

By: Representative Owen

To: Judiciary A

HOUSE BILL NO. 1118

1 AN ACT TO REQUIRE THE DEPARTMENT OF CHILD PROTECTION SERVICES
 2 IN HEARINGS IN WHICH A PERMANENCY PLAN CHANGES TO A TERMINATION OF
 3 PARENTAL RIGHTS OR ADOPTION PROCEEDING TO NOTIFY THE ATTORNEY
 4 GENERAL'S OFFICE WITHIN 7 WORKING DAYS; TO REQUIRE THE COURT TO
 5 HOLD A HEARING ON THE PETITION WITHIN ONE HUNDRED TWENTY DAYS OF
 6 THE DATE THE PETITION IS FILED; TO AMEND SECTIONS 93-15-131 AND
 7 43-21-613, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
 8 AMENDMENTS; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** (1) In any case in which a permanency plan
 11 changes to a termination of parental rights or adoption
 12 proceeding, the Department of Child Protection Services shall
 13 notify the Attorney General's office within seven (7) working
 14 days.

15 (2) When the petition for termination of parental rights is
 16 filed with the court of competent jurisdiction, the court shall
 17 hold a hearing on the petition within one hundred twenty (120)
 18 days of the date perfected service is made on the parents.

19 **SECTION 2.** Section 93-15-131, Mississippi Code of 1972, is
 20 amended as follows:



21 93-15-131. (1) If the court does not terminate the parent's
22 parental rights, the custody and care of the child shall continue
23 with the person, agency, or institution that is holding custody of
24 the child at the time the judgment is rendered, or the court may
25 grant custody to the parent whose rights were sought to be
26 terminated if that is in the best interest of the child. If the
27 Department of Child Protection Services has legal custody of the
28 child, the court must conduct a permanency hearing and permanency
29 review hearings as required under the Mississippi Youth Court Law
30 and the Mississippi Uniform Rules of Youth Court Practice.

31 (2) If the court terminates the parent's parental rights,
32 the court shall place the child in the custody and care of the
33 other parent or some suitable person, agency, or institution until
34 an adoption or some other permanent living arrangement is
35 achieved. No notice of adoption proceedings or any other
36 subsequent proceedings pertaining to the custody and care of the
37 child shall be given to a parent whose rights have been
38 terminated.

39 (3) (a) The Attorney General's office shall be notified by
40 the Department of Child Protection Services within seven (7)
41 working days when a permanency plan changes to a termination of
42 parental rights or adoption proceeding.

43 (b) Once the petition for termination of parental
44 rights is filed with the court of competent jurisdiction, the
45 court shall hold a hearing on the petition within one hundred



46 twenty (120) days of the date when perfected service is made on
47 the parents.

48 **SECTION 3.** Section 43-21-613, Mississippi Code of 1972, is
49 amended as follows:

50 43-21-613. (1) If the youth court finds, after a hearing
51 which complies with the sections governing adjudicatory hearings,
52 that the terms of a delinquency or child in need of supervision
53 disposition order, probation or parole have been violated, the
54 youth court may, in its discretion, revoke the original
55 disposition and make any disposition which it could have
56 originally ordered. The hearing shall be initiated by the filing
57 of a petition that complies with the sections governing petitions
58 in this chapter and that includes a statement of the youth court's
59 original disposition order, probation or parole, the alleged
60 violation of that order, probation or parole, and the facts which
61 show the violation of that order, probation or parole. Summons
62 shall be served in the same manner as summons for an adjudicatory
63 hearing.

64 (2) On motion of a child or a child's parent, guardian or
65 custodian, the youth court may, in its discretion, conduct an
66 informal hearing to review the disposition order. If the youth
67 court finds a material change of circumstances relating to the
68 disposition of the child, the youth court may modify the
69 disposition order to any appropriate disposition of equal or



70 greater precedence which the youth court could have originally
71 ordered.

72 (3) (a) Unless the youth court's jurisdiction has been
73 terminated, all disposition orders for supervision, probation or
74 placement of a child with an individual or an agency shall be
75 reviewed by the youth court judge or referee at least annually to
76 determine if continued placement, probation or supervision is in
77 the best interest of the child or the public. For children who
78 have been adjudicated abused or neglected, the youth court shall
79 conduct a permanency hearing within twelve (12) months after the
80 earlier of:

81 (i) An adjudication that the child has been abused
82 or neglected; or

83 (ii) The date of the child's removal from the
84 allegedly abusive or neglectful custodian/parent. Notice of such
85 hearing shall be given in accordance with the provisions of
86 Section 43-21-505(5). In conducting the hearing, the judge or
87 referee shall require a written report and may require information
88 or statements from the child's youth court counselor, parent,
89 guardian or custodian, which includes, but is not limited to, an
90 evaluation of the child's progress and recommendations for further
91 supervision or treatment. The judge or referee shall, at the
92 permanency hearing determine the future status of the child,
93 including, but not limited to, whether the child should be
94 returned to the parent(s) or placed with suitable relatives,



95 placed for adoption, placed for the purpose of establishing
96 durable legal custody or should, because of the child's special
97 needs or circumstances, be continued in foster care on a permanent
98 or long-term basis. The Department of Child Protection Services
99 shall notify the Attorney General when a permanency plan changes
100 to a termination of parental rights or adoption proceeding as
101 provided in Section 1 of this act. If the child is in an
102 out-of-state placement, the hearing shall determine whether the
103 out-of-state placement continues to be appropriate and in the best
104 interest of the child. At the permanency hearing the judge or
105 referee shall determine, and the youth court order shall recite
106 that reasonable efforts were made by the Department of Child
107 Protection Services to finalize the child's permanency plan that
108 was in effect on the date of the permanency hearing. The judge or
109 referee may find that reasonable efforts to maintain the child
110 within his home shall not be required in accordance with Section
111 43-21-603(7)(c), and that the youth court shall continue to
112 conduct permanency hearings for a child who has been adjudicated
113 abused or neglected, at least annually thereafter, for as long as
114 the child remains in the custody of the Mississippi Department of
115 Child Protection Services.

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



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

121 (ii) The Department of Child Protection Services
122 has documented compelling and extraordinary reasons why
123 termination of parental rights would not be in the best interests
124 of the child.

125 (c) The provisions of this subsection shall also apply
126 to review of cases involving a dependent child; however, such
127 reviews shall take place not less frequently than once each one
128 hundred eighty (180) days, or upon the request of the child's
129 attorney, a parent's attorney, or a parent as deemed appropriate
130 by the youth court in protecting the best interests of the child.
131 A dependent child shall be ordered by the youth court judge or
132 referee to be returned to the custody and home of the child's
133 parent, guardian or custodian unless the judge or referee, upon
134 such review, makes a written finding that the return of the child
135 to the home would be contrary to the child's best interests.

136 (d) Reviews are not to be conducted unless explicitly
137 ordered by the youth court concerning those cases in which the
138 court has granted durable legal custody. In such cases, the
139 Department of Child Protection Services shall be released from any
140 oversight or monitoring responsibilities, and relieved of physical
141 and legal custody and supervision of the child.

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



144 **SECTION 4.** This act shall take effect and be in force from
145 and after its passage.

