

By: Senator(s) Boyd, McMahan, Blackwell,
McCaughn, England, Thompson, Williams,
Michel, McLendon, Parks, Parker, Hickman

To: Judiciary, Division A

SENATE BILL NO. 2191

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,
2 TO CREATE THE FOSTER PARENTS' BILL OF RIGHTS AND RESPONSIBILITIES;
3 TO CREATE A NEW SECTION WITHIN TITLE 43, CHAPTER 21, MISSISSIPPI
4 CODE OF 1972, TO REQUIRE THE COURT TO NOTIFY THE ATTORNEY
5 GENERAL'S OFFICE WHEN A PERMANENCY PLAN CHANGES TO TERMINATION OF
6 PARENTAL RIGHTS OR ADOPTION; AND FOR RELATED PURPOSES.

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

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

10 43-15-13. (1) For purposes of this section, "children"
11 means persons found within the state who are under the age of
12 twenty-one (21) years, and who were placed in the custody of the
13 Department of Child Protection Services by the youth court of the
14 appropriate county. For purposes of this chapter, "commercial
15 sexual exploitation" means any sexual act or crime of a sexual
16 nature, which is committed against a child for financial or
17 economic gain, to obtain a thing of value, for quid pro quo
18 exchange of property or any other purpose.



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

22 (a) Protecting and promoting the health, safety and
23 welfare of children;

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

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

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

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

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



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

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

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



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



94 human trafficking. For purposes of contacting custodial parent(s)
95 of a sibling, siblings include those who are considered a sibling
96 under state law, and those who would have been considered a
97 sibling under state law, except for termination or disruption of
98 parental rights. For any child who has been in foster care for
99 fifteen (15) of the last twenty-two (22) months regardless of
100 whether the foster care was continuous for all of those twenty-two
101 (22) months, the department shall file a petition to terminate the
102 parental rights of the child's parents. The time period starts to
103 run from the date the court makes a finding of abuse and/or
104 neglect, or commercial sexual exploitation or human trafficking,
105 or sixty (60) days from when the child was removed from his or her
106 home, whichever is earlier. The department can choose not to file
107 a termination of parental rights petition if the following apply:
108 (a) The child is being cared for by a relative; and/or
109 (b) The department has documented compelling and
110 extraordinary reasons why termination of parental rights would not
111 be in the best interests of the child. Before granting or denying
112 a request by the department for an extension of time for filing a
113 termination of parental rights action, the court shall receive a
114 written report on the progress which a parent of the child has
115 made in treatment, to be made to the court in writing by a mental
116 health/substance abuse therapist or counselor.
117 (4) In the case of any child who is placed in foster care on
118 or after July 1, 1998, except in cases of aggravated circumstances



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



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

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

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

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

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

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

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



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

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



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

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

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

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

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



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

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



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

248 (a) The likelihood of prompt reunification;

249 (b) The past history of the family;

250 (c) The barriers to reunification being addressed by
251 the family;

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

253 (e) The foster parents' willingness to work with the
254 family to reunite;

255 (f) The willingness and ability of the foster family or
256 relative placement to provide an adoptive home or long-term
257 placement;

258 (g) The age of the child; and

259 (h) Placement of siblings.

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



267 or where the court orders placement of the child under Section
268 43-21-303, the foster parents, grandparents or other relatives of
269 the child shall be given an opportunity to contest the specific
270 reasons documented by the department at least seventy-two (72)
271 hours before any such departure, and the court may conduct a
272 review of that placement unless the new placement is in an
273 adoptive home or other permanent placement. When a child is
274 returned to foster care or relative care, the former foster
275 parents or relative placement shall be given the prior right of
276 return placement in order to eliminate additional trauma to the
277 child.

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



292 (11) Subsections (12) and (13) of this section shall be
293 known and may be cited as the "Mississippi Foster Parent's Bill of
294 Rights and Responsibilities."

295 (* * *12) 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) Notification of benchmarks that will be required of
305 the foster parent such as appointments, home visits with
306 department personnel, visitations of the child at school and
307 meetings between department personnel and the child's family;

308 (d) Advance notice of information regarding scheduled
309 meetings, appointments and court hearings concerning the foster
310 child;

311 (e) The opportunity to communicate with professionals
312 who work with the foster child including therapists, physicians
313 and teachers who work directly with the child;

314 (f) The opportunity to communicate and collaborate,
315 without threat of reprisal, with a department representative when
316 further educational services are needed to ensure the child's



317 educational needs are met, including services such as an
318 Individualized Educational Plan (IEP), tutoring, occupational
319 therapy, speech therapy and after-school programs;

320 (g) The opportunity to attend all IEP meetings, along
321 with the department worker, at the child's school as long as the
322 child is in custody and receiving special educational services;

323 (h) The opportunity to communicate with the foster
324 child's guardian ad litem and hold independent meetings between
325 the guardian ad litem and the foster child within two (2) weeks of
326 placement;

327 (i) The opportunity to appear at child protection
328 proceedings and disposition hearings and the right to be
329 represented by legal counsel as provided by Section 43-21-203(6);

330 (j) When the dates of the permanency hearing and
331 permanency review hearing have been set by the youth court, and if
332 necessary to fulfill the notice requirements, the judge or the
333 judge's designee shall order the clerk of the youth court to issue
334 a summons to the foster parents to appear personally at hearings
335 as provided by Section 43-21-501;

336 (k) The opportunity to request permission to
337 communicate with the child's birth family, previous foster parents
338 of the child, and prospective and finalized adoptive parents of
339 the child, without the threat of reprisal. However, this right
340 creates no obligation of the birth family, previous foster



341 parents, or prospective and finalized adoptive parents to
342 communicate in return;

343 (* * *1) Involvement in all the agency's crucial
344 decisions regarding the child as team members who have pertinent
345 information based on their day-to-day knowledge of the child in
346 care and involvement in case planning, including individual
347 service planning meetings, foster care review, individual
348 educational planning meetings, and medical appointments;

349 (m) The opportunity to plan visitations between the
350 child and the child's siblings and other biological family
351 members. Visitations shall be scheduled at a time and place
352 meeting the needs of the child, the biological family, and the
353 foster family. Recognizing that visitation with family members is
354 an important right of children in foster care, foster parents
355 shall be flexible and cooperative with regard to family visits but
356 shall retain the right to advance notice of all scheduled
357 visitations;

358 (n) The ability to communicate with an administrative
359 staff person representing the department twenty-four (24) hours a
360 day, seven (7) days a week, for the purpose of aiding the foster
361 parent;

362 (o) A comprehensive list of all resources available to
363 the foster parent and child, including dental providers, medical
364 providers, respite workers in the area, day cares, and methods for
365 submitting reimbursements;



366 (* * *p) Support from the family protection worker or
367 the family protection specialist in efforts to do a better
368 day-to-day job in caring for the child and in working to achieve
369 the agency's objectives for the child and the birth family through
370 provision of:

371 (i) A copy of the "Foster Child Information Form"
372 and all other pertinent information about the child and the birth
373 family, including medical, dental, behavioral health history,
374 psychological information, educational status, cultural and family
375 background, and other issues relevant to the child which are known
376 to the department at the time the child is placed in foster care
377 prior to the child's placement with a foster parent or parents.
378 The department shall gather and provide all additional current
379 medical, dental, behavioral, educational and psychological
380 information available from the child's service providers within
381 fifteen (15) days of placement. When the department learns of
382 such information after fifteen (15) days of placement, the
383 department shall communicate such information to the foster parent
384 as soon as practicable;

385 (ii) An explanation of the plan for placement of
386 the child in the foster parent's home and the ongoing and timely
387 communication of any necessary information which is relevant to
388 the care of the child, including any changes in the case plan;



389 (* * *iii) Help in using appropriate resources to
390 meet the child's needs, including counseling or other services for
391 victims of commercial sexual exploitation or human trafficking;

392 (* * *iv) Direct interviews between the family
393 protection worker or specialist and the child, previously
394 discussed and understood by the foster parents;

395 (* * *y) Information regarding whether the child
396 experienced commercial sexual exploitation or human trafficking;

397 (vi) Information related to the Healthy,
398 Hunger-Free Kids Act of 2010. Foster parents shall protect the
399 confidentiality of the child by working directly with a designated
400 school official to complete the application for free lunches.

401 (* * *g) The opportunity to develop confidence in
402 making day-to-day decisions in regard to the child;

403 (* * *r) The opportunity to learn and grow in their
404 vocation through planned education in caring for the child;

405 (* * *s) The opportunity to be heard regarding agency
406 practices that they may question;

407 (* * *t) An explanation of all costs eligible for
408 reimbursement, including:

409 (i) Reimbursement for costs of the child's care in
410 the form of a board payment based on the age of the child as
411 prescribed in Section 43-15-17 unless the relative is exempt from
412 foster care training and chooses to exercise the exemption; and



413 (* * *ii) Reimbursement for property damages
414 caused by children in the custody of the Department of Child
415 Protection Services in an amount not to exceed Five Hundred
416 Dollars (\$500.00), as evidenced by written documentation. The
417 Department of Child Protection Services shall not incur liability
418 for any damages as a result of providing this reimbursement.

419 (* * *13) The Department of Child Protection Services shall
420 require the following responsibilities from participating persons
421 who provide foster care and relative care:

422 (a) Understanding the department's function in regard
423 to the foster care and relative care program and related social
424 service programs;

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

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

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

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

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



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

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

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

449 **SECTION 2.** The following shall be codified as a new section
450 within Title 43, Chapter 21, Mississippi Code of 1972:

451 43-21- . The appropriate court shall notify the Office of
452 the Attorney General within seven (7) working days whenever a
453 permanency plan changes to a termination of parental rights or an
454 adoption.

455 **SECTION 3.** This act shall take effect and be in force from
456 and after July 1, 2023.

