

By: Senator(s) Wiggins, Sparks, Boyd

To: Judiciary, Division A

SENATE BILL NO. 2792

1 AN ACT TO AMEND SECTION 25-7-9, MISSISSIPPI CODE OF 1972, TO  
2 WAIVE THE ADOPTION FILING FEE FOR CASES INVOLVING THE DEPARTMENT  
3 OF CHILD PROTECTION SERVICES; TO AMEND SECTION 93-15-107,  
4 MISSISSIPPI CODE OF 1972, TO REQUIRE SUMMONS TO BE ISSUED AND  
5 SERVED ON A CHILD WHO IS 12 YEARS OR OLDER IN AN INVOLUNTARY  
6 TERMINATION OF PARENTAL RIGHTS PROCEEDING; TO PROVIDE THAT THE  
7 MINOR CHILD SHALL BE REPRESENTED BY COUNSEL THROUGHOUT THE  
8 PROCEEDINGS; TO REQUIRE THE COURT TO CONSIDER THE CHILD'S  
9 PREFERENCES, IF ANY, IF THE CHILD IS 14 YEARS OR OLDER AT THE TIME  
10 OF THE HEARING; TO PROVIDE THAT THE STYLE OF THE CASE SHALL NOT  
11 INCLUDE THE CHILD'S NAME; TO REQUIRE A COURT TO HOLD A HEARING ON  
12 THE PETITION WITHIN A CERTAIN PERIOD OF DAYS; TO AUTHORIZE THE  
13 COURT TO CONTINUE THE HEARING UNDER CERTAIN CIRCUMSTANCES; TO  
14 AMEND SECTION 43-21-201, MISSISSIPPI CODE OF 1972, TO REQUIRE A  
15 YOUTH COURT JUDGE TO APPOINT COUNSEL FOR AN INDIGENT CUSTODIAL  
16 PARENT OR GUARDIAN WHO IS A PARTY IN AN ABUSE, NEGLECT OR  
17 TERMINATION OF PARENTAL RIGHTS PROCEEDING; TO AUTHORIZE A YOUTH  
18 COURT JUDGE TO APPOINT COUNSEL FOR AN INDIGENT NONCUSTODIAL PARENT  
19 IF THE YOUTH COURT JUDGE DETERMINES THAT THE PARENT HAS  
20 DEMONSTRATED A SIGNIFICANT CUSTODIAL RELATIONSHIP WITH THE CHILD;  
21 TO CLARIFY THE DUTY OF AN ATTORNEY UNDER THE SECTION; TO PROVIDE  
22 THAT THE DEPARTMENT OF CHILD PROTECTION SERVICES SHALL HAVE THE  
23 RIGHT TO BE REPRESENTED BY AGENCY COUNSEL AT ALL STAGES OF THE  
24 PROCEEDINGS INVOLVING A CHILD FOR WHOM THE DEPARTMENT HAS CUSTODY  
25 OF; TO AMEND SECTION 43-21-105, MISSISSIPPI CODE OF 1972, TO  
26 REVISE THE DEFINITION OF "NEGLECTED CHILD" AND "REASONABLE  
27 EFFORTS"; TO AMEND SECTION 43-21-151, MISSISSIPPI CODE OF 1972, TO  
28 PROVIDE THAT JURISDICTION OF THE YOUTH COURT SHALL ATTACH AT THE  
29 OF THE OFFENSE, OR AT THE TIME OF THE ALLEGATION OF ABUSE, NEGLECT  
30 OR EXPLOITATION; TO CREATE A NEW SECTION WITHIN TITLE 43, CHAPTER  
31 21, MISSISSIPPI CODE OF 1972, TO PROVIDE A NONCOMPREHENSIVE LIST  
32 OF REASONS THAT WOULD CONSTITUTE COMPELLING AND EXTRAORDINARY  
33 REASONS WHY TERMINATION OF PARENTAL RIGHTS WOULD NOT BE IN THE  
34 CHILD'S BEST INTERESTS; TO CREATE A NEW SECTION WITHIN TITLE 93,



35 CHAPTER 15, MISSISSIPPI CODE OF 1972, TO PROVIDE A  
36 NONCOMPREHENSIVE LIST OF REASONS THAT WOULD CONSTITUTE COMPELLING  
37 AND EXTRAORDINARY REASONS WHY TERMINATION OF PARENTAL RIGHTS WOULD  
38 NOT BE IN THE CHILD'S BEST INTERESTS; TO AMEND SECTION 43-21-613,  
39 MISSISSIPPI CODE OF 1972, TO REVISE THE TIMELINE FOR AND FREQUENCY  
40 OF PERMANENCY HEARINGS; TO AMEND SECTION 93-15-121, MISSISSIPPI  
41 CODE OF 1972, TO CLARIFY A GROUND FOR THE TERMINATION OF A  
42 PARENT'S PARENTAL RIGHTS; TO AMEND SECTION 97-5-39, MISSISSIPPI  
43 CODE OF 1972, TO CONFORM THE SECTION TO THE REVISED DEFINITION OF  
44 "NEGLECTED CHILD"; TO DEFINE "TORTURE" FOR THE PURPOSES OF FELONY  
45 CHILD ABUSE; TO AMEND SECTION 43-21-651, MISSISSIPPI CODE OF 1972,  
46 TO CLARIFY THE RIGHT OF APPEAL FROM YOUTH COURT; TO AMEND SECTION  
47 43-21-351, MISSISSIPPI CODE OF 1972, TO REQUIRE YOUTH COURT INTAKE  
48 OFFICERS TO RECEIVE TRAINING ON MYCIDS; REQUIRE THE MISSISSIPPI  
49 JUDICIAL COLLEGE, IN CONJUNCTION WITH THE ADMINISTRATIVE OFFICE OF  
50 COURTS, TO DEVELOP TRAINING MATERIALS ON MYCIDS; TO AMEND SECTION  
51 43-21-801, MISSISSIPPI CODE OF 1972, TO REQUIRE YOUTH COURT JUDGES  
52 TO RECEIVE AT LEAST 1 HOUR OF ANNUAL CONTINUING EDUCATION  
53 CONCERNING OVERSIGHT OF YOUTH COURT INTAKE OFFICERS AND MYCIDS; TO  
54 AMEND SECTIONS 43-21-301, 43-21-303 AND 93-17-3, MISSISSIPPI CODE  
55 OF 1972, TO CONFORM; TO BRING FORWARD SECTION 43-21-121,  
56 MISSISSIPPI CODE OF 1972, WHICH IS THE PROVISION THAT PROVIDES FOR  
57 THE APPOINTMENT OF GUARDIAN AD LITEMS, FOR THE PURPOSES OF  
58 POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 93-15-111,  
59 MISSISSIPPI CODE OF 1972, WHICH IS THE PROVISION THAT PROVIDE FOR  
60 THE TERMINATION OF PARENTAL RIGHTS BY WRITTEN VOLUNTARY RELEASE,  
61 FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

63 **SECTION 1.** Section 25-7-9, Mississippi Code of 1972, is  
64 amended as follows:

65 **[From and after January 1, 2024, and through December 31,**  
66 **2027, this section shall read as follows:]**

67 25-7-9. (1) The clerks of the chancery courts shall charge  
68 the following fees:

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

71 (b) (i) Recording each deed, will, lease, amendment,  
72 subordination, lien, release, cancellation, order, decree, oath,



73 etc., per book and page listed where applicable, each deed of  
74 trust, or any other document, for the first five (5)  
75 pages.....\$ 25.00  
76 (ii) Each additional page.....\$ 1.00  
77 (c) (i) Recording oil and gas leases, cancellations,  
78 etc., including indexing in general indices; for the first five  
79 (5) pages.....\$ 25.00  
80 (ii) Recording each oil and gas assignment,  
81 amendment of assignment, release, etc., first five (5)  
82 pages.....\$ 25.00  
83 per additional assignee.....\$ 18.00  
84 (iii) Each additional page.....\$ 1.00  
85 (iv) Sectional index entries per section or  
86 subdivision lot.....\$ 1.00  
87 (v) Archive fee.....\$ 1.00  
88 (vi) Entering marginal notations, if requested on  
89 document or by cover letter, pertaining to the recording of any  
90 oil and gas document only per book and page.....\$ 4.00  
91 (d) (i) Furnishing copies of any papers of record or  
92 on file:  
93 If performed by the clerk or his employee,  
94 per page.....\$ .50  
95 If performed by any other person,  
96 per page.....\$ .25  
97 (ii) Entering marginal notations on



98 documents of record.....\$ 1.00

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

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

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

102 supervisors an allowance shall be made to him (payable

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

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

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

106 be approved by the chancellor:

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

108 deputies, each.....\$ 85.00

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

110 Provided that the fees herein prescribed shall be the total

111 remuneration for the clerk and his deputies for attending chancery

112 court.

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

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

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

116 (i) For public service not otherwise specifically

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

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

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

120 (j) For each civil filing, to be deposited into the

121 Civil Legal Assistance Fund.....\$ 5.00



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

127 (2) The following fee shall be a total fee for all services  
128 performed by the clerk with respect to any civil case filed that  
129 includes, but is not limited to, divorce, alteration of birth or  
130 marriage certificate, removal of minority, guardianship or  
131 conservatorship, estate of deceased, adoption that does not  
132 involve the Department of Child Protection Services, land dispute  
133 injunction, settlement of small claim, contempt, modification,  
134 partition suit, or commitment, which shall be payable upon filing  
135 and shall accrue to the chancery clerk at the time of filing. The  
136 clerk or his successor in office shall perform all duties set  
137 forth without additional compensation or fee.....\$ 85.00

138 (3) For every civil case filed:

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

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

145 (4) Cost of process shall be borne by the issuing party.  
146 Additionally, should the attorney or person filing the pleadings



147 desire the clerk to pay the cost to the sheriff for serving  
148 process on one (1) person or more, or to pay the cost of  
149 publication, the clerk shall demand the actual charges therefor,  
150 at the time of filing.

151 **[From and after January 1, 2028, this section shall read as**  
152 **follows:]**

153 25-7-9. (1) The clerks of the chancery courts shall charge  
154 the following fees:

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

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

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

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

166 (ii) Recording each oil and gas assignment,  
167 amendment of assignment, release, etc., first five (5)  
168 pages.....\$ 25.00

169 per additional assignee.....\$ 18.00

170 (iii) Each additional page.....\$ 1.00



171 (iv) Sectional index entries per section or  
172 subdivision lot.....\$ 1.00

173 (v) Archive fee.....\$ 1.00

174 (vi) Entering marginal notations, if requested on  
175 document or by cover letter, pertaining to the recording of any  
176 oil and gas document only per book and page.....\$ 4.00

177 (d) (i) Furnishing copies of any papers of record or  
178 on file:

179 If performed by the clerk or his employee,  
180 per page.....\$ .50

181 If performed by any other person,  
182 per page.....\$ .25

183 (ii) Entering marginal notations on  
184 documents of record.....\$ 1.00

185 (e) For attending the board of supervisors' meeting an  
186 annual sum not exceeding.....\$ 5,000.00

187 (f) For other services as clerk of the board of  
188 supervisors an allowance shall be made to him (payable  
189 semiannually at the July and January meetings) out of the county  
190 treasury, an annual sum not exceeding.....\$10,000.00

191 (g) For each day's attendance on the chancery court, to  
192 be approved by the chancellor:

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

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



196            Provided that the fees herein prescribed shall be the total  
197 remuneration for the clerk and his deputies for attending chancery  
198 court.

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

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

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

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

213            (2) The following fee shall be a total fee for all services  
214 performed by the clerk with respect to any civil case filed that  
215 includes, but is not limited to, divorce, alteration of birth or  
216 marriage certificate, removal of minority, guardianship or  
217 conservatorship, estate of deceased, adoption that does not  
218 involve the Department of Child Protection Services, land dispute  
219 injunction, settlement of small claim, contempt, modification,  
220 partition suit, or commitment, which shall be payable upon filing





221 and shall accrue to the chancery clerk at the time of filing. The  
222 clerk or his successor in office shall perform all duties set  
223 forth without additional compensation or fee.....\$ 85.00

224 (3) For every civil case filed:

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

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

231 (4) Cost of process shall be borne by the issuing party.  
232 Additionally, should the attorney or person filing the pleadings  
233 desire the clerk to pay the cost to the sheriff for serving  
234 process on one (1) person or more, or to pay the cost of  
235 publication, the clerk shall demand the actual charges therefor,  
236 at the time of filing.

237 **SECTION 2.** Section 93-15-107, Mississippi Code of 1972, is  
238 amended as follows:

239 93-15-107. (1) (a) Involuntary termination of parental  
240 rights proceedings are commenced upon the filing of a petition  
241 under this chapter. The petition may be filed by any interested  
242 person, or any agency, institution or person holding custody of  
243 the child. The simultaneous filing of a petition for adoption is  
244 not a prerequisite for filing a petition under this chapter.



245 (b) The proceeding shall be triable, either in term  
246 time or vacation, thirty (30) days after personal service of  
247 process to any necessary party or, for a necessary party whose  
248 address is unknown after diligent search, thirty (30) days after  
249 the date of the first publication of service of process by  
250 publication that complies with the Mississippi Rules of Civil  
251 Procedure.

252 (c) (i) Necessary parties to a termination of parental  
253 rights action shall include the mother of the child, the legal  
254 father of the child, the putative father of the child when known,  
255 and any agency, institution or person holding custody of the  
256 child. If the child is twelve (12) years or older at the time of  
257 the hearing, a summons must be issued and served upon the minor  
258 child, together with a copy of the petition, not less than seven  
259 (7) days before the hearing.

260 (ii) The minor child shall be represented by  
261 counsel throughout the proceedings. The court shall appoint an  
262 attorney for any minor child who is unrepresented, so the court  
263 has the benefit of knowing the child's stated interest.

264 (iii) The absence of a necessary party who has  
265 been properly served does not preclude the court from conducting  
266 the hearing or rendering a final judgment.

267 (iv) If the child is fourteen (14) years or older  
268 at the time of the hearing, the child's preferences, if any,



269 regarding the termination of parental rights shall be considered  
270 by the court.

271 (d) A guardian ad litem shall be appointed to protect  
272 the best interest of the child, except that the court, in its  
273 discretion, may waive this requirement when a parent executes a  
274 written voluntary release to terminate parental rights. The  
275 guardian ad litem fees shall be determined and assessed in the  
276 discretion of the court.

277 (e) The style of the case shall not include the child's  
278 name when the child is not the party plaintiff of petitioner.

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

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

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

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

290 (b) Once the petition for termination of parental  
291 rights is filed with the court of competent jurisdiction, the  
292 court shall hold a hearing on the petition within ninety (90)  
293 calendar days of the date the petition is filed. For purposes of



294 this section, the ninety (90) calendar day time period will  
295 commence when perfected service is made on the parents. Under the  
296 following extraordinary circumstances, the court may continue the  
297 termination of parental rights hearing:

298 (i) If the Supreme Court orders the suspension of  
299 in-person court proceedings, and one of the following has  
300 occurred:

301 1. The POTUS has declared a national  
302 emergency; or

303 2. The Governor has declared a state of  
304 emergency or a statewide public health emergency.

305 (ii) If the best interest of the child is served  
306 and the chancellor makes specific findings of such.

307 **SECTION 3.** Section 43-21-201, Mississippi Code of 1972, is  
308 amended as follows:

309 43-21-201. (1) (a) Each party shall have the right to be  
310 represented by counsel at all stages of the proceedings including,  
311 but not limited to, detention, shelter, adjudicatory and  
312 disposition hearings and parole or probation revocation  
313 proceedings.

314 (b) In delinquency matters the court shall appoint  
315 legal defense counsel who is not also a guardian ad litem for the  
316 same child. If the party is a child, the child shall be  
317 represented by counsel at all critical stages: detention,  
318 adjudicatory and disposition hearings; parole or probation



319 revocation proceedings; and post-disposition matters. If  
320 indigent, the child shall have the right to have counsel appointed  
321 for him by the youth court.

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

327 The guardian ad litem may serve a dual role as long as no  
328 conflict of interest is present. If a conflict of interest  
329 arises, the guardian ad litem shall inform the youth court of the  
330 conflict, and the youth court shall retain the guardian ad litem  
331 to represent the best interest of the child and appoint an  
332 attorney to represent the child's preferences as required by  
333 Uniform Rule of Youth Court Practice 13(f).

334 (2) When a party first appears before the youth court, the  
335 judge shall ascertain whether he is represented by counsel and, if  
336 not, inform him of his rights including his right to counsel. If  
337 the court determines that a custodial parent or guardian who is a  
338 party in an abuse, neglect or termination of parental rights  
339 proceeding is indigent, the youth court judge \* \* \* shall appoint  
340 counsel to represent the indigent parent or guardian in the  
341 proceeding. The youth court judge may appoint counsel to  
342 represent a noncustodial parent if the court determines that the  
343 noncustodial parent is indigent and has demonstrated a significant



344 custodial relationship with the child. All parents shall have the  
345 right to be appointed counsel in termination of parental rights  
346 hearings, and the youth court judge shall appoint counsel if the  
347 court makes a finding that the parent is indigent and counsel is  
348 requested by the parent. For purposes of this section, indigency  
349 shall be determined pursuant to Section 25-32-9 and Rule 7.3 of  
350 the Mississippi Rules of Criminal Procedure.

351 (3) An attorney appointed to represent a child shall be  
352 required to complete annual juvenile justice training that is  
353 approved by the Mississippi Office of State Public Defender and  
354 the Mississippi Commission on Continuing Legal Education. An  
355 attorney appointed to represent a parent or guardian in an abuse,  
356 neglect or termination of parental rights proceeding shall be  
357 required to complete annual training that is approved by the  
358 Office of State Public Defender and the Mississippi Commission on  
359 Continuing Legal Education. The Mississippi Office of State  
360 Public Defender and the Mississippi Commission on Continuing Legal  
361 Education shall determine the amount of juvenile justice training  
362 and continuing education required to fulfill the requirements of  
363 this subsection. The State Public Defender shall maintain a roll  
364 of attorneys who have complied with the training requirements and  
365 shall enforce the provisions of this subsection. Should an  
366 attorney fail to complete the annual training requirement or fail  
367 to attend the required training within six (6) months of being  
368 appointed to a youth court case, the attorney shall be



369 disqualified to serve, and the youth court shall immediately  
370 terminate the representation and appoint another attorney.  
371 Attorneys appointed by a youth court to five (5) or fewer cases a  
372 year are exempt from the requirements of this subsection.

373 (4) Attorney's for all parties, including the child's  
374 attorney, shall owe the \* \* \* duties of undivided loyalty,  
375 confidentiality and competent representation to the \* \* \* party  
376 client pursuant to the Mississippi Rules of Professional Conduct.

377 (5) An attorney shall enter his appearance on behalf of a  
378 party in the proceeding by filing a written notice of appearance  
379 with the youth court, by filing a pleading, notice or motion  
380 signed by counsel or by appearing in open court and advising the  
381 youth court that he is representing a party. After counsel has  
382 entered his appearance, he shall be served with copies of all  
383 subsequent pleadings, motions and notices required to be served on  
384 the party he represents. An attorney who has entered his  
385 appearance shall not be permitted to withdraw from the case until  
386 a timely appeal, if any, has been decided, except by leave of the  
387 court then exercising jurisdiction of the cause after notice of  
388 his intended withdrawal is served by him on the party he  
389 represents.

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

393 (7) The Department of Child Protection Services shall:



394           (a) Be a necessary party at all stages of the  
395 proceedings involving a child for whom the department has custody,  
396 including, but not limited to, detention, shelter, adjudicatory,  
397 disposition, permanency \* \* \*, termination of parental rights and  
398 adoption hearings.

399           (b) Have the right to be represented by agency counsel  
400 employed by the department at all stages of the proceedings  
401 involving a child for whom the department has custody of or may be  
402 awarded custody of, including, but not limited to, detention  
403 shelter, adjudicatory disposition, permanency, termination of  
404 parental rights and adoption hearings.

405           **SECTION 4.** Section 43-21-105, Mississippi Code of 1972, is  
406 amended as follows:

407           43-21-105. The following words and phrases, for purposes of  
408 this chapter, shall have the meanings ascribed herein unless the  
409 context clearly otherwise requires:

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

411           (b) "Judge" means the judge of the Youth Court  
412 Division.

413           (c) "Designee" means any person that the judge appoints  
414 to perform a duty which this chapter requires to be done by the  
415 judge or his designee. The judge may not appoint a person who is  
416 involved in law enforcement or who is an employee of the  
417 Mississippi Department of Human Services or the Mississippi  
418 Department of Child Protection Services to be his designee.





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

424           (e) "Parent" means the father or mother to whom the  
425 child has been born, or the father or mother by whom the child has  
426 been legally adopted.

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

429           (g) "Custodian" means any person having the present  
430 care or custody of a child whether such person be a parent or  
431 otherwise.

432           (h) "Legal custodian" means a court-appointed custodian  
433 of the child.

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

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



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

445 (i) Is habitually disobedient of reasonable and  
446 lawful commands of his parent, guardian or custodian and is  
447 ungovernable; or

448 (ii) While being required to attend school,  
449 willfully and habitually violates the rules thereof or willfully  
450 and habitually absents himself therefrom; or

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

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

453 (l) "Neglected child" means a child:

454 (i) Whose parent, guardian or custodian or any  
455 person responsible for his care or support, neglects or refuses,  
456 when able so to do, to provide for him proper and necessary care  
457 or support, or education as required by law, or medical, surgical,  
458 or other care necessary for his well-being; however, a parent who  
459 withholds medical treatment from any child who in good faith is  
460 under treatment by spiritual means alone through prayer in  
461 accordance with the tenets and practices of a recognized church or  
462 religious denomination by a duly accredited practitioner thereof  
463 shall not, for that reason alone, be considered to be neglectful  
464 under any provision of this chapter; or

465 (ii) Who is otherwise without proper care,  
466 custody, supervision or support; or



467 (iii) Who, for any reason, lacks the special care  
468 made necessary for him by reason of his mental condition, whether  
469 the mental condition is having mental illness or having an  
470 intellectual disability; or

471 (iv) \* \* \* Who is not provided by their parent,  
472 guardian or custodian with food, clothing, or shelter necessary to  
473 sustain the life or health of the child, excluding such failure  
474 caused primarily by financial inability unless relief services  
475 have been offered and refused and the child is in imminent risk of  
476 harm.

477 (m) "Abused child" means a child whose parent, guardian  
478 or custodian or any person responsible for his care or support,  
479 whether legally obligated to do so or not, has caused or allowed  
480 to be caused, upon the child, sexual abuse, sexual exploitation,  
481 commercial sexual exploitation, emotional abuse, mental injury,  
482 nonaccidental physical injury or other maltreatment. However,  
483 physical discipline, including spanking, performed on a child by a  
484 parent, guardian or custodian in a reasonable manner shall not be  
485 deemed abuse under this section. "Abused child" also means a  
486 child who is or has been trafficked within the meaning of the  
487 Mississippi Human Trafficking Act by any person, without regard to  
488 the relationship of the person to the child.

489 (n) "Sexual abuse" means obscene or pornographic  
490 photographing, filming or depiction of children for commercial  
491 purposes, or the rape, molestation, incest, prostitution or other



492 such forms of sexual exploitation of children under circumstances  
493 which indicate that the child's health or welfare is harmed or  
494 threatened.

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

499 (p) A "dependent child" means any child who is not a  
500 child in need of supervision, a delinquent child, an abused child  
501 or a neglected child, and which child has been voluntarily placed  
502 in the custody of the Department of Child Protection Services by  
503 his parent, guardian or custodian.

504 (q) "Custody" means the physical possession of the  
505 child by any person.

506 (r) "Legal custody" means the legal status created by a  
507 court order which gives the legal custodian the responsibilities  
508 of physical possession of the child and the duty to provide him  
509 with food, shelter, education and reasonable medical care, all  
510 subject to residual rights and responsibilities of the parent or  
511 guardian of the person.

512 (s) "Detention" means the care of children in  
513 physically restrictive facilities.

514 (t) "Shelter" means care of children in physically  
515 nonrestrictive facilities.



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

518 (i) All youth court records as defined in Section  
519 43-21-251;

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

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

524 (iv) All agency records as defined in Section  
525 43-21-257; and

526 (v) All other documents maintained by any  
527 representative of the state, county, municipality or other public  
528 agency insofar as they relate to the apprehension, custody,  
529 adjudication or disposition of a child who is the subject of a  
530 youth court cause.

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

538 (w) The singular includes the plural, the plural the  
539 singular and the masculine the feminine when consistent with the  
540 intent of this chapter.



541 (x) "Out-of-home" setting means the temporary  
542 supervision or care of children by the staff of licensed day care  
543 centers, the staff of public, private and state schools, the staff  
544 of juvenile detention facilities, the staff of unlicensed  
545 residential care facilities and group homes and the staff of, or  
546 individuals representing, churches, civic or social organizations.

547 (y) "Durable legal custody" means the legal status  
548 created by a court order which gives the durable legal custodian  
549 the responsibilities of physical possession of the child and the  
550 duty to provide him with care, nurture, welfare, food, shelter,  
551 education and reasonable medical care. All these duties as  
552 enumerated are subject to the residual rights and responsibilities  
553 of the natural parent(s) or guardian(s) of the child or children.

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

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

559 (bb) "Assessment" means an individualized examination  
560 of a child to determine the child's psychosocial needs and  
561 problems, including the type and extent of any mental health,  
562 substance abuse or co-occurring mental health and substance abuse  
563 disorders and recommendations for treatment. The term includes,  
564 but is not limited to, a drug and alcohol, psychological or



565 psychiatric evaluation, records review, clinical interview or the  
566 administration of a formal test and instrument.

567 (cc) "Screening" means a process, with or without the  
568 administration of a formal instrument, that is designed to  
569 identify a child who is at increased risk of having mental health,  
570 substance abuse or co-occurring mental health and substance abuse  
571 disorders that warrant immediate attention, intervention or more  
572 comprehensive assessment.

573 (dd) "Durable legal relative guardianship" means the  
574 legal status created by a youth court order that conveys the  
575 physical and legal custody of a child or children by durable legal  
576 guardianship to a relative or fictive kin who is licensed as a  
577 foster or resource parent.

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

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

584 (gg) "Reasonable efforts" means the exercise of  
585 reasonable care and due diligence by the Department of Human  
586 Services, the Department of Child Protection Services, or any  
587 other appropriate entity or person to use \* \* \* services \* \* \*  
588 appropriate to the child's background, accessible, and available  
589 to meet the individualized needs of the child and child's family



590 to prevent removal and reunify the family as soon as safely  
591 possible consistent with the best interests of the child.  
592 Reasonable efforts must be made in collaboration with the family  
593 and must address the individualized needs of the family that  
594 brought the child to the attention of the Department of Child  
595 Protection Services and must not consist of required services that  
596 are not related to the family's needs.

597 (hh) "Commercial sexual exploitation" means any sexual  
598 act or crime of a sexual nature, which is committed against a  
599 child for financial or economic gain, to obtain a thing of value  
600 for quid pro quo exchange of property or for any other purpose.

601 **SECTION 5.** Section 43-21-151, Mississippi Code of 1972, is  
602 amended as follows:

603 43-21-151. (1) The youth court shall have exclusive  
604 original jurisdiction in all proceedings concerning a delinquent  
605 child, a child in need of supervision, a neglected child, an  
606 abused child or a dependent child except in the following  
607 circumstances:

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

612 (b) Any act attempted or committed by a child with the  
613 use of a deadly weapon, the carrying of which concealed is  
614 prohibited by Section 97-37-1, or a shotgun or a rifle, which





615 would be a felony if committed by an adult, will be in the  
616 original jurisdiction of the circuit court; and

617 (c) When a charge of abuse or neglect of a child first  
618 arises in the course of a custody action between the parents of  
619 the child already pending in the chancery court and no notice of  
620 such abuse was provided prior to such chancery proceedings, the  
621 chancery court may proceed with the investigation, hearing and  
622 determination of such abuse or neglect charge as a part of its  
623 hearing and determination of the custody issue as between the  
624 parents, notwithstanding the other provisions of the Youth Court  
625 Law. The proceedings in chancery court on the abuse or neglect  
626 charge shall be confidential in the same manner as provided in  
627 youth court proceedings.

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

631 (2) Jurisdiction of the child in the cause shall attach at  
632 the time of the offense, or at the time of the allegation of  
633 abuse, neglect or exploitation, and shall continue thereafter for  
634 that offense until the child's twentieth birthday, unless sooner  
635 terminated by order of the youth court. The youth court shall not  
636 have jurisdiction over offenses committed by a child on or after  
637 his eighteenth birthday, nor have jurisdiction of abuse, neglect,  
638 or exploitation committed against a child after their eighteenth  
639 birthday.



640 (3) No child who has not reached his thirteenth birthday  
641 shall be held criminally responsible or criminally prosecuted for  
642 a misdemeanor or felony; however, the parent, guardian or  
643 custodian of such child may be civilly liable for any criminal  
644 acts of such child. No child under the jurisdiction of the youth  
645 court shall be held criminally responsible or criminally  
646 prosecuted by any court for any act designated as a delinquent  
647 act, unless jurisdiction is transferred to another court under  
648 Section 43-21-157.

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

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

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

659 **SECTION 6.** The following shall be codified as a new section  
660 within Title 43, Chapter 21, Mississippi Code of 1972:

661 43-21- . Compelling and extraordinary reasons why  
662 termination of parental rights would not be in the child's best  
663 interests may include but are not limited to:



664 (a) When a child is being cared for by a relative and  
665 that relative, who is otherwise an appropriate, safe, and loving  
666 placement for the child, is unwilling to participate in  
667 termination of parental rights proceedings;

668 (b) Guardianship is available;

669 (c) When the natural parent(s) are incarcerated but  
670 subject to be released within a reasonable time and could be given  
671 an opportunity to work a service plan toward possible  
672 reunification;

673 (d) When a natural parent is terminally ill and unable  
674 to care or provide for the child;

675 (e) The absence of the parent is due to the parent's  
676 admission or commitment to any institution or health facility or  
677 due to active service in State or Federal armed forces;

678 (f) A child twelve (12) years or older objects to the  
679 termination of parental rights;

680 (g) The child is placed in a residential treatment  
681 facility and adoption is unlikely or undesirable or the child is  
682 not in an adoptive placement or it is likely the child will age  
683 out of the Department of Child Protection Services' custody rather  
684 than be adopted;

685 (h) For compliance with the Indian Child Welfare Act;

686 (i) The agency has not provided services within the  
687 timeframes indicated in the case plan and there is evidence that



688 the family may achieve reunification within six (6) months or  
689 there is a finding that reasonable efforts were not made.

690 **SECTION 7.** The following shall be codified as a new section  
691 within Title 93, Chapter 15, Mississippi Code of 1972:

692 93-15- . Compelling and extraordinary reasons why  
693 termination of parental rights would not be in the child's best  
694 interests may include, but are not limited to:

695 (a) When a child is being cared for by a relative and  
696 that relative, who is otherwise an appropriate, safe and loving  
697 placement for the child, is unwilling to participate in  
698 termination of parental rights proceedings;

699 (b) Guardianship is available;

700 (c) When the natural parent(s) are incarcerated but  
701 subject to be released within a reasonable time and could be given  
702 an opportunity to work a service plan toward possible  
703 reunification;

704 (d) When a natural parent is terminally ill and unable  
705 to care or provide for the child;

706 (e) The absence of the parent is due to the parent's  
707 admission or commitment to any institution or health facility or  
708 due to active service in State or Federal armed forces;

709 (f) A child twelve (12) years or older objects to the  
710 termination of parental rights;

711 (g) The child is placed in a residential treatment  
712 facility and adoption is unlikely or undesirable or the child is



713 not in an adoptive placement or it is likely the child will age  
714 out of the Department of Child Protection Services' custody rather  
715 than be adopted;

716 (h) For compliance with the Indian Child Welfare Act;

717 (i) The agency has not provided services within the  
718 timeframes indicated in the case plan and there is evidence that  
719 the family may achieve reunification within six (6) months or  
720 there is a finding that reasonable efforts were not made.

721 **SECTION 8.** Section 43-21-613, Mississippi Code of 1972, is  
722 amended as follows:

723 43-21-613. (1) If the youth court finds, after a hearing  
724 which complies with the sections governing adjudicatory hearings,  
725 that the terms of a delinquency or child in need of supervision  
726 disposition order, probation or parole have been violated, the  
727 youth court may, in its discretion, revoke the original  
728 disposition and make any disposition which it could have  
729 originally ordered. The hearing shall be initiated by the filing  
730 of a petition that complies with the sections governing petitions  
731 in this chapter and that includes a statement of the youth court's  
732 original disposition order, probation or parole, the alleged  
733 violation of that order, probation or parole, and the facts which  
734 show the violation of that order, probation or parole. Summons  
735 shall be served in the same manner as summons for an adjudicatory  
736 hearing.



737 (2) On motion of a child or a child's parent, guardian or  
738 custodian, the youth court may, in its discretion, conduct an  
739 informal hearing to review the disposition order. If the youth  
740 court finds a material change of circumstances relating to the  
741 disposition of the child, the youth court may modify the  
742 disposition order to any appropriate disposition of equal or  
743 greater precedence which the youth court could have originally  
744 ordered.

745 (3) (a) All disposition orders for supervision, probation  
746 or placement of a child with an individual or an agency shall be  
747 reviewed by the youth court judge or referee at least annually to  
748 determine if continued placement, probation or supervision is in  
749 the best interest of the child or the public. For children who  
750 have been adjudicated abused or neglected except for those  
751 children for which a different timeframe is provided under Section  
752 44-21-603(7), the youth court shall conduct a permanency hearing  
753 within \* \* \* one hundred twenty (120) days or every thirty (30)  
754 days for children under three (3) years of age after the earlier  
755 of:

756 (i) An adjudication that the child has been abused  
757 or neglected; or

758 (ii) The date of the child's removal from the  
759 allegedly abusive or neglectful custodian/parent. Notice of such  
760 hearing shall be given in accordance with the provisions of  
761 Section 43-21-505(5). In conducting the hearing, the judge or



762 referee shall require a written report and may require information  
763 or statements from the child's youth court counselor, parent,  
764 guardian or custodian, which includes, but is not limited to, an  
765 evaluation of the child's progress and recommendations for further  
766 supervision or treatment. The judge or referee shall, at the  
767 permanency hearing determine the future status of the child,  
768 including, but not limited to, whether the child should be  
769 returned to the parent(s) or placed with suitable relatives,  
770 placed for adoption, placed for the purpose of establishing  
771 durable legal custody or should, because of the child's special  
772 needs or circumstances, be continued in foster care on a permanent  
773 or long-term basis. If the child is in an out-of-state placement,  
774 the hearing shall determine whether the out-of-state placement  
775 continues to be appropriate and in the best interest of the child.  
776 At the permanency hearing the judge or referee shall determine,  
777 and the youth court order shall recite that reasonable efforts  
778 were made by the Department of Child Protection Services to  
779 finalize the child's permanency plan that was in effect on the  
780 date of the permanency hearing. The judge or referee may find  
781 that reasonable efforts to maintain the child within his home  
782 shall not be required in accordance with Section 43-21-603(7)(c),  
783 and that the youth court shall continue to conduct permanency  
784 hearings for a child who has been adjudicated abused or neglected,  
785 at least annually thereafter, for as long as the child remains in



786 the custody of the Mississippi Department of Child Protection  
787 Services.

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

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

793 (ii) The Department of Child Protection Services  
794 has documented compelling and extraordinary reasons why  
795 termination of parental rights would not be in the best interests  
796 of the child.

797 (c) The provisions of this subsection shall also apply  
798 to review of cases involving a dependent child; however, such  
799 reviews shall take place not less frequently than once each one  
800 hundred eighty (180) days, or upon the request of the child's  
801 attorney, a parent's attorney, or a parent as deemed appropriate  
802 by the youth court in protecting the best interests of the child.  
803 A dependent child shall be ordered by the youth court judge or  
804 referee to be returned to the custody and home of the child's  
805 parent, guardian or custodian unless the judge or referee, upon  
806 such review, makes a written finding that the return of the child  
807 to the home would be contrary to the child's best interests.

808 (d) Reviews are not to be conducted unless explicitly  
809 ordered by the youth court concerning those cases in which the  
810 court has granted durable legal custody. In such cases, the





811 Department of Child Protection Services shall be released from any  
812 oversight or monitoring responsibilities, and relieved of physical  
813 and legal custody and supervision of the child.

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

816 **SECTION 9.** Section 93-15-121, Mississippi Code of 1972, is  
817 amended as follows:

818 93-15-121. Any of the following, if established by clear and  
819 convincing evidence, may be grounds for termination of the  
820 parent's parental rights if reunification between the parent and  
821 child is not desirable toward obtaining a satisfactory permanency  
822 outcome:

823 (a) The parent has been medically diagnosed by a  
824 qualified mental health professional with a severe mental illness  
825 or deficiency that is unlikely to change in a reasonable period of  
826 time and which, based upon expert testimony or an established  
827 pattern of behavior, \* \* \* prevents the parent, despite reasonable  
828 accommodations, from providing minimally acceptable care for the  
829 child;

830 (b) The parent has been medically diagnosed by a  
831 qualified health professional with an extreme physical  
832 incapacitation that is unlikely to change in a reasonable period  
833 of time and which, based upon expert testimony or an established  
834 pattern of behavior, prevents the parent, despite reasonable



835 accommodations, from providing minimally acceptable care for the  
836 child;

837 (c) The parent is suffering from habitual alcoholism or  
838 other drug addiction and has failed to successfully complete  
839 alcohol or drug treatment;

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

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

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

850 (g) The parent has committed an abusive act for which  
851 reasonable efforts to maintain the children in the home would not  
852 be required under Section 43-21-603, or a series of physically,  
853 mentally, or emotionally abusive incidents, against the child or  
854 another child, whether related by consanguinity or affinity or  
855 not, making future contacts between the parent and child  
856 undesirable; or

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

859 1. Rape of a child under Section 97-3-65;



860                           2. Sexual battery of a child under Section  
861 97-3-95 (c) ;

862                           3. Touching a child for lustful purposes  
863 under Section 97-5-23;

864                           4. Exploitation of a child under Sections  
865 97-5-31 through 97-5-37;

866                           5. Felonious abuse or battery of a child  
867 under Section 97-5-39(2) ;

868                           6. Carnal knowledge of a step or adopted  
869 child or a child of a cohabitating partner under Section 97-5-41;  
870 or

871                           7. Human trafficking of a child under Section  
872 97-3-54.1; or

873                           (ii) The parent has been convicted of:

874                           1. Murder or voluntary manslaughter of  
875 another child of the parent;

876                           2. Aiding, abetting, attempting, conspiring  
877 or soliciting to commit murder or voluntary manslaughter of the  
878 child or another child of the parent; or

879                           3. A felony assault that results in the  
880 serious bodily injury to the child or another child of the parent.

881                   **SECTION 10.** Section 97-5-39, Mississippi Code of 1972, is  
882 amended as follows:

883                   97-5-39. (1) (a) Except as otherwise provided in this  
884 section, any parent, guardian or other person who intentionally,



885 knowingly or recklessly commits any act or omits the performance  
886 of any duty, which act or omission contributes to or tends to  
887 contribute to the neglect or delinquency of any child or which act  
888 or omission results in the abuse of any child, as defined in  
889 Section 43-21-105(m) of the Youth Court Law, or who knowingly aids  
890 any child in escaping or absenting himself from the guardianship  
891 or custody of any person, agency or institution, or knowingly  
892 harbors or conceals, or aids in harboring or concealing, any child  
893 who has absented himself without permission from the guardianship  
894 or custody of any person, agency or institution to which the child  
895 shall have been committed by the youth court shall be guilty of a  
896 misdemeanor, and upon conviction shall be punished by a fine not  
897 to exceed One Thousand Dollars (\$1,000.00), or by imprisonment not  
898 to exceed one (1) year in jail, or by both such fine and  
899 imprisonment.

900 (b) For the purpose of this section, a child is a  
901 person who has not reached his eighteenth birthday. A child who  
902 has not reached his eighteenth birthday and is on active duty for  
903 a branch of the armed services, or who is married, is not  
904 considered a child for the purposes of this statute.

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



909                   (d) \* \* \* If the parent has failed to provide the child  
910 with food, clothing, or shelter necessary to sustain the life or health  
911 of the child, excluding failure caused by financial inability unless  
912 relief services have been offered and refused and the child is in  
913 imminent risk of harm, or the parent is unwilling to provide reasonably  
914 necessary medical care, though that medical care does not include  
915 recommended or optional vaccinations against childhood or any other  
916 disease, the person may be sentenced to imprisonment in custody of  
917 the Department of Corrections for not more than five (5) years or  
918 to payment of a fine of not more than Five Thousand Dollars  
919 (\$5,000.00), or both.

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

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

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

930                               (i) Burn any child;

931                               (ii) \* \* \* Torture any child;

932                               (iii) Strangle, choke, smother or in any way

933 interfere with any child's breathing;



934 (iv) Poison a child;

935 (v) Starve a child of nourishments needed to  
936 sustain life or growth;

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

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

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

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

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

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

948 (c) If serious bodily harm to any child actually  
949 occurs, and if the person shall intentionally, knowingly or  
950 recklessly:

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

952 (ii) Disfigure or scar any child;

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

954 (d) Any person, upon conviction under paragraph (a) or  
955 (c) of this subsection, shall be sentenced by the court to  
956 imprisonment in the custody of the Department of Corrections for a  
957 term of not less than five (5) years and up to life, as determined  
958 by the court. Any person, upon conviction under paragraph (b) of



959 this subsection shall be sentenced by the court to imprisonment in  
960 the custody of the Department of Corrections for a term of not  
961 less than two (2) years nor more than ten (10) years, as  
962 determined by the court. For any second or subsequent conviction  
963 under this subsection (2), the person shall be sentenced to  
964 imprisonment for life \* \* \*;

965 (e) For the purposes of this subsection (2), "bodily  
966 harm" means any bodily injury to a child and includes, but is not  
967 limited to, bruising, bleeding, lacerations, soft tissue swelling,  
968 and external or internal swelling of any body organ \* \* \*;

969 (f) For the purposes of this subsection (2), "serious  
970 bodily harm" means any serious bodily injury to a child and  
971 includes, but is not limited to, the fracture of a bone, permanent  
972 disfigurement, permanent scarring, or any internal bleeding or  
973 internal trauma to any organ, any brain damage, any injury to the  
974 eye or ear of a child or other vital organ, and impairment of any  
975 bodily function \* \* \*;

976 (g) For purposes of this subsection (2), "torture" means  
977 any act, omission, or intentional neglect committed by an individual  
978 upon a child within his custody or physical control, whereby unnecessary  
979 or unjustifiable physical or mental pain or suffering is caused or  
980 permitted, regardless of whether serious physical injury results. Child  
981 torture involves treatment that is intentionally cruel, inhumane, and  
982 degrading, including, but not limited to: intentionally starving a  
983 child; forcing a child to sit in urine or feces; binding or restraining



984 a child; repeatedly physically injuring a child; exposing the child to  
985 extreme temperatures without adequate clothing or shelter; locking a  
986 child in closets or other small spaces; and forcing a child into stress  
987 positions or exercise resulting in prolonged suffering;

988 ( \* \* \*h) Nothing contained in paragraph (c) of this  
989 subsection shall preclude a parent or guardian from disciplining a  
990 child of that parent or guardian, or shall preclude a person in  
991 loco parentis to a child from disciplining that child, if done in  
992 a reasonable manner, and reasonable corporal punishment or  
993 reasonable discipline as to that parent or guardian's child or  
994 child to whom a person stands in loco parentis shall be a defense  
995 to any violation charged under paragraph (c) of this  
996 subsection \* \* \*;

997 ( \* \* \*i) Reasonable discipline and reasonable corporal  
998 punishment shall not be a defense to acts described in paragraphs  
999 (a) and (b) of this subsection or if a child suffers serious  
1000 bodily harm as a result of any act prohibited under paragraph (c)  
1001 of this subsection.

1002 (3) Nothing contained in this section shall prevent  
1003 proceedings against the parent, guardian or other person under any  
1004 statute of this state or any municipal ordinance defining any act  
1005 as a crime or misdemeanor. Nothing in the provisions of this  
1006 section shall preclude any person from having a right to trial by  
1007 jury when charged with having violated the provisions of this  
1008 section.





1009           (4) (a) A parent, legal guardian or caretaker who endangers  
1010 a child's person or health by knowingly causing or permitting the  
1011 child to be present where any person is selling, manufacturing or  
1012 possessing immediate precursors or chemical substances with intent  
1013 to manufacture, sell or possess a controlled substance as  
1014 prohibited under Section 41-29-139 or 41-29-313, is guilty of  
1015 child endangerment and may be sentenced to imprisonment for not  
1016 more than ten (10) years or to payment of a fine of not more than  
1017 Ten Thousand Dollars (\$10,000.00), or both.

1018           (b) If the endangerment results in substantial harm to  
1019 the child's physical, mental or emotional health, the person may  
1020 be sentenced to imprisonment for not more than twenty (20) years  
1021 or to payment of a fine of not more than Twenty Thousand Dollars  
1022 (\$20,000.00), or both.

1023           (5) Nothing contained in this section shall prevent  
1024 proceedings against the parent, guardian or other person under any  
1025 statute of this state or any municipal ordinance defining any act  
1026 as a crime or misdemeanor. Nothing in the provisions of this  
1027 section shall preclude any person from having a right to trial by  
1028 jury when charged with having violated the provisions of this  
1029 section.

1030           (6) After consultation with the Department of Child  
1031 Protection Services, a regional mental health center or an  
1032 appropriate professional person, a judge may suspend imposition or  
1033 execution of a sentence provided in subsections (1) and (2) of



1034 this section and in lieu thereof require treatment over a  
1035 specified period of time at any approved public or private  
1036 treatment facility. A person may be eligible for treatment in  
1037 lieu of criminal penalties no more than one (1) time.

1038 (7) In any proceeding resulting from a report made pursuant  
1039 to Section 43-21-353 of the Youth Court Law, the testimony of the  
1040 physician making the report regarding the child's injuries or  
1041 condition or cause thereof shall not be excluded on the ground  
1042 that the physician's testimony violates the physician-patient  
1043 privilege or similar privilege or rule against disclosure. The  
1044 physician's report shall not be considered as evidence unless  
1045 introduced as an exhibit to his testimony.

1046 (8) Any criminal prosecution arising from a violation of  
1047 this section shall be tried in the circuit, county, justice or  
1048 municipal court having jurisdiction; provided, however, that  
1049 nothing herein shall abridge or dilute the contempt powers of the  
1050 youth court.

1051 **SECTION 11.** Section 43-21-651, Mississippi Code of 1972, is  
1052 amended as follows:

1053 43-21-651. (1) (a) The court to which appeals may be taken  
1054 from final orders or decrees of the youth court shall be the  
1055 Supreme Court of Mississippi pursuant to the Rules of Appellate  
1056 Procedure. Final Orders in youth court include orders that grant  
1057 durable legal custody or durable legal relative guardianship,  
1058 transfer jurisdiction over the minor child to another court, such



1059 as for an adoption, or otherwise terminate the jurisdiction of the  
1060 youth court over the minor child. All factual findings, legal  
1061 determinations, and adjudication of issues by the youth court  
1062 prior to the time the final order is entered are preserved for  
1063 appellate review and any common law to the contrary is expressly  
1064 abrogated. Any matters adjudicated by the youth court through  
1065 interim orders such as adjudication/disposition orders, or  
1066 permanency review orders, may be only appealed through the  
1067 interlocutory appeal process provided by the Rules of Appellate  
1068 Procedure.

1069 (b) The rule of construction that statutes in  
1070 derogation of the common law are to be strictly construed shall  
1071 have no application to this subsection.

1072 ( \* \* \*2) In any case wherein an appeal is desired, written  
1073 notice of intention to appeal shall be filed with the youth court  
1074 clerk within the time, and costs in the youth court and the filing  
1075 fee in the Supreme Court shall be paid, as is otherwise required  
1076 for appeals to the Supreme Court. If the appellant shall make  
1077 affidavit that he is unable to pay such costs and filing fee, he  
1078 shall have an appeal without prepayment of court costs and filing  
1079 fee. Only the initials of the child shall appear on the record on  
1080 appeal.

1081 ( \* \* \*3) The pendency of an appeal shall not suspend the  
1082 order or decree of the youth court regarding a child, nor shall it  
1083 discharge the child from the custody of that court or of the



1084 person, institution or agency to whose care such child shall have  
1085 been committed, unless the youth court or Supreme Court shall so  
1086 order. If appellant desires to appeal with supersedeas, the  
1087 matter first shall be presented to the youth court. If refused,  
1088 the youth court shall forthwith issue a written order stating the  
1089 reasons for the denial, which order shall be subject to review by  
1090 the Supreme Court. If the Supreme Court does not dismiss the  
1091 proceedings and discharge the child, it shall affirm or modify or  
1092 reverse the order of the youth court and remand the child to the  
1093 jurisdiction of the youth court for placement and supervision in  
1094 accordance with its order, and thereafter the child shall be and  
1095 remain under the jurisdiction of the youth court in the same  
1096 manner as if the youth court had made the order without an appeal  
1097 having been taken.

1098 ( \* \* \*4) Appeals from the youth court shall be preference  
1099 cases in the Supreme Court.

1100 **SECTION 12.** Section 43-21-351, Mississippi Code of 1972, is  
1101 amended as follows:

1102 43-21-351. (1) Any person or agency having knowledge that a  
1103 child residing or being within the county is within the  
1104 jurisdiction of the youth court may make a written report to the  
1105 intake unit alleging facts sufficient to establish the  
1106 jurisdiction of the youth court. The report shall bear a  
1107 permanent number that will be assigned by the court in accordance  
1108 with the standards established by the Administrative Office of



1109 Courts pursuant to Section 9-21-9(d), and shall be preserved until  
1110 destroyed on order of the court.

1111 (2) There shall be in each youth court of the state an  
1112 intake officer who shall be responsible for the accurate and  
1113 timely entering of all intake and case information into the  
1114 Mississippi Youth Court Information Delivery System (MYCIDS) for  
1115 the Department of Human Services - Division of Youth Services,  
1116 truancy matters, and the Department of Child Protection Services.  
1117 It shall be the responsibility of the youth court judge or referee  
1118 of each county to ensure that the intake officer is carrying out  
1119 the responsibility of this section.

1120 (3) Each intake officer shall receive, at a minimum, six (6)  
1121 hours of annual training on MYCIDS provided by the Mississippi  
1122 Judicial College. The required training under this subsection  
1123 shall be in addition to technical training provided by the  
1124 Mississippi Supreme Court MYCIDS Information Technology  
1125 Department.

1126 (4) The Mississippi Judicial College, in conjunction with  
1127 the Administrative Office of Courts, shall develop training  
1128 materials on MYCIDS:

1129 (a) To ensure the accurate and timely entrance of all  
1130 intake and case information throughout the state by intake  
1131 officers;

1132 (b) To ensure that youth court judges are equipped to  
1133 oversee the functions of each intake officer.



1134           **SECTION 13.** Section 43-21-801, Mississippi Code of 1972, is  
1135 amended as follows:

1136           43-21-801. (1) There is established the Youth Court Support  
1137 Program. The purpose of the program shall be to ensure that all  
1138 youth courts have sufficient support funds to carry on the  
1139 business of the youth court. The Administrative Office of Courts  
1140 shall establish a formula consistent with this section for  
1141 providing state support payable from the Youth Court Support Fund  
1142 for the support of the youth courts.

1143           (a) (i) Each regular youth court referee is eligible  
1144 for youth court support funds so long as the senior chancellor  
1145 does not elect to employ a youth court administrator as set forth  
1146 in paragraph (b); a municipal youth court judge is also eligible.  
1147 The Administrative Office of Courts shall direct any funds to the  
1148 appropriate county or municipality. The funds shall be utilized  
1149 to compensate an intake officer who shall be responsible for  
1150 ensuring that all intake and case information for the Department  
1151 of Human Services - Division of Youth Services, truancy matters,  
1152 and the Department of Child Protection Services is entered into  
1153 the Mississippi Youth Court Information Delivery System (MYCIDS)  
1154 in an accurate and timely manner. If the court already has an  
1155 intake officer responsible for entering all cases of the  
1156 Department of Human Services - Division of Youth Services, truancy  
1157 matters, and the Department of Child Protection Services into  
1158 MYCIDS, the regular youth court referee or municipal court judge



1159 may certify to the Administrative Office of Courts that such a  
1160 person is already on staff. In such a case, each regular youth  
1161 court referee or municipal youth court judge shall have the sole  
1162 individual discretion to appropriate those funds as expense monies  
1163 to assist in hiring secretarial staff and acquiring materials and  
1164 equipment incidental to carrying on the business of the court  
1165 within the private practice of law of the referee or judge, or may  
1166 direct the use of those funds through the county or municipal  
1167 budget for court support supplies or services. The regular youth  
1168 court referee and municipal youth court judge shall be accountable  
1169 for assuring through private, county or municipal employees the  
1170 proper preparation and filing of all necessary tracking and other  
1171 documentation attendant to the administration of the youth court.

1172 (ii) Title to all tangible property, excepting  
1173 stamps, stationery and minor expendable office supplies, procured  
1174 with funds authorized by this section, shall be and forever remain  
1175 in the county or municipality to be used by the judge or referee  
1176 during the term of his office and thereafter by his successors.

1177 (b) (i) When permitted by the Administrative Office of  
1178 Courts and as funds are available, the senior chancellor for  
1179 Chancery Districts One, Two, Three, Four, Six, Seven, Nine, Ten,  
1180 Thirteen, Fourteen, Fifteen and Eighteen may appoint a youth court  
1181 administrator for the district whose responsibility will be to  
1182 perform all reporting, tracking and other duties of a court  
1183 administrator for all youth courts in the district that are under



1184 the chancery court system. Any chancery district listed in this  
1185 paragraph in which a chancellor appoints a referee or special  
1186 master to hear any youth court matter is ineligible for funding  
1187 under this paragraph (b). The Administrative Office of Courts may  
1188 allocate to an eligible chancery district a sum not to exceed  
1189 Thirty Thousand Dollars (\$30,000.00) per year for the salary,  
1190 fringe benefits and equipment of the youth court administrator,  
1191 and an additional sum not to exceed One Thousand Nine Hundred  
1192 Dollars (\$1,900.00) for the administrator's travel expenses.

1193 (ii) The appointment of a youth court  
1194 administrator shall be evidenced by the entry of an order on the  
1195 minutes of the court. The person appointed shall serve at the  
1196 will and pleasure of the senior chancellor but shall be an  
1197 employee of the Administrative Office of Courts.

1198 (iii) The Administrative Office of Courts must  
1199 approve the position, job description and salary before the  
1200 position can be filled. The Administrative Office of Courts shall  
1201 not approve any plan that does not first require the expenditure  
1202 of the funds from the Youth Court Support Fund before expenditure  
1203 of county funds is authorized for that purpose.

1204 (iv) Title to any tangible property procured with  
1205 funds authorized under this paragraph shall be and forever remain  
1206 in the State of Mississippi.

1207 (c) (i) Each county court is eligible for youth court  
1208 support funds. The funds shall be utilized to provide





1209 compensation to an intake officer who shall be responsible for  
1210 ensuring that all intake and case information for the Department  
1211 of Human Services - Division of Youth Services, truancy matters,  
1212 and the Department of Child Protection Services is entered into  
1213 the Mississippi Youth Court Information Delivery System (MYCIDS)  
1214 in an accurate and timely manner. If the county court already has  
1215 an intake officer or other staff person responsible for entering  
1216 all cases of the Department of Human Services - Division of Youth  
1217 Services, truancy matters and the Department of Child Protection  
1218 Services into MYCIDS, the senior county court judge may certify  
1219 that such a person is already on staff. In such a case, the  
1220 senior county court judge shall have discretion to direct the  
1221 expenditure of those funds in hiring other support staff to carry  
1222 on the business of the court.

1223 (ii) For the purposes of this paragraph, "support  
1224 staff" means court administrators, law clerks, legal research  
1225 assistants, secretaries, resource administrators or case managers  
1226 appointed by a youth court judge, or any combination thereof, but  
1227 shall not mean school attendance officers.

1228 (iii) The appointment of support staff shall be  
1229 evidenced by the entry of an order on the minutes of the court.  
1230 The support staff so appointed shall serve at the will and  
1231 pleasure of the senior county court judge but shall be an employee  
1232 of the county.



1233 (iv) The Administrative Office of Courts must  
1234 approve the positions, job descriptions and salaries before the  
1235 positions may be filled. The Administrative Office of Courts  
1236 shall not approve any plan that does not first require the  
1237 expenditure of funds from the Youth Court Support Fund before  
1238 expenditure of county funds is authorized for that purpose.

1239 (v) The Administrative Office of Courts may  
1240 approve expenditure from the fund for additional equipment for  
1241 support staff appointed pursuant to this paragraph if the  
1242 additional expenditure falls within the formula. Title to any  
1243 tangible property procured with funds authorized under this  
1244 paragraph shall be and forever remain in the county to be used by  
1245 the youth court and support staff.

1246 (2) (a) (i) The formula developed by the Administrative  
1247 Office of Courts for providing youth court support funds shall be  
1248 devised so as to distribute appropriated funds proportional to  
1249 caseload and other appropriate factors as set forth in regulations  
1250 promulgated by the Administrative Office of Courts. The formula  
1251 will determine a reasonable maximum amount per judge or referee  
1252 per annum that will not be exceeded in allocating funds under this  
1253 section.

1254 (ii) The formula shall be reviewed by the  
1255 Administrative Office of Courts every two (2) years to ensure that  
1256 the youth court support funds provided herein are proportional to  
1257 each youth court's caseload and other specified factors.



1258 (iii) The Administrative Office of Courts shall  
1259 have wide latitude in the first two-year cycle to implement a  
1260 formula designed to maximize caseload data collection.

1261 (b) Application to receive funds under this section  
1262 shall be submitted in accordance with procedures established by  
1263 the Administrative Office of Courts.

1264 (c) Approval of the use of any of the youth court  
1265 support funds distributed under this section shall be made by the  
1266 Administrative Office of Courts in accordance with procedures  
1267 established by the Administrative Office of Courts.

1268 (3) (a) There is created in the State Treasury a special  
1269 fund to be designated as the "Youth Court Support Fund," which  
1270 shall consist of funds appropriated or otherwise made available by  
1271 the Legislature in any manner and funds from any other source  
1272 designated for deposit into such fund. Unexpended amounts  
1273 remaining in the fund at the end of a fiscal year shall not lapse  
1274 into the State General Fund, and any investment earnings or  
1275 interest earned on amounts in the fund shall be deposited to the  
1276 credit of the fund. Monies in the fund shall be distributed to  
1277 the youth courts by the Administrative Office of Courts for the  
1278 purposes described in this section.

1279 (b) (i) During the regular legislative session held in  
1280 calendar year 2007, the Legislature may appropriate an amount not  
1281 to exceed Two Million Five Hundred Thousand Dollars  
1282 (\$2,500,000.00) to the Youth Court Support Fund.



1283 (ii) During each regular legislative session  
1284 subsequent to the 2007 Regular Session, the Legislature shall  
1285 appropriate Two Million Five Hundred Thousand Dollars  
1286 (\$2,500,000.00) to the Youth Court Support Fund.

1287 (c) No youth court judge or youth court referee shall  
1288 be eligible to receive funding from the Youth Court Support Fund  
1289 who has not received annual continuing education in the field of  
1290 juvenile justice in an amount to conform with the requirements of  
1291 the Rules and Regulations for Mandatory Continuing Judicial  
1292 Education promulgated by the Supreme Court or received at least  
1293 one (1) hour of annual continuing education concerning oversight  
1294 of youth court intake officers and MYCIDS. The Administrative  
1295 Office of Courts shall maintain records of all referees and youth  
1296 court judges regarding such training and shall not disburse funds  
1297 to any county or municipality for the budget of a youth court  
1298 judge or referee who is not in compliance with the judicial  
1299 training requirements.

1300 (4) Any recipient of funds from the Youth Court Support Fund  
1301 shall not be eligible for continuing disbursement of funds if the  
1302 recipient is not in compliance with the terms, conditions and  
1303 reporting requirements set forth in the procedures promulgated by  
1304 the Administrative Office of Courts.

1305 **SECTION 14.** Section 43-21-301, Mississippi Code of 1972, is  
1306 amended as follows:



1307 43-21-301. (1) No court other than the youth court shall  
1308 issue an arrest warrant or custody order for a child in a matter  
1309 in which the youth court has exclusive original jurisdiction but  
1310 shall refer the matter to the youth court.

1311 (2) Except as otherwise provided, no child in a matter in  
1312 which the youth court has exclusive original jurisdiction shall be  
1313 taken into custody by a law enforcement officer, the Department of  
1314 Human Services, the Department of Child Protection Services, or  
1315 any other person unless the judge or his designee has issued a  
1316 custody order to take the child into custody.

1317 (3) The judge or his designee may require a law enforcement  
1318 officer, the Department of Human Services, the Department of Child  
1319 Protection Services, or any suitable person to take a child into  
1320 custody for a period not longer than forty-eight (48) hours,  
1321 excluding Saturdays, Sundays, and statutory state holidays.

1322 (a) Custody orders under this subsection may be issued  
1323 if it appears that there is probable cause to believe that:

1324 (i) The child is within the jurisdiction of the  
1325 court;

1326 (ii) Custody is necessary because of any of the  
1327 following reasons: the child is in danger of a significant risk  
1328 of harm, any person would be in danger of a significant risk of  
1329 harm by the child, to ensure the child's attendance in court at  
1330 such time as required, or a parent, guardian or custodian is not



1331 available to provide for the care and supervision of the child;  
1332 and

1333 (iii) There is no reasonable alternative to  
1334 custody.

1335 A finding of probable cause under this subsection (3) (a)  
1336 shall not be based solely upon a positive drug test of a newborn  
1337 or parent for marijuana or solely upon the status of a parent as a  
1338 cardholder under the Mississippi Medical Cannabis Act; however, a  
1339 finding of probable cause may be based upon an evidence-based  
1340 finding of harm to the child or a parent's inability to provide  
1341 for the care and supervision of the child due to the parent's use  
1342 of marijuana. Probable cause for unlawful use of any controlled  
1343 substance, except as otherwise provided in this subsection (3) (a)  
1344 for marijuana, may be based: 1. upon a parent's positive drug  
1345 test for unlawful use of a controlled substance only if the child  
1346 is in danger of a significant risk of harm or the parent is unable  
1347 to provide proper care or supervision of the child because of the  
1348 unlawful use and there is no reasonable alternative to custody;  
1349 and 2. upon a newborn's positive drug screen for a controlled  
1350 substance that was used unlawfully only if the child is in danger  
1351 of a significant risk of harm or the parent is unable to provide  
1352 proper care or supervision of the child because of the unlawful  
1353 use and there is no reasonable alternative to custody.

1354 A child shall not be considered "neglected" solely because  
1355 the child's parent, guardian or custodian has failed to provide



1356 the child with food, clothing, or shelter necessary to sustain the  
1357 life or health of the child when the failure is caused primarily  
1358 by financial inability, unless relief services had been offered  
1359 and refused and the child is in imminent risk of harm.

1360 (b) Custody orders under this subsection shall be  
1361 written. In emergency cases, a judge or his designee may issue an  
1362 oral custody order, but the order shall be reduced to writing  
1363 within forty-eight (48) hours of its issuance.

1364 (c) Each youth court judge shall develop and make  
1365 available to law enforcement a list of designees who are available  
1366 after hours, on weekends and on holidays.

1367 (4) The judge or his designee may order, orally or in  
1368 writing, the immediate release of any child in the custody of any  
1369 person or agency. Except as otherwise provided in subsection (3)  
1370 of this section, custody orders as provided by this chapter and  
1371 authorizations of temporary custody may be written or oral, but,  
1372 if oral, reduced to writing within forty-eight (48) hours,  
1373 excluding Saturdays, Sundays and statutory state holidays. The  
1374 written order shall:

1375 (a) Specify the name and address of the child, or, if  
1376 unknown, designate him or her by any name or description by which  
1377 he or she can be identified with reasonable certainty;

1378 (b) Specify the age of the child, or, if unknown, that  
1379 he or she is believed to be of an age subject to the jurisdiction  
1380 of the youth court;



1381           (c) Except in cases where the child is alleged to be a  
1382 delinquent child or a child in need of supervision, state that the  
1383 effect of the continuation of the child's residing within his or  
1384 her own home would be contrary to the welfare of the child, that  
1385 the placement of the child in foster care is in the best interests  
1386 of the child, and unless the reasonable efforts requirement is  
1387 bypassed under Section 43-21-603(7)(c), also state that (i)  
1388 reasonable efforts have been made to maintain the child within his  
1389 or her own home, but that the circumstances warrant his removal  
1390 and there is no reasonable alternative to custody; or (ii) the  
1391 circumstances are of such an emergency nature that no reasonable  
1392 efforts have been made to maintain the child within his own home,  
1393 and that there is no reasonable alternative to custody. If the  
1394 court makes a finding in accordance with (ii) of this paragraph,  
1395 the court shall order that reasonable efforts be made toward the  
1396 reunification of the child with his or her family;

1397           (d) State that the child shall be brought immediately  
1398 before the youth court or be taken to a place designated by the  
1399 order to be held pending review of the order;

1400           (e) State the date issued and the youth court by which  
1401 the order is issued; and

1402           (f) Be signed by the judge or his designee with the  
1403 title of his office.

1404           (5) The taking of a child into custody shall not be  
1405 considered an arrest except for evidentiary purposes.





1406           (6) (a) No child who has been accused or adjudicated of any  
1407 offense that would not be a crime if committed by an adult shall  
1408 be placed in an adult jail or lockup. An accused status offender  
1409 shall not be held in secure detention longer than twenty-four (24)  
1410 hours prior to and twenty-four (24) hours after an initial court  
1411 appearance, excluding Saturdays, Sundays and statutory state  
1412 holidays, except under the following circumstances: a status  
1413 offender may be held in secure detention for violating a valid  
1414 court order pursuant to the criteria as established by the federal  
1415 Juvenile Justice and Delinquency Prevention Act of 2002, and any  
1416 subsequent amendments thereto, and out-of-state runaways may be  
1417 detained pending return to their home state.

1418           (b) No accused or adjudicated juvenile offender, except  
1419 for an accused or adjudicated juvenile offender in cases where  
1420 jurisdiction is waived to the adult criminal court, shall be  
1421 detained or placed into custody of any adult jail or lockup for a  
1422 period in excess of six (6) hours.

1423           (c) If any county violates the provisions of paragraph  
1424 (a) or (b) of this subsection, the state agency authorized to  
1425 allocate federal funds received pursuant to the Juvenile Justice  
1426 and Delinquency Prevention Act of 1974, 88 Stat. 2750 (codified in  
1427 scattered Sections of 5, 18, 42 USCS), shall withhold the county's  
1428 share of such funds.

1429           (d) Any county that does not have a facility in which  
1430 to detain its juvenile offenders in compliance with the provisions



1431 of paragraphs (a) and (b) of this subsection may enter into a  
1432 contractual agreement to detain or place into custody the juvenile  
1433 offenders of that county with any county or municipality that does  
1434 have such a facility, or with the State of Mississippi, or with  
1435 any private entity that maintains a juvenile correctional  
1436 facility.

1437 (e) Notwithstanding the provisions of paragraphs (a),  
1438 (b), (c) and (d) of this subsection, all counties shall be allowed  
1439 a one-year grace period from March 27, 1993, to comply with the  
1440 provisions of this subsection.

1441 **SECTION 15.** Section 43-21-303, Mississippi Code of 1972, is  
1442 amended as follows:

1443 43-21-303. (1) No child in a matter in which the youth  
1444 court has original exclusive jurisdiction shall be taken into  
1445 custody by any person without a custody order except that:

1446 (a) A law enforcement officer may take a child in  
1447 custody if:

1448 (i) Grounds exist for the arrest of an adult in  
1449 identical circumstances; and

1450 (ii) Such law enforcement officer has probable  
1451 cause to believe that custody is necessary as defined in Section  
1452 43-21-301; and

1453 (iii) Such law enforcement officer can find no  
1454 reasonable alternative to custody; or



1455 (b) A law enforcement officer or an agent of the  
1456 Department of Child Protection Services or the Department of Human  
1457 Services may take a child into immediate custody if:

1458 (i) There is probable cause to believe that the  
1459 child is in immediate danger of personal harm; however, probable  
1460 cause shall not be based solely upon a positive drug test of a  
1461 newborn or parent for marijuana or solely upon the status of a  
1462 parent as a cardholder under the Mississippi Medical Cannabis Act,  
1463 but a finding of probable cause may be based upon an  
1464 evidence-based finding of harm to the child or a parent's  
1465 inability to provide for the care and supervision of the child due  
1466 to the parent's use of marijuana. Probable cause for unlawful use  
1467 of any controlled substance, except as otherwise provided in this  
1468 subparagraph (i) for marijuana, may be based: 1. upon a parent's  
1469 positive drug test for unlawful use of a controlled substance only  
1470 if the child is in danger of a significant risk of harm or the  
1471 parent is unable to provide proper care or supervision of the  
1472 child because of the unlawful use and there is no reasonable  
1473 alternative to custody; and 2. upon a newborn's positive drug  
1474 screen for a controlled substance that was used unlawfully only if  
1475 the child is in danger of a significant risk of harm or the parent  
1476 is unable to provide proper care or supervision of the child  
1477 because of the unlawful use and there is no reasonable alternative  
1478 to custody.



1479 A child shall not be considered "neglected" solely because  
1480 the child's parent, guardian or custodian has failed to provide  
1481 the child with food, clothing, or shelter necessary to sustain the  
1482 life or health of the child when the failure is caused primarily  
1483 by financial inability, unless relief services had been offered  
1484 and refused and the child is in imminent risk of harm; and

1485 (ii) There is probable cause to believe that  
1486 immediate custody is necessary as set forth in Section  
1487 43-21-301(3); and

1488 (iii) There is no reasonable alternative to  
1489 custody; and

1490 (c) Any other person may take a child into custody if  
1491 grounds exist for the arrest of an adult in identical  
1492 circumstances. Such other person shall immediately surrender  
1493 custody of the child to the proper law enforcement officer who  
1494 shall thereupon continue custody only as provided in subsection  
1495 (1)(a) of this section.

1496 (2) When it is necessary to take a child into custody, the  
1497 least restrictive custody should be selected.

1498 (3) Unless the child is immediately released, the person  
1499 taking the child into custody shall immediately notify the judge  
1500 or his designee. A person taking a child into custody shall also  
1501 make continuing reasonable efforts to notify the child's parent,  
1502 guardian or custodian and invite the parent, guardian or custodian  
1503 to be present during any questioning.



1504 (4) A child taken into custody shall not be held in custody  
1505 for a period longer than reasonably necessary, but not to exceed  
1506 twenty-four (24) hours, and shall be released to his parent,  
1507 guardian or custodian unless the judge or his designee authorizes  
1508 temporary custody.

1509 **SECTION 16.** Section 93-17-3, Mississippi Code of 1972, is  
1510 amended as follows:

1511 93-17-3. (1) Except as otherwise provided in this section,  
1512 a court of this state has jurisdiction over a proceeding for the  
1513 adoption or readoption of a minor commenced under this chapter if:

1514 (a) Immediately before commencement of the proceeding,  
1515 the minor lived in this state with a parent, a guardian, a  
1516 prospective adoptive parent or another person acting as parent,  
1517 for at least six (6) consecutive months, excluding periods of  
1518 temporary absence, or, in the case of a minor under six (6) months  
1519 of age, lived in this state from soon after birth with any of  
1520 those individuals and there is available in this state substantial  
1521 evidence concerning the minor's present or future care;

1522 (b) Immediately before commencement of the proceeding,  
1523 the prospective adoptive parent lived in this state for at least  
1524 six (6) consecutive months, excluding periods of temporary  
1525 absence, and there is available in this state substantial evidence  
1526 concerning the minor's present or future care;



1527           (c) The agency that placed the minor for adoption is  
1528 licensed in this state and it is in the best interest of the minor  
1529 that a court of this state assume jurisdiction because:

1530                   (i) The minor and the minor's parents, or the  
1531 minor and the prospective adoptive parent, have a significant  
1532 connection with this state; and

1533                   (ii) There is available in this state substantial  
1534 evidence concerning the minor's present or future care;

1535           (d) The minor and the prospective adoptive parent or  
1536 parents are physically present in this state and the minor has  
1537 been abandoned or it is necessary in an emergency to protect the  
1538 minor because the minor has been subjected to or threatened with  
1539 mistreatment or abuse or is otherwise neglected, and the  
1540 prospective adoptive parent or parents, if not residing in  
1541 Mississippi, have completed and provided the court with a  
1542 satisfactory Interstate Compact for Placement of Children (ICPC)  
1543 home study and accompanying forms, unless the court determines  
1544 that the home study is not necessary in the case of an adoption by  
1545 a stepparent or a relative or in the case of an adoption in a  
1546 foster-to-adopt placement;

1547           (e) It appears that no other state would have  
1548 jurisdiction under prerequisites substantially in accordance with  
1549 paragraphs (a) through (d), or another state has declined to  
1550 exercise jurisdiction on the ground that this state is the more  
1551 appropriate forum to hear a petition for adoption of the minor,



1552 and it is in the best interest of the minor that a court of this  
1553 state assume jurisdiction; or

1554 (f) The child has been adopted in a foreign country,  
1555 the agency that placed the minor for adoption is licensed in this  
1556 state, and it is in the best interest of the child to be readopted  
1557 in a court of this state having jurisdiction.

1558 (2) A court of this state may not exercise jurisdiction over  
1559 a proceeding for adoption of a minor if, at the time the petition  
1560 for adoption is filed, a proceeding concerning the custody or  
1561 adoption of the minor is pending in a court of another state  
1562 exercising jurisdiction substantially in conformity with the  
1563 Uniform Child Custody Jurisdiction Act or this section unless the  
1564 proceeding is stayed by the court of the other state.

1565 (3) If a court of another state has issued a decree or order  
1566 concerning the custody of a minor who may be the subject of a  
1567 proceeding for adoption in this state, a court of this state may  
1568 not exercise jurisdiction over a proceeding for adoption of the  
1569 minor unless:

1570 (a) The court of this state finds that the court of the  
1571 state which issued the decree or order:

1572 (i) Does not have continuing jurisdiction to  
1573 modify the decree or order under jurisdictional prerequisites  
1574 substantially in accordance with the Uniform Child Custody  
1575 Jurisdiction Act or has declined to assume jurisdiction to modify  
1576 the decree or order; or



1577                   (ii) Does not have jurisdiction over a proceeding  
1578 for adoption substantially in conformity with subsection (1)(a)  
1579 through (d) or has declined to assume jurisdiction over a  
1580 proceeding for adoption; and

1581                   (b) The court of this state has jurisdiction over the  
1582 proceeding.

1583                   (4) Any person may be adopted in accordance with the  
1584 provisions of this chapter in term time or in vacation by an  
1585 unmarried adult, by a married person whose spouse joins in the  
1586 petition, by a married person whose spouse does not join in the  
1587 petition because such spouse does not cohabit or reside with the  
1588 petitioning spouse, and in any circumstances determined by the  
1589 court that the adoption is in the best interest of the child.  
1590 Only the consenting adult will be a legal parent of the child.  
1591 The adoption shall be by sworn petition filed in the chancery  
1592 court of the county in which the adopting petitioner or  
1593 petitioners reside or in which the child to be adopted resides or  
1594 was born, or was found when it was abandoned or deserted, or in  
1595 which the home is located to which the child has been surrendered  
1596 by a person authorized to so do. The petition shall be  
1597 accompanied by a doctor's or nurse practitioner's certificate  
1598 showing the physical and mental condition of the child to be  
1599 adopted and a sworn statement of all property, if any, owned by  
1600 the child. In addition, the petition shall be accompanied by  
1601 affidavits of the petitioner or petitioners stating the amount of





1602 the service fees charged by any adoption agencies or adoption  
1603 facilitators used by the petitioner or petitioners and any other  
1604 expenses paid by the petitioner or petitioners in the adoption  
1605 process as of the time of filing the petition. If the doctor's or  
1606 nurse practitioner's certificate indicates any abnormal mental or  
1607 physical condition or defect, the condition or defect shall not,  
1608 in the discretion of the chancellor, bar the adoption of the child  
1609 if the adopting parent or parents file an affidavit stating full  
1610 and complete knowledge of the condition or defect and stating a  
1611 desire to adopt the child, notwithstanding the condition or  
1612 defect. The court shall have the power to change the name of the  
1613 child as a part of the adoption proceedings. The word "child" in  
1614 this section shall be construed to refer to the person to be  
1615 adopted, though an adult.

1616 (5) No person may be placed in the home of or adopted by the  
1617 prospective adopting parties before a court-ordered or voluntary  
1618 home study is satisfactorily completed by a licensed adoption  
1619 agency, a licensed, experienced social worker approved by the  
1620 chancery court, a court-appointed guardian ad litem that has  
1621 knowledge or training in conducting home studies if so directed by  
1622 the court, or by the Department of Child Protection Services on  
1623 the prospective adoptive parties if required by Section 93-17-11.

1624 (6) No person may be adopted by a person or persons who  
1625 reside outside the State of Mississippi unless the provisions of  
1626 the Interstate Compact for Placement of Children (Section 43-18-1



1627 et seq.) have been complied with. In such cases Forms 100A, 100B  
1628 (if applicable) and evidence of Interstate Compact for Placement  
1629 of Children approval shall be added to the permanent adoption  
1630 record file within one (1) month of the placement, and a minimum  
1631 of two (2) post-placement reports conducted by a licensed  
1632 child-placing agency shall be provided to the Mississippi  
1633 Department of Child Protection Services Interstate Compact for  
1634 Placement of Children office.

1635 (7) No person may be adopted unless the provisions of the  
1636 Indian Child Welfare Act (ICWA) have been complied with, if  
1637 applicable. When applicable, proof of compliance shall be  
1638 included in the court adoption file prior to finalization of the  
1639 adoption. If not applicable, a written statement or paragraph in  
1640 the petition for adoption shall be included in the adoption  
1641 petition stating that the provisions of ICWA do not apply before  
1642 finalization.

1643 (8) The readoption of a child who has automatically acquired  
1644 United States citizenship following an adoption in a foreign  
1645 country and who possesses a Certificate of Citizenship in  
1646 accordance with the Child Citizenship Act, CAA, Public Law  
1647 106-395, may be given full force and effect in a readoption  
1648 proceeding conducted by a court of competent jurisdiction in this  
1649 state by compliance with the Mississippi Registration of Foreign  
1650 Adoptions Act, Article 9 of this chapter.



1651 (9) For adult adoptees who consent to the adoption, a  
1652 chancellor may waive any of the petition requirements and  
1653 procedural requirements within subsections (4), (5), (6) and (7)  
1654 of this section.

1655 (10) The clerk shall docket cases seeking relief under this  
1656 chapter as priority cases. The assigned judge shall be  
1657 immediately notified when a case is filed in order to provide for  
1658 expedited proceedings.

1659 \* \* \*

1660 **SECTION 17.** Section 43-21-121, Mississippi Code of 1972, is  
1661 brought forward as follows:

1662 43-21-121. (1) The youth court shall appoint a guardian ad  
1663 litem for the child:

1664 (a) When a child has no parent, guardian or custodian;

1665 (b) When the youth court cannot acquire personal  
1666 jurisdiction over a parent, a guardian or a custodian;

1667 (c) When the parent is a minor or a person of unsound  
1668 mind;

1669 (d) When the parent is indifferent to the interest of  
1670 the child or if the interests of the child and the parent,  
1671 considered in the context of the cause, appear to conflict;

1672 (e) In every case involving an abused or neglected  
1673 child which results in a judicial proceeding; or



1674           (f) In any other instance where the youth court finds  
1675 appointment of a guardian ad litem to be in the best interest of  
1676 the child.

1677           (2) The guardian ad litem shall be appointed by the court  
1678 when custody is ordered or at the first judicial hearing regarding  
1679 the case, whichever occurs first.

1680           (3) In addition to all other duties required by law, a  
1681 guardian ad litem shall have the duty to protect the interest of a  
1682 child for whom he has been appointed guardian ad litem. The  
1683 guardian ad litem shall investigate, make recommendations to the  
1684 court or enter reports as necessary to hold paramount the child's  
1685 best interest. The guardian ad litem is not an adversary party  
1686 and the court shall ensure that guardians ad litem perform their  
1687 duties properly and in the best interest of their wards. The  
1688 guardian ad litem shall be a competent person who has no adverse  
1689 interest to the minor. The court shall ensure that the guardian  
1690 ad litem is adequately instructed on the proper performance of his  
1691 duties.

1692           (4) The court, including a county court serving as a youth  
1693 court, may appoint either a suitable attorney or a suitable layman  
1694 as guardian ad litem. In cases where the court appoints a layman  
1695 as guardian ad litem, the court shall also appoint an attorney to  
1696 represent the child. From and after January 1, 1999, in order to  
1697 be eligible for an appointment as a guardian ad litem, such  
1698 attorney or layperson must have received child protection and



1699 juvenile justice training provided by or approved by the  
1700 Mississippi Judicial College within the year immediately preceding  
1701 such appointment. The Mississippi Judicial College shall  
1702 determine the amount of child protection and juvenile justice  
1703 training which shall be satisfactory to fulfill the requirements  
1704 of this section. The Administrative Office of Courts shall  
1705 maintain a roll of all attorneys and laymen eligible to be  
1706 appointed as a guardian ad litem under this section and shall  
1707 enforce the provisions of this subsection.

1708 (5) Upon appointment of a guardian ad litem, the youth court  
1709 shall continue any pending proceedings for a reasonable time to  
1710 allow the guardian ad litem to familiarize himself with the  
1711 matter, consult with counsel and prepare his participation in the  
1712 cause. The youth court shall issue an order of assignment that  
1713 grants the guardian ad litem authority to review all relevant  
1714 documents concerning the minor child and to interview all parties  
1715 and witnesses involved in proceedings concerning the minor child  
1716 for whom the guardian ad litem is appointed.

1717 (6) Upon order of the youth court, the guardian ad litem  
1718 shall be paid a reasonable fee as determined by the youth court  
1719 judge or referee out of the county general fund as provided under  
1720 Section 43-21-123. To be eligible for such fee, the guardian ad  
1721 litem shall submit an accounting of the time spent in performance  
1722 of his duties to the court.



1723           (7) (a) The court, in its sound discretion, may appoint a  
1724 volunteer trained layperson to assist children subject to the  
1725 provisions of this section in addition to the appointment of a  
1726 guardian ad litem. If the court utilizes his or her discretion as  
1727 prescribed under this subsection, a volunteer Court-Appointed  
1728 Special Advocate (CASA) shall be appointed from a program that  
1729 supervises the volunteer and meets all state and national CASA  
1730 standards to advocate for the best interests of children in abuse  
1731 and neglect proceedings. To accomplish the assignment of a CASA  
1732 volunteer, the court shall issue an order of assignment that shall  
1733 grant the CASA volunteer the authority, equal to that of the  
1734 guardian ad litem, to review all relevant documents and to  
1735 interview all parties and witnesses involved in the proceeding in  
1736 which he or she is appointed. Except as otherwise ordered by the  
1737 court, the assignment of a CASA volunteer for a child shall  
1738 include subsequent proceedings through permanent placement of the  
1739 child.

1740           (b) Before assigning a CASA volunteer as prescribed  
1741 under this subsection, the youth court judge shall determine if  
1742 the volunteer has sufficient qualifications, training and ability  
1743 to serve as a CASA volunteer, including his or her ability to  
1744 represent and advocate for the best interests of children assigned  
1745 to him or her. No volunteer shall be assigned until a  
1746 comprehensive criminal background check has been conducted.

1747           All CASA volunteers shall:



1748 (i) Be sworn in by a judge of the court;  
1749 (ii) Swear or affirm to abide by all laws,  
1750 regulations, and orders of the court;  
1751 (iii) Swear or affirm to advocate what he or she  
1752 perceives to be in the best interests of the child for whom he or  
1753 she is assigned in all matters pending before the court;  
1754 (iv) Provide independent, factual information to  
1755 the court regarding the children and cases to which they are  
1756 assigned;  
1757 (v) Advocate on behalf of the children involved in  
1758 the cases to which they are assigned what they perceive to be in  
1759 the best interests of the children; and  
1760 (vi) Monitor proceedings in cases to which they  
1761 have been assigned and advise and assist the court in its  
1762 determination of the best interests of the children involved.  
1763 (c) Regarding any case to which a CASA volunteer has  
1764 been assigned, the CASA volunteer:  
1765 (i) Shall be notified by the court of all court  
1766 proceedings and hearings of any kind pertaining to the child;  
1767 (ii) Shall be notified by the Department of Child  
1768 Protection Services of all administrative review hearings;  
1769 (iii) Shall be entitled to attend all court  
1770 proceedings and hearings of any kind pertaining to the child;



1771 (iv) May be called as a witness in the proceedings  
1772 by any party or by the court and may request of the court the  
1773 opportunity to appear as a witness; and

1774 (v) Shall be given access to all portions of the  
1775 court record relating to proceedings pertaining to the child and  
1776 the child's family.

1777 (d) Upon application to the court and notice to all  
1778 parties, the court shall grant the CASA volunteer access to other  
1779 information, including the department records as provided in  
1780 Section 43-21-261, relating to the child and the child's family  
1781 and to other matters involved in the proceeding in which he or she  
1782 is appointed. All records and information requested or reviewed  
1783 by the CASA volunteer in the course of his or her assignment shall  
1784 be deemed confidential and shall not be disclosed by him except  
1785 pursuant to court order. All records and information shall only  
1786 be disclosed as directed by court order and shall be disclosed as  
1787 directed by court order and shall be subject to whatever  
1788 protective order the court deems appropriate.

1789 **SECTION 18.** Section 93-15-111, Mississippi Code of 1972, is  
1790 brought forward as follows:

1791 93-15-111. (1) The court may accept the parent's written  
1792 voluntary release if it meets the following minimum requirements:

1793 (a) Is signed under oath and dated at least seventy-two  
1794 (72) hours after the birth of the child;





1795 (b) States the parent's full name, the relationship of  
1796 the parent to the child, and the parent's address;

1797 (c) States the child's full name, date of birth, time  
1798 of birth if known, and place of birth as indicated on the birth  
1799 certificate;

1800 (d) Identifies the governmental agency or home to which  
1801 the child has been surrendered, if any;

1802 (e) States the parent's consent to adoption of the  
1803 child and waiver of service of process for any future adoption  
1804 proceedings;

1805 (f) Acknowledges that the termination of the parent's  
1806 parental rights and that the subsequent adoption of the child may  
1807 significantly affect, or even eliminate, the parent's right to  
1808 inherit from the child under the laws of Descent and Distribution  
1809 (Chapter 1, Title 91, Mississippi Code of 1972);

1810 (g) Acknowledges that all provisions of the written  
1811 voluntary release were entered into knowingly, intelligently, and  
1812 voluntarily; and

1813 (h) Acknowledges that the parent is entitled to consult  
1814 an attorney regarding the parent's parental rights.

1815 (2) The court's order accepting the parent's written  
1816 voluntary release terminates all of the parent's parental rights  
1817 to the child, including, but not limited to, the parental right to  
1818 control or withhold consent to an adoption. If the court does not  
1819 accept the parent's written voluntary release, then any interested



1820 person, or any agency, institution or person holding custody of  
1821 the child, may commence involuntary termination of parental rights  
1822 proceedings under Section 93-15-107.

1823           **SECTION 19.** This act shall take effect and be in force from  
1824 and after July 1, 2024.

