

By: Representative Arnold

To: Judiciary B

HOUSE BILL NO. 1448

1 AN ACT TO AMEND SECTION 93-15-121, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT IF A PARENT HAS TESTED POSITIVE FOR A CONTROLLED
3 SUBSTANCE, OTHER THAN A CBD SOLUTION AS PROVIDED UNDER HARPER
4 GRACE'S LAW, MORE THAN TWICE WITHIN A SIX MONTH PERIOD, THEN SUCH
5 POSITIVE TEST RESULTS, IF ESTABLISHED BY CLEAR AND CONVINCING
6 EVIDENCE, MAY BE GROUNDS FOR TERMINATION OF PARENTAL RIGHTS; TO
7 AMEND SECTION 43-21-603, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
8 IN A DISPOSITIONAL HEARING FOR A CHILD WHO HAS BEEN ADJUDICATED
9 ABUSED OR NEGLECTED AND PLACED WITH THE DEPARTMENT OF CHILD
10 PROTECTION SERVICES, REASONABLE EFFORTS TO KEEP THE CHILD WITHIN
11 HIS OR HER HOME SHALL NOT BE REQUIRED IF THE CHILD'S PARENT HAS
12 TESTED POSITIVE MORE THAN TWICE FOR A CONTROLLED SUBSTANCE, OTHER
13 THAN A CBD SOLUTION, WITHIN A SIX MONTH PERIOD; TO AMEND SECTIONS
14 43-21-301 AND 43-21-303, MISSISSIPPI CODE OF 1972, TO REMOVE THE
15 PROHIBITION AGAINST A YOUTH COURT MAKING A FINDING OF PROBABLE
16 CAUSE TO ISSUE A CUSTODY ORDER OR TO TAKE A CHILD INTO CUSTODY
17 WITHOUT A CUSTODY ORDER BASED SOLELY UPON A POSITIVE DRUG TEST OF
18 A CHILD'S PARENT FOR MARIJUANA; TO AMEND SECTION 43-15-13,
19 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A FOSTER PARENT SHALL BE
20 GIVEN RIGHT OF FIRST REFUSAL TO ADOPT A CHILD IF SUCH PARENT HAS
21 CARED FOR THE CHILD WHILE IN FOSTER CARE AND THE FOSTER PARENT'S
22 HOME HAS BEEN DEEMED SUITABLE FOR ADOPTION AND THE CHILD IS
23 ELIGIBLE FOR ADOPTION BECAUSE HIS OR HER PARENT HAS TESTED
24 POSITIVE FOR A CONTROLLED SUBSTANCE, OTHER THAN A CBD SOLUTION,
25 WITHIN A SIX MONTH PERIOD; TO BRING FORWARD SECTION 93-15-131,
26 MISSISSIPPI CODE OF 1972, WHICH PERTAINS TO POST-JUDGMENT
27 PROCEEDINGS IN TERMINATION OF PARENTAL RIGHTS; AND FOR RELATED
28 PURPOSES.

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

30 **SECTION 1.** Section 93-15-121, Mississippi Code of 1972, is
31 amended as follows:



93-15-121. Any of the following, if established by clear and convincing evidence, may be grounds for termination of the parent's parental rights if reunification between the parent and child is not desirable toward obtaining a satisfactory permanency outcome:

(a) The parent has been medically diagnosed by a qualified mental health professional with a severe mental illness or deficiency that is unlikely to change in a reasonable period of time and which, based upon expert testimony or an established pattern of behavior, makes the parent unable or unwilling to provide an adequate permanent home for the child;

(b) The parent has been medically diagnosed by a qualified health professional with an extreme physical incapacitation that is unlikely to change in a reasonable period of time and which, based upon expert testimony or an established pattern of behavior, prevents the parent, despite reasonable accommodations, from providing minimally acceptable care for the child;

(c) The parent is suffering from habitual alcoholism or other drug addiction and has failed to successfully complete alcohol or drug treatment;

(d) The parent is unwilling to provide reasonably necessary food, clothing, shelter, or medical care for the child; reasonably necessary medical care does not include recommended or optional vaccinations against childhood or any other disease;



(e) The parent has failed to exercise reasonable visitation or communication with the child;

(f) The parent's abusive or neglectful conduct has caused, at least in part, an extreme and deep-seated antipathy by the child toward the parent, or some other substantial erosion of the relationship between the parent and the child;

(g) The parent has committed an abusive act for which reasonable efforts to maintain the children in the home would not be required under Section 43-21-603, or a series of physically, mentally, or emotionally abusive incidents, against the child or another child, whether related by consanguinity or affinity or not, making future contacts between the parent and child undesirable; * * *

(h) (i) The parent has been convicted of any of the following offenses against any child:

1. Rape of a child under Section 97-3-65;
2. Sexual battery of a child under Section 97-3-95(c);
3. Touching a child for lustful purposes under Section 97-5-23;
4. Exploitation of a child under Sections 97-5-31 through 97-5-37;
5. Felonious abuse or battery of a child under Section 97-5-39(2);



81 6. Carnal knowledge of a step or adopted
82 child or a child of a cohabitating partner under Section 97-5-41;
83 or

84 7. Human trafficking of a child under Section
85 97-3-54.1; or

86 (ii) The parent has been convicted of:

87 1. Murder or voluntary manslaughter of
88 another child of the parent;

89 2. Aiding, abetting, attempting, conspiring
90 or soliciting to commit murder or voluntary manslaughter of the
91 child or another child of the parent; or

92 3. A felony assault that results in the
93 serious bodily injury to the child or another child of the
94 parent * * *; and

95 (i) The parent has tested positive for a controlled
96 substance more than twice within a six month period. This
97 paragraph (i) shall not apply to any parent who utilizes a CBD
98 solution as provided under Harper Grace's Law.

99 **SECTION 2.** Section 43-21-603, Mississippi Code of 1972, is
100 amended as follows:

101 43-21-603. (1) At the beginning of each disposition
102 hearing, the judge shall inform the parties of the purpose of the
103 hearing.

104 (2) All testimony shall be under oath unless waived by all
105 parties and may be in narrative form. The court may consider any



evidence that is material and relevant to the disposition of the cause, including hearsay and opinion evidence. At the conclusion of the evidence, the youth court shall give the parties an opportunity to present oral argument.

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

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



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

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

135 (b) The family and home situation; and

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

137 (5) If the child has been adjudicated a neglected child or
138 an abused child, before entering a disposition order, the youth
139 court shall consider, among others, the following relevant
140 factors:

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

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

143 (c) The manner in which the parent, guardian or
144 custodian participated in, tolerated or condoned the abuse,
145 neglect or abandonment of the child;

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

148 (e) Relevant testimony and recommendations, where
149 available, from the foster parent of the child, the grandparents
150 of the child, the guardian ad litem of the child, representatives
151 of any private care agency that has cared for the child, the
152 family protection worker or family protection specialist assigned
153 to the case, and any other relevant testimony pertaining to the
154 case.



155 (6) After consideration of all the evidence and the relevant
156 factors, the youth court shall enter a disposition order that
157 shall not recite any of the facts or circumstances upon which the
158 disposition is based, nor shall it recite that a child has been
159 found guilty; but it shall recite that a child is found to be a
160 delinquent child, a child in need of supervision, a neglected
161 child or an abused child.

162 (7) If the youth court orders that the custody or
163 supervision of a child who has been adjudicated abused or
164 neglected be placed with the Department of Human Services or any
165 other person or public or private agency, other than the child's
166 parent, guardian or custodian, the youth court shall find and the
167 disposition order shall recite that:

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

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

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



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

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

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

(iii) The parental rights of the parent to a sibling have been terminated involuntarily; * * * or

(iv) The parent has tested positive for a controlled substance more than twice within a six month period.

This subparagraph shall not apply to any parent who utilizes a CBD solution as provided under Harper Grace's Law; and

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

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



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

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

(b) The child's mental health history;

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

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

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

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

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



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

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

SECTION 3. Section 43-21-301, Mississippi Code of 1972, is amended as follows:

43-21-301. (1) No court other than the youth court shall issue an arrest warrant or custody order for a child in a matter



in which the youth court has exclusive original jurisdiction but shall refer the matter to the youth court.

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

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

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

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

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

(iii) There is no reasonable alternative to custody.



277 * * *

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

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

285 (4) The judge or his designee may order, orally or in
286 writing, the immediate release of any child in the custody of any
287 person or agency. Except as otherwise provided in subsection (3)
288 of this section, custody orders as provided by this chapter and
289 authorizations of temporary custody may be written or oral, but,
290 if oral, reduced to writing as soon as practicable. The written
291 order shall:

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

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

298 (c) Except in cases where the child is alleged to be a
299 delinquent child or a child in need of supervision, state that the
300 effect of the continuation of the child's residing within his or
301 her own home would be contrary to the welfare of the child, that



the placement of the child in foster care is in the best interests of the child, and unless the reasonable efforts requirement is bypassed under Section 43-21-603(7)(c), also state that (i) reasonable efforts have been made to maintain the child within his or her own home, but that the circumstances warrant his removal and there is no reasonable alternative to custody; or (ii) the circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his own home, and that there is no reasonable alternative to custody. If the court makes a finding in accordance with (ii) of this paragraph, the court shall order that reasonable efforts be made towards the reunification of the child with his or her family;

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

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

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

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

(6) (a) No child who has been accused or adjudicated of any offense that would not be a crime if committed by an adult shall be placed in an adult jail or lockup. An accused status offender shall not be held in secure detention longer than twenty-four (24)



327 hours prior to and twenty-four (24) hours after an initial court
328 appearance, excluding Saturdays, Sundays and statutory state
329 holidays, except under the following circumstances: a status
330 offender may be held in secure detention for violating a valid
331 court order pursuant to the criteria as established by the federal
332 Juvenile Justice and Delinquency Prevention Act of 2002, and any
333 subsequent amendments thereto, and out-of-state runaways may be
334 detained pending return to their home state.

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

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

346 (d) Any county that does not have a facility in which
347 to detain its juvenile offenders in compliance with the provisions
348 of paragraphs (a) and (b) of this subsection may enter into a
349 contractual agreement to detain or place into custody the juvenile
350 offenders of that county with any county or municipality that does
351 have such a facility, or with the State of Mississippi, or with



any private entity that maintains a juvenile correctional facility.

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

SECTION 4. Section 43-21-303, Mississippi Code of 1972, is amended as follows:

43-21-303. (1) No child in a matter in which the youth court has original exclusive jurisdiction shall be taken in custody by any person without a custody order except that:

(a) A law enforcement officer may take a child in custody if:

(i) Grounds exist for the arrest of an adult in identical circumstances; and

(ii) Such law enforcement officer has probable cause to believe that custody is necessary as defined in Section 43-21-301(3)(b); and

(iii) Such law enforcement officer can find no reasonable alternative to custody; or

(b) A law enforcement officer or an agent of the department of public welfare may take a child into custody if:

(i) There is probable cause to believe that the child is in immediate danger of personal harm * * *; and



(ii) Such law enforcement officer or agent has probable cause to believe that immediate custody is necessary as defined in Section 43-21-301(3)(b); and

(iii) Such law enforcement officer or agent can find no reasonable alternative to custody; and

(c) Any other person may take a child in custody if grounds exist for the arrest of an adult in identical circumstances. Such other person shall immediately surrender custody of the child to the proper law enforcement officer who shall thereupon continue custody only as provided in subsection (1)(a) of this section.

(2) When it is necessary to take a child into custody, the least restrictive custody should be selected.

(3) Unless the child is immediately released, the person taking the child into custody shall immediately notify the judge or his designee. A person taking a child into custody shall also make continuing reasonable efforts to notify the child's parent, guardian or custodian and invite the parent, guardian or custodian to be present during any questioning.

(4) A child taken into custody shall not be held in custody for a period longer than reasonably necessary, but not to exceed twenty-four (24) hours, and shall be released to his parent, guardian or custodian unless the judge or his designee authorizes temporary custody.



400 **SECTION 5.** Section 43-15-13, Mississippi Code of 1972, is
401 amended as follows:

402 43-15-13. (1) For purposes of this section, "children"
403 means persons found within the state who are under the age of
404 twenty-one (21) years, and who were placed in the custody of the
405 Department of Child Protection Services by the youth court of the
406 appropriate county.

407 (2) The Department of Child Protection Services shall
408 establish a foster care placement program for children whose
409 custody lies with the department, with the following objectives:

410 (a) Protecting and promoting the health, safety and
411 welfare of children;

412 (b) Preventing the unnecessary separation of children
413 from their families by identifying family problems, assisting
414 families in resolving their problems and preventing the breakup of
415 the family where the prevention of child removal is desirable and
416 possible when the child can be cared for at home without
417 endangering the child's health and safety;

418 (c) Remedying or assisting in the solution of problems
419 that may result in the neglect, abuse, exploitation or delinquency
420 of children;

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



(e) Placing children in suitable adoptive homes approved by a licensed adoption agency or family protection specialist, in cases where restoration to the biological family is not safe, possible or appropriate. A suitable adoptive home for placement may include the approved home of a foster parent who shall be given the right of first refusal to adopt a child if:
(i) the foster parent has provided care for the child and (ii) the child is eligible for adoption because the child's parents have had their parental rights terminated as provided under Section 93-15-121(i);

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

(g) Providing a family protection specialist or worker or team of such specialists or workers for a family and child throughout the implementation of their permanent living arrangement plan. Wherever feasible, the same family protection



specialist or worker or team shall remain on the case until the child is no longer under the jurisdiction of the youth court.

(3) The Department of Child Protection Services shall administer a system of individualized plans and reviews once every six (6) months for each child under its custody within the State of Mississippi, each child who has been adjudged a neglected, abandoned or abused child and whose custody was changed by court order as a result of that adjudication, and each public or private facility licensed by the department. The Department of Child Protection Services' administrative review shall be completed on each child within the first three (3) months and a relative placement, fictive kin placement, or foster care review once every six (6) months after the child's initial forty-eight-hour shelter hearing. That system shall be for the purpose of enhancing potential family life for the child by the development of individual plans to return the child to the child's natural parent or parents, or to refer the child to the appropriate court for termination of parental rights and placement in a permanent relative's home, adoptive home or foster/adoptive home. The goal of the Department of Child Protection Services shall be to return the child to the child's natural parent(s) or refer the child to the appropriate court for termination of parental rights and placement in a permanent relative's home, adoptive home or foster/adoptive home within the time periods specified in this subsection or in subsection (4) of this section. In furthering



475 this goal, the department shall establish policy and procedures
476 designed to appropriately place children in permanent homes, the
477 policy to include a system of reviews for all children in foster
478 care, as follows: foster care counselors in the department shall
479 make all possible contact with the child's natural parent(s),
480 custodial parent(s) of all siblings of the child, and any
481 interested relative for the first two (2) months following the
482 child's entry into the foster care system. For purposes of
483 contacting custodial parent(s) of a sibling, siblings include
484 those who are considered a sibling under state law, and those who
485 would have been considered a sibling under state law, except for
486 termination or disruption of parental rights. For any child who
487 has been in foster care for fifteen (15) of the last twenty-two
488 (22) months regardless of whether the foster care was continuous
489 for all of those twenty-two (22) months, the department shall file
490 a petition to terminate the parental rights of the child's
491 parents. The time period starts to run from the date the court
492 makes a finding of abuse and/or neglect or sixty (60) days from
493 when the child was removed from his or her home, whichever is
494 earlier. The department can choose not to file a termination of
495 parental rights petition if the following apply:

- 496 (a) The child is being cared for by a relative; and/or
497 (b) The department has documented compelling and
498 extraordinary reasons why termination of parental rights would not
499 be in the best interests of the child. Before granting or denying



a request by the department for an extension of time for filing a termination of parental rights action, the court shall receive a written report on the progress which a parent of the child has made in treatment, to be made to the court in writing by a mental health/substance abuse therapist or counselor.

(4) In the case of any child who is placed in foster care on or after July 1, 1998, except in cases of aggravated circumstances prescribed in Section 43-21-603(7)(c), the child's natural parent(s) will have a reasonable time to be determined by the court, which shall not exceed a six-month period of time, in which to meet the service agreement with the department for the benefit of the child unless the department has documented extraordinary and compelling reasons for extending the time period in the best interest of the child. If this agreement has not been satisfactorily met, simultaneously the child will be referred to the appropriate court for termination of parental rights and placement in a permanent relative's home, adoptive home or a foster/adoptive home. For children under the age of three (3) years, termination of parental rights shall be initiated within six (6) months, unless the department has documented compelling and extraordinary circumstances, and placement in a permanent relative's home, adoptive home or foster/adoptive home within two (2) months. For children who have been abandoned under the provisions of Section 97-5-1, termination of parental rights shall be initiated within thirty (30) days and placement in an adoptive



home shall be initiated without necessity for placement in a foster home. The department need not initiate termination of parental rights proceedings where the child has been placed in durable legal custody, durable legal relative guardianship, or long-term or formalized foster care by a court of competent jurisdiction.

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

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

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

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

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

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

(f) Relevant testimony and recommendations from the foster parent of the child, the grandparents of the child, the



guardian ad litem of the child, when appointed, the Court-Appointed Special Advocate (CASA) of the child, representatives of any private care agency that has cared for the child, the family protection worker or family protection specialist assigned to the case, and any other relevant testimony pertaining to the case.

Each child's review plan once every six (6) months shall be filed with the court which awarded custody and shall be made available to natural parents or foster parents upon approval of the court. The court shall make a finding as to the degree of compliance by the agency and the parent(s) with the child's social service plan. The court also shall find that the child's health and safety are the paramount concern. In the interest of the child, the court shall, where appropriate, initiate proceedings on its own motion. The Department of Child Protection Services shall report to the Legislature as to the number of those children, the findings of the foster care review board and relevant statistical information in foster care in a semiannual report to the Legislature to be submitted to the Joint Oversight Committee of the Department of Child Protection Services. The report shall not refer to the specific name of any child in foster care.

(6) (a) The Department of Child Protection Services, with the cooperation and assistance of the State Department of Health, shall develop and implement a training program for foster care parents to indoctrinate them as to their proper responsibilities



575 upon a child's entry into their foster care. The program shall
576 provide a minimum of twelve (12) clock hours of training. The
577 foster care training program shall be satisfactorily completed by
578 such foster care parents before or within ninety (90) days after
579 child placement with the parent. Record of the foster care
580 parent's training program participation shall be filed with the
581 court as part of a child's foster care review plan once every six
582 (6) months.

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

585 (ii) A relative exempted from foster care training
586 is not eligible for board payments, foster care payments, kinship
587 care payments, therapeutic care payments, or any other monthly
588 payments from the department to assist in the care of the child.

589 (7) When the Department of Child Protection Services is
590 considering placement of a child in a foster home and when the
591 department deems it to be in the best interest of the child, the
592 department shall give first priority to placing the child in the
593 home of one (1) of the child's relatives within the third degree,
594 as computed by the civil law rule.

595 (a) In placing the child in a relative's home, the
596 department may waive any rule, regulation or policy applicable to
597 placement in foster care that would otherwise require the child to
598 have a separate bed or bedroom or have a bedroom of a certain
599 size, if placing the child in a relative's home would be in the



600 best interest of the child and those requirements cannot be met in
601 the relative's home.

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

604 (8) The Legislature recognizes that the best interests of
605 the child require that the child be placed in the most permanent
606 living arrangement as soon as is practicably possible. To achieve
607 this goal, the Department of Child Protection Services is directed
608 to conduct concurrent planning so that a permanent living
609 arrangement may occur at the earliest opportunity. Permanent
610 living arrangements may include prevention of placement of a child
611 outside the home of the family when the child can be cared for at
612 home without endangering the child's health or safety;
613 reunification with the family, when safe and appropriate, if
614 temporary placement is necessary; or movement of the child toward
615 the most permanent living arrangement and permanent legal status.
616 When a child is placed in foster care or relative care, the
617 department shall first ensure and document that reasonable
618 efforts, as defined in Section 43-21-105, were made to prevent or
619 eliminate the need to remove the child from the child's home. The
620 department's first priority shall be to make reasonable efforts to
621 reunify the family when temporary placement of the child occurs or
622 shall request a finding from the court that reasonable efforts are
623 not appropriate or have been unsuccessful. A decision to place a
624 child in foster care or relative care shall be made with



625 consideration of the child's health, safety and best interests.
626 At the time of placement, consideration should also be given so
627 that if reunification fails or is delayed, the placement made is
628 the best available placement to provide a permanent living
629 arrangement for the child. The department shall adopt rules
630 addressing concurrent planning for reunification and a permanent
631 living arrangement. The department shall consider the following
632 factors when determining appropriateness of concurrent planning:

- 633 (a) The likelihood of prompt reunification;
- 634 (b) The past history of the family;
- 635 (c) The barriers to reunification being addressed by
636 the family;
- 637 (d) The level of cooperation of the family;
- 638 (e) The foster parents' willingness to work with the
639 family to reunite;
- 640 (f) The willingness and ability of the foster family or
641 relative placement to provide an adoptive home or long-term
642 placement;
- 643 (g) The age of the child; and
- 644 (h) Placement of siblings.

645 (9) If the department has placed a child in foster care or
646 relative care under a court order, the department may not change
647 the child's placement unless the department specifically documents
648 to the court that the current placement is unsafe or unsuitable or
649 that another placement is in the child's best interests unless the



new placement is in an adoptive home or other permanent placement. Except in emergency circumstances as determined by the department or where the court orders placement of the child under Section 43-21-303, the foster parents, grandparents or other relatives of the child shall be given an opportunity to contest the specific reasons documented by the department at least seventy-two (72) hours before any such departure, and the court may conduct a review of that placement unless the new placement is in an adoptive home or other permanent placement. When a child is returned to foster care or relative care, the former foster parents or relative placement shall be given the prior right of return placement in order to eliminate additional trauma to the child.

(10) The Department of Child Protection Services shall provide the foster parents, grandparents or other relatives with at least a seventy-two-hour notice of departure for any child placed in their foster care or relative care, except in emergency circumstances as determined by the department or where the court orders placement of the child under Section 43-21-303. The parent/legal guardian, grandparents of the child, guardian ad litem and the court exercising jurisdiction shall be notified in writing when the child leaves foster care or relative care placement, regardless of whether the child's departure was planned or unplanned. The only exceptions to giving a written notice to the parent(s) are when a parent has voluntarily released the child



675 for adoption or the parent's legal rights to the child have been
676 terminated through the appropriate court with jurisdiction.

677 (11) The Department of Child Protection Services shall
678 extend the following rights to persons who provide foster care and
679 relative care:

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

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

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

689 (d) Support from the family protection worker or the
690 family protection specialist in efforts to do a better day-to-day
691 job in caring for the child and in working to achieve the agency's
692 objectives for the child and the birth family through provision
693 of:

694 (i) Pertinent information about the child and the
695 birth family;

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



698 (iii) Direct interviews between the family
699 protection worker or specialist and the child, previously
700 discussed and understood by the foster parents;

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

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

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

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

711 (i) Reimbursement for property damages caused by
712 children in the custody of the Department of Child Protection
713 Services in an amount not to exceed Five Hundred Dollars
714 (\$500.00), as evidenced by written documentation. The Department
715 of Child Protection Services shall not incur liability for any
716 damages as a result of providing this reimbursement * * *; and

717 (j) If a foster parent has an approved suitable
718 adoptive home, as prescribed in Section 43-15-13, then the foster
719 parent shall be given the right of first refusal to adopt a child
720 if: (i) the foster parent has provided care for the child and
721 (ii) the child is eligible for adoption because the child's



722 parents have had their parental rights terminated as provided in
723 Section 93-15-121(i).

724 (12) The Department of Child Protection Services shall
725 require the following responsibilities from participating persons
726 who provide foster care and relative care:

727 (a) Understanding the department's function in regard
728 to the foster care and relative care program and related social
729 service programs;

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

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

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

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

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

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



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

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

SECTION 6. Section 93-15-131, Mississippi Code of 1972, is brought forward as follows:

93-15-131. (1) If the court does not terminate the parent's parental rights, the custody and care of the child shall continue with the person, agency, or institution that is holding custody of the child at the time the judgment is rendered, or the court may grant custody to the parent whose rights were sought to be terminated if that is in the best interest of the child. If the Department of Child Protection Services has legal custody of the child, the court must conduct a permanency hearing and permanency review hearings as required under the Mississippi Youth Court Law and the Mississippi Uniform Rules of Youth Court Practice.

(2) If the court terminates the parent's parental rights, the court shall place the child in the custody and care of the other parent or some suitable person, agency, or institution until an adoption or some other permanent living arrangement is achieved. No notice of adoption proceedings or any other subsequent proceedings pertaining to the custody and care of the



772 child shall be given to a parent whose rights have been
773 terminated.

774 **SECTION 7.** This act shall take effect and be in force from
775 and after July 1, 2018.

