

By: Senator(s) Fillingane

To: Public Health and Welfare

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2130

1 AN ACT TO AMEND SECTIONS 1-1-11, 7-9-41, 7-9-43, 11-46-1,  
2 11-46-8, 25-65-5, 25-65-7, 37-23-69, 37-23-77, 37-106-69,  
3 37-115-43, 41-3-18, 41-7-173, 41-21-67, 41-67-12, 41-87-5,  
4 43-1-11, 43-1-12, 43-1-63, 43-14-1, 43-14-5, 43-15-3, 43-15-5,  
5 43-15-6, 43-15-7, 43-15-11, 43-15-15, 43-15-17, 43-15-19,  
6 43-15-21, 43-15-23, 43-15-51, 43-15-103, 43-15-105, 43-15-107,  
7 43-15-109, 43-15-113, 43-15-115, 43-15-117, 43-15-119, 43-15-121,  
8 43-15-125, 43-15-201, 43-15-203, 43-15-207, 43-16-3, 43-16-21,  
9 43-18-3, 43-18-5, 43-20-8, 43-21-105, 43-21-303, 43-21-315,  
10 43-21-351, 43-21-353, 43-21-354, 43-21-357, 43-21-405, 43-21-603,  
11 43-21-613, 43-27-101, 43-27-103, 43-27-109, 43-27-113, 43-27-115,  
12 43-27-117, 57-39-43, 93-5-23, 93-17-3, 93-17-5, 93-17-8, 93-17-11,  
13 93-17-12, 93-17-53, 93-17-57, 93-17-59, 93-17-61, 93-17-63,  
14 93-17-65, 93-17-67, 93-17-69, 93-17-101, 93-17-103, 93-17-107,  
15 93-17-109, 93-17-203, 93-21-307, 93-21-311, 93-31-3, 97-3-54.1,  
16 97-5-24, 97-5-39, 97-5-51 AND 97-29-49, MISSISSIPPI CODE OF 1972,  
17 TO REVISE STATUTORY REFERENCES TO THE MISSISSIPPI DEPARTMENT OF  
18 HUMAN SERVICES TO THE MISSISSIPPI DEPARTMENT OF CHILD PROTECTION  
19 SERVICES IN CONFORMITY TO EXISTING LAW; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** Section 1-1-11, Mississippi Code of 1972, is  
22 amended as follows:

23 1-1-11. (1) Except as provided in subsection (2) of this  
24 section, the Joint Committee on Compilation, Revision and  
25 Publication of Legislation shall distribute or provide for the



26 distribution of the sets of the compilation of the Mississippi  
27 Code of 1972 purchased by the state as follows:

28         Fifty-seven (57) sets to the Mississippi House of  
29 Representatives and forty (40) sets to the Mississippi Senate for  
30 the use of the Legislative Reference Bureau, Legislative Services  
31 Offices, staffs and committees thereof.

32         Ten (10) sets to the Governor's Office; nine (9) sets to the  
33 Secretary of State; and twenty (20) sets to the Auditor's Office.

34         One (1) set to each of the following: the Lieutenant  
35 Governor; each member of the Legislature; the Treasurer; each  
36 district attorney; each county attorney; each judge of the Court  
37 of Appeals and each judge of the Supreme, circuit, chancery,  
38 county, family, justice and municipal courts; each Mississippi  
39 Senator and Mississippi Representative in Congress; State  
40 Superintendent of Education; Director of the Department of Finance  
41 and Administration; six (6) sets to the Performance Evaluation and  
42 Expenditure Review (PEER) Committee; three (3) sets to the  
43 Director of the Legislative Budget Office; the Commissioner of  
44 Agriculture and Commerce; each Mississippi Transportation  
45 Commissioner; six (6) sets to the Department of Corrections; the  
46 Insurance Commissioner; the Clerk of the Supreme Court; the State  
47 Board of Health; each circuit clerk; each chancery clerk in the  
48 state for the use of the chancery clerk and the board of  
49 supervisors; each sheriff in the state for the use of his office  
50 and the county officers; and each county for the county library



51 (and an additional set shall be given to each circuit clerk,  
52 chancery clerk, sheriff and county library in counties having two  
53 (2) judicial districts).

54 Two (2) sets to the Department of Archives and History; two  
55 (2) sets to the State Soil and Water Conservation Commission;  
56 sixty-eight (68) sets to the Attorney General's office; six (6)  
57 sets to the Public Service Commission; four (4) sets to the Public  
58 Utilities Staff; thirty-five (35) sets to the Department of  
59 Revenue; one (1) set to the Board of Tax Appeals; two (2) sets to  
60 the State Personnel Board; six (6) sets to the State Law Library;  
61 one (1) set to the Library of Congress; ten (10) sets to the  
62 University of Mississippi Law School; one (1) set each to the  
63 Mississippi School for the Deaf and the Mississippi School for the  
64 Blind; one (1) set each to the University of Mississippi,  
65 Mississippi State University, Mississippi University for Women,  
66 University of Southern Mississippi, Delta State University, Alcorn  
67 State University, Jackson State University, Mississippi Valley  
68 State University, and the Board of Trustees of State Institutions  
69 of Higher Learning; and one (1) set to the Supreme Court judges'  
70 conference room. In furtherance of the State Library's reciprocal  
71 program of code exchange with libraries of the several states, the  
72 joint committee shall, at the direction and only upon the written  
73 request of the State Librarian, distribute or provide for the  
74 distribution of sets of the code to such libraries.



75           One (1) set to each state junior or community college; three  
76   (3) sets to the Department of Wildlife, Fisheries and Parks; two  
77   (2) sets to the Department of Environmental Quality; two (2) sets  
78   to the Department of Marine Resources; two (2) sets to the  
79   Mississippi Ethics Commission; six (6) sets to the Mississippi  
80   Workers' Compensation Commission; four (4) sets to the State  
81   Department of Rehabilitation Services; and seven (7) sets to the  
82   Department of Human Services. One (1) set to each of the  
83   following: State Textbook Procurement Commission; University  
84   Medical Center; State Library Commission; Department of  
85   Agriculture and Commerce; Forestry Commission; and seventeen (17)  
86   sets to the Department of Public Safety. Also, one (1) set to  
87   each of the following: Adjutant General, Mississippi Development  
88   Authority, Department of Banking and Consumer Finance, Bureau of  
89   Building, Grounds and Real Property Management, the State  
90   Educational Finance Commission, the Mississippi Board of  
91   Vocational and Technical Education, Division of Medicaid, State  
92   Board of Mental Health, and Department of Youth Services.

93           The joint committee is authorized to distribute or provide  
94   for the distribution of additional sets of the Mississippi Code,  
95   not to exceed three (3) sets, to the office of each district  
96   attorney for the use of his assistants.

97           The joint committee shall provide to the Mississippi House of  
98   Representatives and the Mississippi Senate the annual supplements



99 to the Mississippi Code of 1972 for each set of the code  
100 maintained by the House and Senate.

101 The set of the Mississippi Code of 1972 to be provided to  
102 each member of the Legislature shall be provided unless  
103 specifically waived by such legislator in writing.

104 An elected or appointed officeholder in the State of  
105 Mississippi, except for a member of the Legislature, shall deliver  
106 to his successor in office, or to the joint committee if there is  
107 no successor, the set of the Mississippi Code of 1972 provided the  
108 officeholder under this section.

109 Before the joint committee delivers or provides for delivery  
110 of a copy of the Mississippi Code of 1972 to an individual  
111 officeholder, the joint committee shall prepare and submit a  
112 written agreement to the officeholder. The agreement shall, among  
113 other provisions, state that the code is the property of the State  
114 of Mississippi, that it shall be transferred to the officeholder's  
115 successor in office, that the officeholder has an obligation to  
116 make such transfer and that the officeholder shall be responsible  
117 for the failure to deliver the code and for any damage or  
118 destruction to the code, normal wear and tear excepted. The joint  
119 committee shall execute the agreement and forward it to the  
120 officeholder for execution. The joint committee shall not deliver  
121 or provide for delivery of the code to the officeholder until the  
122 executed agreement is received by the committee. The joint  
123 committee may include in the agreement such other provisions as it



124 may deem reasonable and necessary. In addition to damages or any  
125 other remedy for not transferring a set of the code to his  
126 successor, an officeholder who does not transfer his set of the  
127 code shall be guilty of a misdemeanor and shall, upon conviction,  
128 pay a fine of One Thousand Dollars (\$1,000.00). Upon request of  
129 the joint committee, the Attorney General shall assist the joint  
130 committee in taking such actions as necessary to require an  
131 officeholder to transfer the set of code provided under this  
132 section to his successor, or to the joint committee if there is no  
133 successor, and to recover reimbursement or damages from any  
134 officeholder for the loss of or damage or destruction to any  
135 volumes of the set of the code provided under this section, other  
136 than normal wear and tear.

137 Replacement of missing, damaged or destroyed sets or volumes  
138 of the code provided by this chapter may be obtained from the code  
139 publisher through the joint committee at the established state  
140 cost, the cost to be borne by the recipient.

141 No more than one (1) set of the Mississippi Code of 1972  
142 shall be furnished to any one (1) individual, regardless of the  
143 office or offices he may hold.

144 (2) (a) The joint committee, in its discretion, may  
145 determine whether electronic access to the Mississippi Code of  
146 1972 is available and a sufficient substitute for actual bound  
147 volumes of the code and, if so, may omit furnishing any one or  
148 more sets otherwise required by this section.



149           (b) Each elected state official, elected state district  
150 official and member of the Legislature shall receive a CD-ROM  
151 version of the Mississippi Code of 1972 in lieu of bound volumes  
152 of the Mississippi Code of 1972 unless the official or member of  
153 the Legislature makes a request in writing to the Joint Committee  
154 on Compilation, Revision and Publication of Legislation that he  
155 receive bound volumes of the Mississippi Code of 1972.

156           **SECTION 2.** Section 7-9-41, Mississippi Code of 1972, is  
157 amended as follows:

158           7-9-41. (1) All support and maintenance funds appropriated  
159 for the operating expenses of all departments, institutions,  
160 agencies, boards and commissions, supported wholly or in part by  
161 the state, shall be drawn from the State Treasury only upon the  
162 issuance of individual warrants by the State Fiscal Officer in  
163 direct payment for goods sold or services performed, except where  
164 specifically provided otherwise in these statutes. The said State  
165 Fiscal Officer shall issue his warrants only upon requisitions  
166 signed by the proper person, officer or officers.

167           (2) In the case of the state institutions of higher  
168 learning, meeting with the written approval of the State Fiscal  
169 Officer, such funds may be drawn from the Treasury in the manner  
170 prescribed hereinbelow, and when such system of withdrawal is  
171 approved by the State Fiscal Officer, it shall not be changed  
172 except on the approval of both said parties.



173           The executive heads, together with the secretary or other  
174 person in charge of the books and accounts, of the state  
175 institutions of higher learning, if they receive such written  
176 approval, shall make up, in the form prescribed by the State  
177 Fiscal Officer and the State Treasurer, checklists of all  
178 salaries, accounts, bills, contracts and claims which shall have  
179 accrued during the month. Based upon such statement and in  
180 company with it, the state institutions of higher learning,  
181 through their proper officers, shall make requisition upon the  
182 State Fiscal Officer for only so much money as shall then be  
183 needed to pay salaries, accounts, bills, contracts and claims  
184 which may then be due, together with a reasonable amount for  
185 contingent expenses.

186           Such requisitions may be drawn upon the State Fiscal  
187 Officer's accounts, who shall draw its warrants on the Treasurer  
188 from time to time as required, payable to the official depository  
189 provided in Section 7-9-43. In the case of special appropriations  
190 made for buildings and permanent improvements, repairs, furniture,  
191 fixtures, and special supplies, and in all cases where it is not  
192 practicable to furnish a detailed statement, such funds may be  
193 drawn in installments at such times and in such amounts as  
194 necessity may require, and the requisitions for same must be  
195 accompanied by a general statement of the proposed purchases and  
196 expenditures.





197 In all cases where such lump-sum payments are authorized and  
198 paid as provided in this section, the proper officer or officers  
199 of the state institutions of higher learning shall make such  
200 additional reports to the State Fiscal Officer in the manner and  
201 at such times as he may require. Such reports shall also include  
202 other funds coming into the possession of or for the use and  
203 benefit of the state institutions of higher learning, whether such  
204 funds are regularly handled through the State Treasury or not.

205 (3) In the case of the State Department of \* \* \* Human  
206 Services and the Department of Child Protection Services, lump-sum  
207 withdrawals may only be made as provided for in subsection (2) of  
208 this section for payments to recipients of services provided by  
209 the department.

210 **SECTION 3.** Section 7-9-43, Mississippi Code of 1972, is  
211 amended as follows:

212 7-9-43. The state institutions of higher learning \* \* \*, the  
213 Department of Human Services and the Department of Child  
214 Protection Services, after receiving the written approval of the  
215 State Fiscal Officer as provided in Section 7-9-41, shall select  
216 and make a contract with some bank to serve as a depository for  
217 funds of the same. Said bank so selected shall qualify to receive  
218 said fund and secure the same as required of state depositories  
219 under Section 27-105-5 before receiving any funds, except as  
220 herein noted in the case of private hospitals. The life of said  
221 contract with a depository shall be for five (5) years. Each bank



222 shall enter into a written contract, the terms of which shall be  
223 to perform faithfully all acts and duties required of it by this  
224 and other laws of the state. As such depository, it shall receive  
225 and keep account of all funds and pay out same on the check of the  
226 secretary or business manager, countersigned by the president or  
227 chairman of the board or institution. Such bank shall receive,  
228 keep, disburse and account for all funds of the Department of  
229 Human Services, the Department of Child Protection Services, and  
230 such state institution of higher learning for which it shall be a  
231 depository, and turn over all funds and accounts to its legal  
232 successor, provided all private hospitals shall be exempted from  
233 providing depositories.

234 All books, accounts and reports made thereon for any funds  
235 shall conform to the requirements of the General Accounting  
236 Office, and shall be filed with the said General Accounting  
237 Office.

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

240 11-46-1. As used in this chapter, the following terms shall  
241 have the meanings ascribed unless the context otherwise requires:

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

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



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

248 (d) "Department" means the Department of Finance and  
249 Administration.

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

252 (f) "Employee" means any officer, employee or servant  
253 of the State of Mississippi or a political subdivision of the  
254 state, including elected or appointed officials and persons acting  
255 on behalf of the state or a political subdivision in any official  
256 capacity, temporarily or permanently, in the service of the state  
257 or a political subdivision whether with or without compensation,  
258 including firefighters who are members of a volunteer fire  
259 department that is a political subdivision. The term "employee"  
260 shall not mean a person or other legal entity while acting in the  
261 capacity of an independent contractor under contract to the state  
262 or a political subdivision; and

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

266 1. Physicians under contract to provide  
267 health services with the State Board of Health, the State Board of  
268 Mental Health or any county or municipal jail facility while  
269 rendering services under the contract;

270 2. Any physician, dentist or other health  
271 care practitioner employed by the University of Mississippi



272 Medical Center (UMMC) and its departmental practice plans who is a  
273 faculty member and provides health care services only for patients  
274 at UMMC or its affiliated practice sites, including any physician  
275 or other health care practitioner employed by UMMC under an  
276 arrangement with a public or private health-related organization;

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

282           4. Any physician, dentist or other health  
283 care practitioner employed by the State Veterans Affairs Board and  
284 who provides health care services for patients for the State  
285 Veterans Affairs Board;

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

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

295           (g) "Governmental entity" means the state and political  
296 subdivisions.



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

300 (i) "Political subdivision" means any body politic or  
301 body corporate other than the state responsible for governmental  
302 activities only in geographic areas smaller than that of the  
303 state, including, but not limited to, any county, municipality,  
304 school district, charter school, volunteer fire department that is  
305 a chartered nonprofit corporation providing emergency services  
306 under contract with a county or municipality, community hospital  
307 as defined in Section 41-13-10, airport authority, or other  
308 instrumentality of the state, whether or not the body or  
309 instrumentality has the authority to levy taxes or to sue or be  
310 sued in its own name.

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

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



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

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

329           **SECTION 6.** Section 25-65-5, Mississippi Code of 1972, is  
330 amended as follows:

331           25-65-5. The following words and phrases shall have the  
332 meanings ascribed herein, unless the context clearly indicates  
333 otherwise:

334           (a) "University" means and includes Alcorn State  
335 University, Delta State University, Jackson State University,  
336 Mississippi State University, Mississippi State University  
337 Agriculture and Forestry Experiment Station, Mississippi State  
338 University Cooperative Extension Service, Mississippi State  
339 University Forest and Wildlife Research Center, Mississippi State  
340 University State Chemical Laboratory, Mississippi University for  
341 Women, Mississippi Valley State University, the University of  
342 Mississippi, University of Mississippi Medical Center and the  
343 University of Southern Mississippi.

344           (b) "Community/Junior college" means and includes  
345 Coahoma Community College, Copiah-Lincoln Community College, East  
346 Central Community College, East Mississippi Community College,



347 Hinds Community College, Holmes Community College, Itawamba  
348 Community College, Jones County Junior College, Meridian Community  
349 College, Mississippi Delta Community College, Mississippi Gulf  
350 Coast Community College, Northeast Mississippi Community College,  
351 Northwest Mississippi Community College, Pearl River Community  
352 College and Southwest Mississippi Community College.

353 (c) "State agency" means and includes the Department of  
354 Finance and Administration, the \* \* \* Department of Revenue, the  
355 Department of Education, the State Department of Health, the  
356 Department of Mental Health, the Department of Agriculture and  
357 Commerce, the Mississippi Development Authority, the Department of  
358 Environmental Quality, the Department of Wildlife, Fisheries and  
359 Parks, the Department of Corrections, the Division of Medicaid,  
360 the Department of Rehabilitation Services, the Department of  
361 Public Safety, the Mississippi Employment Security Commission, the  
362 Mississippi Department of Information Technology Services, the  
363 Public Employees Retirement System, the Mississippi Department of  
364 Transportation, the Mississippi Gaming Commission and the  
365 Mississippi Department of Human Services.

366 (d) "Agency head" means an elected official who heads  
367 an agency, an executive director or a governing board or  
368 commission responsible for heading an agency or a president or  
369 chancellor of a university or a president of a community/junior  
370 college.



371 (e) "Agency internal audit director" means the person  
372 appointed by the agency head to direct the internal audit function  
373 for the state agency. Where consistent with responsibilities  
374 described in this chapter, the term agency internal audit director  
375 may also be referred to as inspector general, audit director,  
376 chief auditor or similar internal audit administrator  
377 descriptions.

378 (f) "Audit committee" means a standing committee  
379 external to organization management that collectively has the  
380 expertise to provide effective guidance regarding the acquisition  
381 and provision of internal audit services and to provide guidance  
382 in the provision of those services.

383 **SECTION 7.** Section 25-65-7, Mississippi Code of 1972, is  
384 amended as follows:

385 25-65-7. The provisions of this chapter shall only apply (a)  
386 to the following universities: (i) Alcorn State University, (ii)  
387 Delta State University, (iii) Jackson State University, (iv)  
388 Mississippi State University, (v) Mississippi State University  
389 Agriculture and Forestry Experiment Station, (vi) Mississippi  
390 State University Cooperative Extension Service, (vii) Mississippi  
391 State University Forest and Wildlife Research Center, (viii)  
392 Mississippi State University State Chemical Laboratory, (ix)  
393 Mississippi University for Women, (x) Mississippi Valley State  
394 University, (xi) The University of Mississippi, (xii) University  
395 of Mississippi Medical Center, and \* \* \* (xiii) The University of





396 Southern Mississippi; (b) to the following community/junior  
397 colleges: (i) Coahoma Community College, (ii) Copiah-Lincoln  
398 Community College, (iii) East Central Community College, (iv) East  
399 Mississippi Community College, (v) Hinds Community College, (vi)  
400 Holmes Community College, (vii) Itawamba Community College, (viii)  
401 Jones County Junior College, (ix) Meridian Community College, (x)  
402 Mississippi Delta Community College, (xi) Mississippi Gulf Coast  
403 Community College, (xii) Northeast Mississippi Community College,  
404 (xiii) Northwest Mississippi Community College, (xiv) Pearl River  
405 Community College and (xv) Southwest Mississippi Community  
406 College; and (c) to the following agencies: (i) the Department of  
407 Finance and Administration, (ii) the \* \* \* Department of Revenue,  
408 (iii) the Department of Education, (iv) the State Department of  
409 Health, (v) the Department of Mental Health, (vi) the Department  
410 of Agriculture and Commerce, (vii) the Mississippi Development  
411 Authority, (viii) the Department of Environmental Quality, (ix)  
412 the Department of Wildlife, Fisheries and Parks, (x) the  
413 Department of Corrections, (xi) the Division of Medicaid, (xii)  
414 the Department of Rehabilitation Services, (xiii) the Department  
415 of Public Safety, (xiv) the Mississippi Department of Employment  
416 Security \* \* \*, (xv) the Mississippi Department of Information  
417 Technology Services, (xvi) the Public Employees Retirement System,  
418 (xvii) the Mississippi Department of Transportation, (xviii) the  
419 Mississippi Gaming Commission, and (xix) the Mississippi  
420 Department of Human Services.



421           **SECTION 8.** Section 37-23-69, Mississippi Code of 1972, is  
422 amended as follows:

423           37-23-69. The State Department of Education may determine  
424 and pay the amount of the financial assistance to be made  
425 available to each applicant, and see that all applicants and the  
426 programs for them meet the requirements of the program for  
427 exceptional children. No financial assistance shall exceed the  
428 obligation actually incurred by the applicant for educational  
429 costs, which shall include special education and related services  
430 as defined by the Mississippi Department of Education Policies and  
431 Procedures Regarding Children with Disabilities under the federal  
432 Individuals with Disabilities Education Act (IDEA). Within the  
433 amount of available state funds appropriated for that purpose,  
434 each such applicant may receive assistance according to the  
435 following allowances:

436           (a) If the applicant chooses to attend a private  
437 school, a parochial school or a speech, hearing and/or language  
438 clinic having an appropriate program for the applicant, and if the  
439 school or clinic meets federal and state regulations, then the  
440 educational costs reimbursement will be one hundred percent (100%)  
441 of the first Six Hundred Dollars (\$600.00) in educational costs  
442 charged by the school or clinic; or, if the applicant is under six  
443 (6) years of age, and no program appropriate for the child exists  
444 in the public schools of his domicile, then the reimbursement  
445 shall be one hundred percent (100%) of the first Six Hundred



446 Dollars (\$600.00) in educational costs charged by the school or  
447 clinic, and fifty percent (50%) of the next Eight Hundred Dollars  
448 (\$800.00) in educational costs charged by the school or clinic;

449 (b) A public school district shall be reimbursed for  
450 the educational costs of an applicant up to an annual maximum  
451 based on a multiple of the base student cost as determined under  
452 the Mississippi Adequate Education Program (MAEP) or other cost  
453 factor as determined by the State Board of Education if the  
454 following conditions are met: (i) an applicant in the age range  
455 six (6) through twenty (20) requests the public school district  
456 where he resides to provide an education for him and the nature of  
457 the applicant's educational problem is such that, according to  
458 best educational practices, it cannot be met in the public school  
459 district where the child resides; (ii) the public school district  
460 decides to provide the applicant a free appropriate education by  
461 placing him in a private school, a parochial school or a speech,  
462 hearing and/or language clinic having an appropriate program for  
463 the applicant; (iii) the program meets federal and state  
464 regulations; and (iv) the applicant is approved for financial  
465 assistance by a State Level Review Board established by the State  
466 Board of Education. The Review Board will act on financial  
467 assistance requests within five (5) working days of receipt.  
468 Nothing in this paragraph shall prevent two (2) or more public  
469 school districts from forming a cooperative to meet the needs of  
470 low incidence exceptional children, nor shall the public school be



471 relieved of its responsibility to provide an education for all  
472 children. If state monies are not sufficient to fund all  
473 applicants, there will be a ratable reduction for all recipients  
474 receiving state funds under this section. School districts may  
475 pay additional educational costs from available federal, state and  
476 local funds.

477 If an exceptional child, as defined in Section 37-23-3, is  
478 placed in a therapeutic or other group home licensed or approved  
479 by the state that has no educational program associated with it,  
480 the local school district in which the home is located shall offer  
481 an appropriate educational program to that child.

482 At any time that the Individualized Education Program (IEP)  
483 Committee in the district where the home is located determines  
484 that an exceptional child, as defined in Section 37-23-3, residing  
485 in that home can no longer be provided a free appropriate public  
486 education in that school district, and the State Department of  
487 Education agrees with that decision, then the State Department of  
488 Education shall recommend to the Department of \* \* \* Child  
489 Protection Services placement of the child by the Department  
490 of \* \* \* Child Protection Services, which shall take appropriate  
491 action. The placement of the exceptional child in the facility  
492 shall be at no cost to the local school district. Funds available  
493 under Sections 37-23-61 through 37-23-77, as well as any available  
494 federal funds, may be used to provide the educational costs of the  
495 placement. If the exceptional child is under the guardianship of



496 the Department of \* \* \* Child Protection Services or another state  
497 agency, the State Department of Education shall pay only for the  
498 educational costs of that placement, and the other agency shall be  
499 responsible for the room, board and any other costs. The special  
500 education and related services provided to the child shall be in  
501 compliance with State Department of Education and any related  
502 federal regulations. The State Board of Education may promulgate  
503 regulations that are necessary to implement this section; and

504 (c) If an appropriate local or regional system of care,  
505 including a free appropriate public education, is available for  
506 exceptional children who are currently being served in  
507 out-of-district or Department of \* \* \* Child Protection Services  
508 placements under Section 37-23-69(b) or 37-23-77, then the state  
509 funds from the State Department of Education that would have been  
510 used for those placements may be paid into a pool of funds with  
511 funds from other state agencies to be used for the implementation  
512 of the individualized plans of care for those children. If there  
513 are sufficient funds to serve additional exceptional children  
514 because of cost savings as a result of serving these students at  
515 home and/or matching the pooled funds with federal dollars, the  
516 funds may be used to implement individualized plans of care for  
517 those additional exceptional children. Each local or regional  
518 provider of services included in the individualized plans of care  
519 shall comply with all appropriate state and federal regulations.



520 The State Board of Education may promulgate regulations that are  
521 necessary to implement this section.

522 The State Department of Education may also provide for the  
523 payment of that financial assistance in installments and for  
524 proration of that financial assistance in the case of children  
525 attending a school or clinic for less than a full school session  
526 and, if available funds are insufficient, may allocate the  
527 available funds among the qualified applicants and local school  
528 districts by reducing the maximum assistance provided for in this  
529 section.

530 Any monies provided an applicant under Sections 37-23-61  
531 through 37-23-75 shall be applied by the receiving educational  
532 institution as a reduction in the amount of the educational costs  
533 paid by the applicant, and the total educational costs paid by the  
534 applicant shall not exceed the total educational costs paid by any  
535 other child in similar circumstances enrolled in the same program  
536 in that institution. However, this limitation shall not prohibit  
537 the waiving of all or part of the educational costs for a limited  
538 number of children based upon demonstrated financial need, and the  
539 State Department of Education may adopt and enforce reasonable  
540 rules and regulations to carry out the intent of these provisions.

541 **SECTION 9.** Section 37-23-77, Mississippi Code of 1972, is  
542 amended as follows:

543 37-23-77. If a child, as defined in Sections 37-23-61 and  
544 37-23-63, is under the legal guardianship of the \* \* \* Mississippi



545 Department of Child Protection Services, or any other state  
546 agency, and for whom no foster parents are available and no  
547 state-funded institution placement is available, funds available  
548 under Section 37-23-1 et seq. may be used to provide for the  
549 education of the child in an institution approved by the  
550 Department of \* \* \* Child Protection Services and the State  
551 Department of Education. However, if the educational services  
552 needed by the child are available in a state funded institution,  
553 these funds shall not be used to pay for educational services at  
554 that institution. At any such time a child is taken out of a  
555 school setting and placed under the custody of the Department  
556 of \* \* \* Child Protection Services, the department shall  
557 immediately notify the State Department of Education and apply for  
558 funds for the child's educational services under Section 37-23-1  
559 et seq. and the State Department of Education shall respond to the  
560 application within ten (10) working days. The special education  
561 and related services provided for this child shall be provided in  
562 compliance with State Department of Education regulations. The  
563 State Department of Education shall promulgate such regulations as  
564 are necessary to implement this section.

565       The State Department of Education shall require that the  
566 special education and related services provided for the children  
567 under this section be designed to provide individualized  
568 appropriate special education and related services that enable a



569 child to reach his or her appropriate and uniquely designed goals  
570 for success.

571 **SECTION 10.** Section 37-106-69, Mississippi Code of 1972, is  
572 amended as follows:

573 37-106-69. (1) There is established a forgivable loan  
574 program to encourage family protection workers employed by the  
575 Department of \* \* \* Child Protection Services to obtain the  
576 college education necessary to become licensed as a social worker,  
577 master social worker or certified social worker and become a  
578 family protection specialist for the department.

579 (2) Any person who is employed as a family protection worker  
580 for the Department of \* \* \* Child Protection Services shall be  
581 eligible for a forgivable loan from the board which shall be used  
582 to pay the costs of the person's education at a state institution  
583 of higher learning in Mississippi to obtain a college degree that  
584 is necessary to become licensed as a social worker, master social  
585 worker or certified social worker and become a family protection  
586 specialist for the department. The annual amount of a forgivable  
587 loan award under the program shall be equal to the total cost of  
588 tuition and fees at the college or university in which the student  
589 is enrolled, not to exceed an amount equal to the highest total  
590 cost of tuition and fees assessed by a state institution of higher  
591 learning during that school year.

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





594 enrolling on a full-time basis may receive a maximum of two (2)  
595 annual awards. The maximum number of forgivable loans that may be  
596 made to students attending school on a part-time basis, and the  
597 maximum time period for part-time students to complete the number  
598 of academic hours necessary to obtain the necessary degree, shall  
599 be established by rules and regulations of the board. Forgivable  
600 loans made under the program shall not be based upon an  
601 applicant's financial need. A student must maintain a "C" average  
602 or higher in his or her college coursework in order to continue  
603 receiving the forgivable loan.

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

606 (a) After a person who received a forgivable loan under  
607 the program has obtained a college degree that is necessary to  
608 become licensed as a social worker, master social worker or  
609 certified social worker and has received such a license from the  
610 Board of Examiners for Social Workers and Marriage and Family  
611 Therapists, the person shall render service as a Family Protection  
612 Specialist for the Department of \* \* \* Child Protection Services  
613 for a period of not less than three (3) years from the date that  
614 the person became a family protection specialist;

615 (b) Any person who fails to complete his or her service  
616 obligation as a Family Protection Specialist for the Department  
617 of \* \* \* Child Protection Services for not less than three (3)  
618 years, as required under \* \* \* paragraph (a) of this subsection,



619 shall become liable immediately to the board for the sum of all  
620 forgivable loan awards made to that person, plus interest accruing  
621 at the current Stafford Loan rate at the time the person  
622 discontinues his or her service.

623 (5) It is the intent of the Legislature that the pursuit of  
624 necessary college education by family protection workers through  
625 the forgivable loan program shall not interfere with the duties of  
626 the family protection workers with the Department of \* \* \* Child  
627 Protection Services. The department shall promulgate regulations  
628 regarding family protection workers who participate in the  
629 forgivable loan program to ensure that such participation does not  
630 interfere with their duties with the department.

631 (6) The board shall promulgate rules and regulations  
632 necessary for the proper administration of the forgivable loan  
633 program established under this section. The board shall be the  
634 administering agency of the program.

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

638 **SECTION 11.** Section 37-115-43, Mississippi Code of 1972, is  
639 amended as follows:

640 37-115-43. (1) The University of Mississippi Medical  
641 Center, in collaboration with the Mississippi Department of \* \* \*  
642 Child Protection Services and the Office of the Attorney General,  
643 is authorized and empowered to establish a Center of Excellence



644 (Center) \* \* \* to provide care for abused and neglected children  
645 at the Blair E. Batson Hospital for Children located in Jackson,  
646 Mississippi, where suspected victims of child maltreatment  
647 referred by the Department of \* \* \* Child Protection Services or  
648 law enforcement will receive comprehensive physical examinations  
649 conducted by medical professionals who specialize in child  
650 maltreatment. The University of Mississippi Medical Center shall  
651 promulgate such policies as may be necessary and desirable to  
652 carry out the programs of the Center. The Center shall serve as a  
653 resource for the assessment, investigation and prosecution of  
654 child maltreatment. The Center shall work in collaboration with  
655 the Office of the Attorney General, the Mississippi Department  
656 of \* \* \* Child Protection Services, and other such state agencies  
657 and entities that provide services to children \* \* \* to ensure  
658 that CARE Clinic services are provided in a uniform fashion  
659 throughout the state.

660 (2) The Department of Pediatrics may use the Center for  
661 educational and outreach programs, telemedicine consultations, to  
662 develop satellite clinics in other locations in the state in  
663 cooperation with the local community or private hospital when  
664 applicable, and to conduct major research initiatives in child  
665 maltreatment.

666 (3) The Center of Excellence shall provide services to  
667 maltreated children and comply with national certification  
668 standards as necessary to provide services to the Department



669 of \* \* \* Child Protection Services, the youth courts, state child  
670 advocacy centers, district attorney's offices and law enforcement  
671 agencies.

672 (4) There is created in the State Treasury a special fund to  
673 be known as the Children's Safe Center Fund. The University of  
674 Mississippi Medical Center shall expend funds pursuant to  
675 appropriation therefor by the Legislature for the support and  
676 maintenance of the Children's Safe Center. The University of  
677 Mississippi Medical Center is authorized to accept any and all  
678 grants, donations or matching funds from private, public or  
679 federal sources in order to add to, improve and enlarge the  
680 physical facilities of the Center and to expend any such funds for  
681 the support and maintenance of the Center. Assessments from  
682 Section 99-19-73 designated for the Children's Safe Center Fund  
683 shall be deposited into the fund. Monies remaining in the fund at  
684 the end of a fiscal year shall not lapse into the State General  
685 Fund, and any interest earned from the investment of monies in the  
686 fund shall be deposited to the credit of the fund.

687 **SECTION 12.** Section 41-3-18, Mississippi Code of 1972, is  
688 amended as follows:

689 41-3-18. (1) The board shall assess fees in the following  
690 amounts and for the following purposes:

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

693 Assessment Category 1.....\$ 30.00



694	Assessment Category 2.....	100.00
695	Assessment Category 3.....	150.00
696	Assessment Category 4.....	200.00
697	(b) Private water supply approval fee.....	\$ 10.00

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

700 Assessment categories shall be based upon the factors to the  
701 public health implications of the category and type of food  
702 preparation being utilized by the food establishment, utilizing  
703 the model Food Code of 1995, or as may be amended by the federal  
704 Food and Drug Administration.

705       Any increase in the fees charged by the board under this  
706 subsection shall be in accordance with the provisions of Section  
707 41-3-65.

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

710           (a) Food establishments operated by public schools,  
711 public junior and community colleges, or state agencies or  
712 institutions, including, without limitation, the state  
713 institutions of higher learning and the State Penitentiary; and

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



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

722 **SECTION 13.** Section 41-7-173, Mississippi Code of 1972, is  
723 amended as follows:

724 41-7-173. For the purposes of Section 41-7-171 et seq., the  
725 following words shall have the meanings ascribed herein, unless  
726 the context otherwise requires:

727 (a) "Affected person" means (i) the applicant; (ii) a  
728 person residing within the geographic area to be served by the  
729 applicant's proposal; (iii) a person who regularly uses health  
730 care facilities or HMOs located in the geographic area of the  
731 proposal which provide similar service to that which is proposed;  
732 (iv) health care facilities and HMOs which have, prior to receipt  
733 of the application under review, formally indicated an intention  
734 to provide service similar to that of the proposal being  
735 considered at a future date; (v) third-party payers who reimburse  
736 health care facilities located in the geographical area of the  
737 proposal; or (vi) any agency that establishes rates for health  
738 care services or HMOs located in the geographic area of the  
739 proposal.

740 (b) "Certificate of need" means a written order of the  
741 State Department of Health setting forth the affirmative finding  
742 that a proposal in prescribed application form, sufficiently



743 satisfies the plans, standards and criteria prescribed for such  
744 service or other project by Section 41-7-171 et seq., and by rules  
745 and regulations promulgated thereunder by the State Department of  
746 Health.

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

753 (ii) "Capital expenditure," when pertaining to  
754 other than major medical equipment, shall mean any expenditure  
755 which under generally accepted accounting principles consistently  
756 applied is not properly chargeable as an expense of operation and  
757 maintenance and which exceeds, for clinical health services, as  
758 defined in \* \* \* paragraph (k) below, Five Million Dollars  
759 (\$5,000,000.00), adjusted for inflation as published by the State  
760 Department of Health or which exceeds, for nonclinical health  
761 services, as defined in \* \* \* paragraph (k) below, Ten Million  
762 Dollars (\$10,000,000.00), adjusted for inflation as published by  
763 the State Department of Health.

764 (iii) A "capital expenditure" shall include the  
765 acquisition, whether by lease, sufferance, gift, devise, legacy,  
766 settlement of a trust or other means, of any facility or part  
767 thereof, or equipment for a facility, the expenditure for which



768 would have been considered a capital expenditure if acquired by  
769 purchase. Transactions which are separated in time but are  
770 planned to be undertaken within twelve (12) months of each other  
771 and are components of an overall plan for meeting patient care  
772 objectives shall, for purposes of this definition, be viewed in  
773 their entirety without regard to their timing.

774 (iv) In those instances where a health care  
775 facility or other provider of health services proposes to provide  
776 a service in which the capital expenditure for major medical  
777 equipment or other than major medical equipment or a combination  
778 of the two (2) may have been split between separate parties, the  
779 total capital expenditure required to provide the proposed service  
780 shall be considered in determining the necessity of certificate of  
781 need review and in determining the appropriate certificate of need  
782 review fee to be paid. The capital expenditure associated with  
783 facilities and equipment to provide services in Mississippi shall  
784 be considered regardless of where the capital expenditure was  
785 made, in state or out of state, and regardless of the domicile of  
786 the party making the capital expenditure, in state or out of  
787 state.

788 (d) "Change of ownership" includes, but is not limited  
789 to, inter vivos gifts, purchases, transfers, lease arrangements,  
790 cash and/or stock transactions or other comparable arrangements  
791 whenever any person or entity acquires or controls a majority  
792 interest of an existing health care facility, and/or the change of





793 ownership of major medical equipment, a health service, or an  
794 institutional health service. Changes of ownership from  
795 partnerships, single proprietorships or corporations to another  
796 form of ownership are specifically included. However, "change of  
797 ownership" shall not include any inherited interest acquired as a  
798 result of a testamentary instrument or under the laws of descent  
799 and distribution of the State of Mississippi.

800 (e) "Commencement of construction" means that all of  
801 the following have been completed with respect to a proposal or  
802 project proposing construction, renovating, remodeling or  
803 alteration:

804 (i) A legally binding written contract has been  
805 consummated by the proponent and a lawfully licensed contractor to  
806 construct and/or complete the intent of the proposal within a  
807 specified period of time in accordance with final architectural  
808 plans which have been approved by the licensing authority of the  
809 State Department of Health;

810 (ii) Any and all permits and/or approvals deemed  
811 lawfully necessary by all authorities with responsibility for such  
812 have been secured; and

813 (iii) Actual bona fide undertaking of the subject  
814 proposal has commenced, and a progress payment of at least one  
815 percent (1%) of the total cost price of the contract has been paid  
816 to the contractor by the proponent, and the requirements of this



817 paragraph (e) have been certified to in writing by the State  
818 Department of Health.

819 Force account expenditures, such as deposits, securities,  
820 bonds, et cetera, may, in the discretion of the State Department  
821 of Health, be excluded from any or all of the provisions of  
822 defined commencement of construction.

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

826 (g) "Develop," when used in connection with health  
827 services, means to undertake those activities which, on their  
828 completion, will result in the offering of a new institutional  
829 health service or the incurring of a financial obligation as  
830 defined under applicable state law in relation to the offering of  
831 such services.

832 (h) "Health care facility" includes hospitals,  
833 psychiatric hospitals, chemical dependency hospitals, skilled  
834 nursing facilities, end-stage renal disease (ESRD) facilities,  
835 including freestanding hemodialysis units, intermediate care  
836 facilities, ambulatory surgical facilities, intermediate care  
837 facilities for the mentally retarded, home health agencies,  
838 psychiatric residential treatment facilities, pediatric skilled  
839 nursing facilities, long-term care hospitals, comprehensive  
840 medical rehabilitation facilities, including facilities owned or  
841 operated by the state or a political subdivision or



842 instrumentality of the state, but does not include Christian  
843 Science sanatoriums operated or listed and certified by the First  
844 Church of Christ, Scientist, Boston, Massachusetts. This  
845 definition shall not apply to facilities for the private practice,  
846 either independently or by incorporated medical groups, of  
847 physicians, dentists or health care professionals except where  
848 such facilities are an integral part of an institutional health  
849 service. The various health care facilities listed in this  
850 paragraph shall be defined as follows:

851 (i) "Hospital" means an institution which is  
852 primarily engaged in providing to inpatients, by or under the  
853 supervision of physicians, diagnostic services and therapeutic  
854 services for medical diagnosis, treatment and care of injured,  
855 disabled or sick persons, or rehabilitation services for the  
856 rehabilitation of injured, disabled or sick persons. Such term  
857 does not include psychiatric hospitals.

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

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



867 (iv) "Skilled nursing facility" means an  
868 institution or a distinct part of an institution which is  
869 primarily engaged in providing to inpatients skilled nursing care  
870 and related services for patients who require medical or nursing  
871 care or rehabilitation services for the rehabilitation of injured,  
872 disabled or sick persons.

873 (v) "End-stage renal disease (ESRD) facilities"  
874 means kidney disease treatment centers, which includes  
875 freestanding hemodialysis units and limited care facilities. The  
876 term "limited care facility" generally refers to an  
877 off-hospital-premises facility, regardless of whether it is  
878 provider or nonprovider operated, which is engaged primarily in  
879 furnishing maintenance hemodialysis services to stabilized  
880 patients.

881 (vi) "Intermediate care facility" means an  
882 institution which provides, on a regular basis, health-related  
883 care and services to individuals who do not require the degree of  
884 care and treatment which a hospital or skilled nursing facility is  
885 designed to provide, but who, because of their mental or physical  
886 condition, require health-related care and services (above the  
887 level of room and board).

888 (vii) "Ambulatory surgical facility" means a  
889 facility primarily organized or established for the purpose of  
890 performing surgery for outpatients and is a separate identifiable  
891 legal entity from any other health care facility. Such term does



892 not include the offices of private physicians or dentists, whether  
893 for individual or group practice, and does not include any  
894 abortion facility as defined in Section 41-75-1(f).

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

902 (ix) "Home health agency" means a public or  
903 privately owned agency or organization, or a subdivision of such  
904 an agency or organization, properly authorized to conduct business  
905 in Mississippi, which is primarily engaged in providing to  
906 individuals at the written direction of a licensed physician, in  
907 the individual's place of residence, skilled nursing services  
908 provided by or under the supervision of a registered nurse  
909 licensed to practice in Mississippi, and one or more of the  
910 following services or items:

- 911 1. Physical, occupational or speech therapy;
- 912 2. Medical social services;
- 913 3. Part-time or intermittent services of a  
914 home health aide;
- 915 4. Other services as approved by the  
916 licensing agency for home health agencies;



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

919                   6. Medical services provided by an intern or  
920 resident-in-training at a hospital under a teaching program of  
921 such hospital.

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

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

931                   (x) "Psychiatric residential treatment facility"  
932 means any nonhospital establishment with permanent licensed  
933 facilities which provides a twenty-four-hour program of care by  
934 qualified therapists, including, but not limited to, duly licensed  
935 mental health professionals, psychiatrists, psychologists,  
936 psychotherapists and licensed certified social workers, for  
937 emotionally disturbed children and adolescents referred to such  
938 facility by a court, local school district or by the Department  
939 of \* \* \* Child Protection Services, who are not in an acute phase  
940 of illness requiring the services of a psychiatric hospital, and  
941 are in need of such restorative treatment services. For purposes



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

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

948 2. An inability to build or maintain  
949 satisfactory relationships with peers and teachers;

950 3. Inappropriate types of behavior or  
951 feelings under normal circumstances;

952 4. A general pervasive mood of unhappiness or  
953 depression; or

954 5. A tendency to develop physical symptoms or  
955 fears associated with personal or school problems. An  
956 establishment furnishing primarily domiciliary care is not within  
957 this definition.

958 (xi) "Pediatric skilled nursing facility" means an  
959 institution or a distinct part of an institution that is primarily  
960 engaged in providing to inpatients skilled nursing care and  
961 related services for persons under twenty-one (21) years of age  
962 who require medical or nursing care or rehabilitation services for  
963 the rehabilitation of injured, disabled or sick persons.

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



967 is primarily engaged in providing chronic or long-term medical  
968 care to patients who do not require more than three (3) hours of  
969 rehabilitation or comprehensive rehabilitation per day, and has a  
970 transfer agreement with an acute care medical center and a  
971 comprehensive medical rehabilitation facility. Long-term care  
972 hospitals shall not use rehabilitation, comprehensive medical  
973 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
974 nursing home, skilled nursing facility or sub-acute care facility  
975 in association with its name.

976 (xiii) "Comprehensive medical rehabilitation  
977 facility" means a hospital or hospital unit that is licensed  
978 and/or certified as a comprehensive medical rehabilitation  
979 facility which provides specialized programs that are accredited  
980 by the Commission on Accreditation of Rehabilitation Facilities  
981 and supervised by a physician board certified or board eligible in  
982 physiatry or other doctor of medicine or osteopathy with at least  
983 two (2) years of training in the medical direction of a  
984 comprehensive rehabilitation program that:

985 1. Includes evaluation and treatment of  
986 individuals with physical disabilities;

987 2. Emphasizes education and training of  
988 individuals with disabilities;

989 3. Incorporates at least the following core  
990 disciplines:

991 \* \* \*a. Physical Therapy;





- \* \* \*b. Occupational Therapy;
- \* \* \*c. Speech and Language Therapy;
- \* \* \*d. Rehabilitation Nursing; and

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

- \* \* \*a. Psychology;
- \* \* \*b. Audiology;
- \* \* \*c. Respiratory Therapy;
- \* \* \*d. Therapeutic Recreation;
- \* \* \*e. Orthotics;
- \* \* \*f. Prosthetics;
- \* \* \*g. Special Education;
- \* \* \*h. Vocational Rehabilitation;
- \* \* \*i. Psychotherapy;
- \* \* \*j. Social Work;
- \* \* \*k. Rehabilitation Engineering.

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

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

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



1017 physician services, hospitalization, laboratory, x-ray, emergency  
1018 and preventive services, and out-of-area coverage;

1019 (ii) Is compensated (except for copayments) for  
1020 the provision of the basic health care services listed in  
1021 subparagraph (i) of this paragraph to enrolled participants on a  
1022 predetermined basis; and

1023 (iii) Provides physician services primarily:

1024 1. Directly through physicians who are either  
1025 employees or partners of such organization; or

1026 2. Through arrangements with individual  
1027 physicians or one or more groups of physicians (organized on a  
1028 group practice or individual practice basis).

1029 (j) "Health service area" means a geographic area of  
1030 the state designated in the State Health Plan as the area to be  
1031 used in planning for specified health facilities and services and  
1032 to be used when considering certificate of need applications to  
1033 provide health facilities and services.

1034 (k) "Health services" means clinically related (i.e.,  
1035 diagnostic, treatment or rehabilitative) services and includes  
1036 alcohol, drug abuse, mental health and home health care services.

1037 "Clinical health services" shall only include those activities  
1038 which contemplate any change in the existing bed complement of any  
1039 health care facility through the addition or conversion of any  
1040 beds, under Section 41-7-191(1)(c) or propose to offer any health  
1041 services if those services have not been provided on a regular



1042 basis by the proposed provider of such services within the period  
1043 of twelve (12) months prior to the time such services would be  
1044 offered, under Section 41-7-191(1)(d). "Nonclinical health  
1045 services" shall be all other services which do not involve any  
1046 change in the existing bed complement or offering health services  
1047 as described above.

1048 (l) "Institutional health services" shall mean health  
1049 services provided in or through health care facilities and shall  
1050 include the entities in or through which such services are  
1051 provided.

1052 (m) "Major medical equipment" means medical equipment  
1053 designed for providing medical or any health-related service which  
1054 costs in excess of One Million Five Hundred Thousand Dollars  
1055 (\$1,500,000.00). However, this definition shall not be applicable  
1056 to clinical laboratories if they are determined by the State  
1057 Department of Health to be independent of any physician's office,  
1058 hospital or other health care facility or otherwise not so defined  
1059 by federal or state law, or rules and regulations promulgated  
1060 thereunder.

1061 (n) "State Department of Health" or "department" shall  
1062 mean the state agency created under Section 41-3-15, which shall  
1063 be considered to be the State Health Planning and Development  
1064 Agency, as defined in paragraph (u) of this section.

1065 (o) "Offer," when used in connection with health  
1066 services, means that it has been determined by the State



1067 Department of Health that the health care facility is capable of  
1068 providing specified health services.

1069 (p) "Person" means an individual, a trust or estate,  
1070 partnership, corporation (including associations, joint-stock  
1071 companies and insurance companies), the state or a political  
1072 subdivision or instrumentality of the state.

1073 (q) "Provider" shall mean any person who is a provider  
1074 or representative of a provider of health care services requiring  
1075 a certificate of need under Section 41-7-171 et seq., or who has  
1076 any financial or indirect interest in any provider of services.

1077 (r) "Radiation therapy services" means the treatment of  
1078 cancer and other diseases using ionizing radiation of either high  
1079 energy photons (x-rays or gamma rays) or charged particles  
1080 (electrons, protons or heavy nuclei). However, for purposes of a  
1081 certificate of need, radiation therapy services shall not include  
1082 low energy, superficial, external beam x-ray treatment of  
1083 superficial skin lesions.

1084 (s) "Secretary" means the Secretary of Health and Human  
1085 Services, and any officer or employee of the Department of Health  
1086 and Human Services to whom the authority involved has been  
1087 delegated.

1088 (t) "State Health Plan" means the sole and official  
1089 statewide health plan for Mississippi which identifies priority  
1090 state health needs and establishes standards and criteria for



1091 health-related activities which require certificate of need review  
1092 in compliance with Section 41-7-191.

1093 (u) "State Health Planning and Development Agency"  
1094 means the agency of state government designated to perform health  
1095 planning and resource development programs for the State of  
1096 Mississippi.

1097 **SECTION 14.** Section 41-21-67, Mississippi Code of 1972, is  
1098 amended as follows:

1099 41-21-67. (1) Whenever the affidavit provided for in  
1100 Section 41-21-65 is filed with the chancery clerk, the clerk, upon  
1101 direction of the chancellor of the court, shall issue a writ  
1102 directed to the sheriff of the proper county to take into custody  
1103 the person alleged to be in need of treatment and to bring the  
1104 person before the clerk or chancellor, who shall order  
1105 pre-evaluation screening and treatment by the appropriate  
1106 community mental health center established under Section 41-19-31.  
1107 The community mental health center will be designated as the first  
1108 point of entry for screening and treatment. If the community  
1109 mental health center is unavailable, any reputable licensed  
1110 physician, psychologist, nurse practitioner or physician  
1111 assistant, as allowed in the discretion of the court, may conduct  
1112 the pre-evaluation screening and examination as set forth in  
1113 Section 41-21-69. The order may provide where the person shall be  
1114 held before the appearance before the clerk or chancellor.  
1115 However, when the affidavit fails to set forth factual allegations



1116 and witnesses sufficient to support the need for treatment, the  
1117 chancellor shall refuse to direct issuance of the writ.  
1118 Reapplication may be made to the chancellor. If a pauper's  
1119 affidavit is filed by a guardian for commitment of the ward of the  
1120 guardian, the court shall determine if the ward is a pauper and if  
1121 the ward is determined to be a pauper, the county of the residence  
1122 of the respondent shall bear the costs of commitment, unless funds  
1123 for those purposes are made available by the state.

1124 In any county in which a Crisis Intervention Team has been  
1125 established under the provisions of Sections 41-21-131 through  
1126 41-21-143, the clerk, upon the direction of the chancellor, may  
1127 require that the person be referred to the Crisis Intervention  
1128 Team for appropriate psychiatric or other medical services before  
1129 the issuance of the writ.

1130 (2) Upon issuance of the writ, the chancellor shall  
1131 immediately appoint and summon two (2) reputable, licensed  
1132 physicians or one (1) reputable, licensed physician and either one  
1133 (1) psychologist, nurse practitioner or physician assistant to  
1134 conduct a physical and mental examination of the person at a place  
1135 to be designated by the clerk or chancellor and to report their  
1136 findings to the clerk or chancellor. However, any nurse  
1137 practitioner or physician assistant conducting the examination  
1138 shall be independent from, and not under the supervision of, the  
1139 other physician conducting the examination. In all counties in  
1140 which there is a county health officer, the county health officer,



1141 if available, may be one (1) of the physicians so appointed.  
1142 Neither of the physicians nor the psychologist, nurse practitioner  
1143 or physician assistant selected shall be related to that person in  
1144 any way, nor have any direct or indirect interest in the estate of  
1145 that person nor shall any full-time staff of residential treatment  
1146 facilities operated directly by the State Department of Mental  
1147 Health serve as examiner.

1148 (3) The clerk shall ascertain whether the respondent is  
1149 represented by an attorney, and if it is determined that the  
1150 respondent does not have an attorney, the clerk shall immediately  
1151 notify the chancellor of that fact. If the chancellor determines  
1152 that the respondent for any reason does not have the services of  
1153 an attorney, the chancellor shall immediately appoint an attorney  
1154 for the respondent at the time the examiners are appointed.

1155 (4) If the chancellor determines that there is probable  
1156 cause to believe that the respondent is mentally ill and that  
1157 there is no reasonable alternative to detention, the chancellor  
1158 may order that the respondent be retained as an emergency patient  
1159 at any licensed medical facility for evaluation by a physician,  
1160 nurse practitioner or physician assistant and that a peace officer  
1161 transport the respondent to the specified facility. If the  
1162 community mental health center serving the county has partnered  
1163 with Crisis Intervention Teams under the provisions of Sections  
1164 41-21-131 through 41-21-143, the order may specify that the  
1165 licensed medical facility be a designated single point of entry



1166 within the county or within an adjacent county served by the  
1167 community mental health center. If the person evaluating the  
1168 respondent finds that the respondent is mentally ill and in need  
1169 of treatment, the chancellor may order that the respondent be  
1170 retained at the licensed medical facility or any other available  
1171 suitable location as the court may so designate pending an  
1172 admission hearing. If necessary, the chancellor may order a peace  
1173 officer or other person to transport the respondent to that  
1174 facility or suitable location. Any respondent so retained may be  
1175 given such treatment as is indicated by standard medical practice.  
1176 However, the respondent shall not be held in a hospital operated  
1177 directly by the State Department of Mental Health, and shall not  
1178 be held in jail unless the court finds that there is no reasonable  
1179 alternative.

1180 (5) (a) Whenever a licensed psychologist, nurse  
1181 practitioner or physician assistant who is certified to complete  
1182 examinations for the purpose of commitment or a licensed physician  
1183 has reason to believe that a person poses an immediate substantial  
1184 likelihood of physical harm to himself or others or is gravely  
1185 disabled and unable to care for himself by virtue of mental  
1186 illness, as defined in Section 41-21-61(e), then the physician,  
1187 psychologist, nurse practitioner or physician assistant may hold  
1188 the person or may admit the person to and treat the person in a  
1189 licensed medical facility, without a civil order or warrant for a  
1190 period not to exceed seventy-two (72) hours. However, if the





1191 seventy-two-hour period begins or ends when the chancery clerk's  
1192 office is closed, or within three (3) hours of closing, and the  
1193 chancery clerk's office will be continuously closed for a time  
1194 that exceeds seventy-two (72) hours, then the seventy-two-hour  
1195 period is extended until the end of the next business day that the  
1196 chancery clerk's office is open. The person may be held and  
1197 treated as an emergency patient at any licensed medical facility,  
1198 available regional mental health facility, or crisis intervention  
1199 center. The physician or psychologist, nurse practitioner or  
1200 physician assistant who holds the person shall certify in writing  
1201 the reasons for the need for holding.

1202 If a person is being held and treated in a licensed medical  
1203 facility, and that person decides to continue treatment by  
1204 voluntarily signing consent for admission and treatment, the  
1205 seventy-two-hour hold may be discontinued without filing an  
1206 affidavit for commitment. Any respondent so held may be given  
1207 such treatment as indicated by standard medical practice. Persons  
1208 acting in good faith in connection with the detention and  
1209 reporting of a person believed to be mentally ill shall incur no  
1210 liability, civil or criminal, for those acts.

1211 (b) Whenever an individual is held for purposes of  
1212 receiving treatment as prescribed under paragraph (a) of this  
1213 subsection, and it is communicated to the mental health  
1214 professional holding the individual that the individual resides or  
1215 has visitation rights with a minor child, and if the individual is



1216 considered to be a danger to the minor child, the mental health  
1217 professional shall notify the Department of \* \* \* Child Protection  
1218 Services prior to discharge if the threat of harm continues to  
1219 exist, as is required under Section 43-21-353.

1220 This paragraph shall be known and may be cited as the "Andrew  
1221 Lloyd Law."

1222 **SECTION 15.** Section 41-67-12, Mississippi Code of 1972, is  
1223 amended as follows:

1224 41-67-12. (1) The department shall assess fees in the  
1225 following amounts for the following purposes:

1226 (a) A fee of One Hundred Dollars (\$100.00) shall be  
1227 levied for soil and site evaluation and recommendation of  
1228 individual on-site wastewater disposal systems. The department  
1229 may increase the amount of the fee authorized in this paragraph  
1230 (a) not more than two (2) times during the period from July 1,  
1231 2016, through June 30, 2020, with the percentage of each increase  
1232 being not more than five percent (5%) of the amount of the fee in  
1233 effect at the time of the increase.

1234 (b) A fee of One Hundred Fifty Dollars (\$150.00) shall  
1235 be levied once every three (3) years for the certification of  
1236 installers and pumpers.

1237 (c) A fee of Three Hundred Dollars (\$300.00) shall be  
1238 levied once every three (3) years for the registration of  
1239 manufacturers.



1240 Any increase in the fee charged by the department under  
1241 paragraph (b) or (c) of this subsection shall be in accordance  
1242 with the provisions of Section 41-3-65.

1243 (2) In the discretion of the board, a person shall be liable  
1244 for a penalty equal to one and one-half (1-1/2) times the amount  
1245 of the fee due and payable for failure to pay the fee on or before  
1246 the date due, plus any amount necessary to reimburse the cost of  
1247 collection.

1248 (3) No fee authorized under this section shall be assessed  
1249 by the department for state agencies or institutions, including,  
1250 without limitation, foster homes licensed by the Mississippi  
1251 Department of \* \* \* Child Protection Services.

1252 **SECTION 16.** Section 41-87-5, Mississippi Code of 1972, is  
1253 amended as follows:

1254 41-87-5. Unless the context requires otherwise, the  
1255 following definitions in this section apply throughout this  
1256 chapter:

1257 (a) "Eligible infants and toddlers" or "eligible  
1258 children" means children from birth through thirty-six (36) months  
1259 of age who need early intervention services because they:

1260 (i) Are experiencing developmental delays as  
1261 measured by appropriate diagnostic instruments and procedures in  
1262 one or more of the following areas:

1263 (A) Cognitive development;



1264 (B) Physical development, including vision or  
1265 hearing;

1266 (C) Communication development;

1267 (D) Social or emotional development;

1268 (E) Adaptive development;

1269 (ii) Have a diagnosed physical or mental  
1270 condition, as defined in state policy, that has a high probability  
1271 of resulting in developmental delay;

1272 (iii) Are at risk of having substantial  
1273 developmental delays if early intervention services are not  
1274 provided due to conditions as defined in state policy. (This  
1275 category may be served at the discretion of the lead agency  
1276 contingent upon available resources.)

1277 (b) "Early intervention services" are developmental  
1278 services that:

1279 (i) Are provided under public supervision;

1280 (ii) Are provided at no cost except where federal  
1281 or state law provides for a system of payments by families,  
1282 including a schedule of sliding fees;

1283 (iii) Are designed to meet the developmental needs  
1284 of an infant or toddler with a disability in any one or more of  
1285 the following areas:

1286 (A) Physical development;

1287 (B) Cognitive development;

1288 (C) Communication development;



- 1289 (D) Social or emotional development; or  
1290 (E) Adaptive development;
- 1291 (iv) Meet the requirements of Part C of the  
1292 Individuals with Disabilities Education Act (IDEA) and the early  
1293 intervention standards of the State of Mississippi;
- 1294 (v) Include, but are not limited to, the following  
1295 services:
- 1296 (A) Assistive technology devices and  
1297 assistive technology services;
- 1298 (B) Audiology;
- 1299 (C) Family training, counseling and home  
1300 visits;
- 1301 (D) Health services necessary to enable a  
1302 child to benefit from other early intervention services;
- 1303 (E) Medical services only for diagnostic or  
1304 evaluation purposes;
- 1305 (F) Nutrition services;
- 1306 (G) Occupational therapy;
- 1307 (H) Physical therapy;
- 1308 (I) Psychological services;
- 1309 (J) Service coordination (case management);
- 1310 (K) Social work services;
- 1311 (L) Special instruction;
- 1312 (M) Speech-language pathology;



1313 (N) Transportation and related costs that are  
1314 necessary to enable an infant or toddler and her/his family to  
1315 receive early intervention services; and

1316 (O) Vision services;

1317 (vi) Are provided by qualified personnel as  
1318 determined by the state's personnel standards, including:

1319 (A) Audiologists;

1320 (B) Family therapists;

1321 (C) Nurses;

1322 (D) Nutritionists;

1323 (E) Occupational therapists;

1324 (F) Orientation and mobility specialists;

1325 (G) Pediatricians and other physicians;

1326 (H) Physical therapists;

1327 (I) Psychologists;

1328 (J) Social workers;

1329 (K) Special educators;

1330 (L) Speech and language pathologists;

1331 (vii) Are provided, to the maximum extent  
1332 appropriate, in natural environments, including the home, and  
1333 community settings in which children without disabilities would  
1334 participate;

1335 (viii) Are provided in conformity with an  
1336 individualized family service plan.



1337 (c) "Council" means the State Interagency Coordinating  
1338 Council established under Section 41-87-7.

1339 (d) "Lead agency" means the State Department of Health.

1340 (e) "Participating agencies" includes, but is not  
1341 limited to, the State Department of Education, the Department of  
1342 Human Services, the State Department of Health, the Division of  
1343 Medicaid, the State Department of Mental Health, the University  
1344 Medical Center, the Board of Trustees of State Institutions of  
1345 Higher Learning and the Mississippi Community College Board.

1346 (f) "Local community" means a county either jointly,  
1347 severally, or a portion thereof, participating in the provision of  
1348 early intervention services.

1349 (g) "Primary service agency" means the agency, whether  
1350 a state agency, local agency, local interagency council or service  
1351 provider which is designated by the lead agency to serve as the  
1352 fiscal and contracting agent for a local community.

1353 (h) "Multidisciplinary team" means a group comprised of  
1354 the parent(s) or legal guardian and the service providers, as  
1355 appropriate, described in paragraph (b) of this section, who are  
1356 assembled for the purposes of:

1357 (i) Assessing the developmental needs of an infant  
1358 or toddler;

1359 (ii) Developing the individualized family service  
1360 plan; and



1361 (iii) Providing the infant or toddler and his or  
1362 her family with the appropriate early intervention services as  
1363 detailed in the individualized family service plan.

1364 (i) "Individualized family service plan" means a  
1365 written plan designed to address the needs of the infant or  
1366 toddler and his or her family as specified under Section 41-87-13.

1367 (j) "Early intervention standards" means those  
1368 standards established by any agency or agencies statutorily  
1369 designated the responsibility to establish standards for infants  
1370 and toddlers with disabilities, in coordination with the council  
1371 and in accordance with Part C of IDEA.

1372 (k) "Early intervention system" means the total  
1373 collaborative effort in the state that is directed at meeting the  
1374 needs of eligible children and their families.

1375 (l) "Parent," for the purpose of early intervention  
1376 services, means a parent, a guardian, a person acting as a parent  
1377 of a child, foster parent, or an appointed surrogate parent. The  
1378 term does not include the state if the child is a ward of the  
1379 state where the child has not been placed with individuals to  
1380 serve in a parenting capacity, such as foster parents, or when a  
1381 surrogate parent has not been appointed. When a child is the ward  
1382 of the state, a Department of \* \* \* Child Protection Services  
1383 representative will act as parent for purposes of service  
1384 authorization.





1385 (m) "Policies" means the state statutes, regulations,  
1386 Governor's orders, directives by the lead agency, or other written  
1387 documents that represent the state's position concerning any  
1388 matter covered under this chapter.

1389 (n) "Regulations" means the United States Department of  
1390 Education's regulations concerning the governance and  
1391 implementation of Part C of IDEA, the Early Intervention Program  
1392 for Infants and Toddlers with Disabilities.

1393 **SECTION 17.** Section 43-1-11, Mississippi Code of 1972, is  
1394 amended as follows:

1395 43-1-11. The boards of supervisors of the various counties  
1396 of this state are hereby authorized and empowered, in their  
1397 discretion, to expend and appropriate such sums as they deem  
1398 necessary out of any available county funds for the purpose of  
1399 providing office space for the \* \* \* Department of Child  
1400 Protection Services and the Department of Human Services. This  
1401 includes, but is not limited to, adequate office space for the  
1402 efficient conduct of business, as well as providing for payment of  
1403 electricity, water, gas, maintenance and repair of the building,  
1404 and janitorial services and supplies.

1405 **SECTION 18.** Section 43-1-12, Mississippi Code of 1972, is  
1406 amended as follows:

1407 43-1-12. The governing authority of any municipality or  
1408 county in this state is authorized and empowered, in its  
1409 discretion, to expend such funds as it deems necessary and



1410 desirable, from any available funds of the municipality or county,  
1411 to: (a) match any state, federal or private funds available for  
1412 any program administered by the \* \* \* Mississippi Department of  
1413 Child Protection Services or the Department of Human Services in  
1414 this state; and/or (b) make a voluntary contribution to any such  
1415 program.

1416 **SECTION 19.** Section 43-1-63, Mississippi Code of 1972, is  
1417 amended as follows:

1418 43-1-63. The Department of \* \* \* Child Protection Services  
1419 shall have the authority to use the services and resources of the  
1420 State Department of Education and the State Department of Health  
1421 and of all other appropriate state departments, agencies,  
1422 institutions or political subdivisions as will aid in carrying out  
1423 the purposes of this chapter. It shall be the duty of all such  
1424 state departments, agencies and institutions to make available  
1425 such services and resources to the department, including, but not  
1426 necessarily limited to, such services and resources as may be  
1427 required to perform appropriate criminal history record checks on  
1428 prospective foster and relative child placements for the purpose  
1429 of preventing and detecting abuse and neglect.

1430 **SECTION 20.** Section 43-14-1, Mississippi Code of 1972, is  
1431 amended as follows:

1432 43-14-1. (1) The purpose of this chapter is to provide for  
1433 the development, implementation and oversight of a coordinated  
1434 interagency system of necessary services and care for children and



1435 youth, called the Mississippi Statewide System of Care, up to age  
1436 twenty-one (21) with serious emotional/behavioral disorders  
1437 including, but not limited to, conduct disorders, or mental  
1438 illness who require services from a multiple services and multiple  
1439 programs system, and who can be successfully diverted from  
1440 inappropriate institutional placement. The Mississippi Statewide  
1441 System of Care is to be conducted in the most fiscally responsible  
1442 (cost-efficient) manner possible, based on an individualized plan  
1443 of care which takes into account other available interagency  
1444 programs, including, but not limited to, Early Intervention Act of  
1445 Infants and Toddlers, Section 41-87-1 et seq., Early Periodic  
1446 Screening Diagnosis and Treatment, Section 43-13-117(A) (5),  
1447 waived program for home- and community-based services for  
1448 developmentally disabled people, Section 43-13-117(A) (29), and  
1449 waived program for targeted case management services for  
1450 children with special needs, Section 43-13-117(A) (31), those  
1451 children identified through the federal Individuals with  
1452 Disabilities Education Act of 1997 as having a serious emotional  
1453 disorder (EMD), the Mississippi Children's Health Insurance  
1454 Program and waived programs for children with serious emotional  
1455 disturbances, Section 43-13-117(A) (46), and is tied to clinically  
1456 and functionally appropriate outcomes. Some of the outcomes are  
1457 to reduce the number of inappropriate out-of-home placements  
1458 inclusive of those out-of-state and to reduce the number of  
1459 inappropriate school suspensions and expulsions for this



1460 population of children. This coordinated interagency system of  
1461 necessary services and care shall be named the Mississippi  
1462 Statewide System of Care. Children to be served by this chapter  
1463 who are eligible for Medicaid shall be screened through the  
1464 Medicaid Early Periodic Screening Diagnosis and Treatment (EPSDT)  
1465 and their needs for medically necessary services shall be  
1466 certified through the EPSDT process. For purposes of this  
1467 chapter, the Mississippi Statewide System of Care is defined as a  
1468 coordinated network of agencies and providers working as a team to  
1469 make a full range of mental health and other necessary services  
1470 available as needed by children with mental health problems and  
1471 their families. The Mississippi Statewide System of Care shall  
1472 be:

1473           (a) Child centered, family focused, family driven and  
1474 youth guided;

1475           (b) Community based;

1476           (c) Culturally competent and responsive; and shall  
1477 provide for:

1478                   (i) Service coordination or case management;

1479                   (ii) Prevention and early identification and  
1480 intervention;

1481                   (iii) Smooth transitions among agencies and  
1482 providers, and to the transition-age and adult service systems;

1483                   (iv) Human rights protection and advocacy;

1484                   (v) Nondiscrimination in access to services;



1485 (vi) A comprehensive array of services composed of  
1486 treatment and informal supports that are identified as best  
1487 practices and/or evidence-based practices;

1488 (vii) Individualized service planning that uses a  
1489 strengths-based, wraparound process;

1490 (viii) Services in the least restrictive  
1491 environment;

1492 (ix) Family participation in all aspects of  
1493 planning, service delivery and evaluation; and

1494 (x) Integrated services with coordinated planning  
1495 across child-serving agencies.

1496 Mississippi Statewide System of Care services shall be  
1497 timely, intensive, coordinated and delivered in the community.  
1498 Mississippi Statewide System of Care services shall include, but  
1499 not be limited to, the following:

1500 (a) Comprehensive crisis and emergency response  
1501 services;

1502 (b) Intensive case management;

1503 (c) Day treatment;

1504 (d) Alcohol and drug abuse group services for youth;

1505 (e) Individual, group and family therapy;

1506 (f) Respite services;

1507 (g) Supported employment services for youth;

1508 (h) Family education and support and family partners;

1509 (i) Youth development and support and youth partners;



1510 (j) Positive behavioral supports (PBIS) in schools;  
1511 (k) Transition-age supported and independent living  
1512 services; and  
1513 (l) Vocational/technical education services for youth.  
1514 (2) There is established the Interagency Coordinating  
1515 Council for Children and Youth (hereinafter referred to as the  
1516 "ICCCY"). The ICCCY shall consist of the following membership:  
1517 (a) The State Superintendent of Public Education;  
1518 (b) The Executive Director of the Mississippi  
1519 Department of Mental Health;  
1520 (c) The Executive Director of the State Department of  
1521 Health;  
1522 (d) The Executive Director of the Department of Human  
1523 Services;  
1524 (e) The Executive Director of the Division of Medicaid,  
1525 Office of the Governor;  
1526 (f) The Executive Director of the State Department of  
1527 Rehabilitation Services;  
1528 (g) The Executive Director of Mississippi Families as  
1529 Allies for Children's Mental Health, Inc.;;  
1530 (h) The Attorney General;  
1531 (i) A family member of a child or youth in the  
1532 population named in this chapter designated by Mississippi  
1533 Families as Allies;



1534 (j) A youth or young adult in the population named in  
1535 this chapter designated by Mississippi Families as Allies;

1536 (k) A local MAP team coordinator designated by the  
1537 Department of Mental Health;

1538 (l) A child psychiatrist experienced in the public  
1539 mental health system designated by the Mississippi Psychiatric  
1540 Association;

1541 (m) An individual with expertise and experience in  
1542 early childhood education designated jointly by the Department of  
1543 Mental Health and Mississippi Families as Allies;

1544 (n) A representative of an organization that advocates  
1545 on behalf of disabled citizens in Mississippi designated by the  
1546 Department of Mental Health; \* \* \*

1547 (o) A faculty member or dean from a Mississippi  
1548 university specializing in training professionals who work in the  
1549 Mississippi Statewide System of Care designated by the Board of  
1550 Trustees of State Institutions of Higher Learning \* \* \*; and

1551 (p) The Commissioner of the Department of Child  
1552 Protection Services.

1553 If a member of the council designates a representative to  
1554 attend council meetings, the designee shall bring full  
1555 decision-making authority of the member to the meeting. The  
1556 council shall select a chairman, who shall serve for a one-year  
1557 term and may not serve consecutive terms. The council shall adopt  
1558 internal organizational procedures necessary for efficient



1559 operation of the council. Each member of the council shall  
1560 designate necessary staff of their departments to assist the ICCCY  
1561 in performing its duties and responsibilities. The ICCCY shall  
1562 meet and conduct business at least twice annually. The chairman  
1563 of the ICCCY shall notify all ICCCY members and all other persons  
1564 who request such notice as to the date, time, place and draft  
1565 agenda items for each meeting.

1566 (3) The Interagency System of Care Council (ISCC) is created  
1567 to serve as the state management team for the ICCCY, with the  
1568 responsibility of collecting and analyzing data and funding  
1569 strategies necessary to improve the operation of the Mississippi  
1570 Statewide System of Care, and to make recommendations to the ICCCY  
1571 and to the Legislature concerning such strategies on, at a  
1572 minimum, an annual basis. The System of Care Council also has the  
1573 responsibility of coordinating the local Multidisciplinary  
1574 Assessment and Planning (MAP) teams and "A" teams and may apply  
1575 for grants from public and private sources necessary to carry out  
1576 its responsibilities. The Interagency System of Care Council  
1577 shall be comprised of one (1) member from each of the appropriate  
1578 child-serving divisions or sections of the State Department of  
1579 Health, the Department of Human Services ( \* \* \*Division of Youth  
1580 Services), the State Department of Mental Health (Division of  
1581 Children and Youth, Bureau of Alcohol and Drug Abuse, and Bureau  
1582 of Intellectual and Developmental Disabilities), the State  
1583 Department of Education (Office of Special Education and Office of





1584 Healthy Schools), the Division of Medicaid of the Governor's  
1585 Office, the Department of Rehabilitation Services, \* \* \* the  
1586 Attorney General's office, and the Department of Child Protection  
1587 Services. Additional members shall include a family member of a  
1588 child, youth or transition-age youth representing a family  
1589 education and support 501(c)3 organization, working with the  
1590 population named in this chapter designated by Mississippi  
1591 Families as Allies, an individual with expertise and experience in  
1592 early childhood education designated jointly by the Department of  
1593 Mental Health and Mississippi Families as Allies, a local MAP team  
1594 representative and a local "A" team representative designated by  
1595 the Department of Mental Health, a probation officer designated by  
1596 the Department of Corrections, a family member and youth or young  
1597 adult designated by Mississippi Families as Allies for Children's  
1598 Mental Health, Inc., (MSFAA), and a family member other than a  
1599 MSFAA representative to be designated by the Department of Mental  
1600 Health and the Director of the Compulsory School Attendance  
1601 Enforcement of the State Department of Education. Appointments to  
1602 the Interagency System of Care Council shall be made within sixty  
1603 (60) days after June 30, 2010. The council shall organize by  
1604 selecting a chairman from its membership to serve on an annual  
1605 basis, and the chairman may not serve consecutive terms.

1606 (4) (a) As part of the Mississippi Statewide System of  
1607 Care, there is established a statewide system of local  
1608 Multidisciplinary Assessment, Planning and Resource (MAP) teams.



1609 The MAP teams shall be comprised of one (1) representative each at  
1610 the county level from the major child-serving public agencies for  
1611 education, human services, health, mental health and  
1612 rehabilitative services approved by respective state agencies of  
1613 the Department of Education, the Department of Human Services, the  
1614 Department of Health, the Department of Mental Health \* \* \*, the  
1615 Department of Rehabilitation Services, and the Department of Child  
1616 Protection Services. These agencies shall, by policy, contract or  
1617 regulation require participation on MAP teams and "A" teams at the  
1618 county level by the appropriate staff. Three (3) additional  
1619 members may be added to each team, one (1) of which may be a  
1620 representative of a family education/support 501(c)3 organization  
1621 with statewide recognition and specifically established for the  
1622 population of children defined in Section 43-14-1. The remaining  
1623 members will be representatives of significant community-level  
1624 stakeholders with resources that can benefit the population of  
1625 children defined in Section 43-14-1. The Department of Education  
1626 shall assist in recruiting and identifying parents to participate  
1627 on MAP teams and "A" teams.

1628 (b) For each local existing MAP team that is  
1629 established pursuant to paragraph (a) of this subsection, there  
1630 shall also be established an "A" (Adolescent) team which shall  
1631 work with a MAP team. The "A" teams shall provide System of Care  
1632 services for youthful offenders who have serious behavioral or



1633 emotional disorders. Each "A" team shall be comprised of, at a  
1634 minimum, the following five (5) members:

1635 (i) A school counselor, mental health therapist or  
1636 social worker;

1637 (ii) A community mental health professional;

1638 (iii) A social services/child welfare  
1639 professional;

1640 (iv) A youth court counselor; and

1641 (v) A parent who had a child in the juvenile  
1642 justice system.

1643 (c) The Interagency Coordinating Council for Children  
1644 and Youth and the Interagency System of Care Council shall work to  
1645 develop MAP teams statewide that will serve to become the single  
1646 point of entry for children and youth about to be placed in  
1647 out-of-home care for reasons other than parental abuse/neglect.

1648 (5) The Interagency Coordinating Council for Children and  
1649 Youth may provide input to one another and to the ISCC relative to  
1650 how each agency utilizes its federal and state statutes, policy  
1651 requirements and funding streams to identify and/or serve children  
1652 and youth in the population defined in this section. The ICCCY  
1653 shall support the implementation of the plans of the respective  
1654 state agencies for comprehensive, community-based,  
1655 multidisciplinary care, treatment and placement of these children.

1656 (6) The ICCCY shall oversee a pool of state funds that may  
1657 be contributed by each participating state agency and additional



1658 funds from the Mississippi Tobacco Health Care Expenditure Fund,  
1659 subject to specific appropriation therefor by the Legislature.  
1660 Part of this pool of funds shall be available for increasing the  
1661 present funding levels by matching Medicaid funds in order to  
1662 increase the existing resources available for necessary  
1663 community-based services for Medicaid beneficiaries.

1664 (7) The local interagency coordinating care MAP team or "A"  
1665 team will facilitate the development of the individualized System  
1666 of Care programs for the population targeted in this section.

1667 (8) Each local MAP team and "A" team shall serve as the  
1668 single point of entry and re-entry to ensure that comprehensive  
1669 diagnosis and assessment occur and shall coordinate needed  
1670 services through the local MAP team and "A" team members and local  
1671 service providers for the children named in subsection (1). Local  
1672 children in crisis shall have first priority for access to the MAP  
1673 team and "A" team processes and local System of Care services.

1674 (9) The Interagency Coordinating Council for Children and  
1675 Youth shall facilitate monitoring of the performance of local MAP  
1676 teams.

1677 (10) Each ICCCY member named in subsection (2) of this  
1678 section shall enter into a binding memorandum of understanding to  
1679 participate in the further development and oversight of the  
1680 Mississippi Statewide System of Care for the children and youth  
1681 described in this section. The agreement shall outline the system  
1682 responsibilities in all operational areas, including ensuring



1683 representation on MAP teams, funding, data collection, referral of  
1684 children to MAP teams and "A" teams, and training. The agreement  
1685 shall be signed and in effect by July 1 of each year.

1686       **SECTION 21.** Section 43-14-5, Mississippi Code of 1972, is  
1687 amended as follows:

1688       43-14-5. There is created in the State Treasury a special  
1689 fund into which shall be deposited all funds contributed by the  
1690 Department of Human Services, State Department of Health,  
1691 Department of Mental Health, State Department of Rehabilitation  
1692 Services, and the Department of Child Protection Services insofar  
1693 as recipients are otherwise eligible under the Rehabilitation Act  
1694 of 1973, as amended, and State Department of Education for the  
1695 operation of a statewide System of Care by MAP teams and "A" teams  
1696 utilizing such funds as may be made available to those MAP teams  
1697 through a Request for Proposal (RFP) approved by the ICCCY.

1698       **SECTION 22.** Section 43-15-3, Mississippi Code of 1972, is  
1699 amended as follows:

1700       43-15-3. The Department of \* \* \* Child Protection Services  
1701 is hereby authorized, empowered and directed to cooperate fully  
1702 with the United States Children's Bureau and Secretary of Labor in  
1703 establishing, extending and strengthening "child welfare services"  
1704 for the protection and care of homeless, dependent and neglected  
1705 children and children in danger of becoming delinquent. Said  
1706 Department of \* \* \* Child Protection Services is further  
1707 authorized, empowered and directed to cooperate with the United



1708 States Children's Bureau and Secretary of Labor in developing  
1709 plans for said "child welfare services" and extending any other  
1710 cooperation necessary under Section 521 of Public Law No. 271-74th  
1711 Congress of the United States.

1712 In furtherance of the "child welfare services" referred to in  
1713 the first paragraph hereof the State Treasurer is hereby  
1714 authorized and directed to receive on behalf of the state, and to  
1715 execute all instruments incidental thereto, federal or other funds  
1716 to be used for "child welfare services," and to place such funds  
1717 in a special account to the credit of the "child welfare  
1718 services," which said funds shall be expended by the Department  
1719 of \* \* \* Child Protection Services for the purposes and under the  
1720 provisions of this article and Section 521 of Public Law No.  
1721 271-74th Congress of the United States. It shall be paid out by  
1722 the State Treasurer as funds appropriated to carry out the  
1723 provisions of said laws.

1724 The Department of \* \* \* Child Protection Services shall issue  
1725 all checks on said "child welfare services" fund to persons  
1726 entitled to payment from said fund. All such sums shall be drawn  
1727 upon the "child welfare services" fund upon requisition of  
1728 the \* \* \* Commissioner of the Department of Child Protection  
1729 Services.

1730 The money in the "child welfare services" fund shall be  
1731 expended in accordance with the rules and regulations of the  
1732 United States Children's Bureau and Secretary of Labor and in



1733 accordance with the plan developed by the Department of \* \* \*  
1734 Child Protection Services and the United States Children's Bureau  
1735 under Section 521 of Public Law No. 271-74th Congress of the  
1736 United States, and shall not be used for any other purpose.

1737 If a claim for foster care and/or adoption assistance under  
1738 Title IV-E of the federal Social Security Act is not acted upon  
1739 within a reasonable time after the filing of the claim, or is  
1740 denied in whole or in part, the claimant may appeal to the \* \* \*  
1741 Commissioner of the Department of Child Protection Services in the  
1742 manner and form prescribed by the Department of \* \* \* Child  
1743 Protection Services. The \* \* \* Commissioner of the Department of  
1744 Child Protection Services shall, upon receipt of such an appeal,  
1745 give the claimant reasonable notice and opportunity for a fair  
1746 hearing. The \* \* \* Commissioner of the Department of Child  
1747 Protection Services may also, upon his or her own motion, review  
1748 any decision regarding a claim, and may consider any claim upon  
1749 which a decision has not been made within a reasonable time. All  
1750 decisions of the \* \* \* Commissioner of the Department of Child  
1751 Protection Services shall be final and binding.

1752 **SECTION 23.** Section 43-15-5, Mississippi Code of 1972, is  
1753 amended as follows:

1754 43-15-5. (1) The Department of \* \* \* Child Protection  
1755 Services shall have authority and it shall be its duty to  
1756 administer or supervise all public child welfare services \* \* \*;  
1757 administer and supervise the licensing and inspection of all



1758 private child placing agencies; provide for the care of dependent  
1759 and neglected children in foster family homes or in institutions,  
1760 supervise the care of such children and those of illegitimate  
1761 birth; supervise the importation of children; and supervise the  
1762 operation of all state institutions for children. The Department  
1763 of \* \* \* Child Protection Services shall be authorized to purchase  
1764 hospital and medical insurance coverage for those children placed  
1765 in foster care \* \* \* who are not otherwise eligible for medical  
1766 assistance under the Mississippi Medicaid Law. The Department  
1767 of \* \* \* Child Protection Services shall be further authorized to  
1768 purchase burial or life insurance not exceeding One Thousand Five  
1769 Hundred Dollars (\$1,500.00) for those children placed in  
1770 foster \* \* \*. All insurance coverage authorized herein may be  
1771 purchased with any funds other than state funds available to the  
1772 Department of \* \* \* Child Protection Services, including those  
1773 funds available to the child which are administered by the  
1774 department.

1775 (2) Any person, partnership, group, corporation,  
1776 organization or association desiring to operate a child  
1777 residential home, as defined in Section 43-16-3, may make  
1778 application for a license for such a facility to the Department  
1779 of \* \* \* Child Protection Services on the application forms  
1780 furnished for this purpose by the department. If an applicant  
1781 meets the published rules and regulations of the department





1782 regarding minimum standards for a child residential home, then the  
1783 applicant shall be granted a license by the department.

1784         **SECTION 24.** Section 43-15-6, Mississippi Code of 1972, is  
1785 amended as follows:

1786             43-15-6. (1) Any person, institution, facility, clinic,  
1787 organization or other entity that provides services to children in  
1788 a residential setting where care, lodging, maintenance, and  
1789 counseling or therapy for alcohol or controlled substance abuse or  
1790 for any other emotional disorder or mental illness is provided for  
1791 children, whether for compensation or not, that holds himself,  
1792 herself, or itself out to the public as providing such services,  
1793 and that is entrusted with the care of the children to whom he,  
1794 she, or it provides services, because of the nature of the  
1795 services and the setting in which the services are provided shall  
1796 be subject to the provisions of this section.

1797             (2) Each entity to which this section applies shall  
1798 complete, through the appropriate governmental authority, a  
1799 national criminal history record information check and a child  
1800 abuse registry check for each owner, operator, employee,  
1801 prospective employee, volunteer or prospective volunteer of the  
1802 entity and/or any other that has or may have unsupervised access  
1803 to a child served by the entity. In order to determine the  
1804 applicant's suitability for employment, the entity shall ensure  
1805 that the applicant be fingerprinted by local law enforcement, and  
1806 the results forwarded to the Department of Public Safety. If no



1807 disqualifying record is identified at the state level, the  
1808 fingerprints shall be forwarded by the Department of Public Safety  
1809 to the FBI for a national criminal history record check.

1810 (3) An owner, operator, employee, prospective employee,  
1811 volunteer or prospective volunteer of the entity and/or any other  
1812 that has or may have unsupervised access to a child who has a  
1813 criminal history of conviction or pending indictment of a crime,  
1814 whether a misdemeanor or a felony, that bears upon an individual's  
1815 fitness to have responsibility for the safety and well-being of  
1816 children as set forth in this chapter may not provide child care  
1817 or operate, or be licensed as, a residential child care program,  
1818 foster parent, or foster home.

1819 (4) All fees incurred in compliance with this section shall  
1820 be borne by the individual or entity to which subsection (1)  
1821 applies.

1822 (5) The Department of \* \* \* Child Protection Services shall  
1823 have the authority to set fees, to exclude a particular crime or  
1824 crimes or a substantiated finding of child abuse and/or neglect as  
1825 disqualifying individuals or entities from providing foster care  
1826 or residential child care, and adopt such other rules and  
1827 regulations as may be required to carry out the provisions of this  
1828 section.

1829 (6) Any entity that violates the provisions of this section  
1830 by failure to complete sex offense criminal history record  
1831 information and felony conviction record information checks, as



1832 required under subsection (3) of this section, shall be subject to  
1833 a penalty of up to Ten Thousand Dollars (\$10,000.00) for each such  
1834 violation and may be enjoined from further operation until it  
1835 complies with this section in actions maintained by the Attorney  
1836 General.

1837 (7) The Department of \* \* \* Child Protection Services and/or  
1838 its officers, employees, attorneys, agents and representatives  
1839 shall not be held civilly liable for any findings, recommendations  
1840 or actions taken pursuant to this section.

1841 **SECTION 25.** Section 43-15-7, Mississippi Code of 1972, is  
1842 amended as follows:

1843 43-15-7. The \* \* \* Department of Child Protection Services  
1844 is hereby authorized to provide protective services for children  
1845 as will conserve home life; assume responsibility for the care and  
1846 support of dependent children needing public care away from their  
1847 homes; place children found by the department to be dependent or  
1848 without proper care in suitable institutions or private homes, and  
1849 cooperate with public and private institutions and agencies in  
1850 placing such children in suitable institutions or private homes;  
1851 accept custody or guardianship, through one of its designated  
1852 employees, of any child, when appointed as custodian or guardian  
1853 in the manner provided by law.

1854 The board of supervisors in each county is hereby empowered,  
1855 in its discretion, to set aside and appropriate out of the tax  
1856 levied and collected to support the poor of the county or out of



1857 the county general fund necessary monies to be administered by  
1858 the \* \* \* Department of Child Protection Services to carry out the  
1859 provisions of this section.

1860           **SECTION 26.** Section 43-15-11, Mississippi Code of 1972, is  
1861 amended as follows:

1862           43-15-11. (1) The board of supervisors of any county and/or  
1863 the mayor and board of commissioners of any city and/or the mayor  
1864 and board of aldermen of any municipality in this state are hereby  
1865 authorized and empowered, in their discretion, to expend out of  
1866 any \* \* \* monies in their respective treasuries, to be drawn by  
1867 warrant thereon, a sum or sums of money not exceeding a total of  
1868 Twenty-five Dollars (\$25.00) annually per One Million Dollars  
1869 (\$1,000,000.00) of the assessed valuation of the real and personal  
1870 property thereof for the purpose of providing for the care,  
1871 support and maintenance of homeless or destitute children of any  
1872 county or municipality of this state who are supported, cared for,  
1873 maintained and placed for adoption by any children's home society  
1874 which operates over and serves the entire State of Mississippi,  
1875 and which is approved and licensed by the Mississippi Department  
1876 of \* \* \* Child Protection Services.

1877           (2) The authority granted in this section is supplemental of  
1878 and in addition to all existing authority for the expenditure of  
1879 funds by such boards of supervisors and municipal governing  
1880 authorities.



1881           **SECTION 27.** Section 43-15-15, Mississippi Code of 1972, is  
1882 amended as follows:

1883           43-15-15. The \* \* \* Mississippi Department of Child  
1884 Protection Services shall maintain a registry of children whose  
1885 custody lies with them and private or public agencies licensed by  
1886 the department. Said registry shall contain classifications of  
1887 children as:

1888                   (a) Temporary custody for evaluation, not to exceed  
1889 three (3) months;

1890                   (b) Temporary custody not to exceed one (1) year with  
1891 the plan to return custody to the natural parents;

1892                   (c) Temporary custody, not to exceed two (2) years,  
1893 with a plan to free for adoption;

1894                   (d) Children freed for adoption;

1895                   (e) Children ages fourteen (14) and above who have  
1896 voluntarily chosen not to be adopted and cannot be returned to  
1897 their own homes; and

1898                   (f) Children who are institutionalized and for whom  
1899 placement in an adoptive home is not feasible.

1900           **SECTION 28.** Section 43-15-17, Mississippi Code of 1972, is  
1901 amended as follows:

1902           43-15-17. (1) The Department of Child Protection Services  
1903 is authorized to make such payments as may be appropriate for  
1904 supportive services to facilitate either the return of children to  
1905 their natural parents or their adoption, depending upon and



1906 contingent upon the availability of the Department of Child  
1907 Protection Services securing or having sufficient funds to render  
1908 this supportive service. Upon court order, the parent(s) shall be  
1909 responsible for reimbursing the department for any foster care or  
1910 kinship care payments made on behalf of his or her child, based  
1911 upon financial ability to pay, until such time as there is a  
1912 termination of parental rights regarding the child, or the child  
1913 is adopted.

1914 (2) For those children placed in foster care \* \* \*, the  
1915 Department of Child Protection Services shall make monthly  
1916 payments for the support of these children's room and board,  
1917 clothing, allowance and personal needs. From and after July 1,  
1918 1998, and subject to the availability of funds specifically  
1919 appropriated therefor, the Department of Child Protection  
1920 Services' foster care and therapeutic care monthly payment  
1921 schedule in effect before that date shall be increased by One  
1922 Hundred Dollars (\$100.00) per month, with that minimum payment not  
1923 to preclude the department from increasing payments in later years  
1924 as funds become available. From and after July 1, 1998, in order  
1925 for foster parents to receive the monthly payments authorized  
1926 under this subsection (2), the Department of Child Protection  
1927 Services shall require foster care placements to be licensed as  
1928 foster care homes and shall require prospective foster parents to  
1929 satisfactorily complete an appropriate training program that



1930 emphasizes the goal of the foster care program to provide stable  
1931 foster placement until a permanency outcome is achieved.

1932 (3) For a child placed in the care of the child's relative  
1933 within the third degree by the \* \* \* Department of Child  
1934 Protection Services, unless a child is placed in the care of a  
1935 relative who is exempt from foster care training requirements, the  
1936 department shall make monthly payments to defray the relative's  
1937 expense of furnishing room and board. The department's relative  
1938 care payment shall be in an amount up to one hundred percent  
1939 (100%) of the amount of the foster care board payment. The  
1940 department may continue to make those payments to the relative  
1941 after the department relinquishes legal custody of the child to  
1942 the relative if the relative has complied with foster care  
1943 training requirements. Any such payments for relative care shall  
1944 be subject to specific appropriation therefor by the Legislature.

1945 **SECTION 29.** Section 43-15-19, Mississippi Code of 1972, is  
1946 amended as follows:

1947 43-15-19. (1) The \* \* \* Mississippi Department of Child  
1948 Protection Services shall maintain a Mississippi Adoption Resource  
1949 Exchange registry, which shall contain a total listing of all  
1950 children freed for adoption as well as a listing of all persons  
1951 who wish to adopt children and who are approved by a licensed  
1952 adoption agency in the State of Mississippi. Said registry shall  
1953 be distributed to all \* \* \* licensed adoption agencies within the  
1954 state and shall be updated at least quarterly. The \* \* \*



1955 Department of Child Protection Services shall establish  
1956 regulations for listing descriptive characteristics while  
1957 protecting the privacy of the children's names. Listed names  
1958 shall be removed when adoption placement plans are made for a  
1959 child or when a person withdraws an application for adoption.

1960 (2) Adoptive parents shall be given the option of having  
1961 their names placed in the registry. They shall be required to  
1962 give written authority to the \* \* \* Department of Child Protection  
1963 Services, for approval, to place their names in the  
1964 registry \* \* \*.

1965 **SECTION 30.** Section 43-15-21, Mississippi Code of 1972, is  
1966 amended as follows:

1967 43-15-21. Anyone violating or releasing information of a  
1968 confidential nature without the approval of the court with  
1969 jurisdiction or the \* \* \* Mississippi Department of Child  
1970 Protection Services, upon being found guilty, shall be guilty of a  
1971 misdemeanor and subject to a fine of no more than One Thousand  
1972 Dollars (\$1,000.00) or imprisonment of six (6) months, or both.

1973 **SECTION 31.** Section 43-15-23, Mississippi Code of 1972, is  
1974 amended as follows:

1975 43-15-23. (1) As used in this section the term "placing  
1976 out" means to arrange for the free care of a child in a family,  
1977 other than that of the child's parent, stepparent, grandparent,  
1978 brother, sister, uncle or aunt or legal guardian, for the purpose  
1979 of adoption or for the purpose of providing care.





1980 (2) No person, agency, association, corporation,  
1981 institution, society or other organization, except a child  
1982 placement agency licensed by the Department of \* \* \* Child  
1983 Protection Services under Section 43-15-5, shall request, receive  
1984 or accept any compensation or thing of value, directly or  
1985 indirectly, for placing out of a child.

1986 (3) No person shall pay or give any compensation or thing of  
1987 value, directly or indirectly, for placing out of a child to any  
1988 person, agency, association, corporation, institution, society or  
1989 other organization except a child placement agency licensed by the  
1990 Department of \* \* \* Child Protection Services.

1991 (4) The provisions of this section shall not be construed to  
1992 (a) prevent the payment of salaries or other compensation by a  
1993 child placement agency licensed by the Department of \* \* \* Child  
1994 Protection Services to the officers or employees thereof; (b)  
1995 prevent the payment of legal fees, which have been approved by the  
1996 chancery court, to an attorney for services performed in regard to  
1997 adoption proceedings; (c) prevent the payment of reasonable and  
1998 actual medical fees or hospital charges for services rendered in  
1999 connection with the birth or medical treatment of such child to  
2000 the physician or hospital which rendered the services; or (d)  
2001 prevent the receipt of such payments by such attorney, physician  
2002 or hospital.

2003 (5) Any person, agency, association, corporation,  
2004 institution, society or other organization violating the



2005 provisions of this section shall be guilty of illegal placement of  
2006 children and shall be punished by a fine not to exceed Five  
2007 Thousand Dollars (\$5,000.00) or by imprisonment not more than five  
2008 (5) years, or both such fine and imprisonment.

2009       **SECTION 32.** Section 43-15-51, Mississippi Code of 1972, is  
2010 amended as follows:

2011       43-15-51. (1) The district attorneys or the Department  
2012 of \* \* \* Child Protection Services may initiate formal cooperative  
2013 agreements with the appropriate agencies to create  
2014 multidisciplinary child protection teams in order to implement a  
2015 coordinated multidisciplinary team approach to intervention in  
2016 reports involving alleged severe or potential felony child  
2017 physical or sexual abuse, exploitation, or maltreatment. The  
2018 multidisciplinary team also may be known as a child abuse task  
2019 force. The purpose of the team or task force shall be to assist  
2020 in the evaluation and investigation of reports and to provide  
2021 consultation and coordination for agencies involved in child  
2022 protection cases. The agencies to be included as members of the  
2023 multidisciplinary team are: the district attorney's office, city  
2024 and county law enforcement agencies, county attorneys, youth court  
2025 prosecutors, and other agencies as appropriate.

2026       (2) To implement the multidisciplinary child abuse team, the  
2027 team or task force must be authorized by court order from the  
2028 appropriate youth court. The court order will designate which



2029 agencies will participate in the cooperative multidisciplinary  
2030 team.

2031 (3) (a) Teams created under this section may invite other  
2032 persons to serve on the team who have knowledge of and experience  
2033 in child abuse and neglect matters. These persons may include  
2034 licensed mental and physical health practitioners and physicians,  
2035 dentists, representatives of the district attorney's office and  
2036 the Attorney General's office, experts in the assessment and  
2037 treatment of substance abuse or sexual abuse, the victim  
2038 assistance coordinator of the district attorney's office and staff  
2039 members of a child advocacy center.

2040 (b) (i) A child advocacy center means an agency that  
2041 advocates on behalf of children alleged to have been abused and  
2042 assists in the coordination of the investigation of child abuse by  
2043 providing a location for forensic interviews and promoting the  
2044 coordination of services for children alleged to have been abused.  
2045 A child advocacy center provides services that include, but are  
2046 not limited to, forensic medical examinations, mental health and  
2047 related support services, court advocacy, consultation, training  
2048 for social workers, law enforcement training, and child abuse  
2049 multidisciplinary teams, and staffing of multidisciplinary teams.

2050 (ii) Child advocacy centers may provide a  
2051 video-taped forensic interview of the child in a child friendly  
2052 environment or separate building. The purpose of the video-taped  
2053 forensic interview is to prevent further trauma to a child in the



2054 investigation and prosecution of child physical and sexual abuse  
2055 cases. Child advocacy centers can also assist child victims by  
2056 providing therapeutic counseling subsequent to the interview by a  
2057 qualified therapist. Child advocacy centers can also assist law  
2058 enforcement and prosecutors by acquainting child victim witnesses  
2059 and their parents or guardians to the courtroom through child  
2060 court school programs.

2061 (4) A team or task force created under this section shall  
2062 review records on cases referred to the team by the Department  
2063 of \* \* \* Child Protection Services or law enforcement or the  
2064 district attorney's office. The team shall meet at least monthly.

2065 (5) No person shall disclose information obtained from a  
2066 meeting of the multidisciplinary team unless necessary to comply  
2067 with Department of \* \* \* Child Protection Services' regulations or  
2068 conduct and proceeding in youth court or criminal court  
2069 proceedings or as authorized by a court of competent jurisdiction.

2070 **SECTION 33.** Section 43-15-103, Mississippi Code of 1972, is  
2071 amended as follows:

2072 43-15-103. As used in this article:

2073 (a) "Agency" means a residential child-caring agency or  
2074 a child-placing agency.

2075 (b) "Child" or "children" mean(s) any unmarried person  
2076 or persons under the age of eighteen (18) years.



2077 (c) "Child placing" means receiving, accepting or  
2078 providing custody or care for any child under eighteen (18) years  
2079 of age, temporarily or permanently, for the purpose of:

2080 (i) Finding a person to adopt the child;

2081 (ii) Placing the child temporarily or permanently  
2082 in a home for adoption; or

2083 (iii) Placing a child in a foster home or  
2084 residential child-caring agency.

2085 (d) "Child-placing agency" means any entity or person  
2086 which places children in foster boarding homes or foster homes for  
2087 temporary care or for adoption or any other entity or person or  
2088 group of persons who are engaged in providing adoption studies or  
2089 foster care studies or placement services as defined by the rules  
2090 of the department.

2091 (e) "Department" means the Mississippi Department  
2092 of \* \* \* Child Protection Services.

2093 \* \* \*

2094 ( \* \* \* f) "Family boarding home" or "foster home" means  
2095 a home (occupied residence) operated by any entity or person which  
2096 provides residential child care to at least one (1) child but not  
2097 more than six (6) children who are not related to the primary  
2098 caregivers.

2099 ( \* \* \* g) "Group care home" means any place or facility  
2100 operated by any entity or person which provides residential child



2101 care for at least seven (7) children but not more than twelve (12)  
2102 children who are not related to the primary caregivers.

2103 ( \* \* \*h) "Licensee" means any person, agency or entity  
2104 licensed under this article.

2105 ( \* \* \*i) "Maternity home" means any place or facility  
2106 operated by any entity or person which receives, treats or cares  
2107 for more than one (1) child or adult who is pregnant out of  
2108 wedlock, either before, during or within two (2) weeks after  
2109 childbirth; provided, that the licensed child-placing agencies and  
2110 licensed maternity homes may use a family boarding home approved  
2111 and supervised by the agency or home, as a part of their work, for  
2112 as many as three (3) children or adults who are pregnant out of  
2113 wedlock, and provided further, that the provisions of this  
2114 definition shall not include children or women who receive  
2115 maternity care in the home of a person to whom they are kin within  
2116 the sixth degree of kindred computed according to civil law, nor  
2117 does it apply to any maternity care provided by general or special  
2118 hospitals licensed according to law and in which maternity  
2119 treatment and care are part of the medical services performed and  
2120 the care of children is brief and incidental.

2121 \* \* \*

2122 ( \* \* \*j) "Person associated with a licensee" means an  
2123 owner, director, member of the governing body, employee, provider  
2124 of care and volunteer of a human services licensee.



2125 ( \* \* \*k) "Related" means children, step-children,  
2126 grandchildren, step-grandchildren, siblings of the whole or  
2127 half-blood, step-siblings, nieces or nephews of the primary care  
2128 provider.

2129 ( \* \* \*l) "Residential child care" means the provision  
2130 of supervision, and/or protection, and meeting the basic needs of  
2131 a child for twenty-four (24) hours per day, which may include  
2132 services to children in a residential setting where care, lodging,  
2133 maintenance and counseling or therapy for alcohol or controlled  
2134 substance abuse or for any other emotional disorder or mental  
2135 illness is provided for children, whether for compensation or not.

2136 ( \* \* \*m) "Residential child-caring agency" means any  
2137 place or facility operated by any entity or person, public or  
2138 private, providing residential child care, regardless of whether  
2139 operated for profit or whether a fee is charged. Such residential  
2140 child-caring agencies include, but are not limited to, maternity  
2141 homes, runaway shelters, group homes that are administered by an  
2142 agency, and emergency shelters that are not in private residence.

2143 **SECTION 34.** Section 43-15-105, Mississippi Code of 1972, is  
2144 amended as follows:

2145 43-15-105. (1) The \* \* \* Mississippi Department of Child  
2146 Protection Services shall be the licensing authority for the  
2147 department, and is vested with all the powers, duties and  
2148 responsibilities described in this article. The \* \* \* department  
2149 shall make and establish rules and regulations regarding:



2150 (a) Approving, extending, denying, suspending and  
2151 revoking licenses for foster homes, residential child-caring  
2152 agencies and child-placing agencies;  
2153 (b) Conditional licenses, variances from department  
2154 rules and exclusions;  
2155 (c) Basic health and safety standards for licensees;  
2156 and  
2157 (d) Minimum administration and financial requirements  
2158 for licensees.

2159 (2) The \* \* \* department shall:

2160 (a) Define information that shall be submitted to  
2161 the \* \* \* department with an application for a license;  
2162 (b) Establish guidelines for the administration and  
2163 maintenance of client and service records, including staff  
2164 qualifications, staff to client ratios;  
2165 (c) Issue licenses in accordance with this article;  
2166 (d) Conduct surveys and inspections of licensees and  
2167 facilities;  
2168 (e) Establish and collect licensure fees;  
2169 (f) Investigate complaints regarding any licensee or  
2170 facility;  
2171 (g) Have access to all records, correspondence and  
2172 financial data required to be maintained by a licensee or  
2173 facility;





2174 (h) Have authority to interview any client, family  
2175 member of a client, employee or officer of a licensee or facility;  
2176 and

2177 (i) Have authority to revoke, suspend or extend any  
2178 license issued by the \* \* \* department.

2179 **SECTION 35.** Section 43-15-107, Mississippi Code of 1972, is  
2180 amended as follows:

2181 43-15-107. (1) Except as provided in Section 43-15-111, no  
2182 person, agency, firm, corporation, association or other entity,  
2183 acting individually or jointly with any other person or entity,  
2184 may establish, conduct or maintain foster homes, residential  
2185 child-caring agencies and child-placing agencies or facility  
2186 and/or engage in child placing in this state without a valid and  
2187 current license issued by and under the authority of the \* \* \*  
2188 department as provided by this article and the rules of the \* \* \*  
2189 department. Any out-of-state child-placing agency that provides a  
2190 full range of services, including, but not limited to, adoptions,  
2191 foster family homes, adoption counseling services or financial  
2192 aid, in this state must be licensed by the \* \* \* department under  
2193 this article.

2194 (2) No license issued under this article is assignable or  
2195 transferable.

2196 (3) A current license shall at all times be posted in each  
2197 licensee's facility, in a place that is visible and readily  
2198 accessible to the public.



2199 (4) (a) Except as otherwise provided in paragraph (b) of  
2200 this subsection, each license issued under this article expires at  
2201 midnight (Central Standard Time) twelve (12) months from the date  
2202 of issuance unless it has been:

2203 (i) Previously revoked by the \* \* \* department; or

2204 (ii) Voluntarily returned to the \* \* \* department  
2205 by the licensee.

2206 (b) (i) For any child-placing agency located in  
2207 Mississippi that remains in good standing, the license issued  
2208 under this article expires at midnight (Central Standard Time)  
2209 twenty-four (24) months from the date of issuance unless it has  
2210 been:

2211 1. Previously revoked by the \* \* \*  
2212 department; or

2213 2. Voluntarily returned to the \* \* \*  
2214 department by the licensee.

2215 (ii) Any child-placing agency whose license is  
2216 governed by this paragraph (b) shall submit the following  
2217 information to the \* \* \* department annually:

2218 1. A copy of an audit report and IRS Form 990  
2219 for the agency;

2220 2. The agency's fee schedule; and

2221 3. The agency's client list.

2222 (c) A license may be renewed upon application and  
2223 payment of the applicable fee, provided that the licensee meets



2224 the license requirements established by this article and the rules  
2225 and regulations of the \* \* \* department.

2226 (5) Any licensee or facility which is in operation at the  
2227 time rules are made in accordance with this article shall be given  
2228 a reasonable time for compliance as determined by the rules of  
2229 the \* \* \* department.

2230 **SECTION 36.** Section 43-15-109, Mississippi Code of 1972, is  
2231 amended as follows:

2232 43-15-109. (1) An application for a license under this  
2233 article shall be made to the \* \* \* department and shall contain  
2234 information that the \* \* \* department determines is necessary in  
2235 accordance with established rules.

2236 (2) Information received by the \* \* \* department through  
2237 reports, complaints, investigations and inspections shall be  
2238 classified as public in accordance with Title 25, Chapter 61,  
2239 Mississippi Code of 1972, Mississippi Public Records Act.

2240 **SECTION 37.** Section 43-15-113, Mississippi Code of 1972, is  
2241 amended as follows:

2242 43-15-113. (1) If a license is revoked, the \* \* \*  
2243 department may grant a new license after:

2244 (a) Satisfactory evidence is submitted to the \* \* \*  
2245 department, evidencing that the conditions upon which revocation  
2246 was based have been corrected; and

2247 (b) Inspection and compliance with all provisions of  
2248 this article and applicable rules.



2249           (2) The \* \* \* department may only suspend a license for a  
2250 period of time which does not exceed the current expiration date  
2251 of that license.

2252           (3) When a license has been suspended, the \* \* \* department  
2253 may completely or partially restore the suspended license upon a  
2254 determination that the:

2255                   (a) Conditions upon which the suspension was based have  
2256 been completely or partially corrected; and

2257                   (b) Interests of the public will not be jeopardized by  
2258 restoration of the license.

2259           **SECTION 38.** Section 43-15-115, Mississippi Code of 1972, is  
2260 amended as follows:

2261           43-15-115. (1) The \* \* \* department may, for the purpose of  
2262 ascertaining compliance with the provisions of this article and  
2263 its rules and regulations, enter and inspect on a routine basis  
2264 the facility of a licensee.

2265           (2) Before conducting an inspection under subsection (1),  
2266 the \* \* \* department shall, after identifying the person in  
2267 charge:

2268                   (a) Give proper identification;

2269                   (b) Request to see the applicable license;

2270                   (c) Describe the nature and purpose of the inspection;

2271 and



2272 (d) If necessary, explain the authority of the \* \* \*  
2273 department to conduct the inspection and the penalty for refusing  
2274 to permit the inspection.

2275 (3) In conducting an inspection under subsection (1),  
2276 the \* \* \* department may, after meeting the requirements of  
2277 subsection (2):

2278 (a) Inspect the physical facilities;

2279 (b) Inspect records and documents;

2280 (c) Interview directors, employees, clients, family  
2281 members of clients and others; and

2282 (d) Observe the licensee in operation.

2283 (4) An inspection conducted under subsection (1) shall be  
2284 during regular business hours and may be announced or unannounced.

2285 (5) The licensee shall make copies of inspection reports  
2286 available to the public upon request.

2287 (6) The provisions of this section apply to on-site  
2288 inspections and do not restrict the \* \* \* department from  
2289 contacting family members, neighbors or other individuals, or from  
2290 seeking information from other sources to determine compliance  
2291 with the provisions of this article.

2292 **SECTION 39.** Section 43-15-117, Mississippi Code of 1972, is  
2293 amended as follows:

2294 43-15-117. (1) Except as provided in this article, no  
2295 person, agency, firm, corporation, association or group children's  
2296 home may engage in child placing, or solicit money or other



2297 assistance for child placing, without a valid license issued by  
2298 the \* \* \* department. No out-of-state child-placing agency that  
2299 provides a full range of services, including, but not limited to,  
2300 adoptions, foster family homes, adoption counseling services or  
2301 financial aid, may operate in this state without a valid license  
2302 issued by the \* \* \* department. No child-placing agency shall  
2303 advertise in the media markets in Mississippi seeking birth  
2304 mothers or their children for adoption purposes unless the agency  
2305 holds a valid and current license issued either by the \* \* \*  
2306 department or the authorized governmental licensing agency of  
2307 another state that regulates child-placing agencies. Any  
2308 child-placing agency, physician or attorney who advertises for  
2309 child placing or adoption services in Mississippi shall be  
2310 required by the \* \* \* department to show their principal office  
2311 location on all media advertising for adoption services.

2312 (2) An attorney who provides legal services to a client in  
2313 connection with proceedings for the adoption of a child by the  
2314 client, who does not receive, accept or provide custody or care  
2315 for the child for the purposes specified in Section 43-15-103(c),  
2316 shall not be required to have a license under this article to  
2317 provide those legal services.

2318 (3) An attorney, physician or other person may assist a  
2319 parent in identifying or locating a person interested in adopting  
2320 the parent's child, or in identifying or locating a child to be  
2321 adopted. However, no payment, charge, fee, reimbursement of



2322 expense, or exchange of value of any kind, or promise or agreement  
2323 to make the same, may be made for that assistance.

2324 (4) Nothing in this section precludes payment of reasonable  
2325 fees for medical, legal or other lawful services rendered in  
2326 connection with the care of a mother, delivery and care of a child  
2327 including, but not limited to, the mother's living expenses, or  
2328 counseling for the parents and/or the child, and for the legal  
2329 proceedings related to lawful adoption proceedings; and no  
2330 provision of this section abrogates the right of procedures for  
2331 independent adoption as provided by law.

2332 (5) The \* \* \* department is specifically authorized to  
2333 promulgate rules under the Administrative Procedures Law, Title  
2334 25, Chapter 43, Mississippi Code of 1972, to regulate fees charged  
2335 by licensed child-placing agencies, if it determines that the  
2336 practices of those licensed child-placing agencies demonstrates  
2337 that the fees charged are excessive or that any of the agency's  
2338 practices are deceptive or misleading; however, those rules  
2339 regarding fees shall take into account the use of any sliding fee  
2340 by an agency that uses a sliding fee procedure to permit  
2341 prospective adoptive parents of varying income levels to utilize  
2342 the services of those agencies or persons.

2343 (6) The \* \* \* department shall promulgate rules under the  
2344 Administrative Procedures Law, Title 25, Chapter 43, Mississippi  
2345 Code of 1972, to require that all licensed child-placing agencies  
2346 provide written disclosures to all prospective adoptive parents of



2347 any fees or other charges for each service performed by the agency  
2348 or person, and file an annual report with the \* \* \* department  
2349 that states the fees and charges for those services, and to  
2350 require them to inform the \* \* \* department in writing thirty (30)  
2351 days in advance of any proposed changes to the fees or charges for  
2352 those services.

2353 (7) The \* \* \* department is specifically authorized to  
2354 disclose to prospective adoptive parents or other interested  
2355 persons any fees charged by any licensed child-placing agency,  
2356 attorney or counseling service or counselor for all legal and  
2357 counseling services provided by that licensed child-placing  
2358 agency, attorney or counseling service or counselor.

2359 **SECTION 40.** Section 43-15-119, Mississippi Code of 1972, is  
2360 amended as follows:

2361 43-15-119. (1) If the \* \* \* department finds that a  
2362 violation has occurred under this article or the rules and  
2363 regulations of the \* \* \* department, it may:

2364 (a) Deny, suspend or revoke a license or place the  
2365 licensee on probation, if the \* \* \* department discovers that a  
2366 licensee is not in compliance with the laws, standards or  
2367 regulations governing its operation, and/or it finds evidence of  
2368 aiding, abetting or permitting the commission of any illegal act;  
2369 or

2370 (b) Restrict or prohibit new admissions to the  
2371 licensee's program or facility, if the \* \* \* department discovers





2372 that a licensee is not in compliance with the laws, standards or  
2373 regulations governing its operation, and/or it finds evidence of  
2374 aiding, abetting or permitting the commission of any illegal act.

2375 (2) If placed on probation, the agency or licensee shall  
2376 post a copy of the notice in a conspicuous place as directed by  
2377 the \* \* \* department and with the agency's or individual's  
2378 license, and the agency shall notify the custodians of each of the  
2379 children in its care in writing of the agency's status and the  
2380 basis for the probation.

2381 **SECTION 41.** Section 43-15-121, Mississippi Code of 1972, is  
2382 amended as follows:

2383 43-15-121. In addition to, and notwithstanding, any other  
2384 remedy provided by law, the \* \* \* department may, in a manner  
2385 provided by law and upon the advice of the Attorney General who,  
2386 except as otherwise authorized in Section 7-5-39, shall represent  
2387 the \* \* \* department in the proceedings, maintain an action in the  
2388 name of the state for injunction or other process against any  
2389 person or entity to restrain or prevent the establishment,  
2390 management or operation of a program or facility or performance of  
2391 services in violation of this article or rules of the \* \* \*  
2392 department.

2393 **SECTION 42.** Section 43-15-125, Mississippi Code of 1972, is  
2394 amended as follows:

2395 43-15-125. The Department of \* \* \* Child Protection Services  
2396 and/or its officers, employees, attorneys and representatives



2397 shall not be held civilly liable for any findings, recommendations  
2398 or actions taken pursuant to this article.

2399         **SECTION 43.** Section 43-15-201, Mississippi Code of 1972, is  
2400 amended as follows:

2401             43-15-201. (1) An emergency medical services provider,  
2402 without a court order, shall take possession of a child who is  
2403 seventy-two (72) hours old or younger if the child is voluntarily  
2404 delivered to the provider by the child's parent and the parent did  
2405 not express an intent to return for the child.

2406             (2) The parent who surrenders the baby shall not be required  
2407 to provide any information pertaining to his or her identity, nor  
2408 shall the emergency medical services provider inquire as to same.  
2409 If the identity of the parent is known to the emergency medical  
2410 services provider, the emergency medical services provider shall  
2411 keep the identity confidential.

2412             (3) A female presenting herself to a hospital through the  
2413 emergency room or otherwise, who is subsequently admitted for  
2414 purposes of labor and delivery, does not give up the legal  
2415 protections or anonymity guaranteed under this section. If the  
2416 mother clearly expresses a desire to voluntarily surrender custody  
2417 of the newborn after birth, the emergency medical services  
2418 provider can take possession of the child, without further action  
2419 by the mother, as if the child had been presented to the emergency  
2420 medical services provider in the same manner outlined above in  
2421 subsection (1) of this section.



2422 (a) If the mother expresses a desire to remain  
2423 anonymous, identifying information may be obtained for purposes of  
2424 securing payment of labor and delivery costs only. If the birth  
2425 mother is a minor, the hospital may use the identifying  
2426 information to secure payment through Medicaid, but shall not  
2427 notify the minor's parent or guardian without the minor's consent.

2428 (b) The identity of the birth mother shall not be  
2429 placed on the birth certificate or disclosed to the Department  
2430 of \* \* \* Child Protection Services.

2431 (4) There is a presumption that by relinquishing a child in  
2432 accordance with this section, the parent consents to the  
2433 termination of his or her parental rights with respect to the  
2434 child. As such, the parent waives the right to notification  
2435 required by subsequent court proceedings.

2436 (5) An emergency medical services provider who takes  
2437 possession of a child under this section shall perform any act  
2438 necessary to protect the physical health or safety of the child.

2439 **SECTION 44.** Section 43-15-203, Mississippi Code of 1972, is  
2440 amended as follows:

2441 43-15-203. (1) No later than the close of the first  
2442 business day after the date on which an emergency medical services  
2443 provider takes possession of a child pursuant to Section  
2444 43-15-201, the provider shall notify the Department of \* \* \* Child  
2445 Protection Services that the provider has taken possession of the  
2446 child.



2447 (2) The department shall assume the care, control and  
2448 custody of the child immediately on receipt of notice pursuant to  
2449 subsection (1). The department shall be responsible for all  
2450 medical and other costs associated with the child and shall  
2451 reimburse the hospital for any costs incurred prior to the child  
2452 being placed in the care of the department.

2453 **SECTION 45.** Section 43-15-207, Mississippi Code of 1972, is  
2454 amended as follows:

2455 43-15-207. For the purposes of this article, an emergency  
2456 medical services provider shall mean a licensed hospital, as  
2457 defined in Section 41-9-3, which operates an emergency department  
2458 or an adoption agency duly licensed by the Department of \* \* \*  
2459 Child Protection Services. An emergency medical services provider  
2460 does not include the offices, clinics, surgeries or treatment  
2461 facilities of private physicians or dentists. No individual  
2462 licensed healthcare provider, including physicians, dentists,  
2463 nurses, physician assistants or other health professionals shall  
2464 be deemed to be an emergency medical services provider under this  
2465 article unless such individual voluntarily assumes responsibility  
2466 for the custody of the child.

2467 **SECTION 46.** Section 43-16-3, Mississippi Code of 1972, is  
2468 amended as follows:

2469 43-16-3. As used in this chapter, the following definitions  
2470 shall apply unless the context clearly provides otherwise:



2471 (a) "Child" means a person who has not reached the age  
2472 of eighteen (18) years or who has not otherwise been legally  
2473 emancipated.

2474 (b) "Child residential home" means any place, facility  
2475 or home operated by any person which receives children who are not  
2476 related to the operators and whose parents or guardians are not  
2477 residents of the same facility for supervision, care, lodging and  
2478 maintenance for twenty-four (24) hours a day, with or without  
2479 transfer of custody. This term does not include:

2480 (i) Residential homes licensed by the Department  
2481 of \* \* \* Child Protection Services under Section 43-15-5;

2482 (ii) Any public school;

2483 (iii) Any home operated by a state agency;

2484 (iv) Child care facilities as defined in Section  
2485 43-20-5;

2486 (v) Youth camps as defined in Section 75-74-3;

2487 (vi) Health care facilities licensed by the State  
2488 Department of Health; or

2489 (vii) The home of an attorney-in-fact operating  
2490 under a power of attorney executed under Section 93-31-1 et seq.

2491 (c) "Department" shall mean the State Department of  
2492 Health.

2493 (d) "Person" shall include an individual, partnership,  
2494 organization, association or corporation.



2495           **SECTION 47.** Section 43-16-21, Mississippi Code of 1972, is  
2496 amended as follows:

2497           43-16-21. Notwithstanding the existence of any other remedy,  
2498 the department may, in the manner provided by law, in termtime or  
2499 in vacation, upon the advice of the Attorney General who, except  
2500 as otherwise authorized in Section 7-5-39, shall represent the  
2501 department in the proceedings, maintain an action in the name of  
2502 the state for an injunction or restraining order to cease the  
2503 operation of the home, and to provide for the appropriate removal  
2504 of the children from the home and placement in the custody of the  
2505 parents or legal guardians, the Department of \* \* \* Child  
2506 Protection Services, or any other appropriate entity in the  
2507 discretion of the court. Such action shall be brought in the  
2508 chancery court or the youth court, as appropriate, of the county  
2509 in which such child residential home is located, and shall only be  
2510 initiated for the following violations:

2511           (a) Providing supervision, care, lodging or maintenance  
2512 for any children in such home without filing notification in  
2513 accordance with this chapter.

2514           (b) Failure to satisfactorily comply with local health  
2515 department or State Fire Marshal inspections made pursuant to  
2516 Section 43-16-15, regarding the health, nutrition, cleanliness,  
2517 safety, sanitation, written records and discipline policy of such  
2518 home.



2519 (c) Suspected abuse and/or neglect of the children  
2520 served by such home, as defined in Section 43-21-105.

2521 **SECTION 48.** Section 43-18-3, Mississippi Code of 1972, is  
2522 amended as follows:

2523 43-18-3. The "appropriate public authorities" as used in  
2524 Article III of the Interstate Compact on the Placement of Children  
2525 shall, with reference to this state, mean the \* \* \* Mississippi  
2526 Department of Child Protection Services. \* \* \*

2527 **SECTION 49.** Section 43-18-5, Mississippi Code of 1972, is  
2528 amended as follows:

2529 43-18-5. As used in paragraph (a) of Article V of the  
2530 Interstate Compact on the Placement of Children, the phrase  
2531 "appropriate authority in the receiving state" with reference to  
2532 this state shall mean the \* \* \* Mississippi Department of Child  
2533 Protection Services.

2534 **SECTION 50.** Section 43-20-8, Mississippi Code of 1972, is  
2535 amended as follows:

2536 43-20-8. (1) The licensing agency shall have powers and  
2537 duties as set forth below, in addition to other duties prescribed  
2538 under this chapter:

2539 (a) Promulgate rules and regulations concerning the  
2540 licensing and regulation of child care facilities as defined in  
2541 Section 43-20-5;



2542 (b) Have the authority to issue, deny, suspend, revoke,  
2543 restrict or otherwise take disciplinary action against licensees  
2544 as provided for in this chapter;

2545 (c) Set and collect fees and penalties as provided for  
2546 in this chapter; any increase in the fees charged by the licensing  
2547 agency under this paragraph shall be in accordance with the  
2548 provisions of Section 41-3-65; and

2549 (d) Have such other powers as may be required to carry  
2550 out the provisions of this chapter.

2551 (2) Child care facilities shall assure that parents have  
2552 welcome access to the child care facility at all times and shall  
2553 comply with the provisions of Chapter 520, Laws of 2006.

2554 (3) Each child care facility shall develop and maintain a  
2555 current list of contact persons for each child provided care by  
2556 that facility. An agreement may be made between the child care  
2557 facility and the child's parent, guardian or contact person at the  
2558 time of registration to inform the parent, guardian or contact  
2559 person if the child does not arrive at the facility within a  
2560 reasonable time.

2561 (4) Child care facilities shall require that, for any  
2562 current or prospective caregiver, all criminal records, background  
2563 and sex offender registry checks and current child abuse registry  
2564 checks are obtained. In order to determine the applicant's  
2565 suitability for employment, the applicant shall be fingerprinted.  
2566 If no disqualifying record is identified at the state level, the





2567 fingerprints shall be forwarded by the Department of Public Safety  
2568 to the FBI for a national criminal history record check.

2569 (5) The licensing agency shall require to be performed a  
2570 criminal records background check and a child abuse registry check  
2571 for all operators of a child care facility and any person living  
2572 in a residence used for child care. The Department of \* \* \* Child  
2573 Protection Services shall have the authority to disclose to the  
2574 State Department of Health any potential applicant whose name is  
2575 listed on the Child Abuse Central Registry or has a pending  
2576 administrative review. That information shall remain confidential  
2577 by all parties. In order to determine the applicant's suitability  
2578 for employment, the applicant shall be fingerprinted. If no  
2579 disqualifying record is identified at the state level, the  
2580 fingerprints shall be forwarded by the Department of Public Safety  
2581 to the FBI for a national criminal history record check.

2582 (6) The licensing agency shall have the authority to exclude  
2583 a particular crime or crimes or a substantiated finding of child  
2584 abuse and/or neglect as disqualifying individuals or entities for  
2585 prospective or current employment or licensure.

2586 (7) The licensing agency and its agents, officers,  
2587 employees, attorneys and representatives shall not be held civilly  
2588 liable for any findings, recommendations or actions taken under  
2589 this section.

2590 (8) All fees incurred in compliance with this section shall  
2591 be borne by the child care facility. The licensing agency is



2592 authorized to charge a fee that includes the amount required by  
2593 the Federal Bureau of Investigation for the national criminal  
2594 history record check in compliance with the Child Protection Act  
2595 of 1993, as amended, and any necessary costs incurred by the  
2596 licensing agency for the handling and administration of the  
2597 criminal history background checks.

2598 (9) From and after January 1, 2008, the State Board of  
2599 Health shall develop regulations to ensure that all children  
2600 enrolled or enrolling in a state licensed child care center  
2601 receive age-appropriate immunization against invasive pneumococcal  
2602 disease as recommended by the Advisory Committee on immunization  
2603 practices of the Centers for Disease Control and Prevention. The  
2604 State Board of Health shall include, within its regulations,  
2605 protocols for children under the age of twenty-four (24) months to  
2606 catch up on missed doses. If the State Board of Health has  
2607 adopted regulations before January 1, 2008, that would otherwise  
2608 meet the requirements of this subsection, then this subsection  
2609 shall stand repealed on January 1, 2008.

2610 **SECTION 51.** Section 43-21-105, Mississippi Code of 1972, is  
2611 amended as follows:

2612 43-21-105. The following words and phrases, for purposes of  
2613 this chapter, shall have the meanings ascribed herein unless the  
2614 context clearly otherwise requires:

2615 (a) "Youth court" means the Youth Court Division.



2616 (b) "Judge" means the judge of the Youth Court  
2617 Division.

2618 (c) "Designee" means any person that the judge appoints  
2619 to perform a duty which this chapter requires to be done by the  
2620 judge or his designee. The judge may not appoint a person who is  
2621 involved in law enforcement or who is an employee of the  
2622 Mississippi Department of Human Services or the Department of  
2623 Child Protection Services to be his designee.

2624 (d) "Child" and "youth" are synonymous, and each means  
2625 a person who has not reached his eighteenth birthday. A child who  
2626 has not reached his eighteenth birthday and is on active duty for  
2627 a branch of the armed services or is married is not considered a  
2628 "child" or "youth" for the purposes of this chapter.

2629 (e) "Parent" means the father or mother to whom the  
2630 child has been born, or the father or mother by whom the child has  
2631 been legally adopted.

2632 (f) "Guardian" means a court-appointed guardian of the  
2633 person of a child.

2634 (g) "Custodian" means any person having the present  
2635 care or custody of a child whether such person be a parent or  
2636 otherwise.

2637 (h) "Legal custodian" means a court-appointed custodian  
2638 of the child.

2639 (i) "Delinquent child" means a child who has reached  
2640 his tenth birthday and who has committed a delinquent act.



2641 (j) "Delinquent act" is any act, which if committed by  
2642 an adult, is designated as a crime under state or federal law, or  
2643 municipal or county ordinance other than offenses punishable by  
2644 life imprisonment or death. A delinquent act includes escape from  
2645 lawful detention and violations of the Uniform Controlled  
2646 Substances Law and violent behavior.

2647 (k) "Child in need of supervision" means a child who  
2648 has reached his seventh birthday and is in need of treatment or  
2649 rehabilitation because the child:

2650 (i) Is habitually disobedient of reasonable and  
2651 lawful commands of his parent, guardian or custodian and is  
2652 ungovernable; or

2653 (ii) While being required to attend school,  
2654 willfully and habitually violates the rules thereof or willfully  
2655 and habitually absents himself therefrom; or

2656 (iii) Runs away from home without good cause; or

2657 (iv) Has committed a delinquent act or acts.

2658 (l) "Neglected child" means a child:

2659 (i) Whose parent, guardian or custodian or any  
2660 person responsible for his care or support, neglects or refuses,  
2661 when able so to do, to provide for him proper and necessary care  
2662 or support, or education as required by law, or medical, surgical,  
2663 or other care necessary for his well-being; however, a parent who  
2664 withholds medical treatment from any child who in good faith is  
2665 under treatment by spiritual means alone through prayer in



2666 accordance with the tenets and practices of a recognized church or  
2667 religious denomination by a duly accredited practitioner thereof  
2668 shall not, for that reason alone, be considered to be neglectful  
2669 under any provision of this chapter; or

2670 (ii) Who is otherwise without proper care,  
2671 custody, supervision or support; or

2672 (iii) Who, for any reason, lacks the special care  
2673 made necessary for him by reason of his mental condition, whether  
2674 the mental condition is having mental illness or having an  
2675 intellectual disability; or

2676 (iv) Who, for any reason, lacks the care necessary  
2677 for his health, morals or well-being.

2678 (m) "Abused child" means a child whose parent, guardian  
2679 or custodian or any person responsible for his care or support,  
2680 whether legally obligated to do so or not, has caused or allowed  
2681 to be caused, upon the child, sexual abuse, sexual exploitation,  
2682 emotional abuse, mental injury, nonaccidental physical injury or  
2683 other maltreatment. However, physical discipline, including  
2684 spanking, performed on a child by a parent, guardian or custodian  
2685 in a reasonable manner shall not be deemed abuse under this  
2686 section. "Abused child" also means a child who is or has been  
2687 trafficked within the meaning of the Mississippi Human Trafficking  
2688 Act by any person, without regard to the relationship of the  
2689 person to the child.



2690 (n) "Sexual abuse" means obscene or pornographic  
2691 photographing, filming or depiction of children for commercial  
2692 purposes, or the rape, molestation, incest, prostitution or other  
2693 such forms of sexual exploitation of children under circumstances  
2694 which indicate that the child's health or welfare is harmed or  
2695 threatened.

2696 (o) "A child in need of special care" means a child  
2697 with any mental or physical illness that cannot be treated with  
2698 the dispositional alternatives ordinarily available to the youth  
2699 court.

2700 (p) A "dependent child" means any child who is not a  
2701 child in need of supervision, a delinquent child, an abused child  
2702 or a neglected child, and which child has been voluntarily placed  
2703 in the custody of the Department of \* \* \* Child Protection  
2704 Services by his parent, guardian or custodian.

2705 (q) "Custody" means the physical possession of the  
2706 child by any person.

2707 (r) "Legal custody" means the legal status created by a  
2708 court order which gives the legal custodian the responsibilities  
2709 of physical possession of the child and the duty to provide him  
2710 with food, shelter, education and reasonable medical care, all  
2711 subject to residual rights and responsibilities of the parent or  
2712 guardian of the person.

2713 (s) "Detention" means the care of children in  
2714 physically restrictive facilities.



2715 (t) "Shelter" means care of children in physically  
2716 nonrestrictive facilities.

2717 \* \* \*

2718 ( \* \* \* u) "Any person responsible for care or support"  
2719 means the person who is providing for the child at a given time.  
2720 This term shall include, but is not limited to, stepparents,  
2721 foster parents, relatives, nonlicensed babysitters or other  
2722 similar persons responsible for a child and staff of residential  
2723 care facilities and group homes that are licensed by the  
2724 Department of \* \* \* Child Protection Services.

2725 ( \* \* \* y) The singular includes the plural, the plural  
2726 the singular and the masculine the feminine when consistent with  
2727 the intent of this chapter.

2728 ( \* \* \* w) "Out-of-home" setting means the temporary  
2729 supervision or care of children by the staff of licensed day care  
2730 centers, the staff of public, private and state schools, the staff  
2731 of juvenile detention facilities, the staff of unlicensed  
2732 residential care facilities and group homes and the staff of, or  
2733 individuals representing, churches, civic or social organizations.

2734 ( \* \* \* x) "Durable legal custody" means the legal  
2735 status created by a court order which gives the durable legal  
2736 custodian the responsibilities of physical possession of the child  
2737 and the duty to provide him with care, nurture, welfare, food,  
2738 shelter, education and reasonable medical care. All these duties  
2739 as enumerated are subject to the residual rights and



2740 responsibilities of the natural parent(s) or guardian(s) of the  
2741 child or children.

2742 ( \* \* \*y) "Status offense" means conduct subject to  
2743 adjudication by the youth court that would not be a crime if  
2744 committed by an adult.

2745 ( \* \* \*z) "Financially able" means a parent or child  
2746 who is ineligible for a court-appointed attorney.

2747 ( \* \* \*aa) "Assessment" means an individualized  
2748 examination of a child to determine the child's psychosocial needs  
2749 and problems, including the type and extent of any mental health,  
2750 substance abuse or co-occurring mental health and substance abuse  
2751 disorders and recommendations for treatment. The term includes,  
2752 but is not limited to, a drug and alcohol, psychological or  
2753 psychiatric evaluation, records review, clinical interview or the  
2754 administration of a formal test and instrument.

2755 ( \* \* \*bb) "Screening" means a process, with or without  
2756 the administration of a formal instrument, that is designed to  
2757 identify a child who is at increased risk of having mental health,  
2758 substance abuse or co-occurring mental health and substance abuse  
2759 disorders that warrant immediate attention, intervention or more  
2760 comprehensive assessment.

2761 ( \* \* \*cc) "Durable legal relative guardianship" means  
2762 the legal status created by a youth court order that conveys the  
2763 physical and legal custody of a child or children by durable legal





2764 guardianship to a relative or fictive kin who is licensed as a  
2765 foster or resource parent.

2766 ( \* \* \*dd) "Relative" means a person related to the  
2767 child by affinity or consanguinity within the third degree.

2768 ( \* \* \*ee) "Fictive kin" means a person not related to  
2769 the child legally or biologically but who is considered a relative  
2770 due to a significant, familial-like and ongoing relationship with  
2771 the child and family.

2772 ( \* \* \*ff) "Reasonable efforts" means the exercise of  
2773 reasonable care and due diligence by the Department of Human  
2774 Services, the Department of Child Protection Services, or any  
2775 other appropriate entity or person to use appropriate and  
2776 available services to prevent the unnecessary removal of the child  
2777 from the home or provide other services related to meeting the  
2778 needs of the child and the parents.

2779 **SECTION 52.** Section 43-21-303, Mississippi Code of 1972, is  
2780 amended as follows:

2781 43-21-303. (1) No child in a matter in which the youth  
2782 court has original exclusive jurisdiction shall be taken in  
2783 custody by any person without a custody order except that:

2784 (a) A law enforcement officer may take a child in  
2785 custody if:

2786 (i) Grounds exist for the arrest of an adult in  
2787 identical circumstances; and



2788                   (ii) Such law enforcement officer has probable  
2789 cause to believe that custody is necessary as defined in Section  
2790 43-21-301(3) (b); and

2791                   (iii) Such law enforcement officer can find no  
2792 reasonable alternative to custody; or

2793                   (b) A law enforcement officer or an agent of the  
2794 Department of \* \* \* Child Protection Services may take a child  
2795 into custody if:

2796                   (i) There is probable cause to believe that the  
2797 child is in immediate danger of personal harm; however, probable  
2798 cause shall not be based solely upon a positive drug test of a  
2799 child's parent for marijuana, but a finding of probable cause may  
2800 be based upon an evidence-based finding of harm to the child or a  
2801 parent's inability to provide for the care and supervision of the  
2802 child due to the parent's use of marijuana; and

2803                   (ii) Such law enforcement officer or agent has  
2804 probable cause to believe that immediate custody is necessary as  
2805 defined in Section 43-21-301(3) (b); and

2806                   (iii) Such law enforcement officer or agent can  
2807 find no reasonable alternative to custody; and

2808                   (c) Any other person may take a child in custody if  
2809 grounds exist for the arrest of an adult in identical  
2810 circumstances. Such other person shall immediately surrender  
2811 custody of the child to the proper law enforcement officer who



2812 shall thereupon continue custody only as provided in subsection  
2813 (1) (a) of this section.

2814 (2) When it is necessary to take a child into custody, the  
2815 least restrictive custody should be selected.

2816 (3) Unless the child is immediately released, the person  
2817 taking the child into custody shall immediately notify the judge  
2818 or his designee. A person taking a child into custody shall also  
2819 make continuing reasonable efforts to notify the child's parent,  
2820 guardian or custodian and invite the parent, guardian or custodian  
2821 to be present during any questioning.

2822 (4) A child taken into custody shall not be held in custody  
2823 for a period longer than reasonably necessary, but not to exceed  
2824 twenty-four (24) hours, and shall be released to his parent,  
2825 guardian or custodian unless the judge or his designee authorizes  
2826 temporary custody.

2827 **SECTION 53.** Section 43-21-315, Mississippi Code of 1972, is  
2828 amended as follows:

2829 43-21-315. (1) The youth court shall, by general order or  
2830 rule of court, designate the available detention or shelter  
2831 facilities to which children shall be delivered when taken into  
2832 custody. Copies of the order or rule shall be made available to  
2833 the Department of Human Services and the Department of Child  
2834 Protection Services and all law enforcement agencies within the  
2835 territorial jurisdiction of the youth court.



2836           (2) Except as otherwise provided in this chapter, unless  
2837 jurisdiction is transferred, no child shall be placed in any jail  
2838 or place of detention of adults by any person or court unless the  
2839 child shall be physically segregated from other persons not  
2840 subject to the jurisdiction of the youth court and the physical  
2841 arrangement of such jail or place of detention of adults prevents  
2842 such child from having substantial contact with and substantial  
2843 view of such other persons; but in any event, the child shall not  
2844 be confined anywhere in the same cell with persons not subject to  
2845 the jurisdiction of the youth court. Any order placing a child  
2846 into custody shall comply with the detention requirements provided  
2847 in Section 43-21-301(6). This subsection shall not be construed  
2848 to apply to commitments to the training school under Section  
2849 43-21-605(1)(g)(iii).

2850           (3) Any child who is charged with a hunting or fishing  
2851 violation, a traffic violation, or any other criminal offense for  
2852 which the youth court shall have power on its own motion to remove  
2853 jurisdiction from any criminal court, may be detained only in the  
2854 same facilities designated by the youth court for children within  
2855 the jurisdiction of the youth court.

2856           (4) After a child is ordered into custody, the youth court  
2857 may arrange for the custody of the child with any private  
2858 institution or agency caring for children, may commit the child to  
2859 the Department of Mental Health pursuant to Section 41-21-61 et  
2860 seq., or may order the Department of Human Services or the



2861 Department of Child Protection Services or any other public agency  
2862 to provide for the custody, care and maintenance of such child.  
2863 Provided, however, that the care, custody and maintenance of such  
2864 child shall be within the statutory authorization and the  
2865 budgetary means of such institution or facility.

2866 **SECTION 54.** Section 43-21-351, Mississippi Code of 1972, is  
2867 amended as follows:

2868 43-21-351. (1) Any person or agency having knowledge that a  
2869 child residing or being within the county is within the  
2870 jurisdiction of the youth court may make a written report to the  
2871 intake unit alleging facts sufficient to establish the  
2872 jurisdiction of the youth court. The report shall bear a  
2873 permanent number that will be assigned by the court in accordance  
2874 with the standards established by the Administrative Office of  
2875 Courts pursuant to Section 9-21-9(d), and shall be preserved until  
2876 destroyed on order of the court.

2877 (2) There shall be in each youth court of the state an  
2878 intake officer who shall be responsible for the accurate and  
2879 timely entering of all intake and case information into the  
2880 Mississippi Youth Court Information Delivery System (MYCIDS) for  
2881 the Division of Youth Services, truancy matters and the \* \* \*  
2882 Department of Child Protection Services. It shall be the  
2883 responsibility of the youth court judge or referee of each county  
2884 to ensure that the intake officer is carrying out the  
2885 responsibility of this section.



2886           **SECTION 55.** Section 43-21-353, Mississippi Code of 1972, is  
2887 amended as follows:

2888           43-21-353. (1) Any attorney, physician, dentist, intern,  
2889 resident, nurse, psychologist, social worker, family protection  
2890 worker, family protection specialist, child caregiver, minister,  
2891 law enforcement officer, public or private school employee or any  
2892 other person having reasonable cause to suspect that a child is a  
2893 neglected child or an abused child, shall cause an oral report to  
2894 be made immediately by telephone or otherwise and followed as soon  
2895 thereafter as possible by a report in writing to the Department  
2896 of \* \* \* Child Protection Services, and immediately a referral  
2897 shall be made by the Department of \* \* \* Child Protection Services  
2898 to the youth court intake unit, which unit shall promptly comply  
2899 with Section 43-21-357. In the course of an investigation, at the  
2900 initial time of contact with the individual(s) about whom a report  
2901 has been made under this Youth Court Act or with the individual(s)  
2902 responsible for the health or welfare of a child about whom a  
2903 report has been made under this chapter, the Department of \* \* \*  
2904 Child Protection Services shall inform the individual of the  
2905 specific complaints or allegations made against the individual.  
2906 Consistent with subsection (4), the identity of the person who  
2907 reported his or her suspicion shall not be disclosed. Where  
2908 appropriate, the Department of \* \* \* Child Protection Services  
2909 shall additionally make a referral to the youth court prosecutor.



2910           Upon receiving a report that a child has been sexually  
2911 abused, or burned, tortured, mutilated or otherwise physically  
2912 abused in such a manner as to cause serious bodily harm, or upon  
2913 receiving any report of abuse that would be a felony under state  
2914 or federal law, the Department of \* \* \* Child Protection Services  
2915 shall immediately notify the law enforcement agency in whose  
2916 jurisdiction the abuse occurred and shall notify the appropriate  
2917 prosecutor within forty-eight (48) hours, and the Department  
2918 of \* \* \* Child Protection Services shall have the duty to provide  
2919 the law enforcement agency all the names and facts known at the  
2920 time of the report; this duty shall be of a continuing nature.  
2921 The law enforcement agency and the Department of \* \* \* Child  
2922 Protection Services shall investigate the reported abuse  
2923 immediately and shall file a preliminary report with the  
2924 appropriate prosecutor's office within twenty-four (24) hours and  
2925 shall make additional reports as new or additional information or  
2926 evidence becomes available. The Department of \* \* \* Child  
2927 Protection Services shall advise the clerk of the youth court and  
2928 the youth court prosecutor of all cases of abuse reported to the  
2929 department within seventy-two (72) hours and shall update such  
2930 report as information becomes available.

2931           (2) Any report to the Department of \* \* \* Child Protection  
2932 Services shall contain the names and addresses of the child and  
2933 his parents or other persons responsible for his care, if known,  
2934 the child's age, the nature and extent of the child's injuries,



2935 including any evidence of previous injuries \* \* \*, any other  
2936 information that might be helpful in establishing the cause of the  
2937 injury, and the identity of the perpetrator.

2938 (3) The Department of \* \* \* Child Protection Services shall  
2939 maintain a statewide incoming wide-area telephone service or  
2940 similar service for the purpose of receiving reports of suspected  
2941 cases of child abuse; provided that any attorney, physician,  
2942 dentist, intern, resident, nurse, psychologist, social worker,  
2943 family protection worker, family protection specialist, child  
2944 caregiver, minister, law enforcement officer or public or private  
2945 school employee who is required to report under subsection (1) of  
2946 this section shall report in the manner required in subsection  
2947 (1).

2948 (4) Reports of abuse and neglect made under this chapter and  
2949 the identity of the reporter are confidential except when the  
2950 court in which the investigation report is filed, in its  
2951 discretion, determines the testimony of the person reporting to be  
2952 material to a judicial proceeding or when the identity of the  
2953 reporter is released to law enforcement agencies and the  
2954 appropriate prosecutor pursuant to subsection (1). Reports made  
2955 under this section to any law enforcement agency or prosecutorial  
2956 officer are for the purpose of criminal investigation and  
2957 prosecution only and no information from these reports may be  
2958 released to the public except as provided by Section 43-21-261.  
2959 Disclosure of any information by the prosecutor shall be according





2960 to the Mississippi Uniform Rules of Circuit and County Court  
2961 Procedure. The identity of the reporting party shall not be  
2962 disclosed to anyone other than law enforcement officers or  
2963 prosecutors without an order from the appropriate youth court.  
2964 Any person disclosing any reports made under this section in a  
2965 manner not expressly provided for in this section or Section  
2966 43-21-261 shall be guilty of a misdemeanor and subject to the  
2967 penalties prescribed by Section 43-21-267.

2968 (5) All final dispositions of law enforcement investigations  
2969 described in subsection (1) of this section shall be determined  
2970 only by the appropriate prosecutor or court. All final  
2971 dispositions of investigations by the Department of \* \* \* Child  
2972 Protection Services as described in subsection (1) of this section  
2973 shall be determined only by the youth court. Reports made under  
2974 subsection (1) of this section by the Department of \* \* \* Child  
2975 Protection Services to the law enforcement agency and to the  
2976 district attorney's office shall include the following, if known  
2977 to the department:

- 2978 (a) The name and address of the child;
- 2979 (b) The names and addresses of the parents;
- 2980 (c) The name and address of the suspected perpetrator;
- 2981 (d) The names and addresses of all witnesses, including  
2982 the reporting party if a material witness to the abuse;
- 2983 (e) A brief statement of the facts indicating that the  
2984 child has been abused and any other information from the agency



2985 files or known to the family protection worker or family  
2986 protection specialist making the investigation, including medical  
2987 records or other records, which may assist law enforcement or the  
2988 district attorney in investigating and/or prosecuting the case;  
2989 and

2990 (f) What, if any, action is being taken by the  
2991 Department of \* \* \* Child Protection Services.

2992 (6) In any investigation of a report made under this chapter  
2993 of the abuse or neglect of a child as defined in Section  
2994 43-21-105(m), the Department of \* \* \* Child Protection Services  
2995 may request the appropriate law enforcement officer with  
2996 jurisdiction to accompany the department in its investigation, and  
2997 in such cases the law enforcement officer shall comply with such  
2998 request.

2999 (7) Anyone who willfully violates any provision of this  
3000 section shall be, upon being found guilty, punished by a fine not  
3001 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in  
3002 jail not to exceed one (1) year, or both.

3003 (8) If a report is made directly to the Department of \* \* \*  
3004 Child Protection Services that a child has been abused or  
3005 neglected in an out-of-home setting, a referral shall be made  
3006 immediately to the law enforcement agency in whose jurisdiction  
3007 the abuse occurred and the department shall notify the district  
3008 attorney's office within forty-eight (48) hours of such report.  
3009 The Department of \* \* \* Child Protection Services shall



3010 investigate the out-of-home setting report of abuse or neglect to  
3011 determine whether the child who is the subject of the report, or  
3012 other children in the same environment, comes within the  
3013 jurisdiction of the youth court and shall report to the youth  
3014 court the department's findings and recommendation as to whether  
3015 the child who is the subject of the report or other children in  
3016 the same environment require the protection of the youth court.  
3017 The law enforcement agency shall investigate the reported abuse  
3018 immediately and shall file a preliminary report with the district  
3019 attorney's office within forty-eight (48) hours and shall make  
3020 additional reports as new information or evidence becomes  
3021 available. If the out-of-home setting is a licensed facility, an  
3022 additional referral shall be made by the Department of \* \* \* Child  
3023 Protection Services to the licensing agency. The licensing agency  
3024 shall investigate the report and shall provide the Department  
3025 of \* \* \* Child Protection Services, the law enforcement agency and  
3026 the district attorney's office with their written findings from  
3027 such investigation as well as that licensing agency's  
3028 recommendations and actions taken.

3029 (9) If a child protective investigation does not result in  
3030 an out-of-home placement, a child protective investigator must  
3031 provide information to the parent or guardians about community  
3032 service programs that provide respite care, voluntary guardianship  
3033 or other support services for families in crisis.



3034           **SECTION 56.** Section 43-21-354, Mississippi Code of 1972, is  
3035 amended as follows:

3036           43-21-354. The statewide incoming wide area telephone  
3037 service established pursuant to Section 43-21-353, Mississippi  
3038 Code of 1972, shall be maintained by the Department of \* \* \* Child  
3039 Protection Services on a twenty-four-hour seven (7) days a week  
3040 basis.

3041           **SECTION 57.** Section 43-21-357, Mississippi Code of 1972, is  
3042 amended as follows:

3043           43-21-357. (1) After receiving a report, the youth court  
3044 intake unit shall promptly make a preliminary inquiry to determine  
3045 whether the interest of the child, other children in the same  
3046 environment or the public requires the youth court to take further  
3047 action. As part of the preliminary inquiry, the youth court  
3048 intake unit may request or the youth court may order the  
3049 Department of Human Services, the Department of Youth Services,  
3050 any successor agency or any other qualified public employee to  
3051 make an investigation or report concerning the child and any other  
3052 children in the same environment, and present the findings thereof  
3053 to the youth court intake unit. If the youth court intake unit  
3054 receives a neglect or abuse report, the youth court intake unit  
3055 shall immediately forward the complaint to the Department of \* \* \*  
3056 Child Protection Services to promptly make an investigation or  
3057 report concerning the child and any other children in the same  
3058 environment and promptly present the findings thereof to the youth



3059 court intake unit. If it appears from the preliminary inquiry  
3060 that the child or other children in the same environment are  
3061 within the jurisdiction of the court, the youth court intake unit  
3062 shall recommend to the youth court:

3063 (a) That the youth court take no action;

3064 (b) That an informal adjustment be made;

3065 (c) That the Department of \* \* \* Child Protection  
3066 Services monitor the child, family and other children in the same  
3067 environment;

3068 (d) That the child is warned or counseled informally;

3069 (e) That the child be referred to the youth court drug  
3070 court; or

3071 (f) That a petition be filed.

3072 (2) The youth court shall then, without a hearing:

3073 (a) Order that no action be taken;

3074 (b) Order that an informal adjustment be made;

3075 (c) Order that the Department of \* \* \* Child Protection  
3076 Services monitor the child, family and other children in the same  
3077 environment;

3078 (d) Order that the child is warned or counseled  
3079 informally;

3080 (e) That the child be referred to the youth court drug  
3081 court; or

3082 (f) Order that a petition be filed.



3083           (3) If the preliminary inquiry discloses that a child needs  
3084 emergency medical treatment, the judge may order the necessary  
3085 treatment.

3086           **SECTION 58.** Section 43-21-405, Mississippi Code of 1972, is  
3087 amended as follows:

3088           43-21-405. (1) The informal adjustment process shall be  
3089 initiated with an informal adjustment conference conducted by an  
3090 informal adjustment counselor appointed by the judge or his  
3091 designee.

3092           (2) If the child and his parent, guardian or custodian  
3093 appear at the informal adjustment conference without counsel, the  
3094 informal adjustment counselor shall, at the commencement of the  
3095 conference, inform them of their right to counsel, the child's  
3096 right to appointment of counsel and the right of the child to  
3097 remain silent. If either the child or his parent, guardian or  
3098 custodian indicates a desire to be represented by counsel, the  
3099 informal adjustment counselor shall adjourn the conference to  
3100 afford an opportunity to secure counsel.

3101           (3) At the beginning of the informal adjustment conference,  
3102 the informal adjustment counselor shall inform the child and his  
3103 parent, guardian or custodian:

3104           (a) That information has been received concerning the  
3105 child which appears to establish jurisdiction of the youth court;

3106           (b) The purpose of the informal adjustment conference;



3107 (c) That during the informal adjustment process no  
3108 petition will be filed;

3109 (d) That the informal adjustment process is voluntary  
3110 with the child and his parent, guardian or custodian and that they  
3111 may withdraw from the informal adjustment at any time; and

3112 (e) The circumstances under which the informal  
3113 adjustment process can be terminated under Section 43-21-407.

3114 (4) The informal adjustment counselor shall then discuss  
3115 with the child and his parent, guardian or custodian:

3116 (a) Recommendations for actions or conduct in the  
3117 interest of the child to correct the conditions of behavior or  
3118 environment which may exist;

3119 (b) Continuing conferences and contacts with the child  
3120 and his parent, guardian or custodian by the informal adjustment  
3121 counselor or other authorized persons; and

3122 (c) The child's general behavior, his home and school  
3123 environment and other factors bearing upon the proposed informal  
3124 adjustment.

3125 (5) After the parties have agreed upon the appropriate terms  
3126 and conditions of informal adjustment, the informal adjustment  
3127 counselor and the child and his parent, guardian or custodian  
3128 shall sign a written informal adjustment agreement setting forth  
3129 the terms and conditions of the informal adjustment. The informal  
3130 adjustment agreement may be modified at any time upon the consent  
3131 of all parties to the informal adjustment conference.



3132 (6) The informal adjustment process shall not continue  
3133 beyond a period of six (6) months from its commencement unless  
3134 extended by the youth court for an additional period not to exceed  
3135 six (6) months by court authorization prior to the expiration of  
3136 the original six-month period. In no event shall the custody or  
3137 supervision of a child which has been placed with the Department  
3138 of \* \* \* Human Services or the Department of Child Protection  
3139 Services be continued or extended except upon a written finding by  
3140 the youth court judge or referee that reasonable efforts have been  
3141 made to maintain the child within his own home, but that the  
3142 circumstances warrant his removal and there is no reasonable  
3143 alternative to custody, and that reasonable efforts will continue  
3144 to be made towards reunification of the family.

3145 **SECTION 59.** Section 43-21-603, Mississippi Code of 1972, is  
3146 amended as follows:

3147 43-21-603. (1) At the beginning of each disposition  
3148 hearing, the judge shall inform the parties of the purpose of the  
3149 hearing.

3150 (2) All testimony shall be under oath unless waived by all  
3151 parties and may be in narrative form. The court may consider any  
3152 evidence that is material and relevant to the disposition of the  
3153 cause, including hearsay and opinion evidence. At the conclusion  
3154 of the evidence, the youth court shall give the parties an  
3155 opportunity to present oral argument.





3156 (3) If the child has been adjudicated a delinquent child,  
3157 before entering a disposition order, the youth court should  
3158 consider, among others, the following relevant factors:

3159 (a) The nature of the offense;

3160 (b) The manner in which the offense was committed;

3161 (c) The nature and number of a child's prior  
3162 adjudicated offenses;

3163 (d) The child's need for care and assistance;

3164 (e) The child's current medical history, including  
3165 medication and diagnosis;

3166 (f) The child's mental health history, which may  
3167 include, but not be limited to, the Massachusetts Youth Screening  
3168 Instrument version 2 (MAYSI-2);

3169 (g) Copies of the child's cumulative record from the  
3170 last school of record, including special education records, if  
3171 applicable;

3172 (h) Recommendation from the school of record based on  
3173 areas of remediation needed;

3174 (i) Disciplinary records from the school of record; and

3175 (j) Records of disciplinary actions outside of the  
3176 school setting.

3177 (4) If the child has been adjudicated a child in need of  
3178 supervision, before entering a disposition order, the youth court  
3179 should consider, among others, the following relevant factors:

3180 (a) The nature and history of the child's conduct;



3181 (b) The family and home situation; and  
3182 (c) The child's need of care and assistance.

3183 (5) If the child has been adjudicated a neglected child or  
3184 an abused child, before entering a disposition order, the youth  
3185 court shall consider, among others, the following relevant  
3186 factors:

3187 (a) The child's physical and mental conditions;

3188 (b) The child's need of assistance;

3189 (c) The manner in which the parent, guardian or  
3190 custodian participated in, tolerated or condoned the abuse,  
3191 neglect or abandonment of the child;

3192 (d) The ability of a child's parent, guardian or  
3193 custodian to provide proper supervision and care of a child; and

3194 (e) Relevant testimony and recommendations, where  
3195 available, from the foster parent of the child, the grandparents  
3196 of the child, the guardian ad litem of the child, representatives  
3197 of any private care agency that has cared for the child, the  
3198 family protection worker or family protection specialist assigned  
3199 to the case, and any other relevant testimony pertaining to the  
3200 case.

3201 (6) After consideration of all the evidence and the relevant  
3202 factors, the youth court shall enter a disposition order that  
3203 shall not recite any of the facts or circumstances upon which the  
3204 disposition is based, nor shall it recite that a child has been  
3205 found guilty; but it shall recite that a child is found to be a



3206 delinquent child, a child in need of supervision, a neglected  
3207 child or an abused child.

3208 (7) If the youth court orders that the custody or  
3209 supervision of a child who has been adjudicated abused or  
3210 neglected be placed with the Department of \* \* \* Child Protection  
3211 Services or any other person or public or private agency, other  
3212 than the child's parent, guardian or custodian, the youth court  
3213 shall find and the disposition order shall recite that:

3214 (a) (i) Reasonable efforts have been made to maintain  
3215 the child within his own home, but that the circumstances warrant  
3216 his removal and there is no reasonable alternative to custody; or

3217 (ii) The circumstances are of such an emergency  
3218 nature that no reasonable efforts have been made to maintain the  
3219 child within his own home, and that there is no reasonable  
3220 alternative to custody; and

3221 (b) That the effect of the continuation of the child's  
3222 residence within his own home would be contrary to the welfare of  
3223 the child and that the placement of the child in foster care is in  
3224 the best interests of the child; or

3225 (c) Reasonable efforts to maintain the child within his  
3226 home shall not be required if the court determines that:

3227 (i) The parent has subjected the child to  
3228 aggravated circumstances, including, but not limited to,  
3229 abandonment, torture, chronic abuse and sexual abuse; or



3230 (ii) The parent has been convicted of murder of  
3231 another child of that parent, voluntary manslaughter of another  
3232 child of that parent, aided or abetted, attempted, conspired or  
3233 solicited to commit that murder or voluntary manslaughter, or a  
3234 felony assault that results in the serious bodily injury to the  
3235 surviving child or another child of that parent; or

3236 (iii) The parental rights of the parent to a  
3237 sibling have been terminated involuntarily; and

3238 (iv) That the effect of the continuation of the  
3239 child's residence within his own home would be contrary to the  
3240 welfare of the child and that placement of the child in foster  
3241 care is in the best interests of the child.

3242 Once the reasonable efforts requirement is bypassed, the  
3243 court shall have a permanency hearing under Section 43-21-613  
3244 within thirty (30) days of the finding.

3245 (8) Upon a written motion by a party, the youth court shall  
3246 make written findings of fact and conclusions of law upon which it  
3247 relies for the disposition order. If the disposition ordered by  
3248 the youth court includes placing the child in the custody of a  
3249 training school, an admission packet shall be prepared for the  
3250 child that contains the following information:

3251 (a) The child's current medical history, including  
3252 medications and diagnosis;

3253 (b) The child's mental health history;



3254 (c) Copies of the child's cumulative record from the  
3255 last school of record, including special education records, if  
3256 reasonably available;

3257 (d) Recommendation from the school of record based on  
3258 areas of remediation needed;

3259 (e) Disciplinary records from the school of record; and

3260 (f) Records of disciplinary actions outside of the  
3261 school setting, if reasonably available.

3262 Only individuals who are permitted under the Health Insurance  
3263 Portability and Accountability Act of 1996 (HIPAA) shall have  
3264 access to a child's medical records which are contained in an  
3265 admission packet. The youth court shall provide the admission  
3266 packet to the training school at or before the child's arrival at  
3267 the training school. The admittance of any child to a training  
3268 school shall take place between the hours of 8:00 a.m. and 3:00  
3269 p.m. on designated admission days.

3270 (9) When a child in the jurisdiction of the Youth Court is  
3271 committed to the custody of the Mississippi Department of \* \* \*  
3272 Child Protection Services and is believed to be in need of  
3273 treatment for a mental or emotional disability or infirmity, the  
3274 Department of \* \* \* Child Protection Services shall file an  
3275 affidavit alleging that the child is in need of mental health  
3276 services with the Youth Court. The Youth Court shall refer the  
3277 child to the appropriate community mental health center for  
3278 evaluation pursuant to Section 41-21-67. If the prescreening



3279 evaluation recommends residential care, the Youth Court shall  
3280 proceed with civil commitment pursuant to Sections 41-21-61 et  
3281 seq., 43-21-315 and 43-21-611, and the Department of Mental  
3282 Health, once commitment is ordered, shall provide appropriate  
3283 care, treatment and services for at least as many adolescents as  
3284 were provided services in fiscal year 2004 in its facilities.

3285 (10) Any screening and assessment examinations ordered by  
3286 the court may aid in dispositions related to delinquency, but no  
3287 statements or admissions made during the course thereof may be  
3288 admitted into evidence against the child on the issue of whether  
3289 the child committed a delinquent act.

3290 **SECTION 60.** Section 43-21-613, Mississippi Code of 1972, is  
3291 amended as follows:

3292 43-21-613. (1) If the youth court finds, after a hearing  
3293 which complies with the sections governing adjudicatory hearings,  
3294 that the terms of a delinquency or child in need of supervision  
3295 disposition order, probation or parole have been violated, the  
3296 youth court may, in its discretion, revoke the original  
3297 disposition and make any disposition which it could have  
3298 originally ordered. The hearing shall be initiated by the filing  
3299 of a petition that complies with the sections governing petitions  
3300 in this chapter and that includes a statement of the youth court's  
3301 original disposition order, probation or parole, the alleged  
3302 violation of that order, probation or parole, and the facts which  
3303 show the violation of that order, probation or parole. Summons



3304 shall be served in the same manner as summons for an adjudicatory  
3305 hearing.

3306 (2) On motion of a child or a child's parent, guardian or  
3307 custodian, the youth court may, in its discretion, conduct an  
3308 informal hearing to review the disposition order. If the youth  
3309 court finds a material change of circumstances relating to the  
3310 disposition of the child, the youth court may modify the  
3311 disposition order to any appropriate disposition of equal or  
3312 greater precedence which the youth court could have originally  
3313 ordered.

3314 (3) (a) Unless the youth court's jurisdiction has been  
3315 terminated, all disposition orders for supervision, probation or  
3316 placement of a child with an individual or an agency shall be  
3317 reviewed by the youth court judge or referee at least annually to  
3318 determine if continued placement, probation or supervision is in  
3319 the best interest of the child or the public. For children who  
3320 have been adjudicated abused or neglected, the youth court shall  
3321 conduct a permanency hearing within twelve (12) months after the  
3322 earlier of:

3323 (i) An adjudication that the child has been abused  
3324 or neglected; or

3325 (ii) The date of the child's removal from the  
3326 allegedly abusive or neglectful custodian/parent. Notice of such  
3327 hearing shall be given in accordance with the provisions of  
3328 Section 43-21-505(5). In conducting the hearing, the judge or



3329 referee shall require a written report and may require information  
3330 or statements from the child's youth court counselor, parent,  
3331 guardian or custodian, which includes, but is not limited to, an  
3332 evaluation of the child's progress and recommendations for further  
3333 supervision or treatment. The judge or referee shall, at the  
3334 permanency hearing determine the future status of the child,  
3335 including, but not limited to, whether the child should be  
3336 returned to the parent(s) or placed with suitable relatives,  
3337 placed for adoption, placed for the purpose of establishing  
3338 durable legal custody or should, because of the child's special  
3339 needs or circumstances, be continued in foster care on a permanent  
3340 or long-term basis. If the child is in an out-of-state placement,  
3341 the hearing shall determine whether the out-of-state placement  
3342 continues to be appropriate and in the best interest of the child.  
3343 At the permanency hearing the judge or referee shall determine,  
3344 and the youth court order shall recite that reasonable efforts  
3345 were made by the Department of \* \* \* Child Protection Services to  
3346 finalize the child's permanency plan that was in effect on the  
3347 date of the permanency hearing. The judge or referee may find  
3348 that reasonable efforts to maintain the child within his home  
3349 shall not be required in accordance with Section 43-21-603(7)(c),  
3350 and that the youth court shall continue to conduct permanency  
3351 hearings for a child who has been adjudicated abused or neglected,  
3352 at least annually thereafter, for as long as the child remains in





3353 the custody of the Mississippi Department of \* \* \* Child  
3354 Protection Services.

3355 (b) The court may find that the filing of a termination  
3356 of parental rights petition is not in the child's best interest  
3357 if:

3358 (i) The child is being cared for by a relative;  
3359 and/or

3360 (ii) The Department of \* \* \* Child Protection  
3361 Services has documented compelling and extraordinary reasons why  
3362 termination of parental rights would not be in the best interests  
3363 of the child.

3364 (c) The provisions of this subsection shall also apply  
3365 to review of cases involving a dependent child; however, such  
3366 reviews shall take place not less frequently than once each one  
3367 hundred eighty (180) days. A dependent child shall be ordered by  
3368 the youth court judge or referee to be returned to the custody and  
3369 home of the child's parent, guardian or custodian unless the judge  
3370 or referee, upon such review, makes a written finding that the  
3371 return of the child to the home would be contrary to the child's  
3372 best interests.

3373 (d) Reviews are not to be conducted unless explicitly  
3374 ordered by the youth court concerning those cases in which the  
3375 court has granted durable legal custody. In such cases, the  
3376 Department of \* \* \* Child Protection Services shall be released



3377 from any oversight or monitoring responsibilities, and relieved of  
3378 physical and legal custody and supervision of the child.

3379 (4) The provisions of this section do not apply to  
3380 proceedings concerning durable legal relative guardianship.

3381 **SECTION 61.** Section 43-27-101, Mississippi Code of 1972, is  
3382 amended as follows:

3383 43-27-101. For purposes of Sections 43-27-101 and 43-27-103,  
3384 the following words shall have the meanings ascribed in this  
3385 section, unless the context requires otherwise:

3386 (a) "Child or youth in the custody of the Department  
3387 of \* \* \* Child Protection Services" means an individual:

3388 (i) Who has not yet reached his eighteenth  
3389 birthday;

3390 (ii) Who has been legally placed in the custody of  
3391 the Department of \* \* \* Child Protection Services by the youth  
3392 court and for whom custody with the Department of \* \* \* Child  
3393 Protection Services was not sought by the parents or legal  
3394 custodians or guardians for the parents' or legal custodians' or  
3395 guardians' legal responsibilities to relieve themselves of the  
3396 responsibility for paying for treatment for a child or youth; and

3397 (iii) Who is unable to be maintained with the  
3398 family or legal guardians or custodians due to his or her need for  
3399 specialized care.



3400 (b) "Child or youth under the supervision of the  
3401 Department of \* \* \* Child Protection Services" means an  
3402 individual:

3403 (i) Who has not yet reached his eighteenth  
3404 birthday; and

3405 (ii) Who has been referred for abuse or neglect  
3406 and for whom a case has been opened and is active in the \* \* \*  
3407 Department of Child Protection Services.

3408 (c) "Plan of care" means a written plan of services  
3409 needed to be provided for a child or youth and his or her family  
3410 in order to provide the special care or services required.

3411 (d) "Special needs crisis" means:

3412 (i) Conduct or behavioral problems of such a  
3413 severe nature and level that family or parental violence, abuse,  
3414 and/or neglect pose an imminent threat or are present; or

3415 (ii) Conduct or behavioral problems of such a  
3416 severe nature and level that family or parental violence, abuse,  
3417 and/or neglect pose an imminent threat or are present.

3418 (e) "Specialized care" means:

3419 (i) "Self-care," which means the ability to  
3420 provide, sustain and protect himself or herself at a level  
3421 appropriate to his or her age;

3422 (ii) "Interpersonal relationships," which means  
3423 the ability to build and maintain satisfactory relationships with  
3424 peers and adults;



3425 (iii) "Family life," which means the capacity to  
3426 live in a family or family-type environment;

3427 (iv) "Self-direction," which means the child's  
3428 ability to control his or her behavior and to make decisions in a  
3429 manner appropriate to his or her age;

3430 (v) "Education," which means the ability to learn  
3431 social and intellectual skill from teachers in an available  
3432 educational setting.

3433 (f) "Special needs child" means a child with a variety  
3434 of handicapping conditions or disabilities, including emotional or  
3435 severely emotional disorders. These conditions or disabilities  
3436 present the need for special medical attention, supervision and  
3437 therapy on a very regimented basis.

3438 **SECTION 62.** Section 43-27-103, Mississippi Code of 1972, is  
3439 amended as follows:

3440 43-27-103. (1) Sections 43-27-101 and 43-27-103 shall  
3441 enable the development by the Department of Human Services and the  
3442 Department of Child Protection Services of a system of services  
3443 for children or youth in the custody of or under the supervision  
3444 of the Department of Human Services or the Department of Child  
3445 Protection Services, if funds are appropriated to the department  
3446 for that purpose. The system of services may consist of emergency  
3447 response services, an early intervention and treatment unit,  
3448 respite care, crisis nurseries, specialized outpatient or  
3449 inpatient treatment services, special needs foster care,



3450 therapeutic foster care, emergency foster homes, and Medicaid  
3451 targeted case management for abused and neglected children and  
3452 youth as well as children adjudicated delinquent or in need of  
3453 supervision. Any of these services that are provided shall be  
3454 arranged by and coordinated through the Department of Human  
3455 Services or the Department of Child Protection Services, and the  
3456 department may contract with public or private agencies or  
3457 entities to provide any of the services or may provide any of the  
3458 services itself. All of the services shall be provided in  
3459 facilities that meet the standards set by the Department of Human  
3460 Services or the Department of Child Protection Services for the  
3461 particular type of facility involved. None of the services  
3462 provided shall duplicate existing services except where there is a  
3463 documented need for expansion of the services.

3464 (2) A description of the services that may be provided under  
3465 Sections 43-27-101 and 43-27-103 are as follows:

3466 (a) "Emergency response services" means services to  
3467 respond to children or youth in severe crisis and include:

3468 (i) Emergency single point phone lines;

3469 (ii) Crisis care coordinators staffing shifts that  
3470 enable twenty-four-hour per day response as "front\_line"  
3471 professionals when crisis calls are received, assist with  
3472 decision-making, family support, initiate plan of action and  
3473 remain "on call" for the first seventy-two (72) hours for other



3474 service professionals to get in place and insure development of a  
3475 plan of care;

3476 (iii) Acute care/emergency medical response  
3477 through contracted services with up to five (5) regional hospitals  
3478 providing emergency room services and hospitalization for up to  
3479 seventy-two (72) hours with a maximum of One Hundred Dollars  
3480 (\$100.00) per day;

3481 (iv) Case managers;

3482 (v) Respite services; and

3483 (vi) Assessment services contracted with social  
3484 workers, psychologists, psychiatrists and other health  
3485 professionals.

3486 (b) "Early intervention and treatment unit" means a  
3487 unique, nonhospital crisis service in a residential context that  
3488 is able to provide the level of support and intervention needed to  
3489 resolve the crisis and as an alternative to hospitalization. This  
3490 unit shall provide specialized assessment, including a variety of  
3491 treatment options and services to best intervene in a child or  
3492 youth's crisis, and provide an appropriate plan for further  
3493 services upon returning to the home and community. Staff-to-child  
3494 or youth ratio shall be high, with multidisciplinary, specialized  
3495 services for up to six (6) children or youths at one (1) time, and  
3496 with the maximum assessment and treatment planning and services  
3497 being ninety (90) days for most children or youths.



3498           (c) "Respite care" means planned temporary care for a  
3499 period of time ranging from a few hours within a twenty-four-hour  
3500 period to an overnight or weekend stay to a maximum of ten (10)  
3501 days. Care may be provided in-home or out-of-home with trained  
3502 respite parents or counselors and is designed to provide a planned  
3503 break for the parents from the caretaking role with the child.

3504           (d) "Crisis nurseries" means a program providing  
3505 therapeutic nursery treatment services to preschool aged children  
3506 who as preschoolers demonstrate significant behavioral or  
3507 emotional disorders. These services shall be to therapeutically  
3508 address developmental and emotional behavioral difficulties  
3509 through direct intervention with the child in a nursery school  
3510 environment and to intervene with parents to provide education,  
3511 support and therapeutic services.

3512           (e) "Specialized outpatient or inpatient treatment  
3513 services," such as sex offender treatment, means specialized  
3514 treatment for perpetrators of sexual offenses with children.

3515           (f) "Special needs foster care" means foster care for  
3516 those children with a variety of handicapping conditions or  
3517 disabilities, including serious emotional disturbance.

3518           (g) "Therapeutic foster care" means residential mental  
3519 health services provided to children and adolescents in a family  
3520 setting, utilizing specially trained foster parents. Therapeutic  
3521 foster care essentially involves the following features:



3522 (i) Placement with foster parents who have been  
3523 carefully selected by knowledgeable, well-trained mental health  
3524 and social service professionals to work with children with an  
3525 emotional disturbance;

3526 (ii) Provision of special training to the foster  
3527 parents to assist them in working with children with an emotional  
3528 disturbance;

3529 (iii) Low staff-to-child ratio, allowing the  
3530 therapeutic staff to work very closely with each child, the foster  
3531 parents and the biological parents, if available;

3532 (iv) Creation of a support system among these  
3533 specially trained foster parents; and

3534 (v) Payment of a special foster care payment to  
3535 the foster parents.

3536 (h) "Emergency foster homes" means those homes used on  
3537 a short-term basis for (i) children who are temporarily removed  
3538 from the home in response to a crisis situation, or (ii) youth who  
3539 exhibit special behavioral or emotional problems for whom removal  
3540 from the existing home situation is necessary. In some cases they  
3541 may provide an emergency placement for infants and toddlers for  
3542 whom no regular foster home is available, rather than placement  
3543 into an emergency shelter where older and larger groups of  
3544 children are placed. Foster parents are trained to deal with the  
3545 special needs of children placed in these emergency homes.





3546 (i) "Medicaid targeted case management" means  
3547 activities that are related to assuring the completion of proper  
3548 client evaluations; arranging and supporting treatment plans,  
3549 monitoring services, coordinating service delivery and other  
3550 related actions.

3551 **SECTION 63.** Section 43-27-109, Mississippi Code of 1972, is  
3552 amended as follows:

3553 43-27-109. The Department of Human Services and the  
3554 Department of Child Protection Services may employ a sufficient  
3555 number of new family protection specialists, youth counselors and  
3556 clerical staff to reduce the caseload sizes for social workers and  
3557 youth counselors of the department and to reduce the workload on  
3558 clerical staff, if funds are appropriated to the department for  
3559 that purpose.

3560 **SECTION 64.** Section 43-27-113, Mississippi Code of 1972, is  
3561 amended as follows:

3562 43-27-113. In any investigation by the Department of \* \* \*  
3563 Child Protection Services of a report made under Section 43-21-101  
3564 et seq. of the abuse or neglect of a child as defined in Section  
3565 43-21-105, the department may request the appropriate law  
3566 enforcement officer with jurisdiction to accompany the department  
3567 in its investigation, and in such cases the law enforcement  
3568 officer shall comply with such request.

3569 **SECTION 65.** Section 43-27-115, Mississippi Code of 1972, is  
3570 amended as follows:



3571           43-27-115. The Department of \* \* \* Child Protection Services  
3572 is authorized to employ one (1) program manager for each  
3573 department region, if funds are appropriated to the department for  
3574 that purpose, whose duties shall be to develop an ongoing public  
3575 education program to inform Mississippi citizens about the needs  
3576 of the state's children, youth and families, the work of the  
3577 department in addressing these needs and how citizens might become  
3578 involved. The Department of \* \* \* Child Protection Services shall  
3579 develop formal agreements of cooperation and protocol between the  
3580 department and other providers of services to children and  
3581 families including school districts, hospitals, law enforcement  
3582 agencies, mental health centers and others.

3583           **SECTION 66.** Section 43-27-117, Mississippi Code of 1972, is  
3584 amended as follows:

3585           43-27-117. The Department of \* \* \* Child Protection Services  
3586 is authorized to establish an online automated child welfare  
3587 information system, if funds are appropriated to the department  
3588 for that purpose, to give the department the capability to supply  
3589 foster care, adoption and child abuse and neglect data to the  
3590 federal Department of Health and Human Services in a specified  
3591 format as required, and to help the department in tracking child  
3592 abuse and neglect referrals and the number of children affected in  
3593 those referrals.

3594           **SECTION 67.** Section 57-39-43, Mississippi Code of 1972, is  
3595 amended as follows:



3596           57-39-43. (1) There is created in the State Treasury a fund  
3597 to be designated as the "Mississippi Oil Overcharge Fund,"  
3598 referred to in this section as "fund." Monies in the fund,  
3599 referred to in this section as "oil overcharge funds," may be used  
3600 for projects or programs authorized in accordance with appropriate  
3601 federal court orders regarding the use of oil overcharge funds or  
3602 by the United States Department of Energy, or both.

3603           (2) The Treasurer shall deposit or transfer into the fund  
3604 any funds received as a result of federal statute or  
3605 administrative or regulatory actions requiring the disbursement to  
3606 states of refund monies for alleged overcharges for crude oil or  
3607 refined petroleum products. The Treasurer may establish accounts  
3608 within the fund as necessary for management of monies in the fund.

3609           (3) Expenditures may be made from the fund upon requisition  
3610 to the Treasurer by the Executive Director of the \* \* \*  
3611 Mississippi Development Authority, the Executive Director of the  
3612 Department of Human Services, or the Commissioner of the  
3613 Department of Child Protection Services.

3614           (4) The fund shall be treated as a special trust fund.  
3615 Interest earned on the principal in the fund shall be credited by  
3616 the Treasurer to the fund.

3617           (5) In their annual budget request, the \* \* \* Mississippi  
3618 Development Authority, the Department of Human Services, and the  
3619 Department of Child Protection Services shall submit a list of



3620 projects or programs for which monies from the fund are requested  
3621 to be used.

3622           **SECTION 68.** Section 93-5-23, Mississippi Code of 1972, is  
3623 amended as follows:

3624           93-5-23. When a divorce shall be decreed from the bonds of  
3625 matrimony, the court may, in its discretion, having regard to the  
3626 circumstances of the parties and the nature of the case, as may  
3627 seem equitable and just, make all orders touching the care,  
3628 custody and maintenance of the children of the marriage, and also  
3629 touching the maintenance and alimony of the wife or the husband,  
3630 or any allowance to be made to her or him, and shall, if need be,  
3631 require bond, sureties or other guarantee for the payment of the  
3632 sum so allowed. Orders touching on the custody of the children of  
3633 the marriage shall be made in accordance with the provisions of  
3634 Section 93-5-24. For the purposes of orders touching the  
3635 maintenance and alimony of the wife or husband, "property" and "an  
3636 asset of a spouse" shall not include any interest a party may have  
3637 as an heir at law of a living person or any interest under a  
3638 third-party will, nor shall any such interest be considered as an  
3639 economic circumstance or other factor. The court may afterwards,  
3640 on petition, change the decree, and make from time to time such  
3641 new decrees as the case may require. However, where proof shows  
3642 that both parents have separate incomes or estates, the court may  
3643 require that each parent contribute to the support and maintenance  
3644 of the children of the marriage in proportion to the relative



3645 financial ability of each. In the event a legally responsible  
3646 parent has health insurance available to him or her through an  
3647 employer or organization that may extend benefits to the  
3648 dependents of such parent, any order of support issued against  
3649 such parent may require him or her to exercise the option of  
3650 additional coverage in favor of such children as he or she is  
3651 legally responsible to support.

3652 Whenever the court has ordered a party to make periodic  
3653 payments for the maintenance or support of a child, but no bond,  
3654 sureties or other guarantee has been required to secure such  
3655 payments, and whenever such payments as have become due remain  
3656 unpaid for a period of at least thirty (30) days, the court may,  
3657 upon petition of the person to whom such payments are owing, or  
3658 such person's legal representative, enter an order requiring that  
3659 bond, sureties or other security be given by the person obligated  
3660 to make such payments, the amount and sufficiency of which shall  
3661 be approved by the court. The obligor shall, as in other civil  
3662 actions, be served with process and shall be entitled to a hearing  
3663 in such case.

3664 At the discretion of the court, any person found in contempt  
3665 for failure to pay child support and imprisoned therefor may be  
3666 referred for placement in a state, county or municipal  
3667 restitution, house arrest or restorative justice center or  
3668 program, provided such person meets the qualifications prescribed  
3669 in Section 99-37-19.



3670 Whenever in any proceeding in the chancery court concerning  
3671 the custody of a child a party alleges that the child whose  
3672 custody is at issue has been the victim of sexual or physical  
3673 abuse by the other party, the court may, on its own motion, grant  
3674 a continuance in the custody proceeding only until such allegation  
3675 has been investigated by the Department of \* \* \* Child Protection  
3676 Services. At the time of ordering such continuance, the court may  
3677 direct the party and his attorney making such allegation of child  
3678 abuse to report in writing and provide all evidence touching on  
3679 the allegation of abuse to the Department of \* \* \* Child  
3680 Protection Services. The Department of \* \* \* Child Protection  
3681 Services shall investigate such allegation and take such action as  
3682 it deems appropriate and as provided in such cases under the Youth  
3683 Court Law (being Chapter 21 of Title 43, Mississippi Code of 1972)  
3684 or under the laws establishing family courts (being Chapter 23 of  
3685 Title 43, Mississippi Code of 1972).

3686 If after investigation by the Department of \* \* \* Child  
3687 Protection Services or final disposition by the youth court or  
3688 family court allegations of child abuse are found to be without  
3689 foundation, the chancery court shall order the alleging party to  
3690 pay all court costs and reasonable attorney's fees incurred by the  
3691 defending party in responding to such allegation.

3692 The court may investigate, hear and make a determination in a  
3693 custody action when a charge of abuse and/or neglect arises in the  
3694 course of a custody action as provided in Section 43-21-151, and



3695 in such cases the court shall appoint a guardian ad litem for the  
3696 child as provided under Section 43-21-121, who shall be an  
3697 attorney. Unless the chancery court's jurisdiction has been  
3698 terminated, all disposition orders in such cases for placement  
3699 with the Department of \* \* \* Child Protection Services shall be  
3700 reviewed by the court or designated authority at least annually to  
3701 determine if continued placement with the department is in the  
3702 best interest of the child or public.

3703 The duty of support of a child terminates upon the  
3704 emancipation of the child. The court may determine that  
3705 emancipation has occurred pursuant to Section 93-11-65.

3706 Custody and visitation upon military temporary duty,  
3707 deployment or mobilization shall be governed by Section 93-5-34.

3708 **SECTION 69.** Section 93-17-3, Mississippi Code of 1972, is  
3709 amended as follows:

3710 93-17-3. (1) Except as otherwise provided in this section,  
3711 a court of this state has jurisdiction over a proceeding for the  
3712 adoption or readoption of a minor commenced under this chapter if:

3713 (a) Immediately before commencement of the proceeding,  
3714 the minor lived in this state with a parent, a guardian, a  
3715 prospective adoptive parent or another person acting as parent,  
3716 for at least six (6) consecutive months, excluding periods of  
3717 temporary absence, or, in the case of a minor under six (6) months  
3718 of age, lived in this state from soon after birth with any of



3719 those individuals and there is available in this state substantial  
3720 evidence concerning the minor's present or future care;

3721 (b) Immediately before commencement of the proceeding,  
3722 the prospective adoptive parent lived in this state for at least  
3723 six (6) consecutive months, excluding periods of temporary  
3724 absence, and there is available in this state substantial evidence  
3725 concerning the minor's present or future care;

3726 (c) The agency that placed the minor for adoption is  
3727 licensed in this state and it is in the best interest of the minor  
3728 that a court of this state assume jurisdiction because:

3729 (i) The minor and the minor's parents, or the  
3730 minor and the prospective adoptive parent, have a significant  
3731 connection with this state; and

3732 (ii) There is available in this state substantial  
3733 evidence concerning the minor's present or future care;

3734 (d) The minor and the prospective adoptive parent are  
3735 physically present in this state and the minor has been abandoned  
3736 or it is necessary in an emergency to protect the minor because  
3737 the minor has been subjected to or threatened with mistreatment or  
3738 abuse or is otherwise neglected;

3739 (e) It appears that no other state would have  
3740 jurisdiction under prerequisites substantially in accordance with  
3741 paragraphs (a) through (d), or another state has declined to  
3742 exercise jurisdiction on the ground that this state is the more  
3743 appropriate forum to hear a petition for adoption of the minor,





3744 and it is in the best interest of the minor that a court of this  
3745 state assume jurisdiction; or

3746 (f) The child has been adopted in a foreign country,  
3747 the agency that placed the minor for adoption is licensed in this  
3748 state, and it is in the best interest of the child to be readopted  
3749 in a court of this state having jurisdiction.

3750 (2) A court of this state may not exercise jurisdiction over  
3751 a proceeding for adoption of a minor if, at the time the petition  
3752 for adoption is filed, a proceeding concerning the custody or  
3753 adoption of the minor is pending in a court of another state  
3754 exercising jurisdiction substantially in conformity with the  
3755 Uniform Child Custody Jurisdiction Act or this section unless the  
3756 proceeding is stayed by the court of the other state.

3757 (3) If a court of another state has issued a decree or order  
3758 concerning the custody of a minor who may be the subject of a  
3759 proceeding for adoption in this state, a court of this state may  
3760 not exercise jurisdiction over a proceeding for adoption of the  
3761 minor unless:

3762 (a) The court of this state finds that the court of the  
3763 state which issued the decree or order:

3764 (i) Does not have continuing jurisdiction to  
3765 modify the decree or order under jurisdictional prerequisites  
3766 substantially in accordance with the Uniform Child Custody  
3767 Jurisdiction Act or has declined to assume jurisdiction to modify  
3768 the decree or order; or



3769 (ii) Does not have jurisdiction over a proceeding  
3770 for adoption substantially in conformity with subsection (1) (a)  
3771 through (d) or has declined to assume jurisdiction over a  
3772 proceeding for adoption; and

3773 (b) The court of this state has jurisdiction over the  
3774 proceeding.

3775 (4) Any person may be adopted in accordance with the  
3776 provisions of this chapter in termtime or in vacation by an  
3777 unmarried adult or by a married person whose spouse joins in the  
3778 petition. The adoption shall be by sworn petition filed in the  
3779 chancery court of the county in which the adopting petitioner or  
3780 petitioners reside or in which the child to be adopted resides or  
3781 was born, or was found when it was abandoned or deserted, or in  
3782 which the home is located to which the child has been surrendered  
3783 by a person authorized to so do. The petition shall be  
3784 accompanied by a doctor's or nurse practitioner's certificate  
3785 showing the physical and mental condition of the child to be  
3786 adopted and a sworn statement of all property, if any, owned by  
3787 the child. In addition, the petition shall be accompanied by  
3788 affidavits of the petitioner or petitioners stating the amount of  
3789 the service fees charged by any adoption agencies or adoption  
3790 facilitators used by the petitioner or petitioners and any other  
3791 expenses paid by the petitioner or petitioners in the adoption  
3792 process as of the time of filing the petition. If the doctor's or  
3793 nurse practitioner's certificate indicates any abnormal mental or



3794 physical condition or defect, the condition or defect shall not,  
3795 in the discretion of the chancellor, bar the adoption of the child  
3796 if the adopting parent or parents file an affidavit stating full  
3797 and complete knowledge of the condition or defect and stating a  
3798 desire to adopt the child, notwithstanding the condition or  
3799 defect. The court shall have the power to change the name of the  
3800 child as a part of the adoption proceedings. The word "child" in  
3801 this section shall be construed to refer to the person to be  
3802 adopted, though an adult.

3803 (5) Adoption by couples of the same gender is prohibited.

3804 (6) No person may be placed in the home of or adopted by the  
3805 prospective adopting parties before a court-ordered or voluntary  
3806 home study is satisfactorily completed by a licensed adoption  
3807 agency, a licensed, experienced social worker approved by the  
3808 chancery court or by the Department of \* \* \* Child Protection  
3809 Services on the prospective adoptive parties if required by  
3810 Section 93-17-11.

3811 (7) No person may be adopted by a person or persons who  
3812 reside outside the State of Mississippi unless the provisions of  
3813 the Interstate Compact for Placement of Children (Section 43-18-1  
3814 et seq.) have been complied with. In such cases Forms 100A, 100B  
3815 (if applicable) and evidence of Interstate Compact for Placement  
3816 of Children approval shall be added to the permanent adoption  
3817 record file within one (1) month of the placement, and a minimum  
3818 of two (2) post-placement reports conducted by a licensed



3819 child-placing agency shall be provided to the Mississippi  
3820 Department of \* \* \* Child Protection Services Interstate Compact  
3821 for Placement of Children office.

3822 (8) No person may be adopted unless the provisions of the  
3823 Indian Child Welfare Act (ICWA) have been complied with, if  
3824 applicable. When applicable, proof of compliance shall be  
3825 included in the court adoption file prior to finalization of the  
3826 adoption. If not applicable, a written statement or paragraph in  
3827 the petition for adoption shall be included in the adoption  
3828 petition stating that the provisions of ICWA do not apply before  
3829 finalization.

3830 (9) The readoption of a child who has automatically acquired  
3831 United States citizenship following an adoption in a foreign  
3832 country and who possesses a Certificate of Citizenship in  
3833 accordance with the Child Citizenship Act, CAA, Public Law  
3834 106-395, may be given full force and effect in a readoption  
3835 proceeding conducted by a court of competent jurisdiction in this  
3836 state by compliance with the Mississippi Registration of Foreign  
3837 Adoptions Act, Article 9 of this chapter.

3838 **SECTION 70.** Section 93-17-5, Mississippi Code of 1972, is  
3839 amended as follows:

3840 93-17-5. (1) There shall be made parties to the proceeding  
3841 by process or by the filing therein of a consent to the adoption  
3842 proposed in the petition, which consent shall be duly sworn to or



3843 acknowledged and executed only by the following persons, but not  
3844 before seventy-two (72) hours after the birth of the child:

3845 (a) The parents, or parent, if only one (1) parent,  
3846 though either be under the age of twenty-one (21) years;

3847 (b) If both parents are dead, then any two (2) adult  
3848 kin of the child within the third degree computed according to the  
3849 civil law; if one of such kin is in possession of the child, he or  
3850 she shall join in the petition or be made a party to the suit; or

3851 (c) The guardian ad litem of an abandoned child, upon  
3852 petition showing that the names of the parents of the child are  
3853 unknown after diligent search and inquiry by the petitioners. In  
3854 addition to the above, there shall be made parties to any  
3855 proceeding to adopt a child, either by process or by the filing of  
3856 a consent to the adoption proposed in the petition, the following:

3857 (i) Those persons having physical custody of the  
3858 child, except persons who are acting as foster parents as a result  
3859 of placement with them by the Department of \* \* \* Child Protection  
3860 Services of the State of Mississippi.

3861 (ii) Any person to whom custody of the child may  
3862 have been awarded by a court of competent jurisdiction of the  
3863 State of Mississippi.

3864 (iii) The agent of the \* \* \* Department of Child  
3865 Protection Services of the State of Mississippi that has placed a  
3866 child in foster care, either by agreement or by court order.



3867           (2) The consent may also be executed and filed by the duly  
3868 authorized officer or representative of a home to whose care the  
3869 child has been delivered. The child shall join the petition by  
3870 the child's next friend.

3871           (3) If consent is not filed, process shall be had upon the  
3872 parties as provided by law for process in person or by  
3873 publication, if they are nonresidents of the state or are not  
3874 found therein after diligent search and inquiry, the court or  
3875 chancellor in vacation may fix a date in termtime or in vacation  
3876 to which process may be returnable and shall have power to proceed  
3877 in termtime or vacation. In any event, if the child is more than  
3878 fourteen (14) years of age, a consent to the adoption, sworn to or  
3879 acknowledged by the child, shall also be required or personal  
3880 service of process shall be had upon the child in the same manner  
3881 and in the same effect as if the child were an adult.

3882           **SECTION 71.** Section 93-17-8, Mississippi Code of 1972, is  
3883 amended as follows:

3884           93-17-8. (1) Whenever an adoption becomes a contested  
3885 matter, whether after a hearing on a petition for determination of  
3886 rights under Section 93-17-6 or otherwise, the court:

3887           (a) Shall, on motion of any party or on its own motion,  
3888 issue an order for immediate blood or tissue sampling in  
3889 accordance with the provisions of Section 93-9-21 et seq., if  
3890 paternity is at issue. The court shall order an expedited report



3891 of such testing and shall hold the hearing resolving this matter  
3892 at the earliest time possible.

3893 (b) Shall appoint a guardian ad litem to represent the  
3894 child. Such guardian ad litem shall be an attorney, however his  
3895 duties are as guardian ad litem and not as attorney for the child.  
3896 The reasonable costs of the guardian ad litem shall be taxed as  
3897 costs of court. Neither the child nor anyone purporting to act on  
3898 his behalf may waive the appointment of a guardian ad litem.

3899 (c) Shall determine first whether or not the objecting  
3900 parent is entitled to so object under the criteria of Section  
3901 93-17-7 and then shall determine the custody of the child in  
3902 accord with the best interests of the child and the rights of the  
3903 parties as established by the hearings and judgments.

3904 (d) Shall schedule all hearings concerning the  
3905 contested adoption as expeditiously as possible for prompt  
3906 conclusion of the matter.

3907 (2) In determining the custody of the child after a finding  
3908 that the adoption will not be granted, the fact of the surrender  
3909 of the child for adoption by a parent shall not be taken as any  
3910 evidence of that parent's abandonment or desertion of the child or  
3911 of that parent's unfitness as a parent.

3912 (3) In contested adoptions arising through petitions for  
3913 determination of rights where the prospective adopting parents  
3914 were not parties to that proceeding, they need not be made parties  
3915 to the contested adoption until there has been a ruling that the



3916 objecting parent is not entitled to enter a valid objection to the  
3917 adoption. At that point the prospective adopting parents shall be  
3918 made parties by joinder which shall show their suitability to be  
3919 adopting parents as would a petition for adoption. The identity  
3920 and suitability of the prospective adopting parents shall be made  
3921 known to the court and the guardian ad litem, but shall not be  
3922 made known to other parties to the proceeding unless the court  
3923 determines that the interests of justice or the best interests of  
3924 the child require it.

3925 (4) No birth parent or alleged parent shall be permitted to  
3926 contradict statements given in a proceeding for the adoption of  
3927 their child in any other proceeding concerning that child or his  
3928 ancestry.

3929 (5) Appointment of a guardian ad litem is not required in  
3930 any proceeding under this chapter except as provided in subsection  
3931 (1)(b) above and except for the guardian ad litem needed for an  
3932 abandoned child. It shall not be necessary for a guardian ad  
3933 litem to be appointed where the chancery judge presiding in the  
3934 adoption proceeding deems it unnecessary and no adoption agency is  
3935 involved in the proceeding. No final decree of adoption  
3936 heretofore granted shall be set aside or modified because a  
3937 guardian ad litem was not appointed unless as the result of a  
3938 direct appeal not now barred.





3939 (6) The provisions of Chapter 15 of this Title 93,  
3940 Mississippi Code of 1972, are not applicable to proceedings under  
3941 this chapter except as specifically provided by reference herein.

3942 (7) The court may order a child's birth father, identified  
3943 as such in the proceedings, to reimburse the Department of \* \* \*  
3944 Child Protection Services, the foster parents, the adopting  
3945 parents, the home, any other agency or person who has assumed  
3946 liability for such child, all or part of the costs of the medical  
3947 expenses incurred for the mother and the child in connection with  
3948 the birth of the child, as well as reasonable support for the  
3949 child after his birth.

3950 **SECTION 72.** Section 93-17-11, Mississippi Code of 1972, is  
3951 amended as follows:

3952 93-17-11. At any time after the filing of the petition for  
3953 adoption and completion of process thereon, and before the  
3954 entering of a final decree, the court may, in its discretion, of  
3955 its own motion or on motion of any party to the proceeding,  
3956 require an investigation and report to the court to be made by any  
3957 person, officer or home as the court may designate and direct  
3958 concerning the child, and shall require in adoptions, other than  
3959 those in which the petitioner or petitioners are a relative or  
3960 stepparent of the child, that a home study be performed of the  
3961 petitioner or petitioners by a licensed adoption agency or by the  
3962 Department of \* \* \* Child Protection Services, at the petitioner's  
3963 or petitioners' sole expense and at no cost to the state or



3964 county. The investigation and report shall give the material  
3965 facts upon which the court may determine whether the child is a  
3966 proper subject for adoption, whether the petitioner or petitioners  
3967 are suitable parents for the child, whether the adoption is to its  
3968 best interest, and any other facts or circumstances that may be  
3969 material to the proposed adoption. The home study shall be  
3970 considered by the court in determining whether the petitioner or  
3971 petitioners are suitable parents for the child. The court, when  
3972 an investigation and report are required by the court or by this  
3973 section, shall stay the proceedings in the cause for such  
3974 reasonable time as may be necessary or required in the opinion of  
3975 the court for the completion of the investigation and report by  
3976 the person, officer or home designated and authorized to make the  
3977 same.

3978       Upon the filing of that consent or the completion of the  
3979 process and the filing of the investigation and report, if  
3980 required by the court or by this section, and the presentation of  
3981 such other evidence as may be desired by the court, if the court  
3982 determines that it is to the best interests of the child that an  
3983 interlocutory decree of adoption be entered, the court may  
3984 thereupon enter an interlocutory decree upon such terms and  
3985 conditions as may be determined by the court, in its discretion,  
3986 but including therein that the complete care, custody and control  
3987 of the child shall be vested in the petitioner or petitioners  
3988 until further orders of the court and that during such time the



3989 child shall be and remain a ward of the court. If the court  
3990 determines by decree at any time during the pendency of the  
3991 proceeding that it is not to the best interests of the child that  
3992 the adoption proceed, the petitioners shall be entitled to at  
3993 least five (5) days' notice upon their attorneys of record and a  
3994 hearing with the right of appeal as provided by law from a  
3995 dismissal of the petition; however, the bond perfecting the appeal  
3996 shall be filed within ten (10) days from the entry of the decree  
3997 of dismissal and the bond shall be in such amount as the  
3998 chancellor may determine and supersedeas may be granted by the  
3999 chancellor or as otherwise provided by law for appeal from final  
4000 decrees.

4001 After the entry of the interlocutory decree and before entry  
4002 of the final decree, the court may require such further and  
4003 additional investigation and reports as it may deem proper. The  
4004 rights of the parties filing the consent or served with process  
4005 shall be subject to the decree but shall not be divested until  
4006 entry of the final decree.

4007 **SECTION 73.** Section 93-17-12, Mississippi Code of 1972, is  
4008 amended as follows:

4009 93-17-12. In any child custody matter hereafter filed in any  
4010 chancery or county court in which temporary or permanent custody  
4011 has already been placed with a parent or guardian and in all  
4012 adoptions, the court shall impose a fee for any court-ordered home  
4013 study performed by the Department of \* \* \* Child Protection



4014 Services or any other entity. The fee shall be assessed upon  
4015 either party or upon both parties in the court's discretion. The  
4016 minimum fee imposed shall be not less than Three Hundred Fifty  
4017 Dollars (\$350.00) for each household on which a home study is  
4018 performed. The fee shall be paid directly to the Mississippi  
4019 Department of \* \* \* Child Protection Services prior to the home  
4020 study being conducted by the department or to the entity if the  
4021 study is performed by another entity. The judge may order the fee  
4022 be paid by one or both of the parents or guardian. If the court  
4023 determines that both parents or the guardian are unable to pay the  
4024 fee, the judge shall waive the fee and the cost of the home study  
4025 shall be defrayed by the Department of \* \* \* Child Protection  
4026 Services.

4027 **SECTION 74.** Section 93-17-53, Mississippi Code of 1972, is  
4028 amended as follows:

4029 93-17-53. The purpose of Sections 93-17-51 through 93-17-67  
4030 is to supplement the Mississippi adoption law by making possible  
4031 through public supplemental benefits the most appropriate adoption  
4032 of each child certified by the \* \* \* Mississippi Department of  
4033 Child Protection Services as requiring a supplemental benefit to  
4034 assure adoption.

4035 **SECTION 75.** Section 93-17-57, Mississippi Code of 1972, is  
4036 amended as follows:

4037 93-17-57. The \* \* \* Mississippi Department of Child  
4038 Protection Services shall establish and administer an ongoing



4039 program of supplemental benefits for adoption. Supplemental  
4040 benefits and services for children under this program shall be  
4041 provided out of such funds as may be appropriated to the  
4042 Mississippi Medicaid Commission for the medical services for  
4043 children in foster care, or made available to the department from  
4044 other sources.

4045 **SECTION 76.** Section 93-17-59, Mississippi Code of 1972, is  
4046 amended as follows:

4047 93-17-59. Any child meeting criteria specified in Section  
4048 93-17-55 for whom the \* \* \* Mississippi Department of Child  
4049 Protection Services feels supplemental benefits are necessary to  
4050 improve opportunities for adoption will be eligible for the  
4051 program. The adoption agency shall document that reasonable  
4052 efforts have been made to place the child in adoption without  
4053 supplemental benefits through the use of adoption resource  
4054 exchanges, recruitment and referral to appropriate specialized  
4055 adoption agencies.

4056 **SECTION 77.** Section 93-17-61, Mississippi Code of 1972, is  
4057 amended as follows:

4058 93-17-61. (1) When parents are found and approved for  
4059 adoption of a child certified as eligible for supplemental  
4060 benefits, and before the final decree of adoption is issued, there  
4061 shall be executed a written agreement between the family entering  
4062 into the adoption and the Department of \* \* \* Child Protection  
4063 Services. In individual cases, supplemental benefits may commence



4064 with the adoptive placement or at the appropriate time after the  
4065 adoption decree and will vary with the needs of the child as well  
4066 as the availability of other resources to meet the child's needs.  
4067 The supplemental benefits may be for special services only or for  
4068 money payments as allowed under Section 43-13-115, Mississippi  
4069 Code of 1972, and either for a limited period, for a long-term not  
4070 exceeding the child's eighteenth birthday, or for any combination  
4071 of the foregoing. The amount of the time-limited, long-term  
4072 supplemental benefits may in no case exceed that which would be  
4073 currently allowable for such child under the Mississippi Medicaid  
4074 Law.

4075 (2) When supplemental benefits last for more than one (1)  
4076 year, the adoptive parents shall present an annual written  
4077 certification that the child remains under the parents' care and  
4078 that the child's need for supplemental benefits continues. Based  
4079 on investigation by the agency and available funds, the agency may  
4080 approve continued supplemental benefits. These benefits shall be  
4081 extended so long as the parents remain legally responsible for and  
4082 are providing support for the child. The agency shall continue  
4083 paying benefits until a child reaches twenty-one (21) years of age  
4084 if the child meets the criteria stated in Section  
4085 93-17-67( \* \* \*2) for continuation of Medicaid coverage.

4086 (3) A child who is a resident of Mississippi when  
4087 eligibility for supplemental benefits is certified shall remain  
4088 eligible and receive supplemental benefits, if necessary for



4089 adoption, regardless of the domicile or residence of the adopting  
4090 parents at the time of application for adoption, placement, legal  
4091 decree of adoption or thereafter.

4092         **SECTION 78.** Section 93-17-63, Mississippi Code of 1972, is  
4093 amended as follows:

4094         93-17-63. All records regarding such adoption shall be  
4095 confidential. Anyone violating or releasing information of a  
4096 confidential nature, as contemplated by Sections 93-17-51 through  
4097 93-17-67 without the approval of the court with jurisdiction or  
4098 the \* \* \* Mississippi Department of Child Protection Services  
4099 unless such release is made pursuant to Sections 93-17-201 through  
4100 93-17-223 shall be guilty of a misdemeanor and subject to a fine  
4101 not exceeding One Thousand Dollars (\$1,000.00) or imprisonment of  
4102 six (6) months, or both.

4103         **SECTION 79.** Section 93-17-65, Mississippi Code of 1972, is  
4104 amended as follows:

4105         93-17-65. The \* \* \* Mississippi Department of Child  
4106 Protection Services shall promulgate rules and regulations  
4107 necessary to implement the provisions of Sections 93-17-51 through  
4108 93-17-67.

4109         **SECTION 80.** Section 93-17-67, Mississippi Code of 1972, is  
4110 amended as follows:

4111         93-17-67. (1) If the adoptive parents of a child eligible  
4112 for adoption supplemental benefits sign an adoption assistance  
4113 agreement with the Department of \* \* \* Child Protection Services,



4114 then, whether or not they accept such benefits, Medicaid coverage  
4115 shall be provided for the child under the agency's medical payment  
4116 program from and after the commencement date established pursuant  
4117 to Section 93-17-61 until the child's eighteenth birthday,  
4118 provided that federal matching funds are available for such  
4119 payment.

4120 (2) Any child who is adopted in this state through a  
4121 state-supported adoption agency and who immediately prior to such  
4122 adoption was receiving Medicaid benefits because of a severe  
4123 physical or mental handicap shall continue to receive such  
4124 coverage benefits after adoption age eighteen (18), and such  
4125 benefits shall be payable as provided under the agency's medical  
4126 payment program for so long as the \* \* \* Mississippi Department of  
4127 Child Protection Services determines that the treatment or  
4128 rehabilitation for which payment is being made is in the best  
4129 interest of the child concerned, but not past the age of  
4130 twenty-one (21) years, provided that federal matching funds are  
4131 available for such payment and that any state funds used for such  
4132 payment shall have been appropriated specifically for such  
4133 purpose.

4134 (3) If permitted by federal law without any loss to the  
4135 state of federal matching funds, the financial resources of the  
4136 adopting parents shall not be a factor in such determination  
4137 except that payments on behalf of a child of any age may be  
4138 adjusted when insurance benefits available to the adopting parents





4139 would pay all or part of such payments being made by the state, or  
4140 if medical or rehabilitation services are otherwise available  
4141 without cost to the adopting parents. The amount of financial  
4142 assistance given shall not exceed the amount that the Medicaid  
4143 Commission would be required to pay for the same medical treatment  
4144 or rehabilitation.

4145 (4) The receipt of Medicaid benefits by an adopted child  
4146 under Sections 93-17-51 through 93-17-67 shall not qualify the  
4147 adopting parents for Medicaid eligibility, unless either parent is  
4148 otherwise eligible under Section 43-13-115, Mississippi Code of  
4149 1972.

4150 **SECTION 81.** Section 93-17-69, Mississippi Code of 1972, is  
4151 amended as follows:

4152 93-17-69. Any person proposing to adopt a child who is a  
4153 dependent of a state child-placing agency and who is in special  
4154 circumstances as defined in paragraph (c) of Section 93-17-55  
4155 shall be represented by the \* \* \* Mississippi Department of Child  
4156 Protection Services when requested by the adopting parent in all  
4157 phases of the adoption proceeding. State child-placing agencies  
4158 shall advise prospective adopting parents of their right under  
4159 this section to be represented in adoption proceedings. The fees  
4160 for filing the petition for adoption and preparing a revised birth  
4161 certificate, any court costs taxed against the petitioner and any  
4162 other actual payments made by the Department of \* \* \* Child



4163 Protection Services to third parties as required to complete the  
4164 adoption proceeding, shall be paid by the adopting parent.

4165 **SECTION 82.** Section 93-17-101, Mississippi Code of 1972, is  
4166 amended as follows:

4167 93-17-101. (1) The Legislature finds that:

4168 (a) Locating adoptive families for children for whom  
4169 state assistance is desirable, pursuant to the Mississippi  
4170 adoption assistance law, and assuring the protection of the  
4171 interests of the children affected during the entire assistance  
4172 period, require special measures when the adoptive parents move to  
4173 other states or are residents of another state; and

4174 (b) Providing medical and other necessary services for  
4175 children, with state assistance, encounters special difficulties  
4176 when the providing of services takes place in other states.

4177 (2) The purposes of Sections 93-17-101 through 93-17-109 are  
4178 to:

4179 (a) Authorize the Mississippi Department of \* \* \* Child  
4180 Protection Services to enter into interstate agreements with  
4181 agencies of other states for the protection of children on behalf  
4182 of whom adoption assistance is being provided by the Mississippi  
4183 Department of \* \* \* Child Protection Services; and

4184 (b) Provide procedures for interstate children's  
4185 adoption assistance payments, including medical payments.

4186 **SECTION 83.** Section 93-17-103, Mississippi Code of 1972, is  
4187 amended as follows:



4188           93-17-103. (1) The Mississippi Department of \* \* \* Child  
4189 Protection Services is authorized to develop, participate in the  
4190 development of, negotiate and enter into one or more interstate  
4191 compacts on behalf of this state with other states to implement  
4192 one or more of the purposes set forth in Sections 93-17-101  
4193 through 93-17-109. When so entered into, and for so long as it  
4194 shall remain in force, such a compact shall have the force and  
4195 effect of law.

4196           (2) For the purposes of Sections 93-17-101 through  
4197 93-17-109, the term "state" shall mean a state of the United  
4198 States, the District of Columbia, the Commonwealth of Puerto Rico,  
4199 the Virgin Islands, Guam, the Commonwealth of the Northern Mariana  
4200 Islands or a territory or possession of or administered by the  
4201 United States.

4202           (3) For the purposes of Sections 93-17-101 through  
4203 93-17-109, the term "adoption assistance state" means the state  
4204 that is signatory to an adoption assistance agreement in a  
4205 particular case.

4206           (4) For the purposes of Sections 93-17-101 through  
4207 93-17-109, the term "residence state" means the state of which the  
4208 child is a resident by virtue of the residence of the adoptive  
4209 parents.

4210           **SECTION 84.** Section 93-17-107, Mississippi Code of 1972, is  
4211 amended as follows:



4212           93-17-107. (1) A child with special needs resident in this  
4213 state who is the subject of an adoption assistance agreement with  
4214 another state and who has been determined eligible for Medicaid in  
4215 that state shall be entitled to receive a medical assistance  
4216 identification from this state upon filing with the Mississippi  
4217 Department of \* \* \* Child Protection Services a certified copy of  
4218 the adoption assistance agreement obtained from the adoption  
4219 assistance state which certifies to the eligibility of the child  
4220 for Medicaid. In accordance with regulations of the Mississippi  
4221 Department of \* \* \* Child Protection Services, the adoptive  
4222 parents shall be required, at least annually, to show that the  
4223 agreement is still in force or has been renewed.

4224           (2) The Division of Medicaid, Office of the Governor, shall  
4225 consider the holder of a medical assistance identification  
4226 pursuant to this section as any other holder of a medical  
4227 assistance identification under the laws of this state and shall  
4228 process and make payment on claims on account of such holder in  
4229 the same manner and pursuant to the same conditions and procedures  
4230 as for other recipients of medical assistance.

4231           (3) The submission of any claim for payment or reimbursement  
4232 for services or benefits pursuant to this section or the making of  
4233 any statement in connection therewith, which claim or statement  
4234 the maker knows or should know to be false, misleading or  
4235 fraudulent shall be punishable as perjury and shall also be



4236 subject to a fine not to exceed Ten Thousand Dollars (\$10,000.00),  
4237 or imprisonment for not to exceed two (2) years, or both.

4238 (4) The provisions of this section shall apply only to  
4239 medical assistance for children under adoption assistance  
4240 agreements from states that have entered into a compact with this  
4241 state under which the other state provides medical assistance to  
4242 children with special needs under adoption assistance agreements  
4243 made by this state. All other children entitled to medical  
4244 assistance pursuant to adoption assistance agreements entered into  
4245 by this state shall be eligible to receive it in accordance with  
4246 the laws and procedures applicable thereto.

4247 **SECTION 85.** Section 93-17-109, Mississippi Code of 1972, is  
4248 amended as follows:

4249 93-17-109. Consistent with federal law, the Mississippi  
4250 Department of \* \* \* Child Protection Services and the Division of  
4251 Medicaid, Office of the Governor of the State of Mississippi, in  
4252 connection with the administration of Sections 93-17-101 through  
4253 93-17-109 and any compact entered into pursuant hereto, shall  
4254 include in any state plan made pursuant to the Adoption Assistance  
4255 and Child Welfare Act of 1980 (P.L. 96-272), Titles IV(e) and XIX  
4256 of the Social Security Act, and any other applicable federal laws,  
4257 the provision of adoption assistance and medical assistance for  
4258 which the federal government pays some or all of the cost provided  
4259 such authority is granted under the provisions of some law of this  
4260 state other than the provisions of Sections 93-17-101 through



4261 93-17-109. Such departments shall apply for and administer all  
4262 relevant federal aid in accordance with law.

4263 **SECTION 86.** Section 93-17-203, Mississippi Code of 1972, is  
4264 amended as follows:

4265 93-17-203. The following words and phrases shall have the  
4266 meanings ascribed herein unless the context clearly indicates  
4267 otherwise:

4268 (a) "Agency" means \* \* \* the Mississippi Department of  
4269 Child Protection Services, a licensed or nonlicensed adoption  
4270 agency or any other individual or entity assisting in the  
4271 finalization of an adoption.

4272 (b) "Adoptee" means a person who is or has been adopted  
4273 in this state at any time.

4274 (c) "Birth parent" means either:

4275 (i) The mother designated on the adoptee's  
4276 original birth certificate; or

4277 (ii) The person named by the mother designated on  
4278 the adoptee's original birth certificate as the father of the  
4279 adoptee.

4280 (d) "Board" means the Mississippi State Board of  
4281 Health.

4282 (e) "Bureau" means the Bureau of Vital Records of the  
4283 Mississippi State Board of Health.



4284 (f) "Licensed adoption agency" means any agency or  
4285 organization performing adoption services and duly licensed by the  
4286 Mississippi Department of \* \* \* Child Protection Services.

4287 **SECTION 87.** Section 93-21-307, Mississippi Code of 1972, is  
4288 amended as follows:

4289 93-21-307. The administration of the Mississippi Children's  
4290 Trust Fund shall be vested in the \* \* \* Department of Child  
4291 Protection Services. In carrying out the provisions of Sections  
4292 93-21-301 through 93-21-311, the \* \* \* Department of Child  
4293 Protection Services shall have the following powers and duties:

4294 (a) To assist in developing programs aimed at  
4295 discovering and preventing the many factors causing child abuse  
4296 and neglect;

4297 (b) To prepare and disseminate, including the  
4298 presentation of, educational programs and materials on child abuse  
4299 and neglect;

4300 (c) To provide educational programs for professionals  
4301 required by law to make reports of child abuse and neglect;

4302 (d) To help coordinate child protective services at the  
4303 state, regional and local levels with the efforts of other state  
4304 and voluntary social, medical and legal agencies;

4305 (e) To provide advocacy for children in public and  
4306 private state and local agencies affecting children;

4307 (f) To encourage citizen and community awareness as to  
4308 the needs and problems of children;



4309 (g) To facilitate the exchange of information between  
4310 groups concerned with families and children;

4311 (h) To consult with state departments, agencies,  
4312 commissions and boards to help determine the probable  
4313 effectiveness, fiscal soundness and need for proposed educational  
4314 and service programs for the prevention of child abuse and  
4315 neglect;

4316 (i) To adopt rules and regulations, subject to approval  
4317 of the State Board of \* \* \* Human Services, in accordance with the  
4318 Administrative Procedures Law to discharge its responsibilities;

4319 (j) To report annually, through the annual report of  
4320 the \* \* \* Mississippi Department of Child Protection Services, to  
4321 the Governor and the Legislature concerning the \* \* \* department's  
4322 activities under Sections 93-21-301 through 93-21-311 and the  
4323 effectiveness of those activities in fostering the prevention of  
4324 child abuse and neglect;

4325 (k) To recommend to the Governor and the Legislature  
4326 changes in state programs, statutes, policies and standards which  
4327 will reduce child abuse and neglect, improve coordination among  
4328 state agencies which provide services to prevent abuse and  
4329 neglect, improve the condition of children and assist parents and  
4330 guardians;

4331 (l) To evaluate and strengthen all local, regional and  
4332 state programs dealing with child abuse and neglect;





4333                   (m) To prepare and submit annually to the Governor and  
4334 the Legislature reports evaluating the level and quality of all  
4335 programs, services and facilities provided to children by state  
4336 agencies;

4337                   (n) To contract with public or private nonprofit  
4338 institutions, organizations, agencies or schools or with qualified  
4339 individuals for the establishment of community-based educational  
4340 and service programs designed to reduce the occurrence of child  
4341 abuse and neglect;

4342                   (o) To determine the eligibility of programs applying  
4343 for financial assistance and to make grants and loans from the  
4344 fund for the purposes set forth in Sections 93-21-301 through  
4345 93-21-311;

4346                   (p) To develop, within one (1) year after July 1, 1989,  
4347 a state plan for the distribution of funds from the trust fund  
4348 which shall assure that an equal opportunity exists for  
4349 establishment of prevention programs and for receipt of trust  
4350 fund \* \* \* monies among all geographic areas in this state, and to  
4351 submit the plan to the Governor and the Legislature and annually  
4352 thereafter submit revisions thereto as needed;

4353                   (q) To provide for the coordination and exchange of  
4354 information on the establishment and maintenance of local  
4355 prevention programs;

4356                   (r) To develop and publicize criteria for the receipt  
4357 of trust fund \* \* \* monies by eligible local prevention programs;



4358 (s) To enter into contracts with public or private  
4359 agencies to fulfill the requirements of Sections 93-21-301 through  
4360 93-21-311; and

4361 (t) Review, monitor and approve the expenditure of  
4362 trust fund \* \* \* monies by eligible local programs.

4363 **SECTION 88.** Section 93-21-311, Mississippi Code of 1972, is  
4364 amended as follows:

4365 93-21-311. In making grants or loans from the trust fund,  
4366 the \* \* \* department shall consider the degree to which the  
4367 applicant's proposal meets the following criteria:

4368 (a) Has as its primary purpose the development and  
4369 facilitation of a community-based prevention program in a specific  
4370 geographical area, which program shall utilize trained volunteers  
4371 and existing community resources where practicable;

4372 (b) Is administered by an organization or group which  
4373 is composed of or has participation by the \* \* \* Department of  
4374 Child Protection Services, the county health department, the youth  
4375 court or chancery court, the office of the district attorney,  
4376 county or municipal law enforcement personnel, county or municipal  
4377 school officials, local public or private organizations or  
4378 agencies which provide programs or services for the prevention of  
4379 child abuse and neglect and educational programs for the  
4380 prevention of problems of families and children; and

4381 (c) Demonstrates a willingness and ability and has a  
4382 plan to provide prevention program models and consultations to



4383 appropriate organizations within the community regarding  
4384 prevention program development and maintenance.

4385           **SECTION 89.** Section 93-31-3, Mississippi Code of 1972, is  
4386 amended as follows:

4387           93-31-3. (1) (a) A parent or legal custodian of a child,  
4388 by means of a properly executed power of attorney as provided in  
4389 Section 93-31-5, may delegate to another willing person or persons  
4390 as attorney-in-fact any of the powers regarding the care and  
4391 custody of the child other than the following:

4392                   (i) The power to consent to marriage or adoption  
4393 of the child;

4394                   (ii) The performance or inducement of an abortion  
4395 on or for the child; or

4396                   (iii) The termination of parental rights to the  
4397 child.

4398           (b) A delegation of powers under this section does not:

4399                   (i) Change or modify any parental or legal rights,  
4400 obligations, or authority established by an existing court order;

4401                   (ii) Deprive any custodial or noncustodial parent  
4402 or legal guardian of any parental or legal rights, obligations, or  
4403 authority regarding the custody, visitation, or support of the  
4404 child; or

4405                   (iii) Affect a court's ability to determine the  
4406 best interests of a child.



4407           (c) If both parents are living and have shared custody  
4408 as a matter of law or under an existing court order, both parents  
4409 must execute the power of attorney.

4410           (d) A power of attorney under this chapter must be  
4411 facilitated by either a child welfare agency that is licensed to  
4412 place children for adoption and that is operating under the Safe  
4413 Families for Children model or another charitable organization  
4414 that is operating under the Safe Families for Children model. A  
4415 full criminal history and child abuse and neglect background check  
4416 must be conducted on any person who is not a grandparent, aunt,  
4417 uncle, or sibling of the child if the person is:

4418                   (i) Designated or proposed to be designated as the  
4419 attorney-in-fact; or

4420                   (ii) Is a person over the age of fifteen (15) who  
4421 resides in the home of the designated attorney-in-fact.

4422           (2) A power of attorney executed under this chapter shall  
4423 not be used for the sole purposes of enrolling a child in a school  
4424 to participate in the academic or interscholastic athletic  
4425 programs provided by that school or for any other unlawful  
4426 purposes, except as may be permitted by the federal Every Student  
4427 Succeeds Act (Public Law 114-95).

4428           (3) The parent or legal custodian of the child has the  
4429 authority to revoke or withdraw the power of attorney authorized  
4430 by this section at any time. Upon the termination, expiration, or  
4431 revocation of the power of attorney, the child must be returned to



4432 the custody of the parent or legal custodian as soon as reasonably  
4433 possible.

4434 (4) Until the authority expires or is revoked or withdrawn  
4435 by the parent or legal custodian, the attorney-in-fact shall  
4436 exercise parental or legal authority on a continuous basis without  
4437 compensation for the duration of the power of attorney.

4438 (5) The execution of a power of attorney by a parent or  
4439 legal custodian does not, in the absence of other evidence,  
4440 constitute abandonment, desertion, abuse, neglect, or any evidence  
4441 of unfitness as a parent unless the parent or legal custodian  
4442 fails to take custody of the child or execute a new power of  
4443 attorney after the one-year time limit, or after a longer time  
4444 period as allowed for a serving parent, has elapsed. Nothing in  
4445 this subsection prevents the Department of \* \* \* Child Protection  
4446 Services or law enforcement from investigating allegations of  
4447 abuse, abandonment, desertion, neglect or other mistreatment of a  
4448 child.

4449 (6) When the custody of a child is transferred by a power of  
4450 attorney under this chapter, the child is not considered to have  
4451 been placed in foster care and the attorney-in-fact will not be  
4452 subject to any of the requirements or licensing regulations for  
4453 foster care or other regulations relating to out-of-home care for  
4454 children and will not be subject to any statutes or regulations  
4455 dealing with the licensing or regulation of foster care homes.



4456           (7)   (a)   "Serving parent" means a parent who is a member of  
4457 the Armed Forces of the United States, including any reserve  
4458 component thereof, or the National Oceanic and Atmospheric  
4459 Administration Commissioned Officer Corps or the Public Health  
4460 Service of the United States Department of Health and Human  
4461 Services detailed by proper authority for duty with the Armed  
4462 Forces of the United States, or who is required to enter or serve  
4463 in the active military service of the United States under a call  
4464 or order of the President of the United States or to serve on  
4465 state active duty.

4466           (b)   A serving parent may delegate the powers designated  
4467 in subsection (1) of this section for longer than one (1) year if  
4468 on active-duty service or if scheduled to be on active-duty  
4469 service. The term of delegation, however, may not exceed the term  
4470 of active-duty service plus thirty (30) days.

4471           **SECTION 90.** Section 97-3-54.1, Mississippi Code of 1972, is  
4472 amended as follows:

4473           97-3-54.1. (1) (a) A person who coerces, recruits,  
4474 entices, harbors, transports, provides or obtains by any means, or  
4475 attempts to coerce, recruit, entice, harbor, transport, provide or  
4476 obtain by any means, another person, intending or knowing that the  
4477 person will be subjected to forced labor or services, or who  
4478 benefits, whether financially or by receiving anything of value  
4479 from participating in an enterprise that he knows or reasonably



4480 should have known has engaged in such acts, shall be guilty of the  
4481 crime of human trafficking.

4482 (b) A person who knowingly purchases the forced labor  
4483 or services of a trafficked person or who otherwise knowingly  
4484 subjects, or attempts to subject, another person to forced labor  
4485 or services or who benefits, whether financially or by receiving  
4486 anything of value from participating in an enterprise that he  
4487 knows or reasonably should have known has engaged in such acts,  
4488 shall be guilty of the crime of procuring involuntary servitude.

4489 (c) A person who knowingly subjects, or attempts to  
4490 subject, or who recruits, entices, harbors, transports, provides  
4491 or obtains by any means, or attempts to recruit, entice, harbor,  
4492 transport, provide or obtain by any means, a minor, knowing that  
4493 the minor will engage in commercial sexual activity, sexually  
4494 explicit performance, or the production of sexually oriented  
4495 material, or causes or attempts to cause a minor to engage in  
4496 commercial sexual activity, sexually explicit performance, or the  
4497 production of sexually oriented material, shall be guilty of  
4498 procuring sexual servitude of a minor and shall be punished by  
4499 commitment to the custody of the Department of Corrections for not  
4500 less than five (5) nor more than thirty (30) years, or by a fine  
4501 of not less than Fifty Thousand Dollars (\$50,000.00) nor more than  
4502 Five Hundred Thousand Dollars (\$500,000.00), or both. It is not a  
4503 defense in a prosecution under this section that a minor consented  
4504 to engage in the commercial sexual activity, sexually explicit



4505 performance, or the production of sexually oriented material, or  
4506 that the defendant reasonably believed that the minor was eighteen  
4507 (18) years of age or older.

4508 (2) If the victim is not a minor, a person who is convicted  
4509 of an offense set forth in subsection (1)(a) or (b) of this  
4510 section shall be committed to the custody of the Department of  
4511 Corrections for not less than two (2) years nor more than twenty  
4512 (20) years, or by a fine of not less than Ten Thousand Dollars  
4513 (\$10,000.00) nor more than One Hundred Thousand Dollars  
4514 (\$100,000.00), or both. If the victim of the offense is a minor,  
4515 a person who is convicted of an offense set forth in subsection  
4516 (1)(a) or (b) of this section shall be committed to the custody of  
4517 the Department of Corrections for not less than five (5) years nor  
4518 more than twenty (20) years, or by a fine of not less than Twenty  
4519 Thousand Dollars (\$20,000.00) nor more than One Hundred Thousand  
4520 Dollars (\$100,000.00), or both.

4521 (3) An enterprise may be prosecuted for an offense under  
4522 this chapter if:

4523 (a) An agent of the enterprise knowingly engages in  
4524 conduct that constitutes an offense under this chapter while  
4525 acting within the scope of employment and for the benefit of the  
4526 entity.

4527 (b) An employee of the enterprise engages in conduct  
4528 that constitutes an offense under this chapter and the commission  
4529 of the offense was part of a pattern of illegal activity for the





4530 benefit of the enterprise, which an agent of the enterprise either  
4531 knew was occurring or recklessly disregarded, and the agent failed  
4532 to take effective action to stop the illegal activity.

4533 (c) It is an affirmative defense to a prosecution of an  
4534 enterprise that the enterprise had in place adequate procedures,  
4535 including an effective complaint procedure, designed to prevent  
4536 persons associated with the enterprise from engaging in the  
4537 unlawful conduct and to promptly correct any violations of this  
4538 chapter.

4539 (d) The court may consider the severity of the  
4540 enterprise's offense and order penalties, including: (i) a fine  
4541 of not more than One Million Dollars (\$1,000,000.00); (ii)  
4542 disgorgement of profit; and (iii) debarment from government  
4543 contracts. Additionally, the court may order any of the relief  
4544 provided in Section 97-3-54.7.

4545 (4) In addition to the mandatory reporting provisions  
4546 contained in Sections 43-21-353 and 97-5-51, any person who has  
4547 reasonable cause to suspect that a minor under the age of eighteen  
4548 (18) is a trafficked person shall immediately make a report \* \* \*  
4549 to the Statewide Human Trafficking Coordinator. \* \* \* A minor who  
4550 has been identified as a victim of trafficking shall not be liable  
4551 for criminal activity in violation of this section.

4552 (5) It is an affirmative defense in a prosecution under this  
4553 act that the defendant:

4554 (a) Is a victim; and



4555 (b) Committed the offense under a reasonable  
4556 apprehension created by a person that, if the defendant did not  
4557 commit the act, the person would inflict serious harm on the  
4558 defendant, a member of the defendant's family, or a close  
4559 associate.

4560 **SECTION 91.** Section 97-5-24, Mississippi Code of 1972, is  
4561 amended as follows:

4562 97-5-24. If any person eighteen (18) years or older who is  
4563 employed by any public school district or private school in this  
4564 state is accused of fondling or having any type of sexual  
4565 involvement with any child under the age of eighteen (18) years  
4566 who is enrolled in such school, the principal of such school and  
4567 the superintendent of such school district shall timely notify the  
4568 district attorney with jurisdiction where the school is located of  
4569 such accusation, the Mississippi Department of Education and the  
4570 Department of \* \* \* Child Protection Services, provided that such  
4571 accusation is reported to the principal and to the school  
4572 superintendent and that there is a reasonable basis to believe  
4573 that such accusation is true. Any superintendent, or his  
4574 designee, who fails to make a report required by this section  
4575 shall be subject to the penalties provided in Section 37-11-35.  
4576 Any superintendent, principal, teacher or other school personnel  
4577 participating in the making of a required report pursuant to this  
4578 section or participating in any judicial proceeding resulting  
4579 therefrom shall be presumed to be acting in good faith. Any



4580 person reporting in good faith shall be immune from any civil  
4581 liability that might otherwise be incurred or imposed.

4582         **SECTION 92.** Section 97-5-39, Mississippi Code of 1972, is  
4583 amended as follows:

4584         97-5-39. (1) (a) Except as otherwise provided in this  
4585 section, any parent, guardian or other person who intentionally,  
4586 knowingly or recklessly commits any act or omits the performance  
4587 of any duty, which act or omission contributes to or tends to  
4588 contribute to the neglect or delinquency of any child or which act  
4589 or omission results in the abuse of any child, as defined in  
4590 Section 43-21-105(m) of the Youth Court Law, or who knowingly aids  
4591 any child in escaping or absenting himself from the guardianship  
4592 or custody of any person, agency or institution, or knowingly  
4593 harbors or conceals, or aids in harboring or concealing, any child  
4594 who has absented himself without permission from the guardianship  
4595 or custody of any person, agency or institution to which the child  
4596 shall have been committed by the youth court shall be guilty of a  
4597 misdemeanor, and upon conviction shall be punished by a fine not  
4598 to exceed One Thousand Dollars (\$1,000.00), or by imprisonment not  
4599 to exceed one (1) year in jail, or by both such fine and  
4600 imprisonment.

4601         (b) For the purpose of this section, a child is a  
4602 person who has not reached his eighteenth birthday. A child who  
4603 has not reached his eighteenth birthday and is on active duty for



4604 a branch of the armed services, or who is married, is not  
4605 considered a child for the purposes of this statute.

4606 (c) If a child commits one (1) of the proscribed acts  
4607 in subsection (2) (a), (b) or (c) of this section upon another  
4608 child, then original jurisdiction of all such offenses shall be in  
4609 youth court.

4610 (d) If the child's deprivation of necessary clothing,  
4611 shelter, health care or supervision appropriate to the child's age  
4612 results in substantial harm to the child's physical, mental or  
4613 emotional health, the person may be sentenced to imprisonment in  
4614 custody of the Department of Corrections for not more than five  
4615 (5) years or to payment of a fine of not more than Five Thousand  
4616 Dollars (\$5,000.00), or both.

4617 (e) A parent, legal guardian or other person who  
4618 knowingly permits the continuing physical or sexual abuse of a  
4619 child is guilty of neglect of a child and may be sentenced to  
4620 imprisonment in the custody of the Department of Corrections for  
4621 not more than ten (10) years or to payment of a fine of not more  
4622 than Ten Thousand Dollars (\$10,000.00), or both.

4623 (2) Any person shall be guilty of felonious child abuse in  
4624 the following circumstances:

4625 (a) Whether bodily harm results or not, if the person  
4626 shall intentionally, knowingly or recklessly:

4627 (i) Burn any child;

4628 (ii) Physically torture any child;



4629 (iii) Strangle, choke, smother or in any way  
4630 interfere with any child's breathing;  
4631 (iv) Poison a child;  
4632 (v) Starve a child of nourishments needed to  
4633 sustain life or growth;  
4634 (vi) Use any type of deadly weapon upon any child;  
4635 (b) If some bodily harm to any child actually occurs,  
4636 and if the person shall intentionally, knowingly or recklessly:  
4637 (i) Throw, kick, bite, or cut any child;  
4638 (ii) Strike a child under the age of fourteen (14)  
4639 about the face or head with a closed fist;  
4640 (iii) Strike a child under the age of five (5) in  
4641 the face or head;  
4642 (iv) Kick, bite, cut or strike a child's genitals;  
4643 circumcision of a male child is not a violation under this  
4644 subparagraph (iv);  
4645 (c) If serious bodily harm to any child actually  
4646 occurs, and if the person shall intentionally, knowingly or  
4647 recklessly:  
4648 (i) Strike any child on the face or head;  
4649 (ii) Disfigure or scar any child;  
4650 (iii) Whip, strike or otherwise abuse any child;  
4651 (d) Any person, upon conviction under paragraph (a) or  
4652 (c) of this subsection, shall be sentenced by the court to  
4653 imprisonment in the custody of the Department of Corrections for a



4654 term of not less than five (5) years and up to life, as determined  
4655 by the court. Any person, upon conviction under paragraph (b) of  
4656 this subsection shall be sentenced by the court to imprisonment in  
4657 the custody of the Department of Corrections for a term of not  
4658 less than two (2) years nor more than ten (10) years, as  
4659 determined by the court. For any second or subsequent conviction  
4660 under this subsection (2), the person shall be sentenced to  
4661 imprisonment for life.

4662 (e) For the purposes of this subsection (2), "bodily  
4663 harm" means any bodily injury to a child and includes, but is not  
4664 limited to, bruising, bleeding, lacerations, soft tissue swelling,  
4665 and external or internal swelling of any body organ.

4666 (f) For the purposes of this subsection (2), "serious  
4667 bodily harm" means any serious bodily injury to a child and  
4668 includes, but is not limited to, the fracture of a bone, permanent  
4669 disfigurement, permanent scarring, or any internal bleeding or  
4670 internal trauma to any organ, any brain damage, any injury to the  
4671 eye or ear of a child or other vital organ, and impairment of any  
4672 bodily function.

4673 (g) Nothing contained in paragraph (c) of this  
4674 subsection shall preclude a parent or guardian from disciplining a  
4675 child of that parent or guardian, or shall preclude a person in  
4676 loco parentis to a child from disciplining that child, if done in  
4677 a reasonable manner, and reasonable corporal punishment or  
4678 reasonable discipline as to that parent or guardian's child or



4679 child to whom a person stands in loco parentis shall be a defense  
4680 to any violation charged under paragraph (c) of this subsection.

4681 (h) Reasonable discipline and reasonable corporal  
4682 punishment shall not be a defense to acts described in paragraphs  
4683 (a) and (b) of this subsection or if a child suffers serious  
4684 bodily harm as a result of any act prohibited under paragraph (c)  
4685 of this subsection.

4686 (3) Nothing contained in this section shall prevent  
4687 proceedings against the parent, guardian or other person under any  
4688 statute of this state or any municipal ordinance defining any act  
4689 as a crime or misdemeanor. Nothing in the provisions of this  
4690 section shall preclude any person from having a right to trial by  
4691 jury when charged with having violated the provisions of this  
4692 section.

4693 (4) (a) A parent, legal guardian or caretaker who endangers  
4694 a child's person or health by knowingly causing or permitting the  
4695 child to be present where any person is selling, manufacturing or  
4696 possessing immediate precursors or chemical substances with intent  
4697 to manufacture, sell or possess a controlled substance as  
4698 prohibited under Section 41-29-139 or 41-29-313, is guilty of  
4699 child endangerment and may be sentenced to imprisonment for not  
4700 more than ten (10) years or to payment of a fine of not more than  
4701 Ten Thousand Dollars (\$10,000.00), or both.

4702 (b) If the endangerment results in substantial harm to  
4703 the child's physical, mental or emotional health, the person may



4704 be sentenced to imprisonment for not more than twenty (20) years  
4705 or to payment of a fine of not more than Twenty Thousand Dollars  
4706 (\$20,000.00), or both.

4707 (5) Nothing contained in this section shall prevent  
4708 proceedings against the parent, guardian or other person under any  
4709 statute of this state or any municipal ordinance defining any act  
4710 as a crime or misdemeanor. Nothing in the provisions of this  
4711 section shall preclude any person from having a right to trial by  
4712 jury when charged with having violated the provisions of this  
4713 section.

4714 (6) After consultation with the Department of Human Services  
4715 or the Department of Child Protection Services, a regional mental  
4716 health center or an appropriate professional person, a judge may  
4717 suspend imposition or execution of a sentence provided in  
4718 subsections (1) and (2) of this section and in lieu thereof  
4719 require treatment over a specified period of time at any approved  
4720 public or private treatment facility. A person may be eligible  
4721 for treatment in lieu of criminal penalties no more than one (1)  
4722 time.

4723 (7) In any proceeding resulting from a report made pursuant  
4724 to Section 43-21-353 of the Youth Court Law, the testimony of the  
4725 physician making the report regarding the child's injuries or  
4726 condition or cause thereof shall not be excluded on the ground  
4727 that the physician's testimony violates the physician-patient  
4728 privilege or similar privilege or rule against disclosure. The





4729 physician's report shall not be considered as evidence unless  
4730 introduced as an exhibit to his testimony.

4731 (8) Any criminal prosecution arising from a violation of  
4732 this section shall be tried in the circuit, county, justice or  
4733 municipal court having jurisdiction; provided, however, that  
4734 nothing herein shall abridge or dilute the contempt powers of the  
4735 youth court.

4736 **SECTION 93.** Section 97-5-51, Mississippi Code of 1972, is  
4737 amended as follows:

4738 97-5-51. (1) **Definitions.** For the purposes of this  
4739 section:

4740 (a) "Sex crime against a minor" means any offense under  
4741 at least one (1) of the following statutes when committed by an  
4742 adult against a minor who is under the age of sixteen (16):

4743 (i) Section 97-3-65 relating to rape;

4744 (ii) Section 97-3-71 relating to rape and assault  
4745 with intent to ravish;

4746 (iii) Section 97-3-95 relating to sexual battery;

4747 (iv) Section 97-5-23 relating to the touching of a  
4748 child, mentally defective or incapacitated person or physically  
4749 helpless person for lustful purposes;

4750 (v) Section 97-5-41 relating to the carnal  
4751 knowledge of a stepchild, adopted child or child of a cohabiting  
4752 partner;



4753 (vi) Section 97-5-33 relating to exploitation of  
4754 children;

4755 (vii) Section 97-3-54.1(1)(c) relating to  
4756 procuring sexual servitude of a minor;

4757 (viii) Section 43-47-18 relating to sexual abuse  
4758 of a vulnerable person;

4759 (ix) Section 97-1-7 relating to the attempt to  
4760 commit any of the offenses listed in this subsection.

4761 (b) "Mandatory reporter" means any of the following  
4762 individuals performing their occupational duties: health care  
4763 practitioner, clergy member, teaching or child care provider, law  
4764 enforcement officer, or commercial image processor.

4765 (c) "Health care practitioner" means any individual who  
4766 provides health care services, including a physician, surgeon,  
4767 physical therapist, psychiatrist, psychologist, medical resident,  
4768 medical intern, hospital staff member, licensed nurse, midwife and  
4769 emergency medical technician or paramedic.

4770 (d) "Clergy member" means any priest, rabbi or duly  
4771 ordained deacon or minister.

4772 (e) "Teaching or child care provider" means anyone who  
4773 provides training or supervision of a minor under the age of  
4774 sixteen (16), including a teacher, teacher's aide, principal or  
4775 staff member of a public or private school, social worker,  
4776 probation officer, foster home parent, group home or other child



4777 care institutional staff member, personnel of residential home  
4778 facilities, a licensed or unlicensed day care provider.

4779 (f) "Commercial image processor" means any person who,  
4780 for compensation: (i) develops exposed photographic film into  
4781 negatives, slides or prints; (ii) makes prints from negatives or  
4782 slides; or (iii) processes or stores digital media or images from  
4783 any digital process, including, but not limited to, website  
4784 applications, photography, live streaming of video, posting,  
4785 creation of power points or any other means of intellectual  
4786 property communication or media including conversion or  
4787 manipulation of still shots or video into a digital show stored on  
4788 a photography site or a media storage site.

4789 (g) "Caretaker" means any person legally obligated to  
4790 provide or secure adequate care for a minor under the age of  
4791 sixteen (16), including a parent, guardian, tutor, legal custodian  
4792 or foster home parent.

4793 (2) (a) **Mandatory reporter requirement.** A mandatory  
4794 reporter shall make a report if it would be reasonable for the  
4795 mandatory reporter to suspect that a sex crime against a minor has  
4796 occurred.

4797 (b) Failure to file a mandatory report shall be  
4798 punished as provided in this section.

4799 (c) Reports made under this section and the identity of  
4800 the mandatory reporter are confidential except when the court  
4801 determines the testimony of the person reporting to be material to



4802 a judicial proceeding or when the identity of the reporter is  
4803 released to law enforcement agencies and the appropriate  
4804 prosecutor. The identity of the reporting party shall not be  
4805 disclosed to anyone other than law enforcement or prosecutors  
4806 except under court order; violation of this requirement is a  
4807 misdemeanor. Reports made under this section are for the purpose  
4808 of criminal investigation and prosecution only and information  
4809 from these reports is not a public record. Disclosure of any  
4810 information by the prosecutor shall conform to the Mississippi  
4811 Uniform Rules of Circuit and County Court Procedure.

4812 (d) Any mandatory reporter who makes a required report  
4813 under this section or participates in a judicial proceeding  
4814 resulting from a mandatory report shall be presumed to be acting  
4815 in good faith. Any person or institution reporting in good faith  
4816 shall be immune from any liability, civil or criminal, that might  
4817 otherwise be incurred or imposed.

4818 (3) (a) **Mandatory reporting procedure.** A report required  
4819 under subsection (2) must be made immediately to the law  
4820 enforcement agency in whose jurisdiction the reporter believes the  
4821 sex crime against the minor occurred. Except as otherwise  
4822 provided in this subsection (3), a mandatory reporter may not  
4823 delegate to any other person the responsibility to report, but  
4824 shall make the report personally.

4825 (i) The reporting requirement under this  
4826 subsection (3) is satisfied if a mandatory reporter in good faith



4827 reports a suspected sex crime against a minor to the Department  
4828 of \* \* \* Child Protection Services under Section 43-21-353 if the  
4829 reporter reasonably suspects the sex crime constitutes abuse or  
4830 neglect.

4831 (ii) The reporting requirement under this  
4832 subsection (3) is satisfied if a mandatory reporter reports a  
4833 suspected sex crime against a minor by following a reporting  
4834 procedure that is imposed:

4835 1. By state agency rule as part of licensure  
4836 of any person or entity holding a state license to provide  
4837 services that include the treatment or education of abused or  
4838 neglected children; or

4839 2. By statute.

4840 (b) **Contents of the report.** The report shall identify,  
4841 to the extent known to the reporter, the following:

4842 (i) The name and address of the minor victim;

4843 (ii) The name and address of the minor's  
4844 caretaker;

4845 (iii) Any other pertinent information known to the  
4846 reporter.

4847 (4) A law enforcement officer who receives a mandated report  
4848 under this section shall file an affidavit against the offender on  
4849 behalf of the State of Mississippi if there is probable cause to  
4850 believe that the offender has committed a sex crime against a  
4851 minor.



4852           (5) **Collection of forensic samples.** (a) (i) When an  
4853 abortion is performed on a minor who is less than fourteen (14)  
4854 years of age at the time of the abortion procedure, fetal tissue  
4855 extracted during the abortion shall be collected in accordance  
4856 with rules and regulations adopted pursuant to this section if it  
4857 would be reasonable to suspect that the pregnancy being terminated  
4858 is the result of a sex crime against a minor.

4859                       (ii) When a minor who is under sixteen (16) years  
4860 of age gives birth to an infant, umbilical cord blood shall be  
4861 collected, if possible, in accordance with rules and regulations  
4862 adopted pursuant to this section if it would be reasonable to  
4863 suspect that the minor's pregnancy resulted from a sex crime  
4864 against a minor.

4865                       (iii) It shall be reasonable to suspect that a sex  
4866 crime against a minor has occurred if the mother of an infant was  
4867 less than sixteen (16) years of age at the time of conception and  
4868 at least one (1) of the following conditions also applies:

4869                               1. The mother of the infant will not identify  
4870 the father of the infant;

4871                               2. The mother of the infant lists the father  
4872 of the infant as unknown;

4873                               3. The person the mother identifies as the  
4874 father of the infant disputes his fatherhood;

4875                               4. The person the mother identifies as the  
4876 father of the infant is twenty-one (21) years of age or older; or



4877                   5. The person the mother identifies as the  
4878 father is deceased.

4879                   (b) The State Medical Examiner shall adopt rules and  
4880 regulations consistent with Section 99-49-1 that prescribe:

4881                   (i) The amount and type of fetal tissue or  
4882 umbilical cord blood to be collected pursuant to this section;

4883                   (ii) Procedures for the proper preservation of the  
4884 tissue or blood for the purpose of DNA testing and examination;

4885                   (iii) Procedures for documenting the chain of  
4886 custody of such tissue or blood for use as evidence;

4887                   (iv) Procedures for proper disposal of fetal  
4888 tissue or umbilical cord blood collected pursuant to this section;

4889                   (v) A uniform reporting instrument mandated to be  
4890 utilized, which shall include the complete residence address and  
4891 name of the parent or legal guardian of the minor who is the  
4892 subject of the report required under this subsection (5); and

4893                   (vi) Procedures for communication with law  
4894 enforcement agencies regarding evidence and information obtained  
4895 pursuant to this section.

4896                   (6) **Penalties.** (a) A person who is convicted of a first  
4897 offense under this section shall be guilty of a misdemeanor and  
4898 fined not more than Five Hundred Dollars (\$500.00).

4899                   (b) A person who is convicted of a second offense under  
4900 this section shall be guilty of a misdemeanor and fined not more



4901 than One Thousand Dollars (\$1,000.00), or imprisoned for not more  
4902 than thirty (30) days, or both.

4903 (c) A person who is convicted of a third or subsequent  
4904 offense under this section shall be guilty of a misdemeanor and  
4905 fined not more than Five Thousand Dollars (\$5,000.00), or  
4906 imprisoned for not more than one (1) year, or both.

4907 (7) A health care practitioner or health care facility shall  
4908 be immune from any penalty, civil or criminal, for good-faith  
4909 compliance with any rules and regulations adopted pursuant to this  
4910 section.

4911 **SECTION 94.** Section 97-29-49, Mississippi Code of 1972, is  
4912 amended as follows:

4913 97-29-49. (1) A person commits the misdemeanor of  
4914 prostitution if the person knowingly or intentionally performs, or  
4915 offers or agrees to perform, sexual intercourse or sexual conduct  
4916 for money or other property. "Sexual conduct" includes  
4917 cunnilingus, fellatio, masturbation of another, anal intercourse  
4918 or the causing of penetration to any extent and with any object or  
4919 body part of the genital or anal opening of another.

4920 (2) Any person violating the provisions of this section  
4921 shall, upon conviction, be punished by a fine not exceeding Two  
4922 Hundred Dollars (\$200.00) or by confinement in the county jail for  
4923 not more than six (6) months, or both.

4924 (3) In addition to the mandatory reporting provisions  
4925 contained in Section 97-5-51, any law enforcement officer who





4926 takes a minor under eighteen (18) years of age into custody for  
4927 suspected prostitution shall immediately make a report to the  
4928 Department of \* \* \* Child Protection Services as required in  
4929 Section 43-21-353 for suspected child sexual abuse or neglect, and  
4930 the department shall commence an initial investigation into  
4931 suspected child sexual abuse or neglect as required in Section  
4932 43-21-353.

4933 (4) If it is determined that a person suspected of or  
4934 charged with engaging in prostitution is engaging in those acts as  
4935 a direct result of being a trafficked person, as defined by  
4936 Section 97-3-54.4, that person shall be immune from prosecution  
4937 for prostitution as a juvenile or adult and, if a minor, the  
4938 provisions of Section 97-3-54.1(4) shall be applicable.

4939 **SECTION 95.** This act shall take effect and be in force from  
4940 and after July 1, 2019, and shall stand repealed from and after  
4941 June 30, 2019.

