

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.

