

By: Representative Gipson

To: Judiciary B

COMMITTEE SUBSTITUTE  
FOR  
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<sup>u</sup> 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 \* \* \*,<sup>u</sup> 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 Human Services and the Department of Child  
360 Protection Services to obtain the college education necessary to  
361 become licensed as a social worker, master social worker or  
362 certified social worker and become a family protection specialist  
363 for the department.

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

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



380 enrolling on a full-time basis may receive a maximum of two (2)  
381 annual awards. The maximum number of forgivable loans that may be  
382 made to students attending school on a part-time basis, and the  
383 maximum time period for part-time students to complete the number  
384 of academic hours necessary to obtain the necessary degree, shall  
385 be established by rules and regulations of the board. Forgivable  
386 loans made under the program shall not be based upon an  
387 applicant's financial need. A student must maintain a "C" average  
388 or higher in his or her college coursework in order to continue  
389 receiving the forgivable loan.

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

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

400 (3) years from the date that the person became a family protection  
401 specialist;

402 (b) Any person who fails to complete his or her service  
403 obligation as a family protection specialist for the Department of  
404 Human Services and the Department of Child Protection Services for





405 not less than three (3) years, as required under subsection (4) (a)  
406 of this section, shall become liable immediately to the board for  
407 the sum of all forgivable loan awards made to that person, plus  
408 interest accruing at the current Stafford Loan rate at the time  
409 the person discontinues his or her service.

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

419 (6) The board shall promulgate rules and regulations  
420 necessary for the proper administration of the forgivable loan  
421 program established under this section. The board shall be the  
422 administering agency of the program.

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

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

428 37-115-43. (1) The University of Mississippi Medical  
429 Center, in collaboration with the Mississippi Department of \* \* \*



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

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



454 (3) The Center of Excellence shall provide services to  
455 maltreated children and comply with national certification  
456 standards as necessary to provide services to the Department  
457 of \* \* \* Child Protection Services, the youth courts, state child  
458 advocacy centers, district attorney's offices and law enforcement  
459 agencies.

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

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

477 41-3-18. (1) The board shall assess fees in the following  
478 amounts and for the following purposes:



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

481	Assessment Category 1.....	\$ 30.00
482	Assessment Category 2.....	100.00
483	Assessment Category 3.....	150.00
484	Assessment Category 4.....	200.00

485 (b) Private water supply approval fee.....\$ 10.00

486 The board may develop such reasonable standards, rules and  
487 regulations to clearly define each assessment category.

488 Assessment categories shall be based upon the factors to the  
489 public health implications of the category and type of food  
490 preparation being utilized by the food establishment, utilizing  
491 the model Food Code of 1995, or as may be amended by the federal  
492 Food and Drug Administration.

493 Any increase in the fees charged by the board under this  
494 subsection shall be in accordance with the provisions of Section  
495 41-3-65.

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

498 (a) Food establishments operated by public schools,  
499 public junior and community colleges, or state agencies or  
500 institutions, including, without limitation, the state  
501 institutions of higher learning and the State Penitentiary; and

502 (b) Persons who make infrequent casual sales of honey  
503 and who pack or sell less than five hundred (500) gallons of honey



504 per year, and those persons shall not be inspected by the State  
505 Department of Health unless requested by the producer.

506 (3) The fee authorized under subsection (1)(b) of this  
507 section shall not be assessed for private water supplies used by  
508 foster homes licensed by the Department of \* \* \* Child Protection  
509 Services.

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

512 41-7-173. For the purposes of Section 41-7-171 et seq., the  
513 following words shall have the meanings ascribed herein, unless  
514 the context otherwise requires:

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



528 (b) "Certificate of need" means a written order of the  
529 State Department of Health setting forth the affirmative finding  
530 that a proposal in prescribed application form, sufficiently  
531 satisfies the plans, standards and criteria prescribed for such  
532 service or other project by Section 41-7-171 et seq., and by rules  
533 and regulations promulgated thereunder by the State Department of  
534 Health.

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

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



552 (iii) A "capital expenditure" shall include the  
553 acquisition, whether by lease, sufferance, gift, devise, legacy,  
554 settlement of a trust or other means, of any facility or part  
555 thereof, or equipment for a facility, the expenditure for which  
556 would have been considered a capital expenditure if acquired by  
557 purchase. Transactions which are separated in time but are  
558 planned to be undertaken within twelve (12) months of each other  
559 and are components of an overall plan for meeting patient care  
560 objectives shall, for purposes of this definition, be viewed in  
561 their entirety without regard to their timing.

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



576 (d) "Change of ownership" includes, but is not limited  
577 to, inter vivos gifts, purchases, transfers, lease arrangements,  
578 cash and/or stock transactions or other comparable arrangements  
579 whenever any person or entity acquires or controls a majority  
580 interest of an existing health care facility, and/or the change of  
581 ownership of major medical equipment, a health service, or an  
582 institutional health service. Changes of ownership from  
583 partnerships, single proprietorships or corporations to another  
584 form of ownership are specifically included. However, "change of  
585 ownership" shall not include any inherited interest acquired as a  
586 result of a testamentary instrument or under the laws of descent  
587 and distribution of the State of Mississippi.

588 (e) "Commencement of construction" means that all of  
589 the following have been completed with respect to a proposal or  
590 project proposing construction, renovating, remodeling or  
591 alteration:

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

598 (ii) Any and all permits and/or approvals deemed  
599 lawfully necessary by all authorities with responsibility for such  
600 have been secured; and





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

607 Force account expenditures, such as deposits, securities,  
608 bonds, et cetera, may, in the discretion of the State Department  
609 of Health, be excluded from any or all of the provisions of  
610 defined commencement of construction.

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

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

620 (h) "Health care facility" includes hospitals,  
621 psychiatric hospitals, chemical dependency hospitals, skilled  
622 nursing facilities, end-stage renal disease (ESRD) facilities,  
623 including freestanding hemodialysis units, intermediate care  
624 facilities, ambulatory surgical facilities, intermediate care  
625 facilities for the mentally retarded, home health agencies,



626 psychiatric residential treatment facilities, pediatric skilled  
627 nursing facilities, long-term care hospitals, comprehensive  
628 medical rehabilitation facilities, including facilities owned or  
629 operated by the state or a political subdivision or  
630 instrumentality of the state, but does not include Christian  
631 Science sanatoriums operated or listed and certified by the First  
632 Church of Christ, Scientist, Boston, Massachusetts. This  
633 definition shall not apply to facilities for the private practice,  
634 either independently or by incorporated medical groups, of  
635 physicians, dentists or health care professionals except where  
636 such facilities are an integral part of an institutional health  
637 service. The various health care facilities listed in this  
638 paragraph shall be defined as follows:

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

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



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

655 (iv) "Skilled nursing facility" means an  
656 institution or a distinct part of an institution which is  
657 primarily engaged in providing to inpatients skilled nursing care  
658 and related services for patients who require medical or nursing  
659 care or rehabilitation services for the rehabilitation of injured,  
660 disabled or sick persons.

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

669 (vi) "Intermediate care facility" means an  
670 institution which provides, on a regular basis, health-related  
671 care and services to individuals who do not require the degree of  
672 care and treatment which a hospital or skilled nursing facility is  
673 designed to provide, but who, because of their mental or physical



674 condition, require health-related care and services (above the  
675 level of room and board).

676 (vii) "Ambulatory surgical facility" means a  
677 facility primarily organized or established for the purpose of  
678 performing surgery for outpatients and is a separate identifiable  
679 legal entity from any other health care facility. Such term does  
680 not include the offices of private physicians or dentists, whether  
681 for individual or group practice, and does not include any  
682 abortion facility as defined in Section 41-75-1(f).

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

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



- 699                   1. Physical, occupational or speech therapy;  
700                   2. Medical social services;  
701                   3. Part-time or intermittent services of a  
702 home health aide;  
703                   4. Other services as approved by the  
704 licensing agency for home health agencies;  
705                   5. Medical supplies, other than drugs and  
706 biologicals, and the use of medical appliances; or  
707                   6. Medical services provided by an intern or  
708 resident-in-training at a hospital under a teaching program of  
709 such hospital.

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

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

719                   (x) "Psychiatric residential treatment facility"  
720 means any nonhospital establishment with permanent licensed  
721 facilities which provides a twenty-four-hour program of care by  
722 qualified therapists, including, but not limited to, duly licensed  
723 mental health professionals, psychiatrists, psychologists,



724 psychotherapists and licensed certified social workers, for  
725 emotionally disturbed children and adolescents referred to such  
726 facility by a court, local school district or by the Department  
727 of \* \* \* Child Protection Services, who are not in an acute phase  
728 of illness requiring the services of a psychiatric hospital, and  
729 are in need of such restorative treatment services. For purposes  
730 of this subparagraph, the term "emotionally disturbed" means a  
731 condition exhibiting one or more of the following characteristics  
732 over a long period of time and to a marked degree, which adversely  
733 affects educational performance:

- 734 1. An inability to learn which cannot be  
735 explained by intellectual, sensory or health factors;
- 736 2. An inability to build or maintain  
737 satisfactory relationships with peers and teachers;
- 738 3. Inappropriate types of behavior or  
739 feelings under normal circumstances;
- 740 4. A general pervasive mood of unhappiness or  
741 depression; or
- 742 5. A tendency to develop physical symptoms or  
743 fears associated with personal or school problems. An  
744 establishment furnishing primarily domiciliary care is not within  
745 this definition.

746 (xi) "Pediatric skilled nursing facility" means an  
747 institution or a distinct part of an institution that is primarily  
748 engaged in providing to inpatients skilled nursing care and



749 related services for persons under twenty-one (21) years of age  
750 who require medical or nursing care or rehabilitation services for  
751 the rehabilitation of injured, disabled or sick persons.

752 (xii) "Long-term care hospital" means a  
753 freestanding, Medicare-certified hospital that has an average  
754 length of inpatient stay greater than twenty-five (25) days, which  
755 is primarily engaged in providing chronic or long-term medical  
756 care to patients who do not require more than three (3) hours of  
757 rehabilitation or comprehensive rehabilitation per day, and has a  
758 transfer agreement with an acute care medical center and a  
759 comprehensive medical rehabilitation facility. Long-term care  
760 hospitals shall not use rehabilitation, comprehensive medical  
761 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
762 nursing home, skilled nursing facility or sub-acute care facility  
763 in association with its name.

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



- 773 1. Includes evaluation and treatment of  
774 individuals with physical disabilities;
- 775 2. Emphasizes education and training of  
776 individuals with disabilities;
- 777 3. Incorporates at least the following core  
778 disciplines:
- 779 \* \* \*a. Physical Therapy;
  - 780 \* \* \*b. Occupational Therapy;
  - 781 \* \* \*c. Speech and Language Therapy;
  - 782 \* \* \*d. Rehabilitation Nursing; and
- 783 4. Incorporates at least three (3) of the  
784 following disciplines:
- 785 \* \* \*a. Psychology;
  - 786 \* \* \*b. Audiology;
  - 787 \* \* \*c. Respiratory Therapy;
  - 788 \* \* \*d. Therapeutic Recreation;
  - 789 \* \* \*e. Orthotics;
  - 790 \* \* \*f. Prosthetics;
  - 791 \* \* \*g. Special Education;
  - 792 \* \* \*h. Vocational Rehabilitation;
  - 793 \* \* \*i. Psychotherapy;
  - 794 \* \* \*j. Social Work;
  - 795 \* \* \*k. Rehabilitation Engineering.





796           These specialized programs include, but are not limited to:  
797 spinal cord injury programs, head injury programs and infant and  
798 early childhood development programs.

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

802                   (i) Provides or otherwise makes available to  
803 enrolled participants health care services, including  
804 substantially the following basic health care services: usual  
805 physician services, hospitalization, laboratory, x-ray, emergency  
806 and preventive services, and out-of-area coverage;

807                   (ii) Is compensated (except for copayments) for  
808 the provision of the basic health care services listed in  
809 subparagraph (i) of this paragraph to enrolled participants on a  
810 predetermined basis; and

811                   (iii) Provides physician services primarily:

812                           1. Directly through physicians who are either  
813 employees or partners of such organization; or

814                           2. Through arrangements with individual  
815 physicians or one or more groups of physicians (organized on a  
816 group practice or individual practice basis).

817           (j) "Health service area" means a geographic area of  
818 the state designated in the State Health Plan as the area to be  
819 used in planning for specified health facilities and services and



820 to be used when considering certificate of need applications to  
821 provide health facilities and services.

822 (k) "Health services" means clinically related (i.e.,  
823 diagnostic, treatment or rehabilitative) services and includes  
824 alcohol, drug abuse, mental health and home health care services.  
825 "Clinical health services" shall only include those activities  
826 which contemplate any change in the existing bed complement of any  
827 health care facility through the addition or conversion of any  
828 beds, under Section 41-7-191(1)(c) or propose to offer any health  
829 services if those services have not been provided on a regular  
830 basis by the proposed provider of such services within the period  
831 of twelve (12) months prior to the time such services would be  
832 offered, under Section 41-7-191(1)(d). "Nonclinical health  
833 services" shall be all other services which do not involve any  
834 change in the existing bed complement or offering health services  
835 as described above.

836 (l) "Institutional health services" shall mean health  
837 services provided in or through health care facilities and shall  
838 include the entities in or through which such services are  
839 provided.

840 (m) "Major medical equipment" means medical equipment  
841 designed for providing medical or any health-related service which  
842 costs in excess of One Million Five Hundred Thousand Dollars  
843 (\$1,500,000.00). However, this definition shall not be applicable  
844 to clinical laboratories if they are determined by the State



845 Department of Health to be independent of any physician's office,  
846 hospital or other health care facility or otherwise not so defined  
847 by federal or state law, or rules and regulations promulgated  
848 thereunder.

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

853 (o) "Offer," when used in connection with health  
854 services, means that it has been determined by the State  
855 Department of Health that the health care facility is capable of  
856 providing specified health services.

857 (p) "Person" means an individual, a trust or estate,  
858 partnership, corporation (including associations, joint-stock  
859 companies and insurance companies), the state or a political  
860 subdivision or instrumentality of the state.

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

865 (r) "Radiation therapy services" means the treatment of  
866 cancer and other diseases using ionizing radiation of either high  
867 energy photons (x-rays or gamma rays) or charged particles  
868 (electrons, protons or heavy nuclei). However, for purposes of a  
869 certificate of need, radiation therapy services shall not include



870 low energy, superficial, external beam x-ray treatment of  
871 superficial skin lesions.

872 (s) "Secretary" means the Secretary of Health and Human  
873 Services, and any officer or employee of the Department of Health  
874 and Human Services to whom the authority involved has been  
875 delegated.

876 (t) "State Health Plan" means the sole and official  
877 statewide health plan for Mississippi which identifies priority  
878 state health needs and establishes standards and criteria for  
879 health-related activities which require certificate of need review  
880 in compliance with Section 41-7-191.

881 (u) "State Health Planning and Development Agency"  
882 means the agency of state government designated to perform health  
883 planning and resource development programs for the State of  
884 Mississippi.

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

887 41-21-67. (1) Whenever the affidavit provided for in  
888 Section 41-21-65 is filed with the chancery clerk, the clerk, upon  
889 direction of the chancellor of the court, shall issue a writ  
890 directed to the sheriff of the proper county to take into custody  
891 the person alleged to be in need of treatment and to bring the  
892 person before the clerk or chancellor, who shall order  
893 pre-evaluation screening and treatment by the appropriate  
894 community mental health center established under Section 41-19-31.



895 The community mental health center will be designated as the first  
896 point of entry for screening and treatment. If the community  
897 mental health center is unavailable, any reputable licensed  
898 physician, psychologist, nurse practitioner or physician  
899 assistant, as allowed in the discretion of the court, may conduct  
900 the pre-evaluation screening and examination as set forth in  
901 Section 41-21-69. The order may provide where the person shall be  
902 held before the appearance before the clerk or chancellor.  
903 However, when the affidavit fails to set forth factual allegations  
904 and witnesses sufficient to support the need for treatment, the  
905 chancellor shall refuse to direct issuance of the writ.  
906 Reapplication may be made to the chancellor. If a pauper's  
907 affidavit is filed by a guardian for commitment of the ward of the  
908 guardian, the court shall determine if the ward is a pauper and if  
909 the ward is determined to be a pauper, the county of the residence  
910 of the respondent shall bear the costs of commitment, unless funds  
911 for those purposes are made available by the state.

912 In any county in which a Crisis Intervention Team has been  
913 established under the provisions of Sections 41-21-131 through  
914 41-21-143, the clerk, upon the direction of the chancellor, may  
915 require that the person be referred to the Crisis Intervention  
916 Team for appropriate psychiatric or other medical services before  
917 the issuance of the writ.

918 (2) Upon issuance of the writ, the chancellor shall  
919 immediately appoint and summon two (2) reputable, licensed



920 physicians or one (1) reputable, licensed physician and either one  
921 (1) psychologist, nurse practitioner or physician assistant to  
922 conduct a physical and mental examination of the person at a place  
923 to be designated by the clerk or chancellor and to report their  
924 findings to the clerk or chancellor. However, any nurse  
925 practitioner or physician assistant conducting the examination  
926 shall be independent from, and not under the supervision of, the  
927 other physician conducting the examination. In all counties in  
928 which there is a county health officer, the county health officer,  
929 if available, may be one (1) of the physicians so appointed.  
930 Neither of the physicians nor the psychologist, nurse practitioner  
931 or physician assistant selected shall be related to that person in  
932 any way, nor have any direct or indirect interest in the estate of  
933 that person nor shall any full-time staff of residential treatment  
934 facilities operated directly by the State Department of Mental  
935 Health serve as examiner.

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

943 (4) If the chancellor determines that there is probable  
944 cause to believe that the respondent is mentally ill and that



945 there is no reasonable alternative to detention, the chancellor  
946 may order that the respondent be retained as an emergency patient  
947 at any licensed medical facility for evaluation by a physician,  
948 nurse practitioner or physician assistant and that a peace officer  
949 transport the respondent to the specified facility. If the  
950 community mental health center serving the county has partnered  
951 with Crisis Intervention Teams under the provisions of Sections  
952 41-21-131 through 41-21-143, the order may specify that the  
953 licensed medical facility be a designated single point of entry  
954 within the county or within an adjacent county served by the  
955 community mental health center. If the person evaluating the  
956 respondent finds that the respondent is mentally ill and in need  
957 of treatment, the chancellor may order that the respondent be  
958 retained at the licensed medical facility or any other available  
959 suitable location as the court may so designate pending an  
960 admission hearing. If necessary, the chancellor may order a peace  
961 officer or other person to transport the respondent to that  
962 facility or suitable location. Any respondent so retained may be  
963 given such treatment as is indicated by standard medical practice.  
964 However, the respondent shall not be held in a hospital operated  
965 directly by the State Department of Mental Health, and shall not  
966 be held in jail unless the court finds that there is no reasonable  
967 alternative.

968 (5) (a) Whenever a licensed psychologist, nurse  
969 practitioner or physician assistant who is certified to complete



970 examinations for the purpose of commitment or a licensed physician  
971 has reason to believe that a person poses an immediate substantial  
972 likelihood of physical harm to himself or others or is gravely  
973 disabled and unable to care for himself by virtue of mental  
974 illness, as defined in Section 41-21-61(e), then the physician,  
975 psychologist, nurse practitioner or physician assistant may hold  
976 the person or may admit the person to and treat the person in a  
977 licensed medical facility, without a civil order or warrant for a  
978 period not to exceed seventy-two (72) hours. However, if the  
979 seventy-two-hour period begins or ends when the chancery clerk's  
980 office is closed, or within three (3) hours of closing, and the  
981 chancery clerk's office will be continuously closed for a time  
982 that exceeds seventy-two (72) hours, then the seventy-two-hour  
983 period is extended until the end of the next business day that the  
984 chancery clerk's office is open. The person may be held and  
985 treated as an emergency patient at any licensed medical facility,  
986 available regional mental health facility, or crisis intervention  
987 center. The physician or psychologist, nurse practitioner or  
988 physician assistant who holds the person shall certify in writing  
989 the reasons for the need for holding.

990       If a person is being held and treated in a licensed medical  
991 facility, and that person decides to continue treatment by  
992 voluntarily signing consent for admission and treatment, the  
993 seventy-two-hour hold may be discontinued without filing an  
994 affidavit for commitment. Any respondent so held may be given





995 such treatment as indicated by standard medical practice. Persons  
996 acting in good faith in connection with the detention and  
997 reporting of a person believed to be mentally ill shall incur no  
998 liability, civil or criminal, for those acts.

999 (b) Whenever an individual is held for purposes of  
1000 receiving treatment as prescribed under paragraph (a) of this  
1001 subsection, and it is communicated to the mental health  
1002 professional holding the individual that the individual resides or  
1003 has visitation rights with a minor child, and if the individual is  
1004 considered to be a danger to the minor child, the mental health  
1005 professional shall notify the Department of \* \* \* Child Protection  
1006 Services prior to discharge if the threat of harm continues to  
1007 exist, as is required under Section 43-21-353.

1008 This paragraph shall be known and may be cited as the "Andrew  
1009 Lloyd Law."

1010 **SECTION 12.** Section 41-67-12, Mississippi Code of 1972, is  
1011 amended as follows:

1012 41-67-12. (1) The department shall assess fees in the  
1013 following amounts for the following purposes:

1014 (a) A fee of One Hundred Dollars (\$100.00) shall be  
1015 levied for soil and site evaluation and recommendation of  
1016 individual on-site wastewater disposal systems. The department  
1017 may increase the amount of the fee authorized in this paragraph

1018 (a) not more than two (2) times during the period from July 1,  
1019 2016, through June 30, 2020, with the percentage of each increase



1020 being not more than five percent (5%) of the amount of the fee in  
1021 effect at the time of the increase.

1022 (b) A fee of Fifty Dollars (\$50.00) shall be levied  
1023 annually for the certification of installers and pumpers.

1024 (c) A fee of One Hundred Dollars (\$100.00) shall be  
1025 levied annually for the registration of manufacturers.

1026 Any increase in the fee charged by the department under  
1027 paragraph (b) or (c) of this subsection shall be in accordance  
1028 with the provisions of Section 41-3-65.

1029 (2) In the discretion of the board, a person shall be liable  
1030 for a penalty equal to one and one-half (1-1/2) times the amount  
1031 of the fee due and payable for failure to pay the fee on or before  
1032 the date due, plus any amount necessary to reimburse the cost of  
1033 collection.

1034 (3) No fee authorized under this section shall be assessed  
1035 by the department for state agencies or institutions, including,  
1036 without limitation, foster homes licensed by the Mississippi  
1037 Department of \* \* \* Child Protection Services.

1038 **SECTION 13.** Section 41-87-5, Mississippi Code of 1972, is  
1039 amended as follows:

1040 41-87-5. Unless the context requires otherwise, the  
1041 following definitions in this section apply throughout this  
1042 chapter:



1043 (a) "Eligible infants and toddlers" or "eligible  
1044 children" means children from birth through thirty-six (36) months  
1045 of age who need early intervention services because they:

1046 (i) Are experiencing developmental delays as  
1047 measured by appropriate diagnostic instruments and procedures in  
1048 one or more of the following areas:

1049 (A) Cognitive development;

1050 (B) Physical development, including vision or  
1051 hearing;

1052 (C) Communication development;

1053 (D) Social or emotional development;

1054 (E) Adaptive development;

1055 (ii) Have a diagnosed physical or mental  
1056 condition, as defined in state policy, that has a high probability  
1057 of resulting in developmental delay;

1058 (iii) Are at risk of having substantial  
1059 developmental delays if early intervention services are not  
1060 provided due to conditions as defined in state policy. (This  
1061 category may be served at the discretion of the lead agency  
1062 contingent upon available resources.)

1063 (b) "Early intervention services" are developmental  
1064 services that:

1065 (i) Are provided under public supervision;



1066 (ii) Are provided at no cost except where federal  
1067 or state law provides for a system of payments by families,  
1068 including a schedule of sliding fees;

1069 (iii) Are designed to meet the developmental needs  
1070 of an infant or toddler with a disability in any one or more of  
1071 the following areas:

1072 (A) Physical development;

1073 (B) Cognitive development;

1074 (C) Communication development;

1075 (D) Social or emotional development; or

1076 (E) Adaptive development;

1077 (iv) Meet the requirements of Part C of the  
1078 Individuals with Disabilities Education Act (IDEA) and the early  
1079 intervention standards of the State of Mississippi;

1080 (v) Include, but are not limited to, the following  
1081 services:

1082 (A) Assistive technology devices and  
1083 assistive technology services;

1084 (B) Audiology;

1085 (C) Family training, counseling and home  
1086 visits;

1087 (D) Health services necessary to enable a  
1088 child to benefit from other early intervention services;

1089 (E) Medical services only for diagnostic or  
1090 evaluation purposes;



1091 (F) Nutrition services;  
1092 (G) Occupational therapy;  
1093 (H) Physical therapy;  
1094 (I) Psychological services;  
1095 (J) Service coordination (case management);  
1096 (K) Social work services;  
1097 (L) Special instruction;  
1098 (M) Speech-language pathology;  
1099 (N) Transportation and related costs that are  
1100 necessary to enable an infant or toddler and her/his family to  
1101 receive early intervention services; and

1102 (O) Vision services;  
1103 (vi) Are provided by qualified personnel as  
1104 determined by the state's personnel standards, including:

1105 (A) Audiologists;  
1106 (B) Family therapists;  
1107 (C) Nurses;  
1108 (D) Nutritionists;  
1109 (E) Occupational therapists;  
1110 (F) Orientation and mobility specialists;  
1111 (G) Pediatricians and other physicians;  
1112 (H) Physical therapists;  
1113 (I) Psychologists;  
1114 (J) Social workers;  
1115 (K) Special educators;



1116 (L) Speech and language pathologists;  
1117 (vii) Are provided, to the maximum extent  
1118 appropriate, in natural environments, including the home, and  
1119 community settings in which children without disabilities would  
1120 participate;

1121 (viii) Are provided in conformity with an  
1122 individualized family service plan.

1123 (c) "Council" means the State Interagency Coordinating  
1124 Council established under Section 41-87-7.

1125 (d) "Lead agency" means the State Department of Health.

1126 \* \* \*

1127 ( \* \* \* e) "Local community" means a county either  
1128 jointly, severally, or a portion thereof, participating in the  
1129 provision of early intervention services.

1130 ( \* \* \* f) "Primary service agency" means the agency,  
1131 whether a state agency, local agency, local interagency council or  
1132 service provider which is designated by the lead agency to serve  
1133 as the fiscal and contracting agent for a local community.

1134 ( \* \* \* g) "Multidisciplinary team" means a group  
1135 comprised of the parent(s) or legal guardian and the service  
1136 providers, as appropriate, described in paragraph (b) of this  
1137 section, who are assembled for the purposes of:

1138 (i) Assessing the developmental needs of an infant  
1139 or toddler;



1140 (ii) Developing the individualized family service  
1141 plan; and

1142 (iii) Providing the infant or toddler and his or  
1143 her family with the appropriate early intervention services as  
1144 detailed in the individualized family service plan.

1145 ( \* \* \* h) "Individualized family service plan" means a  
1146 written plan designed to address the needs of the infant or  
1147 toddler and his or her family as specified under Section 41-87-13.

1148 ( \* \* \* i) "Early intervention standards" means those  
1149 standards established by any agency or agencies statutorily  
1150 designated the responsibility to establish standards for infants  
1151 and toddlers with disabilities, in coordination with the council  
1152 and in accordance with Part C of IDEA.

1153 ( \* \* \* j) "Early intervention system" means the total  
1154 collaborative effort in the state that is directed at meeting the  
1155 needs of eligible children and their families.

1156 ( \* \* \* k) "Parent," for the purpose of early  
1157 intervention services, means a parent, a guardian, a person acting  
1158 as a parent of a child, foster parent, or an appointed surrogate  
1159 parent. The term does not include the state if the child is a  
1160 ward of the state where the child has not been placed with  
1161 individuals to serve in a parenting capacity, such as foster  
1162 parents, or when a surrogate parent has not been appointed. When  
1163 a child is the ward of the state, a Department of \* \* \* Child



1164 Protection Services representative will act as parent for purposes  
1165 of service authorization.

1166 ( \* \* \*l) "Policies" means the state statutes,  
1167 regulations, Governor's orders, directives by the lead agency, or  
1168 other written documents that represent the state's position  
1169 concerning any matter covered under this chapter.

1170 ( \* \* \*m) "Regulations" means the United States  
1171 Department of Education's regulations concerning the governance  
1172 and implementation of Part C of IDEA, the Early Intervention  
1173 Program for Infants and Toddlers with Disabilities.

1174 **SECTION 14.** Section 43-1-11, Mississippi Code of 1972, is  
1175 amended as follows:

1176 43-1-11. The boards of supervisors of the various counties  
1177 of this state are hereby authorized and empowered, in their  
1178 discretion, to expend and appropriate such sums as they deem  
1179 necessary out of any available county funds for the purpose of  
1180 providing office space for the \* \* \* Department of Child  
1181 Protection Services and Department of Human Services. This  
1182 includes, but is not limited to, adequate office space for the  
1183 efficient conduct of business, as well as providing for payment of  
1184 electricity, water, gas, maintenance and repair of the building,  
1185 and janitorial services and supplies.

1186 **SECTION 15.** Section 43-1-12, Mississippi Code of 1972, is  
1187 amended as follows:





1188           43-1-12. The governing authority of any municipality or  
1189 county in this state is authorized and empowered, in its  
1190 discretion, to expend such funds as it deems necessary and  
1191 desirable, from any available funds of the municipality or county,  
1192 to: (a) match any state, federal or private funds available for  
1193 any program administered by the \* \* \* Department of Child  
1194 Protection Services or the Department of Human Services in this  
1195 state; and/or (b) make a voluntary contribution to any such  
1196 program.

1197           **SECTION 16.** Section 43-1-63, Mississippi Code of 1972, is  
1198 amended as follows:

1199           43-1-63. The Department of \* \* \* Child Protection Services  
1200 shall have the authority to use the services and resources of the  
1201 State Department of Education and the State Department of Health  
1202 and of all other appropriate state departments, agencies,  
1203 institutions or political subdivisions as will aid in carrying out  
1204 the purposes of this chapter. It shall be the duty of all such  
1205 state departments, agencies and institutions to make available  
1206 such services and resources to the department, including, but not  
1207 necessarily limited to, such services and resources as may be  
1208 required to perform appropriate criminal history record checks on  
1209 prospective foster and relative child placements for the purpose  
1210 of preventing and detecting abuse and neglect.

1211           **SECTION 17.** Section 43-14-1, Mississippi Code of 1972, is  
1212 amended as follows:



1213           43-14-1. (1) The purpose of this chapter is to provide for  
1214 the development, implementation and oversight of a coordinated  
1215 interagency system of necessary services and care for children and  
1216 youth, called the Mississippi Statewide System of Care, up to age  
1217 twenty-one (21) with serious emotional/behavioral disorders  
1218 including, but not limited to, conduct disorders, or mental  
1219 illness who require services from a multiple services and multiple  
1220 programs system, and who can be successfully diverted from  
1221 inappropriate institutional placement. The Mississippi Statewide  
1222 System of Care is to be conducted in the most fiscally responsible  
1223 (cost-efficient) manner possible, based on an individualized plan  
1224 of care which takes into account other available interagency  
1225 programs, including, but not limited to, Early Intervention Act of  
1226 Infants and Toddlers, Section 41-87-1 et seq., Early Periodic  
1227 Screening Diagnosis and Treatment, Section 43-13-117(A) (5),  
1228 waived program for home- and community-based services for  
1229 developmentally disabled people, Section 43-13-117(A) (29), and  
1230 waived program for targeted case management services for  
1231 children with special needs, Section 43-13-117(A) (31), those  
1232 children identified through the federal Individuals with  
1233 Disabilities Education Act of 1997 as having a serious emotional  
1234 disorder (EMD), the Mississippi Children's Health Insurance  
1235 Program and waived programs for children with serious emotional  
1236 disturbances, Section 43-13-117(A) (46), and is tied to clinically  
1237 and functionally appropriate outcomes. Some of the outcomes are



1238 to reduce the number of inappropriate out-of-home placements  
1239 inclusive of those out-of-state and to reduce the number of  
1240 inappropriate school suspensions and expulsions for this  
1241 population of children. This coordinated interagency system of  
1242 necessary services and care shall be named the Mississippi  
1243 Statewide System of Care. Children to be served by this chapter  
1244 who are eligible for Medicaid shall be screened through the  
1245 Medicaid Early Periodic Screening Diagnosis and Treatment (EPSDT)  
1246 and their needs for medically necessary services shall be  
1247 certified through the EPSDT process. For purposes of this  
1248 chapter, the Mississippi Statewide System of Care is defined as a  
1249 coordinated network of agencies and providers working as a team to  
1250 make a full range of mental health and other necessary services  
1251 available as needed by children with mental health problems and  
1252 their families. The Mississippi Statewide System of Care shall  
1253 be:

1254 (a) Child centered, family focused, family driven and  
1255 youth guided;

1256 (b) Community based;

1257 (c) Culturally competent and responsive; and shall  
1258 provide for:

1259 (i) Service coordination or case management;

1260 (ii) Prevention and early identification and  
1261 intervention;



- 1262 (iii) Smooth transitions among agencies and  
1263 providers, and to the transition-age and adult service systems;  
1264 (iv) Human rights protection and advocacy;  
1265 (v) Nondiscrimination in access to services;  
1266 (vi) A comprehensive array of services composed of  
1267 treatment and informal supports that are identified as best  
1268 practices and/or evidence-based practices;  
1269 (vii) Individualized service planning that uses a  
1270 strengths-based, wraparound process;  
1271 (viii) Services in the least restrictive  
1272 environment;  
1273 (ix) Family participation in all aspects of  
1274 planning, service delivery and evaluation; and  
1275 (x) Integrated services with coordinated planning  
1276 across child-serving agencies.

1277 Mississippi Statewide System of Care services shall be  
1278 timely, intensive, coordinated and delivered in the community.  
1279 Mississippi Statewide System of Care services shall include, but  
1280 not be limited to, the following:

- 1281 (a) Comprehensive crisis and emergency response  
1282 services;  
1283 (b) Intensive case management;  
1284 (c) Day treatment;  
1285 (d) Alcohol and drug abuse group services for youth;  
1286 (e) Individual, group and family therapy;



- 1287 (f) Respite services;
- 1288 (g) Supported employment services for youth;
- 1289 (h) Family education and support and family partners;
- 1290 (i) Youth development and support and youth partners;
- 1291 (j) Positive behavioral supports (PBIS) in schools;
- 1292 (k) Transition-age supported and independent living  
1293 services; and
- 1294 (l) Vocational/technical education services for youth.
- 1295 (2) There is established the Interagency Coordinating  
1296 Council for Children and Youth (hereinafter referred to as the  
1297 "ICCCY"). The ICCCY shall consist of the following membership:
- 1298 (a) The State Superintendent of Public Education;
- 1299 (b) The Executive Director of the Mississippi  
1300 Department of Mental Health;
- 1301 (c) The Executive Director of the State Department of  
1302 Health;
- 1303 (d) The Executive Director of the Department of Human  
1304 Services;
- 1305 (e) The Executive Director of the Division of Medicaid,  
1306 Office of the Governor;
- 1307 (f) The Executive Director of the State Department of  
1308 Rehabilitation Services;
- 1309 (g) The Executive Director of Mississippi Families as  
1310 Allies for Children's Mental Health, Inc.;
- 1311 (h) The Attorney General;



1312 (i) A family member of a child or youth in the  
1313 population named in this chapter designated by Mississippi  
1314 Families as Allies;

1315 (j) A youth or young adult in the population named in  
1316 this chapter designated by Mississippi Families as Allies;

1317 (k) A local MAP team coordinator designated by the  
1318 Department of Mental Health;

1319 (l) A child psychiatrist experienced in the public  
1320 mental health system designated by the Mississippi Psychiatric  
1321 Association;

1322 (m) An individual with expertise and experience in  
1323 early childhood education designated jointly by the Department of  
1324 Mental Health and Mississippi Families as Allies;

1325 (n) A representative of an organization that advocates  
1326 on behalf of disabled citizens in Mississippi designated by the  
1327 Department of Mental Health; \* \* \*

1328 (o) A faculty member or dean from a Mississippi  
1329 university specializing in training professionals who work in the  
1330 Mississippi Statewide System of Care designated by the Board of  
1331 Trustees of State Institutions of Higher Learning \* \* \*; and

1332 (p) The Commissioner of the Department of Child  
1333 Protection Services.

1334 If a member of the council designates a representative to  
1335 attend council meetings, the designee shall bring full  
1336 decision-making authority of the member to the meeting. The



1337 council shall select a chairman, who shall serve for a one-year  
1338 term and may not serve consecutive terms. The council shall adopt  
1339 internal organizational procedures necessary for efficient  
1340 operation of the council. Each member of the council shall  
1341 designate necessary staff of their departments to assist the ICCCY  
1342 in performing its duties and responsibilities. The ICCCY shall  
1343 meet and conduct business at least twice annually. The chairman  
1344 of the ICCCY shall notify all ICCCY members and all other persons  
1345 who request such notice as to the date, time, place and draft  
1346 agenda items for each meeting.

1347 (3) The Interagency System of Care Council (ISCC) is created  
1348 to serve as the state management team for the ICCCY, with the  
1349 responsibility of collecting and analyzing data and funding  
1350 strategies necessary to improve the operation of the Mississippi  
1351 Statewide System of Care, and to make recommendations to the ICCCY  
1352 and to the Legislature concerning such strategies on, at a  
1353 minimum, an annual basis. The System of Care Council also has the  
1354 responsibility of coordinating the local Multidisciplinary  
1355 Assessment and Planning (MAP) teams and "A" teams and may apply  
1356 for grants from public and private sources necessary to carry out  
1357 its responsibilities. The Interagency System of Care Council  
1358 shall be comprised of one (1) member from each of the appropriate  
1359 child-serving divisions or sections of the State Department of  
1360 Health, the Department of Human Services \* \* \*, the State  
1361 Department of Mental Health (Division of Children and Youth,



1362 Bureau of Alcohol and Drug Abuse, and Bureau of Intellectual and  
1363 Developmental Disabilities), the State Department of Education  
1364 (Office of Special Education and Office of Healthy Schools), the  
1365 Division of Medicaid of the Governor's Office, the Department of  
1366 Rehabilitation Services, \* \* \* the Attorney General's office, and  
1367 the Department of Child Protection Services. Additional members  
1368 shall include a family member of a child, youth or transition-age  
1369 youth representing a family education and support 501(c)3  
1370 organization, working with the population named in this chapter  
1371 designated by Mississippi Families as Allies, an individual with  
1372 expertise and experience in early childhood education designated  
1373 jointly by the Department of Mental Health and Mississippi  
1374 Families as Allies, a local MAP team representative and a local  
1375 "A" team representative designated by the Department of Mental  
1376 Health, a probation officer designated by the Department of  
1377 Corrections, a family member and youth or young adult designated  
1378 by Mississippi Families as Allies for Children's Mental Health,  
1379 Inc., (MSFAA), and a family member other than a MSFAA  
1380 representative to be designated by the Department of Mental Health  
1381 and the Director of the Compulsory School Attendance Enforcement  
1382 of the State Department of Education. Appointments to the  
1383 Interagency System of Care Council shall be made within sixty (60)  
1384 days after June 30, 2010. The council shall organize by selecting  
1385 a chairman from its membership to serve on an annual basis, and  
1386 the chairman may not serve consecutive terms.





1387           (4)   (a)   As part of the Mississippi Statewide System of  
1388 Care, there is established a statewide system of local  
1389 Multidisciplinary Assessment, Planning and Resource (MAP) teams.  
1390 The MAP teams shall be comprised of one (1) representative each at  
1391 the county level from the major child-serving public agencies for  
1392 education, human services, health, mental health and  
1393 rehabilitative services approved by respective state agencies of  
1394 the Department of Education, the Department of Human Services, the  
1395 Department of Health, the Department of Mental Health \* \* \* the  
1396 Department of Rehabilitation Services, and the Department of Child  
1397 Protection Services. These agencies shall, by policy, contract or  
1398 regulation require participation on MAP teams and "A" teams at the  
1399 county level by the appropriate staff. Three (3) additional  
1400 members may be added to each team, one (1) of which may be a  
1401 representative of a family education/support 501(c)3 organization  
1402 with statewide recognition and specifically established for the  
1403 population of children defined in Section 43-14-1. The remaining  
1404 members will be representatives of significant community-level  
1405 stakeholders with resources that can benefit the population of  
1406 children defined in Section 43-14-1. The Department of Education  
1407 shall assist in recruiting and identifying parents to participate  
1408 on MAP teams and "A" teams.

1409           (b)   For each local existing MAP team that is  
1410 established pursuant to paragraph (a) of this subsection, there



1411 shall also be established an "A" (Adolescent) team which shall  
1412 work with a MAP team. The "A" teams shall provide System of Care  
1413 services for youthful offenders who have serious behavioral or  
1414 emotional disorders. Each "A" team shall be comprised of, at a  
1415 minimum, the following five (5) members:

1416 (i) A school counselor, mental health therapist or  
1417 social worker;

1418 (ii) A community mental health professional;

1419 (iii) A social services/child welfare  
1420 professional;

1421 (iv) A youth court counselor; and

1422 (v) A parent who had a child in the juvenile  
1423 justice system.

1424 (c) The Interagency Coordinating Council for Children  
1425 and Youth and the Interagency System of Care Council shall work to  
1426 develop MAP teams statewide that will serve to become the single  
1427 point of entry for children and youth about to be placed in  
1428 out-of-home care for reasons other than parental abuse/neglect.

1429 (5) The Interagency Coordinating Council for Children and  
1430 Youth may provide input to one another and to the ISCC relative to  
1431 how each agency utilizes its federal and state statutes, policy  
1432 requirements and funding streams to identify and/or serve children  
1433 and youth in the population defined in this section. The ICCCY  
1434 shall support the implementation of the plans of the respective



1435 state agencies for comprehensive, community-based,  
1436 multidisciplinary care, treatment and placement of these children.

1437 (6) The ICCCY shall oversee a pool of state funds that may  
1438 be contributed by each participating state agency and additional  
1439 funds from the Mississippi Tobacco Health Care Expenditure Fund,  
1440 subject to specific appropriation therefor by the Legislature.  
1441 Part of this pool of funds shall be available for increasing the  
1442 present funding levels by matching Medicaid funds in order to  
1443 increase the existing resources available for necessary  
1444 community-based services for Medicaid beneficiaries.

1445 (7) The local interagency coordinating care MAP team or "A"  
1446 team will facilitate the development of the individualized System  
1447 of Care programs for the population targeted in this section.

1448 (8) Each local MAP team and "A" team shall serve as the  
1449 single point of entry and re-entry to ensure that comprehensive  
1450 diagnosis and assessment occur and shall coordinate needed  
1451 services through the local MAP team and "A" team members and local  
1452 service providers for the children named in subsection (1). Local  
1453 children in crisis shall have first priority for access to the MAP  
1454 team and "A" team processes and local System of Care services.

1455 (9) The Interagency Coordinating Council for Children and  
1456 Youth shall facilitate monitoring of the performance of local MAP  
1457 teams.

1458 (10) Each ICCCY member named in subsection (2) of this  
1459 section shall enter into a binding memorandum of understanding to



1460 participate in the further development and oversight of the  
1461 Mississippi Statewide System of Care for the children and youth  
1462 described in this section. The agreement shall outline the system  
1463 responsibilities in all operational areas, including ensuring  
1464 representation on MAP teams, funding, data collection, referral of  
1465 children to MAP teams and "A" teams, and training. The agreement  
1466 shall be signed and in effect by July 1 of each year.

1467         **SECTION 18.** Section 43-14-5, Mississippi Code of 1972, is  
1468 amended as follows:

1469         43-14-5. There is created in the State Treasury a special  
1470 fund into which shall be deposited all funds contributed by the  
1471 Department of Human Services, State Department of Health,  
1472 Department of Mental Health \* \* \* and State Department of  
1473 Rehabilitation Services, and the Department of Child Protection  
1474 Services insofar as recipients are otherwise eligible under the  
1475 Rehabilitation Act of 1973, as amended, and State Department of  
1476 Education for the operation of a statewide System of Care by MAP  
1477 teams and "A" teams utilizing such funds as may be made available  
1478 to those MAP teams through a Request for Proposal (RFP) approved  
1479 by the ICCCY.

1480         **SECTION 19.** Section 43-15-3, Mississippi Code of 1972, is  
1481 amended as follows:

1482         43-15-3. The Department of \* \* \* Child Protection Services  
1483 is hereby authorized, empowered and directed to cooperate fully  
1484 with the United States Children's Bureau and Secretary of Labor in



1485 establishing, extending and strengthening "child welfare services"  
1486 for the protection and care of homeless, dependent and neglected  
1487 children and children in danger of becoming delinquent. Said  
1488 Department of \* \* \* Child Protection Services is further  
1489 authorized, empowered and directed to cooperate with the United  
1490 States Children's Bureau and Secretary of Labor in developing  
1491 plans for said "child welfare services" and extending any other  
1492 cooperation necessary under Section 521 of Public Law No. 271-74th  
1493 Congress of the United States.

1494 In furtherance of the "child welfare services" referred to in  
1495 the first paragraph hereof the State Treasurer is hereby  
1496 authorized and directed to receive on behalf of the state, and to  
1497 execute all instruments incidental thereto, federal or other funds  
1498 to be used for "child welfare services," and to place such funds  
1499 in a special account to the credit of the "child welfare  
1500 services," which said funds shall be expended by the Department  
1501 of \* \* \* Child Protection Services for the purposes and under the  
1502 provisions of this article and Section 521 of Public Law No.  
1503 271-74th Congress of the United States. It shall be paid out by  
1504 the State Treasurer as funds appropriated to carry out the  
1505 provisions of said laws.

1506 The Department of \* \* \* Child Protection Services shall issue  
1507 all checks on said "child welfare services" fund to persons  
1508 entitled to payment from said fund. All such sums shall be drawn  
1509 upon the "child welfare services" fund upon requisition of



1510 the \* \* \* Commissioner of the Department of Child Protection  
1511 Services.

1512 The money in the "child welfare services" fund shall be  
1513 expended in accordance with the rules and regulations of the  
1514 United States Children's Bureau and Secretary of Labor and in  
1515 accordance with the plan developed by the Department of \* \* \*  
1516 Child Protection Services and the United States Children's Bureau  
1517 under Section 521 of Public Law No. 271-74th Congress of the  
1518 United States, and shall not be used for any other purpose.

1519 If a claim for foster care and/or adoption assistance under  
1520 Title IV-E of the federal Social Security Act is not acted upon  
1521 within a reasonable time after the filing of the claim, or is  
1522 denied in whole or in part, the claimant may appeal to the \* \* \*  
1523 Commissioner of the Department of Child Protection Services in the  
1524 manner and form prescribed by the Department of \* \* \* Child  
1525 Protection Services. The \* \* \* Commissioner of the Department of  
1526 Child Protection Services shall, upon receipt of such an appeal,  
1527 give the claimant reasonable notice and opportunity for a fair  
1528 hearing. The Director of the Division of Family and Children's  
1529 Services may also, upon his or her own motion, review any decision  
1530 regarding a claim, and may consider any claim upon which a  
1531 decision has not been made within a reasonable time. All  
1532 decisions of the Director of Family and Children's Services shall  
1533 be final and binding.



1534           **SECTION 20.** Section 43-15-5, Mississippi Code of 1972, is  
1535 amended as follows:

1536           43-15-5. (1) The Department of \* \* \* Child Protection  
1537 Services shall have authority and it shall be its duty to  
1538 administer or supervise all public child welfare services,  
1539 including those services, responsibilities, duties and powers with  
1540 which the county departments of \* \* \* child protection services  
1541 are charged and empowered in this article; administer and  
1542 supervise the licensing and inspection of all private child  
1543 placing agencies; provide for the care of dependent and neglected  
1544 children in foster family homes or in institutions, supervise the  
1545 care of such children and those of illegitimate birth; supervise  
1546 the importation of children; and supervise the operation of all  
1547 state institutions for children. The Department of \* \* \* Child  
1548 Protection Services shall be authorized to purchase hospital and  
1549 medical insurance coverage for those children placed in foster  
1550 care by the state or county departments of \* \* \* child protection  
1551 services who are not otherwise eligible for medical assistance  
1552 under the Mississippi Medicaid Law. The Department of \* \* \* Child  
1553 Protection Services shall be further authorized to purchase burial  
1554 or life insurance not exceeding One Thousand Five Hundred Dollars  
1555 (\$1,500.00) for those children placed in foster care by the state  
1556 or county departments of \* \* \* child protection services. All  
1557 insurance coverage authorized herein may be purchased with any  
1558 funds other than state funds available to the Department of \* \* \*



1559 Child Protection Services, including those funds available to the  
1560 child which are administered by the department.

1561 (2) Any person, partnership, group, corporation,  
1562 organization or association desiring to operate a child  
1563 residential home, as defined in Section 43-16-3, may make  
1564 application for a license for such a facility to the Department  
1565 of \* \* \* Child Protection Services on the application forms  
1566 furnished for this purpose by the department. If an applicant  
1567 meets the published rules and regulations of the department  
1568 regarding minimum standards for a child residential home, then the  
1569 applicant shall be granted a license by the department.

1570 **SECTION 21.** Section 43-15-6, Mississippi Code of 1972, is  
1571 amended as follows:

1572 43-15-6. (1) Any person, institution, facility, clinic,  
1573 organization or other entity that provides services to children in  
1574 a residential setting where care, lodging, maintenance, and  
1575 counseling or therapy for alcohol or controlled substance abuse or  
1576 for any other emotional disorder or mental illness is provided for  
1577 children, whether for compensation or not, that holds himself,  
1578 herself, or itself out to the public as providing such services,  
1579 and that is entrusted with the care of the children to whom he,  
1580 she, or it provides services, because of the nature of the  
1581 services and the setting in which the services are provided shall  
1582 be subject to the provisions of this section.





1583           (2) Each entity to which this section applies shall  
1584 complete, through the appropriate governmental authority, a  
1585 national criminal history record information check and a child  
1586 abuse registry check for each owner, operator, employee,  
1587 prospective employee, volunteer or prospective volunteer of the  
1588 entity and/or any other that has or may have unsupervised access  
1589 to a child served by the entity. In order to determine the  
1590 applicant's suitability for employment, the entity shall ensure  
1591 that the applicant be fingerprinted by local law enforcement, and  
1592 the results forwarded to the Department of Public Safety. If no  
1593 disqualifying record is identified at the state level, the  
1594 fingerprints shall be forwarded by the Department of Public Safety  
1595 to the FBI for a national criminal history record check.

1596           (3) An owner, operator, employee, prospective employee,  
1597 volunteer or prospective volunteer of the entity and/or any other  
1598 that has or may have unsupervised access to a child who has a  
1599 criminal history of conviction or pending indictment of a crime,  
1600 whether a misdemeanor or a felony, that bears upon an individual's  
1601 fitness to have responsibility for the safety and well-being of  
1602 children as set forth in this chapter may not provide child care  
1603 or operate, or be licensed as, a residential child care program,  
1604 foster parent, or foster home.

1605           (4) All fees incurred in compliance with this section shall  
1606 be borne by the individual or entity to which subsection (1)  
1607 applies.



1608 (5) The Department of \* \* \* Child Protection Services shall  
1609 have the authority to set fees, to exclude a particular crime or  
1610 crimes or a substantiated finding of child abuse and/or neglect as  
1611 disqualifying individuals or entities from providing foster care  
1612 or residential child care, and adopt such other rules and  
1613 regulations as may be required to carry out the provisions of this  
1614 section.

1615 (6) Any entity that violates the provisions of this section  
1616 by failure to complete sex offense criminal history record  
1617 information and felony conviction record information checks, as  
1618 required under subsection (3) of this section, shall be subject to  
1619 a penalty of up to Ten Thousand Dollars (\$10,000.00) for each such  
1620 violation and may be enjoined from further operation until it  
1621 complies with this section in actions maintained by the Attorney  
1622 General.

1623 (7) The Department of Human Services and the Department of  
1624 Child Protection Services and/or its officers, employees,  
1625 attorneys, agents and representatives shall not be held civilly  
1626 liable for any findings, recommendations or actions taken pursuant  
1627 to this section.

1628 **SECTION 22.** Section 43-15-7, Mississippi Code of 1972, is  
1629 amended as follows:

1630 43-15-7. The \* \* \* Department of Child Protection Services  
1631 is hereby authorized to provide protective services for children  
1632 as will conserve home life; assume responsibility for the care and



1633 support of dependent children needing public care away from their  
1634 homes; place children found by the department to be dependent or  
1635 without proper care in suitable institutions or private homes, and  
1636 cooperate with public and private institutions and agencies in  
1637 placing such children in suitable institutions or private homes;  
1638 accept custody or guardianship, through one of its designated  
1639 employees, of any child, when appointed as custodian or guardian  
1640 in the manner provided by law.

1641 The board of supervisors in each county is hereby empowered,  
1642 in its discretion, to set aside and appropriate out of the tax  
1643 levied and collected to support the poor of the county or out of  
1644 the county general fund necessary monies to be administered by the  
1645 county department of public welfare to carry out the provisions of  
1646 this section.

1647 **SECTION 23.** Section 43-15-11, Mississippi Code of 1972, is  
1648 amended as follows:

1649 43-15-11. (1) The board of supervisors of any county and/or  
1650 the mayor and board of commissioners of any city and/or the mayor  
1651 and board of aldermen of any municipality in this state are hereby  
1652 authorized and empowered, in their discretion, to expend out of  
1653 any \* \* \* monies in their respective treasuries, to be drawn by  
1654 warrant thereon, a sum or sums of money not exceeding a total of  
1655 Twenty-five Dollars (\$25.00) annually per Million Dollars  
1656 (\$1,000,000.00) of the assessed valuation of the real and personal  
1657 property thereof for the purpose of providing for the care,



1658 support and maintenance of homeless or destitute children of any  
1659 county or municipality of this state who are supported, cared for,  
1660 maintained and placed for adoption by any children's home society  
1661 which operates over and serves the entire State of Mississippi,  
1662 and which is approved and licensed by the Mississippi Department  
1663 of \* \* \* Child Protection Services.

1664 (2) The authority granted in this section is supplemental of  
1665 and in addition to all existing authority for the expenditure of  
1666 funds by such boards of supervisors and municipal governing  
1667 authorities.

1668 **SECTION 24.** Section 43-15-15, Mississippi Code of 1972, is  
1669 amended as follows:

1670 43-15-15. The State Department of \* \* \* Child Protection  
1671 Services shall maintain a registry of children whose custody lies  
1672 with them and private or public agencies licensed by the  
1673 department. Said registry shall contain classifications of  
1674 children as:

1675 (a) Temporary custody for evaluation, not to exceed  
1676 three (3) months;

1677 (b) Temporary custody not to exceed one (1) year with  
1678 the plan to return custody to the natural parents;

1679 (c) Temporary custody, not to exceed two (2) years,  
1680 with a plan to free for adoption;

1681 (d) Children freed for adoption;



1682 (e) Children ages fourteen (14) and above who have  
1683 voluntarily chosen not to be adopted and cannot be returned to  
1684 their own homes; and

1685 (f) Children who are institutionalized and for whom  
1686 placement in an adoptive home is not feasible.

1687 **SECTION 25.** Section 43-15-17, Mississippi Code of 1972, is  
1688 amended as follows:

1689 43-15-17. (1) The Department of Child Protection Services  
1690 is authorized to make such payments as may be appropriate for  
1691 supportive services to facilitate either the return of children to  
1692 their natural parents or their adoption, depending upon and  
1693 contingent upon the availability of the Department of Child  
1694 Protection Services securing or having sufficient funds to render  
1695 this supportive service. Upon court order, the parent(s) shall be  
1696 responsible for reimbursing the department for any foster care or  
1697 kinship care payments made on behalf of his or her child, based  
1698 upon financial ability to pay, until such time as there is a  
1699 termination of parental rights regarding the child, or the child  
1700 is adopted.

1701 (2) For those children placed in foster care \* \* \*, the  
1702 Department of Child Protection Services shall make monthly  
1703 payments for the support of these children's room and board,  
1704 clothing, allowance and personal needs. From and after July 1,  
1705 1998, and subject to the availability of funds specifically  
1706 appropriated therefor, the Department of Child Protection



1707 Services' foster care and therapeutic care monthly payment  
1708 schedule in effect before that date shall be increased by One  
1709 Hundred Dollars (\$100.00) per month, with that minimum payment not  
1710 to preclude the department from increasing payments in later years  
1711 as funds become available. From and after July 1, 1998, in order  
1712 for foster parents to receive the monthly payments authorized  
1713 under this subsection (2), the Department of Child Protection  
1714 Services shall require foster care placements to be licensed as  
1715 foster care homes and shall require prospective foster parents to  
1716 satisfactorily complete an appropriate training program that  
1717 emphasizes the goal of the foster care program to provide stable  
1718 foster placement until a permanency outcome is achieved.

1719 (3) For a child placed in the care of the child's relative  
1720 within the third degree by the \* \* \* Department of Child  
1721 Protection Services, unless a child is placed in the care of a  
1722 relative who is exempt from foster care training requirements, the  
1723 department shall make monthly payments to defray the relative's  
1724 expense of furnishing room and board. The department's relative  
1725 care payment shall be in an amount up to one hundred percent  
1726 (100%) of the amount of the foster care board payment. The  
1727 department may continue to make those payments to the relative  
1728 after the department relinquishes legal custody of the child to  
1729 the relative if the relative has complied with foster care  
1730 training requirements. Any such payments for relative care shall  
1731 be subject to specific appropriation therefor by the Legislature.



1732           **SECTION 26.** Section 43-15-19, Mississippi Code of 1972, is  
1733 amended as follows:

1734           43-15-19. (1) The \* \* \* Department of Child Protection  
1735 Services shall maintain a Mississippi Adoption Resource Exchange  
1736 registry, which shall contain a total listing of all children  
1737 freed for adoption as well as a listing of all persons who wish to  
1738 adopt children and who are approved by a licensed adoption agency  
1739 in the State of Mississippi. \* \* \* The registry shall be  
1740 distributed to all \* \* \* licensed adoption agencies within the  
1741 state and shall be updated at least quarterly. The \* \* \*  
1742 Department of \* \* \* Child Protection Services shall establish  
1743 regulations for listing descriptive characteristics while  
1744 protecting the privacy of the children's names. Listed names  
1745 shall be removed when adoption placement plans are made for a  
1746 child or when a person withdraws an application for adoption.  
1747           (2) Adoptive parents shall be given the option of having  
1748 their names placed in the registry. They shall be required to  
1749 give written authority to the \* \* \* Department of Child Protection  
1750 Services, for approval, to place their names in the  
1751 registry \* \* \*.

1752           **SECTION 27.** Section 43-15-21, Mississippi Code of 1972, is  
1753 amended as follows:

1754           43-15-21. Anyone violating or releasing information of a  
1755 confidential nature without the approval of the court with  
1756 jurisdiction or the State Department of \* \* \* Child Protection



1757 Services upon being found guilty shall be guilty of a misdemeanor  
1758 and subject to a fine of no more than One Thousand Dollars  
1759 (\$1,000.00) or imprisonment of six (6) months, or both.

1760 **SECTION 28.** Section 43-15-23, Mississippi Code of 1972, is  
1761 amended as follows:

1762 43-15-23. (1) As used in this section the term "placing  
1763 out" means to arrange for the free care of a child in a family,  
1764 other than that of the child's parent, stepparent, grandparent,  
1765 brother, sister, uncle or aunt or legal guardian, for the purpose  
1766 of adoption or for the purpose of providing care.

1767 (2) No person, agency, association, corporation,  
1768 institution, society or other organization, except a child  
1769 placement agency licensed by the Department of \* \* \* Child  
1770 Protection Services under Section 43-15-5, shall request, receive  
1771 or accept any compensation or thing of value, directly or  
1772 indirectly, for placing out of a child.

1773 (3) No person shall pay or give any compensation or thing of  
1774 value, directly or indirectly, for placing out of a child to any  
1775 person, agency, association, corporation, institution, society or  
1776 other organization except a child placement agency licensed by the  
1777 Department of \* \* \* Child Protection Services.

1778 (4) The provisions of this section shall not be construed to  
1779 (a) prevent the payment of salaries or other compensation by a  
1780 child placement agency licensed by the Department of \* \* \* Child  
1781 Protection Services to the officers or employees thereof; (b)





1782 prevent the payment of legal fees, which have been approved by the  
1783 chancery court, to an attorney for services performed in regard to  
1784 adoption proceedings; (c) prevent the payment of reasonable and  
1785 actual medical fees or hospital charges for services rendered in  
1786 connection with the birth or medical treatment of such child to  
1787 the physician or hospital which rendered the services; or (d)  
1788 prevent the receipt of such payments by such attorney, physician  
1789 or hospital.

1790 (5) Any person, agency, association, corporation,  
1791 institution, society or other organization violating the  
1792 provisions of this section shall be guilty of illegal placement of  
1793 children and shall be punished by a fine not to exceed Five  
1794 Thousand Dollars (\$5,000.00) or by imprisonment not more than five  
1795 (5) years, or both such fine and imprisonment.

1796 **SECTION 29.** Section 43-15-51, Mississippi Code of 1972, is  
1797 amended as follows:

1798 43-15-51. (1) The district attorneys or the Department  
1799 of \* \* \* Child Protection Services may initiate formal cooperative  
1800 agreements with the appropriate agencies to create  
1801 multidisciplinary child protection teams in order to implement a  
1802 coordinated multidisciplinary team approach to intervention in  
1803 reports involving alleged severe or potential felony child  
1804 physical or sexual abuse, exploitation, or maltreatment. The  
1805 multidisciplinary team also may be known as a child abuse task  
1806 force. The purpose of the team or task force shall be to assist



1807 in the evaluation and investigation of reports and to provide  
1808 consultation and coordination for agencies involved in child  
1809 protection cases. The agencies to be included as members of the  
1810 multidisciplinary team are: the district attorney's office, city  
1811 and county law enforcement agencies, county attorneys, youth court  
1812 prosecutors, and other agencies as appropriate.

1813 (2) To implement the multidisciplinary child abuse team, the  
1814 team or task force must be authorized by court order from the  
1815 appropriate youth court. The court order will designate which  
1816 agencies will participate in the cooperative multidisciplinary  
1817 team.

1818 (3) (a) Teams created under this section may invite other  
1819 persons to serve on the team who have knowledge of and experience  
1820 in child abuse and neglect matters. These persons may include  
1821 licensed mental and physical health practitioners and physicians,  
1822 dentists, representatives of the district attorney's office and  
1823 the Attorney General's office, experts in the assessment and  
1824 treatment of substance abuse or sexual abuse, the victim  
1825 assistance coordinator of the district attorney's office and staff  
1826 members of a child advocacy center.

1827 (b) (i) A child advocacy center means an agency that  
1828 advocates on behalf of children alleged to have been abused and  
1829 assists in the coordination of the investigation of child abuse by  
1830 providing a location for forensic interviews and promoting the  
1831 coordination of services for children alleged to have been abused.



1832 A child advocacy center provides services that include, but are  
1833 not limited to, forensic medical examinations, mental health and  
1834 related support services, court advocacy, consultation, training  
1835 for social workers, law enforcement training, and child abuse  
1836 multidisciplinary teams, and staffing of multidisciplinary teams.

1837 (ii) Child advocacy centers may provide a  
1838 video-taped forensic interview of the child in a child friendly  
1839 environment or separate building. The purpose of the video-taped  
1840 forensic interview is to prevent further trauma to a child in the  
1841 investigation and prosecution of child physical and sexual abuse  
1842 cases. Child advocacy centers can also assist child victims by  
1843 providing therapeutic counseling subsequent to the interview by a  
1844 qualified therapist. Child advocacy centers can also assist law  
1845 enforcement and prosecutors by acquainting child victim witnesses  
1846 and their parents or guardians to the courtroom through child  
1847 court school programs.

1848 (4) A team or task force created under this section shall  
1849 review records on cases referred to the team by the Department  
1850 of \* \* \* Child Protection Services or law enforcement or the  
1851 district attorney's office. The team shall meet at least monthly.

1852 (5) No person shall disclose information obtained from a  
1853 meeting of the multidisciplinary team unless necessary to comply  
1854 with Department of \* \* \* Child Protection Services' regulations or  
1855 conduct and proceeding in youth court or criminal court  
1856 proceedings or as authorized by a court of competent jurisdiction.



1857           **SECTION 30.** Section 43-15-103, Mississippi Code of 1972, is  
1858 amended as follows:

1859           43-15-103. As used in this article:

1860                   (a) "Agency" means a residential child-caring agency or  
1861 a child-placing agency.

1862                   (b) "Child" or "children" mean(s) any unmarried person  
1863 or persons under the age of eighteen (18) years.

1864                   (c) "Child placing" means receiving, accepting or  
1865 providing custody or care for any child under eighteen (18) years  
1866 of age, temporarily or permanently, for the purpose of:

1867                           (i) Finding a person to adopt the child;

1868                           (ii) Placing the child temporarily or permanently  
1869 in a home for adoption; or

1870                           (iii) Placing a child in a foster home or  
1871 residential child-caring agency.

1872                   (d) "Child-placing agency" means any entity or person  
1873 which places children in foster boarding homes or foster homes for  
1874 temporary care or for adoption or any other entity or person or  
1875 group of persons who are engaged in providing adoption studies or  
1876 foster care studies or placement services as defined by the rules  
1877 of the department.

1878                   (e) "Department" means the Mississippi Department  
1879 of \* \* \* Child Protection Services.

1880           \* \* \*



1881 ( \* \* \*f) "Family boarding home" or "foster home" means  
1882 a home (occupied residence) operated by any entity or person which  
1883 provides residential child care to at least one (1) child but not  
1884 more than six (6) children who are not related to the primary  
1885 caregivers.

1886 ( \* \* \*g) "Group care home" means any place or facility  
1887 operated by any entity or person which provides residential child  
1888 care for at least seven (7) children but not more than twelve (12)  
1889 children who are not related to the primary caregivers.

1890 ( \* \* \*h) "Licensee" means any person, agency or entity  
1891 licensed under this article.

1892 ( \* \* \*i) "Maternity home" means any place or facility  
1893 operated by any entity or person which receives, treats or cares  
1894 for more than one (1) child or adult who is pregnant out of  
1895 wedlock, either before, during or within two (2) weeks after  
1896 childbirth; provided, that the licensed child-placing agencies and  
1897 licensed maternity homes may use a family boarding home approved  
1898 and supervised by the agency or home, as a part of their work, for  
1899 as many as three (3) children or adults who are pregnant out of  
1900 wedlock, and provided further, that the provisions of this  
1901 definition shall not include children or women who receive  
1902 maternity care in the home of a person to whom they are kin within  
1903 the sixth degree of kindred computed according to civil law, nor  
1904 does it apply to any maternity care provided by general or special  
1905 hospitals licensed according to law and in which maternity



1906 treatment and care are part of the medical services performed and  
1907 the care of children is brief and incidental.

1908 \* \* \*

1909 ( \* \* \*j) "Person associated with a licensee" means an  
1910 owner, director, member of the governing body, employee, provider  
1911 of care and volunteer of a human services licensee.

1912 ( \* \* \*k) "Related" means children, step-children,  
1913 grandchildren, step-grandchildren, siblings of the whole or  
1914 half-blood, step-siblings, nieces or nephews of the primary care  
1915 provider.

1916 ( \* \* \*l) "Residential child care" means the provision  
1917 of supervision, and/or protection, and meeting the basic needs of  
1918 a child for twenty-four (24) hours per day, which may include  
1919 services to children in a residential setting where care, lodging,  
1920 maintenance and counseling or therapy for alcohol or controlled  
1921 substance abuse or for any other emotional disorder or mental  
1922 illness is provided for children, whether for compensation or not.

1923 ( \* \* \*m) "Residential child-caring agency" means any  
1924 place or facility operated by any entity or person, public or  
1925 private, providing residential child care, regardless of whether  
1926 operated for profit or whether a fee is charged. Such residential  
1927 child-caring agencies include, but are not limited to, maternity  
1928 homes, runaway shelters, group homes that are administered by an  
1929 agency, and emergency shelters that are not in private residence.



1930           **SECTION 31.** Section 43-15-105, Mississippi Code of 1972, is  
1931 amended as follows:

1932           43-15-105. (1) The \* \* \* Mississippi Department of Child  
1933 Protection Services shall be the licensing authority \* \* \* and is  
1934 vested with all the powers, duties and responsibilities described  
1935 in this article. The \* \* \* department shall make and establish  
1936 rules and regulations regarding:

1937           (a) Approving, extending, denying, suspending and  
1938 revoking licenses for foster homes, residential child-caring  
1939 agencies and child-placing agencies;

1940           (b) Conditional licenses, variances from department  
1941 rules and exclusions;

1942           (c) Basic health and safety standards for licensees;  
1943 and

1944           (d) Minimum administration and financial requirements  
1945 for licensees.

1946           (2) The \* \* \* department shall:

1947           (a) Define information that shall be submitted to  
1948 the \* \* \* department with an application for a license;

1949           (b) Establish guidelines for the administration and  
1950 maintenance of client and service records, including staff  
1951 qualifications, staff to client ratios;

1952           (c) Issue licenses in accordance with this article;

1953           (d) Conduct surveys and inspections of licensees and  
1954 facilities;



- 1955 (e) Establish and collect licensure fees;
- 1956 (f) Investigate complaints regarding any licensee or  
1957 facility;
- 1958 (g) Have access to all records, correspondence and  
1959 financial data required to be maintained by a licensee or  
1960 facility;
- 1961 (h) Have authority to interview any client, family  
1962 member of a client, employee or officer of a licensee or facility;  
1963 and
- 1964 (i) Have authority to revoke, suspend or extend any  
1965 license issued by the \* \* \* department.

1966 **SECTION 32.** Section 43-15-107, Mississippi Code of 1972, is  
1967 amended as follows:

1968 43-15-107. (1) Except as provided in Section 43-15-111, no  
1969 person, agency, firm, corporation, association or other entity,  
1970 acting individually or jointly with any other person or entity,  
1971 may establish, conduct or maintain foster homes, residential  
1972 child-caring agencies and child-placing agencies or facility  
1973 and/or engage in child placing in this state without a valid and  
1974 current license issued by and under the authority of the \* \* \*  
1975 department as provided by this article and the rules of the \* \* \*  
1976 department. Any out-of-state child-placing agency that provides a  
1977 full range of services, including, but not limited to, adoptions,  
1978 foster family homes, adoption counseling services or financial





1979 aid, in this state must be licensed by the \* \* \* department under  
1980 this article.

1981 (2) No license issued under this article is assignable or  
1982 transferable.

1983 (3) A current license shall at all times be posted in each  
1984 licensee's facility, in a place that is visible and readily  
1985 accessible to the public.

1986 (4) (a) Except as otherwise provided in paragraph (b) of  
1987 this subsection, each license issued under this article expires at  
1988 midnight (Central Standard Time) twelve (12) months from the date  
1989 of issuance unless it has been:

1990 (i) Previously revoked by the \* \* \* department; or  
1991 (ii) Voluntarily returned to the \* \* \* department  
1992 by the licensee.

1993 (b) (i) For any child-placing agency located in  
1994 Mississippi that remains in good standing, the license issued  
1995 under this article expires at midnight (Central Standard Time)  
1996 twenty-four (24) months from the date of issuance unless it has  
1997 been:

1998 1. Previously revoked by the \* \* \*  
1999 department; or

2000 2. Voluntarily returned to the \* \* \*  
2001 department by the licensee.



2002 (ii) Any child-placing agency whose license is  
2003 governed by this paragraph (b) shall submit the following  
2004 information to the \* \* \* department annually:

2005 1. A copy of an audit report and IRS Form 990  
2006 for the agency;

2007 2. The agency's fee schedule; and

2008 3. The agency's client list.

2009 (c) A license may be renewed upon application and  
2010 payment of the applicable fee, provided that the licensee meets  
2011 the license requirements established by this article and the rules  
2012 and regulations of the \* \* \* department.

2013 (5) Any licensee or facility which is in operation at the  
2014 time rules are made in accordance with this article shall be given  
2015 a reasonable time for compliance as determined by the rules of  
2016 the \* \* \* department.

2017 **SECTION 33.** Section 43-15-109, Mississippi Code of 1972, is  
2018 amended as follows:

2019 43-15-109. (1) An application for a license under this  
2020 article shall be made to the \* \* \* department and shall contain  
2021 information that the \* \* \* department determines is necessary in  
2022 accordance with established rules.

2023 (2) Information received by the \* \* \* department through  
2024 reports, complaints, investigations and inspections shall be  
2025 classified as public in accordance with Title 25, Chapter 61,  
2026 Mississippi Code of 1972, Mississippi Public Records Act.



2027           **SECTION 34.** Section 43-15-113, Mississippi Code of 1972, is  
2028 amended as follows:

2029           43-15-113. (1) If a license is revoked, the \* \* \*  
2030 department may grant a new license after:

2031           (a) Satisfactory evidence is submitted to the \* \* \*  
2032 department, evidencing that the conditions upon which revocation  
2033 was based have been corrected; and

2034           (b) Inspection and compliance with all provisions of  
2035 this article and applicable rules.

2036           (2) The \* \* \* department may only suspend a license for a  
2037 period of time which does not exceed the current expiration date  
2038 of that license.

2039           (3) When a license has been suspended, the \* \* \* department  
2040 may completely or partially restore the suspended license upon a  
2041 determination that the:

2042           (a) Conditions upon which the suspension was based have  
2043 been completely or partially corrected; and

2044           (b) Interests of the public will not be jeopardized by  
2045 restoration of the license.

2046           **SECTION 35.** Section 43-15-115, Mississippi Code of 1972, is  
2047 amended as follows:

2048           43-15-115. (1) The \* \* \* department may, for the purpose of  
2049 ascertaining compliance with the provisions of this article and  
2050 its rules and regulations, enter and inspect on a routine basis  
2051 the facility of a licensee.



2052 (2) Before conducting an inspection under subsection (1),  
2053 the \* \* \* department shall, after identifying the person in  
2054 charge:

2055 (a) Give proper identification;

2056 (b) Request to see the applicable license;

2057 (c) Describe the nature and purpose of the inspection;

2058 and

2059 (d) If necessary, explain the authority of the \* \* \*  
2060 department to conduct the inspection and the penalty for refusing  
2061 to permit the inspection.

2062 (3) In conducting an inspection under subsection (1),  
2063 the \* \* \* department may, after meeting the requirements of  
2064 subsection (2):

2065 (a) Inspect the physical facilities;

2066 (b) Inspect records and documents;

2067 (c) Interview directors, employees, clients, family  
2068 members of clients and others; and

2069 (d) Observe the licensee in operation.

2070 (4) An inspection conducted under subsection (1) shall be  
2071 during regular business hours and may be announced or unannounced.

2072 (5) The licensee shall make copies of inspection reports  
2073 available to the public upon request.

2074 (6) The provisions of this section apply to on-site  
2075 inspections and do not restrict the \* \* \* department from  
2076 contacting family members, neighbors or other individuals, or from



2077 seeking information from other sources to determine compliance  
2078 with the provisions of this article.

2079 **SECTION 36.** Section 43-15-117, Mississippi Code of 1972, is  
2080 amended as follows:

2081 43-15-117. (1) Except as provided in this article, no  
2082 person, agency, firm, corporation, association or group children's  
2083 home may engage in child placing, or solicit money or other  
2084 assistance for child placing, without a valid license issued by  
2085 the \* \* \* department. No out-of-state child-placing agency that  
2086 provides a full range of services, including, but not limited to,  
2087 adoptions, foster family homes, adoption counseling services or  
2088 financial aid, may operate in this state without a valid license  
2089 issued by the \* \* \* department. No child-placing agency shall  
2090 advertise in the media markets in Mississippi seeking birth  
2091 mothers or their children for adoption purposes unless the agency  
2092 holds a valid and current license issued either by the \* \* \*  
2093 department or the authorized governmental licensing agency of  
2094 another state that regulates child-placing agencies. Any  
2095 child-placing agency, physician or attorney who advertises for  
2096 child placing or adoption services in Mississippi shall be  
2097 required by the \* \* \* department to show their principal office  
2098 location on all media advertising for adoption services.

2099 (2) An attorney who provides legal services to a client in  
2100 connection with proceedings for the adoption of a child by the  
2101 client, who does not receive, accept or provide custody or care



2102 for the child for the purposes specified in Section 43-15-103(c),  
2103 shall not be required to have a license under this article to  
2104 provide those legal services.

2105 (3) An attorney, physician or other person may assist a  
2106 parent in identifying or locating a person interested in adopting  
2107 the parent's child, or in identifying or locating a child to be  
2108 adopted. However, no payment, charge, fee, reimbursement of  
2109 expense, or exchange of value of any kind, or promise or agreement  
2110 to make the same, may be made for that assistance.

2111 (4) Nothing in this section precludes payment of reasonable  
2112 fees for medical, legal or other lawful services rendered in  
2113 connection with the care of a mother, delivery and care of a child  
2114 including, but not limited to, the mother's living expenses, or  
2115 counseling for the parents and/or the child, and for the legal  
2116 proceedings related to lawful adoption proceedings; and no  
2117 provision of this section abrogates the right of procedures for  
2118 independent adoption as provided by law.

2119 (5) The \* \* \* department is specifically authorized to  
2120 promulgate rules under the Administrative Procedures Law, Title  
2121 25, Chapter 43, Mississippi Code of 1972, to regulate fees charged  
2122 by licensed child-placing agencies, if it determines that the  
2123 practices of those licensed child-placing agencies demonstrates  
2124 that the fees charged are excessive or that any of the agency's  
2125 practices are deceptive or misleading; however, those rules  
2126 regarding fees shall take into account the use of any sliding fee



2127 by an agency that uses a sliding fee procedure to permit  
2128 prospective adoptive parents of varying income levels to utilize  
2129 the services of those agencies or persons.

2130 (6) The \* \* \* department shall promulgate rules under the  
2131 Administrative Procedures Law, Title 25, Chapter 43, Mississippi  
2132 Code of 1972, to require that all licensed child-placing agencies  
2133 provide written disclosures to all prospective adoptive parents of  
2134 any fees or other charges for each service performed by the agency  
2135 or person, and file an annual report with the \* \* \* department  
2136 that states the fees and charges for those services, and to  
2137 require them to inform the \* \* \* department in writing thirty (30)  
2138 days in advance of any proposed changes to the fees or charges for  
2139 those services.

2140 (7) The \* \* \* department is specifically authorized to  
2141 disclose to prospective adoptive parents or other interested  
2142 persons any fees charged by any licensed child-placing agency,  
2143 attorney or counseling service or counselor for all legal and  
2144 counseling services provided by that licensed child-placing  
2145 agency, attorney or counseling service or counselor.

2146 **SECTION 37.** Section 43-15-119, Mississippi Code of 1972, is  
2147 amended as follows:

2148 43-15-119. (1) If the \* \* \* department finds that a  
2149 violation has occurred under this article or the rules and  
2150 regulations of the division, it may:



2151 (a) Deny, suspend or revoke a license or place the  
2152 licensee on probation, if the \* \* \* department discovers that a  
2153 licensee is not in compliance with the laws, standards or  
2154 regulations governing its operation, and/or it finds evidence of  
2155 aiding, abetting or permitting the commission of any illegal act;  
2156 or

2157 (b) Restrict or prohibit new admissions to the  
2158 licensee's program or facility, if the \* \* \* department discovers  
2159 that a licensee is not in compliance with the laws, standards or  
2160 regulations governing its operation, and/or it finds evidence of  
2161 aiding, abetting or permitting the commission of any illegal act.

2162 (2) If placed on probation, the agency or licensee shall  
2163 post a copy of the notice in a conspicuous place as directed by  
2164 the \* \* \* department and with the agency's or individual's  
2165 license, and the agency shall notify the custodians of each of the  
2166 children in its care in writing of the agency's status and the  
2167 basis for the probation.

2168 **SECTION 38.** Section 43-15-121, Mississippi Code of 1972, is  
2169 amended as follows:

2170 43-15-121. In addition to, and notwithstanding, any other  
2171 remedy provided by law, the \* \* \* department may, in a manner  
2172 provided by law and upon the advice of the Attorney General who,  
2173 except as otherwise authorized in Section 7-5-39, shall represent  
2174 the \* \* \* department in the proceedings, maintain an action in the  
2175 name of the state for injunction or other process against any





2176 person or entity to restrain or prevent the establishment,  
2177 management or operation of a program or facility or performance of  
2178 services in violation of this article or rules of the \* \* \*  
2179 department.

2180 **SECTION 39.** Section 43-15-125, Mississippi Code of 1972, is  
2181 amended as follows:

2182 43-15-125. The Department of \* \* \* Child Protective Services  
2183 and/or its officers, employees, attorneys and representatives  
2184 shall not be held civilly liable for any findings, recommendations  
2185 or actions taken pursuant to this article.

2186 **SECTION 40.** Section 43-15-201, Mississippi Code of 1972, is  
2187 amended as follows:

2188 43-15-201. (1) An emergency medical services provider,  
2189 without a court order, shall take possession of a child who is  
2190 seventy-two (72) hours old or younger if the child is voluntarily  
2191 delivered to the provider by the child's parent and the parent did  
2192 not express an intent to return for the child.

2193 (2) The parent who surrenders the baby shall not be required  
2194 to provide any information pertaining to his or her identity, nor  
2195 shall the emergency medical services provider inquire as to same.  
2196 If the identity of the parent is known to the emergency medical  
2197 services provider, the emergency medical services provider shall  
2198 keep the identity confidential.

2199 (3) A female presenting herself to a hospital through the  
2200 emergency room or otherwise, who is subsequently admitted for



2201 purposes of labor and delivery, does not give up the legal  
2202 protections or anonymity guaranteed under this section. If the  
2203 mother clearly expresses a desire to voluntarily surrender custody  
2204 of the newborn after birth, the emergency medical services  
2205 provider can take possession of the child, without further action  
2206 by the mother, as if the child had been presented to the emergency  
2207 medical services provider in the same manner outlined above in  
2208 subsection (1) of this section.

2209 (a) If the mother expresses a desire to remain  
2210 anonymous, identifying information may be obtained for purposes of  
2211 securing payment of labor and delivery costs only. If the birth  
2212 mother is a minor, the hospital may use the identifying  
2213 information to secure payment through Medicaid, but shall not  
2214 notify the minor's parent or guardian without the minor's consent.

2215 (b) The identity of the birth mother shall not be  
2216 placed on the birth certificate or disclosed to the Department  
2217 of \* \* \* Child Protection Services.

2218 (4) There is a presumption that by relinquishing a child in  
2219 accordance with this section, the parent consents to the  
2220 termination of his or her parental rights with respect to the  
2221 child. As such, the parent waives the right to notification  
2222 required by subsequent court proceedings.

2223 (5) An emergency medical services provider who takes  
2224 possession of a child under this section shall perform any act  
2225 necessary to protect the physical health or safety of the child.



2226           **SECTION 41.** Section 43-15-203, Mississippi Code of 1972, is  
2227 amended as follows:

2228           43-15-203. (1) No later than the close of the first  
2229 business day after the date on which an emergency medical services  
2230 provider takes possession of a child pursuant to Section  
2231 43-15-201, the provider shall notify the Department of \* \* \* Child  
2232 Protection Services that the provider has taken possession of the  
2233 child.

2234           (2) The department shall assume the care, control and  
2235 custody of the child immediately on receipt of notice pursuant to  
2236 subsection (1). The department shall be responsible for all  
2237 medical and other costs associated with the child and shall  
2238 reimburse the hospital for any costs incurred prior to the child  
2239 being placed in the care of the department.

2240           **SECTION 42.** Section 43-15-207, Mississippi Code of 1972, is  
2241 amended as follows:

2242           43-15-207. For the purposes of this article, an emergency  
2243 medical services provider shall mean a licensed hospital, as  
2244 defined in Section 41-9-3, which operates an emergency department  
2245 or an adoption agency duly licensed by the Department of \* \* \*  
2246 Child Protection Services. An emergency medical services provider  
2247 does not include the offices, clinics, surgeries or treatment  
2248 facilities of private physicians or dentists. No individual  
2249 licensed healthcare provider, including physicians, dentists,  
2250 nurses, physician assistants or other health professionals shall



2251 be deemed to be an emergency medical services provider under this  
2252 article unless such individual voluntarily assumes responsibility  
2253 for the custody of the child.

2254         **SECTION 43.** Section 43-16-3, Mississippi Code of 1972, is  
2255 amended as follows:

2256             43-16-3. As used in this chapter, the following definitions  
2257 shall apply unless the context clearly provides otherwise:

2258                 (a) "Child" means a person who has not reached the age  
2259 of eighteen (18) years or who has not otherwise been legally  
2260 emancipated.

2261                 (b) "Child residential home" means any place, facility  
2262 or home operated by any person which receives children who are not  
2263 related to the operators and whose parents or guardians are not  
2264 residents of the same facility for supervision, care, lodging and  
2265 maintenance for twenty-four (24) hours a day, with or without  
2266 transfer of custody. This term does not include:

2267                         (i) Residential homes licensed by the Department  
2268 of \* \* \* Child Protection Services under Section 43-15-5;

2269                         (ii) Any public school;

2270                         (iii) Any home operated by a state agency;

2271                         (iv) Child care facilities as defined in Section  
2272 43-20-5;

2273                         (v) Youth camps as defined in Section 75-74-3;

2274                         (vi) Health care facilities licensed by the State  
2275 Department of Health; or



2276 (vii) The home of an attorney-in-fact operating  
2277 under a power of attorney executed under Section 93-31-1 et seq.

2278 (c) "Department" shall mean the State Department of  
2279 Health.

2280 (d) "Person" shall include an individual, partnership,  
2281 organization, association or corporation.

2282 **SECTION 44.** Section 43-16-21, Mississippi Code of 1972, is  
2283 amended as follows:

2284 43-16-21. Notwithstanding the existence of any other remedy,  
2285 the department may, in the manner provided by law, in termtime or  
2286 in vacation, upon the advice of the Attorney General who, except  
2287 as otherwise authorized in Section 7-5-39, shall represent the  
2288 department in the proceedings, maintain an action in the name of  
2289 the state for an injunction or restraining order to cease the  
2290 operation of the home, and to provide for the appropriate removal  
2291 of the children from the home and placement in the custody of the  
2292 parents or legal guardians, the Department of \* \* \* Child  
2293 Protection Services, or any other appropriate entity in the  
2294 discretion of the court. Such action shall be brought in the  
2295 chancery court or the youth court, as appropriate, of the county  
2296 in which such child residential home is located, and shall only be  
2297 initiated for the following violations:

2298 (a) Providing supervision, care, lodging or maintenance  
2299 for any children in such home without filing notification in  
2300 accordance with this chapter.



2301 (b) Failure to satisfactorily comply with local health  
2302 department or State Fire Marshal inspections made pursuant to  
2303 Section 43-16-15, regarding the health, nutrition, cleanliness,  
2304 safety, sanitation, written records and discipline policy of such  
2305 home.

2306 (c) Suspected abuse and/or neglect of the children  
2307 served by such home, as defined in Section 43-21-105.

2308 **SECTION 45.** Section 43-18-3, Mississippi Code of 1972, is  
2309 amended as follows:

2310 43-18-3. The "appropriate public authorities" as used in  
2311 Article III of the Interstate Compact on the Placement of Children  
2312 shall, with reference to this state, mean the \* \* \* Department of  
2313 Child Protection Services. \* \* \*

2314 **SECTION 46.** Section 43-18-5, Mississippi Code of 1972, is  
2315 amended as follows:

2316 43-18-5. As used in paragraph (a) of Article V of the  
2317 Interstate Compact on the Placement of Children, the phrase  
2318 "appropriate authority in the receiving state" with reference to  
2319 this state shall mean the \* \* \* Department of Child Protection  
2320 Services.

2321 **SECTION 47.** Section 43-20-8, Mississippi Code of 1972, is  
2322 amended as follows:

2323 43-20-8. (1) The licensing agency shall have powers and  
2324 duties as set forth below, in addition to other duties prescribed  
2325 under this chapter:



2326 (a) Promulgate rules and regulations concerning the  
2327 licensing and regulation of child care facilities as defined in  
2328 Section 43-20-5;

2329 (b) Have the authority to issue, deny, suspend, revoke,  
2330 restrict or otherwise take disciplinary action against licensees  
2331 as provided for in this chapter;

2332 (c) Set and collect fees and penalties as provided for  
2333 in this chapter; any increase in the fees charged by the licensing  
2334 agency under this paragraph shall be in accordance with the  
2335 provisions of Section 41-3-65; and

2336 (d) Have such other powers as may be required to carry  
2337 out the provisions of this chapter.

2338 (2) Child care facilities shall assure that parents have  
2339 welcome access to the child care facility at all times and shall  
2340 comply with the provisions of Chapter 520, Laws of 2006.

2341 (3) Each child care facility shall develop and maintain a  
2342 current list of contact persons for each child provided care by  
2343 that facility. An agreement may be made between the child care  
2344 facility and the child's parent, guardian or contact person at the  
2345 time of registration to inform the parent, guardian or contact  
2346 person if the child does not arrive at the facility within a  
2347 reasonable time.

2348 (4) Child care facilities shall require that, for any  
2349 current or prospective caregiver, all criminal records, background  
2350 and sex offender registry checks and current child abuse registry



2351 checks are obtained. In order to determine the applicant's  
2352 suitability for employment, the applicant shall be fingerprinted.  
2353 If no disqualifying record is identified at the state level, the  
2354 fingerprints shall be forwarded by the Department of Public Safety  
2355 to the FBI for a national criminal history record check.

2356 (5) The licensing agency shall require to be performed a  
2357 criminal records background check and a child abuse registry check  
2358 for all operators of a child care facility and any person living  
2359 in a residence used for child care. The Department of \* \* \* Child  
2360 Protection Services shall have the authority to disclose to the  
2361 State Department of Health any potential applicant whose name is  
2362 listed on the Child Abuse Central Registry or has a pending  
2363 administrative review. That information shall remain confidential  
2364 by all parties. In order to determine the applicant's suitability  
2365 for employment, the applicant shall be fingerprinted. If no  
2366 disqualifying record is identified at the state level, the  
2367 fingerprints shall be forwarded by the Department of Public Safety  
2368 to the FBI for a national criminal history record check.

2369 (6) The licensing agency shall have the authority to exclude  
2370 a particular crime or crimes or a substantiated finding of child  
2371 abuse and/or neglect as disqualifying individuals or entities for  
2372 prospective or current employment or licensure.

2373 (7) The licensing agency and its agents, officers,  
2374 employees, attorneys and representatives shall not be held civilly





2375 liable for any findings, recommendations or actions taken under  
2376 this section.

2377 (8) All fees incurred in compliance with this section shall  
2378 be borne by the child care facility. The licensing agency is  
2379 authorized to charge a fee that includes the amount required by  
2380 the Federal Bureau of Investigation for the national criminal  
2381 history record check in compliance with the Child Protection Act  
2382 of 1993, as amended, and any necessary costs incurred by the  
2383 licensing agency for the handling and administration of the  
2384 criminal history background checks.

2385 (9) From and after January 1, 2008, the State Board of  
2386 Health shall develop regulations to ensure that all children  
2387 enrolled or enrolling in a state licensed child care center  
2388 receive age-appropriate immunization against invasive pneumococcal  
2389 disease as recommended by the Advisory Committee on immunization  
2390 practices of the Centers for Disease Control and Prevention. The  
2391 State Board of Health shall include, within its regulations,  
2392 protocols for children under the age of twenty-four (24) months to  
2393 catch up on missed doses. If the State Board of Health has  
2394 adopted regulations before January 1, 2008, that would otherwise  
2395 meet the requirements of this subsection, then this subsection  
2396 shall stand repealed on January 1, 2008.

2397 **SECTION 48.** Section 43-21-105, Mississippi Code of 1972, is  
2398 amended as follows:



2399 43-21-105. The following words and phrases, for purposes of  
2400 this chapter, shall have the meanings ascribed herein unless the  
2401 context clearly otherwise requires:

2402 (a) "Youth court" means the Youth Court Division.

2403 (b) "Judge" means the judge of the Youth Court  
2404 Division.

2405 (c) "Designee" means any person that the judge appoints  
2406 to perform a duty which this chapter requires to be done by the  
2407 judge or his designee. The judge may not appoint a person who is  
2408 involved in law enforcement or who is an employee of the  
2409 Mississippi Department of Human Services and the Department of  
2410 Child Protection Services to be his designee.

2411 (d) "Child" and "youth" are synonymous, and each means  
2412 a person who has not reached his eighteenth birthday. A child who  
2413 has not reached his eighteenth birthday and is on active duty for  
2414 a branch of the armed services or is married is not considered a  
2415 "child" or "youth" for the purposes of this chapter.

2416 (e) "Parent" means the father or mother to whom the  
2417 child has been born, or the father or mother by whom the child has  
2418 been legally adopted.

2419 (f) "Guardian" means a court-appointed guardian of the  
2420 person of a child.

2421 (g) "Custodian" means any person having the present  
2422 care or custody of a child whether such person be a parent or  
2423 otherwise.



2424 (h) "Legal custodian" means a court-appointed custodian  
2425 of the child.

2426 (i) "Delinquent child" means a child who has reached  
2427 his tenth birthday and who has committed a delinquent act.

2428 (j) "Delinquent act" is any act, which if committed by  
2429 an adult, is designated as a crime under state or federal law, or  
2430 municipal or county ordinance other than offenses punishable by  
2431 life imprisonment or death. A delinquent act includes escape from  
2432 lawful detention and violations of the Uniform Controlled  
2433 Substances Law and violent behavior.

2434 (k) "Child in need of supervision" means a child who  
2435 has reached his seventh birthday and is in need of treatment or  
2436 rehabilitation because the child:

2437 (i) Is habitually disobedient of reasonable and  
2438 lawful commands of his parent, guardian or custodian and is  
2439 ungovernable; or

2440 (ii) While being required to attend school,  
2441 willfully and habitually violates the rules thereof or willfully  
2442 and habitually absents himself therefrom; or

2443 (iii) Runs away from home without good cause; or

2444 (iv) Has committed a delinquent act or acts.

2445 (l) "Neglected child" means a child:

2446 (i) Whose parent, guardian or custodian or any  
2447 person responsible for his care or support, neglects or refuses,  
2448 when able so to do, to provide for him proper and necessary care



2449 or support, or education as required by law, or medical, surgical,  
2450 or other care necessary for his well-being; however, a parent who  
2451 withholds medical treatment from any child who in good faith is  
2452 under treatment by spiritual means alone through prayer in  
2453 accordance with the tenets and practices of a recognized church or  
2454 religious denomination by a duly accredited practitioner thereof  
2455 shall not, for that reason alone, be considered to be neglectful  
2456 under any provision of this chapter; or

2457 (ii) Who is otherwise without proper care,  
2458 custody, supervision or support; or

2459 (iii) Who, for any reason, lacks the special care  
2460 made necessary for him by reason of his mental condition, whether  
2461 the mental condition is having mental illness or having an  
2462 intellectual disability; or

2463 (iv) Who, for any reason, lacks the care necessary  
2464 for his health, morals or well-being.

2465 (m) "Abused child" means a child whose parent, guardian  
2466 or custodian or any person responsible for his care or support,  
2467 whether legally obligated to do so or not, has caused or allowed  
2468 to be caused, upon the child, sexual abuse, sexual exploitation,  
2469 emotional abuse, mental injury, nonaccidental physical injury or  
2470 other maltreatment. However, physical discipline, including  
2471 spanking, performed on a child by a parent, guardian or custodian  
2472 in a reasonable manner shall not be deemed abuse under this  
2473 section. "Abused child" also means a child who is or has been



2474 trafficked within the meaning of the Mississippi Human Trafficking  
2475 Act by any person, without regard to the relationship of the  
2476 person to the child.

2477 (n) "Sexual abuse" means obscene or pornographic  
2478 photographing, filming or depiction of children for commercial  
2479 purposes, or the rape, molestation, incest, prostitution or other  
2480 such forms of sexual exploitation of children under circumstances  
2481 which indicate that the child's health or welfare is harmed or  
2482 threatened.

2483 (o) "A child in need of special care" means a child  
2484 with any mental or physical illness that cannot be treated with  
2485 the dispositional alternatives ordinarily available to the youth  
2486 court.

2487 (p) A "dependent child" means any child who is not a  
2488 child in need of supervision, a delinquent child, an abused child  
2489 or a neglected child, and which child has been voluntarily placed  
2490 in the custody of the Department of \* \* \* Child Protection  
2491 Services by his parent, guardian or custodian.

2492 (q) "Custody" means the physical possession of the  
2493 child by any person.

2494 (r) "Legal custody" means the legal status created by a  
2495 court order which gives the legal custodian the responsibilities  
2496 of physical possession of the child and the duty to provide him  
2497 with food, shelter, education and reasonable medical care, all



2498 subject to residual rights and responsibilities of the parent or  
2499 guardian of the person.

2500 (s) "Detention" means the care of children in  
2501 physically restrictive facilities.

2502 (t) "Shelter" means care of children in physically  
2503 nonrestrictive facilities.

2504 (u) "Records involving children" means any of the  
2505 following from which the child can be identified:

2506 (i) All youth court records as defined in Section  
2507 43-21-251;

2508 (ii) All social records as defined in Section  
2509 43-21-253;

2510 (iii) All law enforcement records as defined in  
2511 Section 43-21-255;

2512 (iv) All agency records as defined in Section  
2513 43-21-257; and

2514 (v) All other documents maintained by any  
2515 representative of the state, county, municipality or other public  
2516 agency insofar as they relate to the apprehension, custody,  
2517 adjudication or disposition of a child who is the subject of a  
2518 youth court cause.

2519 (v) "Any person responsible for care or support" means  
2520 the person who is providing for the child at a given time. This  
2521 term shall include, but is not limited to, stepparents, foster  
2522 parents, relatives, nonlicensed babysitters or other similar



2523 persons responsible for a child and staff of residential care  
2524 facilities and group homes that are licensed by the Department  
2525 of \* \* \* Child Protection Services.

2526 (w) The singular includes the plural, the plural the  
2527 singular and the masculine the feminine when consistent with the  
2528 intent of this chapter.

2529 (x) "Out-of-home" setting means the temporary  
2530 supervision or care of children by the staff of licensed day care  
2531 centers, the staff of public, private and state schools, the staff  
2532 of juvenile detention facilities, the staff of unlicensed  
2533 residential care facilities and group homes and the staff of, or  
2534 individuals representing, churches, civic or social organizations.

2535 (y) "Durable legal custody" means the legal status  
2536 created by a court order which gives the durable legal custodian  
2537 the responsibilities of physical possession of the child and the  
2538 duty to provide him with care, nurture, welfare, food, shelter,  
2539 education and reasonable medical care. All these duties as  
2540 enumerated are subject to the residual rights and responsibilities  
2541 of the natural parent(s) or guardian(s) of the child or children.

2542 (z) "Status offense" means conduct subject to  
2543 adjudication by the youth court that would not be a crime if  
2544 committed by an adult.

2545 (aa) "Financially able" means a parent or child who is  
2546 ineligible for a court-appointed attorney.



2547 (bb) "Assessment" means an individualized examination  
2548 of a child to determine the child's psychosocial needs and  
2549 problems, including the type and extent of any mental health,  
2550 substance abuse or co-occurring mental health and substance abuse  
2551 disorders and recommendations for treatment. The term includes,  
2552 but is not limited to, a drug and alcohol, psychological or  
2553 psychiatric evaluation, records review, clinical interview or the  
2554 administration of a formal test and instrument.

2555 (cc) "Screening" means a process, with or without the  
2556 administration of a formal instrument, that is designed to  
2557 identify a child who is at increased risk of having mental health,  
2558 substance abuse or co-occurring mental health and substance abuse  
2559 disorders that warrant immediate attention, intervention or more  
2560 comprehensive assessment.

2561 (dd) "Durable legal relative guardianship" means the  
2562 legal status created by a youth court order that conveys the  
2563 physical and legal custody of a child or children by durable legal  
2564 guardianship to a relative or fictive kin who is licensed as a  
2565 foster or resource parent.

2566 (ee) "Relative" means a person related to the child by  
2567 affinity or consanguinity within the third degree.

2568 (ff) "Fictive kin" means a person not related to the  
2569 child legally or biologically but who is considered a relative due  
2570 to a significant, familial-like and ongoing relationship with the  
2571 child and family.





2572 (gg) "Reasonable efforts" means the exercise of  
2573 reasonable care and due diligence by the Department of Human  
2574 Services, the Department of Child Protection Services, or any  
2575 other appropriate entity or person to use appropriate and  
2576 available services to prevent the unnecessary removal of the child  
2577 from the home or provide other services related to meeting the  
2578 needs of the child and the parents.

2579 **SECTION 49.** Section 43-21-203, Mississippi Code of 1972, is  
2580 amended as follows:

2581 43-21-203. (1) The youth court shall be in session at all  
2582 times.

2583 (2) All cases involving children shall be heard at any place  
2584 the judge deems suitable but separately from the trial of cases  
2585 involving adults.

2586 (3) Hearings in all cases involving children shall be  
2587 conducted without a jury and may be recessed from time to time.

2588 (4) All hearings shall be conducted under such rules of  
2589 evidence and rules of court as may comply with applicable  
2590 constitutional standards.

2591 (5) No proceeding by the youth court in cases involving  
2592 children shall be a criminal proceeding but shall be entirely of a  
2593 civil nature.

2594 (6) The general public shall be excluded from the hearing,  
2595 and only those persons shall be admitted who are found by the  
2596 youth court to have a direct interest in the cause or work of the



2597 youth court. Any person found by the youth court to have a direct  
2598 interest in the cause shall have the right to appear and be  
2599 represented by legal counsel.

2600 (7) In all hearings, except detention and shelter hearings  
2601 under Section 43-21-309, a complete record of all evidence shall  
2602 be taken by stenographic reporting, by mechanical or electronic  
2603 device or by some combination thereof.

2604 (8) The youth court may exclude the attendance of a child  
2605 from a hearing in neglect and abuse cases with consent of the  
2606 child's counsel. The youth court may exclude the attendance of a  
2607 child from any portion of a disposition hearing that would be  
2608 injurious to the best interest of the child in delinquency and  
2609 children in need of supervision cases with consent of the child's  
2610 counsel.

2611 (9) All parties to a youth court cause shall have the right  
2612 at any hearing in which an investigation, record or report is  
2613 admitted in evidence:

2614 (a) To subpoena, confront and examine the person who  
2615 prepared or furnished data for the report; and

2616 (b) To introduce evidence controverting the contents of  
2617 the report.

2618 (10) Except as provided by Section 43-21-561(5) or as  
2619 otherwise provided by this chapter, the disposition of a child's  
2620 cause or any evidence given in the youth court in any proceedings



2621 concerning the child shall not be admissible against the child in  
2622 any case or proceeding in any court other than a youth court.

2623 (11) Except for emergency orders, a complete record of all  
2624 proceedings or hearings upon which enforceable orders are made by  
2625 the youth court shall be taken by stenographic reporting, by  
2626 mechanical or electronic device or by some combination thereof.  
2627 Emergency orders, if oral, shall be reduced to writing within  
2628 forty-eight (48) hours, excluding Saturdays, Sundays, and  
2629 statutory state holidays.

2630 **SECTION 50.** Section 43-21-257, Mississippi Code of 1972, is  
2631 amended as follows:

2632 43-21-257. (1) Unless otherwise provided in this section,  
2633 any record involving children, including valid and invalid  
2634 complaints, and the contents thereof maintained by the Department  
2635 of Human Services, The Department of Child Protection Services, or  
2636 any other state agency, shall be kept confidential and shall not  
2637 be disclosed except as provided in Section 43-21-261.

2638 (2) The Office of Youth Services shall maintain a state  
2639 central registry containing the number and disposition of all  
2640 cases together with such other useful information regarding those  
2641 cases as may be requested and is obtainable from the records of  
2642 the youth court. The Office of Youth Services shall annually  
2643 publish a statistical record of the number and disposition of all  
2644 cases, but the names or identity of any children shall not be  
2645 disclosed in the reports or records. The Office of Youth Services



2646 shall adopt such rules as may be necessary to carry out this  
2647 subsection. The central registry files and the contents thereof  
2648 shall be confidential and shall not be open to public inspection.  
2649 Any person who discloses or encourages the disclosure of any  
2650 record involving children from the central registry shall be  
2651 subject to the penalty in Section 43-21-267. The youth court  
2652 shall furnish, upon forms provided by the Office of Youth  
2653 Services, the necessary information, and these completed forms  
2654 shall be forwarded to the Office of Youth Services.

2655 (3) The Department of \* \* \* Child Protection Services shall  
2656 maintain a state central registry on neglect and abuse cases  
2657 containing (a) the name, address and age of each child, (b) the  
2658 nature of the harm reported, (c) the name and address of the  
2659 person responsible for the care of the child, and (d) the name and  
2660 address of the substantiated perpetrator of the harm reported.  
2661 "Substantiated perpetrator" shall be defined as an individual who  
2662 has committed an act(s) of sexual abuse or physical abuse that  
2663 would otherwise be deemed as a felony or any child neglect that  
2664 would be deemed as a threat to life, as determined upon  
2665 investigation by the \* \* \* Department of Child Protection  
2666 Services. "Substantiation" for the purposes of the Mississippi  
2667 Department of \* \* \* Child Protection Services Central Registry  
2668 shall require a criminal conviction or an adjudication by a youth  
2669 court judge or court of competent jurisdiction, ordering that the  
2670 name of the perpetrator be listed on the central registry, pending



2671 due process. The Department of \* \* \* Child Protection Services  
2672 shall adopt such rules and administrative procedures, especially  
2673 those procedures to afford due process to individuals who have  
2674 been named as substantiated perpetrators before the release of  
2675 their name from the central registry, as may be necessary to carry  
2676 out this subsection. The central registry shall be confidential  
2677 and shall not be open to public inspection. Any person who  
2678 discloses or encourages the disclosure of any record involving  
2679 children from the central registry without following the rules and  
2680 administrative procedures of the department shall be subject to  
2681 the penalty in Section 43-21-267. The Department of \* \* \* Child  
2682 Protection Services and its employees are exempt from any civil  
2683 liability as a result of any action taken pursuant to the  
2684 compilation and/or release of information on the central registry  
2685 under this section and any other applicable section of the code,  
2686 unless determined that an employee has willfully and maliciously  
2687 violated the rules and administrative procedures of the  
2688 department, pertaining to the central registry or any section of  
2689 this code. If an employee is determined to have willfully and  
2690 maliciously performed such a violation, said employee shall not be  
2691 exempt from civil liability in this regard.

2692 (4) The Mississippi State Department of Health may release  
2693 the findings of investigations into allegations of abuse within  
2694 licensed day care centers made under the provisions of Section  
2695 43-21-353(8) to any parent of a child who is enrolled in the day



2696 care center at the time of the alleged abuse or at the time the  
2697 request for information is made. The findings of any such  
2698 investigation may also be released to parents who are considering  
2699 placing children in the day care center. No information  
2700 concerning those investigations may contain the names or  
2701 identifying information of individual children.

2702 The Department of Health shall not be held civilly liable for  
2703 the release of information on any findings, recommendations or  
2704 actions taken pursuant to investigations of abuse that have been  
2705 conducted under Section 43-21-353(8).

2706 **SECTION 51.** Section 43-21-261, Mississippi Code of 1972, is  
2707 amended as follows:

2708 43-21-261. (1) Except as defined in Section 43-21-255  
2709 otherwise provided in this section, records involving children  
2710 shall not be disclosed, other than to necessary staff of the youth  
2711 court or a Court-Appointed Special Advocate (CASA) volunteer that  
2712 may be assigned in an abuse and neglect case, except pursuant to  
2713 an order of the youth court specifying the person or persons to  
2714 whom the records may be disclosed, the extent of the records which  
2715 may be disclosed and the purpose of the disclosure. Such court  
2716 orders for disclosure shall be limited to those instances in which  
2717 the youth court concludes, in its discretion, that disclosure is  
2718 required for the best interests of the child, the public safety or  
2719 the functioning of the youth court and then only to the following  
2720 persons:



2721 (a) The judge of another youth court or member of  
2722 another youth court staff;

2723 (b) The court of the parties in a child custody or  
2724 adoption cause in another court;

2725 (c) A judge of any other court or members of another  
2726 court staff;

2727 (d) Representatives of a public or private agency  
2728 providing supervision or having custody of the child under order  
2729 of the youth court;

2730 (e) Any person engaged in a bona fide research purpose,  
2731 provided that no information identifying the subject of the  
2732 records shall be made available to the researcher unless it is  
2733 absolutely essential to the research purpose and the judge gives  
2734 prior written approval, and the child, through his or her  
2735 representative, gives permission to release the information;

2736 (f) The Mississippi Department of Employment Security,  
2737 or its duly authorized representatives, for the purpose of a  
2738 child's enrollment into the Job Corps Training Program as  
2739 authorized by Title IV of the Comprehensive Employment Training  
2740 Act of 1973 (29 USCS Section 923 et seq.). However, no records,  
2741 reports, investigations or information derived therefrom  
2742 pertaining to child abuse or neglect shall be disclosed;

2743 (g) To any person pursuant to a finding by a judge of  
2744 the youth court of compelling circumstances affecting the health,  
2745 safety or well-being of a child and that such disclosure is in the



2746 best interests of the child or an adult who was formerly the  
2747 subject of a youth court delinquency proceeding.

2748 Law enforcement agencies may disclose information to the  
2749 public concerning the taking of a child into custody for the  
2750 commission of a delinquent act without the necessity of an order  
2751 from the youth court. The information released shall not identify  
2752 the child or his address unless the information involves a child  
2753 convicted as an adult.

2754 (2) Any records involving children which are disclosed under  
2755 an order of the youth court or pursuant to the terms of this  
2756 section and the contents thereof shall be kept confidential by the  
2757 person or agency to whom the record is disclosed unless otherwise  
2758 provided in the order. Any further disclosure of any records  
2759 involving children shall be made only under an order of the youth  
2760 court as provided in this section.

2761 (3) Upon request, the parent, guardian or custodian of the  
2762 child who is the subject of a youth court cause or any attorney  
2763 for such parent, guardian or custodian, shall have the right to  
2764 inspect any record, report or investigation which is to be  
2765 considered by the youth court at a hearing, except that the  
2766 identity of the reporter shall not be released, nor the name of  
2767 any other person where the person or agency making the information  
2768 available finds that disclosure of the information would be likely  
2769 to endanger the life or safety of such person. The attorney for  
2770 the parent, guardian or custodian of the child, upon request,





2771 shall be provided a copy of any record, report or investigation,  
2772 that is to be considered by the youth court at a hearing, but the  
2773 identity of the reporter must be redacted and the name of any  
2774 other person must also be redacted if the person or agency making  
2775 the information available finds that disclosure of the information  
2776 would be likely to endanger the life, safety or well-being of the  
2777 person. A record provided to the attorney under this section,  
2778 must remain in the attorney's control and the attorney may not  
2779 provide copies or access to another person or entity without prior  
2780 consent of a court with appropriate jurisdiction.

2781 (4) Upon request, the child who is the subject of a youth  
2782 court cause shall have the right to have his counsel inspect and  
2783 copy any record, report or investigation which is filed with the  
2784 youth court or which is to be considered by the youth court at a  
2785 hearing.

2786 (5) (a) The youth court prosecutor or prosecutors, the  
2787 county attorney, the district attorney, the youth court defender  
2788 or defenders, or any attorney representing a child shall have the  
2789 right to inspect and copy any law enforcement record involving  
2790 children.

2791 (b) The Department of Human Services shall disclose to  
2792 a county prosecuting attorney or district attorney any and all  
2793 records resulting from an investigation into suspected child abuse  
2794 or neglect when the case has been referred by the Department of



2795 Human Services to the county prosecuting attorney or district  
2796 attorney for criminal prosecution.

2797 (c) Agency records made confidential under the  
2798 provisions of this section may be disclosed to a court of  
2799 competent jurisdiction.

2800 (d) Records involving children shall be disclosed to  
2801 the Division of Victim Compensation of the Office of the Attorney  
2802 General upon the division's request without order of the youth  
2803 court for purposes of determination of eligibility for victim  
2804 compensation benefits.

2805 (6) Information concerning an investigation into a report of  
2806 child abuse or child neglect may be disclosed by the Department of  
2807 Human Services without order of the youth court to any attorney,  
2808 physician, dentist, intern, resident, nurse, psychologist, social  
2809 worker, family protection worker, family protection specialist,  
2810 child caregiver, minister, law enforcement officer, public or  
2811 private school employee making that report pursuant to Section  
2812 43-21-353(1) if the reporter has a continuing professional  
2813 relationship with the child and a need for such information in  
2814 order to protect or treat the child.

2815 (7) Information concerning an investigation into a report of  
2816 child abuse or child neglect may be disclosed without further  
2817 order of the youth court to any interagency child abuse task force  
2818 established in any county or municipality by order of the youth  
2819 court of that county or municipality.



2820 (8) Names and addresses of juveniles twice adjudicated as  
2821 delinquent for an act which would be a felony if committed by an  
2822 adult or for the unlawful possession of a firearm shall not be  
2823 held confidential and shall be made available to the public.

2824 (9) Names and addresses of juveniles adjudicated as  
2825 delinquent for murder, manslaughter, burglary, arson, armed  
2826 robbery, aggravated assault, any sex offense as defined in Section  
2827 45-33-23, for any violation of Section 41-29-139(a)(1) or for any  
2828 violation of Section 63-11-30, shall not be held confidential and  
2829 shall be made available to the public.

2830 (10) The judges of the circuit and county courts, and  
2831 presentence investigators for the circuit courts, as provided in  
2832 Section 47-7-9, shall have the right to inspect any youth court  
2833 records of a person convicted of a crime for sentencing purposes  
2834 only.

2835 (11) The victim of an offense committed by a child who is  
2836 the subject of a youth court cause shall have the right to be  
2837 informed of the child's disposition by the youth court.

2838 (12) A classification hearing officer of the State  
2839 Department of Corrections, as provided in Section 47-5-103, shall  
2840 have the right to inspect any youth court records, excluding abuse  
2841 and neglect records, of any offender in the custody of the  
2842 department who as a child or minor was a juvenile offender or was  
2843 the subject of a youth court cause of action, and the State Parole  
2844 Board, as provided in Section 47-7-17, shall have the right to



2845 inspect such records when the offender becomes eligible for  
2846 parole.

2847 (13) The youth court shall notify the Department of Public  
2848 Safety of the name, and any other identifying information such  
2849 department may require, of any child who is adjudicated delinquent  
2850 as a result of a violation of the Uniform Controlled Substances  
2851 Law.

2852 (14) The Administrative Office of Courts shall have the  
2853 right to inspect any youth court records in order that the number  
2854 of youthful offenders, abused, neglected, truant and dependent  
2855 children, as well as children in need of special care and children  
2856 in need of supervision, may be tracked with specificity through  
2857 the youth court and adult justice system, and to utilize tracking  
2858 forms for such purpose.

2859 (15) Upon a request by a youth court, the Administrative  
2860 Office of Courts shall disclose all information at its disposal  
2861 concerning any previous youth court intakes alleging that a child  
2862 was a delinquent child, child in need of supervision, child in  
2863 need of special care, truant child, abused child or neglected  
2864 child, as well as any previous youth court adjudications for the  
2865 same and all dispositional information concerning a child who at  
2866 the time of such request comes under the jurisdiction of the youth  
2867 court making such request.

2868 (16) The Administrative Office of Courts may, in its  
2869 discretion, disclose to the Department of Public Safety any or all



2870 of the information involving children contained in the office's  
2871 youth court data management system known as Mississippi Youth  
2872 Court Information Delivery System or "MYCIDS."

2873 (17) The youth courts of the state shall disclose to the  
2874 Joint Legislative Committee on Performance Evaluation and  
2875 Expenditure Review (PEER) any youth court records in order that  
2876 the number of youthful offenders, abused, neglected, truant and  
2877 dependent children, as well as children in need of special care  
2878 and children in need of supervision, may be tracked with  
2879 specificity through the youth court and adult justice system, and  
2880 to utilize tracking forms for such purpose. The disclosure  
2881 prescribed in this subsection shall not require a court order and  
2882 shall be made in sortable, electronic format where possible. The  
2883 PEER Committee may seek the assistance of the Administrative  
2884 Office of Courts in seeking this information. The PEER Committee  
2885 shall not disclose the identities of any youth who have been  
2886 adjudicated in the youth courts of the state and shall only use  
2887 the disclosed information for the purpose of monitoring the  
2888 effectiveness and efficiency of programs established to assist  
2889 adjudicated youth, and to ascertain the incidence of adjudicated  
2890 youth who become adult offenders.

2891 (18) In every case where an abuse or neglect allegation has  
2892 been made, the confidentiality provisions of this section shall  
2893 not apply to prohibit access to a child's records by any state  
2894 regulatory agency, any state or local prosecutorial agency or law



2895 enforcement agency; however, no identifying information concerning  
2896 the child in question may be released to the public by such agency  
2897 except as otherwise provided herein.

2898 (19) In every case where there is any indication or  
2899 suggestion of either abuse or neglect and a child's physical  
2900 condition is medically labeled as medically "serious" or  
2901 "critical" or a child dies, the confidentiality provisions of this  
2902 section shall not apply. In cases of child deaths, the following  
2903 information may be released by the Mississippi Department of Human  
2904 Services: (a) child's name; (b) address or location; (c)  
2905 verification from the Department of Human Services of case status  
2906 (no case or involvement, case exists, open or active case, case  
2907 closed); (d) if a case exists, the type of report or case  
2908 (physical abuse, neglect, etc.), date of intake(s) and  
2909 investigation(s), and case disposition (substantiated or  
2910 unsubstantiated). Notwithstanding the aforesaid, the  
2911 confidentiality provisions of this section shall continue if there  
2912 is a pending or planned investigation by any local, state or  
2913 federal governmental agency or institution.

2914 (20) Any member of a foster care review board designated by  
2915 the Department of Human Services shall have the right to inspect  
2916 youth court records relating to the abuse, neglect or child in  
2917 need of supervision cases assigned to such member for review.

2918 (21) Information concerning an investigation into a report  
2919 of child abuse or child neglect may be disclosed without further



2920 order of the youth court in any administrative or due process  
2921 hearing held, pursuant to Section 43-21-257, by the Department of  
2922 Human Services for individuals whose names will be placed on the  
2923 central registry as substantiated perpetrators.

2924 (22) The Department of Child Protection Services shall have  
2925 access to all records involving a child who is the subject of a  
2926 report of abuse or neglect.

2927 (23) The Department of Child Protection Services may  
2928 disclose records involving children to the following if the  
2929 individual, agency or organization agrees in writing to maintain  
2930 the confidentiality of the records:

2931 (a) A foster home, residential child-caring agency or  
2932 child-placing agency to the extent necessary to provide such care  
2933 and services to a child;

2934 (b) An individual, agency or organization that provides  
2935 services to a child or the child's family in furtherance of the  
2936 child's permanency plan to the extent necessary in providing those  
2937 services;

2938 (c) Health and mental health care providers of a child  
2939 to the extent necessary for the provider to properly treat and  
2940 care for the child;

2941 (d) The school where the child is enrolled or where  
2942 enrollment is anticipated to the extent necessary for the school  
2943 to provide appropriate services to the child; and



2944           (e) Any other state agency if the disclosure is  
2945 necessary to the department in fulfilling its statutory  
2946 responsibilities in protecting the best interests of the child.

2947           **SECTION 52.** Section 43-21-301, Mississippi Code of 1972, is  
2948 amended as follows:

2949           43-21-301. (1) No court other than the youth court shall  
2950 issue an arrest warrant or custody order for a child in a matter  
2951 in which the youth court has exclusive original jurisdiction but  
2952 shall refer the matter to the youth court.

2953           (2) Except as otherwise provided, no child in a matter in  
2954 which the youth court has exclusive original jurisdiction shall be  
2955 taken into custody by a law enforcement officer, the Department of  
2956 Human Services, the Department of Child Protection Services, or  
2957 any other person unless the judge or his designee has issued a  
2958 custody order to take the child into custody.

2959           (3) The judge or his designee may require a law enforcement  
2960 officer, the Department of Human Services, the Department of Child  
2961 Protection Services, or any suitable person to take a child into  
2962 custody for a period not longer than forty-eight (48) hours,  
2963 excluding Saturdays, Sundays, and statutory state holidays.

2964           (a) Custody orders under this subsection may be issued  
2965 if it appears that there is probable cause to believe that:

2966                   (i) The child is within the jurisdiction of the  
2967 court;





2968 (ii) Custody is necessary because of any of the  
2969 following reasons: the child is endangered, any person would be  
2970 endangered by the child, to ensure the child's attendance in court  
2971 at such time as required, or a parent, guardian or custodian is  
2972 not available to provide for the care and supervision of the  
2973 child; and

2974 (iii) There is no reasonable alternative to  
2975 custody.

2976 A finding of probable cause, as prescribed under this  
2977 paragraph, shall not be based solely upon a positive drug test of  
2978 a child's parent for \* \* \* a controlled substance; nor shall a  
2979 finding of probable cause be based on the use of any medication,  
2980 for which there is a prescription, including those medications  
2981 prescribed as a part of a medication assisted drug treatment  
2982 program, such as methadone and suboxone. However, a finding of  
2983 probable cause may be based upon an evidence-based finding of harm  
2984 to the child or a parent's inability to provide for the care and  
2985 supervision of the child due to the parent's use of \* \* \* a  
2986 controlled substance.

2987 (b) Custody orders under this subsection shall be  
2988 written. In emergency cases, a judge or his designee may issue an  
2989 oral custody order, but the order shall be reduced to writing  
2990 within forty-eight (48) hours of its issuance.



2991 (c) Each youth court judge shall develop and make  
2992 available to law enforcement a list of designees who are available  
2993 after hours, on weekends and on holidays.

2994 (4) The judge or his designee may order, orally or in  
2995 writing, the immediate release of any child in the custody of any  
2996 person or agency. Except as otherwise provided in subsection (3)  
2997 of this section, custody orders as provided by this chapter and  
2998 authorizations of temporary custody may be written or oral, but,  
2999 if oral, reduced to writing as soon as practicable. The written  
3000 order shall:

3001 (a) Specify the name and address of the child, or, if  
3002 unknown, designate him or her by any name or description by which  
3003 he or she can be identified with reasonable certainty;

3004 (b) Specify the age of the child, or, if unknown, that  
3005 he or she is believed to be of an age subject to the jurisdiction  
3006 of the youth court;

3007 (c) Except in cases where the child is alleged to be a  
3008 delinquent child or a child in need of supervision, state that the  
3009 effect of the continuation of the child's residing within his or  
3010 her own home would be contrary to the welfare of the child, that  
3011 the placement of the child in foster care is in the best interests  
3012 of the child, and unless the reasonable efforts requirement is  
3013 bypassed under Section 43-21-603(7)(c), also state that (i)  
3014 reasonable efforts have been made to maintain the child within his  
3015 or her own home, but that the circumstances warrant his removal



3016 and there is no reasonable alternative to custody; or (ii) the  
3017 circumstances are of such an emergency nature that no reasonable  
3018 efforts have been made to maintain the child within his own home,  
3019 and that there is no reasonable alternative to custody. If the  
3020 court makes a finding in accordance with (ii) of this paragraph,  
3021 the court shall order that reasonable efforts be made towards the  
3022 reunification of the child with his or her family;

3023 (d) State that the child shall be brought immediately  
3024 before the youth court or be taken to a place designated by the  
3025 order to be held pending review of the order;

3026 (e) State the date issued and the youth court by which  
3027 the order is issued; and

3028 (f) Be signed by the judge or his designee with the  
3029 title of his office.

3030 (5) The taking of a child into custody shall not be  
3031 considered an arrest except for evidentiary purposes.

3032 (6) (a) No child who has been accused or adjudicated of any  
3033 offense that would not be a crime if committed by an adult shall  
3034 be placed in an adult jail or lockup. An accused status offender  
3035 shall not be held in secure detention longer than twenty-four (24)  
3036 hours prior to and twenty-four (24) hours after an initial court  
3037 appearance, excluding Saturdays, Sundays and statutory state  
3038 holidays, except under the following circumstances: a status  
3039 offender may be held in secure detention for violating a valid  
3040 court order pursuant to the criteria as established by the federal



3041 Juvenile Justice and Delinquency Prevention Act of 2002, and any  
3042 subsequent amendments thereto, and out-of-state runaways may be  
3043 detained pending return to their home state.

3044 (b) No accused or adjudicated juvenile offender, except  
3045 for an accused or adjudicated juvenile offender in cases where  
3046 jurisdiction is waived to the adult criminal court, shall be  
3047 detained or placed into custody of any adult jail or lockup for a  
3048 period in excess of six (6) hours.

3049 (c) If any county violates the provisions of paragraph  
3050 (a) or (b) of this subsection, the state agency authorized to  
3051 allocate federal funds received pursuant to the Juvenile Justice  
3052 and Delinquency Prevention Act of 1974, 88 Stat. 2750 (codified in  
3053 scattered Sections of 5, 18, 42 USCS), shall withhold the county's  
3054 share of such funds.

3055 (d) Any county that does not have a facility in which  
3056 to detain its juvenile offenders in compliance with the provisions  
3057 of paragraphs (a) and (b) of this subsection may enter into a  
3058 contractual agreement to detain or place into custody the juvenile  
3059 offenders of that county with any county or municipality that does  
3060 have such a facility, or with the State of Mississippi, or with  
3061 any private entity that maintains a juvenile correctional  
3062 facility.

3063 (e) Notwithstanding the provisions of paragraphs (a),  
3064 (b), (c) and (d) of this subsection, all counties shall be allowed



3065 a one-year grace period from March 27, 1993, to comply with the  
3066 provisions of this subsection.

3067 **SECTION 53.** Section 43-21-309, Mississippi Code of 1972, is  
3068 amended as follows:

3069 43-21-309. (1) A child who has been ordered or taken into  
3070 custody may be held in custody for longer than temporary custody  
3071 if:

3072 (a) A written complaint or petition has been filed; and

3073 (b) A court order has been entered for continued  
3074 custody following a review of that custody at a detention hearing  
3075 in delinquency and child in need of supervision cases and at a  
3076 shelter hearing in abuse and neglect cases.

3077 (2) Reasonable oral or written notice of the time, place and  
3078 purpose of the hearing shall be given to the child; to his or her  
3079 parent, guardian or custodian; to his or her guardian ad litem, if  
3080 any; to his or her Court-Appointed Special Advocate (CASA)  
3081 volunteer, if any; and to his or her counsel. If the parent,  
3082 guardian or custodian cannot be found, the youth court may hold  
3083 the hearing in the absence of the child's parent, guardian or  
3084 custodian.

3085 (3) At the detention or shelter hearing, all parties present  
3086 shall have the right to present evidence and cross-examine  
3087 witnesses produced by others. The youth court may, in its  
3088 discretion, limit the extent but not the right or presentation of  
3089 evidence and cross-examination of witnesses. The youth court may



3090 receive any testimony and other evidence relevant to the necessity  
3091 for the continued custody of the child without regard to the  
3092 formal rules of evidence, including hearsay and opinion evidence.  
3093 All testimony shall be made under oath and may be in narrative  
3094 form.

3095 (4) (a) At the conclusion of the detention or shelter  
3096 hearing, the youth court shall order that the child be released to  
3097 the custody of the child's parent, guardian or custodian unless  
3098 the youth court finds and the detention or shelter hearing order  
3099 recites that:

3100 (i) There is probable cause that the youth court  
3101 has jurisdiction; \* \* \*

3102 (ii) Custody is necessary as defined in Section  
3103 43-21-301(3)(b) \* \* \*; and

3104 (iii) A factual finding supporting the necessity  
3105 of custody.

3106 (b) In the case of a shelter hearing, the shelter  
3107 hearing order shall further recite that the effect of the  
3108 continuation of the child's residing within his or her own home  
3109 would be contrary to the welfare of the child, that the placement  
3110 of the child in foster care is in the best interest of the child,  
3111 and, unless the reasonable efforts requirement is bypassed under  
3112 Section 43-21-603(7)(c), the order also must state:



3113 (i) Reasonable efforts have been made to maintain  
3114 the child within his own home, but that the circumstances warrant  
3115 his removal and there is no reasonable alternative to custody; or

3116 (ii) The circumstances are of such an emergency  
3117 nature that no reasonable efforts have been made to maintain the  
3118 child within his own home, and there is no reasonable alternative  
3119 to custody.

3120 (c) In the event that the court makes a finding in  
3121 accordance with paragraph (b) (ii) of this subsection, the court  
3122 shall order that reasonable efforts be made towards the  
3123 reunification of the child with his or her family.

3124 (5) The child with advice of counsel may waive in writing  
3125 the time of the detention hearing or the detention hearing itself.  
3126 The child's guardian ad litem, and parent, guardian or custodian,  
3127 and child may waive in writing the time of the shelter hearing or  
3128 the shelter hearing itself. If the child has not reached his  
3129 tenth birthday, the child's consent shall not be required.

3130 (6) Any order placing a child into custody shall comply with  
3131 the requirements provided in Section 43-21-301.

3132 **SECTION 54.** Section 43-21-315, Mississippi Code of 1972, is  
3133 amended as follows:

3134 43-21-315. (1) The youth court shall, by general order or  
3135 rule of court, designate the available detention or shelter  
3136 facilities to which children shall be delivered when taken into  
3137 custody. Copies of the order or rule shall be made available to



3138 the Department of Human Services \* \* \*, the Department of Child  
3139 Protection Services and all law enforcement agencies within the  
3140 territorial jurisdiction of the youth court.

3141 (2) Except as otherwise provided in this chapter, unless  
3142 jurisdiction is transferred, no child shall be placed in any jail  
3143 or place of detention of adults by any person or court unless the  
3144 child shall be physically segregated from other persons not  
3145 subject to the jurisdiction of the youth court and the physical  
3146 arrangement of such jail or place of detention of adults prevents  
3147 such child from having substantial contact with and substantial  
3148 view of such other persons; but in any event, the child shall not  
3149 be confined anywhere in the same cell with persons not subject to  
3150 the jurisdiction of the youth court. Any order placing a child  
3151 into custody shall comply with the detention requirements provided  
3152 in Section 43-21-301(6). This subsection shall not be construed  
3153 to apply to commitments to the training school under Section  
3154 43-21-605(1)(g)(iii).

3155 (3) Any child who is charged with a hunting or fishing  
3156 violation, a traffic violation, or any other criminal offense for  
3157 which the youth court shall have power on its own motion to remove  
3158 jurisdiction from any criminal court, may be detained only in the  
3159 same facilities designated by the youth court for children within  
3160 the jurisdiction of the youth court.

3161 (4) After a child is ordered into custody, the youth court  
3162 may arrange for the custody of the child with any private





3163 institution or agency caring for children, may commit the child to  
3164 the Department of Mental Health pursuant to Section 41-21-61 et  
3165 seq., or may order the Department of Human Services \* \* \*, the  
3166 Department of Child Protection Services or any other public agency  
3167 to provide for the custody, care and maintenance of such child.  
3168 Provided, however, that the care, custody and maintenance of such  
3169 child shall be within the statutory authorization and the  
3170 budgetary means of such institution or facility.

3171 **SECTION 55.** Section 43-21-351, Mississippi Code of 1972, is  
3172 amended as follows:

3173 43-21-351. (1) Any person or agency having knowledge that a  
3174 child residing or being within the county is within the  
3175 jurisdiction of the youth court may make a written report to the  
3176 intake unit alleging facts sufficient to establish the  
3177 jurisdiction of the youth court. The report shall bear a  
3178 permanent number that will be assigned by the court in accordance  
3179 with the standards established by the Administrative Office of  
3180 Courts pursuant to Section 9-21-9(d), and shall be preserved until  
3181 destroyed on order of the court.

3182 (2) There shall be in each youth court of the state an  
3183 intake officer who shall be responsible for the accurate and  
3184 timely entering of all intake and case information into the  
3185 Mississippi Youth Court Information Delivery System (MYCIDS) for  
3186 the Division of Youth Services, truancy matters and the \* \* \*  
3187 Department of Child Protection Services. It shall be the



3188 responsibility of the youth court judge or referee of each county  
3189 to ensure that the intake officer is carrying out the  
3190 responsibility of this section.

3191         **SECTION 56.** Section 43-21-353, Mississippi Code of 1972, is  
3192 amended as follows:

3193         43-21-353. (1) Any attorney, physician, dentist, intern,  
3194 resident, nurse, psychologist, social worker, family protection  
3195 worker, family protection specialist, child caregiver, minister,  
3196 law enforcement officer, public or private school employee or any  
3197 other person having reasonable cause to suspect that a child is a  
3198 neglected child or an abused child, shall cause an oral report to  
3199 be made immediately by telephone or otherwise and followed as soon  
3200 thereafter as possible by a report in writing to the Department  
3201 of \* \* \* Child Protection Services \* \* \*. In the course of an  
3202 investigation, at the initial time of contact with the  
3203 individual(s) about whom a report has been made under this Youth  
3204 Court Act or with the individual(s) responsible for the health or  
3205 welfare of a child about whom a report has been made under this  
3206 chapter, the Department of \* \* \* Child Protection Services shall  
3207 inform the individual of the specific complaints or allegations  
3208 made against the individual. Consistent with subsection (4), the  
3209 identity of the person who reported his or her suspicion shall not  
3210 be disclosed. Where appropriate, the Department of \* \* \* Child  
3211 Protection Services shall additionally make a referral to the  
3212 youth court prosecutor.



3213           Upon receiving a report that a child has been sexually  
3214 abused, or burned, tortured, mutilated or otherwise physically  
3215 abused in such a manner as to cause serious bodily harm, or upon  
3216 receiving any report of abuse that would be a felony under state  
3217 or federal law, the Department of \* \* \* Child Protection Services  
3218 shall immediately notify the law enforcement agency in whose  
3219 jurisdiction the abuse occurred and shall notify the appropriate  
3220 prosecutor within forty-eight (48) hours, and the Department  
3221 of \* \* \* Child Protection Services shall have the duty to provide  
3222 the law enforcement agency all the names and facts known at the  
3223 time of the report; this duty shall be of a continuing nature.  
3224 The law enforcement agency and the Department of \* \* \* Child  
3225 Protection Services shall investigate the reported abuse  
3226 immediately and shall file a preliminary report with the  
3227 appropriate prosecutor's office within twenty-four (24) hours and  
3228 shall make additional reports as new or additional information or  
3229 evidence becomes available. The Department of \* \* \* Child  
3230 Protection Services shall advise the clerk of the youth court and  
3231 the youth court prosecutor of all cases of abuse reported to the  
3232 department within seventy-two (72) hours and shall update such  
3233 report as information becomes available.

3234           (2) Any report to the Department of \* \* \* Child Protection  
3235 Services shall contain the names and addresses of the child and  
3236 his parents or other persons responsible for his care, if known,  
3237 the child's age, the nature and extent of the child's injuries,



3238 including any evidence of previous injuries \* \* \*, any other  
3239 information that might be helpful in establishing the cause of the  
3240 injury, and the identity of the perpetrator.

3241 (3) The Department of \* \* \* Child Protection Services shall  
3242 maintain a statewide incoming wide-area telephone service or  
3243 similar service for the purpose of receiving reports of suspected  
3244 cases of child abuse; provided that any attorney, physician,  
3245 dentist, intern, resident, nurse, psychologist, social worker,  
3246 family protection worker, family protection specialist, child  
3247 caregiver, minister, law enforcement officer or public or private  
3248 school employee who is required to report under subsection (1) of  
3249 this section shall report in the manner required in subsection  
3250 (1).

3251 (4) Reports of abuse and neglect made under this chapter and  
3252 the identity of the reporter are confidential except when the  
3253 court in which the investigation report is filed, in its  
3254 discretion, determines the testimony of the person reporting to be  
3255 material to a judicial proceeding or when the identity of the  
3256 reporter is released to law enforcement agencies and the  
3257 appropriate prosecutor pursuant to subsection (1). Reports made  
3258 under this section to any law enforcement agency or prosecutorial  
3259 officer are for the purpose of criminal investigation and  
3260 prosecution only and no information from these reports may be  
3261 released to the public except as provided by Section 43-21-261.  
3262 Disclosure of any information by the prosecutor shall be according



3263 to the Mississippi Uniform Rules of Circuit and County Court  
3264 Procedure. The identity of the reporting party shall not be  
3265 disclosed to anyone other than law enforcement officers or  
3266 prosecutors without an order from the appropriate youth court.  
3267 Any person disclosing any reports made under this section in a  
3268 manner not expressly provided for in this section or Section  
3269 43-21-261 shall be guilty of a misdemeanor and subject to the  
3270 penalties prescribed by Section 43-21-267.

3271 (5) All final dispositions of law enforcement investigations  
3272 described in subsection (1) of this section shall be determined  
3273 only by the appropriate prosecutor or court. All final  
3274 dispositions of investigations by the Department of \* \* \* Child  
3275 Protection Services as described in subsection (1) of this section  
3276 shall be determined only by the youth court. Reports made under  
3277 subsection (1) of this section by the Department of \* \* \* Child  
3278 Protection Services to the law enforcement agency and to the  
3279 district attorney's office shall include the following, if known  
3280 to the department:

- 3281 (a) The name and address of the child;
- 3282 (b) The names and addresses of the parents;
- 3283 (c) The name and address of the suspected perpetrator;
- 3284 (d) The names and addresses of all witnesses, including  
3285 the reporting party if a material witness to the abuse;
- 3286 (e) A brief statement of the facts indicating that the  
3287 child has been abused and any other information from the agency



3288 files or known to the family protection worker or family  
3289 protection specialist making the investigation, including medical  
3290 records or other records, which may assist law enforcement or the  
3291 district attorney in investigating and/or prosecuting the case;  
3292 and

3293 (f) What, if any, action is being taken by the  
3294 Department of \* \* \* Child Protection Services.

3295 (6) In any investigation of a report made under this chapter  
3296 of the abuse or neglect of a child as defined in Section  
3297 43-21-105(m), the Department of \* \* \* Child Protection Services  
3298 may request the appropriate law enforcement officer with  
3299 jurisdiction to accompany the department in its investigation, and  
3300 in such cases the law enforcement officer shall comply with such  
3301 request.

3302 (7) Anyone who willfully violates any provision of this  
3303 section shall be, upon being found guilty, punished by a fine not  
3304 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in  
3305 jail not to exceed one (1) year, or both.

3306 (8) If a report is made directly to the Department of \* \* \*  
3307 Child Protection Services that a child has been abused or  
3308 neglected in an out-of-home setting, a referral shall be made  
3309 immediately to the law enforcement agency in whose jurisdiction  
3310 the abuse occurred and the department shall notify the district  
3311 attorney's office within forty-eight (48) hours of such report.  
3312 The Department of \* \* \* Child Protection Services shall



3313 investigate the out-of-home setting report of abuse or neglect to  
3314 determine whether the child who is the subject of the report, or  
3315 other children in the same environment, comes within the  
3316 jurisdiction of the youth court and shall report to the youth  
3317 court the department's findings and recommendation as to whether  
3318 the child who is the subject of the report or other children in  
3319 the same environment require the protection of the youth court.  
3320 The law enforcement agency shall investigate the reported abuse  
3321 immediately and shall file a preliminary report with the district  
3322 attorney's office within forty-eight (48) hours and shall make  
3323 additional reports as new information or evidence becomes  
3324 available. If the out-of-home setting is a licensed facility, an  
3325 additional referral shall be made by the Department of \* \* \* Child  
3326 Protection Services to the licensing agency. The licensing agency  
3327 shall investigate the report and shall provide the Department  
3328 of \* \* \* Child Protection Services, the law enforcement agency and  
3329 the district attorney's office with their written findings from  
3330 such investigation as well as that licensing agency's  
3331 recommendations and actions taken.

3332 \* \* \*

3333 **SECTION 57.** Section 43-21-354, Mississippi Code of 1972, is  
3334 amended as follows:

3335 43-21-354. The statewide incoming wide area telephone  
3336 service established pursuant to Section 43-21-353, Mississippi  
3337 Code of 1972, shall be maintained by the \* \* \* Department of Child



3338 Protection Services, or its successor, on a twenty-four-hour seven  
3339 (7) days a week basis.

3340 **SECTION 58.** Section 43-21-357, Mississippi Code of 1972, is  
3341 amended as follows:

3342 43-21-357. (1) After receiving a report, the youth court  
3343 intake unit shall promptly make a preliminary inquiry to determine  
3344 whether the interest of the child, other children in the same  
3345 environment or the public requires the youth court to take further  
3346 action. As part of the preliminary inquiry, the youth court  
3347 intake unit may request or the youth court may order the  
3348 Department of Human Services, the Department of Youth Services,  
3349 the Department of Child Protection Services, any successor agency  
3350 or any other qualified public employee to make an investigation or  
3351 report concerning the child and any other children in the same  
3352 environment, and present the findings thereof to the youth court  
3353 intake unit. If the youth court intake unit receives a neglect or  
3354 abuse report, the youth court intake unit shall immediately  
3355 forward the complaint to the Department of \* \* \* Child Protection  
3356 Services to promptly make an investigation or report concerning  
3357 the child and any other children in the same environment and  
3358 promptly present the findings thereof to the youth court intake  
3359 unit. If it appears from the preliminary inquiry that the child  
3360 or other children in the same environment are within the  
3361 jurisdiction of the court, the youth court intake unit shall  
3362 recommend to the youth court:





- 3363 (a) That the youth court take no action;
- 3364 (b) That an informal adjustment be made;
- 3365 (c) The \* \* \* Department of Child Protection Services,
- 3366 monitor the child, family and other children in the same
- 3367 environment;
- 3368 (d) That the child is warned or counseled informally;
- 3369 (e) That the child be referred to the youth court drug
- 3370 court; or
- 3371 (f) That a petition be filed.
- 3372 (2) The youth court shall then, without a hearing:
- 3373 (a) Order that no action be taken;
- 3374 (b) Order that an informal adjustment be made;
- 3375 (c) Order that the Department of \* \* \* Child Protection
- 3376 Services, \* \* \* monitor the child, family and other children in
- 3377 the same environment;
- 3378 (d) Order that the child is warned or counseled
- 3379 informally;
- 3380 (e) That the child be referred to the youth court drug
- 3381 court; or
- 3382 (f) Order that a petition be filed.
- 3383 (3) If the preliminary inquiry discloses that a child needs
- 3384 emergency medical treatment, the judge may order the necessary
- 3385 treatment.

3386 **SECTION 59.** Section 43-21-405, Mississippi Code of 1972, is

3387 amended as follows:



3388 43-21-405. (1) The informal adjustment process shall be  
3389 initiated with an informal adjustment conference conducted by an  
3390 informal adjustment counselor appointed by the judge or his  
3391 designee.

3392 (2) If the child and his parent, guardian or custodian  
3393 appear at the informal adjustment conference without counsel, the  
3394 informal adjustment counselor shall, at the commencement of the  
3395 conference, inform them of their right to counsel, the child's  
3396 right to appointment of counsel and the right of the child to  
3397 remain silent. If either the child or his parent, guardian or  
3398 custodian indicates a desire to be represented by counsel, the  
3399 informal adjustment counselor shall adjourn the conference to  
3400 afford an opportunity to secure counsel.

3401 (3) At the beginning of the informal adjustment conference,  
3402 the informal adjustment counselor shall inform the child and his  
3403 parent, guardian or custodian:

3404 (a) That information has been received concerning the  
3405 child which appears to establish jurisdiction of the youth court;

3406 (b) The purpose of the informal adjustment conference;

3407 (c) That during the informal adjustment process no  
3408 petition will be filed;

3409 (d) That the informal adjustment process is voluntary  
3410 with the child and his parent, guardian or custodian and that they  
3411 may withdraw from the informal adjustment at any time; and



3412 (e) The circumstances under which the informal  
3413 adjustment process can be terminated under Section 43-21-407.

3414 (4) The informal adjustment counselor shall then discuss  
3415 with the child and his parent, guardian or custodian:

3416 (a) Recommendations for actions or conduct in the  
3417 interest of the child to correct the conditions of behavior or  
3418 environment which may exist;

3419 (b) Continuing conferences and contacts with the child  
3420 and his parent, guardian or custodian by the informal adjustment  
3421 counselor or other authorized persons; and

3422 (c) The child's general behavior, his home and school  
3423 environment and other factors bearing upon the proposed informal  
3424 adjustment.

3425 (5) After the parties have agreed upon the appropriate terms  
3426 and conditions of informal adjustment, the informal adjustment  
3427 counselor and the child and his parent, guardian or custodian  
3428 shall sign a written informal adjustment agreement setting forth  
3429 the terms and conditions of the informal adjustment. The informal  
3430 adjustment agreement may be modified at any time upon the consent  
3431 of all parties to the informal adjustment conference.

3432 (6) The informal adjustment process shall not continue  
3433 beyond a period of six (6) months from its commencement unless  
3434 extended by the youth court for an additional period not to exceed  
3435 six (6) months by court authorization prior to the expiration of  
3436 the original six-month period. In no event shall the custody or



3437 supervision of a child which has been placed with the Department  
3438 of \* \* \* Human Services or the Department of Child Protection  
3439 Services be continued or extended except upon a written finding by  
3440 the youth court judge or referee that reasonable efforts have been  
3441 made to maintain the child within his own home, but that the  
3442 circumstances warrant his removal and there is no reasonable  
3443 alternative to custody, and that reasonable efforts will continue  
3444 to be made towards reunification of the family.

3445         **SECTION 60.** Section 43-21-603, Mississippi Code of 1972, is  
3446 amended as follows:

3447             43-21-603. (1) At the beginning of each disposition  
3448 hearing, the judge shall inform the parties of the purpose of the  
3449 hearing.

3450             (2) All testimony shall be under oath unless waived by all  
3451 parties and may be in narrative form. The court may consider any  
3452 evidence that is material and relevant to the disposition of the  
3453 cause, including hearsay and opinion evidence. At the conclusion  
3454 of the evidence, the youth court shall give the parties an  
3455 opportunity to present oral argument.

3456             (3) If the child has been adjudicated a delinquent child,  
3457 before entering a disposition order, the youth court should  
3458 consider, among others, the following relevant factors:

- 3459                     (a) The nature of the offense;
- 3460                     (b) The manner in which the offense was committed;



3461 (c) The nature and number of a child's prior  
3462 adjudicated offenses;

3463 (d) The child's need for care and assistance;

3464 (e) The child's current medical history, including  
3465 medication and diagnosis;

3466 (f) The child's mental health history, which may  
3467 include, but not be limited to, the Massachusetts Youth Screening  
3468 Instrument version 2 (MAYSI-2);

3469 (g) Copies of the child's cumulative record from the  
3470 last school of record, including special education records, if  
3471 applicable;

3472 (h) Recommendation from the school of record based on  
3473 areas of remediation needed;

3474 (i) Disciplinary records from the school of record; and

3475 (j) Records of disciplinary actions outside of the  
3476 school setting.

3477 (4) If the child has been adjudicated a child in need of  
3478 supervision, before entering a disposition order, the youth court  
3479 should consider, among others, the following relevant factors:

3480 (a) The nature and history of the child's conduct;

3481 (b) The family and home situation; and

3482 (c) The child's need of care and assistance.

3483 (5) If the child has been adjudicated a neglected child or  
3484 an abused child, before entering a disposition order, the youth



3485 court shall consider, among others, the following relevant  
3486 factors:

3487 (a) The child's physical and mental conditions;

3488 (b) The child's need of assistance;

3489 (c) The manner in which the parent, guardian or  
3490 custodian participated in, tolerated or condoned the abuse,  
3491 neglect or abandonment of the child;

3492 (d) The ability of a child's parent, guardian or  
3493 custodian to provide proper supervision and care of a child; and

3494 (e) Relevant testimony and recommendations, where  
3495 available, from the foster parent of the child, the grandparents  
3496 of the child, the guardian ad litem of the child, representatives  
3497 of any private care agency that has cared for the child, the  
3498 family protection worker or family protection specialist assigned  
3499 to the case, and any other relevant testimony pertaining to the  
3500 case.

3501 (6) After consideration of all the evidence and the relevant  
3502 factors, the youth court shall enter a disposition order that  
3503 shall not recite any of the facts or circumstances upon which the  
3504 disposition is based, nor shall it recite that a child has been  
3505 found guilty; but it shall recite that a child is found to be a  
3506 delinquent child, a child in need of supervision, a neglected  
3507 child or an abused child.

3508 (7) If the youth court orders that the custody or  
3509 supervision of a child who has been adjudicated abused or



3510 neglected be placed with the Department of \* \* \* Child Protection  
3511 Services or any other person or public or private agency, other  
3512 than the child's parent, guardian or custodian, the youth court  
3513 shall find and the disposition order shall recite that:

3514 (a) (i) Reasonable efforts have been made to maintain  
3515 the child within his own home, but that the circumstances warrant  
3516 his removal and there is no reasonable alternative to custody; or

3517 (ii) The circumstances are of such an emergency  
3518 nature that no reasonable efforts have been made to maintain the  
3519 child within his own home, and that there is no reasonable  
3520 alternative to custody; and

3521 (b) That the effect of the continuation of the child's  
3522 residence within his own home would be contrary to the welfare of  
3523 the child and that the placement of the child in foster care is in  
3524 the best interests of the child; or

3525 (c) Reasonable efforts to maintain the child within his  
3526 home shall not be required if the court determines that:

3527 (i) The parent has subjected the child to  
3528 aggravated circumstances, including, but not limited to,  
3529 abandonment, torture, chronic abuse and sexual abuse; or

3530 (ii) The parent has been convicted of murder of  
3531 another child of that parent, voluntary manslaughter of another  
3532 child of that parent, aided or abetted, attempted, conspired or  
3533 solicited to commit that murder or voluntary manslaughter, or a



3534 felony assault that results in the serious bodily injury to the  
3535 surviving child or another child of that parent; or

3536 (iii) The parental rights of the parent to a  
3537 sibling have been terminated involuntarily; and

3538 (iv) That the effect of the continuation of the  
3539 child's residence within his own home would be contrary to the  
3540 welfare of the child and that placement of the child in foster  
3541 care is in the best interests of the child.

3542 Once the reasonable efforts requirement is bypassed, the  
3543 court shall have a permanency hearing under Section 43-21-613  
3544 within thirty (30) days of the finding.

3545 (8) Upon a written motion by a party, the youth court shall  
3546 make written findings of fact and conclusions of law upon which it  
3547 relies for the disposition order. If the disposition ordered by  
3548 the youth court includes placing the child in the custody of a  
3549 training school, an admission packet shall be prepared for the  
3550 child that contains the following information:

3551 (a) The child's current medical history, including  
3552 medications and diagnosis;

3553 (b) The child's mental health history;

3554 (c) Copies of the child's cumulative record from the  
3555 last school of record, including special education records, if  
3556 reasonably available;

3557 (d) Recommendation from the school of record based on  
3558 areas of remediation needed;





3559 (e) Disciplinary records from the school of record; and  
3560 (f) Records of disciplinary actions outside of the  
3561 school setting, if reasonably available.

3562 Only individuals who are permitted under the Health Insurance  
3563 Portability and Accountability Act of 1996 (HIPAA) shall have  
3564 access to a child's medical records which are contained in an  
3565 admission packet. The youth court shall provide the admission  
3566 packet to the training school at or before the child's arrival at  
3567 the training school. The admittance of any child to a training  
3568 school shall take place between the hours of 8:00 a.m. and 3:00  
3569 p.m. on designated admission days.

3570 (9) When a child in the jurisdiction of the Youth Court is  
3571 committed to the custody of the Mississippi Department of Human  
3572 Services and the Department of Child Protection Services and is  
3573 believed to be in need of treatment for a mental or emotional  
3574 disability or infirmity, the Department of Human Services and the  
3575 Department of Child Protection Services shall file an affidavit  
3576 alleging that the child is in need of mental health services with  
3577 the Youth Court. The Youth Court shall refer the child to the  
3578 appropriate community mental health center for evaluation pursuant  
3579 to Section 41-21-67. If the prescreening evaluation recommends  
3580 residential care, the Youth Court shall proceed with civil  
3581 commitment pursuant to Sections 41-21-61 et seq., 43-21-315 and  
3582 43-21-611, and the Department of Mental Health, once commitment is  
3583 ordered, shall provide appropriate care, treatment and services



3584 for at least as many adolescents as were provided services in  
3585 fiscal year 2004 in its facilities.

3586 (10) Any screening and assessment examinations ordered by  
3587 the court may aid in dispositions related to delinquency, but no  
3588 statements or admissions made during the course thereof may be  
3589 admitted into evidence against the child on the issue of whether  
3590 the child committed a delinquent act.

3591 **SECTION 61.** Section 43-21-561, Mississippi Code of 1972, is  
3592 amended as follows:

3593 43-21-561. (1) If the youth court finds on proof beyond a  
3594 reasonable doubt that a child is a delinquent child or a child in  
3595 need of supervision, the youth court shall enter an order  
3596 adjudicating the child to be a delinquent child or a child in need  
3597 of supervision.

3598 (2) Where the petition alleges that the child is a  
3599 delinquent child, the youth court may enter an order that the  
3600 child is a child in need of supervision on proof beyond a  
3601 reasonable doubt that the child is a child in need of supervision.

3602 (3) If the court finds from a preponderance of the evidence  
3603 that the child is a neglected child, an abused child, a dependent  
3604 child or a child in need of special care the youth court shall  
3605 enter an order adjudicating the child to be a neglected child, an  
3606 abused child, dependent child or a child in need of special care.

3607 (4) No decree or order of adjudication concerning any child  
3608 shall recite that a child has been found guilty; but it shall



3609 recite that a child is found to be a delinquent child or a child  
3610 in need of supervision or a neglected child or an abused child or  
3611 a sexually abused child or a dependent child or a child in need of  
3612 special care. Upon a written motion by a party, the youth court  
3613 shall make written findings of fact and conclusions of law upon  
3614 which it relies for the adjudication that the child is a  
3615 delinquent child, a child in need of supervision, a neglected  
3616 child, an abused child, a dependent child or a child in need of  
3617 special care.

3618 (5) No adjudication upon the status of any child shall  
3619 operate to impose any of the civil disabilities ordinarily imposed  
3620 on an adult because of a criminal conviction, nor shall any child  
3621 be deemed a criminal by reason of adjudication, nor shall that  
3622 adjudication be deemed a conviction. A person in whose interest  
3623 proceedings have been brought in the youth court may deny, without  
3624 any penalty, the existence of those proceedings and any  
3625 adjudication made in those proceedings. Except for the right of a  
3626 defendant or prosecutor in criminal proceedings and a respondent  
3627 or a youth court prosecutor in youth court proceedings to  
3628 cross-examine a witness, including a defendant or respondent, to  
3629 show bias or interest, no adjudication shall be used for  
3630 impeachment purposes in any court.

3631 (6) (a) No statements, admissions or confessions made by or  
3632 incriminatory information obtained from a child in the course of a  
3633 screening or assessment that is undertaken in conjunction with any



3634 proceedings under this chapter, including, but not limited to,  
3635 that which is court-ordered, shall be admitted into evidence  
3636 against the child on the issue of whether the child committed a  
3637 delinquent act under this chapter or on the issue of guilt in any  
3638 criminal proceedings.

3639 (b) The provisions of paragraph (a) of this subsection  
3640 are in addition to and do not override any existing statutory and  
3641 constitutional prohibition on the admission into evidence in  
3642 delinquency and criminal proceedings of information obtained  
3643 during screening, assessment or treatment.

3644 **SECTION 62.** Section 43-21-613, Mississippi Code of 1972, is  
3645 amended as follows:

3646 43-21-613. (1) If the youth court finds, after a hearing  
3647 which complies with the sections governing adjudicatory hearings,  
3648 that the terms of a delinquency or child in need of supervision  
3649 disposition order, probation or parole have been violated, the  
3650 youth court may, in its discretion, revoke the original  
3651 disposition and make any disposition which it could have  
3652 originally ordered. The hearing shall be initiated by the filing  
3653 of a petition that complies with the sections governing petitions  
3654 in this chapter and that includes a statement of the youth court's  
3655 original disposition order, probation or parole, the alleged  
3656 violation of that order, probation or parole, and the facts which  
3657 show the violation of that order, probation or parole. Summons



3658 shall be served in the same manner as summons for an adjudicatory  
3659 hearing.

3660 (2) On motion of a child or a child's parent, guardian or  
3661 custodian, the youth court may, in its discretion, conduct an  
3662 informal hearing to review the disposition order. If the youth  
3663 court finds a material change of circumstances relating to the  
3664 disposition of the child, the youth court may modify the  
3665 disposition order to any appropriate disposition of equal or  
3666 greater precedence which the youth court could have originally  
3667 ordered.

3668 (3) (a) Unless the youth court's jurisdiction has been  
3669 terminated, all disposition orders for supervision, probation or  
3670 placement of a child with an individual or an agency shall be  
3671 reviewed by the youth court judge or referee at least annually to  
3672 determine if continued placement, probation or supervision is in  
3673 the best interest of the child or the public. For children who  
3674 have been adjudicated abused or neglected, the youth court shall  
3675 conduct a permanency hearing within twelve (12) months after the  
3676 earlier of:

3677 (i) An adjudication that the child has been abused  
3678 or neglected; or

3679 (ii) The date of the child's removal from the  
3680 allegedly abusive or neglectful custodian/parent. Notice of such  
3681 hearing shall be given in accordance with the provisions of  
3682 Section 43-21-505(5). In conducting the hearing, the judge or



3683 referee shall require a written report and may require information  
3684 or statements from the child's youth court counselor, parent,  
3685 guardian or custodian, which includes, but is not limited to, an  
3686 evaluation of the child's progress and recommendations for further  
3687 supervision or treatment. The judge or referee shall, at the  
3688 permanency hearing determine the future status of the child,  
3689 including, but not limited to, whether the child should be  
3690 returned to the parent(s) or placed with suitable relatives,  
3691 placed for adoption, placed for the purpose of establishing  
3692 durable legal custody or should, because of the child's special  
3693 needs or circumstances, be continued in foster care on a permanent  
3694 or long-term basis. If the child is in an out-of-state placement,  
3695 the hearing shall determine whether the out-of-state placement  
3696 continues to be appropriate and in the best interest of the child.  
3697 At the permanency hearing the judge or referee shall determine,  
3698 and the youth court order shall recite that reasonable efforts  
3699 were made by the Department of \* \* \* Child Protection Services to  
3700 finalize the child's permanency plan that was in effect on the  
3701 date of the permanency hearing. The judge or referee may find  
3702 that reasonable efforts to maintain the child within his home  
3703 shall not be required in accordance with Section 43-21-603(7)(c),  
3704 and that the youth court shall continue to conduct permanency  
3705 hearings for a child who has been adjudicated abused or neglected,  
3706 at least annually thereafter, for as long as the child remains in



3707 the custody of the Mississippi Department of \* \* \* Child  
3708 Protection Services.

3709 (b) The court may find that the filing of a termination  
3710 of parental rights petition is not in the child's best interest  
3711 if:

3712 (i) The child is being cared for by a relative;  
3713 and/or

3714 (ii) The Department of \* \* \* Child Protection  
3715 Services has documented compelling and extraordinary reasons why  
3716 termination of parental rights would not be in the best interests  
3717 of the child.

3718 (c) The provisions of this subsection shall also apply  
3719 to review of cases involving a dependent child; however, such  
3720 reviews shall take place not less frequently than once each one  
3721 hundred eighty (180) days or upon the request of the child's  
3722 attorney, the parent's attorney, or the parent as deemed  
3723 appropriate to the youth court in protecting the best interests of  
3724 the child. A dependent child shall be ordered by the youth court  
3725 judge or referee to be returned to the custody and home of the  
3726 child's parent, guardian or custodian unless the judge or referee,  
3727 upon such review, makes a written finding that the return of the  
3728 child to the home would be contrary to the child's best interests.  
3729 Neither evidence of use of a controlled substance nor the use of  
3730 any medication, for which there is a prescription, including those  
3731 medications prescribed as a part of a medication assisted drug



3732 treatment program, such as methadone and suboxone, shall prevent  
3733 reunification unless the youth court finds that the parent's use  
3734 of the controlled substance or prescribed medication has impaired  
3735 the parent's ability to provide for the proper care, custody or  
3736 supervision of the child.

3737 (d) Reviews are not to be conducted unless explicitly  
3738 ordered by the youth court concerning those cases in which the  
3739 court has granted durable legal custody. In such cases, the  
3740 Department of Human Services shall be released from any oversight  
3741 or monitoring responsibilities, and relieved of physical and legal  
3742 custody and supervision of the child.

3743 (4) The provisions of this section do not apply to  
3744 proceedings concerning durable legal relative guardianship.

3745 **SECTION 63.** Section 43-26-1, Mississippi Code of 1972, is  
3746 amended as follows:

3747 43-26-1. (1) There is hereby created a Mississippi  
3748 Department of Child Protection Services.

3749 (2) The Chief Administrative Officer of the Department of  
3750 Child Protection Services shall be the Commissioner of Child  
3751 Protection Services who shall be appointed by the Governor with  
3752 the advice and consent of the Senate. The commissioner shall  
3753 possess the following qualifications:

3754 (a) A bachelor's degree from an accredited institution  
3755 of higher learning and ten (10) years' experience in management,  
3756 public administration, finance or accounting; or





3757 (b) A master's or doctoral degree from an accredited  
3758 institution of higher learning and five (5) years' experience in  
3759 management, public administration, finance, law or accounting.

3760 (3) \* \* \* The Department of Child Protection Services shall  
3761 be a sub-agency independent of, though housed within, the  
3762 Mississippi Department of Human Services. The Commissioner of the  
3763 Department of Child Protection Services shall maintain complete  
3764 and exclusive operational control of the Department of Child  
3765 Protection Services' functions, except functions shared with the  
3766 Department of Human Services as provided in subsections (5)(c) and  
3767 (5)(d) of this section. The Department of Child Protection  
3768 Services shall prepare its own budget request, and shall exercise  
3769 complete control over its expenditures.

3770 (4) The Commissioner of Child Protection Services may assign  
3771 to the appropriate offices such powers and duties deemed  
3772 appropriate to carry out the lawful functions of the programs  
3773 transferred to the department under Chapter 494, Laws of  
3774 2016. \* \* \*

3775 (5) The Commissioner of Child Protection Services and the  
3776 Executive Director of the Department of Human Services shall  
3777 develop and implement a plan for the orderly establishment of the  
3778 Department of Child Protection Services and its transition from  
3779 the Office of Family and Children's Services of the Department of  
3780 Human Services. The plan shall:



3781 (a) Describe a mechanism for the transfer of any  
3782 equipment, supplies, records, furnishings or other materials,  
3783 resources or funds dedicated to the operation of the Office of  
3784 Family and Children's Services of the Department of Human  
3785 Services, which may be useful to the Department of Child  
3786 Protection Services;

3787 (b) Determine the allocation of resources between the  
3788 newly created Department of Child Protection Services and the  
3789 Department of Human Services, as practicable;

3790 (c) Determine the allocation of functions where the  
3791 performance of services may be shared between the Department of  
3792 Child Protection Services and other employees of the Department of  
3793 Human Services, as practicable;

3794 (d) Determine whether any administrative support  
3795 services, such as Information Technology Services, bookkeeping and  
3796 payroll can continue to be provided by the Department of Human  
3797 Services; and

3798 (e) Identify other areas deemed relevant by the  
3799 commissioner and make recommendations thereon to achieve an  
3800 orderly transition.

3801 \* \* \*

3802 (6) \* \* \* The programs and services provided by the Office  
3803 of Family and Children's Services of the Department of Human  
3804 Services under the following statutes shall be provided by the  
3805 Department of Child Protection Services: Sections 41-87-5,



3806 41-111-1, 43-1-2, 43-1-51, 43-1-55, 43-1-57, 43-1-63, 43-15-3,  
3807 43-15-5, 43-15-6, 43-15-13, 43-15-15, 43-15-17, 43-15-19,  
3808 43-15-21, 43-15-23, 43-15-51, 43-15-103, 43-15-105, 43-15-115,  
3809 43-15-125, 43-15-201, 43-15-203, 43-15-207 and 43-18-3,  
3810 Mississippi Code of 1972.

3811 **SECTION 64.** Section 43-27-101, Mississippi Code of 1972, is  
3812 amended as follows:

3813 43-27-101. For purposes of Sections 43-27-101 and 43-27-103,  
3814 the following words shall have the meanings ascribed in this  
3815 section, unless the context requires otherwise:

3816 (a) "Child or youth in the custody of the Department of  
3817 Human Services or the Department of Child Protection Services"  
3818 means an individual:

3819 (i) Who has not yet reached his eighteenth  
3820 birthday;

3821 (ii) Who has been legally placed in the custody of  
3822 the Department of Human Services or the Department of Child  
3823 Protection Services by the youth court and for whom custody with  
3824 the Department of Human Services or the Department of Child  
3825 Protection Services was not sought by the parents or legal  
3826 custodians or guardians for the parents' or legal custodians' or  
3827 guardians' legal responsibilities to relieve themselves of the  
3828 responsibility for paying for treatment for a child or youth; and



3829 (iii) Who is unable to be maintained with the  
3830 family or legal guardians or custodians due to his or her need for  
3831 specialized care.

3832 (b) "Child or youth under the supervision of the  
3833 Department of Human Services or the Department of Child Protection  
3834 Services" means an individual:

3835 (i) Who has not yet reached his eighteenth  
3836 birthday; and

3837 (ii) Who has been referred for abuse or neglect  
3838 and for whom a case has been opened and is active in the \* \* \*  
3839 Department of Human Services or Department of Child Protection  
3840 Services.

3841 (c) "Plan of care" means a written plan of services  
3842 needed to be provided for a child or youth and his or her family  
3843 in order to provide the special care or services required.

3844 (d) "Special needs crisis" means:

3845 (i) Conduct or behavioral problems of such a  
3846 severe nature and level that family or parental violence, abuse,  
3847 and/or neglect pose an imminent threat or are present; or

3848 (ii) Conduct or behavioral problems of such a  
3849 severe nature and level that family or parental violence, abuse,  
3850 and/or neglect pose an imminent threat or are present.

3851 (e) "Specialized care" means:



3852 (i) "Self care," which means the ability to  
3853 provide, sustain and protect himself or herself at a level  
3854 appropriate to his or her age;

3855 (ii) "Interpersonal relationships," which means  
3856 the ability to build and maintain satisfactory relationships with  
3857 peers and adults;

3858 (iii) "Family life," which means the capacity to  
3859 live in a family or family-type environment;

3860 (iv) "Self direction," which means the child's  
3861 ability to control his or her behavior and to make decisions in a  
3862 manner appropriate to his or her age;

3863 (v) "Education," which means the ability to learn  
3864 social and intellectual skill from teachers in an available  
3865 educational setting.

3866 (f) "Special needs child" means a child with a variety  
3867 of handicapping conditions or disabilities, including emotional or  
3868 severely emotional disorders. These conditions or disabilities  
3869 present the need for special medical attention, supervision and  
3870 therapy on a very regimented basis.

3871 **SECTION 65.** Section 43-27-103, Mississippi Code of 1972, is  
3872 amended as follows:

3873 43-27-103. (1) Sections 43-27-101 and 43-27-103 shall  
3874 enable the development by the Department of \* \* \* Child Protection  
3875 Services of a system of services for children or youth in the  
3876 custody of or under the supervision of the Department of \* \* \*



3877 Child Protection Services, if funds are appropriated to the  
3878 department for that purpose. The system of services may consist  
3879 of emergency response services, an early intervention and  
3880 treatment unit, respite care, crisis nurseries, specialized  
3881 outpatient or inpatient treatment services, special needs foster  
3882 care, therapeutic foster care, emergency foster homes, and  
3883 Medicaid targeted case management for abused and neglected  
3884 children and youth as well as children adjudicated delinquent or  
3885 in need of supervision. Any of these services that are provided  
3886 shall be arranged by and coordinated through the Department  
3887 of \* \* \* Child Protection Services, and the department may  
3888 contract with public or private agencies or entities to provide  
3889 any of the services or may provide any of the services itself.  
3890 All of the services shall be provided in facilities that meet the  
3891 standards set by the Department of \* \* \* Child Protection Services  
3892 for the particular type of facility involved. None of the  
3893 services provided shall duplicate existing services except where  
3894 there is a documented need for expansion of the services.

3895 (2) A description of the services that may be provided under  
3896 Sections 43-27-101 and 43-27-103 are as follows:

3897 (a) "Emergency response services" means services to  
3898 respond to children or youth in severe crisis and include:

3899 (i) Emergency single point phone lines;

3900 (ii) Crisis care coordinators staffing shifts that  
3901 enable twenty-four-hour per day response as "front line"



3902 professionals when crisis calls are received, assist with  
3903 decision-making, family support, initiate plan of action and  
3904 remain "on call" for the first seventy-two (72) hours for other  
3905 service professionals to get in place and insure development of a  
3906 plan of care;

3907 (iii) Acute care/emergency medical response  
3908 through contracted services with up to five (5) regional hospitals  
3909 providing emergency room services and hospitalization for up to  
3910 seventy-two (72) hours with a maximum of One Hundred Dollars  
3911 (\$100.00) per day;

3912 (iv) Case managers;

3913 (v) Respite services; and

3914 (vi) Assessment services contracted with social  
3915 workers, psychologists, psychiatrists and other health  
3916 professionals.

3917 (b) "Early intervention and treatment unit" means a  
3918 unique, nonhospital crisis service in a residential context that  
3919 is able to provide the level of support and intervention needed to  
3920 resolve the crisis and as an alternative to hospitalization. This  
3921 unit shall provide specialized assessment, including a variety of  
3922 treatment options and services to best intervene in a child or  
3923 youth's crisis, and provide an appropriate plan for further  
3924 services upon returning to the home and community. Staff-to-child  
3925 or youth ratio shall be high, with multidisciplinary, specialized  
3926 services for up to six (6) children or youths at one (1) time, and



3927 with the maximum assessment and treatment planning and services  
3928 being ninety (90) days for most children or youths.

3929 (c) "Respite care" means planned temporary care for a  
3930 period of time ranging from a few hours within a twenty-four-hour  
3931 period to an overnight or weekend stay to a maximum of ten (10)  
3932 days. Care may be provided in-home or out-of-home with trained  
3933 respite parents or counselors and is designed to provide a planned  
3934 break for the parents from the caretaking role with the child.

3935 (d) "Crisis nurseries" means a program providing  
3936 therapeutic nursery treatment services to preschool aged children  
3937 who as preschoolers demonstrate significant behavioral or  
3938 emotional disorders. These services shall be to therapeutically  
3939 address developmental and emotional behavioral difficulties  
3940 through direct intervention with the child in a nursery school  
3941 environment and to intervene with parents to provide education,  
3942 support and therapeutic services.

3943 (e) "Specialized outpatient or inpatient treatment  
3944 services," such as sex offender treatment, means specialized  
3945 treatment for perpetrators of sexual offenses with children.

3946 (f) "Special needs foster care" means foster care for  
3947 those children with a variety of handicapping conditions or  
3948 disabilities, including serious emotional disturbance.

3949 (g) "Therapeutic foster care" means residential mental  
3950 health services provided to children and adolescents in a family





3951 setting, utilizing specially trained foster parents. Therapeutic  
3952 foster care essentially involves the following features:

3953 (i) Placement with foster parents who have been  
3954 carefully selected by knowledgeable, well-trained mental health  
3955 and social service professionals to work with children with an  
3956 emotional disturbance;

3957 (ii) Provision of special training to the foster  
3958 parents to assist them in working with children with an emotional  
3959 disturbance;

3960 (iii) Low staff-to-child ratio, allowing the  
3961 therapeutic staff to work very closely with each child, the foster  
3962 parents and the biological parents, if available;

3963 (iv) Creation of a support system among these  
3964 specially trained foster parents; and

3965 (v) Payment of a special foster care payment to  
3966 the foster parents.

3967 (h) "Emergency foster homes" means those homes used on  
3968 a short-term basis for (i) children who are temporarily removed  
3969 from the home in response to a crisis situation, or (ii) youth who  
3970 exhibit special behavioral or emotional problems for whom removal  
3971 from the existing home situation is necessary. In some cases they  
3972 may provide an emergency placement for infants and toddlers for  
3973 whom no regular foster home is available, rather than placement  
3974 into an emergency shelter where older and larger groups of



3975 children are placed. Foster parents are trained to deal with the  
3976 special needs of children placed in these emergency homes.

3977 (i) "Medicaid targeted case management" means  
3978 activities that are related to assuring the completion of proper  
3979 client evaluations; arranging and supporting treatment plans,  
3980 monitoring services, coordinating service delivery and other  
3981 related actions.

3982 **SECTION 66.** Section 43-27-109, Mississippi Code of 1972, is  
3983 amended as follows:

3984 43-27-109. The Department of Human Services and the  
3985 Department of Child Protection Services may employ a sufficient  
3986 number of new family protection specialists, youth counselors and  
3987 clerical staff to reduce the caseload sizes for social workers and  
3988 youth counselors of the department and to reduce the workload on  
3989 clerical staff, if funds are appropriated to the department for  
3990 that purpose.

3991 **SECTION 67.** Section 43-27-113, Mississippi Code of 1972, is  
3992 amended as follows:

3993 43-27-113. In any investigation by the Department of \* \* \*  
3994 Child Protection Services of a report made under Section 43-21-101  
3995 et seq. of the abuse or neglect of a child as defined in Section  
3996 43-21-105, the department may request the appropriate law  
3997 enforcement officer with jurisdiction to accompany the department  
3998 in its investigation, and in such cases the law enforcement  
3999 officer shall comply with such request.



4000           **SECTION 68.** Section 43-27-115, Mississippi Code of 1972, is  
4001 amended as follows:

4002           43-27-115. The Department of \* \* \* Child Protection Services  
4003 or the Department of Human Services is authorized to employ one  
4004 (1) program manager for each department region, if funds are  
4005 appropriated to the department for that purpose, whose duties  
4006 shall be to develop an ongoing public education program to inform  
4007 Mississippi citizens about the needs of the state's children,  
4008 youth and families, the work of the department in addressing these  
4009 needs and how citizens might become involved. The Department of  
4010 Human Services shall develop formal agreements of cooperation and  
4011 protocol between the department and other providers of services to  
4012 children and families including school districts, hospitals, law  
4013 enforcement agencies, mental health centers and others.

4014           **SECTION 69.** Section 43-27-117, Mississippi Code of 1972, is  
4015 amended as follows:

4016           43-27-117. The Department of \* \* \* Child Protection Services  
4017 is authorized to establish an on-line automated child welfare  
4018 information system, if funds are appropriated to the department  
4019 for that purpose, to give the department the capability to supply  
4020 foster care, adoption and child abuse and neglect data to the  
4021 federal Department of Health and Human Services in a specified  
4022 format as required, and to help the department in tracking child  
4023 abuse and neglect referrals and the number of children affected in  
4024 those referrals.



4025           **SECTION 70.** Section 57-39-43, Mississippi Code of 1972, is  
4026 amended as follows:

4027           57-39-43. (1) There is created in the State Treasury a fund  
4028 to be designated as the "Mississippi Oil Overcharge Fund,"  
4029 referred to in this section as "fund." Monies in the fund,  
4030 referred to in this section as "oil overcharge funds," may be used  
4031 for projects or programs authorized in accordance with appropriate  
4032 federal court orders regarding the use of oil overcharge funds or  
4033 by the United States Department of Energy, or both.

4034           (2) The Treasurer shall deposit or transfer into the fund  
4035 any funds received as a result of federal statute or  
4036 administrative or regulatory actions requiring the disbursement to  
4037 states of refund monies for alleged overcharges for crude oil or  
4038 refined petroleum products. The Treasurer may establish accounts  
4039 within the fund as necessary for management of monies in the fund.

4040           (3) Expenditures may be made from the fund upon requisition  
4041 to the Treasurer by the Executive Director of the Department of  
4042 Economic and Community Development or the Executive Director of  
4043 the Department of Human Services.

4044           (4) The fund shall be treated as a special trust fund.  
4045 Interest earned on the principal in the fund shall be credited by  
4046 the Treasurer to the fund.

4047           (5) In their annual budget request, the Department of  
4048 Economic and Community Development and the Department of \* \* \*



4049 Child Protection Services shall submit a list of projects or  
4050 programs for which monies from the fund are requested to be used.

4051 **SECTION 71.** Section 93-5-23, Mississippi Code of 1972, is  
4052 amended as follows:

4053 93-5-23. When a divorce shall be decreed from the bonds of  
4054 matrimony, the court may, in its discretion, having regard to the  
4055 circumstances of the parties and the nature of the case, as may  
4056 seem equitable and just, make all orders touching the care,  
4057 custody and maintenance of the children of the marriage, and also  
4058 touching the maintenance and alimony of the wife or the husband,  
4059 or any allowance to be made to her or him, and shall, if need be,  
4060 require bond, sureties or other guarantee for the payment of the  
4061 sum so allowed. Orders touching on the custody of the children of  
4062 the marriage shall be made in accordance with the provisions of  
4063 Section 93-5-24. For the purposes of orders touching the  
4064 maintenance and alimony of the wife or husband, "property" and "an  
4065 asset of a spouse" shall not include any interest a party may have  
4066 as an heir at law of a living person or any interest under a  
4067 third-party will, nor shall any such interest be considered as an  
4068 economic circumstance or other factor. The court may afterwards,  
4069 on petition, change the decree, and make from time to time such  
4070 new decrees as the case may require. However, where proof shows  
4071 that both parents have separate incomes or estates, the court may  
4072 require that each parent contribute to the support and maintenance  
4073 of the children of the marriage in proportion to the relative



4074 financial ability of each. In the event a legally responsible  
4075 parent has health insurance available to him or her through an  
4076 employer or organization that may extend benefits to the  
4077 dependents of such parent, any order of support issued against  
4078 such parent may require him or her to exercise the option of  
4079 additional coverage in favor of such children as he or she is  
4080 legally responsible to support.

4081 Whenever the court has ordered a party to make periodic  
4082 payments for the maintenance or support of a child, but no bond,  
4083 sureties or other guarantee has been required to secure such  
4084 payments, and whenever such payments as have become due remain  
4085 unpaid for a period of at least thirty (30) days, the court may,  
4086 upon petition of the person to whom such payments are owing, or  
4087 such person's legal representative, enter an order requiring that  
4088 bond, sureties or other security be given by the person obligated  
4089 to make such payments, the amount and sufficiency of which shall  
4090 be approved by the court. The obligor shall, as in other civil  
4091 actions, be served with process and shall be entitled to a hearing  
4092 in such case.

4093 At the discretion of the court, any person found in contempt  
4094 for failure to pay child support and imprisoned therefor may be  
4095 referred for placement in a state, county or municipal  
4096 restitution, house arrest or restorative justice center or  
4097 program, provided such person meets the qualifications prescribed  
4098 in Section 99-37-19.



4099           Whenever in any proceeding in the chancery court concerning  
4100 the custody of a child a party alleges that the child whose  
4101 custody is at issue has been the victim of sexual or physical  
4102 abuse by the other party, the court may, on its own motion, grant  
4103 a continuance in the custody proceeding only until such allegation  
4104 has been investigated by the Department of \* \* \* Child Protection  
4105 Services. At the time of ordering such continuance, the court may  
4106 direct the party and his attorney making such allegation of child  
4107 abuse to report in writing and provide all evidence touching on  
4108 the allegation of abuse to the Department of \* \* \* Child  
4109 Protection Services. The Department of \* \* \* Child Protection  
4110 Services shall investigate such allegation and take such action as  
4111 it deems appropriate and as provided in such cases under the Youth  
4112 Court Law (being Chapter 21 of Title 43, Mississippi Code of 1972)  
4113 or under the laws establishing family courts (being Chapter 23 of  
4114 Title 43, Mississippi Code of 1972).

4115           If after investigation by the Department of \* \* \* Child  
4116 Protection Services or final disposition by the youth court or  
4117 family court allegations of child abuse are found to be without  
4118 foundation, the chancery court shall order the alleging party to  
4119 pay all court costs and reasonable attorney's fees incurred by the  
4120 defending party in responding to such allegation.

4121           The court may investigate, hear and make a determination in a  
4122 custody action when a charge of abuse and/or neglect arises in the  
4123 course of a custody action as provided in Section 43-21-151, and



4124 in such cases the court shall appoint a guardian ad litem for the  
4125 child as provided under Section 43-21-121, who shall be an  
4126 attorney. Unless the chancery court's jurisdiction has been  
4127 terminated, all disposition orders in such cases for placement  
4128 with the Department of \* \* \* Child Protection Services shall be  
4129 reviewed by the court or designated authority at least annually to  
4130 determine if continued placement with the department is in the  
4131 best interest of the child or public.

4132 The duty of support of a child terminates upon the  
4133 emancipation of the child. The court may determine that  
4134 emancipation has occurred pursuant to Section 93-11-65.

4135 Custody and visitation upon military temporary duty,  
4136 deployment or mobilization shall be governed by Section 93-5-34.

4137 **SECTION 72.** Section 93-17-3, Mississippi Code of 1972, is  
4138 amended as follows:

4139 93-17-3. (1) Except as otherwise provided in this section,  
4140 a court of this state has jurisdiction over a proceeding for the  
4141 adoption or readoption of a minor commenced under this chapter if:

4142 (a) Immediately before commencement of the proceeding,  
4143 the minor lived in this state with a parent, a guardian, a  
4144 prospective adoptive parent or another person acting as parent,  
4145 for at least six (6) consecutive months, excluding periods of  
4146 temporary absence, or, in the case of a minor under six (6) months  
4147 of age, lived in this state from soon after birth with any of





4148 those individuals and there is available in this state substantial  
4149 evidence concerning the minor's present or future care;

4150 (b) Immediately before commencement of the proceeding,  
4151 the prospective adoptive parent lived in this state for at least  
4152 six (6) consecutive months, excluding periods of temporary  
4153 absence, and there is available in this state substantial evidence  
4154 concerning the minor's present or future care;

4155 (c) The agency that placed the minor for adoption is  
4156 licensed in this state and it is in the best interest of the minor  
4157 that a court of this state assume jurisdiction because:

4158 (i) The minor and the minor's parents, or the  
4159 minor and the prospective adoptive parent, have a significant  
4160 connection with this state; and

4161 (ii) There is available in this state substantial  
4162 evidence concerning the minor's present or future care;

4163 (d) The minor and the prospective adoptive parent are  
4164 physically present in this state and the minor has been abandoned  
4165 or it is necessary in an emergency to protect the minor because  
4166 the minor has been subjected to or threatened with mistreatment or  
4167 abuse or is otherwise neglected;

4168 (e) It appears that no other state would have  
4169 jurisdiction under prerequisites substantially in accordance with  
4170 paragraphs (a) through (d), or another state has declined to  
4171 exercise jurisdiction on the ground that this state is the more  
4172 appropriate forum to hear a petition for adoption of the minor,



4173 and it is in the best interest of the minor that a court of this  
4174 state assume jurisdiction; or

4175 (f) The child has been adopted in a foreign country,  
4176 the agency that placed the minor for adoption is licensed in this  
4177 state, and it is in the best interest of the child to be readopted  
4178 in a court of this state having jurisdiction.

4179 (2) A court of this state may not exercise jurisdiction over  
4180 a proceeding for adoption of a minor if, at the time the petition  
4181 for adoption is filed, a proceeding concerning the custody or  
4182 adoption of the minor is pending in a court of another state  
4183 exercising jurisdiction substantially in conformity with the  
4184 Uniform Child Custody Jurisdiction Act or this section unless the  
4185 proceeding is stayed by the court of the other state.

4186 (3) If a court of another state has issued a decree or order  
4187 concerning the custody of a minor who may be the subject of a  
4188 proceeding for adoption in this state, a court of this state may  
4189 not exercise jurisdiction over a proceeding for adoption of the  
4190 minor unless:

4191 (a) The court of this state finds that the court of the  
4192 state which issued the decree or order:

4193 (i) Does not have continuing jurisdiction to  
4194 modify the decree or order under jurisdictional prerequisites  
4195 substantially in accordance with the Uniform Child Custody  
4196 Jurisdiction Act or has declined to assume jurisdiction to modify  
4197 the decree or order; or



4198 (ii) Does not have jurisdiction over a proceeding  
4199 for adoption substantially in conformity with subsection (1) (a)  
4200 through (d) or has declined to assume jurisdiction over a  
4201 proceeding for adoption; and

4202 (b) The court of this state has jurisdiction over the  
4203 proceeding.

4204 (4) Any person may be adopted in accordance with the  
4205 provisions of this chapter in termtime or in vacation by an  
4206 unmarried adult or by a married person whose spouse joins in the  
4207 petition. The adoption shall be by sworn petition filed in the  
4208 chancery court of the county in which the adopting petitioner or  
4209 petitioners reside or in which the child to be adopted resides or  
4210 was born, or was found when it was abandoned or deserted, or in  
4211 which the home is located to which the child has been surrendered  
4212 by a person authorized to so do. The petition shall be  
4213 accompanied by a doctor's or nurse practitioner's certificate  
4214 showing the physical and mental condition of the child to be  
4215 adopted and a sworn statement of all property, if any, owned by  
4216 the child. In addition, the petition shall be accompanied by  
4217 affidavits of the petitioner or petitioners stating the amount of  
4218 the service fees charged by any adoption agencies or adoption  
4219 facilitators used by the petitioner or petitioners and any other  
4220 expenses paid by the petitioner or petitioners in the adoption  
4221 process as of the time of filing the petition. If the doctor's or  
4222 nurse practitioner's certificate indicates any abnormal mental or



4223 physical condition or defect, the condition or defect shall not,  
4224 in the discretion of the chancellor, bar the adoption of the child  
4225 if the adopting parent or parents file an affidavit stating full  
4226 and complete knowledge of the condition or defect and stating a  
4227 desire to adopt the child, notwithstanding the condition or  
4228 defect. The court shall have the power to change the name of the  
4229 child as a part of the adoption proceedings. The word "child" in  
4230 this section shall be construed to refer to the person to be  
4231 adopted, though an adult.

4232 (5) Adoption by couples of the same gender is prohibited.

4233 (6) No person may be placed in the home of or adopted by the  
4234 prospective adopting parties before a court-ordered or voluntary  
4235 home study is satisfactorily completed by a licensed adoption  
4236 agency, a licensed, experienced social worker approved by the  
4237 chancery court or by the Department of \* \* \* Child Protection  
4238 Services on the prospective adoptive parties if required by  
4239 Section 93-17-11.

4240 (7) No person may be adopted by a person or persons who  
4241 reside outside the State of Mississippi unless the provisions of  
4242 the Interstate Compact for Placement of Children (Section 43-18-1  
4243 et seq.) have been complied with. In such cases Forms 100A, 100B  
4244 (if applicable) and evidence of Interstate Compact for Placement  
4245 of Children approval shall be added to the permanent adoption  
4246 record file within one (1) month of the placement, and a minimum  
4247 of two (2) post-placement reports conducted by a licensed



4248 child-placing agency shall be provided to the Mississippi  
4249 Department of \* \* \* Child Protection Services Interstate Compact  
4250 for Placement of Children office.

4251 (8) No person may be adopted unless the provisions of the  
4252 Indian Child Welfare Act (ICWA) have been complied with, if  
4253 applicable. When applicable, proof of compliance shall be  
4254 included in the court adoption file prior to finalization of the  
4255 adoption. If not applicable, a written statement or paragraph in  
4256 the petition for adoption shall be included in the adoption  
4257 petition stating that the provisions of ICWA do not apply before  
4258 finalization.

4259 (9) The readoption of a child who has automatically acquired  
4260 United States citizenship following an adoption in a foreign  
4261 country and who possesses a Certificate of Citizenship in  
4262 accordance with the Child Citizenship Act, CAA, Public Law  
4263 106-395, may be given full force and effect in a readoption  
4264 proceeding conducted by a court of competent jurisdiction in this  
4265 state by compliance with the Mississippi Registration of Foreign  
4266 Adoptions Act, Article 9 of this chapter.

4267 **SECTION 73.** Section 93-17-5, Mississippi Code of 1972, is  
4268 amended as follows:

4269 93-17-5. (1) There shall be made parties to the proceeding  
4270 by process or by the filing therein of a consent to the adoption  
4271 proposed in the petition, which consent shall be duly sworn to or



4272 acknowledged and executed only by the following persons, but not  
4273 before seventy-two (72) hours after the birth of the child:

4274 (a) The parents, or parent, if only one (1) parent,  
4275 though either be under the age of twenty-one (21) years;

4276 (b) If both parents are dead, then any two (2) adult  
4277 kin of the child within the third degree computed according to the  
4278 civil law; if one of such kin is in possession of the child, he or  
4279 she shall join in the petition or be made a party to the suit; or

4280 (c) The guardian ad litem of an abandoned child, upon  
4281 petition showing that the names of the parents of the child are  
4282 unknown after diligent search and inquiry by the petitioners. In  
4283 addition to the above, there shall be made parties to any  
4284 proceeding to adopt a child, either by process or by the filing of  
4285 a consent to the adoption proposed in the petition, the following:

4286 (i) Those persons having physical custody of the  
4287 child, except persons who are acting as foster parents as a result  
4288 of placement with them by the Department of \* \* \* Child Protection  
4289 Services of the State of Mississippi.

4290 (ii) Any person to whom custody of the child may  
4291 have been awarded by a court of competent jurisdiction of the  
4292 State of Mississippi.

4293 (iii) The agent of the county Department of \* \* \*  
4294 Child Protection Services of the State of Mississippi that has  
4295 placed a child in foster care, either by agreement or by court  
4296 order.



4297           (2) The consent may also be executed and filed by the duly  
4298 authorized officer or representative of a home to whose care the  
4299 child has been delivered. The child shall join the petition by  
4300 the child's next friend.

4301           (3) If consent is not filed, process shall be had upon the  
4302 parties as provided by law for process in person or by  
4303 publication, if they are nonresidents of the state or are not  
4304 found therein after diligent search and inquiry, the court or  
4305 chancellor in vacation may fix a date in termtime or in vacation  
4306 to which process may be returnable and shall have power to proceed  
4307 in termtime or vacation. In any event, if the child is more than  
4308 fourteen (14) years of age, a consent to the adoption, sworn to or  
4309 acknowledged by the child, shall also be required or personal  
4310 service of process shall be had upon the child in the same manner  
4311 and in the same effect as if the child were an adult.

4312           **SECTION 74.** Section 93-17-8, Mississippi Code of 1972, is  
4313 amended as follows:

4314           93-17-8. (1) Whenever an adoption becomes a contested  
4315 matter, whether after a hearing on a petition for determination of  
4316 rights under Section 93-17-6 or otherwise, the court:

4317           (a) Shall, on motion of any party or on its own motion,  
4318 issue an order for immediate blood or tissue sampling in  
4319 accordance with the provisions of Section 93-9-21 et seq., if  
4320 paternity is at issue. The court shall order an expedited report



4321 of such testing and shall hold the hearing resolving this matter  
4322 at the earliest time possible.

4323 (b) Shall appoint a guardian ad litem to represent the  
4324 child. Such guardian ad litem shall be an attorney, however his  
4325 duties are as guardian ad litem and not as attorney for the child.  
4326 The reasonable costs of the guardian ad litem shall be taxed as  
4327 costs of the court. Neither the child nor anyone purporting to  
4328 act on his behalf may waive the appointment of a guardian ad  
4329 litem.

4330 (c) Shall determine first whether or not the objecting  
4331 parent is entitled to so object under the criteria of Section  
4332 93-17-7 and then shall determine the custody of the child in  
4333 accord with the best interests of the child and the rights of the  
4334 parties as established by the hearings and judgments.

4335 (d) Shall schedule all hearings concerning the  
4336 contested adoption as expeditiously as possible for prompt  
4337 conclusion of the matter.

4338 (2) In determining the custody of the child after a finding  
4339 that the adoption will not be granted, the fact of the surrender  
4340 of the child for adoption by a parent shall not be taken as any  
4341 evidence of that parent's abandonment or desertion of the child or  
4342 of that parent's unfitness as a parent.

4343 (3) In contested adoptions arising through petitions for  
4344 determination of rights where the prospective adopting parents  
4345 were not parties to that proceeding, they need not be made parties





4346 to the contested adoption until there has been a ruling that the  
4347 objecting parent is not entitled to enter a valid objection to the  
4348 adoption. At that point the prospective adopting parents shall be  
4349 made parties by joinder which shall show their suitability to be  
4350 adopting parents as would a petition for adoption. The identity  
4351 and suitability of the prospective adopting parents shall be made  
4352 known to the court and the guardian ad litem, but shall not be  
4353 made known to other parties to the proceeding unless the court  
4354 determines that the interests of justice or the best interests of  
4355 the child require it.

4356 (4) No birth parent or alleged parent shall be permitted to  
4357 contradict statements given in a proceeding for the adoption of  
4358 their child in any other proceeding concerning that child or his  
4359 ancestry.

4360 (5) Appointment of a guardian ad litem is not required in  
4361 any proceeding under this chapter except as provided in subsection  
4362 (1)(b) above and except for the guardian ad litem needed for an  
4363 abandoned child. It shall not be necessary for a guardian ad  
4364 litem to be appointed where the chancery judge presiding in the  
4365 adoption proceeding deems it unnecessary and no adoption agency is  
4366 involved in the proceeding. No final decree of adoption  
4367 heretofore granted shall be set aside or modified because a  
4368 guardian ad litem was not appointed unless as the result of a  
4369 direct appeal not now barred.



4370 (6) The provisions of Chapter 15 of this Title 93,  
4371 Mississippi Code of 1972, are not applicable to proceedings under  
4372 this chapter except as specifically provided by reference herein.

4373 (7) The court may order a child's \* \* \* parent, identified  
4374 as such in the proceedings, to reimburse the Department of \* \* \*  
4375 Child Protection Services, the foster parents, the adopting  
4376 parents, the home, any other agency or person who has assumed  
4377 liability for such child, all or part of the costs of the medical  
4378 expenses incurred for the mother and the child in connection with  
4379 the birth of the child, as well as reasonable support for the  
4380 child after his birth.

4381 **SECTION 75.** Section 93-17-11, Mississippi Code of 1972, is  
4382 amended as follows:

4383 93-17-11. At any time after the filing of the petition for  
4384 adoption and completion of process thereon, and before the  
4385 entering of a final decree, the court may, in its discretion, of  
4386 its own motion or on motion of any party to the proceeding,  
4387 require an investigation and report to the court to be made by any  
4388 person, officer or home as the court may designate and direct  
4389 concerning the child, and shall require in adoptions, other than  
4390 those in which the petitioner or petitioners are a relative or  
4391 stepparent of the child, that a home study be performed of the  
4392 petitioner or petitioners by a licensed adoption agency or by the  
4393 Department of \* \* \* Child Protection Services, at the petitioner's  
4394 or petitioners' sole expense and at no cost to the state or



4395 county. The investigation and report shall give the material  
4396 facts upon which the court may determine whether the child is a  
4397 proper subject for adoption, whether the petitioner or petitioners  
4398 are suitable parents for the child, whether the adoption is to its  
4399 best interest, and any other facts or circumstances that may be  
4400 material to the proposed adoption. The home study shall be  
4401 considered by the court in determining whether the petitioner or  
4402 petitioners are suitable parents for the child. The court, when  
4403 an investigation and report are required by the court or by this  
4404 section, shall stay the proceedings in the cause for such  
4405 reasonable time as may be necessary or required in the opinion of  
4406 the court for the completion of the investigation and report by  
4407 the person, officer or home designated and authorized to make the  
4408 same.

4409       Upon the filing of that consent or the completion of the  
4410 process and the filing of the investigation and report, if  
4411 required by the court or by this section, and the presentation of  
4412 such other evidence as may be desired by the court, if the court  
4413 determines that it is to the best interests of the child that an  
4414 interlocutory decree of adoption be entered, the court may  
4415 thereupon enter an interlocutory decree upon such terms and  
4416 conditions as may be determined by the court, in its discretion,  
4417 but including therein that the complete care, custody and control  
4418 of the child shall be vested in the petitioner or petitioners  
4419 until further orders of the court and that during such time the



4420 child shall be and remain a ward of the court. If the court  
4421 determines by decree at any time during the pendency of the  
4422 proceeding that it is not to the best interests of the child that  
4423 the adoption proceed, the petitioners shall be entitled to at  
4424 least five (5) days' notice upon their attorneys of record and a  
4425 hearing with the right of appeal as provided by law from a  
4426 dismissal of the petition; however, the bond perfecting the appeal  
4427 shall be filed within ten (10) days from the entry of the decree  
4428 of dismissal and the bond shall be in such amount as the  
4429 chancellor may determine and supersedeas may be granted by the  
4430 chancellor or as otherwise provided by law for appeal from final  
4431 decrees.

4432 After the entry of the interlocutory decree and before entry  
4433 of the final decree, the court may require such further and  
4434 additional investigation and reports as it may deem proper. The  
4435 rights of the parties filing the consent or served with process  
4436 shall be subject to the decree but shall not be divested until  
4437 entry of the final decree.

4438 **SECTION 76.** Section 93-17-12, Mississippi Code of 1972, is  
4439 amended as follows:

4440 93-17-12. In any child custody matter hereafter filed in any  
4441 chancery or county court in which temporary or permanent custody  
4442 has already been placed with a parent or guardian and in all  
4443 adoptions, the court may appoint any social worker licensed to  
4444 work in the State of Mississippi and shall impose a fee for any



4445 court-ordered home study performed \* \* \*. The fee shall be  
4446 assessed upon either party or upon both parties in the court's  
4447 discretion. The minimum fee imposed shall be not less than Three  
4448 Hundred Fifty Dollars (\$350.00) for each household on which a home  
4449 study is performed. \* \* \*

4450 **SECTION 77.** Section 93-17-53, Mississippi Code of 1972, is  
4451 amended as follows:

4452 93-17-53. The purpose of Sections 93-17-51 through 93-17-67  
4453 is to supplement the Mississippi adoption law by making possible  
4454 through public supplemental benefits the most appropriate adoption  
4455 of each child certified by the \* \* \* Department of Child  
4456 Protection Services as requiring a supplemental benefit to assure  
4457 adoption.

4458 **SECTION 78.** Section 93-17-57, Mississippi Code of 1972, is  
4459 amended as follows:

4460 93-17-57. The \* \* \* Department of Child Protection Services  
4461 shall establish and administer an on-going program of supplemental  
4462 benefits for adoption. Supplemental benefits and services for  
4463 children under this program shall be provided out of such funds as  
4464 may be appropriated to the Mississippi Medicaid Commission for the  
4465 medical services for children in foster care, or made available to  
4466 the department from other sources.

4467 **SECTION 79.** Section 93-17-59, Mississippi Code of 1972, is  
4468 amended as follows:



4469           93-17-59. Any child meeting criteria specified in Section  
4470 93-17-55 for whom the \* \* \* Department of Child Protection  
4471 Services feels supplemental benefits are necessary to improve  
4472 opportunities for adoption will be eligible for the program. The  
4473 adoption agency shall document that reasonable efforts have been  
4474 made to place the child in adoption without supplemental benefits  
4475 through the use of adoption resource exchanges, recruitment and  
4476 referral to appropriate specialized adoption agencies.

4477           **SECTION 80.** Section 93-17-61, Mississippi Code of 1972, is  
4478 amended as follows:

4479           93-17-61. (1) When parents are found and approved for  
4480 adoption of a child certified as eligible for supplemental  
4481 benefits, and before the final decree of adoption is issued, there  
4482 shall be executed a written agreement between the family entering  
4483 into the adoption and the Department of \* \* \* Child Protection  
4484 Services. In individual cases, supplemental benefits may commence  
4485 with the adoptive placement or at the appropriate time after the  
4486 adoption decree and will vary with the needs of the child as well  
4487 as the availability of other resources to meet the child's needs.  
4488 The supplemental benefits may be for special services only or for  
4489 money payments as allowed under Section 43-13-115, Mississippi  
4490 Code of 1972, and either for a limited period, for a long-term not  
4491 exceeding the child's eighteenth birthday, or for any combination  
4492 of the foregoing. The amount of the time-limited, long-term  
4493 supplemental benefits may in no case exceed that which would be



4494 currently allowable for such child under the Mississippi Medicaid  
4495 Law.

4496 (2) When supplemental benefits last for more than one (1)  
4497 year, the adoptive parents shall present an annual written  
4498 certification that the child remains under the parents' care and  
4499 that the child's need for supplemental benefits continues. Based  
4500 on investigation by the agency and available funds, the agency may  
4501 approve continued supplemental benefits. These benefits shall be  
4502 extended so long as the parents remain legally responsible for and  
4503 are providing support for the child. The agency shall continue  
4504 paying benefits until a child reaches twenty-one (21) years of age  
4505 if the child meets the criteria stated in Section 93-17-67(1) for  
4506 continuation of Medicaid coverage.

4507 (3) A child who is a resident of Mississippi when  
4508 eligibility for supplemental benefits is certified shall remain  
4509 eligible and receive supplemental benefits, if necessary for  
4510 adoption, regardless of the domicile or residence of the adopting  
4511 parents at the time of application for adoption, placement, legal  
4512 decree of adoption or thereafter.

4513 **SECTION 81.** Section 93-17-63, Mississippi Code of 1972, is  
4514 amended as follows:

4515 93-17-63. All records regarding such adoption shall be  
4516 confidential. Anyone violating or releasing information of a  
4517 confidential nature, as contemplated by Sections 93-17-51 through  
4518 93-17-67 without the approval of the court with jurisdiction or



4519 the \* \* \* Department of \* \* \* Child Protection Services unless  
4520 such release is made pursuant to Sections 93-17-201 through  
4521 93-17-223 shall be guilty of a misdemeanor and subject to a fine  
4522 not exceeding One Thousand Dollars (\$1,000.00) or imprisonment of  
4523 six (6) months, or both.

4524 **SECTION 82.** Section 93-17-65, Mississippi Code of 1972, is  
4525 amended as follows:

4526 93-17-65. The \* \* \* Department of Child Protection Services  
4527 shall promulgate rules and regulations necessary to implement the  
4528 provisions of Sections 93-17-51 through 93-17-67.

4529 **SECTION 83.** Section 93-17-67, Mississippi Code of 1972, is  
4530 amended as follows:

4531 93-17-67. (1) If the adoptive parents of a child eligible  
4532 for adoption supplemental benefits sign an adoption assistance  
4533 agreement with the Department of \* \* \* Child Protection Services,  
4534 then, whether or not they accept such benefits, Medicaid coverage  
4535 shall be provided for the child under the agency's medical payment  
4536 program from and after the commencement date established pursuant  
4537 to Section 93-17-61 until the child's eighteenth birthday,  
4538 provided that federal matching funds are available for such  
4539 payment.

4540 (2) Any child who is adopted in this state through a  
4541 state-supported adoption agency and who immediately prior to such  
4542 adoption was receiving Medicaid benefits because of a severe  
4543 physical or mental handicap shall continue to receive such





4544 coverage benefits after adoption age eighteen (18), and such  
4545 benefits shall be payable as provided under the agency's medical  
4546 payment program for so long as the \* \* \* Department of \* \* \*  
4547 Child Protection Services determines that the treatment or  
4548 rehabilitation for which payment is being made is in the best  
4549 interest of the child concerned, but not past the age of  
4550 twenty-one (21) years, provided that federal matching funds are  
4551 available for such payment and that any state funds used for such  
4552 payment shall have been appropriated specifically for such  
4553 purpose.

4554 (3) If permitted by federal law without any loss to the  
4555 state of federal matching funds, the financial resources of the  
4556 adopting parents shall not be a factor in such determination  
4557 except that payments on behalf of a child of any age may be  
4558 adjusted when insurance benefits available to the adopting parents  
4559 would pay all or part of such payments being made by the state, or  
4560 if medical or rehabilitation services are otherwise available  
4561 without cost to the adopting parents. The amount of financial  
4562 assistance given shall not exceed the amount that the Division of  
4563 Medicaid \* \* \* would be required to pay for the same medical  
4564 treatment or rehabilitation.

4565 (4) The receipt of Medicaid benefits by an adopted child  
4566 under Sections 93-17-51 through 93-17-67 shall not qualify the  
4567 adopting parents for Medicaid eligibility, unless either parent is



4568 otherwise eligible under Section 43-13-115, Mississippi Code of  
4569 1972.

4570 **SECTION 84.** Section 93-17-69, Mississippi Code of 1972, is  
4571 amended as follows:

4572 93-17-69. Any person proposing to adopt a child who is \* \* \*  
4573 in the custody of the Department of Child Protection Services and  
4574 who is in special circumstances as defined in paragraph (c) of  
4575 Section 93-17-55 shall be \* \* \* eligible to have the attorney fees  
4576 of such adoption proceeding paid by the Department of Child  
4577 Protection Services upon request by the adopting parent to the  
4578 department. The Department of Child Protection Services shall  
4579 determine the amount and any limitations to such payment as it  
4580 deems appropriate and shall advise prospective adopting parents of  
4581 their right under this section \* \* \*. The fees for filing the  
4582 petition for adoption and preparing a revised birth certificate,  
4583 any court costs taxed against the petitioner and any other actual  
4584 payments \* \* \* required to complete the adoption proceeding, shall  
4585 be paid by the adopting parent.

4586 **SECTION 85.** Section 93-17-101, Mississippi Code of 1972, is  
4587 amended as follows:

4588 93-17-101. (1) The Legislature finds that:

4589 (a) Locating adoptive families for children for whom  
4590 state assistance is desirable, pursuant to the Mississippi  
4591 adoption assistance law, and assuring the protection of the  
4592 interests of the children affected during the entire assistance



4593 period, require special measures when the adoptive parents move to  
4594 other states or are residents of another state; and

4595 (b) Providing medical and other necessary services for  
4596 children, with state assistance, encounters special difficulties  
4597 when the providing of services takes place in other states.

4598 (2) The purposes of Sections 93-17-101 through 93-17-109 are  
4599 to:

4600 (a) Authorize the Mississippi Department of \* \* \* Child  
4601 Protection Services to enter into interstate agreements with  
4602 agencies of other states for the protection of children on behalf  
4603 of whom adoption assistance is being provided by the Mississippi  
4604 Department of \* \* \* Child Protection Services; and

4605 (b) Provide procedures for interstate children's  
4606 adoption assistance payments, including medical payments.

4607 **SECTION 86.** Section 93-17-103, Mississippi Code of 1972, is  
4608 amended as follows:

4609 93-17-103. (1) The Mississippi Department of \* \* \* Child  
4610 Protection Services is authorized to develop, participate in the  
4611 development of, negotiate and enter into one or more interstate  
4612 compacts on behalf of this state with other states to implement  
4613 one or more of the purposes set forth in Sections 93-17-101  
4614 through 93-17-109. When so entered into, and for so long as it  
4615 shall remain in force, such a compact shall have the force and  
4616 effect of law.



4617 (2) For the purposes of Sections 93-17-101 through  
4618 93-17-109, the term "state" shall mean a state of the United  
4619 States, the District of Columbia, the Commonwealth of Puerto Rico,  
4620 the Virgin Islands, Guam, the Commonwealth of the Northern Mariana  
4621 Islands or a territory or possession of or administered by the  
4622 United States.

4623 (3) For the purposes of Sections 93-17-101 through  
4624 93-17-109, the term "adoption assistance state" means the state  
4625 that is signatory to an adoption assistance agreement in a  
4626 particular case.

4627 (4) For the purposes of Sections 93-17-101 through  
4628 93-17-109, the term "residence state" means the state of which the  
4629 child is a resident by virtue of the residence of the adoptive  
4630 parents.

4631 **SECTION 87.** Section 93-17-107, Mississippi Code of 1972, is  
4632 amended as follows:

4633 93-17-107. (1) A child with special needs resident in this  
4634 state who is the subject of an adoption assistance agreement with  
4635 another state and who has been determined eligible for medicaid in  
4636 that state shall be entitled to receive a medical assistance  
4637 identification from this state upon filing with the Mississippi  
4638 Department of \* \* \* Child Protection Services a certified copy of  
4639 the adoption assistance agreement obtained from the adoption  
4640 assistance state which certifies to the eligibility of the child  
4641 for medicaid. In accordance with regulations of the Mississippi



4642 Department of \* \* \* Child Protection Services, the adoptive  
4643 parents shall be required, at least annually, to show that the  
4644 agreement is still in force or has been renewed.

4645 (2) The Division of Medicaid, Office of the Governor, shall  
4646 consider the holder of a medical assistance identification  
4647 pursuant to this section as any other holder of a medical  
4648 assistance identification under the laws of this state and shall  
4649 process and make payment on claims on account of such holder in  
4650 the same manner and pursuant to the same conditions and procedures  
4651 as for other recipients of medical assistance.

4652 (3) The submission of any claim for payment or reimbursement  
4653 for services or benefits pursuant to this section or the making of  
4654 any statement in connection therewith, which claim or statement  
4655 the maker knows or should know to be false, misleading or  
4656 fraudulent shall be punishable as perjury and shall also be  
4657 subject to a fine not to exceed Ten Thousand Dollars (\$10,000.00),  
4658 or imprisonment for not to exceed two (2) years, or both.

4659 (4) The provisions of this section shall apply only to  
4660 medical assistance for children under adoption assistance  
4661 agreements from states that have entered into a compact with this  
4662 state under which the other state provides medical assistance to  
4663 children with special needs under adoption assistance agreements  
4664 made by this state. All other children entitled to medical  
4665 assistance pursuant to adoption assistance agreements entered into



4666 by this state shall be eligible to receive it in accordance with  
4667 the laws and procedures applicable thereto.

4668         **SECTION 88.** Section 93-17-109, Mississippi Code of 1972, is  
4669 amended as follows:

4670             93-17-109. Consistent with federal law, the Mississippi  
4671 Department of \* \* \* Child Protection Services and the Division of  
4672 Medicaid, Office of the Governor of the State of Mississippi, in  
4673 connection with the administration of Sections 93-17-101 through  
4674 93-17-109 and any compact entered into pursuant hereto, shall  
4675 include in any state plan made pursuant to the Adoption Assistance  
4676 and Child Welfare Act of 1980 (P.L. 96-272), Titles IV(e) and XIX  
4677 of the Social Security Act, and any other applicable federal laws,  
4678 the provision of adoption assistance and medical assistance for  
4679 which the federal government pays some or all of the cost provided  
4680 such authority is granted under the provisions of some law of this  
4681 state other than the provisions of Sections 93-17-101 through  
4682 93-17-109. Such departments shall apply for and administer all  
4683 relevant federal aid in accordance with law.

4684         **SECTION 89.** Section 93-17-203, Mississippi Code of 1972, is  
4685 amended as follows:

4686             93-17-203. The following words and phrases shall have the  
4687 meanings ascribed herein unless the context clearly indicates  
4688 otherwise:

4689             (a) "Agency" means a county \* \* \* Department of Child  
4690 Protection Services, a licensed or nonlicensed adoption agency or



4691 any other individual or entity assisting in the finalization of an  
4692 adoption.

4693 (b) "Adoptee" means a person who is or has been adopted  
4694 in this state at any time.

4695 (c) "Birth parent" means either:

4696 (i) The mother designated on the adoptee's  
4697 original birth certificate; or

4698 (ii) The person named by the mother designated on  
4699 the adoptee's original birth certificate as the father of the  
4700 adoptee.

4701 (d) "Board" means the Mississippi State Board of  
4702 Health.

4703 (e) "Bureau" means the Bureau of Vital Records of the  
4704 Mississippi State Board of Health.

4705 (f) "Licensed adoption agency" means any agency or  
4706 organization performing adoption services and duly licensed by the  
4707 Mississippi Department of \* \* \* Child Protection Services,  
4708 Division of Family and Children's Services.

4709 **SECTION 90.** Section 93-21-307, Mississippi Code of 1972, is  
4710 amended as follows:

4711 93-21-307. The administration of the Mississippi Children's  
4712 Trust Fund shall be vested in the \* \* \* Mississippi Department of  
4713 Child Protection Services. In carrying out the provisions of  
4714 Sections 93-21-301 through 93-21-311, the \* \* \* Department of



4715 Child Protection Services shall have the following powers and  
4716 duties:

4717           (a) To assist in developing programs aimed at  
4718 discovering and preventing the many factors causing child abuse  
4719 and neglect;

4720           (b) To prepare and disseminate, including the  
4721 presentation of, educational programs and materials on child abuse  
4722 and neglect;

4723           (c) To provide educational programs for professionals  
4724 required by law to make reports of child abuse and neglect;

4725           (d) To help coordinate child protective services at the  
4726 state, regional and local levels with the efforts of other state  
4727 and voluntary social, medical and legal agencies;

4728           (e) To provide advocacy for children in public and  
4729 private state and local agencies affecting children;

4730           (f) To encourage citizen and community awareness as to  
4731 the needs and problems of children;

4732           (g) To facilitate the exchange of information between  
4733 groups concerned with families and children;

4734           (h) To consult with state departments, agencies,  
4735 commissions and boards to help determine the probable  
4736 effectiveness, fiscal soundness and need for proposed educational  
4737 and service programs for the prevention of child abuse and  
4738 neglect;





4739 (i) To adopt rules and regulations, \* \* \* in accordance  
4740 with the Administrative Procedures Law to discharge its  
4741 responsibilities;

4742 (j) To report annually, through the annual report of  
4743 the \* \* \* Department of \* \* \* Child Protection Services, to the  
4744 Governor and the Legislature concerning the \* \* \* department's  
4745 activities under Sections 93-21-301 through 93-21-311 and the  
4746 effectiveness of those activities in fostering the prevention of  
4747 child abuse and neglect;

4748 (k) To recommend to the Governor and the Legislature  
4749 changes in state programs, statutes, policies and standards which  
4750 will reduce child abuse and neglect, improve coordination among  
4751 state agencies which provide services to prevent abuse and  
4752 neglect, improve the condition of children and assist parents and  
4753 guardians;

4754 (l) To evaluate and strengthen all local, regional and  
4755 state programs dealing with child abuse and neglect;

4756 (m) To prepare and submit annually to the Governor and  
4757 the Legislature reports evaluating the level and quality of all  
4758 programs, services and facilities provided to children by state  
4759 agencies;

4760 (n) To contract with public or private nonprofit  
4761 institutions, organizations, agencies or schools or with qualified  
4762 individuals for the establishment of community-based educational



4763 and service programs designed to reduce the occurrence of child  
4764 abuse and neglect;

4765 (o) To determine the eligibility of programs applying  
4766 for financial assistance and to make grants and loans from the  
4767 fund for the purposes set forth in Sections 93-21-301 through  
4768 93-21-311;

4769 (p) To develop, within one (1) year after July 1, 1989,  
4770 a state plan for the distribution of funds from the trust fund  
4771 which shall assure that an equal opportunity exists for  
4772 establishment of prevention programs and for receipt of trust fund  
4773 money among all geographic areas in this state, and to submit the  
4774 plan to the Governor and the Legislature and annually thereafter  
4775 submit revisions thereto as needed;

4776 (q) To provide for the coordination and exchange of  
4777 information on the establishment and maintenance of local  
4778 prevention programs;

4779 (r) To develop and publicize criteria for the receipt  
4780 of trust fund money by eligible local prevention programs;

4781 (s) To enter into contracts with public or private  
4782 agencies to fulfill the requirements of Sections 93-21-301 through  
4783 93-21-311; and

4784 (t) Review, monitor and approve the expenditure of  
4785 trust fund money by eligible local programs.

4786 **SECTION 91.** Section 93-21-311, Mississippi Code of 1972, is  
4787 amended as follows:



4788 93-21-311. In making grants or loans from the trust fund,  
4789 the \* \* \* department shall consider the degree to which the  
4790 applicant's proposal meets the following criteria:

4791 (a) Has as its primary purpose the development and  
4792 facilitation of a community-based prevention program in a specific  
4793 geographical area, which program shall utilize trained volunteers  
4794 and existing community resources where practicable;

4795 (b) Is administered by an organization or group which  
4796 is composed of or has participation by the \* \* \* Department of  
4797 Child Protection Services, the county health department, the youth  
4798 court or chancery court, the office of the district attorney,  
4799 county or municipal law enforcement personnel, county or municipal  
4800 school officials, local public or private organizations or  
4801 agencies which provide programs or services for the prevention of  
4802 child abuse and neglect and educational programs for the  
4803 prevention of problems of families and children; and

4804 (c) Demonstrates a willingness and ability and has a  
4805 plan to provide prevention program models and consultations to  
4806 appropriate organizations within the community regarding  
4807 prevention program development and maintenance.

4808 **SECTION 92.** Section 93-31-3, Mississippi Code of 1972, is  
4809 amended as follows:

4810 93-31-3. (1) (a) A parent or legal custodian of a child,  
4811 by means of a properly executed power of attorney as provided in  
4812 Section 93-31-5, may delegate to another willing person or persons



4813 as attorney-in-fact any of the powers regarding the care and  
4814 custody of the child other than the following:

4815 (i) The power to consent to marriage or adoption  
4816 of the child;

4817 (ii) The performance or inducement of an abortion  
4818 on or for the child; or

4819 (iii) The termination of parental rights to the  
4820 child.

4821 (b) A delegation of powers under this section does not:

4822 (i) Change or modify any parental or legal rights,  
4823 obligations, or authority established by an existing court order;

4824 (ii) Deprive any custodial or noncustodial parent  
4825 or legal guardian of any parental or legal rights, obligations, or  
4826 authority regarding the custody, visitation, or support of the  
4827 child; or

4828 (iii) Affect a court's ability to determine the  
4829 best interests of a child.

4830 (c) If both parents are living and have shared custody  
4831 as a matter of law or under an existing court order, both parents  
4832 must execute the power of attorney.

4833 (d) A power of attorney under this chapter must be  
4834 facilitated by either a child welfare agency that is licensed to  
4835 place children for adoption and that is operating under the Safe  
4836 Families for Children model or another charitable organization  
4837 that is operating under the Safe Families for Children model. A



4838 full criminal history and child abuse and neglect background check  
4839 must be conducted on any person who is not a grandparent, aunt,  
4840 uncle, or sibling of the child if the person is:

4841 (i) Designated or proposed to be designated as the  
4842 attorney-in-fact; or

4843 (ii) Is a person over the age of fifteen (15) who  
4844 resides in the home of the designated attorney-in-fact.

4845 (2) A power of attorney executed under this chapter shall  
4846 not be used for the sole purposes of enrolling a child in a school  
4847 to participate in the academic or interscholastic athletic  
4848 programs provided by that school or for any other unlawful  
4849 purposes, except as may be permitted by the federal Every Student  
4850 Succeeds Act (Public Law 114-95).

4851 (3) The parent or legal custodian of the child has the  
4852 authority to revoke or withdraw the power of attorney authorized  
4853 by this section at any time. Upon the termination, expiration, or  
4854 revocation of the power of attorney, the child must be returned to  
4855 the custody of the parent or legal custodian as soon as reasonably  
4856 possible.

4857 (4) Until the authority expires or is revoked or withdrawn  
4858 by the parent or legal custodian, the attorney-in-fact shall  
4859 exercise parental or legal authority on a continuous basis without  
4860 compensation for the duration of the power of attorney.

4861 (5) The execution of a power of attorney by a parent or  
4862 legal custodian does not, in the absence of other evidence,



4863 constitute abandonment, desertion, abuse, neglect, or any evidence  
4864 of unfitness as a parent unless the parent or legal custodian  
4865 fails to take custody of the child or execute a new power of  
4866 attorney after the one-year time limit, or after a longer time  
4867 period as allowed for a serving parent, has elapsed. Nothing in  
4868 this subsection prevents the Department of \* \* \* Child Protection  
4869 Services or law enforcement from investigating allegations of  
4870 abuse, abandonment, desertion, neglect or other mistreatment of a  
4871 child.

4872 (6) When the custody of a child is transferred by a power of  
4873 attorney under this chapter, the child is not considered to have  
4874 been placed in foster care and the attorney-in-fact will not be  
4875 subject to any of the requirements or licensing regulations for  
4876 foster care or other regulations relating to out-of-home care for  
4877 children and will not be subject to any statutes or regulations  
4878 dealing with the licensing or regulation of foster care homes.

4879 (7) (a) "Serving parent" means a parent who is a member of  
4880 the Armed Forces of the United States, including any reserve  
4881 component thereof, or the National Oceanic and Atmospheric  
4882 Administration Commissioned Officer Corps or the Public Health  
4883 Service of the United States Department of Health and Human  
4884 Services detailed by proper authority for duty with the Armed  
4885 Forces of the United States, or who is required to enter or serve  
4886 in the active military service of the United States under a call



4887 or order of the President of the United States or to serve on  
4888 state active duty.

4889 (b) A serving parent may delegate the powers designated  
4890 in subsection (1) of this section for longer than one (1) year if  
4891 on active-duty service or if scheduled to be on active-duty  
4892 service. The term of delegation, however, may not exceed the term  
4893 of active-duty service plus thirty (30) days.

4894 **SECTION 93.** Section 97-3-54.1, Mississippi Code of 1972, is  
4895 amended as follows:

4896 97-3-54.1. (1) (a) A person who coerces, recruits,  
4897 entices, harbors, transports, provides or obtains by any means, or  
4898 attempts to coerce, recruit, entice, harbor, transport, provide or  
4899 obtain by any means, another person, intending or knowing that the  
4900 person will be subjected to forced labor or services, or who  
4901 benefits, whether financially or by receiving anything of value  
4902 from participating in an enterprise that he knows or reasonably  
4903 should have known has engaged in such acts, shall be guilty of the  
4904 crime of human-trafficking.

4905 (b) A person who knowingly purchases the forced labor  
4906 or services of a trafficked person or who otherwise knowingly  
4907 subjects, or attempts to subject, another person to forced labor  
4908 or services or who benefits, whether financially or by receiving  
4909 anything of value from participating in an enterprise that he  
4910 knows or reasonably should have known has engaged in such acts,  
4911 shall be guilty of the crime of procuring involuntary servitude.



4912 (c) A person who knowingly subjects, or attempts to  
4913 subject, or who recruits, entices, harbors, transports, provides  
4914 or obtains by any means, or attempts to recruit, entice, harbor,  
4915 transport, provide or obtain by any means, a minor, knowing that  
4916 the minor will engage in commercial sexual activity, sexually  
4917 explicit performance, or the production of sexually oriented  
4918 material, or causes or attempts to cause a minor to engage in  
4919 commercial sexual activity, sexually explicit performance, or the  
4920 production of sexually oriented material, shall be guilty of  
4921 procuring sexual servitude of a minor and shall be punished by  
4922 commitment to the custody of the Department of Corrections for not  
4923 less than five (5) nor more than thirty (30) years, or by a fine  
4924 of not less than Fifty Thousand Dollars (\$50,000.00) nor more than  
4925 Five Hundred Thousand Dollars (\$500,000.00), or both. It is not a  
4926 defense in a prosecution under this section that a minor consented  
4927 to engage in the commercial sexual activity, sexually explicit  
4928 performance, or the production of sexually oriented material, or  
4929 that the defendant reasonably believed that the minor was eighteen  
4930 (18) years of age or older.

4931 (2) If the victim is not a minor, a person who is convicted  
4932 of an offense set forth in subsection (1)(a) or (b) of this  
4933 section shall be committed to the custody of the Department of  
4934 Corrections for not less than two (2) years nor more than twenty  
4935 (20) years, or by a fine of not less than Ten Thousand Dollars  
4936 (\$10,000.00) nor more than One Hundred Thousand Dollars





4937 (\$100,000.00), or both. If the victim of the offense is a minor,  
4938 a person who is convicted of an offense set forth in subsection  
4939 (1)(a) or (b) of this section shall be committed to the custody of  
4940 the Department of Corrections for not less than five (5) years nor  
4941 more than twenty (20) years, or by a fine of not less than Twenty  
4942 Thousand Dollars (\$20,000.00) nor more than One Hundred Thousand  
4943 Dollars (\$100,000.00), or both.

4944 (3) An enterprise may be prosecuted for an offense under  
4945 this chapter if:

4946 (a) An agent of the enterprise knowingly engages in  
4947 conduct that constitutes an offense under this chapter while  
4948 acting within the scope of employment and for the benefit of the  
4949 entity.

4950 (b) An employee of the enterprise engages in conduct  
4951 that constitutes an offense under this chapter and the commission  
4952 of the offense was part of a pattern of illegal activity for the  
4953 benefit of the enterprise, which an agent of the enterprise either  
4954 knew was occurring or recklessly disregarded, and the agent failed  
4955 to take effective action to stop the illegal activity.

4956 (c) It is an affirmative defense to a prosecution of an  
4957 enterprise that the enterprise had in place adequate procedures,  
4958 including an effective complaint procedure, designed to prevent  
4959 persons associated with the enterprise from engaging in the  
4960 unlawful conduct and to promptly correct any violations of this  
4961 chapter.



4962 (d) The court may consider the severity of the  
4963 enterprise's offense and order penalties, including: (i) a fine  
4964 of not more than One Million Dollars (\$1,000,000.00); (ii)  
4965 disgorgement of profit; and (iii) debarment from government  
4966 contracts. Additionally, the court may order any of the relief  
4967 provided in Section 97-3-54.7.

4968 (4) In addition to the mandatory reporting provisions  
4969 contained in Sections 43-21-353 and, 97-5-51, any person who has  
4970 reasonable cause to suspect that a minor under the age of eighteen  
4971 (18) is a trafficked person shall immediately make a report \* \* \*  
4972 to the Statewide Human Trafficking Coordinator. \* \* \* A minor who  
4973 has been identified as a victim of trafficking shall not be liable  
4974 for criminal activity in violation of this section.

4975 (5) It is an affirmative defense in a prosecution under this  
4976 act that the defendant:

4977 (a) Is a victim; and

4978 (b) Committed the offense under a reasonable  
4979 apprehension created by a person that, if the defendant did not  
4980 commit the act, the person would inflict serious harm on the  
4981 defendant, a member of the defendant's family, or a close  
4982 associate.

4983 **SECTION 94.** Section 97-5-24, Mississippi Code of 1972, is  
4984 amended as follows:

4985 97-5-24. If any person eighteen (18) years or older who is  
4986 employed by any public school district or private school in this



4987 state is accused of fondling or having any type of sexual  
4988 involvement with any child under the age of eighteen (18) years  
4989 who is enrolled in such school, the principal of such school and  
4990 the superintendent of such school district shall timely notify the  
4991 district attorney with jurisdiction where the school is located of  
4992 such accusation, the Mississippi Department of Education and the  
4993 Department of \* \* \* Child Protection Services, provided that such  
4994 accusation is reported to the principal and to the school  
4995 superintendent and that there is a reasonable basis to believe  
4996 that such accusation is true. Any superintendent, or his  
4997 designee, who fails to make a report required by this section  
4998 shall be subject to the penalties provided in Section 37-11-35.  
4999 Any superintendent, principal, teacher or other school personnel  
5000 participating in the making of a required report pursuant to this  
5001 section or participating in any judicial proceeding resulting  
5002 therefrom shall be presumed to be acting in good faith. Any  
5003 person reporting in good faith shall be immune from any civil  
5004 liability that might otherwise be incurred or imposed.

5005       **SECTION 95.** Section 97-5-39, Mississippi Code of 1972, is  
5006 amended as follows:

5007       97-5-39. (1) (a) Except as otherwise provided in this  
5008 section, any parent, guardian or other person who intentionally,  
5009 knowingly or recklessly commits any act or omits the performance  
5010 of any duty, which act or omission contributes to or tends to  
5011 contribute to the neglect or delinquency of any child or which act



5012 or omission results in the abuse of any child, as defined in  
5013 Section 43-21-105(m) of the Youth Court Law, or who knowingly aids  
5014 any child in escaping or absenting himself from the guardianship  
5015 or custody of any person, agency or institution, or knowingly  
5016 harbors or conceals, or aids in harboring or concealing, any child  
5017 who has absented himself without permission from the guardianship  
5018 or custody of any person, agency or institution to which the child  
5019 shall have been committed by the youth court shall be guilty of a  
5020 misdemeanor, and upon conviction shall be punished by a fine not  
5021 to exceed One Thousand Dollars (\$1,000.00), or by imprisonment not  
5022 to exceed one (1) year in jail, or by both such fine and  
5023 imprisonment.

5024 (b) For the purpose of this section, a child is a  
5025 person who has not reached his eighteenth birthday. A child who  
5026 has not reached his eighteenth birthday and is on active duty for  
5027 a branch of the armed services, or who is married, is not  
5028 considered a child for the purposes of this statute.

5029 (c) If a child commits one (1) of the proscribed acts  
5030 in subsection (2) (a), (b) or (c) of this section upon another  
5031 child, then original jurisdiction of all such offenses shall be in  
5032 youth court.

5033 (d) If the child's deprivation of necessary clothing,  
5034 shelter, health care or supervision appropriate to the child's age  
5035 results in substantial harm to the child's physical, mental or  
5036 emotional health, the person may be sentenced to imprisonment in



5037 custody of the Department of Corrections for not more than five  
5038 (5) years or to payment of a fine of not more than Five Thousand  
5039 Dollars (\$5,000.00), or both.

5040 (e) A parent, legal guardian or other person who  
5041 knowingly permits the continuing physical or sexual abuse of a  
5042 child is guilty of neglect of a child and may be sentenced to  
5043 imprisonment in the custody of the Department of Corrections for  
5044 not more than ten (10) years or to payment of a fine of not more  
5045 than Ten Thousand Dollars (\$10,000.00), or both.

5046 (2) Any person shall be guilty of felonious child abuse in  
5047 the following circumstances:

5048 (a) Whether bodily harm results or not, if the person  
5049 shall intentionally, knowingly or recklessly:

5050 (i) Burn any child;

5051 (ii) Physically torture any child;

5052 (iii) Strangle, choke, smother or in any way  
5053 interfere with any child's breathing;

5054 (iv) Poison a child;

5055 (v) Starve a child of nourishments needed to  
5056 sustain life or growth;

5057 (vi) Use any type of deadly weapon upon any child;

5058 (b) If some bodily harm to any child actually occurs,  
5059 and if the person shall intentionally, knowingly or recklessly:

5060 (i) Throw, kick, bite, or cut any child;



5061                   (ii) Strike a child under the age of fourteen (14)  
5062 about the face or head with a closed fist;

5063                   (iii) Strike a child under the age of five (5) in  
5064 the face or head;

5065                   (iv) Kick, bite, cut or strike a child's genitals;  
5066 circumcision of a male child is not a violation under this  
5067 subparagraph (iv);

5068           (c) If serious bodily harm to any child actually  
5069 occurs, and if the person shall intentionally, knowingly or  
5070 recklessly:

5071                   (i) Strike any child on the face or head;

5072                   (ii) Disfigure or scar any child;

5073                   (iii) Whip, strike or otherwise abuse any child;

5074           (d) Any person, upon conviction under paragraph (a) or  
5075 (c) of this subsection, shall be sentenced by the court to  
5076 imprisonment in the custody of the Department of Corrections for a  
5077 term of not less than five (5) years and up to life, as determined  
5078 by the court. Any person, upon conviction under paragraph (b) of  
5079 this subsection shall be sentenced by the court to imprisonment in  
5080 the custody of the Department of Corrections for a term of not  
5081 less than two (2) years nor more than ten (10) years, as  
5082 determined by the court. For any second or subsequent conviction  
5083 under this subsection (2), the person shall be sentenced to  
5084 imprisonment for life.



5085           (e) For the purposes of this subsection (2), "bodily  
5086 harm" means any bodily injury to a child and includes, but is not  
5087 limited to, bruising, bleeding, lacerations, soft tissue swelling,  
5088 and external or internal swelling of any body organ.

5089           (f) For the purposes of this subsection (2), "serious  
5090 bodily harm" means any serious bodily injury to a child and  
5091 includes, but is not limited to, the fracture of a bone, permanent  
5092 disfigurement, permanent scarring, or any internal bleeding or  
5093 internal trauma to any organ, any brain damage, any injury to the  
5094 eye or ear of a child or other vital organ, and impairment of any  
5095 bodily function.

5096           (g) Nothing contained in paragraph (c) of this  
5097 subsection shall preclude a parent or guardian from disciplining a  
5098 child of that parent or guardian, or shall preclude a person in  
5099 loco parentis to a child from disciplining that child, if done in  
5100 a reasonable manner, and reasonable corporal punishment or  
5101 reasonable discipline as to that parent or guardian's child or  
5102 child to whom a person stands in loco parentis shall be a defense  
5103 to any violation charged under paragraph (c) of this subsection.

5104           (h) Reasonable discipline and reasonable corporal  
5105 punishment shall not be a defense to acts described in paragraphs  
5106 (a) and (b) of this subsection or if a child suffers serious  
5107 bodily harm as a result of any act prohibited under paragraph (c)  
5108 of this subsection.



5109           (3) Nothing contained in this section shall prevent  
5110 proceedings against the parent, guardian or other person under any  
5111 statute of this state or any municipal ordinance defining any act  
5112 as a crime or misdemeanor. Nothing in the provisions of this  
5113 section shall preclude any person from having a right to trial by  
5114 jury when charged with having violated the provisions of this  
5115 section.

5116           (4) (a) A parent, legal guardian or caretaker who endangers  
5117 a child's person or health by knowingly causing or permitting the  
5118 child to be present where any person is selling, manufacturing or  
5119 possessing immediate precursors or chemical substances with intent  
5120 to manufacture, sell or possess a controlled substance as  
5121 prohibited under Section 41-29-139 or 41-29-313, is guilty of  
5122 child endangerment and may be sentenced to imprisonment for not  
5123 more than ten (10) years or to payment of a fine of not more than  
5124 Ten Thousand Dollars (\$10,000.00), or both.

5125           (b) If the endangerment results in substantial harm to  
5126 the child's physical, mental or emotional health, the person may  
5127 be sentenced to imprisonment for not more than twenty (20) years  
5128 or to payment of a fine of not more than Twenty Thousand Dollars  
5129 (\$20,000.00), or both.

5130           (5) Nothing contained in this section shall prevent  
5131 proceedings against the parent, guardian or other person under any  
5132 statute of this state or any municipal ordinance defining any act  
5133 as a crime or misdemeanor. Nothing in the provisions of this





5134 section shall preclude any person from having a right to trial by  
5135 jury when charged with having violated the provisions of this  
5136 section.

5137 (6) After consultation with the Department of \* \* \* Child  
5138 Protection Services or Department of Human Services, a regional  
5139 mental health center or an appropriate professional person, a  
5140 judge may suspend imposition or execution of a sentence provided  
5141 in subsections (1) and (2) of this section and in lieu thereof  
5142 require treatment over a specified period of time at any approved  
5143 public or private treatment facility. A person may be eligible  
5144 for treatment in lieu of criminal penalties no more than one (1)  
5145 time.

5146 (7) In any proceeding resulting from a report made pursuant  
5147 to Section 43-21-353 of the Youth Court Law, the testimony of the  
5148 physician making the report regarding the child's injuries or  
5149 condition or cause thereof shall not be excluded on the ground  
5150 that the physician's testimony violates the physician-patient  
5151 privilege or similar privilege or rule against disclosure. The  
5152 physician's report shall not be considered as evidence unless  
5153 introduced as an exhibit to his testimony.

5154 (8) Any criminal prosecution arising from a violation of  
5155 this section shall be tried in the circuit, county, justice or  
5156 municipal court having jurisdiction; provided, however, that  
5157 nothing herein shall abridge or dilute the contempt powers of the  
5158 youth court.



5159           **SECTION 96.** Section 97-5-51, Mississippi Code of 1972, is  
5160 amended as follows:

5161           97-5-51. (1) **Definitions.** For the purposes of this  
5162 section:

5163           (a) "Sex crime against a minor" means any offense under  
5164 at least one (1) of the following statutes when committed by an  
5165 adult against a minor who is under the age of sixteen (16):

5166                   (i) Section 97-3-65 relating to rape;

5167                   (ii) Section 97-3-71 relating to rape and assault  
5168 with intent to ravish;

5169                   (iii) Section 97-3-95 relating to sexual battery;

5170                   (iv) Section 97-5-23 relating to the touching of a  
5171 child, mentally defective or incapacitated person or physically  
5172 helpless person for lustful purposes;

5173                   (v) Section 97-5-41 relating to the carnal  
5174 knowledge of a stepchild, adopted child or child of a cohabiting  
5175 partner;

5176                   (vi) Section 97-5-33 relating to exploitation of  
5177 children;

5178                   (vii) Section 97-3-54.1(1)(c) relating to  
5179 procuring sexual servitude of a minor;

5180                   (viii) Section 43-47-18 relating to sexual abuse  
5181 of a vulnerable person;

5182                   (ix) Section 97-1-7 relating to the attempt to  
5183 commit any of the offenses listed in this subsection.



5184 (b) "Mandatory reporter" means any of the following  
5185 individuals performing their occupational duties: health care  
5186 practitioner, clergy member, teaching or child care provider, law  
5187 enforcement officer, or commercial image processor.

5188 (c) "Health care practitioner" means any individual who  
5189 provides health care services, including a physician, surgeon,  
5190 physical therapist, psychiatrist, psychologist, medical resident,  
5191 medical intern, hospital staff member, licensed nurse, midwife and  
5192 emergency medical technician or paramedic.

5193 (d) "Clergy member" means any priest, rabbi or duly  
5194 ordained deacon or minister.

5195 (e) "Teaching or child care provider" means anyone who  
5196 provides training or supervision of a minor under the age of  
5197 sixteen (16), including a teacher, teacher's aide, principal or  
5198 staff member of a public or private school, social worker,  
5199 probation officer, foster home parent, group home or other child  
5200 care institutional staff member, personnel of residential home  
5201 facilities, a licensed or unlicensed day care provider.

5202 (f) "Commercial image processor" means any person who,  
5203 for compensation: (i) develops exposed photographic film into  
5204 negatives, slides or prints; (ii) makes prints from negatives or  
5205 slides; or (iii) processes or stores digital media or images from  
5206 any digital process, including, but not limited to, website  
5207 applications, photography, live streaming of video, posting,  
5208 creation of power points or any other means of intellectual



5209 property communication or media including conversion or  
5210 manipulation of still shots or video into a digital show stored on  
5211 a photography site or a media storage site.

5212 (g) "Caretaker" means any person legally obligated to  
5213 provide or secure adequate care for a minor under the age of  
5214 sixteen (16), including a parent, guardian, tutor, legal custodian  
5215 or foster home parent.

5216 (2) (a) **Mandatory reporter requirement.** A mandatory  
5217 reporter shall make a report if it would be reasonable for the  
5218 mandatory reporter to suspect that a sex crime against a minor has  
5219 occurred.

5220 (b) Failure to file a mandatory report shall be  
5221 punished as provided in this section.

5222 (c) Reports made under this section and the identity of  
5223 the mandatory reporter are confidential except when the court  
5224 determines the testimony of the person reporting to be material to  
5225 a judicial proceeding or when the identity of the reporter is  
5226 released to law enforcement agencies and the appropriate  
5227 prosecutor. The identity of the reporting party shall not be  
5228 disclosed to anyone other than law enforcement or prosecutors  
5229 except under court order; violation of this requirement is a  
5230 misdemeanor. Reports made under this section are for the purpose  
5231 of criminal investigation and prosecution only and information  
5232 from these reports is not a public record. Disclosure of any



5233 information by the prosecutor shall conform to the Mississippi  
5234 Uniform Rules of Circuit and County Court Procedure.

5235 (d) Any mandatory reporter who makes a required report  
5236 under this section or participates in a judicial proceeding  
5237 resulting from a mandatory report shall be presumed to be acting  
5238 in good faith. Any person or institution reporting in good faith  
5239 shall be immune from any liability, civil or criminal, that might  
5240 otherwise be incurred or imposed.

5241 (3) (a) **Mandatory reporting procedure.** A report required  
5242 under subsection (2) must be made immediately to the law  
5243 enforcement agency in whose jurisdiction the reporter believes the  
5244 sex crime against the minor occurred. Except as otherwise  
5245 provided in this subsection (3), a mandatory reporter may not  
5246 delegate to any other person the responsibility to report, but  
5247 shall make the report personally.

5248 (i) The reporting requirement under this  
5249 subsection (3) is satisfied if a mandatory reporter in good faith  
5250 reports a suspected sex crime against a minor to the Department  
5251 of \* \* \* Child Protection Services under Section 43-21-353.

5252 (ii) The reporting requirement under this  
5253 subsection (3) is satisfied if a mandatory reporter reports a  
5254 suspected sex crime against a minor by following a reporting  
5255 procedure that is imposed:

5256 1. By state agency rule as part of licensure  
5257 of any person or entity holding a state license to provide



5258 services that include the treatment or education of abused or  
5259 neglected children; or

5260 2. By statute.

5261 (b) **Contents of the report.** The report shall identify,  
5262 to the extent known to the reporter, the following:

5263 (i) The name and address of the minor victim;

5264 (ii) The name and address of the minor's  
5265 caretaker;

5266 (iii) Any other pertinent information known to the  
5267 reporter.

5268 (4) A law enforcement officer who receives a mandated report  
5269 under this section shall file an affidavit against the offender on  
5270 behalf of the State of Mississippi if there is probable cause to  
5271 believe that the offender has committed a sex crime against a  
5272 minor.

5273 (5) **Collection of forensic samples.** (a) (i) When an  
5274 abortion is performed on a minor who is less than fourteen (14)  
5275 years of age at the time of the abortion procedure, fetal tissue  
5276 extracted during the abortion shall be collected in accordance  
5277 with rules and regulations adopted pursuant to this section if it  
5278 would be reasonable to suspect that the pregnancy being terminated  
5279 is the result of a sex crime against a minor.

5280 (ii) When a minor who is under sixteen (16) years  
5281 of age gives birth to an infant, umbilical cord blood shall be  
5282 collected, if possible, in accordance with rules and regulations



5283 adopted pursuant to this section if it would be reasonable to  
5284 suspect that the minor's pregnancy resulted from a sex crime  
5285 against a minor.

5286 (iii) It shall be reasonable to suspect that a sex  
5287 crime against a minor has occurred if the mother of an infant was  
5288 less than sixteen (16) years of age at the time of conception and  
5289 at least one (1) of the following conditions also applies:

5290 1. The mother of the infant will not identify  
5291 the father of the infant;

5292 2. The mother of the infant lists the father  
5293 of the infant as unknown;

5294 3. The person the mother identifies as the  
5295 father of the infant disputes his fatherhood;

5296 4. The person the mother identifies as the  
5297 father of the infant is twenty-one (21) years of age or older; or

5298 5. The person the mother identifies as the  
5299 father is deceased.

5300 (b) The State Medical Examiner shall adopt rules and  
5301 regulations consistent with Section 99-49-1 that prescribe:

5302 (i) The amount and type of fetal tissue or  
5303 umbilical cord blood to be collected pursuant to this section;

5304 (ii) Procedures for the proper preservation of the  
5305 tissue or blood for the purpose of DNA testing and examination;

5306 (iii) Procedures for documenting the chain of  
5307 custody of such tissue or blood for use as evidence;



5308 (iv) Procedures for proper disposal of fetal  
5309 tissue or umbilical cord blood collected pursuant to this section;

5310 (v) A uniform reporting instrument mandated to be  
5311 utilized, which shall include the complete residence address and  
5312 name of the parent or legal guardian of the minor who is the  
5313 subject of the report required under this subsection (5); and

5314 (vi) Procedures for communication with law  
5315 enforcement agencies regarding evidence and information obtained  
5316 pursuant to this section.

5317 (6) **Penalties.** (a) A person who is convicted of a first  
5318 offense under this section shall be guilty of a misdemeanor and  
5319 fined not more than Five Hundred Dollars (\$500.00).

5320 (b) A person who is convicted of a second offense under  
5321 this section shall be guilty of a misdemeanor and fined not more  
5322 than One Thousand Dollars (\$1,000.00), or imprisoned for not more  
5323 than thirty (30) days, or both.

5324 (c) A person who is convicted of a third or subsequent  
5325 offense under this section shall be guilty of a misdemeanor and  
5326 fined not more than Five Thousand Dollars (\$5,000.00), or  
5327 imprisoned for not more than one (1) year, or both.

5328 (7) A health care practitioner or health care facility shall  
5329 be immune from any penalty, civil or criminal, for good-faith  
5330 compliance with any rules and regulations adopted pursuant to this  
5331 section.





5332           **SECTION 97.** Section 97-29-49, Mississippi Code of 1972, is  
5333 amended as follows:

5334           97-29-49. (1) A person commits the misdemeanor of  
5335 prostitution if the person knowingly or intentionally performs, or  
5336 offers or agrees to perform, sexual intercourse or sexual conduct  
5337 for money or other property. "Sexual conduct" includes  
5338 cunnilingus, fellatio, masturbation of another, anal intercourse  
5339 or the causing of penetration to any extent and with any object or  
5340 body part of the genital or anal opening of another.

5341           (2) Any person violating the provisions of this section  
5342 shall, upon conviction, be punished by a fine not exceeding Two  
5343 Hundred Dollars (\$200.00) or by confinement in the county jail for  
5344 not more than six (6) months, or both.

5345           (3) In addition to the mandatory reporting provisions  
5346 contained in Section 97-5-51, any law enforcement officer who  
5347 takes a minor under eighteen (18) years of age into custody for  
5348 suspected prostitution shall immediately make a report to the  
5349 Department of \* \* \* Child Protection Services as required in  
5350 Section 43-21-353 for suspected child sexual abuse or neglect, and  
5351 the department shall commence an initial investigation into  
5352 suspected child sexual abuse or neglect as required in Section  
5353 43-21-353.

5354           (4) If it is determined that a person suspected of or  
5355 charged with engaging in prostitution is engaging in those acts as  
5356 a direct result of being a trafficked person, as defined by



5357 Section 97-3-54.4, that person shall be immune from prosecution  
5358 for prostitution as a juvenile or adult and, if a minor, the  
5359 provisions of Section 97-3-54.1(4) shall be applicable.

5360 **SECTION 98.** Section 43-21-251, Mississippi Code of 1972, is  
5361 amended as follows:

5362 43-21-251. (1) The court records of the youth court shall  
5363 include:

5364 (a) A general docket in which the clerk of the youth  
5365 court shall enter the names of the parties in each cause, the date  
5366 of filing the petition, any other pleadings, all other papers in  
5367 the cause, issuance and return of process, and a reference by the  
5368 minute book and page to all orders made therein. The general  
5369 docket shall be duly indexed in the alphabetical order of the  
5370 names of the parties.

5371 (b) All the papers and pleadings filed in a cause. The  
5372 papers in every cause shall be marked with the style and number of  
5373 the cause and the date when filed. All the papers filed in a  
5374 cause shall be kept in the same file, and all the files shall be  
5375 kept in numerical order.

5376 (c) All social records of a youth court, which shall  
5377 include all intake records, social summaries, medical  
5378 examinations, mental health examinations, transfer studies and all  
5379 other information obtained and prepared in the discharge of  
5380 official duty for the youth court.



5381                   (i) A "social summary" is an investigation of the  
5382 personal and family history and the environment of a child who is  
5383 the subject of a youth court cause. The social summary should  
5384 describe all reasonable appropriate alternative dispositions. The  
5385 social summary should contain a specific plan for the care and  
5386 assistance to the child with a detailed explanation showing the  
5387 necessity for the proposed plan of disposition.

5388                   (ii) A "medical examination" is an examination by  
5389 a physician of a child who is the subject of a youth court cause  
5390 or of his parent. The youth court may order a medical examination  
5391 at any time after the intake unit has received a written  
5392 complaint. Whenever possible, a medical examination shall be  
5393 conducted on an outpatient basis. A medical examination of a  
5394 parent of the child who is the subject of the cause shall not be  
5395 ordered unless the physical or mental ability of the parent to  
5396 care for the child is a relevant issue in the particular cause and  
5397 the parent to be examined consents to the examination.

5398                   (iii) A "mental health examination" is an  
5399 examination by a psychiatrist or psychologist of a child who is  
5400 the subject of a youth court cause or of his parent. The youth  
5401 court may order a mental health examination at any time after the  
5402 intake unit has received a written complaint. Whenever possible,  
5403 a mental health examination shall be conducted on an outpatient  
5404 basis. A mental health examination of a parent of the child who  
5405 is the subject of a cause shall not be ordered unless the physical



5406 or mental ability of the parent to care for the child is a  
5407 relevant issue in the particular cause and the parent to be  
5408 examined consents to the examination.

5409 (iv) A "transfer study" is a social summary which  
5410 addresses the factors set forth in Section 43-21-157(5). A  
5411 transfer study shall not be admissible evidence nor shall it be  
5412 considered by the court at any adjudicatory hearing. It shall be  
5413 admissible evidence at a transfer or disposition hearing.

5414 (d) A minute book in which the clerk shall record all  
5415 the orders of the youth court.

5416 (e) Proceedings of the youth court and evidence.

5417 (f) All information obtained by the youth court from  
5418 the Administrative Office of Courts pursuant to a request under  
5419 Section 43-21-261(15).

5420 (2) The records of the youth court and the contents thereof  
5421 shall be kept confidential and shall not be disclosed except as  
5422 provided in Section 43-21-261.

5423 (3) The court records of the youth court may be kept on  
5424 computer in the manner provided for storing circuit court records  
5425 and dockets as provided in Section 9-7-171. The Administrative  
5426 Office of Courts shall recommend to the youth courts a uniform  
5427 format to maintain the records of such courts.

5428 **SECTION 99.** Section 25-9-127, Mississippi Code of 1972, is  
5429 amended as follows:



5430           25-9-127. (1) No employee of any department, agency or  
5431 institution who is included under this chapter or hereafter  
5432 included under its authority, and who is subject to the rules and  
5433 regulations prescribed by the state personnel system, may be  
5434 dismissed or otherwise adversely affected as to compensation or  
5435 employment status except for inefficiency or other good cause, and  
5436 after written notice and hearing within the department, agency or  
5437 institution as shall be specified in the rules and regulations of  
5438 the State Personnel Board complying with due process of law; and  
5439 any employee who has by written notice of dismissal or action  
5440 adversely affecting his compensation or employment status shall,  
5441 on hearing and on any appeal of any decision made in such action,  
5442 be required to furnish evidence that the reasons stated in the  
5443 notice of dismissal or action adversely affecting his compensation  
5444 or employment status are not true or are not sufficient grounds  
5445 for the action taken; provided, however, that this provision shall  
5446 not apply (a) to persons separated from any department, agency or  
5447 institution due to curtailment of funds or reduction in staff when  
5448 such separation is in accordance with rules and regulations of the  
5449 state personnel system; (b) during the probationary period of  
5450 state service of twelve (12) months; and (c) to an executive  
5451 officer of any state agency who serves at the will and pleasure of  
5452 the Governor, board, commission or other appointing authority.

5453           (2) The operation of a state-owned motor vehicle without a  
5454 valid Mississippi driver's license by an employee of any



5455 department, agency or institution that is included under this  
5456 chapter and that is subject to the rules and regulations of the  
5457 state personnel system shall constitute good cause for dismissal  
5458 of such person from employment.

5459 (3) Beginning July 1, 1999, every male between the ages of  
5460 eighteen (18) and twenty-six (26) who is required to register  
5461 under the federal Military Selective Service Act, 50 USCS App.  
5462 453, and who is an employee of the state shall not be promoted to  
5463 any higher position of employment with the state until he submits  
5464 to the person, commission, board or agency by which he is employed  
5465 satisfactory documentation of his compliance with the draft  
5466 registration requirements of the Military Selective Service Act.  
5467 The documentation shall include a signed affirmation under penalty  
5468 of perjury that the male employee has complied with the  
5469 requirements of the Military Selective Service Act.

5470 (4) For a period of two (2) years beginning July 1, 2014,  
5471 the provisions of subsection (1) shall not apply to the personnel  
5472 actions of the State Department of Education that are subject to  
5473 the rules and regulations of the State Personnel Board, and all  
5474 employees of the department shall be classified as nonstate  
5475 service during that period. However, any employee hired after  
5476 July 1, 2014, by the department shall meet the criteria of the  
5477 State Personnel Board as it presently exists for employment. The  
5478 State Superintendent of Public Education and the State Board of  
5479 Education shall consult with the Office of the Attorney General



5480 before taking personnel actions authorized by this section to  
5481 review those actions for compliance with applicable state and  
5482 federal law.

5483 It is not the intention or effect of this section to include  
5484 any school attendance officer in any exemption from coverage under  
5485 the State Personnel Board policy or regulations, including, but  
5486 not limited to, termination and conditions of employment.

5487 (5) (a) For a period of two (2) years beginning July 1,  
5488 2015, the provisions of subsection (1) shall not apply to the  
5489 personnel actions of the Department of Corrections, and all  
5490 employees of the department shall be classified as nonstate  
5491 service during that period. However, any employee hired after  
5492 July 1, 2015, by the department shall meet the criteria of the  
5493 State Personnel Board as it presently exists for employment.

5494 (b) Additionally, for a period of one (1) year  
5495 beginning July 1, 2016, the personnel actions of the Commissioner  
5496 of the Department of Corrections shall be exempt from State  
5497 Personnel Board rules, regulations and procedures in order to give  
5498 the commissioner flexibility in making an orderly, effective and  
5499 timely reorganization and realignment of the department.

5500 (c) The Commissioner of Corrections shall consult with  
5501 the Office of the Attorney General before personnel actions  
5502 authorized by this section to review those actions for compliance  
5503 with applicable state and federal law.



5504 (6) Through July 1, 2019, the provisions of subsection (1)  
5505 of this section shall not apply to the personnel actions of the  
5506 Department of Human Services that are subject to the rules and  
5507 regulations of the State Personnel Board, and all employees of the  
5508 department shall be classified as nonstate service during that  
5509 period. Any employee hired on or after July 1, 2019, by the  
5510 department shall meet the criteria of the State Personnel Board as  
5511 it presently exists for employment. The Executive Director of  
5512 Human Services shall consult with the Office of the Attorney  
5513 General before taking personnel actions authorized by this section  
5514 to review those actions for compliance with applicable state and  
5515 federal law.

5516 (7) Through July 1, 2019, the provisions of subsection (1)  
5517 of this section shall not apply to the personnel actions of the  
5518 Department of Child Protection Services that are subject to the  
5519 rules and regulations of the State Personnel Board, and all  
5520 employees of the department shall be classified as nonstate  
5521 service during that period. Any employee hired on or after July  
5522 1, 2019, by the division shall meet the criteria of the State  
5523 Personnel Board as it presently exists for employment. Further,  
5524 for a period of one (1) year beginning July 1, 2017, the personnel  
5525 actions of the Department of Child Protection Services shall be  
5526 exempt from State Personnel Board rules, regulation and procedures  
5527 in order to give the department flexibility in making an orderly,  
5528 effective and timely reorganization and realignment of the





5529 department. The Commissioner of Child Protection Services shall  
5530 consult with the Office of the Attorney General before taking  
5531 personnel actions authorized by this section to review those  
5532 actions for compliance with applicable state and federal law.

5533 (8) Any state agency whose personnel actions are exempted in  
5534 this section from the rules, regulations and procedures of the  
5535 State Personnel Board shall file with the Lieutenant Governor, the  
5536 Speaker of the House of Representatives, and the members of the  
5537 Senate and House Accountability, Efficiency \* \* \* and Transparency  
5538 Committees an annual report no later than July 1, 2016, and each  
5539 year thereafter while under the exemption. Such annual report  
5540 shall contain the following information:

5541 (a) The number of current employees who received an  
5542 increase in salary during the past fiscal year and the amount of  
5543 the increase;

5544 (b) The number of employees who were dismissed from the  
5545 agency or otherwise adversely affected as to compensation or  
5546 employment status during the past fiscal year, including a  
5547 description of such adverse effects; and

5548 (c) The number of new employees hired during the past  
5549 fiscal year and the starting salaries of each new employee.

5550 **SECTION 100.** The following shall be codified as Section  
5551 43-26-5, Mississippi Code of 1972:



5552           43-26-5. (1) In addition to all other powers and duties  
5553 provided by law, the Department of Child Protection Services is  
5554 authorized to:

5555                   (a) Provide protective services for children as will  
5556 conserve home life;

5557                   (b) Assume responsibility for the care and support of  
5558 dependent children needing public care away from their homes;

5559                   (c) Place children found by the department to be  
5560 dependent or without proper care in suitable institutions or  
5561 private homes and cooperate with public and private institutions  
5562 in placing such children; and

5563                   (d) Accept custody or guardianship, through one (1) of  
5564 its designated employees, of any child, when appointed as  
5565 custodian or guardian in the manner provided by law.

5566           The grant of authority in this subsection (1) shall not be  
5567 construed as diminishing any other authority granted to the  
5568 department by any other law.

5569           (2) The board of supervisors in each county is empowered, in  
5570 its discretion, to set aside and appropriate any money necessary  
5571 to carry out the provisions of this section to the county office  
5572 of the Department of Child Protection Services. Such money may  
5573 come out of the tax levied and collected to support the poor of  
5574 the county or out of the county general fund.

5575           **SECTION 101.** The following shall be codified as Section  
5576 43-26-3, Mississippi Code of 1972:



5577           43-26-3. The Commissioner of the Department of Child

5578 Protection Services is authorized to:

5579           (a) Formulate the policy of the department;

5580           (b) Adopt, modify, repeal and promulgate, after due  
5581 notice and hearing, and where not otherwise prohibited by federal  
5582 or state law, to make exceptions to and grant exemptions and  
5583 variances from, and to enforce rules and regulations implementing  
5584 or effectuating the powers and duties of the department under any  
5585 and all statutes within the department's jurisdiction;

5586           (c) Employ personnel;

5587           (d) Apply for, receive and expend any federal or state  
5588 funds or contributions, gifts, devises, bequests or funds from any  
5589 other source;

5590           (e) Fingerprint and perform a criminal history check on  
5591 every employee or volunteer who, by virtue of such position has  
5592 direct access to children or is in a position of fiduciary  
5593 responsibility; and

5594           (f) Discharge such other duties, responsibilities and  
5595 powers as are necessary to implement the programs of the  
5596 department.

5597           **SECTION 102.** This act shall take effect and be in force from  
5598 and after its passage.

