

By: Representatives Cockerham, Dixon, Sykes

To: Judiciary B

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1337

1 AN ACT TO AMEND SECTION 43-21-105, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE STATUS OF FORENSIC INTERVIEWS CONDUCTED BY A CHILD  
3 ADVOCACY CENTER; TO AMEND SECTION 43-21-261, MISSISSIPPI CODE OF  
4 1972, TO AUTHORIZE DISCLOSURE OF YOUTH COURT RECORDS TO A GUARDIAN  
5 AD LITEM DULY APPOINTED BY THE COURT, TO EXPAND DISCLOSURE FOR  
6 TRIAL PURPOSES, TO AUTHORIZE THE DEPARTMENT OF CHILD PROTECTION  
7 SERVICES TO SHARE CERTAIN RECORDS AND TO PROVIDE FOR WAIVER OF  
8 CONFIDENTIALITY IN CERTAIN CHILD DEATHS OR CRITICAL INJURIES OF  
9 CHILDREN; TO AMEND SECTION 43-21-353, MISSISSIPPI CODE OF 1972, TO  
10 AUTHORIZE REPORTING OF CERTAIN FRAUDULENT ALLEGATIONS OF ABUSE OR  
11 NEGLECT; TO AMEND SECTION 43-21-121, MISSISSIPPI CODE OF 1972, TO  
12 CLARIFY THE APPOINTMENT OF GUARDIANS AD LITEM BY THE YOUTH COURT;  
13 TO AMEND SECTION 43-21-301, MISSISSIPPI CODE OF 1972, TO CLARIFY  
14 THE GROUNDS FOR CUSTODY BASED ON PARENTAL USE OF CONTROLLED  
15 SUBSTANCES AND TO REQUIRE THAT ALL ORAL ORDERS BE REDUCED TO  
16 WRITING; TO AMEND SECTION 43-21-203, MISSISSIPPI CODE OF 1972, TO  
17 REQUIRE THAT ALL HEARINGS ON THE RECORD AND ORAL ORDERS BE REDUCED  
18 TO WRITING; TO AMEND SECTION 43-21-613, MISSISSIPPI CODE OF 1972,  
19 TO EXPAND THE CIRCUMSTANCES UNDER WHICH A REVIEW HEARING IS  
20 REQUIRED; TO AMEND SECTION 43-21-155, MISSISSIPPI CODE OF 1972, TO  
21 PROVIDE FOR TRANSFER OF CASES; TO AMEND SECTION 43-21-303,  
22 MISSISSIPPI CODE OF 1972, TO CLARIFY THE TAKING OF CUSTODY WITHOUT  
23 A WARRANT; TO AMEND SECTION 41-111-1, MISSISSIPPI CODE OF 1972, TO  
24 REVISE THE PROVISIONS CONCERNING THE INVESTIGATORY AND REPORTING  
25 DUTIES OF THE CHILD DEATH REVIEW PANEL TO INCLUDE CHILD NEAR  
26 FATALITIES; TO CREATE NEW CODE SECTION 41-111-3, MISSISSIPPI CODE  
27 OF 1972, TO MANDATE REPORTING OF CHILD FATALITIES AND NEAR  
28 FATALITIES SO THAT TIMELY INVESTIGATIONS MAY BE CONDUCTED IN  
29 APPROPRIATE CASES IN ORDER TO DECREASE THE INCIDENCE OF CHILD  
30 ABUSE AND NEGLECT CAUSING FATAL OR SERIOUS INJURIES TO CHILDREN,  
31 AND TO PROMOTE THE SAFETY AND WELFARE OF THE CHILDREN OF THIS  
32 STATE; TO AMEND SECTION 43-21-257, MISSISSIPPI CODE OF 1972, TO  
33 REVISE THE CENTRAL STATE REGISTRY ON NEGLECT AND ABUSE CASES; TO  
34 AMEND SECTION 93-17-55, MISSISSIPPI CODE OF 1972, TO REVISE



DEFINITIONS IN THE ADOPTION SUPPLEMENTAL BENEFITS LAW; TO AMEND SECTION 93-17-67, MISSISSIPPI CODE OF 1972, TO REVISE THE CONTINUATION OF MEDICAID BENEFITS POST-ADOPTION UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 93-17-69, MISSISSIPPI CODE OF 1972, TO CLARIFY STATE SUPPORT FOR NONRECURRING ADOPTION EXPENSES; TO AMEND SECTION 93-31-3, MISSISSIPPI CODE OF 1972, TO CLARIFY THE CIRCUMSTANCES UNDER WHICH BOTH PARENTS MUST EXECUTE A TEMPORARY POWER OF ATTORNEY TO BE EFFECTIVE UNDER THE ACT; TO AMEND SECTION 93-31-5, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT A REASON FOR THE EXECUTION OF THE POWER OF ATTORNEY BE STATED; TO REQUIRE AN AFFIDAVIT OF STATUTORY COMPLIANCE BY THE FACILITATING AGENCY; TO CONFORM THE ACKNOWLEDGEMENT CLAUSE AND TO CREATE A STATUTORILY SUFFICIENT FORM FOR REVOCATION OF A POWER OF ATTORNEY GRANTED UNDER THE ACT; TO REQUIRE AN AFFIDAVIT FROM A CUSTODIAL PARENT WHO ALLEGES UNAVAILABILITY OF THE NONCUSTODIAL PARENT; TO AMEND SECTION 43-21-321, MISSISSIPPI CODE OF 1972, TO REVISE THE PROVISIONS RELATING TO EDUCATIONAL SERVICES PROVIDED TO STUDENTS IN JUVENILE DETENTION CENTERS; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 43-21-105, Mississippi Code of 1972, is amended as follows:

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

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

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

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

(d) "Child" and "youth" are synonymous, and each means a person who has not reached his eighteenth birthday. A child who



69 has not reached his eighteenth birthday and is on active duty for  
70 a branch of the armed services or is married is not considered a  
71 "child" or "youth" for the purposes of this chapter.

72 (e) "Parent" means the father or mother to whom the  
73 child has been born, or the father or mother by whom the child has  
74 been legally adopted.

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

77 (g) "Custodian" means any person having the present  
78 care or custody of a child whether such person be a parent or  
79 otherwise.

80 (h) "Legal custodian" means a court-appointed custodian  
81 of the child.

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

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

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



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

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

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

(iv) Has committed a delinquent act or acts.

(1) "Neglected child" means a child:

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

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

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



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

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

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

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

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



the dispositional alternatives ordinarily available to the youth court.

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

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

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

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

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

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

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

(ii) All \* \* \* forensic interviews conducted by a child advocacy center in abuse and neglect investigations;



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

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

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

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

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

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



191           (y) "Durable legal custody" means the legal status  
192 created by a court order which gives the durable legal custodian  
193 the responsibilities of physical possession of the child and the  
194 duty to provide him with care, nurture, welfare, food, shelter,  
195 education and reasonable medical care. All these duties as  
196 enumerated are subject to the residual rights and responsibilities  
197 of the natural parent(s) or guardian(s) of the child or children.

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

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

203           (bb) "Assessment" means an individualized examination  
204 of a child to determine the child's psychosocial needs and  
205 problems, including the type and extent of any mental health,  
206 substance abuse or co-occurring mental health and substance abuse  
207 disorders and recommendations for treatment. The term includes,  
208 but is not limited to, a drug and alcohol, psychological or  
209 psychiatric evaluation, records review, clinical interview or the  
210 administration of a formal test and instrument.

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





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

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

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

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

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

**SECTION 2.** Section 43-21-261, Mississippi Code of 1972, is amended as follows:

43-21-261. (1) Except as otherwise provided in this section, records involving children shall not be disclosed, other than to necessary staff or officials of the youth court, a



240 guardian ad litem appointed to a child by the court, or a  
241 Court-Appointed Special Advocate (CASA) volunteer that may be  
242 assigned in an abuse and neglect case, except pursuant to an order  
243 of the youth court specifying the person or persons to whom the  
244 records may be disclosed, the extent of the records which may be  
245 disclosed and the purpose of the disclosure. Such court orders  
246 for disclosure shall be limited to those instances in which the  
247 youth court concludes, in its discretion, that disclosure is  
248 required for the best interests of the child, the public safety or  
249 the functioning of the youth court and then only to the following  
250 persons:

251 (a) The judge of another youth court or member of  
252 another youth court staff;

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

255 (c) A judge of any other court or members of another  
256 court staff;

257 (d) Representatives of a public or private agency  
258 providing supervision or having custody of the child under order  
259 of the youth court;

260 (e) Any person engaged in a bona fide research purpose,  
261 provided that no information identifying the subject of the  
262 records shall be made available to the researcher unless it is  
263 absolutely essential to the research purpose and the judge gives



264 prior written approval, and the child, through his or her  
265 representative, gives permission to release the information;

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

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

278 Law enforcement agencies may disclose information to the  
279 public concerning the taking of a child into custody for the  
280 commission of a delinquent act without the necessity of an order  
281 from the youth court. The information released shall not identify  
282 the child or his address unless the information involves a child  
283 convicted as an adult.

284 (2) Any records involving children which are disclosed under  
285 an order of the youth court or pursuant to the terms of this  
286 section and the contents thereof shall be kept confidential by the  
287 person or agency to whom the record is disclosed unless otherwise  
288 provided in the order. Any further disclosure of any records



involving children shall be made only under an order of the youth court as provided in this section.

(3) Upon request, the parent, guardian or custodian of the child who is the subject of a youth court cause or any attorney for such parent, guardian or custodian, shall have the right to inspect any record, report or investigation \* \* \* relevant to a matter to be heard by a youth court, except that the identity of the reporter shall not be released, nor the name of any other person where the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of such person. The attorney for the parent, guardian or custodian of the child, upon request, shall be provided a copy of any record, report or investigation, that is \* \* \* relevant to a matter to be heard by a youth court, but the identity of the reporter must be redacted and the name of any other person must also be redacted if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life, safety or well-being of the person. A record provided to the attorney under this section, must remain in the attorney's control and the attorney may not provide copies or access to another person or entity without prior consent of a court with appropriate jurisdiction.

(4) Upon request, the child who is the subject of a youth court cause shall have the right to have his counsel inspect and copy any record, report or investigation which is filed with the



youth court or which is to be considered by the youth court at a hearing.

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

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

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

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

(6) Information concerning an investigation into a report of child abuse or child neglect may be disclosed by the Department of Human Services without order of the youth court to any attorney, physician, dentist, intern, resident, nurse, psychologist, social



worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, public or private school employee making that report pursuant to Section 43-21-353(1) if the reporter has a continuing professional relationship with the child and a need for such information in order to protect or treat the child.

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

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

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

(10) The judges of the circuit and county courts, and presentence investigators for the circuit courts, as provided in Section 47-7-9, shall have the right to inspect any youth court



records of a person convicted of a crime for sentencing purposes only.

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

(12) A classification hearing officer of the State Department of Corrections, as provided in Section 47-5-103, shall have the right to inspect any youth court records, excluding abuse and neglect records, of any offender in the custody of the department who as a child or minor was a juvenile offender or was the subject of a youth court cause of action, and the State Parole Board, as provided in Section 47-7-17, shall have the right to inspect such records when the offender becomes eligible for parole.

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

(14) The Administrative Office of Courts shall have the right to inspect any youth court records in order that the number of youthful offenders, abused, neglected, truant and dependent children, as well as children in need of special care and children in need of supervision, may be tracked with specificity through



the youth court and adult justice system, and to utilize tracking forms for such purpose.

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

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

(17) The youth courts of the state shall disclose to the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) any youth court records in order that the number of youthful offenders, abused, neglected, truant and dependent children, as well as children in need of special care and children in need of supervision, may be tracked with specificity through the youth court and adult justice system, and to utilize tracking forms for such purpose. The disclosure prescribed in this subsection shall not require a court order and





shall be made in sortable, electronic format where possible. The PEER Committee may seek the assistance of the Administrative Office of Courts in seeking this information. The PEER Committee shall not disclose the identities of any youth who have been adjudicated in the youth courts of the state and shall only use the disclosed information for the purpose of monitoring the effectiveness and efficiency of programs established to assist adjudicated youth, and to ascertain the incidence of adjudicated youth who become adult offenders.

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

(19) In every case \* \* \* of child abuse or neglect and a child's physical condition is medically labeled as medically "serious" or "critical" or a child dies, the confidentiality provisions of this section shall not apply. In such cases \* \* \*, the following information may be released by the Mississippi Department of \* \* \* Child Protection Services: \* \* \* the cause of the circumstances regarding the fatality or medically serious or critical physical condition; the age and gender of the child; information describing any previous reports of child abuse or



neglect investigations that are pertinent to the child abuse or neglect that led to the fatality or medically serious or critical physical condition; the result of any such investigations; and the services provided by and actions of the state on behalf of the child that are pertinent to the child abuse or neglect that led to the fatality or medically serious or critical physical condition.

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

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

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

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

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



462           (c) Health and mental health care providers of a child  
463 to the extent necessary for the provider to properly treat and  
464 care for the child;

465           (d) An educational institution or educational services  
466 provider where the child is enrolled or where enrollment is  
467 anticipated to the extent necessary for the school to provide  
468 appropriate services to the child; and

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

472           **SECTION 3.** Section 43-21-353, Mississippi Code of 1972, is  
473 amended as follows:

474           43-21-353. (1) Any attorney, physician, dentist, intern,  
475 resident, nurse, psychologist, social worker, family protection  
476 worker, family protection specialist, child caregiver, minister,  
477 law enforcement officer, public or private school employee or any  
478 other person having reasonable cause to suspect that a child is a  
479 neglected child or an abused child, shall cause an oral report to  
480 be made immediately by telephone or otherwise and followed as soon  
481 thereafter as possible by a report in writing to the Department of  
482 Human Services, and immediately a referral shall be made by the  
483 Department of Human Services to the youth court intake unit, which  
484 unit shall promptly comply with Section 43-21-357. In the course  
485 of an investigation, at the initial time of contact with the  
486 individual(s) about whom a report has been made under this Youth



487 Court Act or with the individual(s) responsible for the health or  
488 welfare of a child about whom a report has been made under this  
489 chapter, the Department of Human Services shall inform the  
490 individual of the specific complaints or allegations made against  
491 the individual. Consistent with subsection (4), the identity of  
492 the person who reported his or her suspicion shall not be  
493 disclosed. Where appropriate, the Department of Human Services  
494 shall additionally make a referral to the youth court prosecutor.

495       Upon receiving a report that a child has been sexually  
496 abused, or burned, tortured, mutilated or otherwise physically  
497 abused in such a manner as to cause serious bodily harm, or upon  
498 receiving any report of abuse that would be a felony under state  
499 or federal law, the Department of Human Services shall immediately  
500 notify the law enforcement agency in whose jurisdiction the abuse  
501 occurred and shall notify the appropriate prosecutor within  
502 forty-eight (48) hours, and the Department of Human Services shall  
503 have the duty to provide the law enforcement agency all the names  
504 and facts known at the time of the report; this duty shall be of a  
505 continuing nature. The law enforcement agency and the Department  
506 of Human Services shall investigate the reported abuse immediately  
507 and shall file a preliminary report with the appropriate  
508 prosecutor's office within twenty-four (24) hours and shall make  
509 additional reports as new or additional information or evidence  
510 becomes available. The Department of Human Services shall advise  
511 the clerk of the youth court and the youth court prosecutor of all



cases of abuse reported to the department within seventy-two (72) hours and shall update such report as information becomes available.

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

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

(4) Reports of abuse and neglect made under this chapter and the identity of the reporter are confidential except when the court in which the investigation report is filed, in its discretion, determines the testimony of the person reporting to be material to a judicial proceeding or when the identity of the reporter is released to law enforcement agencies and the



537 appropriate prosecutor pursuant to subsection (1). Reports made  
538 under this section to any law enforcement agency or prosecutorial  
539 officer are for the purpose of criminal investigation and  
540 prosecution only and no information from these reports may be  
541 released to the public except as provided by Section 43-21-261.  
542 Disclosure of any information by the prosecutor shall be according  
543 to the Mississippi Uniform Rules of Circuit and County Court  
544 Procedure. The identity of the reporting party shall not be  
545 disclosed to anyone other than law enforcement officers or  
546 prosecutors without an order from the appropriate youth court.  
547 Any person disclosing any reports made under this section in a  
548 manner not expressly provided for in this section or Section  
549 43-21-261 shall be guilty of a misdemeanor and subject to the  
550 penalties prescribed by Section 43-21-267. Notwithstanding the  
551 confidentiality of the reporter's identity under this section, the  
552 Department of Child Protection Services may disclose a reporter's  
553 identity to the appropriate law enforcement agency or prosecutor  
554 if the department has reason to suspect the reporter has made a  
555 fraudulent report, and Child Protective Services must provide to  
556 the subject of the alleged fraudulent report written notification  
557 of the disclosure.

558 (5) All final dispositions of law enforcement investigations  
559 described in subsection (1) of this section shall be determined  
560 only by the appropriate prosecutor or court. All final  
561 dispositions of investigations by the Department of Human Services



as described in subsection (1) of this section shall be determined only by the youth court. Reports made under subsection (1) of this section by the Department of Human Services to the law enforcement agency and to the district attorney's office shall include the following, if known to the department:

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

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

and

- (f) What, if any, action is being taken by the Department of Human Services.

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



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

591           (8) If a report is made directly to the Department of Human  
592 Services that a child has been abused or neglected in an  
593 out-of-home setting, a referral shall be made immediately to the  
594 law enforcement agency in whose jurisdiction the abuse occurred  
595 and the department shall notify the district attorney's office  
596 within forty-eight (48) hours of such report. The Department of  
597 Human Services shall investigate the out-of-home setting report of  
598 abuse or neglect to determine whether the child who is the subject  
599 of the report, or other children in the same environment, comes  
600 within the jurisdiction of the youth court and shall report to the  
601 youth court the department's findings and recommendation as to  
602 whether the child who is the subject of the report or other  
603 children in the same environment require the protection of the  
604 youth court. The law enforcement agency shall investigate the  
605 reported abuse immediately and shall file a preliminary report  
606 with the district attorney's office within forty-eight (48) hours  
607 and shall make additional reports as new information or evidence  
608 becomes available. If the out-of-home setting is a licensed  
609 facility, an additional referral shall be made by the Department  
610 of Human Services to the licensing agency. The licensing agency  
611 shall investigate the report and shall provide the Department of





612 Human Services, the law enforcement agency and the district  
613 attorney's office with their written findings from such  
614 investigation as well as that licensing agency's recommendations  
615 and actions taken.

616 (9) If a child protective investigation does not result in  
617 an out-of-home placement, a child protective investigator must  
618 provide information to the parent or guardians about community  
619 service programs that provide respite care, voluntary guardianship  
620 or other support services for families in crisis.

621 **SECTION 4.** Section 43-21-121, Mississippi Code of 1972, is  
622 amended as follows:

623 43-21-121. (1) The youth court shall appoint a guardian ad  
624 litem for the child:

625 (a) When a child has no parent, guardian or custodian;

626 (b) When the youth court cannot acquire personal  
627 jurisdiction over a parent, a guardian or a custodian;

628 (c) When the parent is a minor or a person of unsound  
629 mind;

630 (d) When the parent is indifferent to the interest of  
631 the child or if the interests of the child and the parent,  
632 considered in the context of the cause, appear to conflict;

633 (e) In every case involving an abused or neglected  
634 child which results in a judicial proceeding; or



635           (f) In any other instance where the youth court finds  
636 appointment of a guardian ad litem to be in the best interest of  
637 the child.

638           (2) The guardian ad litem shall be appointed by the court  
639 when custody is ordered or at the first judicial hearing regarding  
640 the case, whichever occurs first.

641           (3) In addition to all other duties required by law, a  
642 guardian ad litem shall have the duty to protect the interest of a  
643 child for whom he has been appointed guardian ad litem. The  
644 guardian ad litem shall investigate, make recommendations to the  
645 court or enter reports as necessary to hold paramount the child's  
646 best interest. The guardian ad litem is not an adversary party  
647 and the court shall insure that guardians ad litem perform their  
648 duties properly and in the best interest of their wards. The  
649 guardian ad litem shall be a competent person who has no adverse  
650 interest to the minor. The court shall insure that the guardian  
651 ad litem is adequately instructed on the proper performance of his  
652 duties.

653           (4) The court, including a county court serving as a youth  
654 court, may appoint either a suitable attorney or a suitable layman  
655 as guardian ad litem. In cases where the court appoints a layman  
656 as guardian ad litem, the court shall also appoint an attorney to  
657 represent the child. From and after January 1, 1999, in order to  
658 be eligible for an appointment as a guardian ad litem, such  
659 attorney or layperson must have received child protection and



660 juvenile justice training provided by or approved by the  
661 Mississippi Judicial College within the year immediately preceding  
662 such appointment. The Mississippi Judicial College shall  
663 determine the amount of child protection and juvenile justice  
664 training which shall be satisfactory to fulfill the requirements  
665 of this section. The Administrative Office of Courts shall  
666 maintain a roll of all attorneys and laymen eligible to be  
667 appointed as a guardian ad litem under this section and shall  
668 enforce the provisions of this subsection.

669 (5) Upon appointment of a guardian ad litem, the youth court  
670 shall continue any pending proceedings for a reasonable time to  
671 allow the guardian ad litem to familiarize himself with the  
672 matter, consult with counsel and prepare his participation in the  
673 cause. The youth court shall issue an order of assignment that  
674 grants the guardian ad litem authority to review all relevant  
675 documents concerning the minor child and to interview all parties  
676 and witnesses involved in proceedings concerning the minor child  
677 for whom the guardian ad litem is appointed.

678 (6) Upon order of the youth court, the guardian ad litem  
679 shall be paid a reasonable fee as determined by the youth court  
680 judge or referee out of the county general fund as provided under  
681 Section 43-21-123. To be eligible for such fee, the guardian ad  
682 litem shall submit an accounting of the time spent in performance  
683 of his duties to the court.



(7) (a) The court, in its sound discretion, may appoint a volunteer trained layperson to assist children subject to the provisions of this section in addition to the appointment of a guardian ad litem. If the court utilizes his or her discretion as prescribed under this subsection, a volunteer Court-Appointed Special Advocate (CASA) shall be appointed from a program that supervises the volunteer and meets all state and national CASA standards to advocate for the best interests of children in abuse and neglect proceedings. To accomplish the assignment of a CASA volunteer, the court shall issue an order of assignment that shall grant the CASA volunteer the authority, equal to that of the guardian ad litem, to review all relevant documents and to interview all parties and witnesses involved in the proceeding in which he or she is appointed. Except as otherwise ordered by the court, the assignment of a CASA volunteer for a child shall include subsequent proceedings through permanent placement of the child.

(b) Before assigning a CASA volunteer as prescribed under this subsection, the youth court judge shall determine if the volunteer has sufficient qualifications, training and ability to serve as a CASA volunteer, including his or her ability to represent and advocate for the best interests of children assigned to him or her. No volunteer shall be assigned until a comprehensive criminal background check has been conducted.

All CASA volunteers shall:



709 (i) Be sworn in by a judge of the court;  
710 (ii) Swear or affirm to abide by all laws,  
711 regulations, and orders of the court;  
712 (iii) Swear or affirm to advocate what he or she  
713 perceives to be in the best interests of the child for whom he or  
714 she is assigned in all matters pending before the court;  
715 (iv) Provide independent, factual information to  
716 the court regarding the children and cases to which they are  
717 assigned;  
718 (v) Advocate on behalf of the children involved in  
719 the cases to which they are assigned what they perceive to be in  
720 the best interests of the children; and  
721 (vi) Monitor proceedings in cases to which they  
722 have been assigned and advise and assist the court in its  
723 determination of the best interests of the children involved.  
724 (c) Regarding any case to which a CASA volunteer has  
725 been assigned, the CASA volunteer:  
726 (i) Shall be notified by the court of all court  
727 proceedings and hearings of any kind pertaining to the child;  
728 (ii) Shall be notified by the Department of Human  
729 Services of all administrative review hearings;  
730 (iii) Shall be entitled to attend all court  
731 proceedings and hearings of any kind pertaining to the child;



(iv) May be called as a witness in the proceedings by any party or by the court and may request of the court the opportunity to appear as a witness; and

(v) Shall be given access to all portions of the court record relating to proceedings pertaining to the child and the child's family.

(d) Upon application to the court and notice to all parties, the court shall grant the CASA volunteer access to other information, including the department records as provided in Section 43-21-261, relating to the child and the child's family and to other matters involved in the proceeding in which he or she is appointed. All records and information requested or reviewed by the CASA volunteer in the course of his or her assignment shall be deemed confidential and shall not be disclosed by him except pursuant to court order. All records and information shall only be disclosed as directed by court order and shall be disclosed as directed by court order and shall be subject to whatever protective order the court deems appropriate.

**SECTION 5.** 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.

A finding of probable cause \* \* \* under this \* \* \* subsection (3) (a) shall not be based solely upon a positive drug test of a



child's parent for marijuana; however, a finding of probable cause may be based upon an evidence-based finding of harm to the child or a parent's inability to provide for the care and supervision of the child due to the parent's use of marijuana. Probable cause may be based upon a parent's positive drug test for unlawful use of a controlled substance other than marijuana only if the child is endangered or the parent is unable to provide proper care and supervision of the child because of the unlawful use and there is no reasonable alternative to custody.

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

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

(4) The judge or his designee may order, orally or in writing, the immediate release of any child in the custody of any person or agency. Except as otherwise provided in subsection (3) of this section, custody orders as provided by this chapter and authorizations of temporary custody may be written or oral, but, if oral, reduced to writing \* \* \* within forty-eight (48) hours, excluding Saturdays, Sundays and statutory state holidays. The written order shall:





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

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

811           (c) Except in cases where the child is alleged to be a  
812 delinquent child or a child in need of supervision, state that the  
813 effect of the continuation of the child's residing within his or  
814 her own home would be contrary to the welfare of the child, that  
815 the placement of the child in foster care is in the best interests  
816 of the child, and unless the reasonable efforts requirement is  
817 bypassed under Section 43-21-603(7)(c), also state that (i)  
818 reasonable efforts have been made to maintain the child within his  
819 or her own home, but that the circumstances warrant his removal  
820 and there is no reasonable alternative to custody; or (ii) the  
821 circumstances are of such an emergency nature that no reasonable  
822 efforts have been made to maintain the child within his own home,  
823 and that there is no reasonable alternative to custody. If the  
824 court makes a finding in accordance with (ii) of this paragraph,  
825 the court shall order that reasonable efforts be made towards the  
826 reunification of the child with his or her family;

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



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

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

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

836           (6) (a) No child who has been accused or adjudicated of any  
837 offense that would not be a crime if committed by an adult shall  
838 be placed in an adult jail or lockup. An accused status offender  
839 shall not be held in secure detention longer than twenty-four (24)  
840 hours prior to and twenty-four (24) hours after an initial court  
841 appearance, excluding Saturdays, Sundays and statutory state  
842 holidays, except under the following circumstances: a status  
843 offender may be held in secure detention for violating a valid  
844 court order pursuant to the criteria as established by the federal  
845 Juvenile Justice and Delinquency Prevention Act of 2002, and any  
846 subsequent amendments thereto, and out-of-state runaways may be  
847 detained pending return to their home state.

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

853                   (c) If any county violates the provisions of paragraph  
854 (a) or (b) of this subsection, the state agency authorized to



allocate federal funds received pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, 88 Stat. 2750 (codified in scattered Sections of 5, 18, 42 USCS), shall withhold the county's share of such funds.

(d) Any county that does not have a facility in which to detain its juvenile offenders in compliance with the provisions of paragraphs (a) and (b) of this subsection may enter into a contractual agreement to detain or place into custody the juvenile offenders of that county with any county or municipality that does 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 6.** Section 43-21-203, Mississippi Code of 1972, is amended as follows:

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

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

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



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

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

(6) The general public shall be excluded from the hearing, and only those persons shall be admitted who are found by the youth court to have a direct interest in the cause or work of the youth court. Any person found by the youth court to have a direct interest in the cause shall have the right to appear and be represented by legal counsel.

(7) In all hearings, \* \* \* a complete record of all evidence shall be taken by stenographic reporting, by mechanical or electronic device or by some combination thereof.

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

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



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

907 (b) To introduce evidence controverting the contents of  
908 the report.

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

914 (11) An order or ruling of the youth court judge delivered  
915 orally must be reduced to writing within forty-eight (48) hours,  
916 excluding Saturdays, Sundays and statutory state holidays.

917 **SECTION 7.** Section 43-21-613, Mississippi Code of 1972, is  
918 amended as follows:

919 43-21-613. (1) If the youth court finds, after a hearing  
920 which complies with the sections governing adjudicatory hearings,  
921 that the terms of a delinquency or child in need of supervision  
922 disposition order, probation or parole have been violated, the  
923 youth court may, in its discretion, revoke the original  
924 disposition and make any disposition which it could have  
925 originally ordered. The hearing shall be initiated by the filing  
926 of a petition that complies with the sections governing petitions  
927 in this chapter and that includes a statement of the youth court's  
928 original disposition order, probation or parole, the alleged  
929 violation of that order, probation or parole, and the facts which



930 show the violation of that order, probation or parole. Summons  
931 shall be served in the same manner as summons for an adjudicatory  
932 hearing.

933 (2) On motion of a child or a child's parent, guardian or  
934 custodian, the youth court may, in its discretion, conduct an  
935 informal hearing to review the disposition order. If the youth  
936 court finds a material change of circumstances relating to the  
937 disposition of the child, the youth court may modify the  
938 disposition order to any appropriate disposition of equal or  
939 greater precedence which the youth court could have originally  
940 ordered.

941 (3) (a) Unless the youth court's jurisdiction has been  
942 terminated, all disposition orders for supervision, probation or  
943 placement of a child with an individual or an agency shall be  
944 reviewed by the youth court judge or referee at least annually to  
945 determine if continued placement, probation or supervision is in  
946 the best interest of the child or the public. For children who  
947 have been adjudicated abused or neglected, the youth court shall  
948 conduct a permanency hearing within twelve (12) months after the  
949 earlier of:

950 (i) An adjudication that the child has been abused  
951 or neglected; or

952 (ii) The date of the child's removal from the  
953 allegedly abusive or neglectful custodian/parent. Notice of such  
954 hearing shall be given in accordance with the provisions of



955 Section 43-21-505(5). In conducting the hearing, the judge or  
956 referee shall require a written report and may require information  
957 or statements from the child's youth court counselor, parent,  
958 guardian or custodian, which includes, but is not limited to, an  
959 evaluation of the child's progress and recommendations for further  
960 supervision or treatment. The judge or referee shall, at the  
961 permanency hearing determine the future status of the child,  
962 including, but not limited to, whether the child should be  
963 returned to the parent(s) or placed with suitable relatives,  
964 placed for adoption, placed for the purpose of establishing  
965 durable legal custody or should, because of the child's special  
966 needs or circumstances, be continued in foster care on a permanent  
967 or long-term basis. If the child is in an out-of-state placement,  
968 the hearing shall determine whether the out-of-state placement  
969 continues to be appropriate and in the best interest of the child.  
970 At the permanency hearing the judge or referee shall determine,  
971 and the youth court order shall recite that reasonable efforts  
972 were made by the Department of Human Services to finalize the  
973 child's permanency plan that was in effect on the date of the  
974 permanency hearing. The judge or referee may find that reasonable  
975 efforts to maintain the child within his home shall not be  
976 required in accordance with Section 43-21-603(7)(c), and that the  
977 youth court shall continue to conduct permanency hearings for a  
978 child who has been adjudicated abused or neglected, at least



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

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

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

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

(c) The provisions of this subsection shall also apply to review of cases involving a dependent child; however, such reviews shall take place not less frequently than once each one hundred eighty (180) days, or upon the request of the child's attorney, a parent's attorney, or a parent as deemed appropriate by the youth court in protecting the best interests of the child.

A dependent child shall be ordered by the youth court judge or referee to be returned to the custody and home of the child's parent, guardian or custodian unless the judge or referee, upon such review, makes a written finding that the return of the child to the home would be contrary to the child's best interests.

(d) Reviews are not to be conducted unless explicitly ordered by the youth court concerning those cases in which the court has granted durable legal custody. In such cases, the Department of Human Services shall be released from any oversight





or monitoring responsibilities, and relieved of physical and legal custody and supervision of the child.

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

**SECTION 8.** Section 43-21-155, Mississippi Code of 1972, is amended as follows:

43-21-155. (1) If a child is alleged to be a delinquent child or a child in need of supervision, the proceedings shall be commenced in any county where any of the alleged acts are said to have occurred. After adjudication, the youth court may, in the best interest of the child, transfer the case at any stage of the proceeding for disposition to the county where the child resides or to a county where a youth court has previously acquired jurisdiction.

(2) If a child is alleged to be an abused or neglected child, the proceedings shall be commenced in the county where the child's custodian resides or in the county where the child is present when the report is made to the intake unit. After adjudication the youth court may transfer the case at any stage of the proceeding for disposition to the county where the child resides or to a county where a youth court has previously acquired jurisdiction if that is in the best interest of the child.

**SECTION 9.** 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 \* \* \* Child Protection Services or the Department of Human Services may take a child into immediate custody if:

(i) There is probable cause to believe that the child is in immediate danger of personal harm; however, probable cause shall not be based solely upon a positive drug test of a child's parent for marijuana, but a finding of probable cause may be based upon an evidence-based finding of harm to the child or a parent's inability to provide for the care and supervision of the child due to the parent's use of marijuana. Probable cause may be based upon a parent's positive drug test for unlawful use of a controlled substance other than marijuana only if the child is endangered or the parent is unable to provide proper care and



1053 supervision of the child because of the unlawful use and there is  
1054 no reasonable alternative to custody; and

1055 (ii) \* \* \* Custody is necessary as \* \* \* set forth  
1056 in Section 43-21-301(3) ( \* \* \* a); and

1057 (iii) \* \* \* There is no reasonable alternative to  
1058 custody; and

1059 (c) Any other person may take a child in custody if  
1060 grounds exist for the arrest of an adult in identical  
1061 circumstances. Such other person shall immediately surrender  
1062 custody of the child to the proper law enforcement officer who  
1063 shall thereupon continue custody only as provided in subsection  
1064 (1)(a) of this section.

1065 (2) When it is necessary to take a child into custody, the  
1066 least restrictive custody should be selected.

1067 (3) Unless the child is immediately released, the person  
1068 taking the child into custody shall immediately notify the judge  
1069 or his designee. A person taking a child into custody shall also  
1070 make continuing reasonable efforts to notify the child's parent,  
1071 guardian or custodian and invite the parent, guardian or custodian  
1072 to be present during any questioning.

1073 (4) A child taken into custody shall not be held in custody  
1074 for a period longer than reasonably necessary, but not to exceed  
1075 twenty-four (24) hours, and shall be released to his parent,  
1076 guardian or custodian unless the judge or his designee authorizes  
1077 temporary custody.



1078           **SECTION 10.** Section 41-111-1, Mississippi Code of 1972, is  
1079 amended as follows:

1080           41-111-1. (1) There is created the Child Death Review  
1081 Panel, whose primary purpose is to foster the reduction of infant  
1082 and child mortality and morbidity in Mississippi and to improve  
1083 the health status of infants and children.

1084           (2) The Child Death Review Panel shall be composed of  
1085 seventeen (17) voting members: the State Medical Examiner or his  
1086 representative, a pathologist on staff at the University of  
1087 Mississippi Medical Center, an appointee of the Lieutenant  
1088 Governor, an appointee of the Speaker of the House of  
1089 Representatives, and one (1) representative from each of the  
1090 following: the State Coroners Association, the Mississippi  
1091 Chapter of the American Academy of Pediatrics, the Office of Vital  
1092 Statistics in the State Department of Health, the Attorney  
1093 General's office, the State Sheriff's Association, the Mississippi  
1094 Police Chiefs Association, the Department of Human Services, the  
1095 Children's Advocacy Center, the State Chapter of the March of  
1096 Dimes, the State SIDS Alliance, the Mississippi Children's Safe  
1097 Center, Safe Kids Mississippi, and the Mississippi State Fire  
1098 Marshal's office.

1099           (3) The Chairman of the Child Death Review Panel shall be  
1100 elected annually by the Review Panel membership. The Review Panel  
1101 shall develop and implement such procedures and policies necessary  
1102 for its operation, including obtaining and protecting confidential



1103 records from the agencies and officials specified in subsection  
1104 (4) of this section. The Review Panel shall be assigned to the  
1105 State Department of Health for administrative purposes only, and  
1106 the department shall designate staff to assist the Review Panel.

1107       (4) (a) The Child Death Review Panel shall submit a report  
1108 annually to the Chairmen of the House Public Health and Human  
1109 Services Committee and the Senate Public Health and Welfare  
1110 Committee on or before December 1. The report shall include the  
1111 numbers, causes and relevant demographic information on child and  
1112 infant \* \* \* fatalities and near fatalities in Mississippi, and  
1113 appropriate recommendations to the Legislature on how to most  
1114 effectively direct state resources to decrease infant and child  
1115 deaths in Mississippi. Data for the Review Panel's review and  
1116 reporting shall be provided to the Review Panel, upon the request  
1117 of the Review Panel, by the State Medical Examiner's office, State  
1118 Department of Health, Department of Human Services, medical  
1119 examiners, coroners, health care providers, law enforcement  
1120 agencies, and any other agencies or officials having information  
1121 that is necessary for the Review Panel to carry out its duties  
1122 under this section. The State Department of Health shall also be  
1123 responsible for printing and distributing the annual report(s) on  
1124 child and infant deaths in Mississippi.

1125       (b) The Children's Safe Center may access and analyze  
1126 data from the Mississippi Health Information Network to identify



1127 data concerning child fatalities and near fatalities necessary for  
1128 the Review Panel's reporting.

1129 \* \* \*

1130 **SECTION 11.** The following shall be codified as Section  
1131 41-111-3, Mississippi Code of 1972:

1132 41-111-3. (1) **Mandatory reporters:** All law enforcement  
1133 officers, firefighters, child protection service employees,  
1134 medical care personnel, doctors, nurses, medical examiners,  
1135 coroners, health care providers, and all agents and employees of  
1136 the State Medical Examiner's office, and any other persons who are  
1137 designated as mandatory reporters under Section 43-21-353(1) who  
1138 have knowledge or information concerning a "child fatality" or  
1139 child "near fatality" must make a report to the State Child Abuse  
1140 Hotline.

1141 (2) **Definitions.** (a) "Child fatality" or "child death"  
1142 means the sudden and unexpected, or otherwise unexplained death of  
1143 a child who is between the ages of birth and eighteen (18) years.

1144 (b) "Child near fatality" or "child near death"  
1145 incident includes all occurrences where a child's physical  
1146 condition is medically diagnosed as "serious" or "critical" if  
1147 there is some indication or suggestion that the child's injuries  
1148 may have been caused by abuse, neglect, or an unexplained cause.

1149 (3) **Mandatory reporting requirement.** A mandatory reporter  
1150 must make a report if it would be reasonable for the mandatory  
1151 reporter to suspect that a child death or child near fatality was



caused by abuse, neglect, or occurred unexpectedly due to an unexplained cause. Reports to the Child Abuse Hotline must be made in all circumstances involving child fatalities and near fatalities, including, but not limited to, situations where:

(a) Abuse or neglect is the suspected cause of a child's sudden or unexpected death;

(b) There is a medical diagnosis of "sudden unexplained infant death" (SUID);

(c) The cause of death of any child is unexplained;

(d) The child is the victim of suspected sexual abuse or sexual exploitation, and physical injury has resulted that has been medically diagnosed as "serious" or "critical"; and

(e) Severe abuse or neglect is suspected, or an unexplained cause resulted in severe physical injury or trauma to a child that resulted in a medical diagnosis that the child's condition was "serious" or "critical," or which required hospitalization in an intensive care unit of a hospital.

(4) **Mandatory reporting procedure.** A report required under subsection (2) must be made immediately to the State Child Abuse Hotline. Except as otherwise provided in this subsection, a mandatory reporter may not delegate to any other person the responsibility to report, but must make the report personally.

(5) **Contents of the report.** The report must identify, to the extent known to the reporter, the following:

(a) The name and address of the minor victim;



1177 (b) The name and address of the minor's caretaker;

1178 (c) Any other pertinent information known to the  
1179 reporter.

1180 (7) **Confidentiality.** Reports made under this section are  
1181 not public records. Reports made under this section and the  
1182 identity of the mandatory reporter shall be confidential, except  
1183 when the court determines the testimony of the person reporting to  
1184 be material to a judicial proceeding, so that the identity of the  
1185 reporter is released to law enforcement agencies and the  
1186 appropriate prosecutor. In those circumstances, the identity of  
1187 the reporting party shall not be disclosed to anyone other than  
1188 law enforcement or prosecutors except under court order.  
1189 Violation of this confidentiality requirement is a misdemeanor  
1190 punishable by imprisonment not to exceed six (6) months, a fine  
1191 not to exceed One Thousand Dollars, (\$1,000.00), or both.  
1192 Disclosure of any information by the prosecutor shall conform to  
1193 the Mississippi Uniform Rules of Circuit and County Court  
1194 Procedure.

1195 (7) **Immunity.** A mandatory reporter who makes a required  
1196 report under this section or participates in a judicial proceeding  
1197 resulting from a mandatory report is presumed to be acting in good  
1198 faith. A health care practitioner or health care facility is  
1199 immune from any penalty, civil or criminal, for good-faith  
1200 compliance with any rules and regulations adopted pursuant to this  
1201 section. A person or institution reporting in good faith is





1202 immune from any liability, civil or criminal, that might otherwise  
1203 be incurred or imposed.

1204 (8) **Penalties.** Failure to make a mandatory report required  
1205 under this section will be punished as follows:

1206 (a) A person who is convicted of a first offense of  
1207 failure to make a report as required under this section is guilty  
1208 of a misdemeanor and shall be fined not more than Five Hundred  
1209 Dollars (\$500.00).

1210 (b) A person who is convicted of a second offense of  
1211 failure to make a report as required under this section is guilty  
1212 of a misdemeanor and shall be fined not more than One Thousand  
1213 Dollars (\$1,000.00), imprisoned for not more than thirty (30)  
1214 days, or both.

1215 (c) A person who is convicted of a third or subsequent  
1216 offense of failure to make a report as required under this section  
1217 is guilty of a misdemeanor and shall be fined not more than Five  
1218 Thousand Dollars (\$5,000.00), imprisoned for not more than one (1)  
1219 year, or both.

1220 **SECTION 12.** Section 43-21-257, Mississippi Code of 1972, is  
1221 amended as follows:

1222 43-21-257. (1) Unless otherwise provided in this section,  
1223 any record involving children, including valid and invalid  
1224 complaints, and the contents thereof maintained by the Department  
1225 of Human Services, or any other state agency, shall be kept



confidential and shall not be disclosed except as provided in  
Section 43-21-261.

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

(3) The Department of \* \* \* Child Protection Services shall  
maintain a state central registry on neglect and abuse cases  
containing (a) the name, address and age of each child, (b) the  
nature of the harm reported, (c) the name and address of the  
person responsible for the care of the child, and (d) the name and  
address of the substantiated perpetrator of the harm reported.



1251 "Substantiated perpetrator" shall be defined as an individual who  
1252 has committed an act(s) of sexual abuse or physical abuse that  
1253 would otherwise be deemed as a felony or any child neglect that  
1254 would be deemed as a threat to life. \* \* \* A name is to be added  
1255 to the registry only based upon a criminal conviction or an  
1256 adjudication by a youth court judge or court of competent  
1257 jurisdiction, ordering that the name of the perpetrator be listed  
1258 on the central registry \* \* \*. The central registry shall be  
1259 confidential and shall not be open to public inspection. Any  
1260 person who discloses or encourages the disclosure of any record  
1261 involving children from the central registry without following the  
1262 rules and administrative procedures of the department shall be  
1263 subject to the penalty in Section 43-21-267. The Department of  
1264 Human Services and its employees are exempt from any civil  
1265 liability as a result of any action taken pursuant to the  
1266 compilation and/or release of information on the central registry  
1267 under this section and any other applicable section of the code,  
1268 unless determined that an employee has willfully and maliciously  
1269 violated the rules and administrative procedures of the  
1270 department, pertaining to the central registry or any section of  
1271 this code. If an employee is determined to have willfully and  
1272 maliciously performed such a violation, said employee shall not be  
1273 exempt from civil liability in this regard.

1274 (4) The Mississippi State Department of Health may release  
1275 the findings of investigations into allegations of abuse within



1276 licensed day care centers made under the provisions of Section  
1277 43-21-353(8) to any parent of a child who is enrolled in the day  
1278 care center at the time of the alleged abuse or at the time the  
1279 request for information is made. The findings of any such  
1280 investigation may also be released to parents who are considering  
1281 placing children in the day care center. No information  
1282 concerning those investigations may contain the names or  
1283 identifying information of individual children.

1284 The Department of Health shall not be held civilly liable for  
1285 the release of information on any findings, recommendations or  
1286 actions taken pursuant to investigations of abuse that have been  
1287 conducted under Section 43-21-353(8).

1288 **SECTION 13.** Section 93-17-55, Mississippi Code of 1972, is  
1289 amended as follows:

1290 93-17-55. As used in Sections 93-17-51 through 93-17-67, the  
1291 word "child" shall mean a minor as defined by Mississippi law who  
1292 is:

1293 (a) A dependent of a public or voluntary licensed  
1294 child-placing agency, eligible for Supplemental Security Income  
1295 prior to the finalization of the adoption, one (1) for whom  
1296 supplemental benefits were paid pursuant to the aforementioned  
1297 sections in a previous adoption that was dissolved or wherein the  
1298 adoptive parents died, or is the child of a minor parent in foster  
1299 care for whom the board payment was increased on account of the  
1300 birth;



1301 (b) Legally \* \* \* eligible for adoption; and  
1302 (c) In special circumstances whether:  
1303 (i) Because he has established significant  
1304 emotional ties with prospective adoptive parents while in their  
1305 care as a foster child and it is deemed in the best interest of  
1306 the child by the agency to be adopted by the foster parents, or  
1307 (ii) Because he is not likely to be adopted  
1308 because of one or more of the following \* \* \* special needs: 1.  
1309 severe physical or mental disability, 2. severe emotional  
1310 disturbance, 3. recognized high risk of physical or mental  
1311 disease, \* \* \* 4. older than two (2) years of age, 5. a sibling  
1312 group to be adopted together, or 6. any combination of these \* \* \*  
1313 special needs.

1314 **SECTION 14.** Section 93-17-67, Mississippi Code of 1972, is  
1315 amended as follows:

1316 93-17-67. (1) If the adoptive parents of a child eligible  
1317 for adoption supplemental benefits sign an adoption assistance  
1318 agreement with the Department of \* \* \* Child Protection Services,  
1319 then, whether or not they accept such benefits, Medicaid coverage  
1320 shall be provided for the child under the agency's medical payment  
1321 program from and after the commencement date established pursuant  
1322 to Section 93-17-61 until the child's eighteenth birthday,  
1323 provided that federal matching funds are available for such  
1324 payment.



1325           (2) Any child who is adopted in this state through a  
1326 state-supported adoption agency and who immediately prior to such  
1327 adoption was receiving Medicaid benefits because of a severe  
1328 physical or mental \* \* \* special need shall continue to receive  
1329 such coverage benefits after adoption age eighteen (18), and such  
1330 benefits shall be payable as provided under the agency's medical  
1331 payment program for so long as the State Department of \* \* \* Child  
1332 Protection Services determines that the treatment or  
1333 rehabilitation for which payment is being made is in the best  
1334 interest of the child concerned, but not past the age of  
1335 twenty-one (21) years, provided that federal matching funds are  
1336 available for such payment and that any state funds used for such  
1337 payment shall have been appropriated specifically for such  
1338 purpose.

1339           (3) Any child who is adopted in this state through a  
1340 state-supported adoption agency and who immediately before the  
1341 adoption was receiving Medicaid benefits because of a  
1342 determination of special needs under Section 93-17-55 (c)(ii)  
1343 shall continue to receive the Medicaid benefits after adoption  
1344 until the child reaches the age of eighteen (18) if the child is  
1345 still in high school as verified by proof of enrollment and an  
1346 anticipated graduation date letter from the school. If coverage  
1347 is extended because the child remains enrolled in high school, the  
1348 coverage shall terminate at graduation or age twenty-one (21),  
1349 whichever occurs first.



1350           ( \* \* \*4) If permitted by federal law without any loss  
1351 to the state of federal matching funds, the financial resources of  
1352 the adopting parents shall not be a factor in such determination  
1353 except that payments on behalf of a child of any age may be  
1354 adjusted when insurance benefits available to the adopting parents  
1355 would pay all or part of such payments being made by the state, or  
1356 if medical or rehabilitation services are otherwise available  
1357 without cost to the adopting parents. The amount of financial  
1358 assistance given shall not exceed the amount that the Medicaid  
1359 Commission would be required to pay for the same medical treatment  
1360 or rehabilitation.

1361           ( \* \* \*5) The receipt of Medicaid benefits by an adopted  
1362 child under Sections 93-17-51 through 93-17-67 shall not qualify  
1363 the adopting parents for Medicaid eligibility, unless either  
1364 parent is otherwise eligible under Section 43-13-115, Mississippi  
1365 Code of 1972.

1366           **SECTION 15.** Section 93-17-69, Mississippi Code of 1972, is  
1367 amended as follows:

1368           93-17-69. The Department of Child Protection Services is  
1369 authorized to provide financial support for nonrecurring adoption  
1370 expenses to any person proposing to adopt a child who is a  
1371 dependent of a state child-placing agency and who is in special  
1372 circumstances as defined in paragraph (c) of Section  
1373 93-17-55 \* \* \*.



1374           **SECTION 16.** Section 93-31-3, Mississippi Code of 1972, is  
1375 amended as follows:

1376           93-31-3. (1) (a) A parent or legal custodian of a child,  
1377 by means of a properly executed power of attorney as provided in  
1378 Section 93-31-5, may delegate to another willing person or persons  
1379 as attorney-in-fact any of the powers regarding the care and  
1380 custody of the child other than the following:

1381                   (i) The power to consent to marriage or adoption  
1382 of the child;

1383                   (ii) The performance or inducement of an abortion  
1384 on or for the child; or

1385                   (iii) The termination of parental rights to the  
1386 child.

1387           (b) A delegation of powers under this section does not:

1388                   (i) Change or modify any parental or legal rights,  
1389 obligations, or authority established by an existing court order;

1390                   (ii) Deprive any custodial or noncustodial parent  
1391 or legal guardian of any parental or legal rights, obligations, or  
1392 authority regarding the custody, visitation, or support of the  
1393 child; or

1394                   (iii) Affect a court's ability to determine the  
1395 best interests of a child.

1396           (c) If both parents are living and \* \* \* neither  
1397 parent's parental rights have been terminated, both parents must  
1398 execute the power of attorney. If a noncustodial parent is absent





1399 or unknown, the custodial parent must complete the affidavit  
1400 contemplated under Section 93-31-5 and attach it to the power of  
1401 attorney.

1402 (d) A power of attorney under this chapter must be  
1403 facilitated by either a child welfare agency that is licensed to  
1404 place children for adoption and that is operating under the Safe  
1405 Families for Children model or another charitable organization  
1406 that is operating under the Safe Families for Children model. A  
1407 full criminal history and child abuse and neglect background check  
1408 must be conducted on any person who is not a grandparent, aunt,  
1409 uncle, or sibling of the child if the person is:

1410 (i) Designated or proposed to be designated as the  
1411 attorney-in-fact; or

1412 (ii) Is a person over the age of fifteen (15) who  
1413 resides in the home of the designated attorney-in-fact.

1414 (2) A power of attorney executed under this chapter shall  
1415 not be used for the sole purposes of enrolling a child in a school  
1416 to participate in the academic or interscholastic athletic  
1417 programs provided by that school or for any other unlawful  
1418 purposes, except as may be permitted by the federal Every Student  
1419 Succeeds Act (Public Law 114-95).

1420 (3) The parent or legal custodian of the child has the  
1421 authority to revoke or withdraw the power of attorney authorized  
1422 by this section at any time. Upon the termination, expiration, or



1423 revocation of the power of attorney, the child must be returned to  
1424 the custody of the parent or legal custodian \* \* \*.

1425 (4) Until the authority expires or is revoked or withdrawn  
1426 by the parent or legal custodian, the attorney-in-fact shall  
1427 exercise parental or legal authority on a continuous basis without  
1428 compensation for the duration of the power of attorney.

1429 (5) The execution of a power of attorney by a parent or  
1430 legal custodian does not, in the absence of other evidence,  
1431 constitute abandonment, desertion, abuse, neglect, or any evidence  
1432 of unfitness as a parent unless the parent or legal custodian  
1433 fails to take custody of the child or execute a new power of  
1434 attorney after the one-year time limit, or after a longer time  
1435 period as allowed for a serving parent, has elapsed. Nothing in  
1436 this subsection prevents the Department of Human Services or law  
1437 enforcement from investigating allegations of abuse, abandonment,  
1438 desertion, neglect or other mistreatment of a child.

1439 (6) When the custody of a child is transferred by a power of  
1440 attorney under this chapter, the child is not considered to have  
1441 been placed in foster care and the attorney-in-fact will not be  
1442 subject to any of the requirements or licensing regulations for  
1443 foster care or other regulations relating to out-of-home care for  
1444 children and will not be subject to any statutes or regulations  
1445 dealing with the licensing or regulation of foster care homes.

1446 (7) (a) "Serving parent" means a parent who is a member of  
1447 the Armed Forces of the United States, including any reserve



1448 component thereof, or the National Oceanic and Atmospheric  
1449 Administration Commissioned Officer Corps or the Public Health  
1450 Service of the United States Department of Health and Human  
1451 Services detailed by proper authority for duty with the Armed  
1452 Forces of the United States, or who is required to enter or serve  
1453 in the active military service of the United States under a call  
1454 or order of the President of the United States or to serve on  
1455 state active duty.

1456 (b) A serving parent may delegate the powers designated  
1457 in subsection (1) of this section for longer than one (1) year if  
1458 on active-duty service or if scheduled to be on active-duty  
1459 service. The term of delegation, however, may not exceed the term  
1460 of active-duty service plus thirty (30) days.

1461 (8) (a) A power of attorney under this chapter must be  
1462 filed in the youth court of the county where the minor child or  
1463 children reside at the time the form is completed, and the clerk  
1464 of the youth court will not impose or collect a filing fee. The  
1465 filing is informational only, and no judicial intervention shall  
1466 result at the time of filing.

1467 (b) The power of attorney must be entered into the  
1468 Mississippi Youth Court Information Delivery System (MYCIDS) under  
1469 Section 43-21-351, and must be administratively reviewed by the  
1470 youth court judge or referee, or a person designated by the youth  
1471 court judge or referee, to ensure the safety of the child or





1497           3. [Complete either Section 3(a) or 3(b)].

1498           (a) I delegate to the attorney-in-fact all of my power  
1499 and authority regarding the care, custody and property of each  
1500 minor child named above, including, but not limited to, the right  
1501 to enroll the child in school, inspect and obtain copies of  
1502 education records and other records concerning the child, the  
1503 right to attend school activities and other functions concerning  
1504 the child, and the right to give or withhold any consent or waiver  
1505 with respect to school activities, medical and dental treatment,  
1506 and any other activity, function or treatment that may concern the  
1507 child. This delegation shall not include the power or authority  
1508 to consent to marriage or adoption of the child, the performance  
1509 or inducement of an abortion on or for the child, or the  
1510 termination of parental rights to the child.

1511 OR

1512           (b) I delegate to the attorney-in-fact the following  
1513 specific powers and responsibilities (write in):

1514

1515 [If Section 3(b) is completed, Section 3(a) does not apply.]

1516           This delegation shall not include the power or authority to  
1517 consent to: marriage or adoption of the child, performing or  
1518 inducing an abortion on or for the child, or the termination of  
1519 parental rights to the child.

1520           (c) The reason or reasons for this transfer of custody  
1521 is as follows:



1522 \_\_\_\_\_

1523 [Complete either 4(a) or 4(b)]

1524 4. (a) This power of attorney is effective for a period not

1525 to exceed one (1) year, beginning, \_\_\_\_\_, 20\_\_\_\_, and

1526 ending \_\_\_\_\_, 20\_\_\_\_. I reserve the right to revoke this

1527 authority at any time.

1528 OR

1529 [Complete either 4(a) or 4(b)]

1530 (b) I am a serving parent as defined in Section

1531 93-31-3, Mississippi Code of 1972. My active-duty service is

1532 scheduled to begin on \_\_\_\_\_, 20\_\_\_\_, and is estimated to

1533 end on \_\_\_\_\_, 20\_\_\_\_. I reserve the right to revoke this

1534 authority at any time. I acknowledge that in no event may this

1535 delegation of power last more than one (1) year or the term of my

1536 active duty plus thirty (30) days, whichever is longer.

1537 By: \_\_\_\_\_

1538 (Parent/Legal Custodian signature)

1539 5. I hereby accept my designation as attorney-in-fact for

1540 the minor child/children specified in this power of attorney.

1541 \_\_\_\_\_

1542 (Attorney-in-fact signature)

1543 6. AFFIDAVIT OF FACILITATING AGENCY UNDER SECTION

1544 93-31-3(1) (d), Mississippi Code of 1972

1545 I, \_\_\_\_\_ of \_\_\_\_\_





1571 (Seal, if any)

1572 \_\_\_\_\_

1573 (Title and Rank)

1574 My commission expires:\_\_\_\_\_ "

1575 7. If the custodial parent alleges that the noncustodial  
1576 parent is absent, unknown, or that the location of the  
1577 noncustodial parent is unknown, an affidavit must be completed and  
1578 attached to the power of attorney. The following statutory form  
1579 is sufficient:

1580 Affidavit of Custodial Parent

1581 STATE OF \_\_\_\_\_

1582 COUNTY OF \_\_\_\_\_

1583 I hereby certify that I am the custodial parent of the  
1584 child(ren) who are the subject of the power of sttorney to which  
1585 this affidavit is attached. I further certify that the location  
1586 of the noncustodial parent, \_\_\_\_\_ is unknown to me  
1587 or that the identity of the father is unknown to me (insert here  
1588 if the father is unknown) \_\_\_\_\_ or that the noncustodial  
1589 parent is unavailable (state here the reason unavailable):  
1590 \_\_\_\_\_.

1591 SO SWORN, this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

1592 \_\_\_\_\_

1593 Custodial Parent





1594 SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority  
1595 in and for the aforementioned jurisdiction, the within named  
1596 person who first presented proof of identity.

1597 THIS, the day of , 20 .

1598 \_\_\_\_\_  
1599 NOTARY PUBLIC

1600 My commission expires:

1601 (2) A power of attorney, affidavit of facilitating agency,  
1602 and affidavit of custodial parent that substantially \* \* \* conform  
1603 to the forms set forth in this section \* \* \* are legally  
1604 sufficient if \* \* \* properly completed and acknowledged.

1605 (3) A revocation of a power of attorney under this chapter  
1606 must be filed with the youth court where the original power of  
1607 attorney was filed, and the clerk of the youth court shall not  
1608 impose or collect a filing fee. The following statutory form is  
1609 sufficient to revoke a power of attorney to delegate parental or  
1610 legal custodial powers that was granted under Section 93-31-3:

1611 Statutory Form for Revocation of  
1612 Power of Attorney to Delegate Parental or  
1613 Legal Custodial Powers

1614 "1. I certify that I am the parent or legal custodian of:

1615 \_\_\_\_\_  
1616 (Full name of minor child)

(Date of birth)

1617 \_\_\_\_\_  
1618 (Full name of minor child)

(Date of birth)



1619 \_\_\_\_\_  
1620 (Full name of minor child) (Date of birth)  
1621 who is/are minor children.

1622 2. On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I designated  
1623 as the attorney-in-fact of each minor child named above:

1624 \_\_\_\_\_  
1625 (Full name of attorney-in-fact and DOB)

1626 \_\_\_\_\_  
1627 (Street address, city, state and zip code of attorney-in-fact)

1628 3. I hereby certify that I am revoking said Power of  
1629 Attorney to Delegate Parental or Legal Custodial Powers and am  
1630 requesting that my child or children named above be immediately  
1631 returned to my legal and physical care, custody and control and  
1632 that I resume all legal rights and responsibilities associated  
1633 with my child or children.

1634 ACKNOWLEDGEMENT

1635 Before me, the undersigned, a Notary Public, in and for said  
1636 county and state on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
1637 personally appeared

1638 (Name of Parent/Legal Custodian),  
1639 known to me to be the person who executed this instrument and who  
1640 acknowledged to me that he or she executed this instrument as his  
1641 or her free and voluntary act and deed for the uses and purposes  
1642 set forth in the instrument.





1668 facility, and the manual shall be reviewed annually and revised as  
1669 needed;

1670 (b) Each center shall have a policy that specifies  
1671 support for a drug-free workplace for all employees, and the  
1672 policy shall, at a minimum, include the following:

1673 (i) The prohibition of the use of illegal drugs;

1674 (ii) The prohibition of the possession of any  
1675 illegal drugs except in the performance of official duties;

1676 (iii) The procedure used to ensure compliance with  
1677 a drug-free workplace policy;

1678 (iv) The opportunities available for the treatment  
1679 and counseling for drug abuse; and

1680 (v) The penalties for violation of the drug-free  
1681 workplace policy; and

1682 (c) Each center shall have a policy, procedure and  
1683 practice that ensures that personnel files and records are  
1684 current, accurate and confidential.

1685 (4) Local school districts shall work collaboratively with  
1686 juvenile detention center staff to provide special education  
1687 services as required by state and federal law. Upon the written  
1688 request of the youth court judge for the county in which the  
1689 detention center is located, a local school district in the county  
1690 in which the detention center is located, or a private provider  
1691 agreed upon by the youth court judge and sponsoring school  
1692 district, shall provide a certified teacher to provide educational



1693 services to detainees. The youth court judge shall designate the  
1694 school district which shall be defined as the sponsoring school  
1695 district. The local home school district shall be defined as the  
1696 school district where the detainee was last \* \* \* enrolled.  
1697 Detainees that have received a high school equivalency diploma  
1698 shall be provided post-secondary instruction based on interest.  
1699 Teacher selection shall be in consultation with the youth court  
1700 judge. The Legislature shall annually appropriate sufficient  
1701 funds for the provision of educational services, as provided under  
1702 this section, to detainees in detention centers.

1703 (5) To ensure that students in youth detention facilities  
1704 continue to receive appropriate educational services, local  
1705 education agencies (LEAs) must have policies and procedures to  
1706 ensure the relevant records of students who move to, and from,  
1707 youth detention facilities in accordance with State Board of  
1708 Education policy.

1709 ( \* \* \* 6) The sponsoring school district, or a private  
1710 provider agreed upon by the youth court judge and sponsoring  
1711 school district, shall be responsible for providing the  
1712 instructional program for the detainee while in detention during  
1713 the sponsoring school district's academic calendar and a six (6)  
1714 week summer enrichment program, the dates which are determined by  
1715 the school board of the sponsoring school district. The  
1716 enrichment program shall be facilitated by certified or classified  
1717 district staff and shall be focused academically on mathematics



1718 and English language arts instruction, and may include other  
1719 primary core subject areas, including character education. The  
1720 six-week enrichment program shall not set aside any guidelines set  
1721 forth by the Individuals with Disabilities Act. The summer  
1722 enrichment program may be computer based and have an abbreviated  
1723 school day that shall not be less than four (4) hours per day.  
1724 After forty-eight (48) hours of detention \* \* \* during the  
1725 sponsoring school district's academic calendar and the six-week  
1726 enrichment program, the detainee shall receive the following  
1727 services which may be computer-based:

1728           (a) Diagnostic assessment of grade-level mastery of  
1729 reading and math skills;

1730           (b) Individualized instruction and practice to address  
1731 any weaknesses identified in the assessment conducted under  
1732 paragraph (a) of this subsection if the detainee is in the center  
1733 for more than forty-eight (48) hours during the sponsoring school  
1734 district's academic calendar during the sponsoring school  
1735 district's academic calendar and the six (6) week enrichment  
1736 program; and

1737           (c) Character education to improve behavior.

1738       ( \* \* \*7) No later than the tenth day of detention during  
1739 the sponsoring school district's academic calendar and the six (6)  
1740 week enrichment program, the detainee shall begin an extended  
1741 detention education program. A team consisting of a certified  
1742 teacher provided by the local sponsoring school district or a



1743 private provider agreed upon by the youth court judge and  
1744 sponsoring school district, the appropriate official from the  
1745 local home school district, and the youth court counselor or  
1746 representative will develop an individualized \* \* \* academic  
1747 program (IAP) for the detainee, where appropriate as determined by  
1748 the teacher of the sponsoring school district, or a private  
1749 provider agreed upon by the youth court judge and sponsoring  
1750 school district. The detainee's parent or guardian shall  
1751 participate on the team unless excused by the youth court judge.  
1752 Failure of any party to participate shall not delay implementation  
1753 of this education program. Any student identified under IDEA  
1754 shall utilize the student's current IEP in lieu of the IAP.

1755 (8) It shall be the responsibility of the student's local  
1756 home school district school or the district the student last  
1757 attended to ensure that all related services identified on a  
1758 student's IEP are provided in accordance to the student's IEP.

1759 (9) It shall be the responsibility of the student's local  
1760 home school district to collaborate with the sponsoring school  
1761 district to ensure that all students including students with  
1762 disabilities are appropriately included in general state and  
1763 district-wide assessments, including assessments required by the  
1764 Elementary and Secondary Education Act of 1965 (ESEA), as amended,  
1765 and state law.

1766 (10) Teachers in youth detention facilities serving IDEA  
1767 eligible students must be licensed with endorsements required by



1768 state and federal law, and related services personnel and  
1769 paraprofessionals must meet state and federal qualifications for  
1770 those personnel.

1771 ( \* \* \*11) The sponsoring school district, or a private  
1772 provider agreed upon by the youth court judge and sponsoring  
1773 school district, shall provide the detention center with an  
1774 appropriate and adequate computer lab to serve detainees. The  
1775 Legislature shall annually appropriate sufficient funds to equip  
1776 and maintain the computer labs. The computer lab shall become the  
1777 property of the detention centers and the sponsoring school  
1778 districts shall maintain and update the labs.

1779 ( \* \* \*12) The Mississippi Department of Education will  
1780 collaborate with the appropriate state and local agencies,  
1781 juvenile detention centers and local school districts to ensure  
1782 the provision of educational services to every student placed in a  
1783 juvenile detention center. The Mississippi Department of  
1784 Education has the authority to develop and promulgate policies and  
1785 procedures regarding financial reimbursements to the sponsoring  
1786 school district from school districts that have students of record  
1787 or compulsory-school-age residing in said districts placed in a  
1788 youth detention center. Such services may include, but not be  
1789 limited to: assessment and math and reading instruction,  
1790 character education and behavioral counseling. The Mississippi  
1791 Department of Education shall work with the appropriate state and  
1792 local agencies, juvenile detention centers and local school





1793 districts to annually determine the proposed costs for educational  
1794 services to youth placed in juvenile detention centers and  
1795 annually request sufficient funding for such services as  
1796 necessary.

1797 ( \* \* \*13) Juvenile detention centers shall ensure that  
1798 staffs create transition planning for youth leaving the  
1799 facilities. Plans shall include providing the youth and his or  
1800 her parents or guardian with copies of the youth's detention  
1801 center education and health records, information regarding the  
1802 youth's home community, referrals to mental and counseling  
1803 services when appropriate, and providing assistance in making  
1804 initial appointments with community service providers; the  
1805 transition team will work together to help the detainee  
1806 successfully transition back into the home school district once  
1807 released from detention. The transition team will consist of a  
1808 certified teacher provided by the local sponsoring school  
1809 district, or a private provider agreed upon by the youth court  
1810 judge and sponsoring school district, the appropriate official  
1811 from the local home school district, the school attendance officer  
1812 assigned to the local home school district, and the youth court  
1813 counselor or representative. The detainee's parent or guardian  
1814 shall participate on the team unless excused by the youth court  
1815 judge. Failure of any party to participate shall not delay  
1816 implementation of this education program.



1817        (14) Student records, including grades and attendance shall  
1818 be part of the student's transition and submitted to the receiving  
1819 school district for review. Grades received from the JDC  
1820 education program shall be incorporated into each student's  
1821 academic performance grade.

1822        ( \* \* \*15) The Juvenile Detention Facilities Monitoring Unit  
1823 of the Department of Public Safety shall monitor the detention  
1824 facilities for compliance with these minimum standards, and no  
1825 child shall be housed in a detention facility that the monitoring  
1826 unit determines is substantially out of compliance with the  
1827 standards prescribed in this section. In accordance with Section  
1828 43-21-907(5), the Mississippi Department of Education has the  
1829 authority to promulgate rules and regulations related to the  
1830 education of all children housed in a juvenile detention facility,  
1831 to conduct inspections of the facility's educational services at  
1832 least annually or more often as deemed necessary and shall provide  
1833 the licensing agency with its determination of the facility's  
1834 compliance with the education provisions. The licensing agency  
1835 shall use the information in its determination of the facility's  
1836 eligibility for licensure.

1837        **SECTION 19.** This act shall take effect and be in force from  
1838 and after July 1, 2019.

