

By: Representative Hood

To: Judiciary A

HOUSE BILL NO. 1559

1 AN ACT TO AMEND SECTION 43-21-105, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DEFINITIONS OF VARIOUS TERMS USED UNDER THE YOUTH
3 COURT LAW; TO AMEND SECTIONS 43-21-301 AND 43-21-303, MISSISSIPPI
4 CODE OF 1972, TO PROVIDE THAT A CHILD MAY NOT BE CONSIDERED
5 NEGLECTED WHEN THE FAILURE OF THE PARENT TO PROPERLY PROVIDE FOR
6 THE CHILD IS PRIMARILY DUE TO FINANCIAL INABILITY; TO AMEND
7 SECTION 93-15-103, MISSISSIPPI CODE OF 1972, TO DEFINE THE PHRASE
8 "COMPELLING AND EXTRAORDINARY REASONS" AS USED UNDER THE
9 MISSISSIPPI TERMINATION OF PARENTAL RIGHTS LAW; TO AMEND SECTION
10 43-21-201, MISSISSIPPI CODE OF 1972, TO REQUIRE THE COURT TO
11 APPOINT COUNSEL FOR AN INDIGENT CUSTODIAL PARENT IN YOUTH COURT
12 PROCEEDINGS, AND TO REQUIRE A FINANCIALLY ABLE PARENT TO PAY FOR
13 COURT-APPOINTED REPRESENTATION; TO REQUIRE MONIES COLLECTED TO BE
14 DEPOSITED INTO A SPECIAL FUND TO BE KNOWN AS THE "JUVENILE COURT
15 REPRESENTATION FUND" TO HELP COVER THE COSTS OF COUNSEL IN
16 INDIGENT CASES; TO AMEND SECTION 93-15-107, MISSISSIPPI CODE OF
17 1972, TO REQUIRE CHILDREN AGE 12 OR OLDER TO BE INCLUDED IN
18 PROCEEDINGS FOR THE INVOLUNTARY TERMINATION OF PARENTAL RIGHTS; TO
19 AMEND SECTION 93-15-111, MISSISSIPPI CODE OF 1972, TO REQUIRE A
20 COURT TO ACCEPT A PARENT'S WRITTEN VOLUNTARY RELEASE TERMINATING
21 PARENTAL RIGHTS IF CERTAIN REQUIREMENTS ARE MET; TO AMEND SECTION
22 43-21-151, MISSISSIPPI CODE OF 1972, TO INCLUDE CHARGES OF CHILD
23 NEGLECT WITHIN THE JURISDICTION OF THE YOUTH COURT; TO AMEND
24 SECTION 93-17-3, MISSISSIPPI CODE OF 1972, TO DELETE THE
25 REQUIREMENT FOR HOLDING A HEARING ON THE TERMINATION OF PARENTAL
26 RIGHTS WITHIN 120 DAYS FROM THE STATUTE GOVERNING ADOPTION
27 PROCEEDINGS; TO AMEND SECTION 93-15-121, MISSISSIPPI CODE OF 1972,
28 TO REVISE THE FACTORS TO BE CONSIDERED IN DETERMINING IF A
29 PARENT'S MENTAL ILLNESS IS GROUNDS FOR TERMINATION OF PARENTAL
30 RIGHTS; TO AMEND SECTION 25-7-9, MISSISSIPPI CODE OF 1972, TO
31 REMOVE ADOPTIONS INVOLVING THE DEPARTMENT OF CHILD PROTECTION
32 SERVICES FROM THE SERVICES FOR WHICH A CHANCERY CLERK IS PAID A
33 FEE; TO AMEND SECTION 97-5-39, MISSISSIPPI CODE OF 1972, TO DEFINE
34 THE TERM "TORTURE" AS A TYPE OF FELONIOUS CHILD ABUSE; TO CREATE



35 NEW SECTION 43-19-107, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A
36 COURT TO ESTABLISH MINIMUM CHILD VISITATION SCHEDULES FOR CERTAIN
37 NONCUSTODIAL PARENTS ORDERED TO PAY CHILD SUPPORT; AND FOR RELATED
38 PURPOSES.

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

40 **SECTION 1.** Section 43-21-105, Mississippi Code of 1972, is
41 amended as follows:

42 43-21-105. The following words and phrases, for purposes of
43 this chapter, shall have the meanings ascribed herein unless the
44 context clearly otherwise requires:

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

46 (b) "Judge" means the judge of the Youth Court
47 Division.

48 (c) "Designee" means any person that the judge appoints
49 to perform a duty which this chapter requires to be done by the
50 judge or his designee. The judge may not appoint a person who is
51 involved in law enforcement or who is an employee of the
52 Mississippi Department of Human Services or the Mississippi
53 Department of Child Protection Services to be his designee.

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

59 (e) "Parent" means the father or mother to whom the
60 child has been born, or the father or mother by whom the child has
61 been legally adopted.



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

64 (g) "Custodian" means any person having the present
65 care or custody of a child whether such person be a parent or
66 otherwise.

67 (h) "Legal custodian" means a court-appointed custodian
68 of the child.

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

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

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

80 (i) Is habitually disobedient of reasonable and
81 lawful commands of his parent, guardian or custodian and is
82 ungovernable; or

83 (ii) While being required to attend school,
84 willfully and habitually violates the rules thereof or willfully
85 and habitually absents himself therefrom; or

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



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

88 (1) "Neglected child" means a child:

89 (i) Whose parent, guardian or custodian or any
90 person responsible for his care or support, neglects or refuses,
91 when able so to do, to provide for him proper and necessary care
92 or support, or education as required by law, or medical, surgical,
93 or other care necessary for his well-being; however, a parent who
94 withholds medical treatment from any child who in good faith is
95 under treatment by spiritual means alone through prayer in
96 accordance with the tenets and practices of a recognized church or
97 religious denomination by a duly accredited practitioner thereof
98 shall not, for that reason alone, be considered to be neglectful
99 under any provision of this chapter; or

100 (ii) Who is otherwise without proper care,
101 custody, supervision or support; or

102 (iii) Who, for any reason, lacks the special care
103 made necessary for him by reason of his mental condition, whether
104 the mental condition is having mental illness or having an
105 intellectual disability; or

106 (iv) Who * * * is not provided, by the child's
107 parent, guardian or custodian, with food, clothing or shelter
108 necessary to sustain the life or health of the child, excluding
109 such failure caused primarily by financial inability unless relief
110 services have been offered and refused and the child is in
111 imminent risk of harm.



112 (m) "Abused child" means a child whose parent, guardian
113 or custodian or any person responsible for his care or support,
114 whether legally obligated to do so or not, has caused or allowed
115 to be caused, upon the child, sexual abuse, sexual exploitation,
116 commercial sexual exploitation, emotional abuse, mental injury,
117 nonaccidental physical injury or other maltreatment. However,
118 physical discipline, including spanking, performed on a child by a
119 parent, guardian or custodian in a reasonable manner shall not be
120 deemed abuse under this section. "Abused child" also means a
121 child who is or has been trafficked within the meaning of the
122 Mississippi Human Trafficking Act by any person, without regard to
123 the relationship of the person to the child.

124 (n) "Sexual abuse" means obscene or pornographic
125 photographing, filming or depiction of children for commercial
126 purposes, or the rape, molestation, incest, prostitution or other
127 such forms of sexual exploitation of children under circumstances
128 which indicate that the child's health or welfare is harmed or
129 threatened.

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

134 (p) A "dependent child" means any child who is not a
135 child in need of supervision, a delinquent child, an abused child
136 or a neglected child, and which child has been voluntarily placed



137 in the custody of the Department of Child Protection Services by
138 his parent, guardian or custodian.

139 (q) "Custody" means the physical possession of the
140 child by any person.

141 (r) "Legal custody" means the legal status created by a
142 court order which gives the legal custodian the responsibilities
143 of physical possession of the child and the duty to provide him
144 with food, shelter, education and reasonable medical care, all
145 subject to residual rights and responsibilities of the parent or
146 guardian of the person.

147 (s) "Detention" means the care of children in
148 physically restrictive facilities.

149 (t) "Shelter" means care of children in physically
150 nonrestrictive facilities.

151 (u) "Records involving children" means any of the
152 following from which the child can be identified:

153 (i) All youth court records as defined in Section
154 43-21-251;

155 (ii) All forensic interviews conducted by a child
156 advocacy center in abuse and neglect investigations;

157 (iii) All law enforcement records as defined in
158 Section 43-21-255;

159 (iv) All agency records as defined in Section
160 43-21-257; and



161 (v) All other documents maintained by any
162 representative of the state, county, municipality or other public
163 agency insofar as they relate to the apprehension, custody,
164 adjudication or disposition of a child who is the subject of a
165 youth court cause.

166 (v) "Any person responsible for care or support" means
167 the person who is providing for the child at a given time. This
168 term shall include, but is not limited to, stepparents, foster
169 parents, relatives, nonlicensed babysitters or other similar
170 persons responsible for a child and staff of residential care
171 facilities and group homes that are licensed by the Department of
172 Human Services or the Department of Child Protection Services.

173 (w) The singular includes the plural, the plural the
174 singular and the masculine the feminine when consistent with the
175 intent of this chapter.

176 (x) "Out-of-home" setting means the temporary
177 supervision or care of children by the staff of licensed day care
178 centers, the staff of public, private and state schools, the staff
179 of juvenile detention facilities, the staff of unlicensed
180 residential care facilities and group homes and the staff of, or
181 individuals representing, churches, civic or social organizations.

182 (y) "Durable legal custody" means the legal status
183 created by a court order which gives the durable legal custodian
184 the responsibilities of physical possession of the child and the
185 duty to provide him with care, nurture, welfare, food, shelter,



186 education and reasonable medical care. All these duties as
187 enumerated are subject to the residual rights and responsibilities
188 of the natural parent(s) or guardian(s) of the child or children.

189 (z) "Status offense" means conduct subject to
190 adjudication by the youth court that would not be a crime if
191 committed by an adult.

192 (aa) "Financially able" means a parent or child who is
193 ineligible for a court-appointed attorney.

194 (bb) "Assessment" means an individualized examination
195 of a child to determine the child's psychosocial needs and
196 problems, including the type and extent of any mental health,
197 substance abuse or co-occurring mental health and substance abuse
198 disorders and recommendations for treatment. The term includes,
199 but is not limited to, a drug and alcohol, psychological or
200 psychiatric evaluation, records review, clinical interview or the
201 administration of a formal test and instrument.

202 (cc) "Screening" means a process, with or without the
203 administration of a formal instrument, that is designed to
204 identify a child who is at increased risk of having mental health,
205 substance abuse or co-occurring mental health and substance abuse
206 disorders that warrant immediate attention, intervention or more
207 comprehensive assessment.

208 (dd) "Durable legal relative guardianship" means the
209 legal status created by a youth court order that conveys the
210 physical and legal custody of a child or children by durable legal



211 guardianship to a relative or fictive kin who is licensed as a
212 foster or resource parent.

213 (ee) "Relative" means a person related to the child by
214 affinity or consanguinity within the third degree.

215 (ff) "Fictive kin" means a person not related to the
216 child legally or biologically but who is considered a relative due
217 to a significant, familial-like and ongoing relationship with the
218 child and family.

219 (gg) "Reasonable efforts" means the exercise of
220 reasonable care and due diligence by the Department of Human
221 Services, the Department of Child Protection Services, or any
222 other appropriate entity or person to use * * * services
223 appropriate to the child's background which are accessible and
224 available to meet the individualized needs of the child and
225 child's family to prevent removal and reunify the family as soon
226 as safely possible consistent with the best interests of the
227 child.

228 Reasonable efforts must be made in collaboration with the
229 family and must address the individualized needs of the family
230 which brought the child to the attention of the Department of
231 Child Protection Services and may not consist of required services
232 that are not related to the family's needs.

233 (hh) "Commercial sexual exploitation" means any sexual
234 act or crime of a sexual nature, which is committed against a



235 child for financial or economic gain, to obtain a thing of value
236 for quid pro quo exchange of property or for any other purpose.

237 (ii) "Compelling and extraordinary reasons" why
238 termination of parental rights would not be in the child's best
239 interests may include, but are not limited to, when:

240 (i) A child is being cared for by a relative and
241 that relative, who is otherwise an appropriate, safe and loving
242 placement for the child, is unwilling to participate in
243 termination of parental rights proceedings;

244 (ii) Guardianship is available;

245 (iii) A natural parent is incarcerated but subject
246 to be released within a reasonable time and could be given an
247 opportunity to work a service plan toward possible reunification;

248 (iv) A natural parent is terminally ill and unable
249 to care or provide for the child;

250 (v) The absence of the parent is due to the
251 parent's admission or commitment to any institution or health
252 facility or due to active service in state or federal armed
253 forces;

254 (vi) A child twelve (12) years or older objects to
255 the termination of parental rights;

256 (vii) The child is placed in a residential
257 treatment facility and adoption is unlikely or undesirable or the
258 child is not in an adoptive placement, or it is likely the child



259 will age out of the Department of Child Protection Services'
260 custody rather than be adopted;

261 (viii) Necessary for compliance with the Indian
262 Child Welfare Act; and

263 (ix) The department has not provided services
264 within the time frames indicated in the case plan and there is
265 evidence that the family may achieve reunification within six (6)
266 months or there is a finding that reasonable efforts were not
267 made.

268 **SECTION 2.** Section 43-21-301, Mississippi Code of 1972, is
269 amended as follows:

270 43-21-301. (1) No court other than the youth court shall
271 issue an arrest warrant or custody order for a child in a matter
272 in which the youth court has exclusive original jurisdiction but
273 shall refer the matter to the youth court.

274 (2) Except as otherwise provided, no child in a matter in
275 which the youth court has exclusive original jurisdiction shall be
276 taken into custody by a law enforcement officer, the Department of
277 Human Services, the Department of Child Protection Services, or
278 any other person unless the judge or his designee has issued a
279 custody order to take the child into custody.

280 (3) The judge or his designee may require a law enforcement
281 officer, the Department of Human Services, the Department of Child
282 Protection Services, or any suitable person to take a child into



283 custody for a period not longer than forty-eight (48) hours,
284 excluding Saturdays, Sundays, and statutory state holidays.

285 (a) Custody orders under this subsection may be issued
286 if it appears that there is probable cause to believe that:

287 (i) The child is within the jurisdiction of the
288 court;

289 (ii) Custody is necessary because of any of the
290 following reasons: the child is in danger of a significant risk
291 of harm, any person would be in danger of a significant risk of
292 harm by the child, to ensure the child's attendance in court at
293 such time as required, or a parent, guardian or custodian is not
294 available to provide for the care and supervision of the child;
295 and

296 (iii) There is no reasonable alternative to
297 custody.

298 A finding of probable cause under this subsection (3)(a)
299 shall not be based solely upon a positive drug test of a newborn
300 or parent for marijuana or solely upon the status of a parent as a
301 cardholder under the Mississippi Medical Cannabis Act; however, a
302 finding of probable cause may be based upon an evidence-based
303 finding of harm to the child or a parent's inability to provide
304 for the care and supervision of the child due to the parent's use
305 of marijuana. Probable cause for unlawful use of any controlled
306 substance, except as otherwise provided in this subsection (3)(a)
307 for marijuana, may be based: 1. upon a parent's positive drug



308 test for unlawful use of a controlled substance only if the child
309 is in danger of a significant risk of harm or the parent is unable
310 to provide proper care or supervision of the child because of the
311 unlawful use and there is no reasonable alternative to custody;
312 and 2. upon a newborn's positive drug screen for a controlled
313 substance that was used unlawfully only if the child is in danger
314 of a significant risk of harm or the parent is unable to provide
315 proper care or supervision of the child because of the unlawful
316 use and there is no reasonable alternative to custody.

317 A child may not be considered "neglected" solely because the
318 child's parent, guardian or custodian has failed to provide the
319 child with food, clothing or shelter necessary to sustain the life
320 or health of the child when the failure is caused primarily by
321 financial inability, unless relief services have been offered and
322 refused and the child is in imminent risk of harm.

323 (b) Custody orders under this subsection shall be
324 written. In emergency cases, a judge or his designee may issue an
325 oral custody order, but the order shall be reduced to writing
326 within forty-eight (48) hours of its issuance.

327 (c) Each youth court judge shall develop and make
328 available to law enforcement a list of designees who are available
329 after hours, on weekends and on holidays.

330 (4) The judge or his designee may order, orally or in
331 writing, the immediate release of any child in the custody of any
332 person or agency. Except as otherwise provided in subsection (3)



333 of this section, custody orders as provided by this chapter and
334 authorizations of temporary custody may be written or oral, but,
335 if oral, reduced to writing within forty-eight (48) hours,
336 excluding Saturdays, Sundays and statutory state holidays. The
337 written order shall:

338 (a) Specify the name and address of the child, or, if
339 unknown, designate him or her by any name or description by which
340 he or she can be identified with reasonable certainty;

341 (b) Specify the age of the child, or, if unknown, that
342 he or she is believed to be of an age subject to the jurisdiction
343 of the youth court;

344 (c) Except in cases where the child is alleged to be a
345 delinquent child or a child in need of supervision, state that the
346 effect of the continuation of the child's residing within his or
347 her own home would be contrary to the welfare of the child, that
348 the placement of the child in foster care is in the best interests
349 of the child, and unless the reasonable efforts requirement is
350 bypassed under Section 43-21-603(7)(c), also state that (i)
351 reasonable efforts have been made to maintain the child within his
352 or her own home, but that the circumstances warrant his removal
353 and there is no reasonable alternative to custody; or (ii) the
354 circumstances are of such an emergency nature that no reasonable
355 efforts have been made to maintain the child within his own home,
356 and that there is no reasonable alternative to custody. If the
357 court makes a finding in accordance with (ii) of this paragraph,



358 the court shall order that reasonable efforts be made toward the
359 reunification of the child with his or her family;

360 (d) State that the child shall be brought immediately
361 before the youth court or be taken to a place designated by the
362 order to be held pending review of the order;

363 (e) State the date issued and the youth court by which
364 the order is issued; and

365 (f) Be signed by the judge or his designee with the
366 title of his office.

367 (5) The taking of a child into custody shall not be
368 considered an arrest except for evidentiary purposes.

369 (6) (a) No child who has been accused or adjudicated of any
370 offense that would not be a crime if committed by an adult shall
371 be placed in an adult jail or lockup. An accused status offender
372 shall not be held in secure detention longer than twenty-four (24)
373 hours prior to and twenty-four (24) hours after an initial court
374 appearance, excluding Saturdays, Sundays and statutory state
375 holidays, except under the following circumstances: a status
376 offender may be held in secure detention for violating a valid
377 court order pursuant to the criteria as established by the federal
378 Juvenile Justice and Delinquency Prevention Act of 2002, and any
379 subsequent amendments thereto, and out-of-state runaways may be
380 detained pending return to their home state.

381 (b) No accused or adjudicated juvenile offender, except
382 for an accused or adjudicated juvenile offender in cases where



383 jurisdiction is waived to the adult criminal court, shall be
384 detained or placed into custody of any adult jail or lockup for a
385 period in excess of six (6) hours.

386 (c) If any county violates the provisions of paragraph
387 (a) or (b) of this subsection, the state agency authorized to
388 allocate federal funds received pursuant to the Juvenile Justice
389 and Delinquency Prevention Act of 1974, 88 Stat. 2750 (codified in
390 scattered Sections of 5, 18, 42 USCS), shall withhold the county's
391 share of such funds.

392 (d) Any county that does not have a facility in which
393 to detain its juvenile offenders in compliance with the provisions
394 of paragraphs (a) and (b) of this subsection may enter into a
395 contractual agreement to detain or place into custody the juvenile
396 offenders of that county with any county or municipality that does
397 have such a facility, or with the State of Mississippi, or with
398 any private entity that maintains a juvenile correctional
399 facility.

400 (e) Notwithstanding the provisions of paragraphs (a),
401 (b), (c) and (d) of this subsection, all counties shall be allowed
402 a one-year grace period from March 27, 1993, to comply with the
403 provisions of this subsection.

404 **SECTION 3.** Section 43-21-303, Mississippi Code of 1972, is
405 amended as follows:



406 43-21-303. (1) No child in a matter in which the youth
407 court has original exclusive jurisdiction shall be taken into
408 custody by any person without a custody order except that:

409 (a) A law enforcement officer may take a child in
410 custody if:

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

413 (ii) Such law enforcement officer has probable
414 cause to believe that custody is necessary as defined in Section
415 43-21-301; and

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

418 (b) A law enforcement officer or an agent of the
419 Department of Child Protection Services or the Department of Human
420 Services may take a child into immediate custody if:

421 (i) There is probable cause to believe that the
422 child is in immediate danger of personal harm; however, probable
423 cause shall not be based solely upon a positive drug test of a
424 newborn or parent for marijuana or solely upon the status of a
425 parent as a cardholder under the Mississippi Medical Cannabis Act,
426 but a finding of probable cause may be based upon an
427 evidence-based finding of harm to the child or a parent's
428 inability to provide for the care and supervision of the child due
429 to the parent's use of marijuana. Probable cause for unlawful use
430 of any controlled substance, except as otherwise provided in this



431 subparagraph (i) for marijuana, may be based: 1. upon a parent's
432 positive drug test for unlawful use of a controlled substance only
433 if the child is in danger of a significant risk of harm or the
434 parent is unable to provide proper care or supervision of the
435 child because of the unlawful use and there is no reasonable
436 alternative to custody; and 2. upon a newborn's positive drug
437 screen for a controlled substance that was used unlawfully only if
438 the child is in danger of a significant risk of harm or the parent
439 is unable to provide proper care or supervision of the child
440 because of the unlawful use and there is no reasonable alternative
441 to custody * * *.

442 A child may not be considered "neglected" solely because the
443 child's parent, guardian or custodian has failed to provide the
444 child with food, clothing or shelter necessary to sustain the life
445 or health of the child when the failure is caused primarily by
446 financial inability, unless relief services have been offered and
447 refused and the child is in imminent risk of harm; and

448 (ii) There is probable cause to believe that
449 immediate custody is necessary as set forth in Section
450 43-21-301(3); and

451 (iii) There is no reasonable alternative to
452 custody; and

453 (c) Any other person may take a child into custody if
454 grounds exist for the arrest of an adult in identical
455 circumstances. Such other person shall immediately surrender



456 custody of the child to the proper law enforcement officer who
457 shall thereupon continue custody only as provided in subsection
458 (1)(a) of this section.

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

461 (3) Unless the child is immediately released, the person
462 taking the child into custody shall immediately notify the judge
463 or his designee. A person taking a child into custody shall also
464 make continuing reasonable efforts to notify the child's parent,
465 guardian or custodian and invite the parent, guardian or custodian
466 to be present during any questioning.

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

472 **SECTION 4.** Section 93-15-103, Mississippi Code of 1972, is
473 amended as follows:

474 93-15-103. For purposes of this chapter, unless a different
475 meaning is plainly expressed by the context, the following
476 definitions apply:

477 (a) "Abandonment" means any conduct by the parent,
478 whether consisting of a single incident or actions over an
479 extended period of time, that evinces a settled purpose to



480 relinquish all parental claims and responsibilities to the child.

481 Abandonment may be established by showing:

482 (i) For a child who is under three (3) years of
483 age on the date that the petition for termination of parental
484 rights was filed, that the parent has deliberately made no contact
485 with the child for six (6) months;

486 (ii) For a child who is three (3) years of age or
487 older on the date that the petition for termination of parental
488 rights was filed, that the parent has deliberately made no contact
489 with the child for at least one (1) year;

490 (iii) If the child is under six (6) years of age,
491 that the parent has exposed the child in any highway, street,
492 field, outhouse, or elsewhere with the intent to wholly abandon
493 the child; or

494 (iv) If the parent gives possession of the child
495 to an emergency medical services provider pursuant to Sections
496 43-15-201 et seq.

497 (b) "Child" means a person under eighteen (18) years of
498 age.

499 (c) "Court" means the court having jurisdiction under
500 the Mississippi Termination of Parental Rights Law.

501 (d) "Desertion" means:

502 (i) Any conduct by the parent over an extended
503 period of time that demonstrates a willful neglect or refusal to
504 provide for the support and maintenance of the child; or



505 (ii) That the parent has not demonstrated, within
506 a reasonable period of time after the birth of the child, a full
507 commitment to the responsibilities of parenthood.

508 (e) "Home" means any charitable or religious
509 corporation or organization or the superintendent or head of the
510 charitable or religious corporation or organization organized
511 under the laws of the State of Mississippi, any public authority
512 to which has been granted the power to provide care for or procure
513 the adoption of children by any Mississippi statute, and any
514 association or institution engaged in placing children for
515 adoption on July 1, 1955.

516 (f) "Interested person" means any person related to the
517 child by consanguinity or affinity, a custodian or legal guardian
518 of the child, a guardian ad litem representing the child's best
519 interests, or an attorney representing the child's preferences
520 under Rule 13 of the Uniform Rules of Youth Court Practice.

521 (g) "Minor parent" means any parent under twenty-one
522 (21) years of age.

523 (h) "Parent" means a natural or adoptive parent of the
524 child.

525 (i) "Permanency outcome" means achieving a permanent or
526 long-term custodial arrangement for the custody and care of the
527 child that ends the supervision of the Department of Child
528 Protection Services.



529 (j) "Qualified health professional" means a licensed or
530 certified professional who is engaged in the delivery of health
531 services and who meets all applicable federal or state
532 requirements to provide professional services.

533 (k) "Qualified mental health professional" means a
534 person with at least a master's degree in mental health or a
535 related field and who has either a professional license or a
536 Department of Mental Health credential as a mental health
537 therapist.

538 (l) "Reunification" means the restoration of the
539 parent's custodial rights in providing for the safety and welfare
540 of the child which ends the supervision of the Department of Child
541 Protection Services.

542 (m) "Compelling and extraordinary reasons" why
543 termination of parental rights would not be in the child's best
544 interests may include, but are not limited to, when:

545 (i) A child is being cared for by a relative and
546 that relative, who is otherwise an appropriate, safe and loving
547 placement for the child, is unwilling to participate in
548 termination of parental rights proceedings;

549 (ii) Guardianship is available;

550 (iii) A natural parent is incarcerated but subject
551 to be released within a reasonable time and could be given an
552 opportunity to work a service plan toward possible reunification;



553 (iv) A natural parent is terminally ill and unable
554 to care or provide for the child;

555 (v) The absence of the parent is due to the
556 parent's admission or commitment to any institution or health
557 facility or due to active service in state or federal armed
558 forces;

559 (vi) A child twelve (12) years or older objects to
560 the termination of parental rights;

561 (vii) The child is placed in a residential
562 treatment facility and adoption is unlikely or undesirable or the
563 child is not in an adoptive placement, or it is likely the child
564 will age out of the Department of Child Protection Services'
565 custody rather than be adopted;

566 (viii) Necessary for compliance with the Indian
567 Child Welfare Act; and

568 (ix) The department has not provided services
569 within the time frames indicated in the case plan and there is
570 evidence that the family may achieve reunification within six (6)
571 months or there is a finding that reasonable efforts were not
572 made.

573 **SECTION 5.** Section 43-21-201, Mississippi Code of 1972, is
574 amended as follows:

575 43-21-201. (1) (a) Each party shall have the right to be
576 represented by counsel at all stages of the proceedings including,
577 but not limited to, detention, shelter, adjudicatory and



578 disposition hearings and parole or probation revocation
579 proceedings.

580 (b) In delinquency matters the court shall appoint
581 legal defense counsel who is not also a guardian ad litem for the
582 same child. If the party is a child, the child shall be
583 represented by counsel at all critical stages: detention,
584 adjudicatory and disposition hearings; parole or probation
585 revocation proceedings; and post-disposition matters. If
586 indigent, the child shall have the right to have counsel appointed
587 for him by the youth court.

588 (c) A child who is alleged to have been abused or
589 neglected shall be deemed to be a party to the proceedings under
590 this chapter. The child shall be represented by an attorney at
591 all stages of any proceedings held pursuant to this chapter. The
592 court shall appoint an attorney to any child who is unrepresented.

593 The guardian ad litem may serve a dual role as long as no
594 conflict of interest is present. If a conflict of interest
595 arises, the guardian ad litem shall inform the Youth Court of the
596 conflict and the youth court shall retain the guardian ad litem to
597 represent the best interest of the child and appoint an attorney
598 to represent the child's preferences as required by Uniform Rule
599 of Youth Court Practice 13(f).

600 (2) (a) When a party first appears before the youth court,
601 the judge shall ascertain whether he is represented by counsel
602 and, if not, inform him of his rights including his right to



603 counsel. If the court determines that a parent or guardian who is
604 a party in an abuse, neglect or termination of parental rights
605 proceeding is indigent, the youth court judge * * * shall appoint
606 counsel to represent the indigent custodial parent or guardian in
607 the proceeding. The court may appoint counsel to represent a
608 noncustodial parent if the court determines that the noncustodial
609 parent is indigent and has demonstrated a significant custodial
610 relationship with the child. All parents have the right to have
611 appointed counsel in termination of parental rights hearings, and
612 the court shall appoint counsel if the court makes a finding that
613 the parent is indigent and counsel is requested by the parent.
614 For purposes of this section, indigency must be determined
615 pursuant to Section 25-32-9 and Rule 7.3 of the Mississippi Rules
616 of Criminal Procedures.

617 (b) (i) The court shall order a financially able
618 parent or custodian to pay all or part of reasonable attorney's
619 fees and expenses for court-appointed representation after review
620 by the court of an affidavit of financial means completed and
621 verified by a parent or custodian and a determination by the court
622 of an ability to pay.

623 (ii) All monies collected by the clerk under this
624 paragraph must be retained by the clerk and deposited into a
625 special fund to be known as the "Juvenile Court Representation
626 Fund."



627 (iii) The court may direct that money from the
628 fund be used in providing counsel for indigent parents or
629 custodians at the trial level in dependency-neglect proceedings.

630 (iv) Upon a determination of indigency and a
631 finding by the court that the fund does not have sufficient funds
632 to pay reasonable attorney's fees and expenses incurred at the
633 trial court level and that state funds have been exhausted, the
634 court may order the county to pay the reasonable fees and expenses
635 until the state provides funding for counsel.

636 (3) An attorney appointed to represent a child shall be
637 required to complete annual juvenile justice training that is
638 approved by the Mississippi Office of State Public Defender and
639 the Mississippi Commission on Continuing Legal Education. An
640 attorney appointed to represent a parent or guardian in an abuse,
641 neglect or termination of parental rights proceeding shall be
642 required to complete annual training that is approved by the
643 Office of State Public Defender and the Mississippi Commission on
644 Continuing Legal Education. The Mississippi Office of State
645 Public Defender and the Mississippi Commission on Continuing Legal
646 Education shall determine the amount of juvenile justice training
647 and continuing education required to fulfill the requirements of
648 this subsection. The State Public Defender shall maintain a roll
649 of attorneys who have complied with the training requirements and
650 shall enforce the provisions of this subsection. Should an
651 attorney fail to complete the annual training requirement or fail



652 to attend the required training within six (6) months of being
653 appointed to a youth court case, the attorney shall be
654 disqualified to serve and the youth court shall immediately
655 terminate the representation and appoint another attorney.
656 Attorneys appointed by a youth court to five (5) or fewer cases a
657 year are exempt from the requirements of this subsection.

658 (4) Attorneys for all parties, including the child's
659 attorney, shall owe the * * * duties of undivided loyalty,
660 confidentiality and competent representation to the * * * party
661 client pursuant to the Mississippi Rules of Professional Conduct.

662 (5) An attorney shall enter his appearance on behalf of a
663 party in the proceeding by filing a written notice of appearance
664 with the youth court, by filing a pleading, notice or motion
665 signed by counsel or by appearing in open court and advising the
666 youth court that he is representing a party. After counsel has
667 entered his appearance, he shall be served with copies of all
668 subsequent pleadings, motions and notices required to be served on
669 the party he represents. An attorney who has entered his
670 appearance shall not be permitted to withdraw from the case until
671 a timely appeal, if any, has been decided, except by leave of the
672 court then exercising jurisdiction of the cause after notice of
673 his intended withdrawal is served by him on the party he
674 represents.



675 (6) Each designee appointed by a youth court judge shall be
676 subject to the Code of Judicial Conduct and shall govern himself
677 or herself accordingly.

678 (7) The Department of Child Protection Services shall be a
679 necessary party at all stages of the proceedings involving a child
680 for whom the department has custody, including, but not limited
681 to, shelter, adjudicatory, disposition, permanency hearings and
682 termination of parental rights.

683 **SECTION 6.** Section 93-15-107, Mississippi Code of 1972, is
684 amended as follows:

685 93-15-107. (1) (a) Involuntary termination of parental
686 rights proceedings are commenced upon the filing of a petition
687 under this chapter. The petition may be filed by any interested
688 person, or any agency, institution or person holding custody of
689 the child. The simultaneous filing of a petition for adoption is
690 not a prerequisite for filing a petition under this chapter.

691 (b) The proceeding shall be triable, either in term
692 time or vacation, thirty (30) days after personal service of
693 process to any necessary party or, for a necessary party whose
694 address is unknown after diligent search, thirty (30) days after
695 the date of the first publication of service of process by
696 publication that complies with the Mississippi Rules of Civil
697 Procedure.

698 (c) Necessary parties to a termination of parental
699 rights action shall include the mother of the child, the legal



700 father of the child, the putative father of the child when known,
701 and any agency, institution or person holding custody of the
702 child. If the child is twelve (12) years or older at the time of
703 the hearing, a summons must be issued and served upon the minor
704 child, together with a copy of the petition, not less than seven
705 (7) days before the hearing. The minor child must be represented
706 by an attorney throughout the proceedings. The court shall
707 appoint an attorney for a minor child who is unrepresented so that
708 the court has the benefit of knowing the child's stated interest.
709 If the child is fourteen (14) years or older at the time of the
710 hearing, the child's preferences regarding the termination of
711 parental rights must be considered by the court. The absence of a
712 necessary party who has been properly served does not preclude the
713 court from conducting the hearing or rendering a final judgment.

714 (d) A guardian ad litem shall be appointed to protect
715 the best interest of the child, except that the court, in its
716 discretion, may waive this requirement when a parent executes a
717 written voluntary release to terminate parental rights. The
718 guardian ad litem fees shall be determined and assessed in the
719 discretion of the court.

720 (e) The style of the case may not include the child's
721 name when the child is not the party plaintiff or petitioner.

722 (2) Voluntary termination of parental rights by written
723 voluntary release is governed by Section 93-15-111.



724 (3) In all cases involving termination of parental rights, a
725 minor parent shall be served with process as an adult.

726 (4) The court may waive service of process if an adoptive
727 child was born in a foreign country, put up for adoption in the
728 birth country, and has been legally admitted into this country.

729 (5) The clerk shall docket cases seeking relief under this
730 chapter as priority cases. The assigned judge shall be
731 immediately notified when a case is filed in order to provide for
732 expedited proceedings.

733 (6) (a) Once the petition for termination of parental
734 rights is filed with the court of competent jurisdiction, the
735 court shall hold a hearing on the petition within ninety (90)
736 calendar days of the date the petition is filed absent
737 extraordinary circumstances.

738 (b) For purposes of this subsection, the ninety (90)
739 calendar-day time period commences when perfected service is made
740 on the parents.

741 (c) For purposes of this subsection, extraordinary
742 circumstances include:

743 (i) The Mississippi Supreme Court orders the
744 suspension of in-person court proceedings; or

745 (ii) One (1) of the following has occurred:

746 1. The President of the United States has
747 declared a national emergency; or



748 2. The Governor has declared a state of
749 emergency or a statewide public health emergency; or

750 3. The best interests of the child are served
751 and the court makes specific findings of such.

752 **SECTION 7.** Section 93-15-111, Mississippi Code of 1972, is
753 amended as follows:

754 93-15-111. (1) The court * * * shall accept the parent's
755 written voluntary release if it meets the following minimum
756 requirements:

757 (a) Is signed under oath and dated at least seventy-two
758 (72) hours after the birth of the child;

759 (b) States the parent's full name, the relationship of
760 the parent to the child, and the parent's address;

761 (c) States the child's full name, date of birth, time
762 of birth if known, and place of birth as indicated on the birth
763 certificate;

764 (d) Identifies the governmental agency or home to which
765 the child has been surrendered, if any;

766 (e) States the parent's consent to adoption of the
767 child and waiver of service of process for any future adoption
768 proceedings;

769 (f) Acknowledges that the termination of the parent's
770 parental rights and that the subsequent adoption of the child may
771 significantly affect, or even eliminate, the parent's right to



772 inherit from the child under the laws of Descent and Distribution
773 (Chapter 1, Title 91, Mississippi Code of 1972);

774 (g) Acknowledges that all provisions of the written
775 voluntary release were entered into knowingly, intelligently, and
776 voluntarily; and

777 (h) Acknowledges that the parent is entitled to consult
778 an attorney regarding the parent's parental rights.

779 (2) The court's order accepting the parent's written
780 voluntary release terminates all of the parent's parental rights
781 to the child, including, but not limited to, the parental right to
782 control or withhold consent to an adoption. * * * Further, the
783 written voluntary release serves as a waiver of the parent's right
784 to have a hearing on acceptance of the release.

785 **SECTION 8.** Section 43-21-151, Mississippi Code of 1972, is
786 amended as follows:

787 43-21-151. (1) The youth court shall have exclusive
788 original jurisdiction in all proceedings concerning a delinquent
789 child, a child in need of supervision, a neglected child, an
790 abused child or a dependent child except in the following
791 circumstances:

792 (a) Any act attempted or committed by a child, which if
793 committed by an adult would be punishable under state or federal
794 law by life imprisonment or death, will be in the original
795 jurisdiction of the circuit court;



796 (b) Any act attempted or committed by a child with the
797 use of a deadly weapon, the carrying of which concealed is
798 prohibited by Section 97-37-1, or a shotgun or a rifle, which
799 would be a felony if committed by an adult, will be in the
800 original jurisdiction of the circuit court; and

801 (c) When a charge of abuse or neglect of a child first
802 arises in the course of a custody action between the parents of
803 the child already pending in the chancery court and no notice of
804 such abuse or neglect was provided prior to such chancery
805 proceedings, the chancery court may proceed with the
806 investigation, hearing and determination of such abuse or neglect
807 charge as a part of its hearing and determination of the custody
808 issue as between the parents, notwithstanding the other provisions
809 of the Youth Court Law. The proceedings in chancery court on the
810 abuse or neglect charge shall be confidential in the same manner
811 as provided in youth court proceedings.

812 When a child is expelled from the public schools, the youth
813 court shall be notified of the act of expulsion and the act or
814 acts constituting the basis for expulsion.

815 (2) Jurisdiction of the child in the cause shall attach at
816 the time of the offense or the allegations of abuse, neglect or
817 exploitation, and shall continue thereafter for that offense or
818 the allegations of abuse, neglect or exploitation until the
819 child's twentieth birthday, unless sooner terminated by order of
820 the youth court. The youth court shall not have jurisdiction over



821 offenses committed by a child on or after his eighteenth birthday,
822 nor have jurisdiction over allegations of abuse, neglect or
823 exploitation committed against a child after the child's
824 eighteenth birthday.

825 (3) No child who has not reached his thirteenth birthday
826 shall be held criminally responsible or criminally prosecuted for
827 a misdemeanor or felony; however, the parent, guardian or
828 custodian of such child may be civilly liable for any criminal
829 acts of such child. No child under the jurisdiction of the youth
830 court shall be held criminally responsible or criminally
831 prosecuted by any court for any act designated as a delinquent
832 act, unless jurisdiction is transferred to another court under
833 Section 43-21-157.

834 (4) The youth court shall also have jurisdiction of offenses
835 committed by a child which have been transferred to the youth
836 court by an order of a circuit court of this state having original
837 jurisdiction of the offense, as provided by Section 43-21-159.

838 (5) The youth court shall regulate and approve the use of
839 teen court as provided in Section 43-21-753.

840 (6) Nothing in this section shall prevent the circuit court
841 from assuming jurisdiction over a youth who has committed an act
842 of delinquency upon a youth court's ruling that a transfer is
843 appropriate pursuant to Section 43-21-157.

844 **SECTION 9.** Section 93-17-3, Mississippi Code of 1972, is
845 amended as follows:



846 93-17-3. (1) Except as otherwise provided in this section,
847 a court of this state has jurisdiction over a proceeding for the
848 adoption or readoption of a minor commenced under this chapter if:

849 (a) Immediately before commencement of the proceeding,
850 the minor lived in this state with a parent, a guardian, a
851 prospective adoptive parent or another person acting as parent,
852 for at least six (6) consecutive months, excluding periods of
853 temporary absence, or, in the case of a minor under six (6) months
854 of age, lived in this state from soon after birth with any of
855 those individuals and there is available in this state substantial
856 evidence concerning the minor's present or future care;

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

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

865 (i) The minor and the minor's parents, or the
866 minor and the prospective adoptive parent, have a significant
867 connection with this state; and

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



870 (d) The minor and the prospective adoptive parent or
871 parents are physically present in this state and the minor has
872 been abandoned or it is necessary in an emergency to protect the
873 minor because the minor has been subjected to or threatened with
874 mistreatment or abuse or is otherwise neglected, and the
875 prospective adoptive parent or parents, if not residing in
876 Mississippi, have completed and provided the court with a
877 satisfactory Interstate Compact for Placement of Children (ICPC)
878 home study and accompanying forms, unless the court determines
879 that the home study is not necessary in the case of an adoption by
880 a stepparent or a relative or in the case of an adoption in a
881 foster-to-adopt placement;

882 (e) It appears that no other state would have
883 jurisdiction under prerequisites substantially in accordance with
884 paragraphs (a) through (d), or another state has declined to
885 exercise jurisdiction on the ground that this state is the more
886 appropriate forum to hear a petition for adoption of the minor,
887 and it is in the best interest of the minor that a court of this
888 state assume jurisdiction; or

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

893 (2) A court of this state may not exercise jurisdiction over
894 a proceeding for adoption of a minor if, at the time the petition



895 for adoption is filed, a proceeding concerning the custody or
896 adoption of the minor is pending in a court of another state
897 exercising jurisdiction substantially in conformity with the
898 Uniform Child Custody Jurisdiction Act or this section unless the
899 proceeding is stayed by the court of the other state.

900 (3) If a court of another state has issued a decree or order
901 concerning the custody of a minor who may be the subject of a
902 proceeding for adoption in this state, a court of this state may
903 not exercise jurisdiction over a proceeding for adoption of the
904 minor unless:

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

907 (i) Does not have continuing jurisdiction to
908 modify the decree or order under jurisdictional prerequisites
909 substantially in accordance with the Uniform Child Custody
910 Jurisdiction Act or has declined to assume jurisdiction to modify
911 the decree or order; or

912 (ii) Does not have jurisdiction over a proceeding
913 for adoption substantially in conformity with subsection (1)(a)
914 through (d) or has declined to assume jurisdiction over a
915 proceeding for adoption; and

916 (b) The court of this state has jurisdiction over the
917 proceeding.

918 (4) Any person may be adopted in accordance with the
919 provisions of this chapter in term time or in vacation by an



920 unmarried adult, by a married person whose spouse joins in the
921 petition, by a married person whose spouse does not join in the
922 petition because such spouse does not cohabit or reside with the
923 petitioning spouse, and in any circumstances determined by the
924 court that the adoption is in the best interest of the child.
925 Only the consenting adult will be a legal parent of the child.
926 The adoption shall be by sworn petition filed in the chancery
927 court of the county in which the adopting petitioner or
928 petitioners reside or in which the child to be adopted resides or
929 was born, or was found when it was abandoned or deserted, or in
930 which the home is located to which the child has been surrendered
931 by a person authorized to so do. The petition shall be
932 accompanied by a doctor's or nurse practitioner's certificate
933 showing the physical and mental condition of the child to be
934 adopted and a sworn statement of all property, if any, owned by
935 the child. In addition, the petition shall be accompanied by
936 affidavits of the petitioner or petitioners stating the amount of
937 the service fees charged by any adoption agencies or adoption
938 facilitators used by the petitioner or petitioners and any other
939 expenses paid by the petitioner or petitioners in the adoption
940 process as of the time of filing the petition. If the doctor's or
941 nurse practitioner's certificate indicates any abnormal mental or
942 physical condition or defect, the condition or defect shall not,
943 in the discretion of the chancellor, bar the adoption of the child
944 if the adopting parent or parents file an affidavit stating full



945 and complete knowledge of the condition or defect and stating a
946 desire to adopt the child, notwithstanding the condition or
947 defect. The court shall have the power to change the name of the
948 child as a part of the adoption proceedings. The word "child" in
949 this section shall be construed to refer to the person to be
950 adopted, though an adult.

951 (5) No person may be placed in the home of or adopted by the
952 prospective adopting parties before a court-ordered or voluntary
953 home study is satisfactorily completed by a licensed adoption
954 agency, a licensed, experienced social worker approved by the
955 chancery court, a court-appointed guardian ad litem that has
956 knowledge or training in conducting home studies if so directed by
957 the court, or by the Department of Child Protection Services on
958 the prospective adoptive parties if required by Section 93-17-11.

959 (6) No person may be adopted by a person or persons who
960 reside outside the State of Mississippi unless the provisions of
961 the Interstate Compact for Placement of Children (Section 43-18-1
962 et seq.) have been complied with. In such cases Forms 100A, 100B
963 (if applicable) and evidence of Interstate Compact for Placement
964 of Children approval shall be added to the permanent adoption
965 record file within one (1) month of the placement, and a minimum
966 of two (2) post-placement reports conducted by a licensed
967 child-placing agency shall be provided to the Mississippi
968 Department of Child Protection Services Interstate Compact for
969 Placement of Children office.



970 (7) No person may be adopted unless the provisions of the
971 Indian Child Welfare Act (ICWA) have been complied with, if
972 applicable. When applicable, proof of compliance shall be
973 included in the court adoption file prior to finalization of the
974 adoption. If not applicable, a written statement or paragraph in
975 the petition for adoption shall be included in the adoption
976 petition stating that the provisions of ICWA do not apply before
977 finalization.

978 (8) The readoption of a child who has automatically acquired
979 United States citizenship following an adoption in a foreign
980 country and who possesses a Certificate of Citizenship in
981 accordance with the Child Citizenship Act, CAA, Public Law
982 106-395, may be given full force and effect in a readoption
983 proceeding conducted by a court of competent jurisdiction in this
984 state by compliance with the Mississippi Registration of Foreign
985 Adoptions Act, Article 9 of this chapter.

986 (9) For adult adoptees who consent to the adoption, a
987 chancellor may waive any of the petition requirements and
988 procedural requirements within subsections (4), (5), (6) and (7)
989 of this section.

990 (10) The clerk shall docket cases seeking relief under this
991 chapter as priority cases. The assigned judge shall be
992 immediately notified when a case is filed in order to provide for
993 expedited proceedings.

994 * * *



995 **SECTION 10.** Section 93-15-121, Mississippi Code of 1972, is
996 amended as follows:

997 93-15-121. Any of the following, if established by clear and
998 convincing evidence, may be grounds for termination of the
999 parent's parental rights if reunification between the parent and
1000 child is not desirable toward obtaining a satisfactory permanency
1001 outcome:

1002 (a) The parent has been medically diagnosed by a
1003 qualified mental health professional with a severe mental illness
1004 or deficiency that is unlikely to change in a reasonable period of
1005 time and which, based upon expert testimony or an established
1006 pattern of behavior, * * * prevents the parent, despite reasonable
1007 accommodations, from providing minimally acceptable care for the
1008 child;

1009 (b) The parent has been medically diagnosed by a
1010 qualified health professional with an extreme physical
1011 incapacitation that is unlikely to change in a reasonable period
1012 of time and which, based upon expert testimony or an established
1013 pattern of behavior, prevents the parent, despite reasonable
1014 accommodations, from providing minimally acceptable care for the
1015 child;

1016 (c) The parent is suffering from habitual alcoholism or
1017 other drug addiction and has failed to successfully complete
1018 alcohol or drug treatment;



1019 (d) The parent is unwilling to provide reasonably
1020 necessary food, clothing, shelter, or medical care for the child;
1021 reasonably necessary medical care does not include recommended or
1022 optional vaccinations against childhood or any other disease;

1023 (e) The parent has failed to exercise reasonable
1024 visitation or communication with the child;

1025 (f) The parent's abusive or neglectful conduct has
1026 caused, at least in part, an extreme and deep-seated antipathy by
1027 the child toward the parent, or some other substantial erosion of
1028 the relationship between the parent and the child;

1029 (g) The parent has committed an abusive act for which
1030 reasonable efforts to maintain the children in the home would not
1031 be required under Section 43-21-603, or a series of physically,
1032 mentally, or emotionally abusive incidents, against the child or
1033 another child, whether related by consanguinity or affinity or
1034 not, making future contacts between the parent and child
1035 undesirable; or

1036 (h) (i) The parent has been convicted of any of the
1037 following offenses against any child:

- 1038 1. Rape of a child under Section 97-3-65;
1039 2. Sexual battery of a child under Section
1040 97-3-95(c);
1041 3. Touching a child for lustful purposes
1042 under Section 97-5-23;



- 1043 4. Exploitation of a child under Sections
1044 97-5-31 through 97-5-37;
- 1045 5. Felonious abuse or battery of a child
1046 under Section 97-5-39(2);
- 1047 6. Carnal knowledge of a step or adopted
1048 child or a child of a cohabitating partner under Section 97-5-41;
1049 or
- 1050 7. Human trafficking of a child under Section
1051 97-3-54.1; or
- 1052 (ii) The parent has been convicted of:
- 1053 1. Murder or voluntary manslaughter of
1054 another child of the parent;
- 1055 2. Aiding, abetting, attempting, conspiring
1056 or soliciting to commit murder or voluntary manslaughter of the
1057 child or another child of the parent; or
- 1058 3. A felony assault that results in the
1059 serious bodily injury to the child or another child of the parent.

1060 **SECTION 11.** Section 25-7-9, Mississippi Code of 1972, is
1061 amended as follows:

1062 **[From and after January 1, 2024, and through December 31,**
1063 **2027, this section shall read as follows:]**

1064 25-7-9. (1) The clerks of the chancery courts shall charge
1065 the following fees:

1066 (a) For the act of certifying copies of filed
1067 documents, for each complete document.....\$ 1.00



1068 (b) (i) Recording each deed, will, lease, amendment,
 1069 subordination, lien, release, cancellation, order, decree, oath,
 1070 etc., per book and page listed where applicable, each deed of
 1071 trust, or any other document, for the first five (5)
 1072 pages.....\$ 25.00
 1073 (ii) Each additional page.....\$ 1.00
 1074 (c) (i) Recording oil and gas leases, cancellations,
 1075 etc., including indexing in general indices; for the first five
 1076 (5) pages.....\$ 25.00
 1077 (ii) Recording each oil and gas assignment,
 1078 amendment of assignment, release, etc., first five (5)
 1079 pages.....\$ 25.00
 1080 per additional assignee.....\$ 18.00
 1081 (iii) Each additional page.....\$ 1.00
 1082 (iv) Sectional index entries per section or
 1083 subdivision lot.....\$ 1.00
 1084 (v) Archive fee.....\$ 1.00
 1085 (vi) Entering marginal notations, if requested on
 1086 document or by cover letter, pertaining to the recording of any
 1087 oil and gas document only per book and page.....\$ 4.00
 1088 (d) (i) Furnishing copies of any papers of record or
 1089 on file:
 1090 If performed by the clerk or his employee,
 1091 per page.....\$.50
 1092 If performed by any other person,



1093 per page.....\$.25

1094 (ii) Entering marginal notations on

1095 documents of record.....\$ 1.00

1096 (e) For attending the board of supervisors' meeting, an

1097 annual sum not exceeding.....\$ 2,500.00

1098 (f) For other services as clerk of the board of

1099 supervisors an allowance shall be made to him (payable

1100 semiannually at the July and January meetings) out of the county

1101 treasury, an annual sum not exceeding.....\$ 5,500.00

1102 (g) For each day's attendance on the chancery court, to

1103 be approved by the chancellor:

1104 For the first chancellor sitting only, clerk and two (2)

1105 deputies, each.....\$ 85.00

1106 For the second chancellor sitting, clerk only....\$ 85.00

1107 Provided that the fees herein prescribed shall be the total

1108 remuneration for the clerk and his deputies for attending chancery

1109 court.

1110 (h) On order of the court, clerks and not more than two

1111 (2) deputies may be allowed five (5) extra days for each term of

1112 court for attendance upon the court to get up records.

1113 (i) For public service not otherwise specifically

1114 provided for, the chancery court may by order allow the clerk to

1115 be paid by the county on the order of the board of supervisors, an

1116 annual sum not exceeding.....\$ 5,000.00



1117 (j) For each civil filing, to be deposited into the
1118 Civil Legal Assistance Fund.....\$ 5.00

1119 The chancery clerk shall itemize on the original document a
1120 detailed fee bill of all charges due or paid for filing, recording
1121 and abstracting same. No person shall be required to pay such
1122 fees until same have been so itemized, but those fees may be
1123 demanded before the document is recorded.

1124 (2) The following fee shall be a total fee for all services
1125 performed by the clerk with respect to any civil case filed that
1126 includes, but is not limited to, divorce, alteration of birth or
1127 marriage certificate, removal of minority, guardianship or
1128 conservatorship, estate of deceased, adoptions that do not involve
1129 the Mississippi Department of Child Protection Services, land
1130 dispute injunction, settlement of small claim, contempt,
1131 modification, partition suit, or commitment, which shall be
1132 payable upon filing and shall accrue to the chancery clerk at the
1133 time of filing. The clerk or his successor in office shall
1134 perform all duties set forth without additional compensation or
1135 fee.....\$ 85.00

1136 (3) For every civil case filed:

1137 (a) An additional fee to be deposited to the credit of
1138 the Comprehensive Electronic Court Systems Fund established in
1139 Section 9-21-14.....\$ 10.00

1140 (b) An additional fee to be deposited to the
1141 credit of the Judicial System Operation Fund established in



1142 Section 9-21-45.....\$ 40.00

1143 (4) Cost of process shall be borne by the issuing party.
1144 Additionally, should the attorney or person filing the pleadings
1145 desire the clerk to pay the cost to the sheriff for serving
1146 process on one (1) person or more, or to pay the cost of
1147 publication, the clerk shall demand the actual charges therefor,
1148 at the time of filing.

1149 [From and after January 1, 2028, this section shall read as
1150 follows:]

1151 25-7-9. (1) The clerks of the chancery courts shall charge
1152 the following fees:

1153 (a) For the act of certifying copies of filed
1154 documents, for each complete document.....\$ 1.00

1155 (b) (i) Recording each deed, will, lease, amendment,
1156 subordination, lien, release, cancellation, order, decree, oath,
1157 etc., per book and page listed where applicable, each deed of
1158 trust, or any other document, for the first five (5)
1159 pages.....\$ 25.00

1160 (ii) Each additional page.....\$ 1.00

1161 (c) (i) Recording oil and gas leases, cancellations,
1162 etc., including indexing in general indices; for the first five
1163 (5) pages.....\$ 25.00

1164 (ii) Recording each oil and gas assignment,
1165 amendment of assignment, release, etc., first five (5)
1166 pages.....\$ 25.00



1167 per additional assignee.....\$ 18.00
 1168 (iii) Each additional page.....\$ 1.00
 1169 (iv) Sectional index entries per section or
 1170 subdivision lot.....\$ 1.00
 1171 (v) Archive fee.....\$ 1.00
 1172 (vi) Entering marginal notations, if requested on
 1173 document or by cover letter, pertaining to the recording of any
 1174 oil and gas document only per book and page.....\$ 4.00
 1175 (d) (i) Furnishing copies of any papers of record or
 1176 on file:
 1177 If performed by the clerk or his employee,
 1178 per page.....\$.50
 1179 If performed by any other person,
 1180 per page.....\$.25
 1181 (ii) Entering marginal notations on
 1182 documents of record.....\$ 1.00
 1183 (e) For attending the board of supervisors' meeting an
 1184 annual sum not exceeding.....\$ 5,000.00
 1185 (f) For other services as clerk of the board of
 1186 supervisors an allowance shall be made to him (payable
 1187 semiannually at the July and January meetings) out of the county
 1188 treasury, an annual sum not exceeding.....\$10,000.00
 1189 (g) For each day's attendance on the chancery court, to
 1190 be approved by the chancellor:



1191 For the first chancellor sitting only, clerk and two (2)
1192 deputies, each.....\$ 85.00

1193 For the second chancellor sitting, clerk only....\$ 85.00

1194 Provided that the fees herein prescribed shall be the total
1195 remuneration for the clerk and his deputies for attending chancery
1196 court.

1197 (h) On order of the court, clerks and not more than two
1198 (2) deputies may be allowed five (5) extra days for each term of
1199 court for attendance upon the court to get up records.

1200 (i) For public service not otherwise specifically
1201 provided for, the chancery court may by order allow the clerk to
1202 be paid by the county on the order of the board of supervisors, an
1203 annual sum not exceeding.....\$ 5,000.00

1204 (j) For each civil filing, to be deposited into the
1205 Civil Legal Assistance Fund.....\$ 5.00

1206 The chancery clerk shall itemize on the original document a
1207 detailed fee bill of all charges due or paid for filing, recording
1208 and abstracting same. No person shall be required to pay such
1209 fees until same have been so itemized, but those fees may be
1210 demanded before the document is recorded.

1211 (2) The following fee shall be a total fee for all services
1212 performed by the clerk with respect to any civil case filed that
1213 includes, but is not limited to, divorce, alteration of birth or
1214 marriage certificate, removal of minority, guardianship or
1215 conservatorship, estate of deceased, adoptions that do not involve



1216 the Mississippi Department of Child Protection Services, land
1217 dispute injunction, settlement of small claim, contempt,
1218 modification, partition suit, or commitment, which shall be
1219 payable upon filing and shall accrue to the chancery clerk at the
1220 time of filing. The clerk or his successor in office shall
1221 perform all duties set forth without additional compensation or
1222 fee.....\$ 85.00

1223 (3) For every civil case filed:

1224 (a) An additional fee to be deposited to the credit of
1225 the Comprehensive Electronic Court Systems Fund established in
1226 Section 9-21-14.....\$ 10.00

1227 (b) An additional fee to be deposited to the
1228 credit of the Judicial System Operation Fund established in
1229 Section 9-21-45.....\$ 40.00

1230 (4) Cost of process shall be borne by the issuing party.
1231 Additionally, should the attorney or person filing the pleadings
1232 desire the clerk to pay the cost to the sheriff for serving
1233 process on one (1) person or more, or to pay the cost of
1234 publication, the clerk shall demand the actual charges therefor,
1235 at the time of filing.

1236 **SECTION 12.** Section 97-5-39, Mississippi Code of 1972, is
1237 amended as follows:

1238 97-5-39. (1) (a) Except as otherwise provided in this
1239 section, any parent, guardian or other person who intentionally,
1240 knowingly or recklessly commits any act or omits the performance



1241 of any duty, which act or omission contributes to or tends to
1242 contribute to the neglect or delinquency of any child or which act
1243 or omission results in the abuse of any child, as defined in
1244 Section 43-21-105(m) of the Youth Court Law, or who knowingly aids
1245 any child in escaping or absenting himself from the guardianship
1246 or custody of any person, agency or institution, or knowingly
1247 harbors or conceals, or aids in harboring or concealing, any child
1248 who has absented himself without permission from the guardianship
1249 or custody of any person, agency or institution to which the child
1250 shall have been committed by the youth court shall be guilty of a
1251 misdemeanor, and upon conviction shall be punished by a fine not
1252 to exceed One Thousand Dollars (\$1,000.00), or by imprisonment not
1253 to exceed one (1) year in jail, or by both such fine and
1254 imprisonment.

1255 (b) For the purpose of this section, a child is a
1256 person who has not reached his eighteenth birthday. A child who
1257 has not reached his eighteenth birthday and is on active duty for
1258 a branch of the armed services, or who is married, is not
1259 considered a child for the purposes of this statute.

1260 (c) If a child commits one (1) of the proscribed acts
1261 in subsection (2) (a), (b) or (c) of this section upon another
1262 child, then original jurisdiction of all such offenses shall be in
1263 youth court.

1264 (d) If the * * * parent has failed to provide the child
1265 with food, clothing or shelter necessary to sustain the life or



1266 health of the child, excluding failure caused by financial
1267 inability unless relief services have been offered and refused and
1268 the child is in imminent risk of harm, or the parent is unwilling
1269 to provide reasonably necessary medical care, though that medical
1270 care does not include recommended or optional vaccinations against
1271 childhood or any other disease, the person may be sentenced to
1272 imprisonment in custody of the Department of Corrections for not
1273 more than five (5) years or to payment of a fine of not more than
1274 Five Thousand Dollars (\$5,000.00), or both.

1275 (e) A parent, legal guardian or other person who
1276 knowingly permits the continuing physical or sexual abuse of a
1277 child is guilty of neglect of a child and may be sentenced to
1278 imprisonment in the custody of the Department of Corrections for
1279 not more than ten (10) years or to payment of a fine of not more
1280 than Ten Thousand Dollars (\$10,000.00), or both.

1281 (2) Any person shall be guilty of felonious child abuse in
1282 the following circumstances:

1283 (a) Whether bodily harm results or not, if the person
1284 shall intentionally, knowingly or recklessly:

1285 (i) Burn any child;

1286 (ii) * * * Torture any child;

1287 (iii) Strangle, choke, smother or in any way
1288 interfere with any child's breathing;

1289 (iv) Poison a child;



1290 (v) Starve a child of nourishments needed to
1291 sustain life or growth;

1292 (vi) Use any type of deadly weapon upon any child;

1293 (b) If some bodily harm to any child actually occurs,
1294 and if the person shall intentionally, knowingly or recklessly:

1295 (i) Throw, kick, bite, or cut any child;

1296 (ii) Strike a child under the age of fourteen (14)
1297 about the face or head with a closed fist;

1298 (iii) Strike a child under the age of five (5) in
1299 the face or head;

1300 (iv) Kick, bite, cut or strike a child's genitals;
1301 circumcision of a male child is not a violation under this
1302 subparagraph (iv);

1303 (c) If serious bodily harm to any child actually
1304 occurs, and if the person shall intentionally, knowingly or
1305 recklessly:

1306 (i) Strike any child on the face or head;

1307 (ii) Disfigure or scar any child;

1308 (iii) Whip, strike or otherwise abuse any child;

1309 (d) Any person, upon conviction under paragraph (a) or
1310 (c) of this subsection, shall be sentenced by the court to
1311 imprisonment in the custody of the Department of Corrections for a
1312 term of not less than five (5) years and up to life, as determined
1313 by the court. Any person, upon conviction under paragraph (b) of
1314 this subsection shall be sentenced by the court to imprisonment in



1315 the custody of the Department of Corrections for a term of not
1316 less than two (2) years nor more than ten (10) years, as
1317 determined by the court. For any second or subsequent conviction
1318 under this subsection (2), the person shall be sentenced to
1319 imprisonment for life.

1320 (e) For the purposes of this subsection (2), "bodily
1321 harm" means any bodily injury to a child and includes, but is not
1322 limited to, bruising, bleeding, lacerations, soft tissue swelling,
1323 and external or internal swelling of any body organ.

1324 (f) For the purposes of this subsection (2), "serious
1325 bodily harm" means any serious bodily injury to a child and
1326 includes, but is not limited to, the fracture of a bone, permanent
1327 disfigurement, permanent scarring, or any internal bleeding or
1328 internal trauma to any organ, any brain damage, any injury to the
1329 eye or ear of a child or other vital organ, and impairment of any
1330 bodily function.

1331 (g) For purposes of this subsection (2), "torture"
1332 means any act, omission or intentional neglect committed by an
1333 individual upon a child within the person's custody or physical
1334 control, whereby unnecessary or unjustifiable physical or mental
1335 pain or suffering is caused or permitted, regardless of whether
1336 serious physical injury results. Child torture involves treatment
1337 that is intentionally cruel, inhumane and degrading, including,
1338 but not limited to: intentionally starving a child; forcing a
1339 child to sit in urine or feces; binding or restraining a child;



1340 repeatedly physically injuring a child; exposing the child to
1341 extreme temperatures without adequate clothing or shelter; locking
1342 a child in closets or other small spaces; and forcing a child into
1343 stress positions or exercise resulting in prolonged suffering.

1344 (* * *h) Nothing contained in paragraph (c) of this
1345 subsection shall preclude a parent or guardian from disciplining a
1346 child of that parent or guardian, or shall preclude a person in
1347 loco parentis to a child from disciplining that child, if done in
1348 a reasonable manner, and reasonable corporal punishment or
1349 reasonable discipline as to that parent or guardian's child or
1350 child to whom a person stands in loco parentis shall be a defense
1351 to any violation charged under paragraph (c) of this subsection.

1352 (* * *i) Reasonable discipline and reasonable corporal
1353 punishment shall not be a defense to acts described in paragraphs
1354 (a) and (b) of this subsection or if a child suffers serious
1355 bodily harm as a result of any act prohibited under paragraph (c)
1356 of this subsection.

1357 (3) Nothing contained in this section shall prevent
1358 proceedings against the parent, guardian or other person under any
1359 statute of this state or any municipal ordinance defining any act
1360 as a crime or misdemeanor. Nothing in the provisions of this
1361 section shall preclude any person from having a right to trial by
1362 jury when charged with having violated the provisions of this
1363 section.



1364 (4) (a) A parent, legal guardian or caretaker who endangers
1365 a child's person or health by knowingly causing or permitting the
1366 child to be present where any person is selling, manufacturing or
1367 possessing immediate precursors or chemical substances with intent
1368 to manufacture, sell or possess a controlled substance as
1369 prohibited under Section 41-29-139 or 41-29-313, is guilty of
1370 child endangerment and may be sentenced to imprisonment for not
1371 more than ten (10) years or to payment of a fine of not more than
1372 Ten Thousand Dollars (\$10,000.00), or both.

1373 (b) If the endangerment results in substantial harm to
1374 the child's physical, mental or emotional health, the person may
1375 be sentenced to imprisonment for not more than twenty (20) years
1376 or to payment of a fine of not more than Twenty Thousand Dollars
1377 (\$20,000.00), or both.

1378 (5) Nothing contained in this section shall prevent
1379 proceedings against the parent, guardian or other person under any
1380 statute of this state or any municipal ordinance defining any act
1381 as a crime or misdemeanor. Nothing in the provisions of this
1382 section shall preclude any person from having a right to trial by
1383 jury when charged with having violated the provisions of this
1384 section.

1385 (6) After consultation with the Department of Child
1386 Protection Services, a regional mental health center or an
1387 appropriate professional person, a judge may suspend imposition or
1388 execution of a sentence provided in subsections (1) and (2) of



1389 this section and in lieu thereof require treatment over a
1390 specified period of time at any approved public or private
1391 treatment facility. A person may be eligible for treatment in
1392 lieu of criminal penalties no more than one (1) time.

1393 (7) In any proceeding resulting from a report made pursuant
1394 to Section 43-21-353 of the Youth Court Law, the testimony of the
1395 physician making the report regarding the child's injuries or
1396 condition or cause thereof shall not be excluded on the ground
1397 that the physician's testimony violates the physician-patient
1398 privilege or similar privilege or rule against disclosure. The
1399 physician's report shall not be considered as evidence unless
1400 introduced as an exhibit to his testimony.

1401 (8) Any criminal prosecution arising from a violation of
1402 this section shall be tried in the circuit, county, justice or
1403 municipal court having jurisdiction; provided, however, that
1404 nothing herein shall abridge or dilute the contempt powers of the
1405 youth court.

1406 **SECTION 13.** The following shall be codified as Section
1407 43-19-107, Mississippi Code of 1972:

1408 43-19-107. Whenever the court has ordered a noncustodial
1409 parent to make periodic payments for the maintenance or support of
1410 a child, the court may establish minimum child visitation
1411 schedules if the court determines that visitation would be in the
1412 best interests of the child.



1413 **SECTION 14.** This act shall take effect and be in force from
1414 and after July 1, 2024.

