

By: Representatives Hobgood-Wilkes, Owen

To: Judiciary B

HOUSE BILL NO. 1351

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,  
 2 TO CLARIFY THAT WHEN THE DEPARTMENT OF CHILD PROTECTION SERVICES  
 3 PLACES A CHILD IN FOSTER CARE OR RELATIVE CARE DUE TO A COURT  
 4 ORDER, SUCH PLACEMENT SHALL NOT BE CHANGED UNLESS THE DEPARTMENT  
 5 RECEIVES APPROVAL FROM THE YOUTH COURT THROUGH A WRITTEN OR VERBAL  
 6 ORDER; 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  
264 and the court agrees, through a written or verbal order, that the  
265 current placement is unsafe or unsuitable or that another  
266 placement is in the child's best interests unless the new



267 placement is in an adoptive home or other permanent placement and  
268 the court has approved the placement, through a written or verbal  
269 order, before the child is placed in another placement. Except in  
270 emergency circumstances as determined by the department or where  
271 the court orders placement of the child under Section 43-21-303,  
272 the foster parents, grandparents or other relatives of the child  
273 shall be given an opportunity to contest the specific reasons  
274 documented by the department at least seventy-two (72) hours  
275 before any such departure, and the court may conduct a review of  
276 that placement unless the new placement is in an adoptive home or  
277 other permanent placement. When a child is returned to foster  
278 care or relative care, the former foster parents or relative  
279 placement shall be given the prior right of return placement in  
280 order to eliminate additional trauma to the 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) There is hereby created a Foster Parents' Bill of  
296 Rights and Responsibilities which shall be provided to all foster  
297 parents at foster parent training. The Department of Child  
298 Protection Services shall extend the following rights to persons  
299 who provide foster care and relative care:

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

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

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

310 (d) Advance notice of information regarding scheduled  
311 meetings other than meetings where the Department of Child  
312 Protection Services personnel or social workers are going to the  
313 foster parent's home for site visits, appointments and court  
314 hearings concerning the foster child;



315           (e) The opportunity to communicate with professionals  
316 who work with the foster child including therapists, physicians  
317 and teachers who work directly with the child;

318           (f) The opportunity to communicate and collaborate,  
319 without threat of reprisal, with a department representative when  
320 further educational services are needed to ensure the child's  
321 educational needs are met, including services such as an  
322 Individualized Educational Plan (IEP), tutoring, occupational  
323 therapy, speech therapy and after-school programs;

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

327           (h) The opportunity to communicate with the foster  
328 child's guardian ad litem;

329           (i) The opportunity to attend all youth court hearings  
330 involving a foster child occurring while that child is placed in  
331 their care without being a party to the youth court action, unless  
332 the youth court determines that any foster parent should not be  
333 present. Foster parents may attend all youth court hearings and  
334 have legal counsel attend and observe with them if the child's  
335 permanent plan is adoption by the foster parents, unless the youth  
336 court determines that any foster parent should not be present.  
337 Foster parents may communicate with the guardian ad litem in  
338 writing at any time. Foster parents may ask to be heard



339 concerning the best interest of the child at any disposition or  
340 permanency hearing;

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

347 (k) The opportunity to request from the youth court  
348 permission to communicate with the child's birth family, previous  
349 foster parents of the child, and prospective and finalized  
350 adoptive parents of the child, without the threat of reprisal.  
351 However, this right creates no obligation of the birth family,  
352 previous foster parents, or prospective and finalized adoptive  
353 parents to communicate in return;

354 (l) Involvement in all the agency's crucial decisions  
355 regarding the child as team members who have pertinent information  
356 based on their day-to-day knowledge of the child in care and  
357 involvement in planning, including, but not limited to, individual  
358 service planning meetings, foster care review, individual  
359 educational planning meetings, and medical appointments;

360 (m) The opportunity to participate in the planning of  
361 visitations between the child and the child's siblings, parents or  
362 former guardians or other biological family members which have  
363 been previously authorized by the youth court. Visitations shall



364 be scheduled at a time and place meeting the needs of the child,  
365 the biological family, and the foster family. Recognizing that  
366 visitation with family members is an important right of children  
367 in foster care, foster parents shall be flexible and cooperative  
368 with regard to family visits but shall retain the right to  
369 reasonable advance notice of all scheduled visitations;

370 (n) The ability to communicate with department  
371 personnel or representatives twenty-four (24) hours a day, seven  
372 (7) days a week, for the purpose of aiding the foster parent;

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

377 (p) Support from the family protection worker or the  
378 family protection specialist in efforts to do a better day-to-day  
379 job in caring for the child and in working to achieve the agency's  
380 objectives for the child and the birth family through provision  
381 of:

382 (i) A copy of the "Foster Child Information Form"  
383 and all other pertinent information about the child and the birth  
384 family, including medical, dental, behavioral health history,  
385 psychological information, educational status, cultural and family  
386 background, and other issues relevant to the child which are known  
387 to the department at the time the child is placed in foster care  
388 prior to the child's placement with a foster parent or parents.





389 The department shall make reasonable efforts to gather and provide  
390 all additional current medical, dental, behavioral, educational  
391 and psychological information reasonably available from the  
392 child's service providers within fifteen (15) days of placement.  
393 When the department learns of such information after fifteen (15)  
394 days of placement, the department shall communicate such  
395 information to the foster parent as soon as practicable;

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

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

403 (iv) Direct interviews between the family  
404 protection worker or specialist and the child, previously  
405 discussed and understood by the foster parents;

406 (v) Information regarding whether the child  
407 experienced commercial sexual exploitation or human trafficking;

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

412 (q) The opportunity to develop confidence in making  
413 day-to-day decisions in regard to the child;



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

416 (s) The opportunity to be heard regarding agency  
417 practices that they may question;

418 (t) Information related to all costs eligible for  
419 reimbursement, including:

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

424 (ii) Reimbursement for property damages caused by  
425 children in the custody of the Department of Child Protection  
426 Services in an amount not to exceed Five Hundred Dollars  
427 (\$500.00), as evidenced by written documentation. The Department  
428 of Child Protection Services shall not incur liability for any  
429 damages as a result of providing this reimbursement.

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

433 (a) Understanding the department's function in regard  
434 to the foster care and relative care program and related social  
435 service programs;

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



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

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

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

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

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

453 (h) Cooperating with any plan to reunite the child with  
454 his birth family and work with the birth family to achieve this  
455 goal; and

456 (i) Attending dispositional review hearings and  
457 termination of parental rights hearings conducted by a court of  
458 competent jurisdiction, or providing their recommendations to the  
459 guardian ad litem in writing.

460 (13) The department shall develop a grievance procedure for  
461 foster parents to raise any complaints or concerns regarding the  
462 provisions of subsection (11) or (12) of this section.



463           (14) Nothing in this section shall be construed to create a  
464 private right of action or claim on the part of any individual,  
465 the department, or any child-placing agency.

466           **SECTION 2.** This act shall take effect and be in force from  
467 and after July 1, 2024.

