

By: Senator(s) Hill

To: Public Health and Welfare

SENATE BILL NO. 2175

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,
 2 TO REQUIRE THE DEPARTMENT OF CHILD PROTECTION SERVICES SOCIAL
 3 WORKERS TO USE VIDEO AND AUDIO RECORDINGS OF INTERACTIONS WITH
 4 FOSTER CHILDREN AND THEIR PARENTS IN THE INVESTIGATION OF
 5 ALLEGATIONS OF PARENTAL ABUSE OR NEGLECT; TO REQUIRE THE
 6 PRESERVATION OF SUCH RECORDINGS AND REQUIRE THE PROSECUTOR TO
 7 PRODUCE A COPY OF THE RECORDINGS UPON THE REQUEST OF THE DEFENDANT
 8 OR PARENT IN ANY CHILD ABUSE OR NEGLECT CRIMINAL PROCEEDING; AND
 9 FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 43-15-13, Mississippi Code of 1972, is
 12 amended as follows:

13 43-15-13. (1) For purposes of this section, "children"
 14 means persons found within the state who are under the age of
 15 twenty-one (21) years, and who were placed in the custody of the
 16 Department of Child Protection Services by the youth court of the
 17 appropriate county. For purposes of this chapter, "commercial
 18 sexual exploitation" means any sexual act or crime of a sexual
 19 nature, which is committed against a child for financial or
 20 economic gain, to obtain a thing of value, for quid pro quo
 21 exchange of property or any other purpose.



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

25 (a) Protecting and promoting the health, safety and
26 welfare of children;

27 (b) Preventing the unnecessary separation of children
28 from their families by identifying family problems, assisting
29 families in resolving their problems and preventing the breakup of
30 the family where the prevention of child removal is desirable and
31 possible when the child can be cared for at home without
32 endangering the child's health and safety;

33 (c) Remediating or assisting in the solution of problems
34 that may result in the neglect, abuse, exploitation, commercial
35 sexual exploitation, human trafficking or delinquency of children;

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

40 (e) Placing children in suitable adoptive homes
41 approved by a licensed adoption agency or family protection
42 specialist, in cases where restoration to the biological family is
43 not safe, possible or appropriate;

44 (f) Assuring safe and adequate care of children away
45 from their homes, in cases where the child cannot be returned home
46 or cannot be placed for adoption, including temporary or emergency



47 placement with a relative or fictive kin pending youth court
48 action on the case. At the time of placement, the department
49 shall implement concurrent planning, as described in subsection
50 (8) of this section, so that permanency may occur at the earliest
51 opportunity. Consideration of possible failure or delay of
52 reunification should be given, to the end that the placement made
53 is the best available placement to provide permanency for the
54 child; and

55 (g) Providing a family protection specialist or worker
56 or team of such specialists or workers for a family and child
57 throughout the implementation of their permanent living
58 arrangement plan. Wherever feasible, the same family protection
59 specialist or worker or team shall remain on the case until the
60 child is no longer under the jurisdiction of the youth court.

61 (3) The Department of Child Protection Services shall
62 administer a system of individualized plans, reviews and reports
63 once every six (6) months for each child under its custody within
64 the State of Mississippi, which document each child who has been
65 adjudged a neglected, abandoned or abused child, including a child
66 alleged to have experienced commercial sexual exploitation and/or
67 human trafficking and whose custody was changed by court order as
68 a result of that adjudication, and each public or private facility
69 licensed by the department. The Department of Child Protection
70 Services' administrative review shall be completed on each child
71 within the first three (3) months and a relative placement,



72 fictive kin placement, or foster care review once every six (6)
73 months after the child's initial forty-eight-hour shelter hearing.
74 That system shall be for the purpose of enhancing potential family
75 life for the child by the development of individual plans to
76 return the child to the child's natural parent or parents, or to
77 refer the child to the appropriate court for termination of
78 parental rights and placement in a permanent relative's home,
79 adoptive home or foster/adoptive home. The goal of the Department
80 of Child Protection Services shall be to return the child to the
81 child's natural parent(s) or refer the child to the appropriate
82 court for termination of parental rights and placement in a
83 permanent relative's home, adoptive home or foster/adoptive home
84 within the time periods specified in this subsection or in
85 subsection (4) of this section. In furthering this goal, the
86 department shall establish policy and procedures designed to
87 appropriately place children in permanent homes, and provide
88 counseling services and other appropriate services to children who
89 have been victims of commercial sexual exploitation or human
90 trafficking. The policy shall include a system of reviews for all
91 children in foster care, as follows: foster care counselors in
92 the department shall make all possible contact with the child's
93 natural parent(s), custodial parent(s) of all siblings of the
94 child, and any interested relative for the first two (2) months
95 following the child's entry into the foster care system, and
96 provide care for victims of commercial sexual exploitation or



97 human trafficking. For purposes of contacting custodial parent(s)
98 of a sibling, siblings include those who are considered a sibling
99 under state law, and those who would have been considered a
100 sibling under state law, except for termination or disruption of
101 parental rights. For any child who has been in foster care for
102 fifteen (15) of the last twenty-two (22) months regardless of
103 whether the foster care was continuous for all of those twenty-two
104 (22) months, the department shall file a petition to terminate the
105 parental rights of the child's parents. The time period starts to
106 run from the date the court makes a finding of abuse and/or
107 neglect, or commercial sexual exploitation or human trafficking,
108 or sixty (60) days from when the child was removed from his or her
109 home, whichever is earlier. The department can choose not to file
110 a termination of parental rights petition if the following apply:

111 (a) The child is being cared for by a relative; and/or
112 (b) The department has documented compelling and
113 extraordinary reasons why termination of parental rights would not
114 be in the best interests of the child. Before granting or denying
115 a request by the department for an extension of time for filing a
116 termination of parental rights action, the court shall receive a
117 written report on the progress which a parent of the child has
118 made in treatment, to be made to the court in writing by a mental
119 health/substance abuse therapist or counselor.

120 (4) In the case of any child who is placed in foster care on
121 or after July 1, 1998, except in cases of aggravated circumstances



122 prescribed in Section 43-21-603(7)(c), the child's natural
123 parent(s) will have a reasonable time to be determined by the
124 court, which shall not exceed a six-month period of time, in which
125 to meet the service agreement with the department for the benefit
126 of the child unless the department has documented extraordinary
127 and compelling reasons for extending the time period in the best
128 interest of the child. If this agreement has not been
129 satisfactorily met, simultaneously the child will be referred to
130 the appropriate court for termination of parental rights and
131 placement in a permanent relative's home, adoptive home or a
132 foster/adoptive home. For children under the age of three (3)
133 years, termination of parental rights shall be initiated within
134 six (6) months, unless the department has documented compelling
135 and extraordinary circumstances, and placement in a permanent
136 relative's home, adoptive home or foster/adoptive home within two
137 (2) months. For children who have been abandoned under the
138 provisions of Section 97-5-1, termination of parental rights shall
139 be initiated within thirty (30) days and placement in an adoptive
140 home shall be initiated without necessity for placement in a
141 foster home. The department need not initiate termination of
142 parental rights proceedings where the child has been placed in
143 durable legal custody, durable legal relative guardianship, or
144 long-term or formalized foster care by a court of competent
145 jurisdiction.



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

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

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

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

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

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

163 (f) Relevant testimony and recommendations from the
164 foster parent of the child, the grandparents of the child, the
165 guardian ad litem of the child, when appointed, the
166 Court-Appointed Special Advocate (CASA) of the child,
167 representatives of any private care agency that has cared for the
168 child, the family protection worker or family protection
169 specialist assigned to the case, and any other relevant testimony
170 pertaining to the case.



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

186 (6) (a) The Department of Child Protection Services, with
187 the cooperation and assistance of the State Department of Health,
188 shall develop and implement a training program for foster care
189 parents to indoctrinate them as to their proper responsibilities
190 upon a child's entry into their foster care. The program shall
191 provide a minimum of twelve (12) clock hours of training, which
192 shall include training foster care parents about providing mental
193 and physical support to children who have experienced commercial
194 sexual exploitation or human trafficking. The foster care
195 training program shall be satisfactorily completed by such foster



196 care parents before or within ninety (90) days after child
197 placement with the parent. Record of the foster care parent's
198 training program participation shall be filed with the court as
199 part of a child's foster care review plan once every six (6)
200 months.

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

203 (ii) A relative exempted from foster care training
204 is not eligible for board payments, foster care payments, kinship
205 care payments, therapeutic care payments, or any other monthly
206 payments from the department to assist in the care of the child.

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

213 (a) In placing the child in a relative's home, the
214 department may waive any rule, regulation or policy applicable to
215 placement in foster care that would otherwise require the child to
216 have a separate bed or bedroom or have a bedroom of a certain
217 size, if placing the child in a relative's home would be in the
218 best interest of the child and those requirements cannot be met in
219 the relative's home.



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

222 (8) The Legislature recognizes that the best interests of
223 the child require that the child be placed in the most permanent
224 living arrangement as soon as is practicably possible. To achieve
225 this goal, the Department of Child Protection Services is directed
226 to conduct concurrent planning so that a permanent living
227 arrangement may occur at the earliest opportunity. Permanent
228 living arrangements may include prevention of placement of a child
229 outside the home of the family when the child can be cared for at
230 home without endangering the child's health or safety;
231 reunification with the family, when safe and appropriate, if
232 temporary placement is necessary; or movement of the child toward
233 the most permanent living arrangement and permanent legal status.
234 When a child is placed in foster care or relative care, the
235 department shall first ensure and document that reasonable
236 efforts, as defined in Section 43-21-105, were made to prevent or
237 eliminate the need to remove the child from the child's home. The
238 department's first priority shall be to make reasonable efforts to
239 reunify the family when temporary placement of the child occurs or
240 shall request a finding from the court that reasonable efforts are
241 not appropriate or have been unsuccessful. A decision to place a
242 child in foster care or relative care shall be made with
243 consideration of the child's health, safety and best interests.
244 At the time of placement, consideration should also be given so



245 that if reunification fails or is delayed, the placement made is
246 the best available placement to provide a permanent living
247 arrangement for the child. The department shall adopt rules
248 addressing concurrent planning for reunification and a permanent
249 living arrangement. The department shall consider the following
250 factors when determining appropriateness of concurrent planning:

251 (a) The likelihood of prompt reunification;

252 (b) The past history of the family;

253 (c) The barriers to reunification being addressed by
254 the family;

255 (d) The level of cooperation of the family;

256 (e) The foster parents' willingness to work with the
257 family to reunite;

258 (f) The willingness and ability of the foster family or
259 relative placement to provide an adoptive home or long-term
260 placement;

261 (g) The age of the child; and

262 (h) Placement of siblings.

263 (9) If the department has placed a child in foster care or
264 relative care under a court order, the department may not change
265 the child's placement unless the department specifically documents
266 to the court that the current placement is unsafe or unsuitable or
267 that another placement is in the child's best interests unless the
268 new placement is in an adoptive home or other permanent placement.
269 Except in emergency circumstances as determined by the department



270 or where the court orders placement of the child under Section
271 43-21-303, the foster parents, grandparents or other relatives of
272 the child shall be given an opportunity to contest the specific
273 reasons documented by the department at least seventy-two (72)
274 hours before any such departure, and the court may conduct a
275 review of that placement unless the new placement is in an
276 adoptive home or other permanent placement. When a child is
277 returned to foster care or relative care, the former foster
278 parents or relative placement shall be given the prior right of
279 return placement in order to eliminate additional trauma to the
280 child.

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



295 (11) The Department of Child Protection Services shall
296 extend the following rights to persons who provide foster care and
297 relative care:

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

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

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

307 (d) Support from the family protection worker or the
308 family protection specialist in efforts to do a better day-to-day
309 job in caring for the child and in working to achieve the agency's
310 objectives for the child and the birth family through provision
311 of:

312 (i) Pertinent information about the child and the
313 birth family;

314 (ii) Help in using appropriate resources to meet
315 the child's needs, including counseling or other services for
316 victims of commercial sexual exploitation or human trafficking;

317 (iii) Direct interviews between the family
318 protection worker or specialist and the child, previously
319 discussed and understood by the foster parents;



320 (iv) Information regarding whether the child
321 experienced commercial sexual exploitation or human trafficking;

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

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

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

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

332 (i) Reimbursement for property damages caused by
333 children in the custody of the Department of Child Protection
334 Services in an amount not to exceed Five Hundred Dollars
335 (\$500.00), as evidenced by written documentation. The Department
336 of Child Protection Services shall not incur liability for any
337 damages as a result of providing this reimbursement.

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

341 (a) Understanding the department's function in regard
342 to the foster care and relative care program and related social
343 service programs;



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

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

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

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

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

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

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

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



368 (13) The Department of Child Protection Services shall
369 require the following:

370 (a) A child protection services social worker, assigned
371 to a role that involves assuming the custody of children or
372 conducting interviews of children or their parents in order to
373 investigate allegations of parental abuse or neglect, shall use a
374 video and audio recorder to make a video and audio recording of
375 his or her interactions with the children and their parents in
376 carrying out that role;

377 (b) In order for the requirements of paragraph (a) to
378 apply, the child or parent is required to give his or her consent
379 to the video and audio recordings;

380 (c) (i) The Department of Child Protection Services
381 shall catalog and preserve the video and audio recordings; and

382 (ii) The Department of Child Protection Services
383 shall have a written policy that outlines, at a minimum, the
384 proper use of the equipment, the times when the video and audio
385 recorder is to be activated, conditions under which it is
386 permissible not to have the video and audio recorder activated,
387 the retention period of the recordings, the method for replacing
388 defective or malfunctioning equipment and a logging policy to
389 record failures or periods when the equipment is being repaired.

390 (14) (a) In a criminal prosecution, upon the request of the
391 defendant, the prosecutor shall produce a copy, in a reasonably
392 usable format, of the recordings that the Department of Child



393 Protection Services social worker was required to make pursuant to
394 subsection (13) of this section.

395 (b) If the prosecutor does not produce a copy of the
396 recordings upon request, the defendant is entitled to an
397 instruction stating that the missing information is presumed to be
398 exculpatory.

399 (15) (a) In a dependency proceeding, upon the request of
400 the parent, the county shall produce a copy, in a reasonably
401 usable format, of the recordings that the Department of Child
402 Protection Services was required to make pursuant to subsection
403 (13) of this section.

404 (b) If the Department of Child Protection Services does
405 not produce a copy of the recordings upon request, the Department
406 of Child Protection Services social worker is prohibited from
407 testifying about the missing information, and the missing
408 information shall not be considered by the judge in making his or
409 her rulings.

410 **SECTION 2.** This act shall take effect and be in force from
411 and after July 1, 2022.

