child.



2472 (n) "Sexual abuse" means obscene or pornographic
2473 photographing, filming or depiction of children for commercial
2474 purposes, or the rape, molestation, incest, prostitution or other
2475 such forms of sexual exploitation of children under circumstances
2476 which indicate that the child's health or welfare is harmed or
2477 threatened.

2478 (o) "A child in need of special care" means a child
2479 with any mental or physical illness that cannot be treated with
2480 the dispositional alternatives ordinarily available to the youth
2481 court.

2482 (p) A "dependent child" means any child who is not a
2483 child in need of supervision, a delinquent child, an abused child
2484 or a neglected child, and which child has been voluntarily placed
2485 in the custody of the Department of * * * Child Protections
2486 Services by his parent, guardian or custodian.

2487 (q) "Custody" means the physical possession of the
2488 child by any person.

2489 (r) "Legal custody" means the legal status created by a
2490 court order which gives the legal custodian the responsibilities
2491 of physical possession of the child and the duty to provide him
2492 with food, shelter, education and reasonable medical care, all
2493 subject to residual rights and responsibilities of the parent or
2494 guardian of the person.

2495 (s) "Detention" means the care of children in
2496 physically restrictive facilities.



2497 (t) "Shelter" means care of children in physically
2498 nonrestrictive facilities.

2499 * * *

2500 (* * * u) "Any person responsible for care or support"
2501 means the person who is providing for the child at a given time.
2502 This term shall include, but is not limited to, stepparents,
2503 foster parents, relatives, nonlicensed babysitters or other
2504 similar persons responsible for a child and staff of residential
2505 care facilities and group homes that are licensed by the
2506 Department of * * * Child Protection Services.

2507 (* * * y) The singular includes the plural, the plural
2508 the singular and the masculine the feminine when consistent with
2509 the intent of this chapter.

2510 (* * * w) "Out-of-home" setting means the temporary
2511 supervision or care of children by the staff of licensed day care
2512 centers, the staff of public, private and state schools, the staff
2513 of juvenile detention facilities, the staff of unlicensed
2514 residential care facilities and group homes and the staff of, or
2515 individuals representing, churches, civic or social organizations.

2516 (* * * x) "Durable legal custody" means the legal
2517 status created by a court order which gives the durable legal
2518 custodian the responsibilities of physical possession of the child
2519 and the duty to provide him with care, nurture, welfare, food,
2520 shelter, education and reasonable medical care. All these duties
2521 as enumerated are subject to the residual rights and



2522 responsibilities of the natural parent(s) or guardian(s) of the
2523 child or children.

2524 (* * *y) "Status offense" means conduct subject to
2525 adjudication by the youth court that would not be a crime if
2526 committed by an adult.

2527 (* * *z) "Financially able" means a parent or child
2528 who is ineligible for a court-appointed attorney.

2529 (* * *aa) "Assessment" means an individualized
2530 examination of a child to determine the child's psychosocial needs
2531 and problems, including the type and extent of any mental health,
2532 substance abuse or co-occurring mental health and substance abuse
2533 disorders and recommendations for treatment. The term includes,
2534 but is not limited to, a drug and alcohol, psychological or
2535 psychiatric evaluation, records review, clinical interview or the
2536 administration of a formal test and instrument.

2537 (* * *bb) "Screening" means a process, with or without
2538 the administration of a formal instrument, that is designed to
2539 identify a child who is at increased risk of having mental health,
2540 substance abuse or co-occurring mental health and substance abuse
2541 disorders that warrant immediate attention, intervention or more
2542 comprehensive assessment.

2543 (* * *cc) "Durable legal relative guardianship" means
2544 the legal status created by a youth court order that conveys the
2545 physical and legal custody of a child or children by durable legal



2546 guardianship to a relative or fictive kin who is licensed as a
2547 foster or resource parent.

2548 (* * *dd) "Relative" means a person related to the
2549 child by affinity or consanguinity within the third degree.

2550 (* * *ee) "Fictive kin" means a person not related to
2551 the child legally or biologically but who is considered a relative
2552 due to a significant, familial-like and ongoing relationship with
2553 the child and family.

2554 (* * *ff) "Reasonable efforts" means the exercise of
2555 reasonable care and due diligence by the Department of Human
2556 Services, the Department of Child Protection Services, or any
2557 other appropriate entity or person to use appropriate and
2558 available services to prevent the unnecessary removal of the child
2559 from the home or provide other services related to meeting the
2560 needs of the child and the parents.

2561 **SECTION 49.** Section 43-21-203, Mississippi Code of 1972, is
2562 amended as follows:

2563 43-21-203. (1) The youth court shall be in session at all
2564 times.

2565 (2) All cases involving children shall be heard at any place
2566 the judge deems suitable but separately from the trial of cases
2567 involving adults.

2568 (3) Hearings in all cases involving children shall be
2569 conducted without a jury and may be recessed from time to time.



2570 (4) All hearings shall be conducted under such rules of
2571 evidence and rules of court as may comply with applicable
2572 constitutional standards.

2573 (5) No proceeding by the youth court in cases involving
2574 children shall be a criminal proceeding but shall be entirely of a
2575 civil nature.

2576 (6) The general public shall be excluded from the hearing,
2577 and only those persons shall be admitted who are found by the
2578 youth court to have a direct interest in the cause or work of the
2579 youth court. Any person found by the youth court to have a direct
2580 interest in the cause shall have the right to appear and be
2581 represented by legal counsel. Any and all youth defenders and
2582 parent attorneys certified under Section 43-21-201 shall be
2583 considered to have a direct interest in the work of the youth
2584 court and shall not be excluded from any hearing without written
2585 justification.

2586 (7) In all hearings, except detention and shelter hearings
2587 under Section 43-21-309, a complete record of all evidence shall
2588 be taken by stenographic reporting, by mechanical or electronic
2589 device or by some combination thereof.

2590 (8) The youth court may exclude the attendance of a child
2591 from a hearing in neglect and abuse cases with consent of the
2592 child's counsel. The youth court may exclude the attendance of a
2593 child from any portion of a disposition hearing that would be
2594 injurious to the best interest of the child in delinquency and



2595 children in need of supervision cases with consent of the child's
2596 counsel.

2597 (9) All parties to a youth court cause shall have the right
2598 at any hearing in which an investigation, record or report is
2599 admitted in evidence:

2600 (a) To subpoena, confront and examine the person who
2601 prepared or furnished data for the report; and

2602 (b) To introduce evidence controverting the contents of
2603 the report.

2604 (10) Except as provided by Section 43-21-561(5) or as
2605 otherwise provided by this chapter, the disposition of a child's
2606 cause or any evidence given in the youth court in any proceedings
2607 concerning the child shall not be admissible against the child in
2608 any case or proceeding in any court other than a youth court.

2609 (11) A complete record of all enforceable orders made by the
2610 court shall be taken by stenographic reporting, by mechanical or
2611 electronic device or by some combination thereof.

2612 **SECTION 50.** Section 43-21-257, Mississippi Code of 1972, is
2613 amended as follows:

2614 43-21-257. (1) Unless otherwise provided in this section,
2615 any record involving children, including valid and invalid
2616 complaints, and the contents thereof maintained by the Department
2617 of Human Services, The Department of Child Protection Services, or
2618 any other state agency, shall be kept confidential and shall not
2619 be disclosed except as provided in Section 43-21-261.



2620 (2) The Office of Youth Services shall maintain a state
2621 central registry containing the number and disposition of all
2622 cases together with such other useful information regarding those
2623 cases as may be requested and is obtainable from the records of
2624 the youth court. The Office of Youth Services shall annually
2625 publish a statistical record of the number and disposition of all
2626 cases, but the names or identity of any children shall not be
2627 disclosed in the reports or records. The Office of Youth Services
2628 shall adopt such rules as may be necessary to carry out this
2629 subsection. The central registry files and the contents thereof
2630 shall be confidential and shall not be open to public inspection.
2631 Any person who discloses or encourages the disclosure of any
2632 record involving children from the central registry shall be
2633 subject to the penalty in Section 43-21-267. The youth court
2634 shall furnish, upon forms provided by the Office of Youth
2635 Services, the necessary information, and these completed forms
2636 shall be forwarded to the Office of Youth Services.

2637 (3) The Department of * * * Child Protection Services shall
2638 maintain a state central registry on neglect and abuse cases
2639 containing (a) the name, address and age of each child, (b) the
2640 nature of the harm reported, (c) the name and address of the
2641 person responsible for the care of the child, and (d) the name and
2642 address of the substantiated perpetrator of the harm reported.
2643 "Substantiated perpetrator" shall be defined as an individual who
2644 has committed an act(s) of sexual abuse or physical abuse that



2645 would otherwise be deemed as a felony or any child neglect that
2646 would be deemed as a threat to life, as determined upon
2647 investigation by the * * * Department of Child Protection
2648 Services. "Substantiation" for the purposes of the Mississippi
2649 Department of * * * Child Protection Services Central Registry
2650 shall require a criminal conviction or an adjudication by a youth
2651 court judge or court of competent jurisdiction, ordering that the
2652 name of the perpetrator be listed on the central registry, pending
2653 due process. The Department of * * * Child Protection Services
2654 shall adopt such rules and administrative procedures, especially
2655 those procedures to afford due process to individuals who have
2656 been named as substantiated perpetrators before the release of
2657 their name from the central registry, as may be necessary to carry
2658 out this subsection. The central registry shall be confidential
2659 and shall not be open to public inspection. Any person who
2660 discloses or encourages the disclosure of any record involving
2661 children from the central registry without following the rules and
2662 administrative procedures of the department shall be subject to
2663 the penalty in Section 43-21-267. The Department of * * * Child
2664 Protection Services and its employees are exempt from any civil
2665 liability as a result of any action taken pursuant to the
2666 compilation and/or release of information on the central registry
2667 under this section and any other applicable section of the code,
2668 unless determined that an employee has willfully and maliciously
2669 violated the rules and administrative procedures of the



2670 department, pertaining to the central registry or any section of
2671 this code. If an employee is determined to have willfully and
2672 maliciously performed such a violation, said employee shall not be
2673 exempt from civil liability in this regard.

2674 (4) The Mississippi State Department of Health may release
2675 the findings of investigations into allegations of abuse within
2676 licensed day care centers made under the provisions of Section
2677 43-21-353(8) to any parent of a child who is enrolled in the day
2678 care center at the time of the alleged abuse or at the time the
2679 request for information is made. The findings of any such
2680 investigation may also be released to parents who are considering
2681 placing children in the day care center. No information
2682 concerning those investigations may contain the names or
2683 identifying information of individual children.

2684 The Department of Health shall not be held civilly liable for
2685 the release of information on any findings, recommendations or
2686 actions taken pursuant to investigations of abuse that have been
2687 conducted under Section 43-21-353(8).

2688 **SECTION 51.** Section 43-21-261, Mississippi Code of 1972, is
2689 amended as follows:

2690 43-21-261. (1) Except as defined in Section 43-21-255
2691 otherwise provided in this section, records involving children
2692 shall not be disclosed, other than to necessary staff of the youth
2693 court or a Court-Appointed Special Advocate (CASA) volunteer that
2694 may be assigned in an abuse and neglect case, except pursuant to



2695 an order of the youth court specifying the person or persons to
2696 whom the records may be disclosed, the extent of the records which
2697 may be disclosed and the purpose of the disclosure. Such court
2698 orders for disclosure shall be limited to those instances in which
2699 the youth court concludes, in its discretion, that disclosure is
2700 required for the best interests of the child, the public safety or
2701 the functioning of the youth court and then only to the following
2702 persons:

2703 (a) The judge of another youth court or member of
2704 another youth court staff;

2705 (b) The court of the parties in a child custody or
2706 adoption cause in another court;

2707 (c) A judge of any other court or members of another
2708 court staff;

2709 (d) Representatives of a public or private agency
2710 providing supervision or having custody of the child under order
2711 of the youth court;

2712 (e) Any person engaged in a bona fide research purpose,
2713 provided that no information identifying the subject of the
2714 records shall be made available to the researcher unless it is
2715 absolutely essential to the research purpose and the judge gives
2716 prior written approval, and the child, through his or her
2717 representative, gives permission to release the information;

2718 (f) The Mississippi Department of Employment Security,
2719 or its duly authorized representatives, for the purpose of a



2720 child's enrollment into the Job Corps Training Program as
2721 authorized by Title IV of the Comprehensive Employment Training
2722 Act of 1973 (29 USCS Section 923 et seq.). However, no records,
2723 reports, investigations or information derived therefrom
2724 pertaining to child abuse or neglect shall be disclosed;

2725 (g) To any person pursuant to a finding by a judge of
2726 the youth court of compelling circumstances affecting the health,
2727 safety or well-being of a child and that such disclosure is in the
2728 best interests of the child or an adult who was formerly the
2729 subject of a youth court delinquency proceeding.

2730 Law enforcement agencies may disclose information to the
2731 public concerning the taking of a child into custody for the
2732 commission of a delinquent act without the necessity of an order
2733 from the youth court. The information released shall not identify
2734 the child or his address unless the information involves a child
2735 convicted as an adult.

2736 (2) Any records involving children which are disclosed under
2737 an order of the youth court or pursuant to the terms of this
2738 section and the contents thereof shall be kept confidential by the
2739 person or agency to whom the record is disclosed unless otherwise
2740 provided in the order. Any further disclosure of any records
2741 involving children shall be made only under an order of the youth
2742 court as provided in this section.

2743 (3) Upon request, the parent, guardian or custodian of the
2744 child who is the subject of a youth court cause or any attorney



2745 for such parent, guardian or custodian, shall have the right to
2746 inspect any record, report or investigation * * *, except that the
2747 identity of the reporter shall not be released, nor the name of
2748 any other person where the person or agency making the information
2749 available finds that disclosure of the information would be likely
2750 to endanger the life or safety of such person. The attorney for
2751 the parent, guardian or custodian of the child, upon request,
2752 shall be provided a copy of any record, report or
2753 investigation, * * *, but the identity of the reporter must be
2754 redacted and the name of any other person must also be redacted if
2755 the person or agency making the information available finds that
2756 disclosure of the information would be likely to endanger the
2757 life, safety or well-being of the person. A record provided to
2758 the attorney under this section, must remain in the attorney's
2759 control and the attorney may not provide copies or access to
2760 another person or entity without prior consent of a court with
2761 appropriate jurisdiction.

2762 (4) Upon request, the child who is the subject of a youth
2763 court cause shall have the right to have his counsel inspect and
2764 copy any record, report or investigation * * *.

2765 (5) (a) The youth court prosecutor or prosecutors, the
2766 county attorney, the district attorney, the youth court defender
2767 or defenders, or any attorney representing a child shall have the
2768 right to inspect and copy any law enforcement record involving
2769 children.



2770 (b) The Department of Human Services shall disclose to
2771 a county prosecuting attorney or district attorney any and all
2772 records resulting from an investigation into suspected child abuse
2773 or neglect when the case has been referred by the Department of
2774 Human Services to the county prosecuting attorney or district
2775 attorney for criminal prosecution.

2776 (c) Agency records made confidential under the
2777 provisions of this section may be disclosed to a court of
2778 competent jurisdiction.

2779 (d) Records involving children shall be disclosed to
2780 the Division of Victim Compensation of the Office of the Attorney
2781 General upon the division's request without order of the youth
2782 court for purposes of determination of eligibility for victim
2783 compensation benefits.

2784 (6) Information concerning an investigation into a report of
2785 child abuse or child neglect may be disclosed by the Department of
2786 Human Services without order of the youth court to any attorney,
2787 physician, dentist, intern, resident, nurse, psychologist, social
2788 worker, family protection worker, family protection specialist,
2789 child caregiver, minister, law enforcement officer, public or
2790 private school employee making that report pursuant to Section
2791 43-21-353(1) if the reporter has a continuing professional
2792 relationship with the child and a need for such information in
2793 order to protect or treat the child.



2794 (7) Information concerning an investigation into a report of
2795 child abuse or child neglect may be disclosed without further
2796 order of the youth court to any interagency child abuse task force
2797 established in any county or municipality by order of the youth
2798 court of that county or municipality.

2799 (8) Names and addresses of juveniles twice adjudicated as
2800 delinquent for an act which would be a felony if committed by an
2801 adult or for the unlawful possession of a firearm shall not be
2802 held confidential and shall be made available to the public.

2803 (9) Names and addresses of juveniles adjudicated as
2804 delinquent for murder, manslaughter, burglary, arson, armed
2805 robbery, aggravated assault, any sex offense as defined in Section
2806 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
2807 violation of Section 63-11-30, shall not be held confidential and
2808 shall be made available to the public.

2809 (10) The judges of the circuit and county courts, and
2810 presentence investigators for the circuit courts, as provided in
2811 Section 47-7-9, shall have the right to inspect any youth court
2812 records of a person convicted of a crime for sentencing purposes
2813 only.

2814 (11) The victim of an offense committed by a child who is
2815 the subject of a youth court cause shall have the right to be
2816 informed of the child's disposition by the youth court.

2817 (12) A classification hearing officer of the State
2818 Department of Corrections, as provided in Section 47-5-103, shall



2819 have the right to inspect any youth court records, excluding abuse
2820 and neglect records, of any offender in the custody of the
2821 department who as a child or minor was a juvenile offender or was
2822 the subject of a youth court cause of action, and the State Parole
2823 Board, as provided in Section 47-7-17, shall have the right to
2824 inspect such records when the offender becomes eligible for
2825 parole.

2826 (13) The youth court shall notify the Department of Public
2827 Safety of the name, and any other identifying information such
2828 department may require, of any child who is adjudicated delinquent
2829 as a result of a violation of the Uniform Controlled Substances
2830 Law.

2831 (14) The Administrative Office of Courts shall have the
2832 right to inspect any youth court records in order that the number
2833 of youthful offenders, abused, neglected, truant and dependent
2834 children, as well as children in need of special care and children
2835 in need of supervision, may be tracked with specificity through
2836 the youth court and adult justice system, and to utilize tracking
2837 forms for such purpose.

2838 (15) Upon a request by a youth court, the Administrative
2839 Office of Courts shall disclose all information at its disposal
2840 concerning any previous youth court intakes alleging that a child
2841 was a delinquent child, child in need of supervision, child in
2842 need of special care, truant child, abused child or neglected
2843 child, as well as any previous youth court adjudications for the



2844 same and all dispositional information concerning a child who at
2845 the time of such request comes under the jurisdiction of the youth
2846 court making such request.

2847 (16) The Administrative Office of Courts may, in its
2848 discretion, disclose to the Department of Public Safety any or all
2849 of the information involving children contained in the office's
2850 youth court data management system known as Mississippi Youth
2851 Court Information Delivery System or "MYCIDS."

2852 (17) The youth courts of the state shall disclose to the
2853 Joint Legislative Committee on Performance Evaluation and
2854 Expenditure Review (PEER) any youth court records in order that
2855 the number of youthful offenders, abused, neglected, truant and
2856 dependent children, as well as children in need of special care
2857 and children in need of supervision, may be tracked with
2858 specificity through the youth court and adult justice system, and
2859 to utilize tracking forms for such purpose. The disclosure
2860 prescribed in this subsection shall not require a court order and
2861 shall be made in sortable, electronic format where possible. The
2862 PEER Committee may seek the assistance of the Administrative
2863 Office of Courts in seeking this information. The PEER Committee
2864 shall not disclose the identities of any youth who have been
2865 adjudicated in the youth courts of the state and shall only use
2866 the disclosed information for the purpose of monitoring the
2867 effectiveness and efficiency of programs established to assist



2868 adjudicated youth, and to ascertain the incidence of adjudicated
2869 youth who become adult offenders.

2870 (18) In every case where an abuse or neglect allegation has
2871 been made, the confidentiality provisions of this section shall
2872 not apply to prohibit access to a child's records by any state
2873 regulatory agency, any state or local prosecutorial agency or law
2874 enforcement agency; however, no identifying information concerning
2875 the child in question may be released to the public by such agency
2876 except as otherwise provided herein.

2877 (19) In every case where there is any indication or
2878 suggestion of either abuse or neglect and a child's physical
2879 condition is medically labeled as medically "serious" or
2880 "critical" or a child dies, the confidentiality provisions of this
2881 section shall not apply. In cases of child deaths, the following
2882 information may be released by the Mississippi Department of Human
2883 Services: (a) child's name; (b) address or location; (c)
2884 verification from the Department of Human Services of case status
2885 (no case or involvement, case exists, open or active case, case
2886 closed); (d) if a case exists, the type of report or case
2887 (physical abuse, neglect, etc.), date of intake(s) and
2888 investigation(s), and case disposition (substantiated or
2889 unsubstantiated). Notwithstanding the aforesaid, the
2890 confidentiality provisions of this section shall continue if there
2891 is a pending or planned investigation by any local, state or
2892 federal governmental agency or institution.



2893 (20) Any member of a foster care review board designated by
2894 the Department of Human Services shall have the right to inspect
2895 youth court records relating to the abuse, neglect or child in
2896 need of supervision cases assigned to such member for review.

2897 (21) Information concerning an investigation into a report
2898 of child abuse or child neglect may be disclosed without further
2899 order of the youth court in any administrative or due process
2900 hearing held, pursuant to Section 43-21-257, by the Department of
2901 Human Services for individuals whose names will be placed on the
2902 central registry as substantiated perpetrators.

2903 (22) The Department of Child Protection Services shall have
2904 access to all records involving a child who is the subject of a
2905 report of abuse or neglect.

2906 (23) The Department of Child Protection Services may
2907 disclose records involving children to the following:

2908 (a) A foster home, residential child-caring agency or
2909 child-placing agency to the extent necessary to provide such care
2910 and services to a child;

2911 (b) An individual, agency or organization that provides
2912 services to a child or the child's family in furtherance of the
2913 child's permanency plan;

2914 (c) Health and mental health care providers of a child
2915 to the extent necessary for the provider to properly treat and
2916 care for the child;



2917 (d) The school where the child is enrolled or where
2918 enrollment is anticipated to the extent necessary for the school
2919 to provide appropriate services to the child;

2920 (e) Any other state agency if doing so will aid the
2921 department in performing its duties; and

2922 (f) An individual, agency or organization that
2923 contracts with the department to arrange, perform or assist in the
2924 functions or activities of the department, if the individual,
2925 agency or organization agrees to maintain the confidentiality of
2926 any records involving children.

2927 (g) The Department of Child Protection Services shall
2928 disclose any portion of a child's record to the Governor,
2929 Lieutenant Governor, or federal or state senator or representative
2930 of the district in which the child resides when requested by such
2931 official pursuant to a legitimate state purpose. An official who
2932 receives information pursuant to this subsection shall keep such
2933 information confidential and shall not disclose it to any other
2934 person.

2935 **SECTION 52.** Section 43-21-301, Mississippi Code of 1972, is
2936 amended as follows:

2937 43-21-301. (1) No court other than the youth court shall
2938 issue an arrest warrant or custody order for a child in a matter
2939 in which the youth court has exclusive original jurisdiction but
2940 shall refer the matter to the youth court.



2941 (2) Except as otherwise provided, no child in a matter in
2942 which the youth court has exclusive original jurisdiction shall be
2943 taken into custody by a law enforcement officer, the Department of
2944 Human Services, the Department of Child Protection Services, or
2945 any other person unless the judge or his designee has issued a
2946 custody order to take the child into custody.

2947 (3) The judge or his designee may require a law enforcement
2948 officer, the Department of Human Services, the Department of Child
2949 Protection Services, or any suitable person to take a child into
2950 custody for a period not longer than forty-eight (48) hours,
2951 excluding Saturdays, Sundays, and statutory state holidays.

2952 (a) Custody orders under this subsection may be issued
2953 if it appears that there is * * * a preponderance of the evidence
2954 to believe that:

2955 (i) The child is within the jurisdiction of the
2956 court;

2957 (ii) Custody is necessary because of any of the
2958 following reasons: the child is * * * at risk of physical harm,
2959 any person would be * * * at risk of physical harm by the child,
2960 to ensure the child's attendance in court at such time as
2961 required, or a parent, guardian or custodian is not available to
2962 provide for the care and supervision of the child; and

2963 (iii) There is no reasonable alternative to
2964 custody.



2965 A finding of * * * preponderance of the evidence, as
2966 prescribed under this paragraph, shall not be based solely upon a
2967 positive drug test of a child's parent for * * * a controlled
2968 substance; nor shall a finding of probable cause be based on the
2969 use of any medication, for which there is a prescription,
2970 including those medications prescribed as a part of a medication
2971 assisted drug treatment program, such as methadone and suboxone.
2972 However, a finding of probable cause may be based upon an
2973 evidence-based finding of harm to the child or a parent's
2974 inability to provide for the care and supervision of the child due
2975 to the parent's use of * * * a controlled substance.

2976 (b) Custody orders under this subsection shall be
2977 written. In emergency cases, a judge or his designee may issue an
2978 oral custody order, but the order shall be reduced to writing
2979 within forty-eight (48) hours of its issuance.

2980 (c) Each youth court judge shall develop and make
2981 available to law enforcement a list of designees who are available
2982 after hours, on weekends and on holidays.

2983 (d) A finding of probable cause shall be sufficient for
2984 any temporary custody authorization made under the provisions of
2985 Section 43-21-307.

2986 (4) The judge or his designee may order, orally or in
2987 writing, the immediate release of any child in the custody of any
2988 person or agency. Except as otherwise provided in subsection (3)
2989 of this section, custody orders as provided by this chapter and



2990 authorizations of temporary custody may be written or oral, but,
2991 if oral, reduced to writing as soon as practicable. The written
2992 order shall:

2993 (a) Specify the name and address of the child, or, if
2994 unknown, designate him or her by any name or description by which
2995 he or she can be identified with reasonable certainty;

2996 (b) Specify the age of the child, or, if unknown, that
2997 he or she is believed to be of an age subject to the jurisdiction
2998 of the youth court;

2999 (c) Except in cases where the child is alleged to be a
3000 delinquent child or a child in need of supervision, state that the
3001 effect of the continuation of the child's residing within his or
3002 her own home would be contrary to the welfare of the child, that
3003 the placement of the child in foster care is in the best interests
3004 of the child, and unless the reasonable efforts requirement is
3005 bypassed under Section 43-21-603(7)(c), also state that (i)
3006 reasonable efforts have been made to maintain the child within his
3007 or her own home, but that the circumstances warrant his removal
3008 and there is no reasonable alternative to custody; or (ii) the
3009 circumstances are of such an emergency nature that no reasonable
3010 efforts have been made to maintain the child within his own home,
3011 and that there is no reasonable alternative to custody. If the
3012 court makes a finding in accordance with (ii) of this paragraph,
3013 the court shall order that reasonable efforts be made towards the
3014 reunification of the child with his or her family;



3015 (d) State that the child shall be brought immediately
3016 before the youth court or be taken to a place designated by the
3017 order to be held pending review of the order;

3018 (e) State the date issued and the youth court by which
3019 the order is issued; and

3020 (f) Be signed by the judge or his designee with the
3021 title of his office.

3022 (5) The taking of a child into custody shall not be
3023 considered an arrest except for evidentiary purposes.

3024 (6) (a) No child who has been accused or adjudicated of any
3025 offense that would not be a crime if committed by an adult shall
3026 be placed in an adult jail or lockup. An accused status offender
3027 shall not be held in secure detention longer than twenty-four (24)
3028 hours prior to and twenty-four (24) hours after an initial court
3029 appearance, excluding Saturdays, Sundays and statutory state
3030 holidays, except under the following circumstances: a status
3031 offender may be held in secure detention for violating a valid
3032 court order pursuant to the criteria as established by the federal
3033 Juvenile Justice and Delinquency Prevention Act of 2002, and any
3034 subsequent amendments thereto, and out-of-state runaways may be
3035 detained pending return to their home state.

3036 (b) No accused or adjudicated juvenile offender, except
3037 for an accused or adjudicated juvenile offender in cases where
3038 jurisdiction is waived to the adult criminal court, shall be



3039 detained or placed into custody of any adult jail or lockup for a
3040 period in excess of six (6) hours.

3041 (c) If any county violates the provisions of paragraph
3042 (a) or (b) of this subsection, the state agency authorized to
3043 allocate federal funds received pursuant to the Juvenile Justice
3044 and Delinquency Prevention Act of 1974, 88 Stat. 2750 (codified in
3045 scattered Sections of 5, 18, 42 USCS), shall withhold the county's
3046 share of such funds.

3047 (d) Any county that does not have a facility in which
3048 to detain its juvenile offenders in compliance with the provisions
3049 of paragraphs (a) and (b) of this subsection may enter into a
3050 contractual agreement to detain or place into custody the juvenile
3051 offenders of that county with any county or municipality that does
3052 have such a facility, or with the State of Mississippi, or with
3053 any private entity that maintains a juvenile correctional
3054 facility.

3055 (e) Notwithstanding the provisions of paragraphs (a),
3056 (b), (c) and (d) of this subsection, all counties shall be allowed
3057 a one-year grace period from March 27, 1993, to comply with the
3058 provisions of this subsection.

3059 **SECTION 53.** Section 43-21-309, Mississippi Code of 1972, is
3060 amended as follows:

3061 43-21-309. (1) A child who has been ordered or taken into
3062 custody may be held in custody for longer than temporary custody
3063 if:



3064 (a) A written complaint or petition has been filed; and
3065 (b) A court order has been entered for continued
3066 custody following a review of that custody at a detention hearing
3067 in delinquency and child in need of supervision cases and at a
3068 shelter hearing in abuse and neglect cases.

3069 (2) Reasonable oral or written notice of the time, place and
3070 purpose of the hearing shall be given to the child; to his or her
3071 parent, guardian or custodian; to his or her guardian ad litem, if
3072 any; to his or her Court-Appointed Special Advocate (CASA)
3073 volunteer, if any; and to his or her counsel. If the parent,
3074 guardian or custodian cannot be found, the youth court may hold
3075 the hearing in the absence of the child's parent, guardian or
3076 custodian.

3077 (3) At the detention or shelter hearing, all parties present
3078 shall have the right to present evidence and cross-examine
3079 witnesses produced by others. The youth court may, in its
3080 discretion, limit the extent but not the right or presentation of
3081 evidence and cross-examination of witnesses. The youth court may
3082 receive any testimony and other evidence relevant to the necessity
3083 for the continued custody of the child without regard to the
3084 formal rules of evidence, including hearsay and opinion evidence.
3085 All testimony shall be made under oath and may be in narrative
3086 form.

3087 (4) (a) At the conclusion of the detention or shelter
3088 hearing, the youth court shall order that the child be released to



3089 the custody of the child's parent, guardian or custodian unless
3090 the youth court finds and the detention or shelter hearing order
3091 recites that:

3092 (i) There is * * * preponderance of the evidence
3093 that the youth court has jurisdiction; and

3094 (ii) Custody is necessary as defined in Section
3095 43-21-301(3)(b).

3096 (iii) The underlying facts and conclusions of law
3097 shall be clearly set forth in the order.

3098 (b) In the case of a shelter hearing, the shelter
3099 hearing order shall further recite that the effect of the
3100 continuation of the child's residing within his or her own home
3101 would be contrary to the welfare of the child, that the placement
3102 of the child in foster care is in the best interest of the child,
3103 and, unless the reasonable efforts requirement is bypassed under
3104 Section 43-21-603(7)(c), the order also must state:

3105 (i) Reasonable efforts have been made to maintain
3106 the child within his own home, but that the circumstances warrant
3107 his removal and there is no reasonable alternative to custody; or

3108 (ii) The circumstances are of such an emergency
3109 nature that no reasonable efforts have been made to maintain the
3110 child within his own home, and there is no reasonable alternative
3111 to custody.

3112 (c) In the event that the court makes a finding in
3113 accordance with paragraph (b)(ii) of this subsection, the court



3114 shall order that reasonable efforts be made towards the
3115 reunification of the child with his or her family.

3116 (5) The child with advice of counsel may waive in writing
3117 the time of the detention hearing or the detention hearing itself.
3118 The child's guardian ad litem, and parent, guardian or custodian,
3119 and child may waive in writing the time of the shelter hearing or
3120 the shelter hearing itself. If the child has not reached his
3121 tenth birthday, the child's consent shall not be required.

3122 (6) Any order placing a child into custody shall comply with
3123 the requirements provided in Section 43-21-301.

3124 **SECTION 54.** Section 43-21-315, Mississippi Code of 1972, is
3125 amended as follows:

3126 43-21-315. (1) The youth court shall, by general order or
3127 rule of court, designate the available detention or shelter
3128 facilities to which children shall be delivered when taken into
3129 custody. Copies of the order or rule shall be made available to
3130 the Department of Human Services * * *, the Department of Child
3131 Protection Services and all law enforcement agencies within the
3132 territorial jurisdiction of the youth court.

3133 (2) Except as otherwise provided in this chapter, unless
3134 jurisdiction is transferred, no child shall be placed in any jail
3135 or place of detention of adults by any person or court unless the
3136 child shall be physically segregated from other persons not
3137 subject to the jurisdiction of the youth court and the physical
3138 arrangement of such jail or place of detention of adults prevents



3139 such child from having substantial contact with and substantial
3140 view of such other persons; but in any event, the child shall not
3141 be confined anywhere in the same cell with persons not subject to
3142 the jurisdiction of the youth court. Any order placing a child
3143 into custody shall comply with the detention requirements provided
3144 in Section 43-21-301(6). This subsection shall not be construed
3145 to apply to commitments to the training school under Section
3146 43-21-605(1)(g)(iii).

3147 (3) Any child who is charged with a hunting or fishing
3148 violation, a traffic violation, or any other criminal offense for
3149 which the youth court shall have power on its own motion to remove
3150 jurisdiction from any criminal court, may be detained only in the
3151 same facilities designated by the youth court for children within
3152 the jurisdiction of the youth court.

3153 (4) After a child is ordered into custody, the youth court
3154 may arrange for the custody of the child with any private
3155 institution or agency caring for children, may commit the child to
3156 the Department of Mental Health pursuant to Section 41-21-61 et
3157 seq., or may order the Department of Human Services * * *, the
3158 Department of Child Protection Services or any other public agency
3159 to provide for the custody, care and maintenance of such child.
3160 Provided, however, that the care, custody and maintenance of such
3161 child shall be within the statutory authorization and the
3162 budgetary means of such institution or facility.



3163 **SECTION 55.** Section 43-21-351, Mississippi Code of 1972, is
3164 amended as follows:

3165 43-21-351. (1) Any person or agency having knowledge that a
3166 child residing or being within the county is within the
3167 jurisdiction of the youth court may make a written report to the
3168 intake unit alleging facts sufficient to establish the
3169 jurisdiction of the youth court. The report shall bear a
3170 permanent number that will be assigned by the court in accordance
3171 with the standards established by the Administrative Office of
3172 Courts pursuant to Section 9-21-9(d), and shall be preserved until
3173 destroyed on order of the court.

3174 (2) There shall be in each youth court of the state an
3175 intake officer who shall be responsible for the accurate and
3176 timely entering of all intake and case information into the
3177 Mississippi Youth Court Information Delivery System (MYCIDS) for
3178 the Division of Youth Services, truancy matters and the * * *
3179 Department of Child Protection Services. It shall be the
3180 responsibility of the youth court judge or referee of each county
3181 to ensure that the intake officer is carrying out the
3182 responsibility of this section.

3183 **SECTION 56.** Section 43-21-353, Mississippi Code of 1972, is
3184 amended as follows:

3185 43-21-353. (1) Any attorney, physician, dentist, intern,
3186 resident, nurse, psychologist, social worker, family protection
3187 worker, family protection specialist, child caregiver, minister,



3188 law enforcement officer, public or private school employee or any
3189 other person having reasonable cause to suspect that a child is a
3190 neglected child or an abused child, shall cause an oral report to
3191 be made immediately by telephone or otherwise and followed as soon
3192 thereafter as possible by a report in writing to the Department
3193 of * * * Child Protection Services * * *. In the course of an
3194 investigation, at the initial time of contact with the
3195 individual(s) about whom a report has been made under this Youth
3196 Court Act or with the individual(s) responsible for the health or
3197 welfare of a child about whom a report has been made under this
3198 chapter, the Department of * * * Child Protection Services shall
3199 inform the individual of the specific complaints or allegations
3200 made against the individual. Consistent with subsection (4), the
3201 identity of the person who reported his or her suspicion shall not
3202 be disclosed. Where appropriate, the Department of * * * Child
3203 Protection Services shall additionally make a referral to the
3204 youth court prosecutor.

3205 Upon receiving a report that a child has been sexually
3206 abused, or burned, tortured, mutilated or otherwise physically
3207 abused in such a manner as to cause serious bodily harm, or upon
3208 receiving any report of abuse that would be a felony under state
3209 or federal law, the Department of * * * Child Protection Services
3210 shall immediately notify the law enforcement agency in whose
3211 jurisdiction the abuse occurred and shall notify the appropriate
3212 prosecutor within forty-eight (48) hours, and the Department



3213 of * * * Child Protection Services shall have the duty to provide
3214 the law enforcement agency all the names and facts known at the
3215 time of the report; this duty shall be of a continuing nature.
3216 The law enforcement agency and the Department of * * * Child
3217 Protection Services shall investigate the reported abuse
3218 immediately and shall file a preliminary report with the
3219 appropriate prosecutor's office within twenty-four (24) hours and
3220 shall make additional reports as new or additional information or
3221 evidence becomes available. The Department of * * * Child
3222 Protection Services shall advise the clerk of the youth court and
3223 the youth court prosecutor of all cases of abuse reported to the
3224 department within seventy-two (72) hours and shall update such
3225 report as information becomes available.

3226 (2) Any report to the Department of * * * Child Protection
3227 Services shall contain the names and addresses of the child and
3228 his parents or other persons responsible for his care, if known,
3229 the child's age, the nature and extent of the child's injuries,
3230 including any evidence of previous injuries * * *, any other
3231 information that might be helpful in establishing the cause of the
3232 injury, and the identity of the perpetrator.

3233 (3) The Department of * * * Child Protection Services shall
3234 maintain a statewide incoming wide-area telephone service or
3235 similar service for the purpose of receiving reports of suspected
3236 cases of child abuse; provided that any attorney, physician,
3237 dentist, intern, resident, nurse, psychologist, social worker,



3238 family protection worker, family protection specialist, child
3239 caregiver, minister, law enforcement officer or public or private
3240 school employee who is required to report under subsection (1) of
3241 this section shall report in the manner required in subsection
3242 (1).

3243 (4) Reports of abuse and neglect made under this chapter and
3244 the identity of the reporter are confidential except when the
3245 court in which the investigation report is filed, in its
3246 discretion, determines the testimony of the person reporting to be
3247 material to a judicial proceeding or when the identity of the
3248 reporter is released to law enforcement agencies and the
3249 appropriate prosecutor pursuant to subsection (1). Reports made
3250 under this section to any law enforcement agency or prosecutorial
3251 officer are for the purpose of criminal investigation and
3252 prosecution only and no information from these reports may be
3253 released to the public except as provided by Section 43-21-261.
3254 Disclosure of any information by the prosecutor shall be according
3255 to the Mississippi Uniform Rules of Circuit and County Court
3256 Procedure. The identity of the reporting party shall not be
3257 disclosed to anyone other than law enforcement officers or
3258 prosecutors without an order from the appropriate youth court.
3259 Any person disclosing any reports made under this section in a
3260 manner not expressly provided for in this section or Section
3261 43-21-261 shall be guilty of a misdemeanor and subject to the
3262 penalties prescribed by Section 43-21-267.



3263 (5) All final dispositions of law enforcement investigations
3264 described in subsection (1) of this section shall be determined
3265 only by the appropriate prosecutor or court. All final
3266 dispositions of investigations by the Department of * * * Child
3267 Protection Services as described in subsection (1) of this section
3268 shall be determined only by the youth court. Reports made under
3269 subsection (1) of this section by the Department of * * * Child
3270 Protection Services to the law enforcement agency and to the
3271 district attorney's office shall include the following, if known
3272 to the department:

3273 (a) The name and address of the child;
3274 (b) The names and addresses of the parents;
3275 (c) The name and address of the suspected perpetrator;
3276 (d) The names and addresses of all witnesses, including
3277 the reporting party if a material witness to the abuse;

3278 (e) A brief statement of the facts indicating that the
3279 child has been abused and any other information from the agency
3280 files or known to the family protection worker or family
3281 protection specialist making the investigation, including medical
3282 records or other records, which may assist law enforcement or the
3283 district attorney in investigating and/or prosecuting the case;
3284 and

3285 (f) What, if any, action is being taken by the
3286 Department of * * * Child Protection Services.



3287 (6) In any investigation of a report made under this chapter
3288 of the abuse or neglect of a child as defined in Section
3289 43-21-105(m), the Department of * * * Child Protection Services
3290 may request the appropriate law enforcement officer with
3291 jurisdiction to accompany the department in its investigation, and
3292 in such cases the law enforcement officer shall comply with such
3293 request.

3294 (7) Anyone who willfully violates any provision of this
3295 section shall be, upon being found guilty, punished by a fine not
3296 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in
3297 jail not to exceed one (1) year, or both.

3298 (8) If a report is made directly to the Department of * * *
3299 Child Protection Services that a child has been abused or
3300 neglected in an out-of-home setting, a referral shall be made
3301 immediately to the law enforcement agency in whose jurisdiction
3302 the abuse occurred and the department shall notify the district
3303 attorney's office within forty-eight (48) hours of such report.
3304 The Department of * * * Child Protection Services shall
3305 investigate the out-of-home setting report of abuse or neglect to
3306 determine whether the child who is the subject of the report, or
3307 other children in the same environment, comes within the
3308 jurisdiction of the youth court and shall report to the youth
3309 court the department's findings and recommendation as to whether
3310 the child who is the subject of the report or other children in
3311 the same environment require the protection of the youth court.



3312 The law enforcement agency shall investigate the reported abuse
3313 immediately and shall file a preliminary report with the district
3314 attorney's office within forty-eight (48) hours and shall make
3315 additional reports as new information or evidence becomes
3316 available. If the out-of-home setting is a licensed facility, an
3317 additional referral shall be made by the Department of * * * Child
3318 Protection Services to the licensing agency. The licensing agency
3319 shall investigate the report and shall provide the Department
3320 of * * * Child Protection Services, the law enforcement agency and
3321 the district attorney's office with their written findings from
3322 such investigation as well as that licensing agency's
3323 recommendations and actions taken.

3324 (9) * * * The Department of Child Protection Services shall
3325 refer all reports that include an allegation constituting abuse to
3326 the youth court intake unit. Upon receiving a report that only
3327 contains allegations constituting neglect, the Department of Child
3328 Protection Services shall either refer the report to the youth
3329 court intake unit or determine whether the interest of the child,
3330 other children in the same environment or the public requires
3331 further action; if further action is necessary, the Department of
3332 Child Protection Services shall refer the report to the youth
3333 court intake unit. Upon receiving a report from the Department of
3334 Child Protection Services, the youth court intake unit shall
3335 promptly comply with Section 43-21-357.



3336 **SECTION 57.** Section 43-21-354, Mississippi Code of 1972, is
3337 amended as follows:

3338 43-21-354. The statewide incoming wide area telephone
3339 service established pursuant to Section 43-21-353, Mississippi
3340 Code of 1972, shall be maintained by the * * * Department of Child
3341 Protection Services, or its successor, on a twenty-four-hour seven
3342 (7) days a week basis.

3343 **SECTION 58.** Section 43-21-357, Mississippi Code of 1972, is
3344 amended as follows:

3345 43-21-357. (1) After receiving a report, the youth court
3346 intake unit shall promptly make a preliminary inquiry to determine
3347 whether the interest of the child, other children in the same
3348 environment or the public requires the youth court to take further
3349 action. As part of the preliminary inquiry, the youth court
3350 intake unit may request or the youth court may order the
3351 Department of Human Services, the Department of Youth Services,
3352 the Department of Child Protection Services, any successor agency
3353 or any other qualified public employee to make an investigation or
3354 report concerning the child and any other children in the same
3355 environment, and present the findings thereof to the youth court
3356 intake unit. If the youth court intake unit receives a neglect or
3357 abuse report, the youth court intake unit shall immediately
3358 forward the complaint to the Department of * * * Child Protection
3359 Services to promptly make an investigation or report concerning
3360 the child and any other children in the same environment and



3361 promptly present the findings thereof to the youth court intake
3362 unit. If it appears from the preliminary inquiry that the child
3363 or other children in the same environment are within the
3364 jurisdiction of the court, the youth court intake unit shall
3365 recommend to the youth court:

3366 (a) That the youth court take no action;

3367 (b) That an informal adjustment be made;

3368 (c) The * * * Department of Child Protection Services,
3369 monitor the child, family and other children in the same
3370 environment;

3371 (d) That the child is warned or counseled informally;

3372 (e) That the child be referred to the youth court drug
3373 court; or

3374 (f) That a petition be filed.

3375 (2) The youth court shall then, without a hearing:

3376 (a) Order that no action be taken;

3377 (b) Order that an informal adjustment be made;

3378 (c) Order that the Department of * * * Child Protection
3379 Services, * * * monitor the child, family and other children in
3380 the same environment;

3381 (d) Order that the child is warned or counseled
3382 informally;

3383 (e) That the child be referred to the youth court drug
3384 court; or

3385 (f) Order that a petition be filed.



3386 (3) If the preliminary inquiry discloses that a child needs
3387 emergency medical treatment, the judge may order the necessary
3388 treatment.

3389 **SECTION 59.** Section 43-21-405, Mississippi Code of 1972, is
3390 amended as follows:

3391 43-21-405. (1) The informal adjustment process shall be
3392 initiated with an informal adjustment conference conducted by an
3393 informal adjustment counselor appointed by the judge or his
3394 designee.

3395 (2) If the child and his parent, guardian or custodian
3396 appear at the informal adjustment conference without counsel, the
3397 informal adjustment counselor shall, at the commencement of the
3398 conference, inform them of their right to counsel, the child's
3399 right to appointment of counsel and the right of the child to
3400 remain silent. If either the child or his parent, guardian or
3401 custodian indicates a desire to be represented by counsel, the
3402 informal adjustment counselor shall adjourn the conference to
3403 afford an opportunity to secure counsel.

3404 (3) At the beginning of the informal adjustment conference,
3405 the informal adjustment counselor shall inform the child and his
3406 parent, guardian or custodian:

3407 (a) That information has been received concerning the
3408 child which appears to establish jurisdiction of the youth court;

3409 (b) The purpose of the informal adjustment conference;



3410 (c) That during the informal adjustment process no
3411 petition will be filed;

3412 (d) That the informal adjustment process is voluntary
3413 with the child and his parent, guardian or custodian and that they
3414 may withdraw from the informal adjustment at any time; and

3415 (e) The circumstances under which the informal
3416 adjustment process can be terminated under Section 43-21-407.

3417 (4) The informal adjustment counselor shall then discuss
3418 with the child and his parent, guardian or custodian:

3419 (a) Recommendations for actions or conduct in the
3420 interest of the child to correct the conditions of behavior or
3421 environment which may exist;

3422 (b) Continuing conferences and contacts with the child
3423 and his parent, guardian or custodian by the informal adjustment
3424 counselor or other authorized persons; and

3425 (c) The child's general behavior, his home and school
3426 environment and other factors bearing upon the proposed informal
3427 adjustment.

3428 (5) After the parties have agreed upon the appropriate terms
3429 and conditions of informal adjustment, the informal adjustment
3430 counselor and the child and his parent, guardian or custodian
3431 shall sign a written informal adjustment agreement setting forth
3432 the terms and conditions of the informal adjustment. The informal
3433 adjustment agreement may be modified at any time upon the consent
3434 of all parties to the informal adjustment conference.



3435 (6) The informal adjustment process shall not continue
3436 beyond a period of six (6) months from its commencement unless
3437 extended by the youth court for an additional period not to exceed
3438 six (6) months by court authorization prior to the expiration of
3439 the original six-month period. In no event shall the custody or
3440 supervision of a child which has been placed with the Department
3441 of * * * Human Services or the Department of Child Protection
3442 Services be continued or extended except upon a written finding by
3443 the youth court judge or referee that reasonable efforts have been
3444 made to maintain the child within his own home, but that the
3445 circumstances warrant his removal and there is no reasonable
3446 alternative to custody, and that reasonable efforts will continue
3447 to be made towards reunification of the family.

3448 **SECTION 60.** Section 43-21-603, Mississippi Code of 1972, is
3449 amended as follows:

3450 43-21-603. (1) At the beginning of each disposition
3451 hearing, the judge shall inform the parties of the purpose of the
3452 hearing.

3453 (2) All testimony shall be under oath unless waived by all
3454 parties and may be in narrative form. The court may consider any
3455 evidence that is material and relevant to the disposition of the
3456 cause, including hearsay and opinion evidence. At the conclusion
3457 of the evidence, the youth court shall give the parties an
3458 opportunity to present oral argument.



3459 (3) If the child has been adjudicated a delinquent child,
3460 before entering a disposition order, the youth court should
3461 consider, among others, the following relevant factors:

- 3462 (a) The nature of the offense;
- 3463 (b) The manner in which the offense was committed;
- 3464 (c) The nature and number of a child's prior
3465 adjudicated offenses;
- 3466 (d) The child's need for care and assistance;
- 3467 (e) The child's current medical history, including
3468 medication and diagnosis;
- 3469 (f) The child's mental health history, which may
3470 include, but not be limited to, the Massachusetts Youth Screening
3471 Instrument version 2 (MAYSI-2);
- 3472 (g) Copies of the child's cumulative record from the
3473 last school of record, including special education records, if
3474 applicable;
- 3475 (h) Recommendation from the school of record based on
3476 areas of remediation needed;
- 3477 (i) Disciplinary records from the school of record; and
- 3478 (j) Records of disciplinary actions outside of the
3479 school setting.

3480 (4) If the child has been adjudicated a child in need of
3481 supervision, before entering a disposition order, the youth court
3482 should consider, among others, the following relevant factors:

3483 (a) The nature and history of the child's conduct;



3484 (b) The family and home situation; and
3485 (c) The child's need of care and assistance.

3486 (5) If the child has been adjudicated a neglected child or
3487 an abused child, before entering a disposition order, the youth
3488 court shall consider, among others, the following relevant
3489 factors:

3490 (a) The child's physical and mental conditions;

3491 (b) The child's need of assistance;

3492 (c) The manner in which the parent, guardian or
3493 custodian participated in, tolerated or condoned the abuse,
3494 neglect or abandonment of the child;

3495 (d) The ability of a child's parent, guardian or
3496 custodian to provide proper supervision and care of a child; and

3497 (e) Relevant testimony and recommendations, where
3498 available, from the foster parent of the child, the grandparents
3499 of the child, the guardian ad litem of the child, representatives
3500 of any private care agency that has cared for the child, the
3501 family protection worker or family protection specialist assigned
3502 to the case, and any other relevant testimony pertaining to the
3503 case.

3504 (6) After consideration of all the evidence and the relevant
3505 factors, the youth court shall enter a disposition order that
3506 shall not recite any of the facts or circumstances upon which the
3507 disposition is based, nor shall it recite that a child has been
3508 found guilty; but it shall recite that a child is found to be a



3509 delinquent child, a child in need of supervision, a neglected
3510 child or an abused child.

3511 (7) If the youth court orders that the custody or
3512 supervision of a child who has been adjudicated abused or
3513 neglected be placed with the Department of * * * Child Protection
3514 Services or any other person or public or private agency, other
3515 than the child's parent, guardian or custodian, the youth court
3516 shall find and the disposition order shall recite that:

3517 (a) (i) Reasonable efforts have been made to maintain
3518 the child within his own home, but that the circumstances warrant
3519 his removal and there is no reasonable alternative to custody; or

3520 (ii) The circumstances are of such an emergency
3521 nature that no reasonable efforts have been made to maintain the
3522 child within his own home, and that there is no reasonable
3523 alternative to custody; and

3524 (b) That the effect of the continuation of the child's
3525 residence within his own home would be contrary to the welfare of
3526 the child and that the placement of the child in foster care is in
3527 the best interests of the child; or

3528 (c) Reasonable efforts to maintain the child within his
3529 home shall not be required if the court determines that:

3530 (i) The parent has subjected the child to
3531 aggravated circumstances, including, but not limited to,
3532 abandonment, torture, chronic abuse and sexual abuse; or



3533 (ii) The parent has been convicted of murder of
3534 another child of that parent, voluntary manslaughter of another
3535 child of that parent, aided or abetted, attempted, conspired or
3536 solicited to commit that murder or voluntary manslaughter, or a
3537 felony assault that results in the serious bodily injury to the
3538 surviving child or another child of that parent; or

3539 (iii) The parental rights of the parent to a
3540 sibling have been terminated involuntarily; and

3541 (iv) That the effect of the continuation of the
3542 child's residence within his own home would be contrary to the
3543 welfare of the child and that placement of the child in foster
3544 care is in the best interests of the child.

3545 Once the reasonable efforts requirement is bypassed, the
3546 court shall have a permanency hearing under Section 43-21-613
3547 within thirty (30) days of the finding.

3548 (8) Upon a written motion by a party, the youth court shall
3549 make written findings of fact and conclusions of law upon which it
3550 relies for the disposition order. If the disposition ordered by
3551 the youth court includes placing the child in the custody of a
3552 training school, an admission packet shall be prepared for the
3553 child that contains the following information:

3554 (a) The child's current medical history, including
3555 medications and diagnosis;

3556 (b) The child's mental health history;



3557 (c) Copies of the child's cumulative record from the
3558 last school of record, including special education records, if
3559 reasonably available;

3560 (d) Recommendation from the school of record based on
3561 areas of remediation needed;

3562 (e) Disciplinary records from the school of record; and

3563 (f) Records of disciplinary actions outside of the
3564 school setting, if reasonably available.

3565 Only individuals who are permitted under the Health Insurance
3566 Portability and Accountability Act of 1996 (HIPAA) shall have
3567 access to a child's medical records which are contained in an
3568 admission packet. The youth court shall provide the admission
3569 packet to the training school at or before the child's arrival at
3570 the training school. The admittance of any child to a training
3571 school shall take place between the hours of 8:00 a.m. and 3:00
3572 p.m. on designated admission days.

3573 (9) When a child in the jurisdiction of the Youth Court is
3574 committed to the custody of the Mississippi Department of * * *
3575 Child Protection Services and is believed to be in need of
3576 treatment for a mental or emotional disability or infirmity, the
3577 Department of * * * Child Protection Services shall file an
3578 affidavit alleging that the child is in need of mental health
3579 services with the Youth Court. The Youth Court shall refer the
3580 child to the appropriate community mental health center for
3581 evaluation pursuant to Section 41-21-67. If the prescreening



3582 evaluation recommends residential care, the Youth Court shall
3583 proceed with civil commitment pursuant to Sections 41-21-61 et
3584 seq., 43-21-315 and 43-21-611, and the Department of Mental
3585 Health, once commitment is ordered, shall provide appropriate
3586 care, treatment and services for at least as many adolescents as
3587 were provided services in fiscal year 2004 in its facilities.

3588 (10) Any screening and assessment examinations ordered by
3589 the court may aid in dispositions related to delinquency, but no
3590 statements or admissions made during the course thereof may be
3591 admitted into evidence against the child on the issue of whether
3592 the child committed a delinquent act.

3593 **SECTION 61.** Section 43-21-561, Mississippi Code of 1972, is
3594 amended as follows:

3595 43-21-561. (1) If the youth court finds on proof beyond a
3596 reasonable doubt that a child is a delinquent child or a child in
3597 need of supervision, the youth court shall enter an order
3598 adjudicating the child to be a delinquent child or a child in need
3599 of supervision. The Youth Court shall not have the authority to
3600 issue orders governing the operation of executive branch agencies
3601 outside the confines of the courtroom.

3602 (2) Where the petition alleges that the child is a
3603 delinquent child, the youth court may enter an order that the
3604 child is a child in need of supervision on proof beyond a
3605 reasonable doubt that the child is a child in need of supervision.



3606 (3) If the court finds from * * * clear and convincing
3607 evidence that the child is a neglected child, an abused child, a
3608 dependent child or a child in need of special care the youth court
3609 shall enter an order adjudicating the child to be a neglected
3610 child, an abused child, dependent child or a child in need of
3611 special care.

3612 (4) No decree or order of adjudication concerning any child
3613 shall recite that a child has been found guilty; but it shall
3614 recite that a child is found to be a delinquent child or a child
3615 in need of supervision or a neglected child or an abused child or
3616 a sexually abused child or a dependent child or a child in need of
3617 special care. Upon a written motion by a party, the youth court
3618 shall make written findings of fact and conclusions of law upon
3619 which it relies for the adjudication that the child is a
3620 delinquent child, a child in need of supervision, a neglected
3621 child, an abused child, a dependent child or a child in need of
3622 special care.

3623 (5) No adjudication upon the status of any child shall
3624 operate to impose any of the civil disabilities ordinarily imposed
3625 on an adult because of a criminal conviction, nor shall any child
3626 be deemed a criminal by reason of adjudication, nor shall that
3627 adjudication be deemed a conviction. A person in whose interest
3628 proceedings have been brought in the youth court may deny, without
3629 any penalty, the existence of those proceedings and any
3630 adjudication made in those proceedings. Except for the right of a



3631 defendant or prosecutor in criminal proceedings and a respondent
3632 or a youth court prosecutor in youth court proceedings to
3633 cross-examine a witness, including a defendant or respondent, to
3634 show bias or interest, no adjudication shall be used for
3635 impeachment purposes in any court.

3636 (6) (a) No statements, admissions or confessions made by or
3637 incriminatory information obtained from a child in the course of a
3638 screening or assessment that is undertaken in conjunction with any
3639 proceedings under this chapter, including, but not limited to,
3640 that which is court-ordered, shall be admitted into evidence
3641 against the child on the issue of whether the child committed a
3642 delinquent act under this chapter or on the issue of guilt in any
3643 criminal proceedings.

3644 (b) The provisions of paragraph (a) of this subsection
3645 are in addition to and do not override any existing statutory and
3646 constitutional prohibition on the admission into evidence in
3647 delinquency and criminal proceedings of information obtained
3648 during screening, assessment or treatment.

3649 **SECTION 62.** Section 43-21-613, Mississippi Code of 1972, is
3650 amended as follows:

3651 43-21-613. (1) If the youth court finds, after a hearing
3652 which complies with the sections governing adjudicatory hearings,
3653 that the terms of a delinquency or child in need of supervision
3654 disposition order, probation or parole have been violated, the
3655 youth court may, in its discretion, revoke the original



3656 disposition and make any disposition which it could have
3657 originally ordered. The hearing shall be initiated by the filing
3658 of a petition that complies with the sections governing petitions
3659 in this chapter and that includes a statement of the youth court's
3660 original disposition order, probation or parole, the alleged
3661 violation of that order, probation or parole, and the facts which
3662 show the violation of that order, probation or parole. Summons
3663 shall be served in the same manner as summons for an adjudicatory
3664 hearing.

3665 (2) On motion of a child or a child's parent, guardian or
3666 custodian, the youth court may, in its discretion, conduct an
3667 informal hearing to review the disposition order. If the youth
3668 court finds a material change of circumstances relating to the
3669 disposition of the child, the youth court may modify the
3670 disposition order to any appropriate disposition of equal or
3671 greater precedence which the youth court could have originally
3672 ordered.

3673 (3) (a) Unless the youth court's jurisdiction has been
3674 terminated, all disposition orders for supervision, probation or
3675 placement of a child with an individual or an agency shall be
3676 reviewed by the youth court judge or referee at least annually to
3677 determine if continued placement, probation or supervision is in
3678 the best interest of the child or the public. For children who
3679 have been adjudicated abused or neglected, the youth court shall



3680 conduct a permanency hearing within twelve (12) months after the
3681 earlier of:

3682 (i) An adjudication that the child has been abused
3683 or neglected; or

3684 (ii) The date of the child's removal from the
3685 allegedly abusive or neglectful custodian/parent. Notice of such
3686 hearing shall be given in accordance with the provisions of
3687 Section 43-21-505(5). In conducting the hearing, the judge or
3688 referee shall require a written report and may require information
3689 or statements from the child's youth court counselor, parent,
3690 guardian or custodian, which includes, but is not limited to, an
3691 evaluation of the child's progress and recommendations for further
3692 supervision or treatment. The judge or referee shall, at the
3693 permanency hearing determine the future status of the child,
3694 including, but not limited to, whether the child should be
3695 returned to the parent(s) or placed with suitable relatives,
3696 placed for adoption, placed for the purpose of establishing
3697 durable legal custody or should, because of the child's special
3698 needs or circumstances, be continued in foster care on a permanent
3699 or long-term basis. If the child is in an out-of-state placement,
3700 the hearing shall determine whether the out-of-state placement
3701 continues to be appropriate and in the best interest of the child.
3702 At the permanency hearing the judge or referee shall determine,
3703 and the youth court order shall recite that reasonable efforts
3704 were made by the Department of * * * Child Protection Services to



3705 finalize the child's permanency plan that was in effect on the
3706 date of the permanency hearing. The judge or referee may find
3707 that reasonable efforts to maintain the child within his home
3708 shall not be required in accordance with Section 43-21-603(7)(c),
3709 and that the youth court shall continue to conduct permanency
3710 hearings for a child who has been adjudicated abused or neglected,
3711 at least annually thereafter, for as long as the child remains in
3712 the custody of the Mississippi Department of * * * Child
3713 Protection Services.

3714 (b) The court may find that the filing of a termination
3715 of parental rights petition is not in the child's best interest
3716 if:

3717 (i) The child is being cared for by a relative;
3718 and/or

3719 (ii) The Department of * * * Child Protection
3720 Services has documented compelling and extraordinary reasons why
3721 termination of parental rights would not be in the best interests
3722 of the child.

3723 (c) The provisions of this subsection shall also apply
3724 to review of cases involving a dependent child; however, such
3725 reviews shall be heard at the request of counsel for the child,
3726 the child's parent or the attorney for the parent but otherwise
3727 shall take place not less frequently than once each one hundred
3728 eighty (180) days. A dependent child shall be ordered by the
3729 youth court judge or referee to be returned to the custody and



3730 home of the child's parent, guardian or custodian unless the judge
3731 or referee, upon such review, makes a written finding that the
3732 return of the child to the home would be contrary to the child's
3733 best interests. Neither evidence of use of a controlled substance
3734 nor the use of any medication, for which there is a prescription,
3735 including those medications prescribed as a part of a medication
3736 assisted drug treatment program, such as methadone and suboxone,
3737 shall prevent reunification. A parent's unemployment or inability
3738 to find employment shall not prevent reunification.

3739 (d) Reviews are not to be conducted unless explicitly
3740 ordered by the youth court concerning those cases in which the
3741 court has granted durable legal custody. In such cases, the
3742 Department of Human Services shall be released from any oversight
3743 or monitoring responsibilities, and relieved of physical and legal
3744 custody and supervision of the child.

3745 (4) The provisions of this section do not apply to
3746 proceedings concerning durable legal relative guardianship.

3747 **SECTION 63.** Section 43-26-1, Mississippi Code of 1972, is
3748 amended as follows:

3749 43-26-1. (1) There is hereby created a Mississippi
3750 Department of Child Protection Services.

3751 (2) The Chief Administrative Officer of the Department of
3752 Child Protection Services shall be the Commissioner of Child
3753 Protection Services who shall be appointed by the Governor with



3754 the advice and consent of the Senate. The commissioner shall
3755 possess the following qualifications:

3756 (a) A bachelor's degree from an accredited institution
3757 of higher learning and ten (10) years' experience in management,
3758 public administration, finance or accounting; or

3759 (b) A master's or doctoral degree from an accredited
3760 institution of higher learning and five (5) years' experience in
3761 management, public administration, finance, law or accounting.

3762 (3) * * * The Department of Child Protection Services may
3763 function as a Division of the Department of Human Services. The
3764 Department of Child Protection Services shall be a sub-agency
3765 independent of, those housed within, the Mississippi Department of
3766 Human Services. The Commissioner of the Department of Child
3767 Protection Services shall maintain complete and exclusive
3768 operational control of the Department of Child Protection
3769 Services' functions, except functions shared with the Department
3770 of Human Services as provided in subsections (5)(c) and (5)(d) of
3771 this section. The Department of Child Protection Services shall
3772 prepare its own budget request, and shall exercise complete
3773 control over the state funds and pins appropriated for its work as
3774 well as any federal funds solely applicable to child protection
3775 services.

3776 (4) The Commissioner of Child Protection Services may assign
3777 to the appropriate offices such powers and duties deemed
3778 appropriate to carry out the lawful functions of the programs



3779 transferred to the department under Chapter 494, Laws of
3780 2016. * * *

3781 (5) The Commissioner of Child Protection Services and the
3782 Executive Director of the Department of Human Services shall
3783 develop and implement a plan for the orderly establishment of the
3784 Department of Child Protection Services and its transition from
3785 the Office of Family and Children's Services of the Department of
3786 Human Services. The plan shall:

3787 (a) Describe a mechanism for the transfer of any
3788 equipment, supplies, records, furnishings or other materials,
3789 resources or funds dedicated to the operation of the Office of
3790 Family and Children's Services of the Department of Human
3791 Services, which may be useful to the Department of Child
3792 Protection Services;

3793 (b) Determine the allocation of resources between the
3794 newly created Department of Child Protection Services and the
3795 Department of Human Services, as practicable;

3796 (c) Determine the allocation of functions where the
3797 performance of services may be shared between the Department of
3798 Child Protection Services and other employees of the Department of
3799 Human Services, as practicable;

3800 (d) Determine whether any administrative support
3801 services, such as Information Technology Services, bookkeeping and
3802 payroll can continue to be provided by the Department of Human
3803 Services; and



3804 (e) Identify other areas deemed relevant by the
3805 commissioner and make recommendations thereon to achieve an
3806 orderly transition.

3807 * * *

3808 (6) * * * The programs and services provided by the Office
3809 of Family and Children's Services of the Department of Human
3810 Services under the following statutes shall be provided by the
3811 Department of Child Protection Services: Sections 41-87-5,
3812 41-111-1, 43-1-2, 43-1-51, 43-1-55, 43-1-57, 43-1-63, 43-15-3,
3813 43-15-5, 43-15-6, 43-15-13, 43-15-15, 43-15-17, 43-15-19,
3814 43-15-21, 43-15-23, 43-15-51, 43-15-103, 43-15-105, 43-15-115,
3815 43-15-125, 43-15-201, 43-15-203, 43-15-207 and 43-18-3,
3816 Mississippi Code of 1972.

3817 (7) Attorneys employed by the Department of Child Protection
3818 Services are authorized to represent the department in any
3819 chancery or youth court proceedings in which the department is a
3820 party, or which involves a child in the department's custody. This
3821 authority shall not limit the authority of the Attorney General to
3822 represent the department in any such proceeding, at the discretion
3823 of the Commissioner of the Department of Child Protection
3824 Services.

3825 **SECTION 64.** Section 43-27-101, Mississippi Code of 1972, is
3826 amended as follows:



3827 43-27-101. For purposes of Sections 43-27-101 and 43-27-103,
3828 the following words shall have the meanings ascribed in this
3829 section, unless the context requires otherwise:

3830 (a) "Child or youth in the custody of the Department
3831 of * * * Child Protection Services" means an individual:

3832 (i) Who has not yet reached his eighteenth
3833 birthday;

3834 (ii) Who has been legally placed in the custody of
3835 the Department of * * * Child Protection Services by the youth
3836 court and for whom custody with the Department of * * * Child
3837 Protection Services was not sought by the parents or legal
3838 custodians or guardians for the parents' or legal custodians' or
3839 guardians' legal responsibilities to relieve themselves of the
3840 responsibility for paying for treatment for a child or youth; and

3841 (iii) Who is unable to be maintained with the
3842 family or legal guardians or custodians due to his or her need for
3843 specialized care.

3844 (b) "Child or youth under the supervision of the
3845 Department of * * * Child Protection Services" means an
3846 individual:

3847 (i) Who has not yet reached his eighteenth
3848 birthday; and

3849 (ii) Who has been referred for abuse or neglect
3850 and for whom a case has been opened and is active in the * * *
3851 Department of Child Protection Services.



3852 (c) "Plan of care" means a written plan of services
3853 needed to be provided for a child or youth and his or her family
3854 in order to provide the special care or services required.

3855 (d) "Special needs crisis" means:

3856 (i) Conduct or behavioral problems of such a
3857 severe nature and level that family or parental violence, abuse,
3858 and/or neglect pose an imminent threat or are present; or

3859 (ii) Conduct or behavioral problems of such a
3860 severe nature and level that family or parental violence, abuse,
3861 and/or neglect pose an imminent threat or are present.

3862 (e) "Specialized care" means:

3863 (i) "Self care," which means the ability to
3864 provide, sustain and protect himself or herself at a level
3865 appropriate to his or her age;

3866 (ii) "Interpersonal relationships," which means
3867 the ability to build and maintain satisfactory relationships with
3868 peers and adults;

3869 (iii) "Family life," which means the capacity to
3870 live in a family or family-type environment;

3871 (iv) "Self direction," which means the child's
3872 ability to control his or her behavior and to make decisions in a
3873 manner appropriate to his or her age;

3874 (v) "Education," which means the ability to learn
3875 social and intellectual skill from teachers in an available
3876 educational setting.



3877 (f) "Special needs child" means a child with a variety
3878 of handicapping conditions or disabilities, including emotional or
3879 severely emotional disorders. These conditions or disabilities
3880 present the need for special medical attention, supervision and
3881 therapy on a very regimented basis.

3882 **SECTION 65.** Section 43-27-103, Mississippi Code of 1972, is
3883 amended as follows:

3884 43-27-103. (1) Sections 43-27-101 and 43-27-103 shall
3885 enable the development by the Department of * * * Child Protection
3886 Services of a system of services for children or youth in the
3887 custody of or under the supervision of the Department of * * *
3888 Child Protection Services, if funds are appropriated to the
3889 department for that purpose. The system of services may consist
3890 of emergency response services, an early intervention and
3891 treatment unit, respite care, crisis nurseries, specialized
3892 outpatient or inpatient treatment services, special needs foster
3893 care, therapeutic foster care, emergency foster homes, and
3894 Medicaid targeted case management for abused and neglected
3895 children and youth as well as children adjudicated delinquent or
3896 in need of supervision. Any of these services that are provided
3897 shall be arranged by and coordinated through the Department
3898 of * * * Child Protection Services, and the department may
3899 contract with public or private agencies or entities to provide
3900 any of the services or may provide any of the services itself.
3901 All of the services shall be provided in facilities that meet the



3902 standards set by the Department of * * * Child Protection Services
3903 for the particular type of facility involved. None of the
3904 services provided shall duplicate existing services except where
3905 there is a documented need for expansion of the services.

3906 (2) A description of the services that may be provided under
3907 Sections 43-27-101 and 43-27-103 are as follows:

3908 (a) "Emergency response services" means services to
3909 respond to children or youth in severe crisis and include:

3910 (i) Emergency single point phone lines;

3911 (ii) Crisis care coordinators staffing shifts that
3912 enable twenty-four-hour per day response as "front line"
3913 professionals when crisis calls are received, assist with
3914 decision-making, family support, initiate plan of action and
3915 remain "on call" for the first seventy-two (72) hours for other
3916 service professionals to get in place and insure development of a
3917 plan of care;

3918 (iii) Acute care/emergency medical response
3919 through contracted services with up to five (5) regional hospitals
3920 providing emergency room services and hospitalization for up to
3921 seventy-two (72) hours with a maximum of One Hundred Dollars
3922 (\$100.00) per day;

3923 (iv) Case managers;

3924 (v) Respite services; and



3925 (vi) Assessment services contracted with social
3926 workers, psychologists, psychiatrists and other health
3927 professionals.

3928 (b) "Early intervention and treatment unit" means a
3929 unique, nonhospital crisis service in a residential context that
3930 is able to provide the level of support and intervention needed to
3931 resolve the crisis and as an alternative to hospitalization. This
3932 unit shall provide specialized assessment, including a variety of
3933 treatment options and services to best intervene in a child or
3934 youth's crisis, and provide an appropriate plan for further
3935 services upon returning to the home and community. Staff-to-child
3936 or youth ratio shall be high, with multidisciplinary, specialized
3937 services for up to six (6) children or youths at one (1) time, and
3938 with the maximum assessment and treatment planning and services
3939 being ninety (90) days for most children or youths.

3940 (c) "Respite care" means planned temporary care for a
3941 period of time ranging from a few hours within a twenty-four-hour
3942 period to an overnight or weekend stay to a maximum of ten (10)
3943 days. Care may be provided in-home or out-of-home with trained
3944 respite parents or counselors and is designed to provide a planned
3945 break for the parents from the caretaking role with the child.

3946 (d) "Crisis nurseries" means a program providing
3947 therapeutic nursery treatment services to preschool aged children
3948 who as preschoolers demonstrate significant behavioral or
3949 emotional disorders. These services shall be to therapeutically



3950 address developmental and emotional behavioral difficulties
3951 through direct intervention with the child in a nursery school
3952 environment and to intervene with parents to provide education,
3953 support and therapeutic services.

3954 (e) "Specialized outpatient or inpatient treatment
3955 services," such as sex offender treatment, means specialized
3956 treatment for perpetrators of sexual offenses with children.

3957 (f) "Special needs foster care" means foster care for
3958 those children with a variety of handicapping conditions or
3959 disabilities, including serious emotional disturbance.

3960 (g) "Therapeutic foster care" means residential mental
3961 health services provided to children and adolescents in a family
3962 setting, utilizing specially trained foster parents. Therapeutic
3963 foster care essentially involves the following features:

3964 (i) Placement with foster parents who have been
3965 carefully selected by knowledgeable, well-trained mental health
3966 and social service professionals to work with children with an
3967 emotional disturbance;

3968 (ii) Provision of special training to the foster
3969 parents to assist them in working with children with an emotional
3970 disturbance;

3971 (iii) Low staff-to-child ratio, allowing the
3972 therapeutic staff to work very closely with each child, the foster
3973 parents and the biological parents, if available;



3974 (iv) Creation of a support system among these
3975 specially trained foster parents; and

3976 (v) Payment of a special foster care payment to
3977 the foster parents.

3978 (h) "Emergency foster homes" means those homes used on
3979 a short-term basis for (i) children who are temporarily removed
3980 from the home in response to a crisis situation, or (ii) youth who
3981 exhibit special behavioral or emotional problems for whom removal
3982 from the existing home situation is necessary. In some cases they
3983 may provide an emergency placement for infants and toddlers for
3984 whom no regular foster home is available, rather than placement
3985 into an emergency shelter where older and larger groups of
3986 children are placed. Foster parents are trained to deal with the
3987 special needs of children placed in these emergency homes.

3988 (i) "Medicaid targeted case management" means
3989 activities that are related to assuring the completion of proper
3990 client evaluations; arranging and supporting treatment plans,
3991 monitoring services, coordinating service delivery and other
3992 related actions.

3993 **SECTION 66.** Section 43-27-109, Mississippi Code of 1972, is
3994 amended as follows:

3995 43-27-109. The Department of * * * Child Protection Services
3996 may employ a sufficient number of new family protection
3997 specialists, youth counselors and clerical staff to reduce the
3998 caseload sizes for social workers and youth counselors of the



3999 department and to reduce the workload on clerical staff, if funds
4000 are appropriated to the department for that purpose.

4001 **SECTION 67.** Section 43-27-113, Mississippi Code of 1972, is
4002 amended as follows:

4003 43-27-113. In any investigation by the Department of * * *
4004 Child Protection Services of a report made under Section 43-21-101
4005 et seq. of the abuse or neglect of a child as defined in Section
4006 43-21-105, the department may request the appropriate law
4007 enforcement officer with jurisdiction to accompany the department
4008 in its investigation, and in such cases the law enforcement
4009 officer shall comply with such request.

4010 **SECTION 68.** Section 43-27-115, Mississippi Code of 1972, is
4011 amended as follows:

4012 43-27-115. The Department of * * * Child Protection Services
4013 is authorized to employ one (1) program manager for each
4014 department region, if funds are appropriated to the department for
4015 that purpose, whose duties shall be to develop an ongoing public
4016 education program to inform Mississippi citizens about the needs
4017 of the state's children, youth and families, the work of the
4018 department in addressing these needs and how citizens might become
4019 involved. The Department of Human Services shall develop formal
4020 agreements of cooperation and protocol between the department and
4021 other providers of services to children and families including
4022 school districts, hospitals, law enforcement agencies, mental
4023 health centers and others.



4024 **SECTION 69.** Section 43-27-117, Mississippi Code of 1972, is
4025 amended as follows:

4026 43-27-117. The Department of * * * Child Protection Services
4027 is authorized to establish an on-line automated child welfare
4028 information system, if funds are appropriated to the department
4029 for that purpose, to give the department the capability to supply
4030 foster care, adoption and child abuse and neglect data to the
4031 federal Department of Health and Human Services in a specified
4032 format as required, and to help the department in tracking child
4033 abuse and neglect referrals and the number of children affected in
4034 those referrals.

4035 **SECTION 70.** Section 57-39-43, Mississippi Code of 1972, is
4036 amended as follows:

4037 57-39-43. (1) There is created in the State Treasury a fund
4038 to be designated as the "Mississippi Oil Overcharge Fund,"
4039 referred to in this section as "fund." Monies in the fund,
4040 referred to in this section as "oil overcharge funds," may be used
4041 for projects or programs authorized in accordance with appropriate
4042 federal court orders regarding the use of oil overcharge funds or
4043 by the United States Department of Energy, or both.

4044 (2) The Treasurer shall deposit or transfer into the fund
4045 any funds received as a result of federal statute or
4046 administrative or regulatory actions requiring the disbursement to
4047 states of refund monies for alleged overcharges for crude oil or



4048 refined petroleum products. The Treasurer may establish accounts
4049 within the fund as necessary for management of monies in the fund.

4050 (3) Expenditures may be made from the fund upon requisition
4051 to the Treasurer by the Executive Director of the Department of
4052 Economic and Community Development or the * * * Commissioner of
4053 the Department of Child Protection Services.

4054 (4) The fund shall be treated as a special trust fund.
4055 Interest earned on the principal in the fund shall be credited by
4056 the Treasurer to the fund.

4057 (5) In their annual budget request, the Department of
4058 Economic and Community Development and the Department of * * *
4059 Child Protection Services shall submit a list of projects or
4060 programs for which monies from the fund are requested to be used.

4061 **SECTION 71.** Section 93-5-23, Mississippi Code of 1972, is
4062 amended as follows:

4063 93-5-23. When a divorce shall be decreed from the bonds of
4064 matrimony, the court may, in its discretion, having regard to the
4065 circumstances of the parties and the nature of the case, as may
4066 seem equitable and just, make all orders touching the care,
4067 custody and maintenance of the children of the marriage, and also
4068 touching the maintenance and alimony of the wife or the husband,
4069 or any allowance to be made to her or him, and shall, if need be,
4070 require bond, sureties or other guarantee for the payment of the
4071 sum so allowed. Orders touching on the custody of the children of
4072 the marriage shall be made in accordance with the provisions of



4073 Section 93-5-24. For the purposes of orders touching the
4074 maintenance and alimony of the wife or husband, "property" and "an
4075 asset of a spouse" shall not include any interest a party may have
4076 as an heir at law of a living person or any interest under a
4077 third-party will, nor shall any such interest be considered as an
4078 economic circumstance or other factor. The court may afterwards,
4079 on petition, change the decree, and make from time to time such
4080 new decrees as the case may require. However, where proof shows
4081 that both parents have separate incomes or estates, the court may
4082 require that each parent contribute to the support and maintenance
4083 of the children of the marriage in proportion to the relative
4084 financial ability of each. In the event a legally responsible
4085 parent has health insurance available to him or her through an
4086 employer or organization that may extend benefits to the
4087 dependents of such parent, any order of support issued against
4088 such parent may require him or her to exercise the option of
4089 additional coverage in favor of such children as he or she is
4090 legally responsible to support.

4091 Whenever the court has ordered a party to make periodic
4092 payments for the maintenance or support of a child, but no bond,
4093 sureties or other guarantee has been required to secure such
4094 payments, and whenever such payments as have become due remain
4095 unpaid for a period of at least thirty (30) days, the court may,
4096 upon petition of the person to whom such payments are owing, or
4097 such person's legal representative, enter an order requiring that



4098 bond, sureties or other security be given by the person obligated
4099 to make such payments, the amount and sufficiency of which shall
4100 be approved by the court. The obligor shall, as in other civil
4101 actions, be served with process and shall be entitled to a hearing
4102 in such case.

4103 At the discretion of the court, any person found in contempt
4104 for failure to pay child support and imprisoned therefor may be
4105 referred for placement in a state, county or municipal
4106 restitution, house arrest or restorative justice center or
4107 program, provided such person meets the qualifications prescribed
4108 in Section 99-37-19.

4109 Whenever in any proceeding in the chancery court concerning
4110 the custody of a child a party alleges that the child whose
4111 custody is at issue has been the victim of sexual or physical
4112 abuse by the other party, the court may, on its own motion, grant
4113 a continuance in the custody proceeding only until such allegation
4114 has been investigated by the Department of * * * Child Protection
4115 Services. At the time of ordering such continuance, the court may
4116 direct the party and his attorney making such allegation of child
4117 abuse to report in writing and provide all evidence touching on
4118 the allegation of abuse to the Department of * * * Child
4119 Protection Services. The Department of * * * Child Protection
4120 Services shall investigate such allegation and take such action as
4121 it deems appropriate and as provided in such cases under the Youth
4122 Court Law (being Chapter 21 of Title 43, Mississippi Code of 1972)



4123 or under the laws establishing family courts (being Chapter 23 of
4124 Title 43, Mississippi Code of 1972).

4125 If after investigation by the Department of * * * Child
4126 Protection Services or final disposition by the youth court or
4127 family court allegations of child abuse are found to be without
4128 foundation, the chancery court shall order the alleging party to
4129 pay all court costs and reasonable attorney's fees incurred by the
4130 defending party in responding to such allegation.

4131 The court may investigate, hear and make a determination in a
4132 custody action when a charge of abuse and/or neglect arises in the
4133 course of a custody action as provided in Section 43-21-151, and
4134 in such cases the court shall appoint a guardian ad litem for the
4135 child as provided under Section 43-21-121, who shall be an
4136 attorney. Unless the chancery court's jurisdiction has been
4137 terminated, all disposition orders in such cases for placement
4138 with the Department of * * * Child Protection Services shall be
4139 reviewed by the court or designated authority at least annually to
4140 determine if continued placement with the department is in the
4141 best interest of the child or public.

4142 The duty of support of a child terminates upon the
4143 emancipation of the child. The court may determine that
4144 emancipation has occurred pursuant to Section 93-11-65.

4145 Custody and visitation upon military temporary duty,
4146 deployment or mobilization shall be governed by Section 93-5-34.



4147 **SECTION 72.** Section 93-17-3, Mississippi Code of 1972, is
4148 amended as follows:

4149 93-17-3. (1) Except as otherwise provided in this section,
4150 a court of this state has jurisdiction over a proceeding for the
4151 adoption or readoption of a minor commenced under this chapter if:

4152 (a) Immediately before commencement of the proceeding,
4153 the minor lived in this state with a parent, a guardian, a
4154 prospective adoptive parent or another person acting as parent,
4155 for at least six (6) consecutive months, excluding periods of
4156 temporary absence, or, in the case of a minor under six (6) months
4157 of age, lived in this state from soon after birth with any of
4158 those individuals and there is available in this state substantial
4159 evidence concerning the minor's present or future care;

4160 (b) Immediately before commencement of the proceeding,
4161 the prospective adoptive parent lived in this state for at least
4162 six (6) consecutive months, excluding periods of temporary
4163 absence, and there is available in this state substantial evidence
4164 concerning the minor's present or future care;

4165 (c) The agency that placed the minor for adoption is
4166 licensed in this state and it is in the best interest of the minor
4167 that a court of this state assume jurisdiction because:

4168 (i) The minor and the minor's parents, or the
4169 minor and the prospective adoptive parent, have a significant
4170 connection with this state; and



4171 (ii) There is available in this state substantial
4172 evidence concerning the minor's present or future care;

4173 (d) The minor and the prospective adoptive parent are
4174 physically present in this state and the minor has been abandoned
4175 or it is necessary in an emergency to protect the minor because
4176 the minor has been subjected to or threatened with mistreatment or
4177 abuse or is otherwise neglected;

4178 (e) It appears that no other state would have
4179 jurisdiction under prerequisites substantially in accordance with
4180 paragraphs (a) through (d), or another state has declined to
4181 exercise jurisdiction on the ground that this state is the more
4182 appropriate forum to hear a petition for adoption of the minor,
4183 and it is in the best interest of the minor that a court of this
4184 state assume jurisdiction; or

4185 (f) The child has been adopted in a foreign country,
4186 the agency that placed the minor for adoption is licensed in this
4187 state, and it is in the best interest of the child to be readopted
4188 in a court of this state having jurisdiction.

4189 (2) A court of this state may not exercise jurisdiction over
4190 a proceeding for adoption of a minor if, at the time the petition
4191 for adoption is filed, a proceeding concerning the custody or
4192 adoption of the minor is pending in a court of another state
4193 exercising jurisdiction substantially in conformity with the
4194 Uniform Child Custody Jurisdiction Act or this section unless the
4195 proceeding is stayed by the court of the other state.



4196 (3) If a court of another state has issued a decree or order
4197 concerning the custody of a minor who may be the subject of a
4198 proceeding for adoption in this state, a court of this state may
4199 not exercise jurisdiction over a proceeding for adoption of the
4200 minor unless:

4201 (a) The court of this state finds that the court of the
4202 state which issued the decree or order:

4203 (i) Does not have continuing jurisdiction to
4204 modify the decree or order under jurisdictional prerequisites
4205 substantially in accordance with the Uniform Child Custody
4206 Jurisdiction Act or has declined to assume jurisdiction to modify
4207 the decree or order; or

4208 (ii) Does not have jurisdiction over a proceeding
4209 for adoption substantially in conformity with subsection (1) (a)
4210 through (d) or has declined to assume jurisdiction over a
4211 proceeding for adoption; and

4212 (b) The court of this state has jurisdiction over the
4213 proceeding.

4214 (4) Any person may be adopted in accordance with the
4215 provisions of this chapter in termtime or in vacation by an
4216 unmarried adult or by a married person whose spouse joins in the
4217 petition. The adoption shall be by sworn petition filed in the
4218 chancery court of the county in which the adopting petitioner or
4219 petitioners reside or in which the child to be adopted resides or
4220 was born, or was found when it was abandoned or deserted, or in



4221 which the home is located to which the child has been surrendered
4222 by a person authorized to so do. The petition shall be
4223 accompanied by a doctor's or nurse practitioner's certificate
4224 showing the physical and mental condition of the child to be
4225 adopted and a sworn statement of all property, if any, owned by
4226 the child. In addition, the petition shall be accompanied by
4227 affidavits of the petitioner or petitioners stating the amount of
4228 the service fees charged by any adoption agencies or adoption
4229 facilitators used by the petitioner or petitioners and any other
4230 expenses paid by the petitioner or petitioners in the adoption
4231 process as of the time of filing the petition. If the doctor's or
4232 nurse practitioner's certificate indicates any abnormal mental or
4233 physical condition or defect, the condition or defect shall not,
4234 in the discretion of the chancellor, bar the adoption of the child
4235 if the adopting parent or parents file an affidavit stating full
4236 and complete knowledge of the condition or defect and stating a
4237 desire to adopt the child, notwithstanding the condition or
4238 defect. The court shall have the power to change the name of the
4239 child as a part of the adoption proceedings. The word "child" in
4240 this section shall be construed to refer to the person to be
4241 adopted, though an adult.

4242 (5) Adoption by couples of the same gender is prohibited.

4243 (6) No person may be placed in the home of or adopted by the
4244 prospective adopting parties before a court-ordered or voluntary
4245 home study is satisfactorily completed by a licensed adoption



4246 agency, a licensed, experienced social worker approved by the
4247 chancery court or by the Department of * * * Child Protection
4248 Services on the prospective adoptive parties if required by
4249 Section 93-17-11.

4250 (7) No person may be adopted by a person or persons who
4251 reside outside the State of Mississippi unless the provisions of
4252 the Interstate Compact for Placement of Children (Section 43-18-1
4253 et seq.) have been complied with. In such cases Forms 100A, 100B
4254 (if applicable) and evidence of Interstate Compact for Placement
4255 of Children approval shall be added to the permanent adoption
4256 record file within one (1) month of the placement, and a minimum
4257 of two (2) post-placement reports conducted by a licensed
4258 child-placing agency shall be provided to the Mississippi
4259 Department of * * * Child Protection Services Interstate Compact
4260 for Placement of Children office.

4261 (8) No person may be adopted unless the provisions of the
4262 Indian Child Welfare Act (ICWA) have been complied with, if
4263 applicable. When applicable, proof of compliance shall be
4264 included in the court adoption file prior to finalization of the
4265 adoption. If not applicable, a written statement or paragraph in
4266 the petition for adoption shall be included in the adoption
4267 petition stating that the provisions of ICWA do not apply before
4268 finalization.

4269 (9) The readoption of a child who has automatically acquired
4270 United States citizenship following an adoption in a foreign



4271 country and who possesses a Certificate of Citizenship in
4272 accordance with the Child Citizenship Act, CAA, Public Law
4273 106-395, may be given full force and effect in a readoption
4274 proceeding conducted by a court of competent jurisdiction in this
4275 state by compliance with the Mississippi Registration of Foreign
4276 Adoptions Act, Article 9 of this chapter.

4277 **SECTION 73.** Section 93-17-5, Mississippi Code of 1972, is
4278 amended as follows:

4279 93-17-5. (1) There shall be made parties to the proceeding
4280 by process or by the filing therein of a consent to the adoption
4281 proposed in the petition, which consent shall be duly sworn to or
4282 acknowledged and executed only by the following persons, but not
4283 before seventy-two (72) hours after the birth of the child:

4284 (a) The parents, or parent, if only one (1) parent,
4285 though either be under the age of twenty-one (21) years;

4286 (b) If both parents are dead, then any two (2) adult
4287 kin of the child within the third degree computed according to the
4288 civil law; if one of such kin is in possession of the child, he or
4289 she shall join in the petition or be made a party to the suit; or

4290 (c) The guardian ad litem of an abandoned child, upon
4291 petition showing that the names of the parents of the child are
4292 unknown after diligent search and inquiry by the petitioners. In
4293 addition to the above, there shall be made parties to any
4294 proceeding to adopt a child, either by process or by the filing of
4295 a consent to the adoption proposed in the petition, the following:



4296 (i) Those persons having physical custody of the
4297 child, except persons who are acting as foster parents as a result
4298 of placement with them by the Department of * * * Child Protection
4299 Services of the State of Mississippi.

4300 (ii) Any person to whom custody of the child may
4301 have been awarded by a court of competent jurisdiction of the
4302 State of Mississippi.

4303 (iii) The agent of the county Department of * * *
4304 Child Protection Services of the State of Mississippi that has
4305 placed a child in foster care, either by agreement or by court
4306 order.

4307 (2) The consent may also be executed and filed by the duly
4308 authorized officer or representative of a home to whose care the
4309 child has been delivered. The child shall join the petition by
4310 the child's next friend.

4311 (3) If consent is not filed, process shall be had upon the
4312 parties as provided by law for process in person or by
4313 publication, if they are nonresidents of the state or are not
4314 found therein after diligent search and inquiry, the court or
4315 chancellor in vacation may fix a date in termtime or in vacation
4316 to which process may be returnable and shall have power to proceed
4317 in termtime or vacation. In any event, if the child is more than
4318 fourteen (14) years of age, a consent to the adoption, sworn to or
4319 acknowledged by the child, shall also be required or personal



4320 service of process shall be had upon the child in the same manner
4321 and in the same effect as if the child were an adult.

4322 **SECTION 74.** Section 93-17-8, Mississippi Code of 1972, is
4323 amended as follows:

4324 93-17-8. (1) Whenever an adoption becomes a contested
4325 matter, whether after a hearing on a petition for determination of
4326 rights under Section 93-17-6 or otherwise, the court:

4327 (a) Shall, on motion of any party or on its own motion,
4328 issue an order for immediate blood or tissue sampling in
4329 accordance with the provisions of Section 93-9-21 et seq., if
4330 paternity is at issue. The court shall order an expedited report
4331 of such testing and shall hold the hearing resolving this matter
4332 at the earliest time possible.

4333 (b) Shall appoint a guardian ad litem to represent the
4334 child. Such guardian ad litem shall be an attorney, however his
4335 duties are as guardian ad litem and not as attorney for the child.
4336 The reasonable costs of the guardian ad litem shall be taxed as
4337 costs of the court. Neither the child nor anyone purporting to
4338 act on his behalf may waive the appointment of a guardian ad
4339 litem.

4340 (c) Shall determine first whether or not the objecting
4341 parent is entitled to so object under the criteria of Section
4342 93-17-7 and then shall determine the custody of the child in
4343 accord with the best interests of the child and the rights of the
4344 parties as established by the hearings and judgments.



4345 (d) Shall schedule all hearings concerning the
4346 contested adoption as expeditiously as possible for prompt
4347 conclusion of the matter.

4348 (2) In determining the custody of the child after a finding
4349 that the adoption will not be granted, the fact of the surrender
4350 of the child for adoption by a parent shall not be taken as any
4351 evidence of that parent's abandonment or desertion of the child or
4352 of that parent's unfitness as a parent.

4353 (3) In contested adoptions arising through petitions for
4354 determination of rights where the prospective adopting parents
4355 were not parties to that proceeding, they need not be made parties
4356 to the contested adoption until there has been a ruling that the
4357 objecting parent is not entitled to enter a valid objection to the
4358 adoption. At that point the prospective adopting parents shall be
4359 made parties by joinder which shall show their suitability to be
4360 adopting parents as would a petition for adoption. The identity
4361 and suitability of the prospective adopting parents shall be made
4362 known to the court and the guardian ad litem, but shall not be
4363 made known to other parties to the proceeding unless the court
4364 determines that the interests of justice or the best interests of
4365 the child require it.

4366 (4) No birth parent or alleged parent shall be permitted to
4367 contradict statements given in a proceeding for the adoption of
4368 their child in any other proceeding concerning that child or his
4369 ancestry.



4370 (5) Appointment of a guardian ad litem is not required in
4371 any proceeding under this chapter except as provided in subsection
4372 (1)(b) above and except for the guardian ad litem needed for an
4373 abandoned child. It shall not be necessary for a guardian ad
4374 litem to be appointed where the chancery judge presiding in the
4375 adoption proceeding deems it unnecessary and no adoption agency is
4376 involved in the proceeding. No final decree of adoption
4377 heretofore granted shall be set aside or modified because a
4378 guardian ad litem was not appointed unless as the result of a
4379 direct appeal not now barred.

4380 (6) The provisions of Chapter 15 of this Title 93,
4381 Mississippi Code of 1972, are not applicable to proceedings under
4382 this chapter except as specifically provided by reference herein.

4383 (7) The court may order a child's birth father, identified
4384 as such in the proceedings, to reimburse the Department of * * *
4385 Child Protection Services, the foster parents, the adopting
4386 parents, the home, any other agency or person who has assumed
4387 liability for such child, all or part of the costs of the medical
4388 expenses incurred for the mother and the child in connection with
4389 the birth of the child, as well as reasonable support for the
4390 child after his birth.

4391 **SECTION 75.** Section 93-17-11, Mississippi Code of 1972, is
4392 amended as follows:

4393 93-17-11. At any time after the filing of the petition for
4394 adoption and completion of process thereon, and before the



4395 entering of a final decree, the court may, in its discretion, of
4396 its own motion or on motion of any party to the proceeding,
4397 require an investigation and report to the court to be made by any
4398 person, officer or home as the court may designate and direct
4399 concerning the child, and shall require in adoptions, other than
4400 those in which the petitioner or petitioners are a relative or
4401 stepparent of the child, that a home study be performed of the
4402 petitioner or petitioners by a licensed adoption agency or by the
4403 Department of * * * Child Protection Services, at the petitioner's
4404 or petitioners' sole expense and at no cost to the state or
4405 county. The investigation and report shall give the material
4406 facts upon which the court may determine whether the child is a
4407 proper subject for adoption, whether the petitioner or petitioners
4408 are suitable parents for the child, whether the adoption is to its
4409 best interest, and any other facts or circumstances that may be
4410 material to the proposed adoption. The home study shall be
4411 considered by the court in determining whether the petitioner or
4412 petitioners are suitable parents for the child. The court, when
4413 an investigation and report are required by the court or by this
4414 section, shall stay the proceedings in the cause for such
4415 reasonable time as may be necessary or required in the opinion of
4416 the court for the completion of the investigation and report by
4417 the person, officer or home designated and authorized to make the
4418 same.



4419 Upon the filing of that consent or the completion of the
4420 process and the filing of the investigation and report, if
4421 required by the court or by this section, and the presentation of
4422 such other evidence as may be desired by the court, if the court
4423 determines that it is to the best interests of the child that an
4424 interlocutory decree of adoption be entered, the court may
4425 thereupon enter an interlocutory decree upon such terms and
4426 conditions as may be determined by the court, in its discretion,
4427 but including therein that the complete care, custody and control
4428 of the child shall be vested in the petitioner or petitioners
4429 until further orders of the court and that during such time the
4430 child shall be and remain a ward of the court. If the court
4431 determines by decree at any time during the pendency of the
4432 proceeding that it is not to the best interests of the child that
4433 the adoption proceed, the petitioners shall be entitled to at
4434 least five (5) days' notice upon their attorneys of record and a
4435 hearing with the right of appeal as provided by law from a
4436 dismissal of the petition; however, the bond perfecting the appeal
4437 shall be filed within ten (10) days from the entry of the decree
4438 of dismissal and the bond shall be in such amount as the
4439 chancellor may determine and supersedeas may be granted by the
4440 chancellor or as otherwise provided by law for appeal from final
4441 decrees.

4442 After the entry of the interlocutory decree and before entry
4443 of the final decree, the court may require such further and



4444 additional investigation and reports as it may deem proper. The
4445 rights of the parties filing the consent or served with process
4446 shall be subject to the decree but shall not be divested until
4447 entry of the final decree.

4448 **SECTION 76.** Section 93-17-12, Mississippi Code of 1972, is
4449 amended as follows:

4450 93-17-12. In any child custody matter hereafter filed in any
4451 chancery or county court in which temporary or permanent custody
4452 has already been placed with a parent or guardian and in all
4453 adoptions, the court may appoint any social worker licensed to
4454 work in the State of Mississippi and shall impose a fee for any
4455 court-ordered home study performed * * *. The fee shall be
4456 assessed upon either party or upon both parties in the court's
4457 discretion. The minimum fee imposed shall be not less than Three
4458 Hundred Fifty Dollars (\$350.00) for each household on which a home
4459 study is performed. * * *

4460 **SECTION 77.** Section 93-17-53, Mississippi Code of 1972, is
4461 amended as follows:

4462 93-17-53. The purpose of Sections 93-17-51 through 93-17-67
4463 is to supplement the Mississippi adoption law by making possible
4464 through public supplemental benefits the most appropriate adoption
4465 of each child certified by the * * * Department of Child
4466 Protection Services as requiring a supplemental benefit to assure
4467 adoption.



4468 **SECTION 78.** Section 93-17-57, Mississippi Code of 1972, is
4469 amended as follows:

4470 93-17-57. The * * * Department of Child Protection Services
4471 shall establish and administer an on-going program of supplemental
4472 benefits for adoption. Supplemental benefits and services for
4473 children under this program shall be provided out of such funds as
4474 may be appropriated to the Mississippi Medicaid Commission for the
4475 medical services for children in foster care, or made available to
4476 the department from other sources.

4477 **SECTION 79.** Section 93-17-59, Mississippi Code of 1972, is
4478 amended as follows:

4479 93-17-59. Any child meeting criteria specified in Section
4480 93-17-55 for whom the * * * Department of Child Protection
4481 Services feels supplemental benefits are necessary to improve
4482 opportunities for adoption will be eligible for the program. The
4483 adoption agency shall document that reasonable efforts have been
4484 made to place the child in adoption without supplemental benefits
4485 through the use of adoption resource exchanges, recruitment and
4486 referral to appropriate specialized adoption agencies.

4487 **SECTION 80.** Section 93-17-61, Mississippi Code of 1972, is
4488 amended as follows:

4489 93-17-61. (1) When parents are found and approved for
4490 adoption of a child certified as eligible for supplemental
4491 benefits, and before the final decree of adoption is issued, there
4492 shall be executed a written agreement between the family entering



4493 into the adoption and the Department of * * * Child Protection
4494 Services. In individual cases, supplemental benefits may commence
4495 with the adoptive placement or at the appropriate time after the
4496 adoption decree and will vary with the needs of the child as well
4497 as the availability of other resources to meet the child's needs.
4498 The supplemental benefits may be for special services only or for
4499 money payments as allowed under Section 43-13-115, Mississippi
4500 Code of 1972, and either for a limited period, for a long-term not
4501 exceeding the child's eighteenth birthday, or for any combination
4502 of the foregoing. The amount of the time-limited, long-term
4503 supplemental benefits may in no case exceed that which would be
4504 currently allowable for such child under the Mississippi Medicaid
4505 Law.

4506 (2) When supplemental benefits last for more than one (1)
4507 year, the adoptive parents shall present an annual written
4508 certification that the child remains under the parents' care and
4509 that the child's need for supplemental benefits continues. Based
4510 on investigation by the agency and available funds, the agency may
4511 approve continued supplemental benefits. These benefits shall be
4512 extended so long as the parents remain legally responsible for and
4513 are providing support for the child. The agency shall continue
4514 paying benefits until a child reaches twenty-one (21) years of age
4515 if the child meets the criteria stated in Section 93-17-67(1) for
4516 continuation of Medicaid coverage.



4517 (3) A child who is a resident of Mississippi when
4518 eligibility for supplemental benefits is certified shall remain
4519 eligible and receive supplemental benefits, if necessary for
4520 adoption, regardless of the domicile or residence of the adopting
4521 parents at the time of application for adoption, placement, legal
4522 decree of adoption or thereafter.

4523 **SECTION 81.** Section 93-17-63, Mississippi Code of 1972, is
4524 amended as follows:

4525 93-17-63. All records regarding such adoption shall be
4526 confidential. Anyone violating or releasing information of a
4527 confidential nature, as contemplated by Sections 93-17-51 through
4528 93-17-67 without the approval of the court with jurisdiction or
4529 the * * * Department of * * * Child Protection Services unless
4530 such release is made pursuant to Sections 93-17-201 through
4531 93-17-223 shall be guilty of a misdemeanor and subject to a fine
4532 not exceeding One Thousand Dollars (\$1,000.00) or imprisonment of
4533 six (6) months, or both.

4534 **SECTION 82.** Section 93-17-65, Mississippi Code of 1972, is
4535 amended as follows:

4536 93-17-65. The * * * Department of Child Protection Services
4537 shall promulgate rules and regulations necessary to implement the
4538 provisions of Sections 93-17-51 through 93-17-67.

4539 **SECTION 83.** Section 93-17-67, Mississippi Code of 1972, is
4540 amended as follows:



4541 93-17-67. (1) If the adoptive parents of a child eligible
4542 for adoption supplemental benefits sign an adoption assistance
4543 agreement with the Department of * * * Child Protection Services,
4544 then, whether or not they accept such benefits, Medicaid coverage
4545 shall be provided for the child under the agency's medical payment
4546 program from and after the commencement date established pursuant
4547 to Section 93-17-61 until the child's eighteenth birthday,
4548 provided that federal matching funds are available for such
4549 payment.

4550 (2) Any child who is adopted in this state through a
4551 state-supported adoption agency and who immediately prior to such
4552 adoption was receiving Medicaid benefits because of a severe
4553 physical or mental handicap shall continue to receive such
4554 coverage benefits after adoption age eighteen (18), and such
4555 benefits shall be payable as provided under the agency's medical
4556 payment program for so long as the * * * Department of * * *
4557 Child Protection Services determines that the treatment or
4558 rehabilitation for which payment is being made is in the best
4559 interest of the child concerned, but not past the age of
4560 twenty-one (21) years, provided that federal matching funds are
4561 available for such payment and that any state funds used for such
4562 payment shall have been appropriated specifically for such
4563 purpose.

4564 (3) If permitted by federal law without any loss to the
4565 state of federal matching funds, the financial resources of the



4566 adopting parents shall not be a factor in such determination
4567 except that payments on behalf of a child of any age may be
4568 adjusted when insurance benefits available to the adopting parents
4569 would pay all or part of such payments being made by the state, or
4570 if medical or rehabilitation services are otherwise available
4571 without cost to the adopting parents. The amount of financial
4572 assistance given shall not exceed the amount that the Division of
4573 Medicaid * * * would be required to pay for the same medical
4574 treatment or rehabilitation.

4575 (4) The receipt of Medicaid benefits by an adopted child
4576 under Sections 93-17-51 through 93-17-67 shall not qualify the
4577 adopting parents for Medicaid eligibility, unless either parent is
4578 otherwise eligible under Section 43-13-115, Mississippi Code of
4579 1972.

4580 **SECTION 84.** Section 93-17-69, Mississippi Code of 1972, is
4581 amended as follows:

4582 93-17-69. Any person proposing to adopt a child who is * * *
4583 in the custody of the Department of Child Protection Services and
4584 who is in special circumstances as defined in paragraph (c) of
4585 Section 93-17-55 shall be * * * eligible to have the attorney fees
4586 of such adoption proceeding paid by the Department of Child
4587 Protection Services upon request by the adopting parent to the
4588 department. The Department of Child Protection Services shall
4589 determine the amount and any limitations to such payment as it
4590 deems appropriate and shall advise prospective adopting parents of



4591 their right under this section * * *. The fees for filing the
4592 petition for adoption and preparing a revised birth certificate,
4593 any court costs taxed against the petitioner and any other actual
4594 payments * * * required to complete the adoption proceeding, shall
4595 be paid by the adopting parent.

4596 **SECTION 85.** Section 93-17-101, Mississippi Code of 1972, is
4597 amended as follows:

4598 93-17-101. (1) The Legislature finds that:

4599 (a) Locating adoptive families for children for whom
4600 state assistance is desirable, pursuant to the Mississippi
4601 adoption assistance law, and assuring the protection of the
4602 interests of the children affected during the entire assistance
4603 period, require special measures when the adoptive parents move to
4604 other states or are residents of another state; and

4605 (b) Providing medical and other necessary services for
4606 children, with state assistance, encounters special difficulties
4607 when the providing of services takes place in other states.

4608 (2) The purposes of Sections 93-17-101 through 93-17-109 are
4609 to:

4610 (a) Authorize the Mississippi Department of * * * Child
4611 Protection Services to enter into interstate agreements with
4612 agencies of other states for the protection of children on behalf
4613 of whom adoption assistance is being provided by the Mississippi
4614 Department of * * * Child Protection Services; and



4615 (b) Provide procedures for interstate children's
4616 adoption assistance payments, including medical payments.

4617 **SECTION 86.** Section 93-17-103, Mississippi Code of 1972, is
4618 amended as follows:

4619 93-17-103. (1) The Mississippi Department of * * * Child
4620 Protection Services is authorized to develop, participate in the
4621 development of, negotiate and enter into one or more interstate
4622 compacts on behalf of this state with other states to implement
4623 one or more of the purposes set forth in Sections 93-17-101
4624 through 93-17-109. When so entered into, and for so long as it
4625 shall remain in force, such a compact shall have the force and
4626 effect of law.

4627 (2) For the purposes of Sections 93-17-101 through
4628 93-17-109, the term "state" shall mean a state of the United
4629 States, the District of Columbia, the Commonwealth of Puerto Rico,
4630 the Virgin Islands, Guam, the Commonwealth of the Northern Mariana
4631 Islands or a territory or possession of or administered by the
4632 United States.

4633 (3) For the purposes of Sections 93-17-101 through
4634 93-17-109, the term "adoption assistance state" means the state
4635 that is signatory to an adoption assistance agreement in a
4636 particular case.

4637 (4) For the purposes of Sections 93-17-101 through
4638 93-17-109, the term "residence state" means the state of which the



4639 child is a resident by virtue of the residence of the adoptive
4640 parents.

4641 **SECTION 87.** Section 93-17-107, Mississippi Code of 1972, is
4642 amended as follows:

4643 93-17-107. (1) A child with special needs resident in this
4644 state who is the subject of an adoption assistance agreement with
4645 another state and who has been determined eligible for medicaid in
4646 that state shall be entitled to receive a medical assistance
4647 identification from this state upon filing with the Mississippi
4648 Department of * * * Child Protection Services a certified copy of
4649 the adoption assistance agreement obtained from the adoption
4650 assistance state which certifies to the eligibility of the child
4651 for medicaid. In accordance with regulations of the Mississippi
4652 Department of * * * Child Protection Services, the adoptive
4653 parents shall be required, at least annually, to show that the
4654 agreement is still in force or has been renewed.

4655 (2) The Division of Medicaid, Office of the Governor, shall
4656 consider the holder of a medical assistance identification
4657 pursuant to this section as any other holder of a medical
4658 assistance identification under the laws of this state and shall
4659 process and make payment on claims on account of such holder in
4660 the same manner and pursuant to the same conditions and procedures
4661 as for other recipients of medical assistance.

4662 (3) The submission of any claim for payment or reimbursement
4663 for services or benefits pursuant to this section or the making of



4664 any statement in connection therewith, which claim or statement
4665 the maker knows or should know to be false, misleading or
4666 fraudulent shall be punishable as perjury and shall also be
4667 subject to a fine not to exceed Ten Thousand Dollars (\$10,000.00),
4668 or imprisonment for not to exceed two (2) years, or both.

4669 (4) The provisions of this section shall apply only to
4670 medical assistance for children under adoption assistance
4671 agreements from states that have entered into a compact with this
4672 state under which the other state provides medical assistance to
4673 children with special needs under adoption assistance agreements
4674 made by this state. All other children entitled to medical
4675 assistance pursuant to adoption assistance agreements entered into
4676 by this state shall be eligible to receive it in accordance with
4677 the laws and procedures applicable thereto.

4678 **SECTION 88.** Section 93-17-109, Mississippi Code of 1972, is
4679 amended as follows:

4680 93-17-109. Consistent with federal law, the Mississippi
4681 Department of * * * Child Protection Services and the Division of
4682 Medicaid, Office of the Governor of the State of Mississippi, in
4683 connection with the administration of Sections 93-17-101 through
4684 93-17-109 and any compact entered into pursuant hereto, shall
4685 include in any state plan made pursuant to the Adoption Assistance
4686 and Child Welfare Act of 1980 (P.L. 96-272), Titles IV(e) and XIX
4687 of the Social Security Act, and any other applicable federal laws,
4688 the provision of adoption assistance and medical assistance for



4689 which the federal government pays some or all of the cost provided
4690 such authority is granted under the provisions of some law of this
4691 state other than the provisions of Sections 93-17-101 through
4692 93-17-109. Such departments shall apply for and administer all
4693 relevant federal aid in accordance with law.

4694 **SECTION 89.** Section 93-17-203, Mississippi Code of 1972, is
4695 amended as follows:

4696 93-17-203. The following words and phrases shall have the
4697 meanings ascribed herein unless the context clearly indicates
4698 otherwise:

4699 (a) "Agency" means a county * * * Department of Child
4700 Protection Services, a licensed or nonlicensed adoption agency or
4701 any other individual or entity assisting in the finalization of an
4702 adoption.

4703 (b) "Adoptee" means a person who is or has been adopted
4704 in this state at any time.

4705 (c) "Birth parent" means either:

4706 (i) The mother designated on the adoptee's
4707 original birth certificate; or

4708 (ii) The person named by the mother designated on
4709 the adoptee's original birth certificate as the father of the
4710 adoptee.

4711 (d) "Board" means the Mississippi State Board of
4712 Health.



4713 (e) "Bureau" means the Bureau of Vital Records of the
4714 Mississippi State Board of Health.

4715 (f) "Licensed adoption agency" means any agency or
4716 organization performing adoption services and duly licensed by the
4717 Mississippi Department of Human Services, Division of Family and
4718 Children's Services.

4719 **SECTION 90.** Section 93-21-307, Mississippi Code of 1972, is
4720 amended as follows:

4721 93-21-307. The administration of the Mississippi Children's
4722 Trust Fund shall be vested in the * * * Mississippi Department of
4723 Child Protection Services. In carrying out the provisions of
4724 Sections 93-21-301 through 93-21-311, the * * * Department of
4725 Child Protection Services shall have the following powers and
4726 duties:

4727 (a) To assist in developing programs aimed at
4728 discovering and preventing the many factors causing child abuse
4729 and neglect;

4730 (b) To prepare and disseminate, including the
4731 presentation of, educational programs and materials on child abuse
4732 and neglect;

4733 (c) To provide educational programs for professionals
4734 required by law to make reports of child abuse and neglect;

4735 (d) To help coordinate child protective services at the
4736 state, regional and local levels with the efforts of other state
4737 and voluntary social, medical and legal agencies;



4738 (e) To provide advocacy for children in public and
4739 private state and local agencies affecting children;
4740 (f) To encourage citizen and community awareness as to
4741 the needs and problems of children;
4742 (g) To facilitate the exchange of information between
4743 groups concerned with families and children;
4744 (h) To consult with state departments, agencies,
4745 commissions and boards to help determine the probable
4746 effectiveness, fiscal soundness and need for proposed educational
4747 and service programs for the prevention of child abuse and
4748 neglect;
4749 (i) To adopt rules and regulations, * * * in accordance
4750 with the Administrative Procedures Law to discharge its
4751 responsibilities;
4752 (j) To report annually, through the annual report of
4753 the * * * Department of * * * Child Protection Services, to the
4754 Governor and the Legislature concerning the * * * department's
4755 activities under Sections 93-21-301 through 93-21-311 and the
4756 effectiveness of those activities in fostering the prevention of
4757 child abuse and neglect;
4758 (k) To recommend to the Governor and the Legislature
4759 changes in state programs, statutes, policies and standards which
4760 will reduce child abuse and neglect, improve coordination among
4761 state agencies which provide services to prevent abuse and



4762 neglect, improve the condition of children and assist parents and
4763 guardians;

4764 (1) To evaluate and strengthen all local, regional and
4765 state programs dealing with child abuse and neglect;

4766 (m) To prepare and submit annually to the Governor and
4767 the Legislature reports evaluating the level and quality of all
4768 programs, services and facilities provided to children by state
4769 agencies;

4770 (n) To contract with public or private nonprofit
4771 institutions, organizations, agencies or schools or with qualified
4772 individuals for the establishment of community-based educational
4773 and service programs designed to reduce the occurrence of child
4774 abuse and neglect;

4775 (o) To determine the eligibility of programs applying
4776 for financial assistance and to make grants and loans from the
4777 fund for the purposes set forth in Sections 93-21-301 through
4778 93-21-311;

4779 (p) To develop, within one (1) year after July 1, 1989,
4780 a state plan for the distribution of funds from the trust fund
4781 which shall assure that an equal opportunity exists for
4782 establishment of prevention programs and for receipt of trust fund
4783 money among all geographic areas in this state, and to submit the
4784 plan to the Governor and the Legislature and annually thereafter
4785 submit revisions thereto as needed;



4786 (q) To provide for the coordination and exchange of
4787 information on the establishment and maintenance of local
4788 prevention programs;

4789 (r) To develop and publicize criteria for the receipt
4790 of trust fund money by eligible local prevention programs;

4791 (s) To enter into contracts with public or private
4792 agencies to fulfill the requirements of Sections 93-21-301 through
4793 93-21-311; and

4794 (t) Review, monitor and approve the expenditure of
4795 trust fund money by eligible local programs.

4796 **SECTION 91.** Section 93-21-311, Mississippi Code of 1972, is
4797 amended as follows:

4798 93-21-311. In making grants or loans from the trust fund,
4799 the * * * department shall consider the degree to which the
4800 applicant's proposal meets the following criteria:

4801 (a) Has as its primary purpose the development and
4802 facilitation of a community-based prevention program in a specific
4803 geographical area, which program shall utilize trained volunteers
4804 and existing community resources where practicable;

4805 (b) Is administered by an organization or group which
4806 is composed of or has participation by the * * * Department of
4807 Child Protection Services, the county health department, the youth
4808 court or chancery court, the office of the district attorney,
4809 county or municipal law enforcement personnel, county or municipal
4810 school officials, local public or private organizations or



4811 agencies which provide programs or services for the prevention of
4812 child abuse and neglect and educational programs for the
4813 prevention of problems of families and children; and

4814 (c) Demonstrates a willingness and ability and has a
4815 plan to provide prevention program models and consultations to
4816 appropriate organizations within the community regarding
4817 prevention program development and maintenance.

4818 **SECTION 92.** Section 93-31-3, Mississippi Code of 1972, is
4819 amended as follows:

4820 93-31-3. (1) (a) A parent or legal custodian of a child,
4821 by means of a properly executed power of attorney as provided in
4822 Section 93-31-5, may delegate to another willing person or persons
4823 as attorney-in-fact any of the powers regarding the care and
4824 custody of the child other than the following:

4825 (i) The power to consent to marriage or adoption
4826 of the child;

4827 (ii) The performance or inducement of an abortion
4828 on or for the child; or

4829 (iii) The termination of parental rights to the
4830 child.

4831 (b) A delegation of powers under this section does not:

4832 (i) Change or modify any parental or legal rights,
4833 obligations, or authority established by an existing court order;

4834 (ii) Deprive any custodial or noncustodial parent
4835 or legal guardian of any parental or legal rights, obligations, or



4836 authority regarding the custody, visitation, or support of the
4837 child; or

4838 (iii) Affect a court's ability to determine the
4839 best interests of a child.

4840 (c) If both parents are living and have shared custody
4841 as a matter of law or under an existing court order, both parents
4842 must execute the power of attorney.

4843 (d) A power of attorney under this chapter must be
4844 facilitated by either a child welfare agency that is licensed to
4845 place children for adoption and that is operating under the Safe
4846 Families for Children model or another charitable organization
4847 that is operating under the Safe Families for Children model. A
4848 full criminal history and child abuse and neglect background check
4849 must be conducted on any person who is not a grandparent, aunt,
4850 uncle, or sibling of the child if the person is:

4851 (i) Designated or proposed to be designated as the
4852 attorney-in-fact; or

4853 (ii) Is a person over the age of fifteen (15) who
4854 resides in the home of the designated attorney-in-fact.

4855 (2) A power of attorney executed under this chapter shall
4856 not be used for the sole purposes of enrolling a child in a school
4857 to participate in the academic or interscholastic athletic
4858 programs provided by that school or for any other unlawful
4859 purposes, except as may be permitted by the federal Every Student
4860 Succeeds Act (Public Law 114-95).



4861 (3) The parent or legal custodian of the child has the
4862 authority to revoke or withdraw the power of attorney authorized
4863 by this section at any time. Upon the termination, expiration, or
4864 revocation of the power of attorney, the child must be returned to
4865 the custody of the parent or legal custodian as soon as reasonably
4866 possible.

4867 (4) Until the authority expires or is revoked or withdrawn
4868 by the parent or legal custodian, the attorney-in-fact shall
4869 exercise parental or legal authority on a continuous basis without
4870 compensation for the duration of the power of attorney.

4871 (5) The execution of a power of attorney by a parent or
4872 legal custodian does not, in the absence of other evidence,
4873 constitute abandonment, desertion, abuse, neglect, or any evidence
4874 of unfitness as a parent unless the parent or legal custodian
4875 fails to take custody of the child or execute a new power of
4876 attorney after the one-year time limit, or after a longer time
4877 period as allowed for a serving parent, has elapsed. Nothing in
4878 this subsection prevents the Department of * * * Child Protection
4879 Services or law enforcement from investigating allegations of
4880 abuse, abandonment, desertion, neglect or other mistreatment of a
4881 child.

4882 (6) When the custody of a child is transferred by a power of
4883 attorney under this chapter, the child is not considered to have
4884 been placed in foster care and the attorney-in-fact will not be
4885 subject to any of the requirements or licensing regulations for



4886 foster care or other regulations relating to out-of-home care for
4887 children and will not be subject to any statutes or regulations
4888 dealing with the licensing or regulation of foster care homes.

4889 (7) (a) "Serving parent" means a parent who is a member of
4890 the Armed Forces of the United States, including any reserve
4891 component thereof, or the National Oceanic and Atmospheric
4892 Administration Commissioned Officer Corps or the Public Health
4893 Service of the United States Department of Health and Human
4894 Services detailed by proper authority for duty with the Armed
4895 Forces of the United States, or who is required to enter or serve
4896 in the active military service of the United States under a call
4897 or order of the President of the United States or to serve on
4898 state active duty.

4899 (b) A serving parent may delegate the powers designated
4900 in subsection (1) of this section for longer than one (1) year if
4901 on active-duty service or if scheduled to be on active-duty
4902 service. The term of delegation, however, may not exceed the term
4903 of active-duty service plus thirty (30) days.

4904 **SECTION 93.** Section 97-3-54.1, Mississippi Code of 1972, is
4905 amended as follows:

4906 97-3-54.1. (1) (a) A person who coerces, recruits,
4907 entices, harbors, transports, provides or obtains by any means, or
4908 attempts to coerce, recruit, entice, harbor, transport, provide or
4909 obtain by any means, another person, intending or knowing that the
4910 person will be subjected to forced labor or services, or who



4911 benefits, whether financially or by receiving anything of value
4912 from participating in an enterprise that he knows or reasonably
4913 should have known has engaged in such acts, shall be guilty of the
4914 crime of human-trafficking.

4915 (b) A person who knowingly purchases the forced labor
4916 or services of a trafficked person or who otherwise knowingly
4917 subjects, or attempts to subject, another person to forced labor
4918 or services or who benefits, whether financially or by receiving
4919 anything of value from participating in an enterprise that he
4920 knows or reasonably should have known has engaged in such acts,
4921 shall be guilty of the crime of procuring involuntary servitude.

4922 (c) A person who knowingly subjects, or attempts to
4923 subject, or who recruits, entices, harbors, transports, provides
4924 or obtains by any means, or attempts to recruit, entice, harbor,
4925 transport, provide or obtain by any means, a minor, knowing that
4926 the minor will engage in commercial sexual activity, sexually
4927 explicit performance, or the production of sexually oriented
4928 material, or causes or attempts to cause a minor to engage in
4929 commercial sexual activity, sexually explicit performance, or the
4930 production of sexually oriented material, shall be guilty of
4931 procuring sexual servitude of a minor and shall be punished by
4932 commitment to the custody of the Department of Corrections for not
4933 less than five (5) nor more than thirty (30) years, or by a fine
4934 of not less than Fifty Thousand Dollars (\$50,000.00) nor more than
4935 Five Hundred Thousand Dollars (\$500,000.00), or both. It is not a



4936 defense in a prosecution under this section that a minor consented
4937 to engage in the commercial sexual activity, sexually explicit
4938 performance, or the production of sexually oriented material, or
4939 that the defendant reasonably believed that the minor was eighteen
4940 (18) years of age or older.

4941 (2) If the victim is not a minor, a person who is convicted
4942 of an offense set forth in subsection (1)(a) or (b) of this
4943 section shall be committed to the custody of the Department of
4944 Corrections for not less than two (2) years nor more than twenty
4945 (20) years, or by a fine of not less than Ten Thousand Dollars
4946 (\$10,000.00) nor more than One Hundred Thousand Dollars
4947 (\$100,000.00), or both. If the victim of the offense is a minor,
4948 a person who is convicted of an offense set forth in subsection
4949 (1)(a) or (b) of this section shall be committed to the custody of
4950 the Department of Corrections for not less than five (5) years nor
4951 more than twenty (20) years, or by a fine of not less than Twenty
4952 Thousand Dollars (\$20,000.00) nor more than One Hundred Thousand
4953 Dollars (\$100,000.00), or both.

4954 (3) An enterprise may be prosecuted for an offense under
4955 this chapter if:

4956 (a) An agent of the enterprise knowingly engages in
4957 conduct that constitutes an offense under this chapter while
4958 acting within the scope of employment and for the benefit of the
4959 entity.



4960 (b) An employee of the enterprise engages in conduct
4961 that constitutes an offense under this chapter and the commission
4962 of the offense was part of a pattern of illegal activity for the
4963 benefit of the enterprise, which an agent of the enterprise either
4964 knew was occurring or recklessly disregarded, and the agent failed
4965 to take effective action to stop the illegal activity.

4966 (c) It is an affirmative defense to a prosecution of an
4967 enterprise that the enterprise had in place adequate procedures,
4968 including an effective complaint procedure, designed to prevent
4969 persons associated with the enterprise from engaging in the
4970 unlawful conduct and to promptly correct any violations of this
4971 chapter.

4972 (d) The court may consider the severity of the
4973 enterprise's offense and order penalties, including: (i) a fine
4974 of not more than One Million Dollars (\$1,000,000.00); (ii)
4975 disgorgement of profit; and (iii) debarment from government
4976 contracts. Additionally, the court may order any of the relief
4977 provided in Section 97-3-54.7.

4978 (4) In addition to the mandatory reporting provisions
4979 contained in Sections 43-21-353 and, 97-5-51, any person who has
4980 reasonable cause to suspect that a minor under the age of eighteen
4981 (18) is a trafficked person shall immediately make a report * * *
4982 to the Statewide Human Trafficking Coordinator. * * * A minor who
4983 has been identified as a victim of trafficking shall not be liable
4984 for criminal activity in violation of this section.



4985 (5) It is an affirmative defense in a prosecution under this
4986 act that the defendant:

4987 (a) Is a victim; and

4988 (b) Committed the offense under a reasonable
4989 apprehension created by a person that, if the defendant did not
4990 commit the act, the person would inflict serious harm on the
4991 defendant, a member of the defendant's family, or a close
4992 associate.

4993 **SECTION 94.** Section 97-5-24, Mississippi Code of 1972, is
4994 amended as follows:

4995 97-5-24. If any person eighteen (18) years or older who is
4996 employed by any public school district or private school in this
4997 state is accused of fondling or having any type of sexual
4998 involvement with any child under the age of eighteen (18) years
4999 who is enrolled in such school, the principal of such school and
5000 the superintendent of such school district shall timely notify the
5001 district attorney with jurisdiction where the school is located of
5002 such accusation, the Mississippi Department of Education and the
5003 Department of * * * Child Protection Services, provided that such
5004 accusation is reported to the principal and to the school
5005 superintendent and that there is a reasonable basis to believe
5006 that such accusation is true. Any superintendent, or his
5007 designee, who fails to make a report required by this section
5008 shall be subject to the penalties provided in Section 37-11-35.
5009 Any superintendent, principal, teacher or other school personnel



5010 participating in the making of a required report pursuant to this
5011 section or participating in any judicial proceeding resulting
5012 therefrom shall be presumed to be acting in good faith. Any
5013 person reporting in good faith shall be immune from any civil
5014 liability that might otherwise be incurred or imposed.

5015 **SECTION 95.** Section 97-5-39, Mississippi Code of 1972, is
5016 amended as follows:

5017 97-5-39. (1) (a) Except as otherwise provided in this
5018 section, any parent, guardian or other person who intentionally,
5019 knowingly or recklessly commits any act or omits the performance
5020 of any duty, which act or omission contributes to or tends to
5021 contribute to the neglect or delinquency of any child or which act
5022 or omission results in the abuse of any child, as defined in
5023 Section 43-21-105(m) of the Youth Court Law, or who knowingly aids
5024 any child in escaping or absenting himself from the guardianship
5025 or custody of any person, agency or institution, or knowingly
5026 harbors or conceals, or aids in harboring or concealing, any child
5027 who has absented himself without permission from the guardianship
5028 or custody of any person, agency or institution to which the child
5029 shall have been committed by the youth court shall be guilty of a
5030 misdemeanor, and upon conviction shall be punished by a fine not
5031 to exceed One Thousand Dollars (\$1,000.00), or by imprisonment not
5032 to exceed one (1) year in jail, or by both such fine and
5033 imprisonment.



5034 (b) For the purpose of this section, a child is a
5035 person who has not reached his eighteenth birthday. A child who
5036 has not reached his eighteenth birthday and is on active duty for
5037 a branch of the armed services, or who is married, is not
5038 considered a child for the purposes of this statute.

5039 (c) If a child commits one (1) of the proscribed acts
5040 in subsection (2) (a), (b) or (c) of this section upon another
5041 child, then original jurisdiction of all such offenses shall be in
5042 youth court.

5043 (d) If the child's deprivation of necessary clothing,
5044 shelter, health care or supervision appropriate to the child's age
5045 results in substantial harm to the child's physical, mental or
5046 emotional health, the person may be sentenced to imprisonment in
5047 custody of the Department of Corrections for not more than five
5048 (5) years or to payment of a fine of not more than Five Thousand
5049 Dollars (\$5,000.00), or both.

5050 (e) A parent, legal guardian or other person who
5051 knowingly permits the continuing physical or sexual abuse of a
5052 child is guilty of neglect of a child and may be sentenced to
5053 imprisonment in the custody of the Department of Corrections for
5054 not more than ten (10) years or to payment of a fine of not more
5055 than Ten Thousand Dollars (\$10,000.00), or both.

5056 (2) Any person shall be guilty of felonious child abuse in
5057 the following circumstances:



5058 (a) Whether bodily harm results or not, if the person
5059 shall intentionally, knowingly or recklessly:
5060 (i) Burn any child;
5061 (ii) Physically torture any child;
5062 (iii) Strangle, choke, smother or in any way
5063 interfere with any child's breathing;
5064 (iv) Poison a child;
5065 (v) Starve a child of nourishments needed to
5066 sustain life or growth;
5067 (vi) Use any type of deadly weapon upon any child;
5068 (b) If some bodily harm to any child actually occurs,
5069 and if the person shall intentionally, knowingly or recklessly:
5070 (i) Throw, kick, bite, or cut any child;
5071 (ii) Strike a child under the age of fourteen (14)
5072 about the face or head with a closed fist;
5073 (iii) Strike a child under the age of five (5) in
5074 the face or head;
5075 (iv) Kick, bite, cut or strike a child's genitals;
5076 circumcision of a male child is not a violation under this
5077 subparagraph (iv);
5078 (c) If serious bodily harm to any child actually
5079 occurs, and if the person shall intentionally, knowingly or
5080 recklessly:
5081 (i) Strike any child on the face or head;
5082 (ii) Disfigure or scar any child;



5083 (iii) Whip, strike or otherwise abuse any child;
5084 (d) Any person, upon conviction under paragraph (a) or
5085 (c) of this subsection, shall be sentenced by the court to
5086 imprisonment in the custody of the Department of Corrections for a
5087 term of not less than five (5) years and up to life, as determined
5088 by the court. Any person, upon conviction under paragraph (b) of
5089 this subsection shall be sentenced by the court to imprisonment in
5090 the custody of the Department of Corrections for a term of not
5091 less than two (2) years nor more than ten (10) years, as
5092 determined by the court. For any second or subsequent conviction
5093 under this subsection (2), the person shall be sentenced to
5094 imprisonment for life.

5095 (e) For the purposes of this subsection (2), "bodily
5096 harm" means any bodily injury to a child and includes, but is not
5097 limited to, bruising, bleeding, lacerations, soft tissue swelling,
5098 and external or internal swelling of any body organ.

5099 (f) For the purposes of this subsection (2), "serious
5100 bodily harm" means any serious bodily injury to a child and
5101 includes, but is not limited to, the fracture of a bone, permanent
5102 disfigurement, permanent scarring, or any internal bleeding or
5103 internal trauma to any organ, any brain damage, any injury to the
5104 eye or ear of a child or other vital organ, and impairment of any
5105 bodily function.

5106 (g) Nothing contained in paragraph (c) of this
5107 subsection shall preclude a parent or guardian from disciplining a



5108 child of that parent or guardian, or shall preclude a person in
5109 loco parentis to a child from disciplining that child, if done in
5110 a reasonable manner, and reasonable corporal punishment or
5111 reasonable discipline as to that parent or guardian's child or
5112 child to whom a person stands in loco parentis shall be a defense
5113 to any violation charged under paragraph (c) of this subsection.

5114 (h) Reasonable discipline and reasonable corporal
5115 punishment shall not be a defense to acts described in paragraphs
5116 (a) and (b) of this subsection or if a child suffers serious
5117 bodily harm as a result of any act prohibited under paragraph (c)
5118 of this subsection.

5119 (3) Nothing contained in this section shall prevent
5120 proceedings against the parent, guardian or other person under any
5121 statute of this state or any municipal ordinance defining any act
5122 as a crime or misdemeanor. Nothing in the provisions of this
5123 section shall preclude any person from having a right to trial by
5124 jury when charged with having violated the provisions of this
5125 section.

5126 (4) (a) A parent, legal guardian or caretaker who endangers
5127 a child's person or health by knowingly causing or permitting the
5128 child to be present where any person is selling, manufacturing or
5129 possessing immediate precursors or chemical substances with intent
5130 to manufacture, sell or possess a controlled substance as
5131 prohibited under Section 41-29-139 or 41-29-313, is guilty of
5132 child endangerment and may be sentenced to imprisonment for not



5133 more than ten (10) years or to payment of a fine of not more than
5134 Ten Thousand Dollars (\$10,000.00), or both.

5135 (b) If the endangerment results in substantial harm to
5136 the child's physical, mental or emotional health, the person may
5137 be sentenced to imprisonment for not more than twenty (20) years
5138 or to payment of a fine of not more than Twenty Thousand Dollars
5139 (\$20,000.00), or both.

5140 (5) Nothing contained in this section shall prevent
5141 proceedings against the parent, guardian or other person under any
5142 statute of this state or any municipal ordinance defining any act
5143 as a crime or misdemeanor. Nothing in the provisions of this
5144 section shall preclude any person from having a right to trial by
5145 jury when charged with having violated the provisions of this
5146 section.

5147 (6) After consultation with the Department of * * * Child
5148 Protection Services, a regional mental health center or an
5149 appropriate professional person, a judge may suspend imposition or
5150 execution of a sentence provided in subsections (1) and (2) of
5151 this section and in lieu thereof require treatment over a
5152 specified period of time at any approved public or private
5153 treatment facility. A person may be eligible for treatment in
5154 lieu of criminal penalties no more than one (1) time.

5155 (7) In any proceeding resulting from a report made pursuant
5156 to Section 43-21-353 of the Youth Court Law, the testimony of the
5157 physician making the report regarding the child's injuries or



5158 condition or cause thereof shall not be excluded on the ground
5159 that the physician's testimony violates the physician-patient
5160 privilege or similar privilege or rule against disclosure. The
5161 physician's report shall not be considered as evidence unless
5162 introduced as an exhibit to his testimony.

5163 (8) Any criminal prosecution arising from a violation of
5164 this section shall be tried in the circuit, county, justice or
5165 municipal court having jurisdiction; provided, however, that
5166 nothing herein shall abridge or dilute the contempt powers of the
5167 youth court.

5168 **SECTION 96.** Section 97-5-51, Mississippi Code of 1972, is
5169 amended as follows:

5170 97-5-51. (1) **Definitions.** For the purposes of this
5171 section:

5172 (a) "Sex crime against a minor" means any offense under
5173 at least one (1) of the following statutes when committed by an
5174 adult against a minor who is under the age of sixteen (16):

5175 (i) Section 97-3-65 relating to rape;

5176 (ii) Section 97-3-71 relating to rape and assault
5177 with intent to ravish;

5178 (iii) Section 97-3-95 relating to sexual battery;

5179 (iv) Section 97-5-23 relating to the touching of a
5180 child, mentally defective or incapacitated person or physically
5181 helpless person for lustful purposes;



5182 (v) Section 97-5-41 relating to the carnal
5183 knowledge of a stepchild, adopted child or child of a cohabiting
5184 partner;

5185 (vi) Section 97-5-33 relating to exploitation of
5186 children;

5187 (vii) Section 97-3-54.1(1)(c) relating to
5188 procuring sexual servitude of a minor;

5189 (viii) Section 43-47-18 relating to sexual abuse
5190 of a vulnerable person;

5191 (ix) Section 97-1-7 relating to the attempt to
5192 commit any of the offenses listed in this subsection.

5193 (b) "Mandatory reporter" means any of the following
5194 individuals performing their occupational duties: health care
5195 practitioner, clergy member, teaching or child care provider, law
5196 enforcement officer, or commercial image processor.

5197 (c) "Health care practitioner" means any individual who
5198 provides health care services, including a physician, surgeon,
5199 physical therapist, psychiatrist, psychologist, medical resident,
5200 medical intern, hospital staff member, licensed nurse, midwife and
5201 emergency medical technician or paramedic.

5202 (d) "Clergy member" means any priest, rabbi or duly
5203 ordained deacon or minister.

5204 (e) "Teaching or child care provider" means anyone who
5205 provides training or supervision of a minor under the age of
5206 sixteen (16), including a teacher, teacher's aide, principal or



5207 staff member of a public or private school, social worker,
5208 probation officer, foster home parent, group home or other child
5209 care institutional staff member, personnel of residential home
5210 facilities, a licensed or unlicensed day care provider.

5211 (f) "Commercial image processor" means any person who,
5212 for compensation: (i) develops exposed photographic film into
5213 negatives, slides or prints; (ii) makes prints from negatives or
5214 slides; or (iii) processes or stores digital media or images from
5215 any digital process, including, but not limited to, website
5216 applications, photography, live streaming of video, posting,
5217 creation of power points or any other means of intellectual
5218 property communication or media including conversion or
5219 manipulation of still shots or video into a digital show stored on
5220 a photography site or a media storage site.

5221 (g) "Caretaker" means any person legally obligated to
5222 provide or secure adequate care for a minor under the age of
5223 sixteen (16), including a parent, guardian, tutor, legal custodian
5224 or foster home parent.

5225 (2) (a) **Mandatory reporter requirement.** A mandatory
5226 reporter shall make a report if it would be reasonable for the
5227 mandatory reporter to suspect that a sex crime against a minor has
5228 occurred.

5229 (b) Failure to file a mandatory report shall be
5230 punished as provided in this section.



5231 (c) Reports made under this section and the identity of
5232 the mandatory reporter are confidential except when the court
5233 determines the testimony of the person reporting to be material to
5234 a judicial proceeding or when the identity of the reporter is
5235 released to law enforcement agencies and the appropriate
5236 prosecutor. The identity of the reporting party shall not be
5237 disclosed to anyone other than law enforcement or prosecutors
5238 except under court order; violation of this requirement is a
5239 misdemeanor. Reports made under this section are for the purpose
5240 of criminal investigation and prosecution only and information
5241 from these reports is not a public record. Disclosure of any
5242 information by the prosecutor shall conform to the Mississippi
5243 Uniform Rules of Circuit and County Court Procedure.

5244 (d) Any mandatory reporter who makes a required report
5245 under this section or participates in a judicial proceeding
5246 resulting from a mandatory report shall be presumed to be acting
5247 in good faith. Any person or institution reporting in good faith
5248 shall be immune from any liability, civil or criminal, that might
5249 otherwise be incurred or imposed.

5250 (3) (a) **Mandatory reporting procedure.** A report required
5251 under subsection (2) must be made immediately to the law
5252 enforcement agency in whose jurisdiction the reporter believes the
5253 sex crime against the minor occurred. Except as otherwise
5254 provided in this subsection (3), a mandatory reporter may not



5255 delegate to any other person the responsibility to report, but
5256 shall make the report personally.

5257 (i) The reporting requirement under this
5258 subsection (3) is satisfied if a mandatory reporter in good faith
5259 reports a suspected sex crime against a minor to the Department
5260 of * * * Child Protection Services under Section 43-21-353.

5261 (ii) The reporting requirement under this
5262 subsection (3) is satisfied if a mandatory reporter reports a
5263 suspected sex crime against a minor by following a reporting
5264 procedure that is imposed:

5265 1. By state agency rule as part of licensure
5266 of any person or entity holding a state license to provide
5267 services that include the treatment or education of abused or
5268 neglected children; or

5269 2. By statute.

5270 (b) **Contents of the report.** The report shall identify,
5271 to the extent known to the reporter, the following:

5272 (i) The name and address of the minor victim;

5273 (ii) The name and address of the minor's
5274 caretaker;

5275 (iii) Any other pertinent information known to the
5276 reporter.

5277 (4) A law enforcement officer who receives a mandated report
5278 under this section shall file an affidavit against the offender on
5279 behalf of the State of Mississippi if there is probable cause to



5280 believe that the offender has committed a sex crime against a
5281 minor.

5282 (5) **Collection of forensic samples.** (a) (i) When an
5283 abortion is performed on a minor who is less than fourteen (14)
5284 years of age at the time of the abortion procedure, fetal tissue
5285 extracted during the abortion shall be collected in accordance
5286 with rules and regulations adopted pursuant to this section if it
5287 would be reasonable to suspect that the pregnancy being terminated
5288 is the result of a sex crime against a minor.

5289 (ii) When a minor who is under sixteen (16) years
5290 of age gives birth to an infant, umbilical cord blood shall be
5291 collected, if possible, in accordance with rules and regulations
5292 adopted pursuant to this section if it would be reasonable to
5293 suspect that the minor's pregnancy resulted from a sex crime
5294 against a minor.

5295 (iii) It shall be reasonable to suspect that a sex
5296 crime against a minor has occurred if the mother of an infant was
5297 less than sixteen (16) years of age at the time of conception and
5298 at least one (1) of the following conditions also applies:

5299 1. The mother of the infant will not identify
5300 the father of the infant;

5301 2. The mother of the infant lists the father
5302 of the infant as unknown;

5303 3. The person the mother identifies as the
5304 father of the infant disputes his fatherhood;



5305 4. The person the mother identifies as the
5306 father of the infant is twenty-one (21) years of age or older; or

5307 5. The person the mother identifies as the
5308 father is deceased.

5309 (b) The State Medical Examiner shall adopt rules and
5310 regulations consistent with Section 99-49-1 that prescribe:

5311 (i) The amount and type of fetal tissue or
5312 umbilical cord blood to be collected pursuant to this section;

5313 (ii) Procedures for the proper preservation of the
5314 tissue or blood for the purpose of DNA testing and examination;

5315 (iii) Procedures for documenting the chain of
5316 custody of such tissue or blood for use as evidence;

5317 (iv) Procedures for proper disposal of fetal
5318 tissue or umbilical cord blood collected pursuant to this section;

5319 (v) A uniform reporting instrument mandated to be
5320 utilized, which shall include the complete residence address and
5321 name of the parent or legal guardian of the minor who is the
5322 subject of the report required under this subsection (5); and

5323 (vi) Procedures for communication with law
5324 enforcement agencies regarding evidence and information obtained
5325 pursuant to this section.

5326 (6) **Penalties.** (a) A person who is convicted of a first
5327 offense under this section shall be guilty of a misdemeanor and
5328 fined not more than Five Hundred Dollars (\$500.00).



5329 (b) A person who is convicted of a second offense under
5330 this section shall be guilty of a misdemeanor and fined not more
5331 than One Thousand Dollars (\$1,000.00), or imprisoned for not more
5332 than thirty (30) days, or both.

5333 (c) A person who is convicted of a third or subsequent
5334 offense under this section shall be guilty of a misdemeanor and
5335 fined not more than Five Thousand Dollars (\$5,000.00), or
5336 imprisoned for not more than one (1) year, or both.

5337 (7) A health care practitioner or health care facility shall
5338 be immune from any penalty, civil or criminal, for good-faith
5339 compliance with any rules and regulations adopted pursuant to this
5340 section.

5341 **SECTION 97.** Section 97-29-49, Mississippi Code of 1972, is
5342 amended as follows:

5343 97-29-49. (1) A person commits the misdemeanor of
5344 prostitution if the person knowingly or intentionally performs, or
5345 offers or agrees to perform, sexual intercourse or sexual conduct
5346 for money or other property. "Sexual conduct" includes
5347 cunnilingus, fellatio, masturbation of another, anal intercourse
5348 or the causing of penetration to any extent and with any object or
5349 body part of the genital or anal opening of another.

5350 (2) Any person violating the provisions of this section
5351 shall, upon conviction, be punished by a fine not exceeding Two
5352 Hundred Dollars (\$200.00) or by confinement in the county jail for
5353 not more than six (6) months, or both.



5354 (3) In addition to the mandatory reporting provisions
5355 contained in Section 97-5-51, any law enforcement officer who
5356 takes a minor under eighteen (18) years of age into custody for
5357 suspected prostitution shall immediately make a report to the
5358 Department of * * * Child Protection Services as required in
5359 Section 43-21-353 for suspected child sexual abuse or neglect, and
5360 the department shall commence an initial investigation into
5361 suspected child sexual abuse or neglect as required in Section
5362 43-21-353.

5363 (4) If it is determined that a person suspected of or
5364 charged with engaging in prostitution is engaging in those acts as
5365 a direct result of being a trafficked person, as defined by
5366 Section 97-3-54.4, that person shall be immune from prosecution
5367 for prostitution as a juvenile or adult and, if a minor, the
5368 provisions of Section 97-3-54.1(4) shall be applicable.

5369 **SECTION 98.** Section 43-21-251, Mississippi Code of 1972, is
5370 amended as follows:

5371 43-21-251. (1) The court records of the youth court shall
5372 include:

5373 (a) A general docket in which the clerk of the youth
5374 court shall enter the names of the parties in each cause, the date
5375 of filing the petition, any other pleadings, all other papers in
5376 the cause, issuance and return of process, and a reference by the
5377 minute book and page to all orders made therein. The general



5378 docket shall be duly indexed in the alphabetical order of the
5379 names of the parties.

5380 (b) All the papers and pleadings filed in a cause. The
5381 papers in every cause shall be marked with the style and number of
5382 the cause and the date when filed. All the papers filed in a
5383 cause shall be kept in the same file, and all the files shall be
5384 kept in numerical order.

5385 (c) All social records of a youth court, which shall
5386 include all intake records, social summaries, medical
5387 examinations, mental health examinations, transfer studies and all
5388 other information obtained and prepared in the discharge of
5389 official duty for the youth court.

5390 (i) A "social summary" is an investigation of the
5391 personal and family history and the environment of a child who is
5392 the subject of a youth court cause. The social summary should
5393 describe all reasonable appropriate alternative dispositions. The
5394 social summary should contain a specific plan for the care and
5395 assistance to the child with a detailed explanation showing the
5396 necessity for the proposed plan of disposition.

5397 (ii) A "medical examination" is an examination by
5398 a physician of a child who is the subject of a youth court cause
5399 or of his parent. The youth court may order a medical examination
5400 at any time after the intake unit has received a written
5401 complaint. Whenever possible, a medical examination shall be
5402 conducted on an outpatient basis. A medical examination of a



5403 parent of the child who is the subject of the cause shall not be
5404 ordered unless the physical or mental ability of the parent to
5405 care for the child is a relevant issue in the particular cause and
5406 the parent to be examined consents to the examination.

5407 (iii) A "mental health examination" is an
5408 examination by a psychiatrist or psychologist of a child who is
5409 the subject of a youth court cause or of his parent. The youth
5410 court may order a mental health examination at any time after the
5411 intake unit has received a written complaint. Whenever possible,
5412 a mental health examination shall be conducted on an outpatient
5413 basis. A mental health examination of a parent of the child who
5414 is the subject of a cause shall not be ordered unless the physical
5415 or mental ability of the parent to care for the child is a
5416 relevant issue in the particular cause and the parent to be
5417 examined consents to the examination.

5418 (iv) A "transfer study" is a social summary which
5419 addresses the factors set forth in Section 43-21-157(5). A
5420 transfer study shall not be admissible evidence nor shall it be
5421 considered by the court at any adjudicatory hearing. It shall be
5422 admissible evidence at a transfer or disposition hearing.

5423 (d) A minute book in which the clerk shall record all
5424 the orders of the youth court.

5425 (e) Proceedings of the youth court and evidence.



5426 (f) All information obtained by the youth court from
5427 the Administrative Office of Courts pursuant to a request under
5428 Section 43-21-261(15).

5429 (2) * * * All court records as described in this section
5430 shall be redacted to exclude the name of any individual known to
5431 be a minor and may include only the minor's initials. Any child,
5432 or the attorney for any child, who is the subject of an abuse or
5433 neglect judicial proceeding in youth court, or any parent or
5434 guardian of any child who is the subject of an abuse or neglect
5435 proceeding in a youth court, or the attorney for the parent or
5436 guardian, may request, by written motion to the court, for good
5437 cause shown that the courtroom be closed during any hearing.

5438 (3) The court records of the youth court may be kept on
5439 computer in the manner provided for storing circuit court records
5440 and dockets as provided in Section 9-7-171. The Administrative
5441 Office of Courts shall recommend to the youth courts a uniform
5442 format to maintain the records of such courts.

5443 **SECTION 99.** Section 25-9-127, Mississippi Code of 1972, is
5444 amended as follows:

5445 25-9-127. (1) No employee of any department, agency or
5446 institution who is included under this chapter or hereafter
5447 included under its authority, and who is subject to the rules and
5448 regulations prescribed by the state personnel system, may be
5449 dismissed or otherwise adversely affected as to compensation or
5450 employment status except for inefficiency or other good cause, and



5451 after written notice and hearing within the department, agency or
5452 institution as shall be specified in the rules and regulations of
5453 the State Personnel Board complying with due process of law; and
5454 any employee who has by written notice of dismissal or action
5455 adversely affecting his compensation or employment status shall,
5456 on hearing and on any appeal of any decision made in such action,
5457 be required to furnish evidence that the reasons stated in the
5458 notice of dismissal or action adversely affecting his compensation
5459 or employment status are not true or are not sufficient grounds
5460 for the action taken; provided, however, that this provision shall
5461 not apply (a) to persons separated from any department, agency or
5462 institution due to curtailment of funds or reduction in staff when
5463 such separation is in accordance with rules and regulations of the
5464 state personnel system; (b) during the probationary period of
5465 state service of twelve (12) months; and (c) to an executive
5466 officer of any state agency who serves at the will and pleasure of
5467 the Governor, board, commission or other appointing authority.

5468 (2) The operation of a state-owned motor vehicle without a
5469 valid Mississippi driver's license by an employee of any
5470 department, agency or institution that is included under this
5471 chapter and that is subject to the rules and regulations of the
5472 state personnel system shall constitute good cause for dismissal
5473 of such person from employment.

5474 (3) Beginning July 1, 1999, every male between the ages of
5475 eighteen (18) and twenty-six (26) who is required to register



5476 under the federal Military Selective Service Act, 50 USCS App.
5477 453, and who is an employee of the state shall not be promoted to
5478 any higher position of employment with the state until he submits
5479 to the person, commission, board or agency by which he is employed
5480 satisfactory documentation of his compliance with the draft
5481 registration requirements of the Military Selective Service Act.
5482 The documentation shall include a signed affirmation under penalty
5483 of perjury that the male employee has complied with the
5484 requirements of the Military Selective Service Act.

5485 (4) For a period of two (2) years beginning July 1, 2014,
5486 the provisions of subsection (1) shall not apply to the personnel
5487 actions of the State Department of Education that are subject to
5488 the rules and regulations of the State Personnel Board, and all
5489 employees of the department shall be classified as nonstate
5490 service during that period. However, any employee hired after
5491 July 1, 2014, by the department shall meet the criteria of the
5492 State Personnel Board as it presently exists for employment. The
5493 State Superintendent of Public Education and the State Board of
5494 Education shall consult with the Office of the Attorney General
5495 before taking personnel actions authorized by this section to
5496 review those actions for compliance with applicable state and
5497 federal law.

5498 It is not the intention or effect of this section to include
5499 any school attendance officer in any exemption from coverage under



5500 the State Personnel Board policy or regulations, including, but
5501 not limited to, termination and conditions of employment.

5502 (5) (a) For a period of two (2) years beginning July 1,
5503 2015, the provisions of subsection (1) shall not apply to the
5504 personnel actions of the Department of Corrections, and all
5505 employees of the department shall be classified as nonstate
5506 service during that period. However, any employee hired after
5507 July 1, 2015, by the department shall meet the criteria of the
5508 State Personnel Board as it presently exists for employment.

5509 (b) Additionally, for a period of one (1) year
5510 beginning July 1, 2016, the personnel actions of the Commissioner
5511 of the Department of Corrections shall be exempt from State
5512 Personnel Board rules, regulations and procedures in order to give
5513 the commissioner flexibility in making an orderly, effective and
5514 timely reorganization and realignment of the department.

5515 (c) The Commissioner of Corrections shall consult with
5516 the Office of the Attorney General before personnel actions
5517 authorized by this section to review those actions for compliance
5518 with applicable state and federal law.

5519 (6) Through July 1, 2019, the provisions of subsection (1)
5520 of this section shall not apply to the personnel actions of the
5521 Department of Human Services that are subject to the rules and
5522 regulations of the State Personnel Board, and all employees of the
5523 department shall be classified as nonstate service during that
5524 period. Any employee hired on or after July 1, 2019, by the



5525 department shall meet the criteria of the State Personnel Board as
5526 it presently exists for employment. The Executive Director of
5527 Human Services shall consult with the Office of the Attorney
5528 General before taking personnel actions authorized by this section
5529 to review those actions for compliance with applicable state and
5530 federal law.

5531 (7) Through July 1, 2019, the provisions of subsection (1)
5532 of this section shall not apply to the personnel actions of the
5533 Department of Child Protection Services that are subject to the
5534 rules and regulations of the State Personnel Board, and all
5535 employees of the department shall be classified as nonstate
5536 service during that period. Any employee hired on or after July
5537 1, 2019, by the division shall meet the criteria of the State
5538 Personnel Board as it presently exists for employment. Further,
5539 for a period of one (1) year beginning July 1, 2017, the personnel
5540 actions of the Department of Child Protection Services shall be
5541 exempt from State Personnel Board rules, regulation and procedures
5542 in order to give the department flexibility in making an orderly,
5543 effective and timely reorganization and realignment of the
5544 department. The Commissioner of Child Protection Services shall
5545 consult with the Office of the Attorney General before taking
5546 personnel actions authorized by this section to review those
5547 actions for compliance with applicable state and federal law.

5548 (8) Any state agency whose personnel actions are exempted in
5549 this section from the rules, regulations and procedures of the



5550 State Personnel Board shall file with the Lieutenant Governor, the
5551 Speaker of the House of Representatives, and the members of the
5552 Senate and House Accountability, Efficiency * * * and Transparency
5553 Committees an annual report no later than July 1, 2016, and each
5554 year thereafter while under the exemption. Such annual report
5555 shall contain the following information:

5556 (a) The number of current employees who received an
5557 increase in salary during the past fiscal year and the amount of
5558 the increase;

5559 (b) The number of employees who were dismissed from the
5560 agency or otherwise adversely affected as to compensation or
5561 employment status during the past fiscal year, including a
5562 description of such adverse effects; and

5563 (c) The number of new employees hired during the past
5564 fiscal year and the starting salaries of each new employee.

5565 **SECTION 100.** The following shall be codified as Section
5566 43-26-5, Mississippi Code of 1972:

5567 43-26-5. (1) In addition to all other powers and duties
5568 provided by law, the Department of Child Protection Services is
5569 authorized to:

5570 (a) Provide protective services for children as will
5571 conserve home life;

5572 (b) Assume responsibility for the care and support of
5573 dependent children needing public care away from their homes;



5574 (c) Place children found by the department to be
5575 dependent or without proper care in suitable institutions or
5576 private homes and cooperate with public and private institutions
5577 in placing such children; and

5578 (d) Accept custody or guardianship, through one (1) of
5579 its designated employees, of any child, when appointed as
5580 custodian or guardian in the manner provided by law.

5581 The grant of authority in this subsection (1) shall not be
5582 construed as diminishing any other authority granted to the
5583 department by any other law.

5584 (2) The board of supervisors in each county is empowered, in
5585 its discretion, to set aside and appropriate any money necessary
5586 to carry out the provisions of this section to the county office
5587 of the Department of Child Protection Services. Such money may
5588 come out of the tax levied and collected to support the poor of
5589 the county or out of the county general fund.

5590 **SECTION 101.** The following shall be codified as Section
5591 43-26-3, Mississippi Code of 1972:

5592 43-26-3. The Commissioner of the Department of Child
5593 Protection Services is authorized to:

5594 (a) Formulate the policy of the department;

5595 (b) Adopt, modify, repeal and promulgate, after due
5596 notice and hearing, and where not otherwise prohibited by federal
5597 or state law, to make exceptions to and grant exemptions and
5598 variances from, and to enforce rules and regulations implementing



5599 or effectuating the powers and duties of the department under any
5600 and all statutes within the department's jurisdiction;

5601 (c) Employ personnel;

5602 (d) Apply for, receive and expend any federal or state
5603 funds or contributions, gifts, devises, bequests or funds from any
5604 other source;

5605 (e) Fingerprint and perform a criminal history check on
5606 every employee or volunteer who, by virtue of such position has
5607 direct access to children or is in a position of fiduciary
5608 responsibility; and

5609 (f) Discharge such other duties, responsibilities and
5610 powers as are necessary to implement the programs of the
5611 department.

5612 **SECTION 102.** This act shall take effect and be in force from
5613 and after its passage.

